



New South Wales

# **Police Service Amendment (Commissioned Officers) Act 1996 No 91**

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New South Wales

# **Police Service Amendment (Commissioned Officers) Act 1996 No 91**

Act No 91, 1996

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An Act to amend the *Police Service Act 1990* to provide for term appointments of non-executive commissioned police officers. [Assented to 25 November 1996]

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

**1 Name of Act**

This Act is the *Police Service Amendment (Commissioned Officers) Act 1996*.

**2 Commencement**

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

**3 Amendment of Police Service Act 1990 No 47**

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

**Schedule 1 Amendments**

(Section 3)

**[ 1 ] Part 6, Division 3A**

**Insert after Division 3:**

**Division 3A Term of office of non-executive  
commissioned police officers**

**72A Five year term appointments**

- (1) Subject to this Act, a non-executive commissioned police officer holds office for the term of office specified in an instrument of appointment issued by the Commissioner for the purposes of this section.
- (2) The instrument operates as an appointment of the officer for the term of office so specified. The appointment is separate and distinct from the appointment of the officer to the officer's position by the Governor under section 64.
- (3) The term of office is to be 5 years or the officer's balance of service to retirement (whichever is shorter).
- (4) An officer's balance of service to retirement is the period up to the officer's projected date of retirement from the Police Service, as determined by the Commissioner after consultation with the officer.

**72B Entitlement to further terms**

- (1) Until retirement, a non-executive commissioned police officer is entitled (if otherwise qualified) to appointment for a further term of office in accordance with section 72A on the expiration of each current term of office, unless the Commissioner has decided that the officer is not to be appointed for a further term and notified the officer of that decision at least 6 months before the expiration of the current term of office.

- (2) The appointment of an officer for a further term of office does not constitute an appointment to a vacant non-executive position for the purposes of Division 2 (Appointment of non-executive officers generally) of Part 6.

**72C Ground for decision not to re-appoint**

- (1) The only ground for a decision by the Commissioner that a non-executive commissioned police officer is not to be appointed for a further term of office is that the officer is unable to meet required standards of operational competence, discipline or integrity.
- (2) The regulations may make provision for a review of a decision of the Commissioner under this section.

**72D Performance reviews**

A non-executive commissioned police officer's performance must be reviewed, at least annually, by the Commissioner or by some person nominated by the Commissioner. The review is to have regard to performance criteria determined by the Commissioner for the officer's position and any other relevant matter.

**72E Promotion, transfer and re-appointment following resignation**

- (1) When a non-executive commissioned police officer is appointed by way of promotion to another position in the Police Service that is a non-executive commissioned police officer position, the officer is to be appointed for a new term of office in accordance with section 72A in the position to which the officer is promoted.
- (2) When a non-executive commissioned police officer is transferred to another position in the Police Service that is a non-executive commissioned police officer position, the officer is not to be appointed for a new term of office in the position to which the officer is transferred, and the officer's existing term of office continues in the transferred position.

- (3) When a non-executive commissioned police officer is re-appointed under section 93 (Re-appointment of member resigning to contest Commonwealth election) the officer is to be appointed for a new term of office that is equivalent to the balance of the officer's term of office as at resignation.

**72F Powers of dismissal and suspension not affected**

Nothing in this Division limits or otherwise affects any power under this Act to suspend or dismiss a non-executive commissioned police officer.

**[2] Section 82 Vacation of non-executive positions**

Insert after section 82 (1) (a):

- (a1) completes a term of office and is not appointed for a further term, or

**[3] Section 89 Industrial arbitration or legal proceedings excluded in relation to appointments**

Insert after section 89 (4):

- (5) The failure of a non-executive commissioned police officer to be appointed for a further term of office as provided by section 72B is for the purposes of this section taken to be a failure to appoint a person to a vacant non-executive position.

**[4] Schedule 4 Savings, transitional and other provisions**

Insert at the end of the list of Acts in clause 2 (1):

*Police Service Amendment (Commissioned Officers) Act  
1996*

**[5] Schedule 4, Part 10**

Insert after Part 9:

**Part 10 Police Service Amendment (Commissioned Officers) Act 1996**

**31 Five year term appointment for existing non-executive commissioned officers**

- (1) A member of the Police Service who is a non-executive commissioned police officer within the meaning of Part 6 immediately before the commencement of section 72A (Five year term appointments) is to be appointed under that section for a term of office of 5 years from the officer's deemed appointment day.
- (2) An officer's deemed appointment day is:
  - (a) if the officer was a non-executive commissioned police officer immediately before the beginning of 1 January 1996—1 January 1996, or
  - (b) if the officer became a non-executive commissioned police officer on or after 1 January 1996—the day on which the officer became a non-executive commissioned police officer.
- (3) If an officer's projected date of retirement is before the end of the 5 year term provided for by subclause (1), the term of the appointment is to be (instead of 5 years) for the period up to that projected date of retirement or 12 months (whichever provides the longer term of office). An officer's *projected date of retirement* is the officer's projected date of retirement from the Police Service as determined by the Commissioner after consultation with the officer.
- (4) This clause does not apply to an officer to whom clause 32 applies.

**32 Term appointment amendments do not apply to officers due to retire before 1 January 1997**

- (1) The amendments made by the *Police Service Amendment (Commissioned Officers) Act 1996* do not apply to a member of the Police Service who was a non-executive commissioned police officer immediately before the beginning of 1 January 1996 with a projected date of retirement from the Police Service (as determined by the Commissioner after consultation with the officer) earlier than 1 January 1997.
- (2) This Act continues to apply to such an officer as if the *Police Service Amendment (Commissioned Officers) Act 1996* had not been enacted.

[Minister's second reading speech made in—  
Legislative Assembly on 31 October 1996  
Legislative Council on 13 November 1996]