

1990 - No. 433

POLICE SERVICE ACT 1990 - REGULATION
(Police Service Regulation 1990)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Police Service Act 1990, has been pleased to make the Regulation set forth hereunder.

TED PICKERING
Minister for Police and Emergency Services.

PART 1 - PRELIMINARY

Citation

1. This Regulation may be cited as the Police Service Regulation 1990.

Commencement

2. This Regulation commences on 1 July 1990.

Definitions

3. In this Regulation:

"administrative officer" means a member of the Police Service other than a police officer or a temporary employee;

"commissioned police officer" means a police officer of or above the rank of inspector;

"Commissioner" means the Commissioner of Police;

"official Medical Officer" means:

- (a) in relation to police officers - a member of the Police Service holding the position of Police Medical Officer, or the nominee of such a member; or
- (b) in relation to members of the Police Service (other than police officers) - the Government Medical Officer within the meaning of the Public Sector Management (General) Regulation 1988;

"Police Board" means the Police Board of New South Wales established by the Act;

"Police Instructions" means the instructions issued by the Commissioner under section 8 (4) of the Act and for the time being in force;

"police officer" means a member of the Police Service holding a position which is designated under the Act as a position to be held by a police officer;

"Police Service" means the Police Service of New South Wales established by the Act;

"temporary employee" means a person temporarily employed in the Police Service under Part 7 of the Act;

"the Act" means the Police Service Act 1990.

PART 2 - PROVISIONS RELATING TO POLICE SERVICE GENERALLY

Annual report to Minister

4. The Commissioner is required to report annually to the Minister on the general state of the Police Service, including its numerical strength, distribution, general efficiency, the increase or diminution of crime, the establishment of new police stations and on such other matters as may be required by the Minister.

Division of the State for police purposes etc.

5. The Commissioner is responsible, for the purposes of the Police Service, for the division of the State into Regions, Districts and Patrols and for the establishment of Branches, Sections and Special Task Forces.

PART 3 - PROVISIONS RELATING TO POLICE OFFICERS

Division 1 - General provisions

Grades within ranks of inspectors, sergeants and constables etc.

6. (1) The grades within the ranks of inspector, sergeant and constable are as follows:

Inspectors (in descending order)

- * chief inspector
- * inspector

Sergeants (in descending order)

- * senior sergeant
- * sergeant

Constables (in descending order)

- * senior constable
- * constable 1st class
- * constable

(2) A police officer of any rank may, on satisfying requirements specified by the Commissioner, be designated as a detective.

General responsibilities of police officers

7. (1) Police officers within the Police Service Senior Executive Service:

- (a) if in charge of a Region or District, are responsible for the peace and good order of the Region or District; and
 - (b) are responsible for the proper performance of duty by police officers under their control.
- (2) Superintendents and inspectors:
- (a) if in charge of a District or Patrol, are responsible for the peace and good order of the District or Patrol; and
 - (b) are responsible for the proper performance of duty by police officers under their control.
- (3) Sergeants and constables:
- (a) if in charge of a Patrol (or part of a Patrol), are responsible for the peace and good order of the Patrol (or part); and
 - (b) are responsible for the proper performance of duty by police officers under their control.

(4) Police officers are not to issue to members of the Police Service any order or instruction that is inconsistent with the Police Instructions without the approval of the Commissioner.

Line of responsibility for police officers engaged on operational duties

8. (1) When police officers are engaged on operational police duty together, the senior police officer is responsible for the duty jointly done, and the other officers must comply with his or her directions, irrespective of whether they are stationed in the same Region, District or Patrol or belong to the same Branch, Section or Special Task Force.

(2) When a police officer is absent, the operational police duties of the absent officer devolve on the officer next junior to that officer and present, unless otherwise duly directed.

(3) When a police officer is absent from duty and another police officer is duly directed to relieve in the position of the absent officer, the officer relieving is, for the purpose of determining who is the senior officer when police officers are engaged on Operational police duty together, to be taken while relieving to be of the same rank and grade as the officer relieved.

(4) When a police officer is duly directed to act in a position that is vacant, the officer is, for the purpose of determining who is the senior officer when police officers are engaged on operational police duty together, to be taken while acting in that position to be of the same rank and grade as a police officer holding that position.

General conditions of service by police officers

9. Each police officer is subject to the following conditions of service:

Obedience

(1) Police officers are to comply strictly with the Act, this Regulation and the Police Instructions and promptly obey all lawful orders from those in authority over them.

Performance of duty

(2) Police officers are presumed to know their duty in every case and, unless otherwise duly directed, are responsible for the due performance of their duty.

Honesty and truthfulness

- (3) Police officers are at all times to exercise the strictest honesty and truthfulness, and in particular they must not:
 - (a) wilfully or negligently make any false, misleading or incorrect statement; or
 - (b) knowingly make or sign any false statement in any official document, record or book; or
 - (c) without good and sufficient cause, destroy or mutilate any official document, record or book, or alter or erase any entry therein.

Liability to dismissal or other punishment

- (4) Police officers are liable to dismissal or other punishment (in accordance with the Act and this Regulation) for disobedience, neglect or omission of duty, incompetence, intemperance, being under the influence of liquor while on duty or while in uniform, disrespect to any person in authority, insolent or indecorous behaviour, any words or actions subversive of discipline or calculated to impair the efficiency of, or bring discredit on, the Police Service, or any misconduct punishable by law or contrary to the Act, this Regulation or the Police Instructions.

Political or religious consideration

- (5) Police officers are not to permit any political or religious consideration to influence them in the discharge of their duty.

Pecuniary matter

- (6) Police officers are not to retain, without proper authority, any money paid by any person for anything arising out of, or in any way connected with, the officers' duty, whether by way of a refund of expenses or otherwise, and are not to derive or retain any pecuniary advantage from any public contract or from any purchase made by them or others on behalf of the Government.

Impartiality and discretion

- (7) Police officers must be strictly impartial in the discharge of their duties towards all persons. While required to zealously carry out their duties, officers must exercise forbearance and discretion in dealings with minor offences

committed inadvertently or in ignorance, or without evil intent, by respectable and law-abiding citizens. A caution or warning is all that is necessary on many occasions.

Unreasonable arrests

- (8) Police officers should not arrest a person for a minor offence when it is clear that a summons will ensure the offender will be dealt with by a court.

Innocent persons

- (9) The greatest caution is to be observed to prevent the possibility of an innocent person being arrested. If a police officer stops and detains a person suspected of having or conveying anything stolen or otherwise unlawfully obtained, or for any other reason, the officer must bear in mind that the person may be perfectly innocent, and is to carry out his or her duty in a courteous manner. If not in uniform, the officer must produce proof that he or she is a police officer, and in all such cases where it is eventually found that the suspect is innocent, regret is to be expressed for the inconvenience caused and the reason for police action is to be explained. Tact and discretion in such cases are essential. Where any innocent person is brought to a police station for investigation or a charge is refused, in circumstances which give rise to a sense of grievance or to any sort of protest, the matter must be at once reported to the Patrol Commander. At the same time the person aggrieved is to be afforded an opportunity of making any representations he or she desires in writing.

Debts and liabilities

- 10. (1) A police officer must not:
 - (a) under any circumstances borrow money from or otherwise become indebted to, directly or indirectly, any other police officer, or any person who is in any way engaged in the sale of liquor; or
 - (b) lend or connive at lending any money, directly or indirectly, to any other police officer; or
 - (c) assign the officer's pay, or contract any debts or liabilities which the officer is unable to pay, or neglect or refuse to discharge

promptly all indebtedness, claims and judgments against the officer.

(2) A police officer who embarrasses himself or herself by incurring liabilities the officer is unable to meet, so that the officer is impeded in the impartial discharge of his or her duty, or whose financial circumstances are such that his or her creditors are pressing for payment and who further embarrasses himself or herself by entering into additional liabilities, is liable to dismissal or other punishment.

(3) A police officer who becomes bankrupt, applies to take the benefit of any Act for the relief of insolvent debtors or makes an assignment for the benefit of the officer's creditors must report the fact within 7 days to his or her superior officer.

(4) A police officer who becomes bankrupt, applies to take the benefit of any Act for the relief of insolvent debtors, or makes an assignment for the benefit of the officer's creditors, is liable to dismissal or other punishment unless the officer produces satisfactory proof that the indebtedness has not been caused or attended by any fraud, extravagance or dishonourable conduct.

Solicitation of presents etc. and rewards

11. (1) A police officer must not:
- (a) directly or indirectly solicit from any person, firm or organisation any gift, favour or concession either for himself or herself, any member of his or her family Or any other police officer; or
 - (b) accept, either for himself or herself, any member of his or her family or any other police officer, any gift, favour or concession which could provide reasonable grounds for believing that the officer is placed under an obligation to a person, firm or organisation and that the obligation may be used to influence the manner in which the officer is to carry out his or her duties; or
 - (c) directly or indirectly, collect or solicit money, liquor or articles of any kind, for any purpose whatever, from any person, firm or association in any way connected with or engaged in the sale of liquor; or
 - (d) retain any money received as a gratuity or payment from any person, or accept any address, presentation or testimonial, without the permission of the Commissioner.

(2) Nothing in subclause (1) applies to or in respect of a purchase made in good faith.

(3) If a police officer is in any doubt about the propriety of accepting any unsolicited offer of a gift, favour or concession, the officer must submit a report to his or her superior officer seeking a direction as to the acceptance or rejection of the offer.

(4) A police officer must not, directly or indirectly, solicit a reward in connection with the performance of the officer's duties, nor accept a reward whether offered by any person or a government department or otherwise.

Oath or affirmation of office for police officers

12. (1) The form of the oath required to be taken by a police officer under section 13 of the Act is as follows:

I, _____, do swear that I will well and truly serve our Sovereign Lady the Queen as a police officer without favour or affection, malice or ill-will until I am legally discharged, that I will cause Her Majesty's peace to be kept and preserved, and that I will prevent to the best of my power all offences against that peace, and that while I continue to be a police officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law. So help me GOD.

(2) The form of the affirmation is the same as the form of the oath, except that:

- (a) the words "solemnly, sincerely and truly declare and affirm" are to be substituted for the word "swear"; and
- (b) the words "So help me GOD" are to be omitted.

