



New South Wales

# Police Department (Transit Police) Regulation 2000

under the

Police Department (Transit Police) Act 1989

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Department (Transit Police) Act 1989*.

PAUL WHELAN, M.P.,

Minister for Police

## Explanatory note

The object of this Regulation is to repeal and remake, without any changes in substance, the provisions of the *Police Department (Transit Police) Regulation 1989*. The new Regulation applies certain provisions of the former *Police Service Regulation 1990* to members of the transit police service, makes provision for the hearing of disciplinary charges by the Police Tribunal, enables the Commissioner for Police to issue instructions to members of the transit police service and sets out their broad duties.

This Regulation is made under the *Police Department (Transit Police) Act 1989*, including section 37 (the general power to make regulations).

This Regulation comprises or relates to matters of a machinery nature.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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## Police Department (Transit Police) Regulation 2000

### 1 Name of Regulation

This Regulation is the *Police Department (Transit Police) Regulation 2000*.

### 2 Commencement

This Regulation commences on 1 September 2000.

### 3 Definitions

In this Regulation:

***Police Tribunal*** means the Police Tribunal of New South Wales established under Part 9A of the *Police Service Act 1990*.

***the Act*** means the *Police Department (Transit Police) Act 1989*.

### 4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

### 5 Application of Police Service Regulation 1990 to disciplinary matters

- (1) The following provisions of the *Police Service Regulation 1990* (as in force immediately before 8 March 1999) apply to and in respect of a member of the transit police service in the same way as those provisions (as then in force) applied to and in respect of a police officer:
- (a) clause 30 (police officer to report misconduct),
  - (b) clause 31 (misconduct to be reported to Commissioner),
  - (c) clause 33 (investigation of complaints),
  - (d) clause 35 (action on preferment of a departmental charge),
  - (e) clause 36 (matters to be set out in departmental charges),
  - (f) clause 37 (where charge to be forwarded to Police Tribunal),
  - (g) clause 38 (where departmental charge admitted),
  - (h) clause 39 (where departmental charge denied),

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- (i) clause 42 (fines),
  - (j) clause 43 (proceedings against police officers),
  - (k) Division 4A (The Police Tribunal) of Part 3,
  - (l) clause 47 (insignia of rank etc).
- (2) The provisions referred to in subclause (1) apply as if a reference to a police officer were a reference to a member of the transit police service.

### 6 Disciplinary matters before Police Tribunal

- (1) This clause applies to a departmental charge that is preferred against a member of the transit police service and heard by the Police Tribunal:
- (a) if the charge is admitted or found to be proved, as referred to in section 175 (1) of the *Police Service Act 1990* (as in force immediately before 8 March 1999), or
  - (b) if, after an appeal has been made to the Review Division of the Police Tribunal:
    - (i) it is determined that the charge has been proved, or
    - (ii) the appeal is withdrawn.
- (2) If this clause applies to a departmental charge, the Commissioner may, after considering the recommendation of the Police Tribunal as to penalty, take any action referred to in section 28 (1) (a) or (b) of the Act.
- (3) The Commissioner is not to take action based on subclause (1) (a) within 30 days after the determination of the Police Tribunal in case an appeal is lodged against the determination.

### 7 Instructions for transit police

- (1) The Commissioner may issue such instructions for the government or direction of members of the transit police service as the Commissioner considers the circumstances require.
- (2) Without limiting the instructions that may be issued, they may be issued by adopting (with or without modifications) Police Instructions under the *Police Service Act 1990*.

**8 Duties of members of the transit police service**

It is the duty of each member of the transit police service to comply with the following:

- (a) a member of the transit police service must comply with any instructions issued by the Commissioner under clause 7, and must promptly obey all lawful orders from those in authority over the member,
- (b) a member of the transit police service must at all times exercise the strictest honesty and truthfulness, and in particular must not:
  - (i) wilfully or negligently make any false, misleading or incorrect statement, or
  - (ii) knowingly make or sign any false statement in any official document, record or book, or
  - (iii) without good and sufficient cause, destroy or mutilate any official document, record or book, or alter or erase any entry made in it,
- (c) a member of the transit police service must not permit any political or religious consideration to influence the member in the discharge of his or her duty,
- (d) a member of the transit police service:
  - (i) must not retain, without proper authority, any money paid by any person for anything arising out of, or in any way connected with, the member's duty, whether by way of a refund of expenses or otherwise, and
  - (ii) must not derive or retain any pecuniary advantage from any public contract or from any purchase made by them or others on behalf of the Government,
- (e) a member of the transit police service must be strictly impartial in the discharge of the member's duties towards all persons,
- (f) a member of the transit police service must exercise caution to prevent the possibility of an innocent person being arrested,
- (g) if a person is brought to a police station or a transit police office for investigation and the person is subsequently found to be innocent or a charge is refused, and there are circumstances which give rise to a sense of grievance or to any sort of protest, a member of the transit police service must ensure that:

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- (i)    the matter is at once reported to the Patrol Commander within the Police Service, and
- (ii)   the person aggrieved is afforded an opportunity of making any representations he or she desires in writing.

### **9 Repeal**

- (1) The *Police Department (Transit Police) Regulation 1989* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Police Department (Transit Police) Regulation 1989*, had effect under that Regulation continues to have effect under this regulation.

BY AUTHORITY

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