

POLICE REGULATION (PRIORITY LISTS AND APPEALS) AMENDMENT ACT, 1978, No. 140

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 140, 1978.

An Act to amend the Police Regulation Act, 1899, and the Police Regulation (Appeals) Act, 1923, with respect to the preparation of, and appeals relating to, lists of persons qualified for appointment to the rank of inspector or promotion to the rank of sergeant first class. [Assented to, 22nd December, 1978.]

Police Regulation (Priority Lists and Appeals) Amendment.

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 :—

Short title. **1.** This Act may be cited as the "Police Regulation (Priority Lists and Appeals) Amendment Act, 1978".

Schedules. **2.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING TO PRIORITY LISTS.

SCHEDULE 2.—AMENDMENTS TO THE POLICE REGULATION (APPEALS) ACT, 1923, RELATING TO APPEALS WITH RESPECT TO PRIORITY LISTS.

SCHEDULE 3.—AMENDMENTS TO THE POLICE REGULATION ACT, 1899, BY WAY OF STATUTE LAW REVISION.

SCHEDULE 4.—AMENDMENTS TO THE POLICE REGULATION (APPEALS) ACT, 1923, BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 20, 1899. **3.** (1) The Police Regulation Act, 1899, is amended in the manner set forth in Schedules 1 and 3.

Amendment of Act No. 33, 1923. (2) The Police Regulation (Appeals) Act, 1923, is amended in the manner set forth in Schedules 2 and 4.

Police Regulation (Priority Lists and Appeals) Amendment.

4. (1) Subject to subsection (2), the provisions of section 5A of the Police Regulation Act, 1899, as in force immediately before the commencement of this Act, and of section 4 of the Police Regulation (Appeals) Act, 1923, as so in force, continue to apply to and in respect of recommendations for the appointment of sergeants to the rank of inspector made on or before 30th September, 1979. Transi-
tional.

(2) A person—

- (a) whose name was contained in a list prepared for the purposes of section 5A of the Police Regulation Act, 1899, as in force before the commencement of this Act, or in a list prepared by the Crown Employees Appeals Board consequent upon the determination of appeals made under the Police Regulation (Appeals) Act, 1923, relating to a list prepared under that section; and
- (b) who was not recommended for appointment to the rank of inspector during the year or period ended on 30th September next following the preparation of the list containing his name,

is not, and shall be deemed never to have been, entitled, by reason of his name being on any such list, to be recommended for appointment to the rank of inspector after that 30th September, unless he has, before the commencement of this Act, been appointed to the rank of inspector.

5. Any appeal that, but for the amendment made to the Police Regulation (Appeals) Act, 1923, by section 3 (2) and Schedule 2 (1), could have been made in respect of a decision of the Commissioner of Police made on or before 31st December, 1978, (being a decision to make a promotion referred to in section 3 (1) of that Act as in force before the commencement of this Act) may be made and shall be heard and determined and given effect to in all respects as if this Act had not been enacted. Saving.

Police Regulation (Priority Lists and Appeals) Amendment.

Sec. 3 (1).

SCHEDULE 1.

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS.

(1) Section 5A—

Omit the section, insert instead :—

Priority
lists for
appointment
of ser-
geants to
inspectors.

5A. (1) In this section—

“priority list” means a list prepared under subsection (2);

“qualified sergeant” means a sergeant who, according to the rules governing promotion in the police force, is qualified to be appointed to the rank of inspector;

“supplementary priority list” means a list prepared under subsection (3);

“year” means any year commencing on 1st October.

(2) Not later than 31st July, 1979, and not later than 31st July in each subsequent year, the Commissioner shall prepare or cause to be prepared a list for the year next following the preparation of the list containing the names of such number of qualified sergeants as the Commissioner thinks fit, that number being not less than the number of vacancies in the rank of inspector expected to occur during that year.

(3) If, at any time during any year it appears to the Commissioner that the number of vacancies in the rank of inspector expected to occur during the remainder of that year will exceed the number of qualified sergeants whose names are then contained in the priority list prepared for that year, the Commissioner shall prepare or cause to be

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

prepared a list for the remainder of that year containing the names of such number of qualified sergeants as the Commissioner thinks fit, that number being not less than the number of expected excess vacancies.

(4) The Commissioner may appoint such panels or committees, comprising such number of members of the police force of or above the rank of superintendent, as he thinks fit for the purpose of advising him or assisting in the preparation of any priority list or supplementary priority list for the purposes of this section.

(5) As soon as practicable after a priority list or a supplementary priority list has been prepared under this section, the Commissioner shall cause a copy of the list to be served on—

- (a) every sergeant whose name is contained in the list; and
- (b) every sergeant whose name is not contained in the list but who is senior in that rank to the most junior sergeant whose name is contained in the list.