Performance of duties by police officers

13. A police officer is required:

- (a) to serve wherever the officer is duly directed; and
- (b) to perform such police duty as may be duly directed, whether or not during the officer's rostered hours of duty.

Absent police officers

14. (1) A police officer who is not on duty (whether rostered off duty, on annual leave, suspended or otherwise absent):

- (a) is subject to the provisions of this Regulation; and
- (b) will be held responsible for any breach of discipline committed by the officer during that absence; and
- (c) unless on sick leave, may be recalled to duty as if the officer were not absent.

(2) Any such police officer must, if the officer is absent from his or her usual place of residence for a period exceeding 24 hours, notify the officer-in-charge of the Police Station, Branch, Section or Special Task Force to which the officer is attached, or if the officer is that officer-in-charge the relevant senior officer, of where the officer may be contacted during his or her absence.

Medical examination of police officers

15. Police officers are to be medically examined by the official Medical Officer prior to the completion of their probation and at any other time when directed by the Commissioner.

Certificate of discharge

16. (1) A police officer is entitled to be issued with a certificate of discharge by the Commissioner on resignation or retirement, except as provided by subclause (2).

- (2) A police officer is not so entitled if the officer:
 - (a) is dismissed from the Police Service; or
 - (b) is discharged from the Police Service during the period of the officer's probation; or
 - (c) is permitted to resign or retire from the Police Service while the subject of an investigation concerning the conduct of the officer by another police officer or under the Ombudsman Act 1974.

Division 2 - Appointment and promotion of constables

Appointment of constables on probation

17. (1) In accordance with section 73 (2) of the Act, a person when first appointed as a police officer of the rank of constable is to be appointed on probation:

- (a) for a period of 1 year; or
- (b) for such longer or shorter period (being not less than 6 months) as the Commissioner directs in respect of the person.

(2) Despite subclause (1), the Commissioner may direct that the period of probation of any such constable be a period of less than 6 months (but more than 1 month) if the person has previously served as a police officer in the Police Service (or as a member of the Police Force before the commencement of this Regulation).

(3) All or any part of such previous service may, with the approval of the Commissioner, be counted towards seniority.

Confirmation of appointment in rank of constable - general

18. Confirmation of appointment in the rank of constable is subject to:

- (a) the successful completion of the Police Recruit Education Program or other initial basic training as determined by the Commissioner; and
- (b) the completion of the period of probation under clause 17; and
- (c) a satisfactory fitness report under clause 19; and
- (d) the other requirements of this Division.

Confirmation of appointment of probationary constable - fitness report

19. (1) A recommendation for the confirmation of the appointment of a probationary constable is not to be made unless a police officer designated by the Commissioner has reported that the probationary constable is fit to discharge satisfactorily the duties of constable.

(2) Any such fitness report is to deal with the probationary constable's:

- (a) medical fitness; and
- (b) aptitude for the discharge of the duties of constable; and
- (c) integrity, diligence and good conduct.

(3) If a probationary constable is medically unfit on the day on which the Commissioner would otherwise confirm his or her appointment, and the medical unfitness is due to any wound, injury or sickness occasioned in the actual execution of duty, the Commissioner may, if the probationary constable satisfies all other requirements, confirm the

probationary constable in the rank of constable on and from the day he or she is certified medically fit by the official Medical Officer.

(4) If the day on and from which a probationary constable is confirmed in the rank of constable in accordance with subclause (3) occurs:

- (a) not more than 12 months after the day on which the appointment of the probationary constable would have been confirmed but for medical unfitness, the probationary constable's seniority is to be preserved as though the appointment had been confirmed on the latter day; or
- (b) more than 12 months after the day on which the appointment would have been confirmed but for medical unfitness, the probationary constable's seniority is to be determined as the day occurring 12 months before the day on which he or she is certified medically fit.

(5) If a probationary constable is medically unfit on the day on which the Commissioner would otherwise confirm the appointment of the probationary constable, and the medical unfitness is not due to any wound, injury or sickness occasioned in the actual execution of duty, the Commissioner may, if the probationary constable satisfies all other requirements, confirm the probationary constable in the rank of constable on and from the day he or she is certified medically fit by the official Medical Officer.

(6) If the day on and from which a probationary constable is confirmed in the rank of constable in accordance with subclause (5) occurs:

- (a) not more than 9 months after the day on which the appointment would have been confirmed but for medical unfitness, the probationary constable's seniority is to be preserved as though the appointment had been confirmed on the latter day; and
- (b) more than 9 months after the day on which the appointment would have been confirmed but for medical unfitness, the probationary constable's seniority is to be determined as the day occurring 9 months before the day on which he or she is certified medically fit.

Promotion within rank of constable - general

20. Promotion within the rank of constable is subject to:
- (a) the successful completion of the constable 1st class course or other internal or external qualifications as determined by the Commissioner; and
 - (b) a satisfactory fitness report under clause 21; and
 - (c) the completion of the period of service under clause 22 or 23 (as the case requires); and
 - (d) the other requirements of this Division.

Promotion within rank of constable - fitness report

21. (1) A recommendation for the promotion of a constable to the grade of constable 1st class or senior constable is not to be made unless a police officer designated by the Commissioner has reported that the constable is fit to discharge satisfactorily the duties of constable 1st class or senior constable (as the case requires).

- (2) Any such report is to deal with the constable's:
- (a) aptitude for the discharge of the duties of constable 1st class or senior constable (as the case requires); and
 - (b) integrity, diligence and good conduct.

Promotion to constable 1st class - service requirements

22. A recommendation for the promotion of a constable to the grade of constable 1st class is not to be made until the completion of a period of 4 years' service commencing from the date of the confirmation of his or her appointment as constable or the seniority date in respect of that confirmation of appointment determined in accordance with clause 17 or 19, whichever is the earlier.

Promotion to senior constable - service requirements

23. A recommendation for the promotion of a constable 1st class to the grade of senior constable is not to be made until the completion of 4 years' service in the former rank.

Adverse entries

24. Except in special circumstances determined by the Commissioner, and subject to clause 28, a police officer is not to be promoted, in the rank of constable, to the grade of senior constable or

constable 1st class if the officer has within the period of 12 months before the effective date of the promotion had an adverse entry, other than a caution or reprimand, made on the officer's record sheet.

Verging on retirement

25. A police officer is not be promoted, in the rank of constable, to the grade of senior constable or constable 1st class after the officer's 59th birthday.

Exceptional bravery or specially meritorious service

26. (1) The Commissioner may, despite anything to the contrary in this Division, confirm the appointment of a police officer in the rank of constable or promote a police officer within the rank of constable on the basis of exceptional bravery or specially meritorious service.

(2) A police officer whose appointment is confirmed or who is promoted under this clause is not eligible for a further promotion until any prescribed qualifications for the grade up to and including that of the further promotion have been satisfied.

Division 3 - Record sheets for police officers

Record sheets

27. (1) A record (to be known as a "record sheet") in respect of each police officer is to be maintained in the office of, and in such form as is determined by, the Commissioner.

(2) The record sheet of a police officer is to contain the following information:

- (a) personal particulars;
- (b) general qualifications;
- (c) internal and external courses completed;
- (d) examinations undertaken to qualify for promotion and the results obtained;
- (e) promotions;
- (f) Patrols in which stationed and Branches, Sections and Special Task Forces to which attached;

- (g) commendations and awards; and
- (h) information (to be known as “adverse entries”) in relation to:
 - (i) any criminal proceedings against the officer and the determination of the court in those proceedings; or
 - (ii) any departmental charge preferred against the officer under this Regulation (or under any former Rules under the Police Regulation Act 1899) and the determination of the Commissioner, the result of any appeal and any suspension from duty with or without pay.

Provisions respecting adverse entries

28. (1) The Commissioner may, having regard to the character of the offence or misconduct concerned, or the circumstances in which it was committed, or both, direct that:

- (a) no adverse entry be made in connection therewith; or
- (b) any adverse entry made in connection therewith is not to operate, or is to operate only for a reduced period, for the purposes of clause 24.

(2) Any such direction is to be given effect to by the person responsible for keeping the relevant record sheet.

(3) An adverse entry is not to be made in relation to any offence or misconduct, or (if made) is to be struck out, if the commission of the offence or misconduct is not duly established, and in particular if the police officer concerned is acquitted of the offence.

(4) An adverse entry made in contravention of subclause (3), or struck out in accordance with that subclause, is, for the purposes of this Regulation, to be taken not to have been made.

Inspection of record sheets

29. A police officer is entitled on application to see the entries in his or her record sheet or a copy of those entries.

Division 4 - Discipline of police officers

Police officer to report misconduct

30. (1) If:

- (a) an allegation is made to a police officer that another police officer has engaged in conduct which, in the opinion of the

officer to whom the allegation is made, constitutes a criminal offence or other misconduct; or

- (b) a police officer has reasonable grounds to believe that another police officer has engaged in any conduct of that kind,

the officer is required to report the conduct or alleged conduct by the other officer to a senior police officer (being a police officer who is more senior in rank than the officer making the report).

- (2) This clause does not apply to conduct or alleged conduct:
 - (a) that has been made the subject of a complaint under the Police Regulation (Allegations of Misconduct) Act 1978; or
 - (b) that has been the subject of evidence or other material given, or submissions made, in the course of criminal proceedings; or
 - (c) that has already been reported under this clause to a senior police officer.

Misconduct to be reported to Internal Affairs Branch

31. A senior police officer to whom conduct (or alleged conduct) by a police officer is reported as referred to in clause 30 is required to report it promptly to the Officer-in-Charge of the Internal Affairs Branch if the senior police officer believes that the conduct (or alleged conduct):

- (a) constitutes (or would constitute) a criminal offence by the officer; or
- (b) would provide sufficient grounds for preferring a departmental charge against the officer.

Victimisation

32. A police officer must not, in relation to any other police officer:
- (a) fail to approve or recommend the promotion of that other officer; or
 - (b) take, approve or recommend disciplinary action against that other officer; or
 - (c) direct, approve or recommend the transfer of that other officer to another position in the Police Service; or
 - (d) make, approve or recommend a decision which detrimentally affects the benefits or awards of that other officer; or

- (e) fail to approve or recommend that that other officer receive education or training which could reasonably be expected to improve the officer's opportunities for promotion or to confer some other advantage on the officer; or
- (f) change the duties of that other officer so that they are not appropriate to the officer's salary or position or approve or recommend such a change; or
- (g) otherwise act to the detriment of that other officer, in retaliation against that other officer because he or she has acted in accordance with clause 30 or 31, has made a complaint in accordance with the Police Regulation (Allegations of Misconduct) Act 1978 or has disclosed information relating to conduct contrary to law to any other officer.

