

Police Regulation.

Act No. 20, 1899.

An Act to consolidate the Statute Law relating POLICE REGULATION.
to the Regulation of the Police Force. [20th
November, 1899.]

BE it enacted by the Queen'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:—

PART I.

Preliminary and interpretation.

1. This Act may be cited as the "Police Regulation Act, 1899," Short title and contents. and is divided into Parts as follows:—

PART I.—*Preliminary and interpretation—ss. 1-3.*

PART II.—*Appointment, discipline, and duties of the police force—ss. 4-27.*

PART III.—*Police Superannuation Fund and Police Reward Fund—ss. 28-36.*

2. (1) The Acts mentioned in the First Schedule to this Act are Repeal and savings. to the extent therein expressed hereby repealed, except as to things done or commenced and offences committed before the passing of this Act, which shall be continued and dealt with, and in respect of which every right and liability shall remain as if this Act had not been passed.

(2) All persons appointed under any Act hereby repealed, and holding office at the time of the passing of this Act, shall be deemed to have been appointed under this Act.

(3) All rules, regulations, orders, directions, appointments, and notices made or given under the authority of any Act hereby repealed, and in force at the time of the passing of this Act, shall be deemed to have been made or given under the authority of this Act.

3. In this Act, unless the context or subject-matter otherwise Interpretation. indicates or requires, the term "*member of the police force*" includes the Inspector-General and every superintendent, inspector, sub-inspector, sergeant, and constable of police.

PART II.

Appointment, discipline, and duties of the police force.

4. (1) The Governor may, from time to time, appoint an Appointment and authority of Inspector-General. Inspector-General of Police. 25 Vic. No. 16, s. 3.

(2) Such Inspector-General shall, under the direction of the Colonial Secretary, be charged with the superintendence of the police force of New South Wales.

(3)

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(3) In case of the illness or absence from New South Wales of such Inspector-General, or for any other cause, the Governor may appoint any person to perform all or any of the duties imposed upon the Inspector-General by or under this Act.

Appointment and
authority of
superintendent, &c.
25 Vic. No. 16, s. 4.

5. (1) The Governor may appoint such number of superintendents, inspectors, and sub-inspectors of police as may be found necessary.

(2) Such superintendents shall, subject to the control and authority of the Inspector-General, be respectively charged with the government, direction, and superintendence of the police force stationed within the districts to which they are respectively assigned by the Governor.

(3) Such inspectors and sub-inspectors shall have such more limited authority in relation to the said police force as the Governor directs.

Appointment and
authority of
sergeants and
constables.
Ibid. s. 5.

6. (1) The Inspector-General may, subject to disallowance by the Governor, appoint so many sergeants and constables of police of different grades as he deems necessary for the preservation of the peace throughout New South Wales.

(2) Such constables shall, unless and until their appointments respectively are disallowed by the Governor, have all such powers, privileges, and advantages and be liable to all such duties and responsibility as any constable duly appointed now has or hereafter may have either by the common law or by virtue of any Statute or Act of Council now or hereafter in force in New South Wales.

(3) Any such sergeant or constable stationed at or nearest to any place where a Court of Petty Sessions is held, and where no chief or district constable is stationed, shall do all the acts, perform all the duties, and exercise all the powers authorised by law to be done, performed, or executed by any chief or district constable.

Disqualifications of
constables.
Ibid. s. 7.

7. (1) No person shall be appointed a constable of police—

(a) unless he is of sound constitution, able-bodied, and under the age of thirty years, of good character for honesty, fidelity, and activity, and, unless dispensed with for some special necessity, able to read and write;

(b) who has been convicted of any felony, or who is a bailiff, sheriff's bailiff, or parish clerk, or who is a hired servant in the employment of any person whomsoever, or who keeps a house for the sale of beer, wine, or spirituous liquors by retail.