(6) Service of a copy of a list under subsection (5) may be effected by delivering the copy to the sergeant in person or by sending it to him by certified mail to his address last known to the Commissioner.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

(7) A sergeant shall not be recommended for appointment to the rank of inspector in any year—

(a) unless, where his name is contained in the priority list for that year—

(i) the period within which appeals under section 4 (1) of the Police Regulation (Appeals) Act, 1923, relating to that list has expired; and

(ii) every appeal under section 4 (1) of that Act relating to that list has been finally determined under section 4 or has been withdrawn; or

(b) unless, where his name is contained in a supplementary priority list for a part of that year—

(i) the period within which appeals under section 4 (1) of the Police Regulation (Appeals) Act, 1923, relating to that list has expired; and

(ii) every appeal under section 4 (1) of that Act relating to that list has been finally determined under section 4 or has been withdrawn.

(8) A person shall not be recommended for appointment to the rank of inspector in any year unless he is a qualified sergeant and—

(a) his name is contained in the priority list for that year and is higher in order than the name of any other qualified sergeant contained in that priority list; or

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

- (b) his name is contained in a supplementary priority list for a part of that year and—
 - (i) his name is higher in order than the name of any other qualified sergeant contained in that supplementary priority list; and
 - (ii) the priority list for that year and any previously prepared supplementary priority list for a part of that year does not contain the name of any qualified sergeant.

- (9) An inspector whose name was contained—
 - (a) in a priority list for any year and who was appointed to the rank of inspector pursuant to a recommendation of the Commissioner made in that year is senior, in the rank of inspector, to any other inspector whose name was contained—
 - (i) in that priority list lower in order than the name of the firstmentioned inspector;
 - (ii) in the priority list for any subsequent year; or
 - (iii) in a supplementary priority list for part of that or any subsequent year; or
 - (b) in a supplementary priority list for part of any year and who was appointed to the rank of inspector pursuant to a recommendation of the Commissioner made in that year is senior, in the rank of inspector to any other inspector whose name was contained—
 - (i) in that supplementary priority list lower in order than the name of the first-mentioned inspector; or

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

- (ii) in any priority list, other than the priority list for that or any previous year, or in any supplementary priority list, other than a previously prepared supplementary priority list.

(10) For the purposes of subsections (8) and (9)—

- (a) a reference to a priority list or a supplementary list is, where such a list has been varied under section 4 (2) of the Police Regulation (Appeals) Act, 1923, a reference to that list as so varied; and
- (b) a supplementary priority list shall be deemed to have been prepared previously to another supplementary priority list if it purports to have been prepared on an earlier date.

(11) In subsection (9), a reference to a priority list or a supplementary priority list includes a reference to a priority list or a priority list prepared under this section as in force before the commencement of the Police Regulation (Priority Lists and Appeals) Amendment Act, 1978.

(2) Section 6B—

After section 6A, insert :—

6B. (1) In this section—

“lower ranking member of the police force” means a member of the police force lower in rank than the rank of sergeant first class;

Priority
lists for
promotion
to sergeant
first class.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

“priority list” means a list prepared under subsection (2);

“qualified lower ranking member of the police force” means a lower ranking member of the police force who, according to the rules governing promotion in the police force, is qualified to be promoted to the rank of sergeant first class;

“sergeant first class” means a sergeant of a rank higher than the rank of any other rank of sergeants;

“supplementary priority list” means a list prepared under subsection (3);

“year” means any year commencing on 1st January.

(2) Not later than 31st December, 1978, and not later than 30th September in each subsequent year, the Commissioner shall prepare or cause to be prepared a list for the year next following the preparation of the list containing the names of such number of qualified lower ranking members of the police force as the Commissioner thinks fit, that number being not less than the number of vacancies in the rank of sergeant first class expected to occur during that year.

(3) If, at any time during any year, it appears to the Commissioner that the number of vacancies in the rank of sergeant first class expected to occur during the remainder of that year will exceed the number of qualified sergeants whose names are then contained in the priority list prepared for that year, the Commissioner shall prepare

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

or cause to be prepared a list for the remainder of that year containing the names of such number of qualified lower ranking members of the police force as the Commissioner thinks fit, that number being not less than the number of expected excess vacancies.

(4) The Commissioner may appoint such panels or committees, comprising such number of members of the police force of or above the rank of inspector, as he thinks fit for the purpose of advising him or assisting in the preparation of any priority list or supplementary priority list for the purposes of this section.

(5) As soon as practicable after a priority list or supplementary priority list has been prepared under this section, the Commissioner shall cause a copy of the list to be served on—

- (a) every lower ranking member of the police force whose name is contained in the list; and
- (b) every lower ranking member of the police force whose name is not contained in the list but who is senior in rank to the most junior lower ranking member of the police force whose name is contained in the list.

