

POLICE BOARD ACT, 1983, No. 135

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 135, 1983.

An Act to constitute the Police Board of New South Wales; to define its functions; and for other purposes. [Assented to, 21st December, 1983.]

Police Board.

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.

Short title.

1. This Act may be cited as the "Police Board Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.
(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrangement.

3. This Act is divided as follows:—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—THE POLICE BOARD OF NEW SOUTH WALES—*ss.* 5, 6.

PART III.—FUNCTIONS OF THE BOARD—*ss.* 7, 8.

PART IV.—MISCELLANEOUS—*ss.* 9–15.

SCHEDULE 1.—PROVISIONS RELATING TO THE PART-TIME MEMBERS OF THE BOARD.

SCHEDULE 2.—PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.

Police Board.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Board” means the Police Board of New South Wales constituted by this Act;

“Chairman” means the Chairman of the Board;

“Commissioner” means the Commissioner of Police or a person duly acting as the Commissioner of Police;

“member” means a member of the Board;

“part-time member” means a member referred to in section 5 (3) (b);

“police service” means the police force and its support services;

“regulation” means a regulation made under this Act.

(2) In this Act, a reference to—

(a) a function includes a reference to a power, authority and duty; and

(b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART II.**THE POLICE BOARD OF NEW SOUTH WALES.****The Board.**

5. (1) There shall be a Police Board of New South Wales.

(2) The Board—

(a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act; and

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- (b) shall, in the exercise of its functions, be subject to the control and direction of the Minister.
- (3) The Board shall consist of 3 members of whom—
 - (a) 1 shall be the Commissioner; and
 - (b) 2 shall be appointed by the Governor as part-time members.
- (4) Schedule 1 has effect with respect to the part-time members.
- (5) Schedule 2 has effect with respect to the procedure of the Board.

Staff of the Board.

- 6. (1) Such staff as may be necessary to enable the Board to exercise its functions shall be employed under the Public Service Act, 1979.
- (2) The Board may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

PART III.

FUNCTIONS OF THE BOARD.

Functions of the Board.

- 7. (1) The functions of the Board shall be to promote the improvement of the police force and to ensure the maintenance of an efficient and effective police service.
- (2) Without affecting the generality of subsection (1), the Board shall—
 - (a) formulate plans for the provision of a comprehensive, balanced and co-ordinated police service;

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- (b) make recommendations to the Minister on policy matters relating to the police service;
- (c) ensure the development of modern personnel practices within the police force;
- (d) make, in relation to the police service, recommendations to the Minister as to financial resources, property management, priorities and allocation of finance;
- (e) initiate research into new police methods and other research related to law enforcement generally;
- (f) consider applications and make recommendations to the Minister in relation to all appointments of officers to the rank of chief superintendent and higher ranks;
- (g) make recommendations to the Minister, having regard to the advice of the Commissioner, in relation to all promotions of commissioned officers up to and including the rank of superintendent;
- (h) make recommendations in relation to all transfers at the rank of chief superintendent and higher ranks; and
- (i) make reports or recommendations to the Minister on any matter referred to the Board by the Minister.

(3) Subject to subsection (4), nothing in this Act affects the responsibility of the Commissioner for the superintendence of the police force and its operational command and day-to-day management.

(4) The Commissioner shall implement, by the exercise of the Commissioner's functions in accordance with law, decisions of the Board.

Powers of entry, etc.

8. (1) The Board or a person authorised by the Board in writing under the hand of the Chairman may, for the purpose of exercising the Board's functions under this Act, enter into and upon any police premises at any time and call for and inspect all or any police records, documents or files or other matter, whether of the same or a different kind, on those premises and may question and seek information from any member of the police service.

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(2) A member of the police service who fails to comply with any requirement made of the member under subsection (1) or to give all assistance and co-operation to the Board or a person authorised under that subsection is guilty of an offence against this Act.

PART IV.

MISCELLANEOUS.

Disclosure of information.

9. A person who discloses any information obtained in connection with the administration or execution of this Act (or any other Act conferring or imposing functions on the Board) is, unless that disclosure is made—

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act (or any such other Act);
- (c) for the purposes of any legal proceedings arising out of this Act (or any such other Act) or of any report of any such proceedings;
- (d) in accordance with a requirement imposed under the Ombudsman Act, 1974; or
- (e) with other lawful excuse,

guilty of an offence against this Act.