Investigation of complaints

33. If:

- (a) a complaint alleging misconduct of any kind by a police officer before the commencement of the Police Regulation (Allegations of Misconduct) Act 1978 is made in writing and signed by the person making it; or
- (b) after that commencement, the Commissioner causes a complaint about the conduct of a police officer made in accordance with Part 2 of that Act to be investigated,

reports and statements are to be obtained from any other police officers or civilian witnesses with a view to ascertaining the facts and the complaint is to be the subject of a report and explanation by the police officer concerned.

Where disciplinary action required

34. If the Commissioner considers that action should be taken against a police officer, the Commissioner may direct the preferment of a departmental charge against the officer or the institution of court proceedings, whichever the Commissioner considers appropriate.

Action on preferment of a departmental charge

35. (1) If the Commissioner directs the preferment of a departmental charge against a police officer, the charge is to be

prepared in writing setting out the alleged offence, and the officer is to be charged accordingly.

(2) A copy of any such charge must be served on the police officer charged and the officer is then to be permitted to read the relevant portions of the departmental file.

(3) A police officer so charged may retain the copy of the charge served on the officer.

(4) A police officer so charged must, within 7 days of the date of service on the officer of a copy of the charge, report in writing on the original of the charge whether the officer admits or denies the charge.

(5) If any such charge relates to conduct other than conduct the subject of a complaint investigated under Part 4 of the Police Regulation (Allegations of Misconduct) Act 1978, the police officer concerned must, if the officer denies the charge, report within 7 days of the date of service on the officer of a copy of the charge, in writing on the original of the charge, whether or not the officer elects to have the charge heard and determined by the Police Tribunal of New South Wales.

(6) For the purpose of complying with subclause (4) or (5), a police officer is to be given access to the original charge.

Matters to be set out in departmental charges

36. A departmental charge prepared pursuant to clause 35 must, in addition to any other matter necessarily or conveniently referred to in the charge, set out:

- (a) whether the charge relates:
 - (i) to conduct the subject of a complaint investigated under Part 4 of the Police Regulation (Allegations of Misconduct) Act 1978; or
 - (ii) to conduct other than conduct the subject of a complaint investigated under Part 4 of that Act;
- (b) that the police officer charged must, within 7 days of the date of service on the officer of a copy of the charge, report in writing on the original of the charge whether the officer admits or denies the charge;

- (c) that the officer charged may retain the copy of the charge;
- (d) that if the charge is denied and the charge relates to conduct of the kind referred to in paragraph (a) (i) then the charge will be heard and determined by the Police Tribunal of New South Wales;
- (e) that if the charge is denied and the charge relates to conduct of the kind referred to in paragraph (a) (ii), then the officer charged:
 - (i) may elect to have the charge heard and determined by the Police Tribunal of New South Wales; and
 - (ii) must, within 7 days of the date of service on the officer of a copy of the charge, report in writing on the original charge whether or not the officer elects to have the charge heard and determined by the Police Tribunal of New South Wales; and
 - (iii) may, if the officer elects not to have the charge heard and determined by the Police Tribunal of New South Wales, furnish to the Commissioner a separate report containing any matter the officer desires to put forward; and
- (f) that in any proceedings before the Police Tribunal of New South Wales the police officer is entitled to be represented by counsel, solicitor or agent.

Where charge to be forwarded to Police Tribunal

37. If a police officer reports:
- (a) in relation to a charge arising out of conduct the subject of a complaint investigated under Part 4 of the Police Regulation (Allegations of Misconduct) Act 1978, that the officer denies the charge; or
 - (b) in relation to a charge arising out of conduct other than conduct the subject of a complaint investigated under Part 4 of that Act, that the officer denies the charge and elects to have the charge heard and determined by the Police Tribunal of New South Wales,

the Commissioner must, immediately on receipt of such a report, cause a copy of the original charge, with the officer's denial or denial and election endorsed on the charge, to be forwarded to the Registrar of the Police Tribunal of New South Wales.

Where departmental charge admitted

38. (1) If the charge is admitted by the police officer on whom it is served, the officer may furnish a separate report containing any submission the officer may wish to make in mitigation of penalty.

(2) The papers concerning such a charge are to be forwarded to the Commissioner.

Where departmental charge denied

39. (1) Where a departmental charge relates to conduct other than conduct the subject of a complaint investigated under Part 4 of the Police Regulation (Allegations of Misconduct) Act 1978 and the charge is denied by the police officer concerned, that officer may, if the officer elects not to have the charge heard and determined by the Police Tribunal of New South Wales, furnish a separate report containing any matter the officer desires to put forward.

(2) The papers concerning such a charge are to be forwarded to the Commissioner.

Suspension

40. (1) If the Commissioner has reasonable cause to believe that the conduct of a police officer has been such as to justify disciplinary action or the institution of criminal proceedings against the officer, the Commissioner may suspend the officer from office (with or without pay) pending further investigation and decision as to the action to be taken.

(2) If it is established to the satisfaction of the Commissioner that a police officer under suspension from office without pay is suffering undue hardship, the Commissioner may approve of the officer obtaining other employment for such period as the Commissioner may direct.

(3) If it is established to the satisfaction of the Commissioner that the officer or the officer's family will suffer undue hardship because of the suspension from pay, the Commissioner may approve a maintenance payment of not more than 100% of the salary of the officer at the time of the suspension.

(4) In this clause, "**police officer**" does not include a commissioned police officer.

Disciplinary action

41. (1) If the Police Tribunal of New South Wales, in its original jurisdiction, determines that a departmental charge preferred against a police officer has been proved, the Commissioner may, after the expiration of 30 days from the date of the Tribunal's determination, deal with the charge as provided by subclause (6).

(2) If an appeal against a determination of the Police Tribunal of New South Wales is lodged within 30 days of the date of the determination, no action to deal with the charge in accordance with subclause (1) is to be taken by the Commissioner pending the outcome of the appeal.

(3) If the Review Division of the Police Tribunal of New South Wales determines that a departmental charge preferred against a police officer has been proved, the Commissioner may deal with the charge as provided by subclause (6).

(4) If an appeal to the Review Division of the Police Tribunal of New South Wales is withdrawn, the Commissioner may deal with the charge to which the appeal relates as if the appeal had not been lodged.

(5) If a denial or a denial and an election referred to in clause 37 is withdrawn by leave of the President or a member of the Police Tribunal of New South Wales, the Commissioner may deal with the relevant charge as if the denial or the denial and election had not been made.

(6) If:

- (a) the Commissioner is authorised under subclause (1), (3) or (4) to deal with a departmental charge; or
- (b) the Commissioner is authorised under subclause (5) to deal with a departmental charge and the Commissioner finds that charge proved; or
- (c) the Commissioner finds proved a departmental charge (not being a charge referred to in subclause (1), (3), (4) or (5)),

the Commissioner may deal with the charge in such a manner as the Commissioner considers appropriate and, without limiting the generality of the foregoing, may

- (d) where the officer concerned is a commissioned police officer, deal with the charge in one or more of the following ways:

- (i) by giving the officer a caution or reprimand;
 - (ii) by imposing a fine on the officer;
 - (iii) by recommending to the Minister that the police officer be demoted to a lower rank or grade or be dismissed; or
- (e) where the officer concerned is not a commissioned police officer, deal with the charge in one or more of the following ways:
- (i) by giving the officer a caution or reprimand;
 - (ii) by imposing a fine on the officer;
 - (iii) by directing that the officer (if a constable) lose seniority
 - (iv) by reducing the salary of the officer;
 - (v) by demoting the officer to a lower rank or grade;
 - (vi) by dismissing the officer.

Fines

42. (1) Any fine imposed by the Commissioner in accordance with this Division is not to be deducted from the pay of the police officer concerned until after 30 days from when the Commissioner's determination has been made known to the officer.

(2) Any application made within that period for time to pay is to be considered and in the event of an appeal being lodged against the imposition of punishment involving the imposition of a fine, deductions from pay towards payment of the fine are not to be made pending the determination of the appeal.

Proceedings against police officers

43. A police officer is not to prefer any charge or lay any information against another police officer in criminal proceedings unless authorised by the Commissioner.

Departmental action following court appearance

44. When a police officer has been charged before a court with a criminal offence and the court has found the charge proved, the Commissioner may take action against the officer as if a departmental charge embracing the same facts had been preferred against the officer and had been found proved.

Secrecy as to complaints about conduct

45. (1) If:

- (a) any person (including a police officer) makes an allegation, not being an allegation which constitutes a complaint under the Police Regulation (Allegations of Misconduct) Act 1978, to a police officer (in this clause called “the senior officer”) concerning the conduct of a police officer; and
- (b) the senior officer has reasonable grounds for believing that, if the allegation were true:
 - (i) the police officer against whom the allegation was made would have committed a criminal offence; or
 - (ii) a departmental charge could be preferred against that officer,

the senior officer must not disclose to the officer against whom the allegation was made or any other person the identity of the person who made the allegation, except:

- (c) to or with the authority of the Commissioner or the Officer-in-Charge of the Internal Affairs Branch; or
- (d) in connection with the institution of or otherwise for the purposes of any proceedings before the Police Tribunal, a Royal Commission, a Special Commission of Inquiry or a court.

(2) In the course of an investigation into an allegation to which subclause (1) applies, a police officer must not, without the consent of:

- (a) the Officer-in-Charge of the Internal Affairs Branch; or
- (b) any other police officer serving for the time being on the staff of the Internal Affairs Branch and nominated for the purpose of granting consents under this subclause by that Officer-in-Charge, either generally or in the particular case,

disclose to any person, other than a person referred to in paragraph (a) or (b), the identity of the person who made the allegation.

(3) A person must not grant a consent under subclause (2) unless the person considers that the disclosure of the identity of the person who made the allegation is necessary for the effective conduct of the investigation into the allegation.

Division 5 - Police uniform

Police officers to wear uniform

46. (1) Uniform must be worn at all times by police officers when on duty or when proceeding to and from their police stations, unless otherwise authorised by the Commissioner.