(6) Service of a copy of a list under subsection (5) may be effected by delivering the copy to the lower ranking member of the police force in person or by sending it to him by certified mail to his address last known to the Commissioner.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

(7) A lower ranking member of the police force shall not be promoted to the rank of sergeant first class in any year—

(a) unless, where his name is contained in the priority list for that year—

(i) the period within which appeals under section 4 (1) of the Police Regulation (Appeals) Act, 1923, relating to that list has expired; and

(ii) every appeal under section 4 (1) of that Act relating to that list has been finally determined under section 4 or has been withdrawn; or

(b) unless, where his name is contained in a supplementary priority list for a part of that year—

(i) the period within which appeals under section 4 (1) of the Police Regulation (Appeals) Act, 1923, relating to that list has expired; and

(ii) every appeal under section 4 (1) of that Act relating to that list has been finally determined under section 4 or has been withdrawn.

(8) A person shall not be promoted to the rank of sergeant first class in any year unless he is a qualified lower ranking member of the police force and—

(a) his name is contained in the priority list for that year and is higher in order than the name of any other qualified lower ranking member of the police force contained in that priority list; or

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

(b) his name is contained in a supplementary priority list for a part of that year and—

(i) his name is higher in order than the name of any other qualified lower ranking member of the police force contained in that supplementary priority list; and

(ii) the priority list for that year and any previously prepared supplementary priority list for a part of that year does not contain the name of any qualified lower ranking member of the police force.

(9) A sergeant first class whose name was contained—

(a) in a priority list for any year and who was promoted to the rank of sergeant first class in that year is senior, in the rank of sergeant first class, to any other sergeant first class whose name was contained—

(i) in that priority list lower in order than the name of the firstmentioned sergeant;

(ii) in the priority list for any subsequent year; or

(iii) in a supplementary priority list for part of that or any subsequent year; or

(b) in a supplementary priority list for part of any year and who was promoted to the rank of sergeant first class in that year is senior, in the

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, RELATING
TO PRIORITY LISTS—*continued.*

rank of sergeant first class, to any other sergeant first class whose name was contained—

- (i) in that supplementary priority list lower in order than the name of the first-mentioned sergeant; or
- (ii) in any priority list, other than the priority list for that or any previous year, or in any supplementary priority list other than a previously prepared supplementary priority list.

(10) For the purposes of subsections (8) and (9)—

- (a) a reference to a priority list or a supplementary list is, where such a list has been varied under section 4B (2) of the Police Regulation (Appeals) Act, 1923, a reference to that list as so varied; and
 - (b) a supplementary priority list shall be deemed to have been prepared previously to another supplementary priority list if it purports to have been prepared on an earlier date.
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Police Regulation (Priority Lists and Appeals) Amendment.

Sec. 3 (2).

SCHEDULE 2.

AMENDMENTS TO THE POLICE REGULATION (APPEALS) ACT,
1923, RELATING TO APPEALS WITH RESPECT TO PRIORITY
LISTS.

(1) Section 3 (1) (a)—

Omit “a member of the police force of or below the rank of sergeant second class”, insert instead “(other than the rank of sergeant first class) a member of the police force of or below the rank of sergeant third class”.

(2) Section 4—

Omit the section, insert instead :—

4. (1) Where a list has been prepared under section 5A or 6B of the Police Regulation Act, 1899, and—

(a) a person whose name is not contained in that list is of the same rank as, but is senior in that rank to, one or more other persons whose names are contained in that list; or

(b) the name of a person is contained in that list lower in order than the name of any other person whose name is contained in that list and who is junior in rank to the firstmentioned person,

the person firstmentioned in paragraph (a) or (b) may, if, according to the rules governing promotion in the police force, he is qualified for appointment or promotion to any rank higher than that which he then holds, appeal to the Board against his name not being contained in that list or against his name being contained in that list in that lower order.

(2) Where an appeal under subsection (1) is decided in favour of the appellant the Board shall include in its decision a direction that the list to which the appeal

Appeal to Board in respect of appointments to inspector or promotions to sergeant first class.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO THE POLICE REGULATION (APPEALS) ACT,
1923, RELATING TO APPEALS WITH RESPECT TO PRIORITY
LISTS—*continued.*

relates be varied by placing the appellant's name, or by altering the position of the appellant's name, in the list as is appropriate to give effect to the Board's decision.

(3) The Board may, if it thinks fit, hear two or more appeals under subsection (1) relating to the same list and make a composite decision with respect to all or any two or more of those appeals.