Annual report.

10. (1) As soon as practicable after 30th June, but on or before 31st December, in each year, the Board shall prepare and forward to the Minister a report on the effectiveness and performance of the police service and on its own work and activities for the 12 months ending on 30th June in that year.

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(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Shortened references to Board.

11. In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to the "Police Board" shall be read and construed as a reference to the Police Board of New South Wales constituted by this Act.

Service of documents.

12. (1) A document may be served on the Board by leaving it at, or by sending it by post to, the office of the Board.

(2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board in a manner not provided for by subsection (1).

Proof of certain matters not required.

13. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of, or the holding of office by, any member; or
- (d) the presence of a quorum at any meeting of the Board.

Offences.

14. (1) A person who is guilty of an offence against this Act is, upon conviction, liable to a penalty not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months.

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(2) Proceedings for an offence against this Act may be taken before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Regulations.

15. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

SCHEDULE 1.

(Sec. 5 (4).)

PROVISIONS RELATING TO THE PART-TIME MEMBERS OF THE BOARD.

Age of members.

1. A person of or above the age of 70 years is not eligible to be appointed as a part-time member or to act in the office of a part-time member.

Chairman of the Board.

2. (1) Of the part-time members, one shall, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Governor, be appointed as Chairman of the Board.

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE PART-TIME MEMBERS OF THE BOARD—*continued.*

(2) The Governor may remove a part-time member from the office of Chairman.

(3) A person who is a part-time member and Chairman shall be deemed to have vacated office as Chairman if the person—

- (a) is removed from that office by the Governor under subclause (2);
- (b) resigns that office by instrument in writing addressed to the Minister; or
- (c) ceases to be a part-time member.

Acting members and acting Chairman.

3. (1) The Governor may, from time to time, appoint a person to act in the office of a part-time member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

(2) The Governor may, from time to time, appoint a part-time member to act in the office of Chairman during the illness or absence of the Chairman, and the part-time member, while so acting, shall have and may exercise all the functions of the Chairman.

(3) The Governor may remove any person from any office to which the person was appointed under subclause (1) or (2).

(4) A person while acting in the office of a part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(5) For the purposes of this clause—

- (a) a vacancy in the office of a part-time member or the Chairman shall be deemed to be an absence from office of the member or Chairman, as the case may be; and
- (b) a part-time member shall be deemed to be absent from office as a part-time member during any period that the member acts in the office of the Chairman pursuant to an appointment under subclause (2).

(6) In subclause (2) and clause 8—

- (a) a reference to a part-time member includes a reference to a person acting in the office of a part-time member;

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SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE PART-TIME MEMBERS OF THE BOARD—*continued.*

- (b) a reference to the appointment of a part-time member includes a reference to the appointment of a person to act in the office of a part-time member; and
- (c) a reference to the office of a part-time member includes a reference to the office of a person appointed to act in the office of a part-time member.

Terms of office.

4. Subject to this Schedule, a part-time member shall hold office for such period, not exceeding 5 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

Remuneration.

5. A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the part-time member.

Filling of vacancy in office of member.

6. In the event of the office of a part-time member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) A part-time member shall be deemed to have vacated office if the member—
- (a) dies;
 - (b) absents himself or herself from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
 - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

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SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE PART-TIME MEMBERS OF THE BOARD—*continued.*

- (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;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) resigns the office by instrument in writing addressed to the Minister;
- (g) attains the age of 70 years; or
- (h) is removed from office by the Governor under subclause (2).

(2) The Governor may remove a part-time member from office.

Effect of certain other Acts.

8. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a part-time member and a part-time member is not, as a part-time member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time member.

SCHEDULE 2.

(Sec. 5 (5).)

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.

General procedure.

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

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SCHEDULE 2—*continued.*

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD—*continued.*

Voting.

2. A decision supported by a majority of the votes cast at a meeting of the Board at which all the members are present shall be the decision of the Board.

Minutes.

3. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

First meeting of Board.

4. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

Liability of members, etc.

5. No matter or thing done by the Board, and no matter or thing done by any member or by any person acting under the direction of the Board shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.
