

POLICE REGULATION (AMENDMENT) ACT.

Act No. 13, 1935.

An Act to provide for the appointment and for the term of office of the Commissioner of Police, and for the method of removing him from office; to provide for the appointment of a Deputy Commissioner of Police and for the definition of his powers, authorities, duties, and functions; to amend the Police Regulation Act, 1899, the Police Regulation (Superannuation) Act, 1906, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 13th March, 1935.]

George V.
No. 13, 1935.

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No. 13, 1935.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Police Regulation (Amendment) Act, 1935."

(2) The Police Regulation Act, 1899, as amended by subsequent Acts, and by this Act, may be cited as the Police Regulation Act, 1899-1935.

Amendment
of Act No.
20, 1899.

Substituted
sec. 4 and
new sec. 4A.

Appoint-
ment and
authority of
Commis-
sioner.

2. (1) The Police Regulation Act, 1899, as amended by subsequent Acts, is amended—

(a) by omitting section four and by inserting in lieu thereof the following sections:—

4. (1) The Governor may from time to time appoint a Commissioner of Police who shall, subject to the direction of the Minister, be charged with the superintendence of the police force of New South Wales.

(2) The Commissioner shall receive such remuneration as the Governor may determine, and such remuneration shall not be reduced during his term of office.

(3) The Commissioner shall retire from office on the day upon which he attains the age of sixty-five years.

(4) The Commissioner may be suspended or removed from his office for misbehaviour or incompetence as follows:—

(a) The Commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except as hereinafter provided.

The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session, and if not, then within seven sitting days after the commencement of the next session;

(b)

- (b) The Commissioner suspended under this section shall be restored to office unless each House of Parliament within twenty-one days from the time when such statement has been laid before it, declares by resolution that the Commissioner ought to be removed from office, and if each House of Parliament within the said time does so declare, the Commissioner shall be removed by the Governor accordingly.

(5) The Commissioner shall be deemed to have vacated his office if he—

- (a) engages in New South Wales during his term of office in any paid employment outside the police force;
- (b) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary for their benefit;
- (c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Governor, unless such absence is occasioned by illness or other unavoidable cause;
- (d) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898;
- (e) resigns his office by writing under his hand addressed to the Governor.

4A. (1) The Governor may from time to time appoint a Deputy Commissioner of Police who shall assist the Commissioner generally in the superintendence of the police force of New South Wales.

Appoint-
ment and
authority of
Deputy
Commis-
sioner.

(2) The Deputy Commissioner shall exercise and perform such of the powers, authorities, duties, and functions of the Commissioner as the Commissioner may direct either generally or in any special case.

(3) When the Commissioner is absent from duty by reason of illness or of any other cause or during any vacancy in the office of the Commissioner the Deputy Commissioner may exercise and perform all the powers, authorities, duties

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duties and functions conferred or imposed upon the Commissioner by this or any other Act, and during such absence or while the office of Commissioner remains vacant the provisions of subsection four of section four of this Act shall mutatis mutandis apply to the Deputy Commissioner.

Sec. 3.
(Interpretation.)

- (b) by inserting in section three before the words “and every superintendent” the words “Deputy Commissioner”;

Sec. 5.
(Appointment and authority of superintendent, etc.)

- (c) by inserting in subsection two of section five before the words “be respectively” the words “and the Deputy Commissioner.”

(2) The provisions of section four of the Police Regulation Act, 1899-1934, shall apply to and in respect of the Commissioner of Police holding office at the commencement of this Act as if he had been appointed under that section.

Further amendment of Act No. 20, 1899.

3. The Police Regulation Act, 1899, as amended by subsequent Acts, is further amended:—

Sec. 33.
(Forfeiture of allowance in certain cases.)