(2) The Commissioner may from time to time approve of police officers performing certain types of duty being permitted to wear other clothing.

(3) The pattern and cut of the uniform must not be altered in any way and badges, service numbers and insignia of rank must be worn strictly in accordance with this Regulation and the Police Instructions.

Insignia of rank etc.

47. (1) Insignia of rank must be worn on epaulettes.

(2) The details of insignia of rank, uniform, badges and service number are as specified in the Police Instructions.

Service numbers to be worn

48. A police officer of the rank of constable is to wear the service number allocated to the officer in the manner specified in the Police Instructions.

Responsibility for loss or damage

49. A police officer:

- (a) is responsible for all articles of uniform and equipment issued to the officer; and
- (b) is responsible for any damage to uniform or equipment through neglect and may be required to meet its replacement cost.

Division 6 - Commissioner's Valour Award

Conferral of Commissioner's Valour Award

50. (1) When a police officer performs on police operational duty an act of conspicuous merit involving exceptional bravery, the officer may be granted by the Commissioner the Valour Award described in this Division.

(2) The recipient is entitled to use the initials "V.A." added after his or her name.

Bar for the valour award

51. (1) In the event of a police officer, who has previously been granted the Valour Award, performing on operational police duty an act of conspicuous merit involving exceptional bravery, the officer may be granted by the Commissioner a Silver Bar to the Valour Award described in this Division.

(2) The recipient is entitled to use the initials "V.A." followed by an asterisk after his or her name.

Form of the Valour Award

52. (1) The Commissioner's Valour Award comprises an ornamental sterling silver medallion 22 mm in diameter depicting the New South Wales Police crest and embellished with blue enamel on its highlighted and shaded features.

(2) The medallion is to be mounted centrally on an ornamental sterling silver cross 38 mm in width.

(3) The medallion is to be suspended by a silver ring from a plain silver bar on a mainly blue ribbon 38 mm wide.

(4) The medallion is to bear the words "FOR BRAVERY".

(5) Subsequent Bars to the Commissioner's Valour Awards will be represented by a laurelled leaf bar with a central rose design, 38 mm long in silver gilt.

(6) A miniature of the medallion will be depicted in a lapel brooch 12 mm wide.

(7) Subsequent Bars to the Commissioner's Valour Awards will be represented on the back of the lapel brooch by a metal blue disc of 15 mm diameter.

(8) The lapel brooch and disc will only be worn by police officers in plainclothes.

Division 7 - Gratuities for police officers

Payment of gratuities etc. for special services

53. The Commissioner may approve the payment of gratuities, or recommend the payment of rewards, for special services by police officers.

Special leave benefit where police officer disengaged etc.

54. (1) This clause applies to a police officer who:

- (a) accepts an offer of a disengagement benefit under section 8A of the Police Regulation (Superannuation) Act 1906; or
- (b) is offered a disengagement benefit under that section but elects instead to make provision for the benefit under section 9B of that Act (Preserved benefit).

(2) A police officer to whom this clause applies is entitled to be paid on the termination of the officer's services the money value of 26 weeks' special leave with pay as a gratuity.

(3) Any such gratuity is in addition to any other gratuity to which the police officer may be entitled under the Police Regulation (superannuation) Act 1906.

(4) Any such gratuity is payable by the Commissioner and is not payable from the Police Superannuation Fund.

Division 8 - Secrecy regarding police business

Confidential information

55. A police officer must treat all information which comes to the officer's knowledge in his or her official capacity as strictly confidential, and on no account without proper authority divulge it to anyone.

Secrecy in official matters

56. Without affecting the generality of clause 55, a police officer must observe the strictest secrecy in regard to Police Service business, and is forbidden to communicate without proper authority in any way whatever to any person outside the Police Service any information in regard to police or other official public business connected with his or her duties, or which may come to his or her knowledge in the performance of them.

Reports of accidents etc.

57. A police officer must not, unless authorised to do so, give any information to any person outside the Police Service concerning any reports or records of accidents, convictions or other occurrences, nor is any such person to be shown such documents.

Emergencies etc.

58. Nothing in this Division operates so as to impede the due performance of operational police duties or to prevent the giving of information if it is reasonable to do so for the purpose of dealing with an emergency when life or property is at risk.

PART 4 - PROVISIONS APPLYING TO ADMINISTRATIVE OFFICERS, AND TEMPORARY EMPLOYEES

Selection procedures

59. (1) Unless the Commissioner otherwise determines, a selection committee is to be established to assess the merit of applicants for appointment to a vacant position of administrative officer.

(2) A selection committee is, as far as practicable:

- (a) to consist of at least 3 persons; and
- (b) to include at least 1 person who does not hold a position as an administrative officer or police officer; and
- (c) to be constituted so as to ensure the fairest consideration of all applicants.

(3) A selection committee must, as far as practicable, deal with each applicant in similar fashion, but the committee is not required to interview all applicants.

(4) Nothing in this clause requires the Commissioner to adopt any recommendation made by a selection committee in relation to the filling of a vacancy.

Medical examination of administrative officers

60. Before the first appointment of a person as an administrative officer is confirmed, the person must undergo a medical examination which is:

- (a) of such a standard as the Commissioner may from time to time determine for the purpose of testing the fitness of the person to

carry out the duties of the position to which the person is to be appointed; and

- (b) arranged by the official Medical Officer.

Base grade recruitment - application of public service provisions

61. (1) For the purposes of section 81 of the Act, the competitive examinations which persons are required to pass before being appointed to vacant positions of administrative officer which have not been advertised are the examinations prescribed in respect of public servants under the provisions of Part 2 of the Public Sector Management (General) Regulation 1988.

(2) For the purpose of applying those provisions, a reference to the Industrial Authority or the Department Head is to be read as a reference to the Commissioner.

Conditions of service - application of public service conditions

62. (1) The provisions of Part 3 of the Public Sector Management (General) Regulation 1988 relating to:

- (a) hours of attendance;
- (b) public holidays;
- (c) absence from duty;
- (d) cost of travel to and from work;
- (e) increments;
- (f) sickness and medical examinations; and
- (g) remote areas,

apply to administrative officers and temporary employees.

(2) For the purpose of applying those provisions, a reference in that Part to the Industrial Authority or the Department Head is to be read as a reference to the Commissioner.

(3) The provisions of this clause are subject (in the case of administrative officers within the Police Service Senior Executive Service) to the contract of employment under Part 5 of the Act between the officer and the Police Board.

PART 5 - MISCELLANEOUS PROVISIONS APPLYING TO ALL MEMBERS OF THE POLICE SERVICE

Acting or relieving in other positions

63. (1) The Commissioner may direct the manner in which and the occasions on which the functions of suspended, sick or absent members of the Police Service (or the functions attaching to vacant positions) are to be exercised by other members.

(2) A police officer may act or relieve in a police or administrative position and an administrative officer may act or relieve in an administrative or police position.

Administrative officers and temporary employees may not exercise police powers

64. A member of the Police Service (not being a police officer) who:

- (a) duly acts or relieves in the position of a police officer; or
- (b) exercises any supervisory functions in relation to police officers,

is not thereby authorised to exercise (or direct the exercise of) the statutory or common law powers of a police officer.

Members refusing promotion or appointment

65. A member of the Police Service who has been offered a promotion or appointment in the Police Service may decline the promotion or appointment without prejudice to any rights that the member would, if the promotion or appointment had not been declined, have had to any future promotion or appointment.

Disposal of unclaimed property (except property relating to offence)

66. (1) This clause applies to property which is lawfully in the custody of a member of the Police Service and which is unclaimed, other than property which is in the custody of such a member in connection with any offence.

(2) The Commissioner may arrange for the sale by public auction of any property to which this clause applies.

(3) If the property is not suitable for sale it may be disposed of in such manner as the Commissioner directs.

(4) The proceeds of sale (if not claimed within 12 months of the sale) are to be paid into the Consolidated Fund.

PART 6 - LEAVE FOR MEMBERS OF POLICE SERVICE

Division 1 - Preliminary

Part subject to awards and agreements

67. This Part is subject to any award or any agreement under section 86 of the Act (including any award or industrial agreement applicable under clause 8 of Schedule 4 to the Act).

Applications for leave

68. (1) An application by a member of the Police Service for leave under this Part is to be made to and dealt with by the Commissioner.

(2) The Commissioner, in dealing with any such application, must have regard to the exigencies of the Police Service, but as far as practicable is to deal with the application in accordance with the wishes of the member.

Transitional - service before commencement of Part

69. For the purpose of calculating the entitlement of a member of the Police Service to leave under this Part, any period served by the member before the commencement of this Part as a member of the Police Force or as a public servant is to be taken into account as service as a member of the Police Service.

Special provisions relating to administrative officers and temporary employees

Unless the contrary intention appears, a period of leave to which an administrative officer or temporary employee is entitled under this Part is, where the officer or employee is employed in the Police Service for 6 or 7 working days each week, to be increased to six-fifths or seven-fifths, respectively, of the period of leave to which the officer or employee would, but for this subclause, be entitled under this Part.

(2) The provisions of this Part (except clauses 106,107,109 and 111) do not apply to temporary employees (other than cleaners) whose employment in the Police Service is part-time, whether for less than the whole of a working day or for less than 5 working days each week.

(3) If the period of leave to which a temporary employee is entitled under this Part exceeds the period for which the temporary employee is employed under the Act, the balance of that period of leave may be granted during subsequent periods of employment in the Police Service if each such subsequent period of employment commences on the termination of a previous period of employment in the Police Service.

Division 2 - Extended leave for members of Police Service

Definition of "officer"

71. In this Division:

"officer" means police officer, administrative officer or temporary employee.

Officer to be entitled to extended leave after a certain period of service

72. (1) Subject to this Division, an officer is entitled:

- (a) after service for 10 years, to leave for 2 months on full pay or 4 months on half pay; and
- (b) after service in excess of 10 years, to:
 - (i) leave as provided by paragraph (a); and
 - (ii) in addition, an amount of leave proportionate to the officer's length of service after 10 years, calculated on the basis of 5 months on full pay, or 10 months on half pay, for 10 years served after service for PO years.