(3) (a) Section 6 (1) (c)—

Omit "in which subsection (1) of section 10 of the Police Regulation (Superannuation) Act, 1906, would authorise the payment or grant of a gratuity or superannuation allowance to the member if he were disabled by the wound or injury", insert instead "referred to in section 10 of the Police Regulation (Superannuation) Act, 1906".

(b) Section 6 (1) (d)—

Omit "referred to in subsection (1) of section 10 of the Police Regulation (Superannuation) Act, 1906", insert instead "received in circumstances referred to in section 10 of that Act".

Police Regulation (Priority Lists and Appeals) Amendment.

Sec. 3 (1).

SCHEDULE 3.

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, BY WAY
OF STATUTE LAW REVISION.

(1) (a) Section 1—

Omit the matter relating to Part IIB.

(b) Section 1—

From the matter relating to Part III, omit
“GENERAL.”, insert instead “GENERAL—ss. 34, 35.”.

(2) (a) Section 4 (5) (b)—

Omit the paragraph, insert instead :—

(b) becomes bankrupt, applies to take the benefit
of any law for the relief of bankrupt or
insolvent debtors, compounds with his
creditors or makes an assignment of his
remuneration for their benefit;

(b) Section 4 (5) (d)—

Omit the paragraph, insert instead :—

(d) becomes a temporary patient, a continued
treatment patient, a protected person or an
incapable person within the meaning of the
Mental Health Act, 1958, or a person under
detention under Part VII of that Act: or

(3) (a) Section 4c (1) (b)—

Omit “subsection (2) of section 4D”, insert instead
“section 4D (2)”.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, BY WAY
OF STATUTE LAW REVISION—*continued.*

- (b) Section 4C (3) (c)—
Omit “paragraph (b) of subsection (5) of section 4A”, insert instead “section 4A (5) (b)”.
- (4) Section 6 (2)—
Omit “or Act of Council”.
- (5) (a) Section 10A—
Omit “of Australia” wherever occurring.
- (b) Section 10A (2)—
Omit “the said”.
- (c) Section 10A (2)—
Omit “subsection (1) of section 10A”, insert instead
“section 10A (1)”.
- (6) (a) Section 12—
Omit :—

All such rules shall be published in the Gazette,
and :—

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

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, BY WAY
OF STATUTE LAW REVISION—*continued.*

- (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.

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.

- (b) Section 12 (2)—

At the end of section 12, insert :—

(2) Section 41 of the Interpretation Act, 1897, applies in respect of a rule made under this Act as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

- (7) (a) Section 12A (2)—

Omit “subsection (7) of section 3”, insert instead “section 3 (7)”.

- (b) Section 12A (3)—

Omit “as amended by subsequent Acts,”.

- (8) (a) Section 12B (1)—

Omit “subsection (1) of section 12A”, insert instead “section 12A (1)”.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, BY WAY
OF STATUTE LAW REVISION—*continued.*

(b) Section 12B (2A)—

Omit “subsection (3) of section 12A”, insert instead
“section 12A (3)”.

(c) Section 12B (2A)—

Omit “the said subsection (3)”, insert instead “section
12A (3)”.

(d) Section 12B (5)—

Omit “, as amended by subsequent Acts”.

(9) (a) Section 12D (4)—

Omit “as amended by subsequent Acts,” wherever
occurring.

(b) Section 12D (11) (a)—

Omit “Colonial Treasurer”, insert instead “Treasurer”.

(c) Section 12D (11) (c)—

Omit “subparagraph (i) of paragraph (b)”, insert
instead “paragraph (b) (i)”.

(d) Section 12D (12), definition of “special constable”—

Omit “as amended by subsequent Acts,”.

(10) Section 15 (1)—

Omit “with hard labour”.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899, BY WAY
OF STATUTE LAW REVISION—*continued.*

- (11) Section 17A (7)—
Omit “as amended by subsequent Acts,” wherever occurring.
- (12) Section 19 (2)—
Omit “with hard labour”.
- (13) Section 34—
Omit “Colonial Treasurer”, insert instead “Treasurer”.
- (14) Section 36 (2)—
Omit the subsection.
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Sec. 3 (2).

SCHEDULE 4.

AMENDMENTS TO THE POLICE REGULATION (APPEALS) ACT,
1923, BY WAY OF STATUTE LAW REVISION.

- (1) (a) Section 2, definition of “Board”—
Omit “, as amended by subsequent Acts”.
- (b) Section 2, definition of “Prescribed”—
Omit the definition.

Police Regulation (Priority Lists and Appeals) Amendment.

SCHEDULE 4—*continued.*

AMENDMENTS TO THE POLICE REGULATION (APPEALS)
ACT, 1923, BY WAY OF STATUTE LAW REVISION—*continued.*

(2) Section 6 (1) (d)—

Omit “subsection (1) of section 8”, insert instead
“section 8”.