- (a) by inserting in subsection one of section thirty-three after the words “disgraceful conduct; or” the following paragraph:—

associates with thieves or reputed thieves, suspected persons, or other offenders; or

- (b) by inserting in the same subsection after the words “fraudulent purpose; or” the following paragraphs:—

is guilty of any conduct in respect of which were he a member of the police force at the time he would have been deemed guilty of a breach of discipline under the police rules or was guilty of such conduct while he was a member of the police force, but the offence was not proved until after his retirement; or

undertakes for remuneration any other Government employment; or

enters into or continues to carry on any business, occupation, or employment which is illegal; or

(c)

- (c) by inserting in the same subsection after the words " may by law be liable " the words " upon the recommendation of the Commissioner." No. 13, 1935.
- (d) by inserting next after subsection two of the same section the following new subsection—

(3) Before making any recommendation under this section the Commissioner shall in writing intimate to the person to be affected his intention to make the recommendation and such person may within a period of one month from the date of such intimation appeal to the Police Appeal Board against such intended recommendation and that Board shall have jurisdiction to hear and advise upon the appeal.

4. (1) The Police Regulation Act, 1899, as amended by subsequent Acts, is further amended:— Further amend-
ment of Act
No. 20, 1899.

- (a) by omitting section seventeen and by inserting in lieu thereof the following new section:— Sec. 17.

17. Any person who, not being a member of the police force,— Penalty for
unlawful
possession
of accoutre-
ments or
wearing
uniform, etc.

- (a) has in his possession any arms, ammunition, article of clothing, accoutrements, or appointments of the police force, and does not satisfactorily account for such possession; or
- (b) without the permission of the Commissioner and otherwise than in the course of a stage play, a music hall or circus performance, or a ball, wears the uniform, or any colourable imitation of the uniform, of a member of the police force; or
- (c) assumes the name, designation, or description of a member of the police force or of any class of such members; or
- (d) gives or offers, or promises to give, any bribe, recompense, or reward to, or makes any collusive agreement with a member of the police force for the purpose of inducing him to neglect his duty, or to conceal or connive at any act whereby any rule made by the Governor under the provisions of this Act may be evaded; or

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(e)

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(e) for the purposes of or in connection with any business, occupation or employment—

(i) assumes or uses the designation of detective or private detective, or any other designation which includes the word “detective,” or the name, designation, rank or description of any member of the police force or of any class of such members; or

(ii) uses the designation, rank, or description which he previously held in the police force,

shall be liable, in addition to any other punishment to which such person may be liable for such offence, to a penalty not exceeding ten pounds; and any penalty imposed in pursuance of the provisions of this section shall be paid to the Colonial Treasurer, to be by him applied and set apart towards the Police Superannuation and Reward Fund hereinafter referred to:

Provided that members of the Investigation Section of the Department of Railways may, with the approval of the Commissioner first had and obtained, use the designation “Railway Detective.”

Sec. 1.

(b) by omitting from section one the words “Police Superannuation Fund and Police Reward Fund” and by inserting in lieu thereof the words “Police Superannuation and Reward Fund”;

Sec. 12.
(Rules.)

(c) (i) by inserting in section twelve after the words “police force” the words “and to give effect to this Act or any amendment thereof”;

(ii) by omitting from the same section the words “copies thereof shall be laid before both Houses of Parliament forthwith if sitting, and if not, within fourteen days after the opening of the next session” and by inserting in lieu thereof the figures and words—

“(i) shall take effect from the date of such publication or from a later date to be specified in the rules; (ii)

- (ii) shall be laid before both Houses of Parliament within fourteen sitting days after such publication if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session. No. 13, 1935.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the rules have been laid before such House disallowing any rule or part thereof, such rule or part shall thereupon cease to have effect."

- (d) by omitting from section twenty the words "Curator of Intestate Estates" and by inserting in lieu thereof the words "Public Trustee"; Sec. 20.
- (e) by omitting section twenty-two and by inserting in lieu thereof the following section:— Sec. 22.

22. Any penalty under this Act may be recovered before a justice or justices in petty sessions. Recovery of penalties.

- (f) by omitting subsection two of section thirty-six and by inserting in lieu thereof the following new subsection:— Sec. 36 (2).

(2) An account in detail of the appropriation of the said Police Superannuation and Reward Fund or any part thereof during every year shall be laid before both Houses of Parliament within thirty days next after the opening of the session after such appropriation has been made.