(2) For the purpose of calculating the entitlement of a person to extended leave under this clause at any time:

- (a) service referred to in this clause includes service before the commencement of this Part (as referred to in clause 69); and
- (b) there must be deducted from the amount of extended leave to which, but for this paragraph, that person would be entitled:
 - (i) any extended leave, or leave in the nature of extended leave; and
 - (ii) the equivalent, in extended leave, of any benefit instead of extended leave or leave in the nature of extended leave,

taken or received by that person before that time, including any such leave taken, or benefit received, by that person in accordance with any former Act; and

- (c) the provisions of the Transferred Officers Extended Leave Act 1961 have effect.

(3) Nothing in subclause (2) is to be regarded as authorising, in respect of the same period of leave taken or the same benefit received, a deduction under both subclause (2) (b) and section 3 (7) of the Transferred Officers Extended Leave Act 1961.

(4) If the services of an officer with at least 5 years' service as an adult and less than 10 years' service are terminated:

- (a) by the Crown, the Governor or the Commissioner for any reason other than the officer's serious and intentional misconduct; or
- (b) by the officer on account of illness, incapacity or domestic or other pressing necessity,

the officer is entitled:

- (c) for 5 years' service, to 1 month's leave on full pay; and
- (d) for service after 5 years, to a proportionate amount of leave on full pay calculated on the basis of 3 months' leave for 15 years' service (that service to include service as an adult and otherwise than as an adult).

(5) For the purposes of subclause (4), "**service as an adult**", in the case of an officer employed to do any work for which the remuneration:

- (a) has been fixed by an award of the Commonwealth made under the Industrial Relations Act 1988 of the Commonwealth or the Industrial Arbitration Act 1940; or
- (b) has been fixed by an industrial agreement made in accordance with or registered under either of those Acts or an agreement or determination made in accordance with the Public Sector Management Act 1988, Police Regulation Act 1899 or Police Service Act 1990,

means the period of service during which the remuneration applicable to the officer was at a rate not lower than:

- (c) in the case of a police officer - the rate for a constable; or
- (d) in any other case - the lowest rate fixed under the award, industrial agreement, agreement or determination for an adult

male or adult female in the same trade, classification, calling, group or grade as the officer.

- (6) For the purposes of subclause (1), “**service**” includes:
- (a) service under the Teaching Services Act 1980; and
 - (b) any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act 1963; and
 - (c) in the case of an officer who has completed at least 10 years’ service - any period of leave without pay, not exceeding 6 months, taken after that commencement.

(7) In subclause (6) (c), for the purpose of determining whether or not an officer has completed at least 10 years' service, the officer's period of service is to be taken:

- (a) to include any period of leave without pay taken before the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act 1963; and
- (b) to exclude any period of leave without pay taken after that commencement.

(8) For the purposes of subclause (4), “**service**” does not include any period of leave without pay whether taken before or after the commencement of the Public Service and Other Statutory Bodies (Extended Leave) Amendment Act 1963.

Certain officers to be entitled to be paid a gratuity instead of extended leave

73. An officer who has acquired a right to extended leave with pay under clause 72 is entitled, immediately on the termination of the officer's services, to be paid instead of that leave the money value of the extended leave as a gratuity in addition to any gratuity to which the officer may be otherwise entitled.

Payment to be made where an officer entitled to extended leave has died

74. (1) If an officer has acquired a right under clause 72 to extended leave with pay and dies before starting it, or after starting it dies before completing it:

- (a) the widow or widower of the officer; or
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, a person who, in the opinion of the Commissioner, was, at the time of the officer's death, a dependant relative of the officer,

is entitled to receive the money value of the leave not taken, or not completed, computed at the rate of salary that the officer received at the time of his or her death, less any amount paid to the officer in respect of the leave not taken, or not completed.

(2) If an officer with at least 5 years' service as an adult and less than 10 years' service as referred to in clause 72 (4) dies:

- (a) the widow or widower of the officer; or
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, the person who, in the opinion of the Commissioner, was, at the time of the death of the officer, a dependant relative of the officer,

is entitled to receive the money value of the leave which would have accrued to the officer had his or her services terminated as referred to in clause 72 (4), computed at the rate of salary that the officer was receiving at the time of his or her death.

(3) If there is a guardian of any children entitled under subclause (1) or (2), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(4) If there is no person entitled under subclause (1) or (2) to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer, payment in respect of that leave must be made to the officer's personal representatives.

(5) Any payment under this clause is in addition to any payment due under any Act under which superannuation benefits are paid.

(6) If payment of the money value of leave has been made under this clause, the Crown and the Commissioner cease to be liable for payment of any amount in respect of that leave.

Division 3 - Annual leave for police officers

Annual leave entitlement

75. (1) Annual leave on full pay accrues to a probationary constable at the rate of 42 days per year and is to be granted in such manner as the Commissioner may direct.

(2) Subject to subclauses (4), (5) and (7), a police officer, on completing the first 12 months of service, is to be allowed for the balance of that calendar year such a proportion of 42 days' annual leave on full pay as the period between the date of completion of 12 months' service and the end of that calendar year bears to a calendar year and thereafter the officer is to be allowed 42 days' annual leave on full pay during each calendar year.

(3) The period of 42 days referred to in subclauses (1) and (2) is to contain 30 working days and 12 rest days.

(4) A police officer while attached to any Police Station within the Western Division or Central Division (within the meaning of the Crown Lands Consolidation Act 1913, as in force immediately before its repeal) accrues additional annual leave on full pay at the rate of 7 days per year, which period is to contain 5 working days and 2 rest days.

(5) A police officer who is rostered to work his or her ordinary hours on Sundays or public holidays, on the completion of a qualifying period under subclause (6), accrues additional annual leave on full pay on the following basis:

Number of ordinary 8-hour shifts worked on Sundays or public holidays during a qualifying period	Additional annual leave
4-10	1 additional working days leave
11-17	2 additional working days leave
18-24	3 additional working days leave
25-31	4 additional working days leave
32 or more	5 additional working days leave

- (6) A reference in subclause (5) to a qualifying period is:
- (a) in the case of a commissioned police officer (except as provided in paragraph (c)) - a reference to the period of 12 months commencing on 1 December 1979 and to any subsequent period of 12 months; and
 - (b) in the case of a sergeant or constable (except as provided in paragraph (c)) - a reference to the period of 12 months commencing on 1 December 1977 and to any subsequent period of 12 months; and
 - (c) if a police officer leaves the Police Service before the end of a 12 month period referred to in paragraph (a) or (b) - a reference, in relation to that officer, to the period from the commencement of that 12 month period to the date on which the officer ceases to be a police officer.

(7) A police officer accrues additional annual leave on full pay at the rate of 1 working day for each holiday publicly observed throughout the State, other than the day on which New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day or Boxing Day is publicly observed.

Annual leave generally to be taken in calendar year in which it is allowed

76. (1) A police officer is to take annual leave in the calendar year in respect of which that leave is allowed unless:

- (a) the taking of that leave is refused or postponed having regard to the exigencies of the Police Service; or
- (b) the member is on maternity leave, adoption leave or parental leave.

(2) Where, in a case specified in subclause (1) (a) or (b), the annual leave of a police officer has not been taken in the calendar year in which it was allowed, that leave is to be allowed to the officer in such manner as the Commissioner may determine.

(3) The annual leave of a police officer which has not been taken in the calendar year in which it was allowed is not to be forfeited.

Excess annual leave

77. Police officers who are authorised to grant annual leave must ensure that any excess annual leave granted to any police officer in any calendar year is deducted from the officer's annual leave entitlement in the next succeeding calendar year.

Annual leave - termination of services

78. (1) A police officer who resigns or retires or whose services are otherwise terminated (except by death) is, on cessation of employment, entitled to be paid forthwith, instead of annual leave accrued and remaining untaken, the money value of that leave as a gratuity.

(2) An officer to whom subclause (1) applies may elect to take either the whole or part of the annual leave accrued and remaining untaken at cessation of active duty as annual leave on full pay instead of taking the money value of that leave as a gratuity.

(3) If an officer has acquired a right to annual leave with pay and dies before entering on it, or after entering on it dies before its termination:

- (a) the widow or widower of the officer; or
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, a person who, in the opinion of the Commissioner, was, at the time of the death of the officer, a dependent relative of the officer,

is entitled to receive the money value of the leave not taken.

(4) If there is a guardian of any children entitled under subclause (3), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(5) If there is no person entitled under subclause (3) or (4) to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer, the payment is to be made to the personal representative of the officer.

(6) If payment of the money value of leave has been made under this clause, no proceedings may be brought against the Commissioner or Crown for payment of any amount in respect of that leave.

Accrual of annual leave while on extended leave, sick leave etc.

79. (1) Annual leave accrues in respect of any period a police officer is on extended leave on full pay, but during one-half only of any period of extended leave on half pay.

(2) Annual leave accrues in respect of any period during which a police officer is on sick leave (whether with or without pay) and in respect of any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the Workers Compensation Act 1987.

Adjustment for excess leave on termination of services

80. (1) If any police officer ceases to be a police officer during but before the end of the calendar year, the officer is to be taken to have been entitled for that year to annual leave in respect only of the period from the commencement of that year to the date on which the officer so ceases to be a police officer, and that leave is to be calculated as a proportionate part of the entitlement for that year.

(2) It is a condition on which any annual leave is granted or taken that when a police officer ceases to be such an officer a sum of money equivalent to the value, calculated at the rate of pay the officer is receiving at the date he or she ceases to be such an officer, of all annual leave the officer has had in excess of that to which the officer was entitled must be repaid by the officer to the Commissioner on demand.

(3) In addition to the other means of recovering it, the sum of money referred to in subclause (2) or any part of it may be deducted from any pay or other money due to the officer.

**Division 4 - Annual leave for members of the Police
Service (other than police officers)**

Definition of "officer"

81. In this Division, "officer" means administrative officer or temporary employee.

Annual leave - accrual

82. (1) Annual leave on full pay accrues to officers at the rate of 20 working days per year.

(2) Subject to the approval of the Commissioner, additional annual leave on full pay accrues to officers indefinitely stationed in the Western or Central Division of the State at the rate of 5 working days per year.

(3) Annual leave accrues from month to month only, but for the purpose of calculating annual leave which may be due on the cessation of employment, credit is to be given for periods of service of less than 1 month.

(4) In this clause, “**Western or Central Division of the State**” means the Western Division or Central Division within the meaning of the Crown Lands Consolidation Act 1913, as in force immediately before its repeal.