(2) Any constable of police who is or becomes a bailiff, sheriff's bailiff, parish clerk, or hired servant, or acts in any of the said capacities, or sells any beer, wine, or spirituous liquors by retail, shall become incapable of acting, and shall forfeit his appointment as such constable, and all authority, privileges, salary, and gratuity payable to him as such.

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8. Whosoever by concealing, after having been dismissed from the police force, the fact of such dismissal, or by any false or forged certificate, or by any false representation obtains admission into and receives pay in the said force, shall, on conviction before two Justices, be liable to imprisonment for a term not exceeding three months.

Penalty on persons obtaining admission into police force in certain cases.

25 Vic. No. 16, s. 17.

9. No person appointed to be a member of the police force shall be capable of holding such office or of acting in any way therein until he has taken and subscribed the following oath :—

Oaths to be taken by members of the police force.

Ibid. s. 10.

I, A.B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Inspector-General, superintendent, inspector, sub-inspector, sergeant, or constable of police (as the case may be), without favour or affection, malice or ill-will, for the period of _____ from this date, and until I am legally discharged that I will see and cause Her Majesty's peace to be kept and preserved, and that I will prevent to the best of my power all offences against the same, and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law. So help me God.

Such oath shall be administered by a Justice, and shall in all cases be subscribed by the person taking the same, and when so taken and subscribed shall be forwarded to the Inspector-General by the Justice before whom the same was taken.

10. Every person taking and subscribing such oath shall be deemed to have thereby entered into a written agreement with and shall be thereby bound to serve Her Majesty as a member of the police force and in the capacity in which he has taken such oath, at the current rate of pay for such member, and from the day on which such oath has been taken and subscribed until legally discharged :

Oath equivalent to an agreement.

Ibid. s. 11.

Provided that—

- (a) no such agreement shall be set aside, cancelled, or annulled for want of reciprocity ;
- (b) such agreement may be cancelled at any time by the lawful discharge, dismissal, or other removal from office of any such person, or by the resignation of any such person accepted by the Inspector-General or other person acting in his stead.

11. If any question arises as to the right of any member of the police force to hold or execute his office, common reputation shall be deemed evidence of such right, and it shall not be necessary to have or produce any written appointment, or any oath, affidavit, or other document or matter whatsoever in proof of such right.

Repute to be evidence of appointment.

Ibid. s. 18.

12. The Governor may make rules for the general government and discipline of the members of the police force.

Rules for government and discipline of police.

All *Ibid.* s. 6.

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All such rules shall be published in the Gazette, and copies thereof shall be laid before both Houses of Parliament forthwith if sitting, and if not, then within fourteen days after the opening of the next session.

Constables, &c., to attend at general and petty sessions and execute warrants, &c.
25 Vic. No. 16, s. 8.

13. (1) Every sergeant and constable of police shall when not engaged on actual duty attend at the several Quarter Sessions, and also at the Petty Sessions held at the respective places where such sergeants or constables are stationed, and shall obey and execute in all cases every lawful summons, warrant, execution, order, and command of the Chairman of such Quarter Sessions, and of the Justices at Petty Sessions.

Constable to execute process.
Ibid. s. 9.

(2) Every sergeant and constable of police shall when not engaged on actual duty execute all process directed to him for levying the amount of any recognisance forfeited to Her Majesty, or of any fine imposed on any juror, witness, party, or person at any Assizes or Commission of Oyer and Terminer or Gaol Delivery or Sessions of the Peace, or any other fine imposed under any Act or Imperial Act.

One constable may act for another in such cases.
Ibid. s. 9.

(3) Any process or warrant, order, or command of any magistrate directed, delivered, or given to any such sergeant or constable may be executed and enforced by any other sergeant or constable of police or assistant, and every such last-mentioned sergeant and constable and assistant shall have all the same rights, powers, and authorities for and in the execution of such process, warrant, order, or command as if the same had originally been directed to him by name.

Penalty on constables for neglect of duty.
Ibid. s. 12.

