

**POLICE SERVICE (POLICE BOARD) AMENDMENT
ACT 1991 No. 18**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Police Service Act 1990 No. 47
4. Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

SCHEDULE 1—AMENDMENTS

**POLICE SERVICE (POLICE BOARD) AMENDMENT
ACT 1991 No. 18**

NEW SOUTH WALES



Act No. 18, 1991

An Act to amend the Police Service Act 1990 in respect of the composition and procedure of the Police Board, and for other purposes.
[Assented to 3 May 1991]

Police Service (Police Board) Amendment 1991

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Police Service (Police Board) Amendment Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Police Service Act 1990 No. 47

3. The Police Service Act 1990 is amended as set out in Schedule 1.

Amendment of Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)

4. The Statutory and Other Offices Remuneration Act 1975 is amended by inserting at the end of Part 2 of Schedule 3 the following words:
Chairperson of the Police Board.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Sections 17, 17A:

Omit section 17, insert instead:

Composition and procedure of the Board

17. (1) The Police Board is to consist of:

- (a) the Commissioner, and
- (b) the chairperson of the Police Board; and
- (c) at least 1 but not more than 3 part-time members appointed by the Governor.

(2) Schedule 1 has effect with respect to the members and procedure of the Police Board.

Appointment of Chairperson of the Board

17A. (1) The Governor may appoint a person as Chairperson of the Police Board.

Police Service (Police Board) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

(2) The appointment of the Chairperson may be on a full-time or part-time basis.

(3) If appointed on a full-time basis, the Chairperson:

- (a) is to devote the whole of his or her time to the duties of the office of Chairperson of the Police Board; and
- (b) is entitled to be paid remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975.

(4) Subject to this Act, the Chairperson holds office for such period (not exceeding 5 years) as is specified in the Chairperson's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

(5) The Commissioner is not eligible to be appointed as Chairperson of the Police Board.

(2) Schedule 1:

Omit the Schedule, insert instead:

**SCHEDULE 1—PROVISIONS RELATING TO THE
MEMBERS AND PROCEDURE OF
THE POLICE BOARD**

(Sec. 17)

Definitions

1. In this Schedule:

“**Board**” means the Police Board;

“**Chairperson**” means the Chairperson of the Board;

“**member**” means a member of the Board;

“**part-time member**” means a member other than the Commissioner or the Chairperson.

Acting members

2. (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 part-time member and the person, while so acting, has all the functions of the part-time member and is taken to be a part-time member.

Police Service (Police Board) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

(2) The Governor may, from time to time, appoint a part-time member to act in the office of the Chairperson during the illness or absence of the Chairperson and the part-time member, while so acting, has all the functions of the Chairperson and is taken to be the Chairperson.

(3) The Governor may remove any person from any office to which the person was appointed under this clause.

(4) A person while acting in the office of the Chairperson or a part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister from time to time determines 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 Chairperson is taken to be an absence from the office of the member or Chairperson; and
- (b) a part-time member is taken to be absent from office as a part-time member during any period that the member acts in the office of the Chairperson under this clause.

Terms of office

3. Subject to this Schedule, a part-time member holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration

4. A part-time Chairperson and a part-time member are entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister from time to time determines in respect of the part-time Chairperson or part-time member.

Vacancy in office

5. (1) The office of the Chairperson or a part-time member becomes vacant if the Chairperson or part-time member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or

Police Service (Police Board) Amendment 1991

SCHEDULE—AMENDMENTS—*continued*

- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) 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; or
- (f) engages, in the case of a full-time Chairperson, in any paid employment outside the duties of his or her office except with the consent of the Minister; or
- (g) is, in the case of a part-time member, absent from 8 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 Chairperson or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Chairperson for having been absent from those meetings; or
- (h) is, in the case of a part-time Chairperson, absent from 8 consecutive meetings of the Board of which reasonable notice has been given to the part-time Chairperson personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the part-time Chairperson is excused by the Minister for having been absent from those meetings; or
- (i) is, in the case of a full-time Chairperson, absent from office for a period of 14 consecutive days, unless on leave granted by the Minister or unless the absence is caused by illness or other unavoidable cause; or
- (j) becomes a mentally incapacitated person; or
- (k) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more 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.

Police Service (Police Board) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

(2) The Governor may remove the Chairperson or a part-time member from office for incapacity, incompetence or misbehaviour.

Filling of vacancy

6. If the office of the Chairperson or a part-time member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

7. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of the Chairperson or a part-time member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time Chairperson or of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time Chairperson or as a part-time member.

Committees of the Board

8 (1) The Chairperson may convene, or may nominate a member to convene, a committee of the Board to assist the Board in the exercise of its functions.

(2) It does not matter if the other members of a committee are not members of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Chairperson.

Personal liability of members etc.

9. (1) A matter or thing done by the Board, a member of the Board or any person acting under the direction of the Board does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject the member or a person so acting personally to any action, liability, claim or demand.

Police Service (Police Board) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

(2) In this clause, a reference to the Board includes a reference to a committee of the Board.

General procedure

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

Quorum

11. The quorum for a meeting of the Board is a majority of the members ~~or~~ for the time being, but must include the Commissioner and the Chairperson.

Presiding member

12. The Chairperson:

- (a) is to preside at a meeting of the Board; and
- (b) has at any meeting of the Board a deliberative vote but, in the event of an equality of votes, does not have a second or casting vote.

Voting

13. A decision supported by a majority of the votes east at a meeting of the Board at which a quorum is present is the decision of the Board.

Transaction of business outside meetings or by telephone etc,

14. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being, and a resolution in writing approved in writing by a majority of those members is taken ~~to be~~ a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

Police Service (Police Board) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

the Chairperson and each other member have the same voting rights they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Member applying for appointment as Commissioner not to act on Board

15. (1) An applicant for appointment to the office of Commissioner who is a member of the Board must not:

- (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to the appointment; or
- (b) exercise any functions of the Board with respect to the appointment.

(2) Even though a member of the Board contravenes this clause, that contravention does not invalidate any decision of the Board or the exercise by the Board of any of its functions.

Proof of certain matters not required

16. In any legal proceedings proof is not required (until evidence is given to the contrary) of:

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

(3) Schedule 4 (**Savings, transitional and other provisions**):

- (a) At the end of clause 2 (1), insert:

Police Service (Police Board) Amendment Act 1991.

Police Service (Police Board) Amendment 1991

SCHEDULE 1—AMENDMENTS—*continued*

(b) After Part 2, insert:

**PART 3—PROVISIONS CONSEQUENT ON
ENACTMENT OF POLICE SERVICE (POLICE
BOARD) AMENDMENT ACT 1991**

Existing Chairperson and part-time member of Police Board

15. (1) The part-time member holding office as Chairperson of the Police Board immediately before the commencement of Schedule 1 (1) to the Police Service (Police Board) Amendment Act 1991 ceases to hold office as part-time member and Chairperson on that commencement, but is eligible (if otherwise qualified) for appointment as Chairperson of the Police Board under section 17A (as inserted by that Act).

(2) The other part-time member of the Police Board holding office immediately before the commencement of Schedule 1 (1) to the Police Service (Police Board) Amendment Act 1991 continues to hold office as a part-time member of the Police Board after that commencement for the balance of the member's term of office.

*[Minister's second reading speech made in—
Legislative Assembly on 9 April 1991
Legislative Council on 28 February 1991]*