Annual leave - limits on accumulation

83. (1) Annual leave accrued and not taken by an officer owing to the exigencies of the Police Service, or for any other reason the Commissioner considers sufficient, accumulates up to a maximum of 40 working days.

(2) Subject to this clause, all annual leave accruing in excess of 40 working days is forfeited.

(3) The Commissioner may direct an officer to take, at such time as is convenient to the working of the Police Service, annual leave accrued, but as far as practicable the wishes of the officer concerned are to be taken into consideration in directing the time for the taking of leave.

(4) If the Commissioner is satisfied that an officer is prevented from taking an amount of annual leave sufficient to reduce the accrued leave below 40 working days, the leave accrued in excess of 40 working days is, if the Commissioner so directs, not to be forfeited.

(5) If the Commissioner has given a direction under subclause (4), the Commissioner is, at that time or as soon as practicable thereafter, to give to the officer a direction under subclause (3) in respect of the leave accrued in excess of 40 working days.

(6) If any such officer does not take leave in accordance with any direction referred to in subclause (5), all leave accrued to that officer in excess of 40 working days is then forfeited.

Annual leave - miscellaneous

84. (1) Annual leave is not to be granted for a period of less than a quarter day or in other than multiples of a quarter day.

(2) Annual leave for which an officer is eligible on cessation of employment is to be calculated to an exact quarter day, fractions of less than a quarter day being taken to the next higher quarter day.

(3) Annual leave does not accrue to an officer in respect of any period of absence from duty without pay or without leave.

(4) The proportionate deduction to be made in respect of the accrual of annual leave on account of any period of absence referred to in subclause (3) is to be calculated to an exact quarter day, fractions of less than a quarter day being disregarded and not included in the calculation.

(5) Despite subclauses (3) and (4), annual leave accrues in respect of:

- (a) any period of leave without pay granted on account of incapacity for which compensation has been authorised to be paid under the Workers Compensation Act 1987; and
- (b) any period of sick leave without pay; and
- (c) any other period of leave without pay, not exceeding 5 working days in any period of 12 months.

(6) If an officer takes extended leave on half pay, the period of that leave is to be taken into account to the extent of one-half of the leave only in calculating the officer's accrual of annual leave.

(7) An officer who resigns or retires or whose services are otherwise terminated (except by death) is, on cessation of employment, entitled to be paid forthwith, instead of annual leave accrued and remaining untaken or unforfeited, the money value of that leave as a gratuity.

(8) An officer to whom subclause (7) applies may elect to take either the whole or part of the annual leave accrued and remaining untaken or unforfeited at cessation of active duty as annual leave on full pay instead of taking the money value of that leave as a gratuity.

(9) If an officer has acquired a right to annual leave with pay and dies before entering on it, or after entering on it dies before its termination:

- (a) the widow or widower of the officer; or
- (b) if there is no such widow or widower, the children of the officer; or
- (c) if there is no such widow, widower or children, a person who, in the opinion of the Commissioner, was, at the time of the death of the officer, a dependent relative of the officer,

is entitled to receive the money value of the leave not taken.

(10) If there is a guardian of any children entitled under subclause (9), the payment to which those children are entitled may be made to that guardian for their maintenance, education and advancement.

(11) If there is no person entitled under subclause (9) or (10) to receive the money value of any leave not taken or not completed by an officer or which would have accrued to an officer, the payment is to be made to the personal representative of the officer.

(12) If payment of the money value of leave has been made under this clause, no proceedings may be brought against the Commissioner or Crown for payment of any amount in respect of that leave.

Division 5 - Adoption, maternity and parental leave for members of the Police Service

Definition of "officer"

85. In this Division, "**officer**" means police officer, administrative officer or temporary employee.

Adoption leave

86. (1) A female officer adopting a child:
- (a) if the child has not commenced school at the date of the taking of custody - is entitled to be granted adoption leave for maximum period of 12 months; or
 - (b) if the child has commenced school at that date - may be granted adoption leave for such period (not exceeding 12 months on a full-time basis) as the Commissioner may determine.

(2) An officer who has been granted adoption leave may, with the permission of the Commissioner, take leave:

- (a) full-time for a period not exceeding 12 months; or
 - (b) part-time over a period not exceeding 2 years,
- or partly full-time and partly part-time over a proportionate period.
- (3) Adoption leave commences on the date when the officer takes custody of the child concerned, whether that date is before or after the date on which a court makes an order for the adoption of the child by the officer.
- (4) An officer who resumes duty immediately on the expiration of adoption leave:
- (a) if the position occupied by her immediately before the commencement of that leave still exists - is entitled to be placed in that position; or
 - (b) if the position so occupied by her has ceased to exist - is entitled to be appointed (subject to the availability of other suitable positions) to another position for which she is qualified in accordance with the Act and this Regulation.
- (5) Except as otherwise provided by subclause (6), adoption leave is to be granted without pay.
- (6) An officer who:
- (a) applies for adoption leave within such time and in such manner as the Commissioner may from time to time determine; and
 - (b) prior to the commencement of adoption leave, completes not less than 40 weeks' continuous service,

is entitled to payment at her ordinary rate of pay for a period of 3 weeks of adoption leave or the period of adoption leave taken, whichever is the shorter period.

Maternity leave

87. (1) In this clause:
- "birth"** includes stillbirth;
- "expected date of birth"**, in relation to an officer who is pregnant, means a date specified by a medical practitioner to be the date on which the medical practitioner expects the officer to give birth as a result of the pregnancy.
- (2) An officer who is pregnant is, subject to this clause, entitled to be granted maternity leave:

- (a) for a period of not more than 9 weeks on a full-time basis prior to the expected date of birth; and
 - (b) for a further period ending not more than 12 months after the actual date of birth.
- (3) An officer who has been granted maternity leave may, with the permission of the Commissioner, take leave after the actual date of birth:
- (a) full-time for a period not exceeding 12 months; or
 - (b) part-time over a period not exceeding 2 years,
- or partly full-time and partly part-time over a proportionate period.
- (4) An officer who has applied for or been granted maternity leave must, as soon as practicable after the termination of her pregnancy (whether by the birth of a living child or otherwise), notify the Commissioner of the termination and the date on which it occurred.
- (5) An officer who has been granted maternity leave and who gives birth to a living child is not to resume duty, on either a full-time or a part-time basis, before the expiration of 6 weeks after the birth of the child, unless a medical practitioner states that she is fit to do so.
- (6) An officer who has been granted maternity leave and whose child is stillborn may elect to take available sick leave instead of maternity leave.
- (7) An officer who resumes duty immediately on the expiration of maternity leave:
- (a) if the position occupied by her immediately before the commencement of that leave still exists - is entitled to be placed in that position; or
 - (b) if the position so occupied by her has ceased to exist - is entitled to be appointed (subject to the availability of other suitable positions) to another position for which she is qualified in accordance with the Act and this Regulation.
- (8) Except as otherwise provided by subclause (9), maternity leave is to be granted without pay.
- (9) An officer who:
- (a) applies for maternity leave within such time and in such manner as the Commissioner may from time to time determine; and

- (b) prior to the commencement of maternity leave, completes not less than 40 weeks' continuous service,

is entitled to payment at her ordinary rate of pay for a period not exceeding 9 weeks of maternity leave or the period of maternity leave taken, whichever is the shorter period.

Parental leave

88. (1) The Commissioner may, subject to such conditions as may from time to time be determined by the Commissioner, grant parental leave for a period not exceeding 12 months to an officer who becomes a parent but is not entitled to maternity leave or adoption leave.

(2) Parental leave may commence at any time up to 2 years from the date of birth or adoption of the child.

(3) An officer who has been granted parental leave may, with the permission of the Commissioner, take such leave:

- (a) full-time for a period not exceeding 12 months; or
- (b) part-time over a period not exceeding 2 years,

or partly full-time and partly part-time over a proportionate period.

(4) An officer who resumes duty immediately on the expiration of parental leave:

- (a) if the position occupied by him or her immediately before the commencement of that leave still exists - is entitled to be placed in that position; or
- (b) if the position so occupied by him or her has ceased to exist - is entitled to be appointed (subject to the availability of other suitable positions) to another position for which he or she is qualified in accordance with the Act and this Regulation.

(5) Parental leave is to be granted without pay.

Accrual of leave while on maternity leave or adoption leave

89. (1) For the purpose of accrual of annual leave by an officer:

- (a) any period of maternity leave or adoption leave in respect of which payment was made at the rate of full pay is to be counted as service; and

(b) half of any period of maternity leave or adoption leave in respect of which payment was made at the rate of half pay is to be counted as service.

(2) For the purpose of accrual of any leave (other than annual leave) by an officer, any period of maternity leave or adoption leave in respect of which payment was made (whether at the rate of full pay or half pay) is to be counted as service.

(3) For the purpose of accrual of any leave by an officer, any period of maternity leave, adoption leave or parental leave taken as leave without pay is not to be counted as service except as provided by Division 2.

Incremental progression while on maternity leave, adoption leave or parental leave

90. For the purpose of payment of any increment to an officer:

(a) a period of maternity leave or adoption leave in respect of which payment was made at the rate of full pay or half pay is to be counted as service; and

(b) a period of any maternity leave, adoption leave or parental leave without pay is not to be counted as service.

Ineligibility for promotion or confirmation of constable on maternity, adoption or parental leave

91. For the purpose of Division 2 of Part 2, a police officer taking maternity leave or adoption leave is not to be regarded during that leave as being in good health and able to discharge satisfactorily the duties of the rank of constable necessary for confirmation of appointment or for promotion.

Division 6 - Short leave for members of the Police Service

Definition of "officer"

92. In this Division, "officer" means police officer, administrative officer or temporary employee.

Short leave

93. (1) The Commissioner may, in the case of pressing necessity, grant to an officer short leave on full pay.

(2) The maximum amount of short leave on full pay which may be granted to an officer is:

- (a) the period of:
 - (i) during the first 12 months of service - 2 1/2 working days; or
 - (ii) after the completion of 12 months' service - 5 working days in any period of 2 years; or
- (b) the period calculated by allowing 1 working day for each completed year of service after the completion of 2 years' continuous service and deducting therefrom the total amount of short leave previously granted to the officer,

whichever is the longer period.

Division 7 - Leave without pay for members of the Police Service

Leave without pay for police officers

94. (1) The Commissioner may grant leave without pay to a police officer for a period not exceeding 3 years if good and sufficient reason is shown.