14. Any member of the police force who neglects or refuses to obey any lawful order, or execute any process lawfully directed to be by him executed, or is guilty of any other misconduct, neglect, violation of, or absence from, duty shall, on conviction before two Justices, be liable to a penalty not exceeding for the first offence five pounds, or for the second or any subsequent offence twenty pounds.

Penalty for taking a bribe, &c.
Ibid. s. 15.

15. Any member of the police force who—
takes any bribe, pecuniary or otherwise, either directly or indirectly;
or
in any manner, aids, abets, assists, or connives at the escape or any attempt or preparation to escape of any prisoner from any prison, watch-house, or other place in which such prisoner is legally confined or otherwise in lawful custody; or
deserts his post; or
assaults his superior officer
shall, on conviction before two Justices, be liable to a penalty not exceeding twenty-five pounds, or to imprisonment with hard labour for a term not exceeding six months.

Exemption from tolls.
Ibid. s. 16.

16. (1) Every member of the police force on actual duty and in proper dress or undress as such, and all prisoners under their charge, and all carriages and horses exclusively employed in carrying or conveying

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conveying such members of the police force, or their prisoners or baggage or returning therefrom, shall be exempt from payment of any tolls or dues in passing any toll-gate, turnpike road, bridge, or ferry.

(2) Any toll-collector who demands or receives any duty or toll contrary to this Act shall, on conviction before a Justice, be liable to a penalty not exceeding ten pounds.

Penalty for demanding same.
25 Vic. No. 16, s. 16.

17. Whosoever not being a member of the police force has in his possession any arms or ammunition, article of clothing, accoutrements, or appointments supplied to any member of the force, and is not able satisfactorily to account for such possession; or

Penalty for personating constables, &c.
Ibid. s. 17.

puts on or assumes the dress, name, designation, or description of any member of the force, or of any class of such members; or gives or offers or promises to give any bribe, recompense, or reward to or makes any collusive agreement with, any member of the police force to induce him in any way to neglect his duty, or conceal or connive at any act whereby any rule made as aforesaid may be evaded, whether such offer is accepted or acted upon or not,

Bribe - gives or offers etc.

shall, on conviction before two Justices, be liable in addition to any other punishment to which he may be liable for such offence to a penalty not exceeding ten pounds, to be applied in aid of the Police Reward Fund hereinafter mentioned.

18. (1) No member of the police force shall be at liberty to resign his office or to withdraw from the duties thereof unless expressly authorised in writing so to do by the Inspector-General or other member of the police force under whom he is placed, or unless he gives to such member of the police force three months' notice of his intention so to resign or withdraw.

Three months' notice of resignation to be given.
Ibid. s. 14.

(2) Any member of the police force who so resigns or withdraws without such previous permission or notice shall, on conviction before two Justices, be liable to a penalty not exceeding twenty pounds.

19. (1) When any member of the police force is dismissed from or ceases to hold his office, all powers and authorities vested in him shall immediately cease.

Powers and authorities to cease upon dismissal or resignation.
Ibid. s. 13.

(2) Any member of the Police Force so dismissed, or ceasing to hold office, who does not forthwith deliver over all the arms, ammunition, accoutrements, horses, saddles, bridles, clothing, and other appointments and things supplied to him for the execution of such office, or in his custody by virtue thereof, to some person appointed by any order special or general of the Inspector-General shall, upon conviction before two Justices, be liable to imprisonment with hard labour for a term not exceeding three calendar months.

(3) Any Justice may and shall issue his warrant to search for and seize to the use of Her Majesty all and every, the arms, ammunition,

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ammunition, accoutrements, horses, saddles, bridles, clothing, and other appointments and things not so delivered over wherever the same are found.

Disposal of effects
on intestacy.
19 Vic. No. 24, s. 29.