(2) The Vagrancy Act, 1902, is amended by omitting from section sixteen the words "Police Reward Fund," and by inserting in lieu thereof the words "Police Superannuation and Reward Fund." Amendment of Act No. 74, 1902, s. 16.
(Name of fund.)

5. The Police Regulation Act, 1899, as amended by subsequent Acts, is further amended— Further amendment of Act No. 20, 1899.

- (a) by omitting from section three the word "sub-inspector"; Sec. 3.
(Interpretation.)

(b)

Police Regulation (Amendment) Act.**No. 13, 1935.****Sec. 5.**

(Appointment and authority of superintendent, etc.)

(b) (i) by omitting from subsection one of section five the words "inspectors and sub-inspectors" and by inserting in lieu thereof the words "and inspectors";

(ii) by omitting from subsection three of the same section the words "and sub-inspectors";

Sec. 6.

(Appointment and authority of sergeants and constables.)

(c) by omitting subsection three of section six;

Sec. 9.

(Oaths to be taken by members of the police force.)

(d) by omitting from section nine the word "sub-inspector";

Sec. 23.

(Police prisons.)

(e) by omitting section twenty-three.

Amendment of Act No. 28, 1906.

6. The Police Regulation (Superannuation) Act, 1906, is amended—

New sec. 16.

(a) by inserting next after section fifteen the following new section:—

Medical examination.

16. Notwithstanding the grant of any superannuation allowance or gratuity under the provisions of this Act the Governor may at any time require any person in receipt of such allowance to submit himself for medical examination by two medical practitioners appointed under section eight of this Act; and upon the certificate of such medical practitioners to the effect that the incapacity of the said member has ceased the Governor may cancel or suspend his pension and require him to serve again in the police force in a rank not lower than the rank he held before his retirement.

Sec. 3 (2).

(b) by repealing subsection two of section three so far as it amended subsection two of section thirty-six of the Police Regulation Act, 1899;

Sec. 11.

(c) by omitting from section eleven the words "to be paid to the widow or to or on behalf of the children of such member, for such time and subject to such conditions as he thinks fit, or cause such

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such sum of money as he thinks fit in lieu of such allowance to be paid to such widow or to or on behalf of such children ” and by inserting in lieu thereof the words “ or such sum of money as he thinks fit in lieu of such allowance to be paid to or on behalf of the widow, father, mother, children or other relatives wholly or partly dependent upon the ex-member of the police force at the time of his death ”;

- (d) by omitting from section twelve the words “ his widow, mother, or to or on behalf of his children ” and by inserting in lieu thereof the words “ or on behalf of his widow, father, mother, children or other relatives wholly or partly dependent upon the member of the police force at the time of his death ”; Sec. 12.
- (e) by omitting from subsection three of section thirteen the words “ the widow, mother, or to or on behalf of the children of the member ” and by inserting in lieu thereof the words “ or on behalf of the widow, father, mother, children or other relatives wholly or partly dependent upon the member of the police force at the time of his death.” Sec. 13.

7. (1) The official designation of the Inspector-General of Police appointed under the Police Regulation Act, 1899, having been, by direction of the Governor, altered to that of Commissioner of Police the words “Inspector-General of Police” and “Inspector-General” (as referring to the Inspector-General of Police) wherever occurring in the Police Regulation Act, 1899, the Police Regulation (Superannuation) Act, 1906, the Police Regulation (Appeals) Act, 1923, the Gaming and Betting Act, 1912-1932, the Crimes Act, 1900, the Metropolitan Traffic Act, 1900, the Police Offences Act, 1901, or in any other Act, except the Motor Traffic Act, 1909-1930, or in any proclamation, rule, regulation, by-law, ordinance, or other instrument, shall be omitted and the words “Commissioner of Police” and “Commissioner” respectively, shall be inserted in lieu thereof. Amendment
of various
Acts.
Title of
Commis-
sioner.

**Supreme Court and Circuit Courts (Prothonotary)
Amendment Act.****No. 13, 1935.**

(2) The Motor Traffic Act, 1909-1930, is amended by inserting in the definition of "Commissioner of Police" after the words "or the" the words "Commissioner or other."