(2) Leave without pay is subject to such conditions as the Commissioner may from time to time determine.

(3) Leave without pay may be granted on a full-time or a part-time basis.

(4) Leave without pay is not to be counted as service for the purposes of:

- (a) accrual of annual leave or sick leave; or
- (b) the payment of any increment.

(5) Leave without pay is not to be counted as service for the purposes of:

- (a) any qualification for promotion within the rank of constable; or
- (b) the period of any probation.

(6) This clause does not apply to leave without pay that is sick leave, maternity leave, adoption leave or parental leave.

Leave without pay for members (other than police officers)

95. (1) In this clause, "**officer**" means administrative officer or temporary employee.

(2) The Commissioner may grant leave without pay to an officer if good and sufficient reason is shown.

(3) Leave without pay is subject to such conditions as the Commissioner may from time to time determine.

(4) Leave without pay may be granted on a full-time or a part-time basis.

(5) If an officer in receipt of a salary at an annual rate is granted leave without pay for a period not exceeding 6 consecutive calendar days, pay may be allowed by the Commissioner for any Saturday or Sunday occurring during that period of leave.

(6) If an officer is granted leave without pay for a period not exceeding 14 consecutive calendar days, pay may be allowed by the Commissioner for such days occurring during that leave as are public holidays throughout the State.

(7) An officer who has been granted leave without pay may, with the approval of the Commissioner, elect to take available annual or extended leave instead of leave without pay.

Division 8 - Sick leave for police officers

Sick leave - general

96. (1) A police officer absent from duty because of infirmity of body or mind is to be allowed full pay for each day the officer is so absent from duty up to a maximum of 75 days in any period of 12 months, which maximum number of days may be increased in respect of a police officer in any particular case if the Commissioner so approves.

(2) This clause does not apply to probationary constables.

Sick leave for probationary constables

97. (1) A probationary constable absent from duty on account of ill-health or accident (where the absence from duty was not caused by his or her own misconduct) is to be allowed full pay for a period not exceeding 30 days in any period of 12 months.

(2) However, if the circumstances warrant special consideration or if the absence is the result of injury received while on duty or while taking part in any sport with any recognised Police Club or at any Police sporting activity, the Commissioner may, in the Commissioner's discretion and having regard to the circumstances of each case, grant full pay or half pay for such further period as the Commissioner considers desirable.

Sick leave - hurt on duty (Police Superannuation Fund contributors)

98. (1) This clause applies to police officers who are contributors to the Police Superannuation Fund.

(2) Any such police officer absent from duty because of infirmity of body or mind is to be allowed full pay for the whole of the period of the absence if the Commissioner so approves:

- (a) if the absence from duty is occasioned by infirmity arising from a wound or injury received in the actual execution of the duty of his or her office; or
- (b) if the absence from duty is the result of an injury (within the meaning of the Workers Compensation Act 1987) for which compensation would be payable (if the officer were a worker under that Act) under section 10 (journey claims) or section 11 (recess claims) of that Act.

(3) A police officer is not to be allowed sick pay pursuant to this clause if the infirmity, wound or Injury arises from his or her own misconduct.

Sick leave - workers compensation claimants

99. (1) This clause applies where an officer is or becomes unable to attend for duty or to continue on duty in circumstances which may give the officer a right to claim compensation under the Workers Compensation Act 1987.

(2) If an officer has made a claim for any such compensation, the officer may, pending the determination of that claim and subject to the provisions of this Division relating to sick leave and to subclauses (4) and (7), be granted by the Commissioner sick leave on full pay for which the officer is eligible, and if that claim is accepted the equivalent period of any such sick leave is to be restored to the credit of the officer.

(3) An officer who continues in receipt of compensation after the completion of the period of 26 weeks referred to in section 36 of the Workers Compensation Act 1987 may, subject to the provisions of this Division relating to sick leave and to subclause (7), be paid an amount representing the difference between the amount of compensation payable under that Act and the ordinary rate of pay of the officer, but sick leave equivalent to the amount of the difference so paid is to be debited against the officer.

(4) If an officer referred to in subclause (1) notifies the Commissioner that he or she does not intend to make a claim for any such compensation, sick leave on full pay is not to be granted unless the Commissioner determines that in the circumstances of the case sick leave on full pay should be granted.

(5) If an officer, who is required to submit to a medical examination under the Workers Compensation Act 1987 in relation to a claim for compensation under that Act, refuses to submit to or in any way obstructs any such examination, the officer is not to be granted sick leave on full pay until that examination has taken place and a medical certificate has been given indicating that the officer is not fit to resume duty.

(6) If, as a result of any such medical examination, a certificate is given under the Workers Compensation Act 1987 setting out the condition and fitness for employment of the officer or the kind of employment for which the officer is fit, and the Commissioner makes available to the officer employment falling within the terms of that certificate and the officer refuses or fails to resume or perform the employment so provided, all payments in accordance with this clause are to cease from the date of that refusal or failure.

(7) Despite subclause (2) or (3), if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the Workers Compensation Act 1987, there will then be no further sick leave granted on full pay.

Sick leave during annual or extended leave

100. (1) If a police officer who is on annual leave or extended leave furnishes to the Commissioner a satisfactory medical certificate in respect of illness occurring during that leave, the Commissioner may, subject to the provisions of this Division relating to sick leave, grant sick leave to the officer for the following period:

- (a) in the case of an officer on annual leave - the period set out in the medical certificate;
- (b) in the case of an officer on extended leave - the period set out in the medical certificate, except if that period is less than 7 calendar days.

(2) Subclause (1) applies to all police officers other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.

Division 9 - Sick leave for members of the Police Service (other than police officers)

Definition of "officer"

101. In this Division, "**officer**" means administrative officer or temporary employee.

Sick leave - authority to grant

102. (1) If the Commissioner is satisfied that an officer is unable to perform his or her duty because of illness, the Commissioner:

- (a) must, subject to this Division, grant to the officer sick leave on full pay; and
- (b) may, subject to this Division, grant to the officer sick leave without pay if the absence of the officer exceeds the entitlement of the officer under this Division to sick leave on full pay.

(2) An officer may elect to take available annual or extended leave instead of sick leave without pay.

Sick leave - requirements for medical certificate

103. (1) An officer absent from duty because of illness:

- (a) in respect of any such absence in excess of 3 consecutive working days - must furnish a medical certificate to the Commissioner; or
- (b) in respect of any such absence of 3 consecutive working days or less - must if required to do so by the Commissioner, furnish a medical certificate to the Commissioner.

(2) Despite subclause (1), the Commissioner may at any time require an officer who has been granted sick leave to furnish medical evidence of the inability of the officer to resume duty.

(3) If an officer applying for sick leave furnishes a medical certificate which appears to the Commissioner to indicate that the condition of the officer does not warrant the grant of sick leave, that application together with that medical certificate is to be referred forthwith by the Commissioner to the official Medical Officer for consideration.

(4) The nature of the leave to be granted to an officer in respect of an application referred to in subclause (3) is to be determined by the Commissioner on the advice of the official Medical Officer.

(5) If sick leave is not granted in respect of an application referred to in subclause (3), the Commissioner is, as far as practicable, to take into account the wishes of the officer concerned when determining the nature of the leave to be granted in respect of the application.

(6) An officer may elect to have an application for sick leave dealt with confidentially by the official Medical Officer in accordance with such procedures as may be determined from time to time by the Commissioner.

(7) If an officer who is on annual leave or extended leave furnishes to the Commissioner a satisfactory medical certificate in respect of illness occurring during that leave, the Commissioner may, subject to the provisions of this Division relating to sick leave, grant sick leave to the officer for the following period:

- (a) in the case of an officer on annual leave - the period set out in the medical certificate;
- (b) in the case of an officer on extended leave - the period set out in the medical certificate, unless that period is less than 7 calendar days.

(8) Subclause (7) applies to all officers other than those on leave prior to resignation or termination of services, unless the resignation or termination of services amounts to a retirement.

Sick leave - entitlements

104. (1) Sick leave on full pay accrues to an officer at the rate of 15 days each calendar year, and any such accrued leave which is not taken is cumulative.

(2) Sick leave on full pay accrues at the beginning of the calendar year, but if an officer is appointed during a calendar year, sick leave on full pay accrues on the date the officer commences duty at the rate of 1 1/4 days for each complete month before the next 1 January.

(3) In the case of an officer employed as a public servant on 1 May 1988:

- (a) sick leave on full pay for the calendar year commencing 1 January 1988 accrues at the rate of 10 days; and
- (b) in addition to that 10 days, the officer is to be credited with sick leave on full pay in relation to service before 1 May 1988 for the following number of days less the number of days of sick leave on full pay previously granted to the officer:
 - (i) after completion of the first year of service and before completion of the second year of service - 20 working days;
 - (ii) after completion of the second year of service and before completion of the fifth year of service - 40 working days;
 - (iii) after completion of the fifth year of service - 60 working days plus an additional 10 working days for each completed year of service thereafter.

(4) Except as otherwise provided by this Division or otherwise determined by the Commissioner, only service as an officer or as a public servant is to be taken into account for the purpose of calculating sick leave due.

(5) Sick leave without pay is not to be counted as service for the accrual of sick leave.

(6) For the purposes of determining the amount of sick leave accrued where sick leave is granted on less than full pay, the amount of sick leave granted is to be converted to its full pay equivalent.

Sick leave - payment during initial period of service

105. (1) Not more than 5 days' sick leave on full pay is to be granted to any officer during the first 3 months of service unless a satisfactory medical certificate in respect of each absence is furnished.

(2) On completion of the first 12 months' service, payment may be made to an officer for such portion of sick leave taken without pay during the first 3 months of that service as, with the addition of all sick leave on full pay granted during that period of 12 months, does not exceed a total of 15 working days.

Sick leave - workers' compensation

106. (1) This clause applies where an officer is or becomes unable to attend for duty or to continue on duty in circumstances which may give the officer a right to claim compensation under the Workers Compensation Act 1987.

(2) If an officer has made a claim for any such compensation, the officer may, pending the determination of that claim and subject to the provisions of this Division relating to sick leave and to subclauses (4) and (7), be granted by the Commissioner sick leave on full pay for which the officer is eligible, and if that claim is accepted the equivalent period of any such sick leave is to be restored to the credit of the officer.