20. In the event of any member of the police force dying intestate the Inspector-General, or such other member of the police force as the Governor may appoint, may cause the effects of the deceased to be disposed of by public auction, in such manner as he thinks fit, and the proceeds of such sale, together with any balance of pay or other moneys due to the deceased, shall be applied in the first instance to defray his funeral expenses and debts, and the balance, if it does not exceed twenty-five pounds, shall be handed by the Inspector-General or other member of the police force to the widow or next of kin of the deceased resident in New South Wales.

If such balance exceeds the sum of twenty-five pounds, or if there is no widow or next of kin resident in New South Wales such balance shall be paid to the Curator of Intestate Estates.

Procedure by sum-
mons whether
information laid or
not.
Ibid. s. 23.

21. (1) Any Justice may, whether an information or a complaint in writing has or has not been exhibited, or taken before or by him, summon any person charged with an offence under this Act, to appear before a Justice or Justices as the case may be, on a day appointed in that behalf :

Provided that such Justice may, if he thinks fit, require that an information or a complaint in writing be laid before he grants any such summons.

(2) All proceedings by summons, without information or complaint in writing, shall be as valid and effectual as if an information or a complaint in writing had been first exhibited or taken in that behalf.

Memo. to be kept of
every summons
issued.

(3) A memorandum in the form or to the effect set forth in the Second Schedule to this Act, shall be kept of every charge for which a summons is issued.

Recovery of
penalties.
25 Vic. No. 16, s. 25.

22. (1) All penalties imposed on any person convicted by any Justice or Justices under this Act shall be paid forthwith.

(2) In default of such payment such penalties shall be recovered by distress and sale of the goods and chattels of the person convicted.

(3) In default of sufficient distress the person convicted shall be liable to imprisonment, with or without hard labour,

(a) where the penalty imposed is not above ten pounds, for a term not exceeding two months ;

(b) where the penalty imposed is above ten pounds, and not above twenty pounds, for a term not exceeding four months ;

(c) where the penalty imposed is above twenty pounds, for a term not exceeding six months,

unless he sooner pays such penalty and costs.

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23. Any member of the police force for whom imprisonment has been substituted in lieu of a pecuniary penalty under this Act may be confined in any place especially appointed by the Governor as a police prison, instead of a common prison or other place of confinement, and may be kept to such labour therein as the Inspector-General may direct :

Members of police force subject to imprisonment may be confined in any place specially appointed by Governor.

Provided that the period of any such confinement shall in no case exceed the term of imprisonment to which such member of the police force has been duly sentenced.

25 Vic. No. 16, s. 26.

24. No term of imprisonment or confinement of any member of the police force under this Act shall be deemed to be part of any period for which he has engaged to serve in the said force.

Term of imprisonment not to count as service.

Ibid. s. 26.

25. (1) Any person ordered or adjudged by any Justice or Justices under the provisions of this Act to be imprisoned or to pay any penalty exceeding ten pounds may appeal from any such judgment or conviction to the next Court of Quarter Sessions held nearest to the place where such judgment or conviction has been given or made.

Appeal to Quarter Sessions.

Ibid. s. 27.

(2) The execution of the judgment or conviction so appealed from shall be suspended on such person entering immediately before such Justice or Justices into a bond or recognizance to Her Majesty with one or more sufficient surety or sureties in the case of imprisonment in such penal sum as to such Justice or Justices seems proper, and in the case of a penalty in the penal sum of double the amount of such penalty, conditioned to prosecute such appeal with effect, and to be forthcoming to abide the determination of the said Court of Quarter Sessions, and to pay such costs as the said Court shall award.

(3) Such Court shall hear and determine the matter of every such appeal, and the decision of such Court shall be final between the parties to all intents and purposes.

26. (1) When any action is brought against any member of the police force for any act done in obedience to the warrant of any Justice, such member of the police force shall not be responsible for any irregularity in the issuing of such warrant or for any want of jurisdiction in the Justice issuing the same, and may plead the general issue, and give such warrant in evidence.

For protection of constables.

Ibid. s. 28.

