



New South Wales

Police Service Amendment (Selection and Appointment) Act 2000 No 99

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New South Wales

Police Service Amendment (Selection and Appointment) Act 2000 No 99

Act No 99, 2000

An Act to amend the *Police Service Act 1990* to make further provision with respect to selection and appointment to certain positions in the Police Service; and for other purposes. [Assented to 13 December 2000]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Police Service Amendment (Selection and Appointment) Act 2000*.

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] Section 67A

Insert after section 67:

67A Eligibility lists

- (1) This section applies to non-executive positions other than a position of police officer of the rank of constable.
- (2) When a vacant position to which this section applies is advertised in accordance with this Act, the Commissioner may, in connection with a determination of the merit of the persons eligible for appointment to the position, create an eligibility list for the position.
- (3) An eligibility list for a position is a list of eligible applicants (namely the persons who duly applied for appointment to the position and are eligible for appointment) arranged in order of merit as determined by the Commissioner.
- (4) An eligibility list for a position remains current:
 - (a) in the case of a list prepared for a base grade or entry level position of a non-executive administrative officer—for 12 months after the list was created, or
 - (b) in the case of a list prepared in relation to any other position—for 6 months after the list was created.
- (5) An eligibility list need not comprise all the eligible applicants so long as the applicants on the list are those of greatest merit. An eligibility list may even comprise only one eligible applicant so long as that applicant is the applicant of greatest merit.
- (6) An eligibility list is applicable not only to the position in relation to which it was created but also to any other position that the Commissioner determines it should be applicable to on the basis that the position is substantially the same as the position in relation to which the list was created.

- (7) In the case of positions of non-executive commissioned police officer or police officer of the rank of sergeant, the regulations may impose limitations on the positions that can be determined to be substantially the same as another position for the purposes of this section.
- (8) In this section:
base grade or entry level position means a position of administrative officer to which no administrative officer, employed in the same classification of work as that to which the position relates, could be promoted.

[2] Section 69 Advertising of vacancies

Insert at the end of section 69:

- (2) The vacancy need not be advertised if there is an eligibility list under section 67A that is current and applicable to the position.

[3] Section 71

Omit the section. Insert instead:

71 Appointment to be made on merit

- (1) In deciding to appoint a person to a vacant position of a non-executive commissioned police officer:
- (a) the Commissioner may only select a person who has duly applied for appointment to the position, and
 - (b) the Commissioner must, from among the applicants who are eligible for appointment to the vacant position (excluding those who are excluded from selection by subsection (3)), select the applicant who has, in the opinion of the Commissioner, the greatest merit.
- (2) Despite subsection (1), in deciding to appoint a person to a vacant position of a non-executive commissioned police officer that has not been advertised in accordance with this Act because it is an eligibility list position, the Commissioner must, from among the persons who are on the relevant eligibility list

and who are available for appointment (excluding those who are excluded from selection by subsection (3)), select the person with the greatest merit according to the order of merit in that eligibility list.

- (3) A person is excluded from selection for a vacant position if the person has been selected for appointment to another position in the Police Service the maximum salary for which is the same as or greater than the maximum salary for the vacant position. A person ceases to be selected for appointment to a position when the person is appointed to the position (other than by way of temporary appointment).
- (4) In determining a person's entitlement to be appointed to a position under this section for the purposes of an appeal to GREAT, the fact that the person is excluded from selection for the position by subsection (3) is to be ignored.

Note. The effect of subsection (4) is that an applicant for a position will have his or her rights of appeal to GREAT maintained, even if at the time of selection the applicant was excluded from selection because he or she had already been selected for appointment to a position of equal or greater salary.

- (5) In this section:
- eligibility list position* means a position to which a current eligibility list under section 67A is applicable.
- relevant eligibility list*, in relation to a position, means an eligibility list that is current and applicable to the position under section 67A.

[4] Section 76 Advertising of vacancies—sergeants

Insert at the end of section 76:

- (2) The vacancy need not be advertised if there is an eligibility list under section 67A that is current and applicable to the position.

[5] Section 77

Omit the section. Insert instead:

77 Appointment of sergeants to be made on merit

- (1) In deciding to appoint a person to a vacant position of a police officer of the rank of sergeant:

- (a) the Commissioner may only select a person who has duly applied for appointment to the position, and
 - (b) the Commissioner must, from among the applicants who are eligible for appointment to the vacant position (excluding those who are excluded from selection by subsection (3)), select the applicant who has, in the opinion of the Commissioner, the greatest merit.
- (2) Despite subsection (1), in deciding to appoint a person to a vacant position of a police officer of the rank of sergeant that has not been advertised in accordance with this Act because it is an eligibility list position, the Commissioner must, from among the persons who are on the relevant eligibility list and who are available for appointment (excluding those who are excluded from selection by subsection (3)), select the person with the greatest merit according to the order of merit in that eligibility list.
- (3) A person is excluded from selection for a vacant position if the person has been selected for appointment to another position in the Police Service the maximum salary for which is the same as or greater than the maximum salary for the vacant position. A person ceases to be selected for appointment to a position when the person is appointed to the position (other than by way of temporary appointment).
- (4) In determining a person's entitlement to be appointed to a position under this section for the purposes of an appeal to GREAT, the fact that the person is excluded from selection for the position by subsection (3) is to be ignored.

Note. The effect of subsection (4) is that an applicant for a position will have his or her rights of appeal to GREAT maintained, even if at the time of selection the applicant was excluded from selection because he or she had already been selected for appointment to a position of equal or greater salary.

- (5) In this section:
- eligibility list position*** means a position to which a current eligibility list under section 67A is applicable.
- relevant eligibility list***, in relation to a position, means an eligibility list that is current and applicable to the position under section 67A.

[6] Section 80 Advertising of vacancies

Insert at the end of section 80:

- , or
- (c) may, if there is an eligibility list under section 67A that is current and applicable to the position, appoint an administrative officer from the list without advertising the vacancy.

[7] Section 81 Appointment on merit

Insert after section 81 (2):

- (2A) Despite subsection (2), in deciding to appoint a person to a vacant non-executive position of administrative officer that has not been advertised in accordance with this Act because it is an eligibility list position, the Commissioner must, from among the persons who are on the relevant eligibility list and who are available for appointment, select the person with the greatest merit according to the order of merit in that eligibility list.

[8] Section 81 (4)

Insert after section 81 (3):

- (4) In this section:
- eligibility list position* means a position to which a current eligibility list under section 67A is applicable.
- relevant eligibility list*, in relation to a position, means an eligibility list that is current and applicable to the position under section 67A.

[9] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Police Service Amendment (Selection and Appointment) Act 2000

[10] Schedule 4, Part 15

Insert after Part 14 of Schedule 4:

**Part 15 Provisions consequent on enactment of
Police Service Amendment (Selection and
Appointment) Act 2000**

52 Eligibility lists for non-executive administrative officer positions

- (1) Any act, matter or thing done before the commencement of the eligibility list provisions in respect of a vacant non-executive position of an administrative officer that could have been validly done had those provisions been in force at the time it was done is taken to have been (and always to have been) validly done.
- (2) A reference in the eligibility list provisions to an eligibility list extends to include a reference to an eligibility list created before the commencement of those provisions, the creation of which is validated by subclause (1).
- (3) In this clause:
the eligibility list provisions means the provisions of sections 67A, 80 (c) and 81 (2A) and (4), as inserted by the *Police Service Amendment (Selection and Appointment) Act 2000*.

[Minister's second reading speech made in—
Legislative Assembly on 28 November 2000
Legislative Council on 5 December 2000]

BY AUTHORITY