(3) An officer who continues in receipt of compensation after the completion of the period of 26 weeks referred to in section 36 of the Workers Compensation Act 1987 may, subject to the provisions of this Division relating to sick leave and to subclause (7), be paid an amount representing the difference between the amount of compensation payable under that Act and the ordinary rate of pay of the officer, but sick leave equivalent to the amount of the difference so paid is to be debited against the officer.

(4) If an officer referred to in subclause (1) notifies the Commissioner that he or she does not intend to make a claim for any such compensation, sick leave on full pay is not to be granted unless the Commissioner determines that in the circumstances of the case sick leave on full pay should be granted.

(5) If an officer, who is required to submit to a medical examination under the Workers Compensation Act 1987 in relation to a claim for compensation under that Act, refuses to submit to or in any way obstructs any such examination, the officer is not to be granted sick leave on full pay until that examination has taken place and a medical certificate has been given indicating that the officer is not fit to resume duty.

(6) If, as a result of any such medical examination, a certificate is given under the Workers Compensation Act 1987 setting out the condition and fitness for employment of the officer or the kind of employment for which the officer is fit, and the Commissioner makes available to the officer employment falling within the terms of that certificate and the officer refuses or fails to resume or perform the

employment so provided, all payments in accordance with this clause are to cease from the date of that refusal or failure.

(7) Despite subclause (2) or (3), if there is a commutation of weekly payments of compensation by the payment of a lump sum pursuant to section 51 of the Workers Compensation Act 1987, there will then be no further sick leave granted on full pay.

Sick leave - other than workers' compensation

107. (1) If the circumstances of any injury to or illness of an officer may give rise to a claim for damages or to compensation, other than compensation under the Workers Compensation Act 1987, sick leave on full pay may, subject to and in accordance with this Division, be granted to the officer on completion by the officer of an undertaking in a form approved by the Commissioner that any such claim if made will include a claim for the value of any period of sick leave on full pay granted and that, in the event that the officer receives or recovers damages or compensation pursuant to that claim for loss of salary or wages during any such period of sick leave, the officer will repay to the Commissioner such money as is paid by the Commissioner in respect of any such period of sick leave.

(2) Sick leave on full pay is not to be granted to an officer who refuses or fails to complete an undertaking, except with the express approval of the Commissioner given on the grounds that the refusal or failure is unavoidable in the circumstances.

(3) On repayment made to the Commissioner pursuant to an undertaking given by an officer, sick leave equivalent to that repayment, calculated at the ordinary rate of pay of the officer, is to be restored to the credit of the officer.

Division 10 - Miscellaneous leave provisions

Weekly rest days for police officers

108. (1) Police officers are to ensure that weekly rest days are equitably distributed among police officers in their charge.

(2) Police officers are, as far as practicable, to be allowed off duty every alternate Sunday.

Military leave for members

109. (1) In this clause, "**officer**" means police officer, administrative officer or temporary employee.

(2) The Commissioner may, during the period of 12 months commencing on 1 July each year, grant to an officer who is a volunteer part-time member of the Defence Forces military leave on full pay for such absence from duty as is necessarily involved:

- (a) in respect of periods of annual training not exceeding in the aggregate:
 - (i) in the case of a member of the Naval Forces - 13 calendar days; or
 - (ii) in the case of a member of the Military Forces - 14 calendar days; or
 - (iii) in the case of a member of the Air Force - 16 calendar days; and
- (b) in respect of attendance at schools, classes or courses of instruction not exceeding in the aggregate:
 - (i) in the case of a member of the Naval Forces - 13 calendar days; or
 - (ii) in the case of a member of the Military Forces - 14 calendar days; or
 - (iii) in the case of a member of the Air Force - 16 calendar days.

(3) Despite subclause (2), if the commanding officer certifies in writing that it is necessary for an officer to attend on days additional to those specified in subclause (2), the Commissioner may grant to the officer military leave on full pay for a further period not exceeding in the aggregate 4 days in any 1 year.

(4) Applications for military leave are to be accompanied by satisfactory evidence of the necessity for attendance and at the expiration of military leave the officer must furnish to the Commissioner a certificate of attendance signed by the commanding officer or other responsible officer.

Special leave for members - special purposes

110. (1) In this clause, "**officer**" means police officer or administrative officer.

(2) Special leave on full pay is to be granted to officers:

- (a) for the purpose of attending at any examination under the Act or this Regulation; and
- (b) up to a maximum of 5 days in any 1 year - for the purpose of attending at any other examination approved by the Commissioner for the purposes of this paragraph.

(3) Special leave granted under subclause (1) for the purposes of attending at an examination is to include leave for any necessary travel to or from the place at which the examination is held.

(4) Special leave on full pay may be granted to officers for such other purposes and during such periods and subject to such conditions as may be determined from time to time by the Public Employment Industrial Relations Authority.

Special leave - witness at court

111. (1) In this clause, "**officer**" means administrative officer or temporary employee.

(2) This clause does not apply to an officer who is subpoenaed or called as a witness in an official capacity.

(3) An officer who is subpoenaed or called as a witness by the Crown (whether in right of the Commonwealth or in right of any State or a Territory of the Commonwealth) is:

- (a) to be granted, for the whole of the period necessary to attend as such a witness, special leave on full pay; and
- (b) to pay to the Commissioner all money paid to the officer under or in respect of any such subpoena or call, other than any such money so paid in respect of reimbursement of necessary expenses properly incurred in answer to that subpoena or call.

(4) An officer who is subpoenaed or called as a witness otherwise than as referred to in subclause (3) is, for the whole of the period necessary to attend as such a witness, to be granted at the sole election of the officer:

- (a) subject to this Part, annual leave on full pay; or
- (b) leave without pay.

**PART 7 - ALLOWANCES FOR MEMBERS OF THE
POLICE FORCE**

Allowances - general

112. The travelling and subsistence allowances and other allowances for members of the Police Service are those provided in awards, agreements under section 86 of the Act or determinations under section 85 of the Act.

Allowances - existing police allowances to continue

113. Any allowance provided in the Police Rules 1977 immediately before the repeal of those Rules continues to apply to police officers until provision is made in respect of the allowance as referred to in clause 112.

Allowances - existing public service allowances to continue

114. Any allowance provided from time to time in the Public Sector Management (General) Regulation 1988 for officers and temporary employees of the Public Service continues to apply to administrative officers and temporary employees of the Police Service until provision is made in respect of the allowance as referred to in clause 112.

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76. Annual leave generally to be taken in calendar year in which it is allowed
77. Excess annual leave
78. Annual leave - termination of services
79. Accrual of annual leave while on extended leave, sick leave etc.
80. Adjustment for excess leave on termination of services

Division 4 - Annual leave for members of the Police Service (other than police officer)

81. Definition of "officer"
82. Annual leave - accrual
83. Annual leave - limits on accumulation
84. Annual leave - miscellaneous

Division 5 - Adoption, maternity and parental leave for members of the Police Service

85. Definition of "officer"
86. Adoption leave
87. Maternity leave
88. Parental leave
89. Accrual of leave while on maternity leave or adoption leave
90. Incremental progression while on maternity leave, adoption leave or parental leave
91. Ineligibility for promotion or confirmation of constable on maternity, adoption or parental leave

Division 6 - Short leave for members of the Police Service

92. Definition of "officer"
93. Short leave

Division 7 - Leave without pay for members of the Police Service

94. Leave without pay for police officers
95. Leave without pay for members (other than police officers)

Division 8 - Sick leave for police officers

96. Sick leave - general
97. Sick leave for probationary constables
98. Sick leave - hurt on duty (Police Superannuation Fund contributors)
99. Sick leave - workers compensation claimants
100. Sick leave during annual or extended leave

Division 9 - Sick leave for members of the Police Service (other than police officers)

101. Definition of "officer"
102. Sick leave - authority to grant
103. Sick leave - requirements for medical certificate
104. Sick leave - entitlements
105. Sick leave - payment during initial period of service
106. Sick leave - workers' compensation

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- 107. Sick leave - other than workers' compensation
 - Division 10 - Miscellaneous leave provisions
- 108. Weekly rest days for police officers
- 109. Military leave for members
- 110. Special leave for members - special purposes
- 111. Special leave - witness at court

PART 7 - ALLOWANCES FOR MEMBERS OF THE POLICE FORCE

- 112. Allowances - general
- 113. Allowances - existing police allowances to continue
- 114. Allowances - existing public service allowances to continue

EXPLANATORY NOTE

The object of this Regulation is to remake the Police Rules with the necessary modifications as a consequence of the establishment of the Police Service and the abolition of the Police Force and the Police Department.

The principal features of the Regulation are as follows:

- (a) The re-making of the following provisions of the Police Rules (which are repealed by the Police Service Act 1990):
 - * annual reports to the Minister and the division of the State for Police purposes (Part 2).
 - * grades of police officers, responsibilities of police officers, general conditions of service and other miscellaneous provisions (Part 3, Division 1).
 - * appointment and promotion of constables (subject to the omission of detailed provisions relating to internal police examinations) (Part 3, Division 2).
 - * record sheets for police officers (Part 3, Division 3).
 - * discipline of police officers (Part 3, Division 4).
 - * police uniform (Part 3, Division 5).
 - * Commissioner's Valour Award (Part 3, Division 6)
 - * secrecy regarding police business (Part 3, Division 8)
- (b) The continuation of the following provisions of the Police Regulation Act 1899 (which is repealed by the Police Service Act 1990):
 - * special leave benefits under section 121 for disengaged police officers (Part 3, Division 7).
 - * oath of office of police officers under section 9 (clause 12 in Part 3).
- (c) The continued application to administrative officers and temporary employees of Public Service provisions relating to selection procedures, medical examination, base grade recruitment, hours of attendance and certain other conditions of service (Part 4).

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- (d) The making of provisions relating to members of the Police Service acting or relieving in other positions (including provision to make it clear that administrative officers acting or relieving in police positions are not to exercise police powers) (Part 5).
 - (e) The continuation of provisions in the Police Rules (for police officers) and the Public Sector Management (General) Regulation 1988 (for administrative officers and temporary employees) relating to leave and allowances - the leave entitlements are similar except that the annual and sick leave entitlements of police officers differ from those of administrative officers (Parts 6 and 7).
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