(2) Upon the production of such warrant and proof that the signature thereto is in the handwriting of the person whose name appears subscribed thereto, and that such person is reputed to be and acts as a Justice possessing jurisdiction in the case, and that the act complained of was done in obedience to such warrant, the jury who try the said issue shall find a verdict for such member of the police force, and he shall recover his costs of suit.

27. Nothing in this Act contained shall be deemed to diminish the duties or restrict or affect the liabilities of constables at common law, or under any Act now in force or hereafter to be passed.

Existing laws affecting constables saved.

Ibid. s. 32.

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PART III.

Police Superannuation Fund and Police Reward Fund.

Superannuation
Fund.
25 Vic. No. 16, s. 19.

28. There shall be deducted from the pay and salary of the several members of the police force appointed under this Act the sum of two pounds per centum per annum, and so ratably from any pay or salary of whatever amount, which sums so deducted shall be invested in such manner as may be directed by the Governor, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be invested in like manner and accumulate so as to form a fund to be called the "Police Superannuation Fund," and to be applied as occasion may require for the payment of such superannuation or retiring allowances or gratuities as may be ordered or appointed by the Governor, under the powers hereinafter given to him, to be charged on the said fund or payable thereout.

Officers how
superannuate.
Ibid. s. 20.

29. Upon the petition of a member of the police force in office at the commencement of this Act, or appointed under this Act (and in case of any constable upon such recommendations and certificates as the Governor may require), it shall be lawful for the Governor to order and direct that such member of the police force shall be superannuated and shall receive such yearly allowance, remuneration, superannuation, or gratuity, and upon such conditions and not exceeding such proportion as to age, length of service, and other circumstances as hereinafter mentioned and provided for, and thereupon such person shall cease to hold such office.

Every such allowance, remuneration, superannuation, or gratuity shall be chargeable upon and paid out of the said "Police Superannuation Fund," so far as it is adequate to discharge the same, together with those previously charged and made payable out of the said fund.

Conditions of
superannuation, &c.
Ibid. s. 21.

30. The conditions and proportions of such allowance, remuneration, or superannuation shall be as follows, that is to say:—

- (1) Where the person applying has served with diligence and fidelity it shall be lawful to grant him by way of superannuation—
 - (a) if he has served for fifteen years and less than twenty years, an annual sum not exceeding one-half of the salary of his office;
 - (b) if for twenty years and less than twenty-five years, an annual sum not exceeding two-thirds of such salary;
 - (c) if for twenty-five years and less than thirty years, an annual sum not exceeding three-fourths of such salary;
 - (d) if for thirty years or upwards, an annual sum not exceeding the whole of such salary: Provided

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Provided that—

where the person applying for the same is under sixty years of age, such allowance, compensation, remuneration, or superannuation shall, except as hereinafter provided, be granted only upon certificate from two legally qualified medical practitioners, duly appointed in that behalf by the Governor, that such person is incapable from infirmity of mind or body to discharge the duties of his office.

Where applicant under sixty certificate of infirmity necessary.

- (2) Where any member of the police force has been disabled by any wound or injury received in the actual execution of the duty of his office, it shall be lawful to grant to him such yearly allowance or remuneration, not exceeding the whole of the salary of his office, as may in the opinion of the Governor be proportioned to the nature of the injury received, without reference to the length of his service.

Where disabled in execution of duty.

31. Where any member of the police force has been duly certified to be unfit for service and to have served with diligence and fidelity for any number of years not exceeding ten, it shall be lawful for the Governor to order that a gratuity not exceeding one month's pay for each year's service shall be paid to him, and a further gratuity of two months' pay for each year he shall have so served exceeding ten years and not exceeding fifteen years.

When gratuities may be granted.
25 Vic. No. 16, s. 22.

32. In calculating the period for which any person has served in the police force, the time he may have served in any class or grade thereof before the commencement of this Act shall be reckoned.

Period of service, how calculated.
Ibid. s. 21.

33. (1) Any person to whom any allowance, compensation, remuneration, or superannuation has been granted under the provisions of this Act who—

Forfeiture of allowance in certain cases.
Ibid. s. 23.

refuses when called upon by any Justice or member of the police force to assist in the suppression of any riot or breach of the peace or in the apprehension of any offender; or is convicted of any felony, misdemeanour, or other disgraceful conduct; or commits any fraud with respect to the claiming, obtaining, or receiving such allowance, compensation, remuneration, or superannuation, or conceals his enjoyment of the same for the purpose of evading the provisions of this Act, or assumes a false name, or makes a false statement as to his place of residence for the same or any other fraudulent purpose; or fails to conform to any rule respecting notification of residence and changes of residence laid down for his guidance, shall be liable, in addition to any other punishment to which he may by law be liable, at the pleasure of the Governor, to forfeit the whole or any part of such allowance, compensation, remuneration, or superannuation.

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(2) Any such person who without leave previously granted by the Governor departs from New South Wales shall be liable to the like forfeiture during his absence.

Police Reward Fund.
25 Vic. No. 16, s. 24.

34. All penalties imposed on any member of the police force under this Act, and all penalties or portions of penalties and damages awarded by any Justice on any summary conviction to any member of the police force as the prosecutor of any information or otherwise, shall, instead of being paid to him, be paid to the Colonial Treasurer, to be by him applied and set apart towards a fund to be called the "Police Reward Fund," out of which shall be paid to the constables appointed under this Act, or to the widows of any such constables, such rewards, gratuities, bounties, pensions, or other allowances as may be directed by any rules made as hereinbefore provided.

Unclaimed goods in possession of police may be sold by Inspector-General, and proceeds applied to Police Reward Fund.
Ibid. s. 30.

35. (1) Any goods and chattels which have lawfully come to the possession of any member of the police force, and which are unclaimed, shall be sold and disposed of by the direction of the Inspector-General by public auction (a notice of such sale having been previously published thrice in the Gazette), and the clear produce of such sale shall, unless claimed within twelve months thereafter, be applied in aid of the Police Reward Fund.

(2) Every such sale shall be valid against all persons.

(3) No persons selling any goods or chattels under this section shall be liable to pay any auction or other duty in consequence of such sale.

Existing Police Superannuation Fund and Reward Fund transferred to purposes of this Act.
Ibid. s. 31.

36. (1) All sums of money now at the credit of any "Police Superannuation Fund" shall be transferred to the "Police Superannuation Fund" named in this Act, and all sums of money now in the hands of the Colonial Treasurer for and in respect of any "Police Reward Fund" shall be transferred to the "Police Reward Fund" named in this Act, and such funds respectively shall be dealt with and appropriated according to this Act.

(2) An account in detail of the appropriation of the said "Police Superannuation Fund" and "Police 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 :

Provided that the Governor may if it be deemed necessary or convenient at any time transfer and carry over a portion of either of such funds to the other of them.

Common Law Procedure.

SCHEDULES.

See s. 2.

FIRST SCHEDULE.

Repeal of Acts.

| Reference to Act. | Title or Short title. | Extent of repeal. |
|--------------------|----------------------------------|---|
| 19 Vic. No. 24 ... | Police (General) ... | So much of section 23 as relates to procedure under Police Regulation Acts. |
| 25 Vic. No. 16 .. | Police Regulation Act of 1862... | The whole. |

SECOND SCHEDULE.

See s. 21.

Memorandum of charge.

[*Name of complainant.*] A.B. of No. street, Sydney, sergeant of police.
 [*Name of defendant.*] C.D. of No. street, Sydney, constable of police.
 [*Date of offence.*] on the day of inst. or last.
 [*Offence.*] [*e.g.*, assault the said A.B., his superior officer, at Sydney aforesaid.]
 [*Date of issuing summons.*] The day of , 18
 [*Signed by*] I.Z. J.P.
 [*Summons returnable.*] The day of inst. or next.