



New South Wales

Police Amendment (Executives and Administrative Employees) Regulation 2017

under the

Police Act 1990

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Act 1990*.

TROY GRANT, MP
Minister for Police

Explanatory note

The object of this Regulation is to amend the *Police Regulation 2015* as a consequence of the amendments made to the *Police Act 1990* by the *Government Sector Employment Legislation Amendment Act 2016* (the **GSELA Act**). The amendments made by the GSELA Act generally align the employment arrangements for NSW Police Force senior executives and administrative employees with those that apply to Public Service employees. These arrangements include providing for rules to be made under the *Government Sector Employment Act 2013* on matters relating to the employment of NSW Police Force senior executives and administrative employees.

This Regulation also:

- (a) makes provision for allowances for members of the NSW Police Force, and
- (b) amends Schedule 4 to the *Police Act 1990* to include further savings and transitional provisions that are consequential on the amendments made by the GSELA Act.

This Regulation is made under the *Police Act 1990*, including section 219 (the general regulation-making power) and clauses 2 and 100 of Schedule 4.

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1 Name of Regulation

This Regulation is the *Police Amendment (Executives and Administrative Employees) Regulation 2017*.

2 Commencement

This Regulation commences on 31 October 2017 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Police Regulation 2015

[1] Clause 6 General responsibilities of police officers

Omit “within the NSW Police Force Senior Executive Service” from clause 6 (1).
Insert instead “who are NSW Police Force senior executives”.

[2] Clause 6

Omit “, administrative officers and temporary employees” wherever occurring.
Insert instead “and administrative employees”.

[3] Clause 9 Responsibilities of off-duty police officers

Omit “administrative officer” from clause 9 (2). Insert instead “administrative employee”.

[4] Part 3 Administrative officers and temporary employees

Omit the Part.

[5] Clause 71

Omit the clause. Insert instead:

71 Acting or relieving in non-executive police officer positions

The Commissioner may direct the manner in which and the occasions on which:

- (a) the functions of suspended, sick or absent police officers (other than police officers who are NSW Police Force senior executives), or
- (b) the functions attaching to vacant positions (other than positions held by NSW Police Force senior executives or administrative employees),

are to be exercised by other members of the NSW Police Force.

Note. Section 33 (5) of the Act provides for the appointment of a member of the NSW Police Force to act as a NSW Police Force senior executive in certain circumstances. The rules under the *Government Sector Employment Act 2013* also provide for the temporary assignment of administrative employees to non-executive roles in the NSW Police Force.

[6] Clauses 72, 123 and 134

Omit “officer or temporary” wherever occurring.

[7] Clause 72A

Insert after clause 72:

72A General responsibilities of administrative employees

Administrative employees are responsible for the proper performance of duty by police officers and administrative employees under their control.

[8] Clause 100

Omit the clause. Insert instead:

100 Special provisions relating to administrative employees

Unless the contrary intention appears, a period of leave to which an administrative employee is entitled under this Part is, where the employee is employed in the NSW Police Force 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 employee would, but for this subclause, be entitled under this Part.

[9] Part 6, Division 3, heading

Omit “**non-PSSSES**”. Insert instead “**non-executive**”.

[10] Clause 104 Application of Division

Omit “members of the NSW Police Force Senior Executive Service”.

Insert instead “NSW Police Force senior executives”.

[11] Part 6, Division 4, heading

Omit “**PSSSES police officers, administrative officers and temporary**”.

Insert instead “**executive police officers and administrative**”.

[12] Clause 133 Special leave generally

Omit “administrative officers” wherever occurring.

Insert instead “administrative employees”.

[13] Part 8

Omit the Part. Insert instead:

Part 8 Allowances

140 Application of Part

The provisions of this Part are subject to any State industrial instrument.

140A Travelling, subsistence and other allowances

Without limiting any other provision of this Part, the travelling and subsistence allowances and other allowances for members of the NSW Police Force (other than NSW Police Force senior executives) are those provided in State industrial instruments, determinations under section 86 of the Act or agreements under section 87 of the Act.

140B Determination of allowances for NSW Police Force senior executives

- (1) Subject to section 39 (4) of the Act and this clause, a NSW Police Force senior executive is entitled to be paid:
 - (a) such travelling and subsistence allowances, and
 - (b) such allowances in relation to reasonable relocation expenses (whether at the time of being selected for the executive role or during the term of the executive’s employment), and
 - (c) such other allowances in relation to expenses incurred in the discharge of the executive’s duties,as the Commissioner may from time to time determine in respect of the executive.
- (2) The payment of an allowance determined by the Commissioner in respect of a NSW Police Force senior executive is subject to any determination by the Public Service Commissioner as to the circumstances in which an allowance of that kind may be paid and the amount of the allowance.

140C Allowance for temporary assignment of non-executive administrative employees to higher non-executive roles

- (1) A non-executive administrative employee who is, under the rules made under the *Government Sector Employment Act 2013*, temporarily assigned by the Commissioner to another non-executive role in the NSW Police Force is entitled to be paid an allowance under this clause if the other role is at a higher classification of work than the employee's current classification of work.
- (2) Subject to this clause, the amount of the allowance to be paid to the non-executive administrative employee who is temporarily assigned to another role is the difference between the salary of the employee's usual role and the point in the salary range of the other role that the Commissioner determines is appropriate having regard to the capabilities, knowledge and experience of the employee.
- (3) The amount of the allowance to be paid is proportionate to the duties to be performed by the employee in the other role and is to be determined by the Commissioner before the employee starts the temporary assignment.
- (4) An allowance under this clause is not to be paid:
 - (a) for a temporary assignment to another role that is for a single period of less than 5 ordinary working days (except where the Commissioner otherwise determines), or
 - (b) in the case where the temporary assignment is for a period of less than 3 months—for any unbroken period of leave of more than 5 ordinary working days taken by the employee during the temporary assignment.
- (5) Subclause (4) (a) does not prevent an allowance being paid under this clause to a non-executive administrative employee who works part-time.

140D Allowance for acting in executive roles

- (1) If, under section 33 (5) of the Act, the Commissioner appoints a member of the NSW Police Force (whether or not a NSW Police Force senior executive) to act in the role of a NSW Police Force senior executive, the person so appointed is entitled to be paid an allowance under this clause for acting in that role.
- (2) Subject to this clause, the amount of the allowance to be paid is the difference between the salary of the person's usual role and the notional salary of the NSW Police Force senior executive role to which the person is appointed to act.
- (3) The amount of the allowance to be paid is proportionate to the duties to be performed by the person in the NSW Police Force senior executive role and is to be determined by the Commissioner before the person starts acting in that role.
- (4) An allowance under this clause is not to be paid:
 - (a) for acting in a NSW Police Force senior executive role for a single period of less than 5 ordinary working days (except where the Commissioner otherwise determines), or
 - (b) in the case where the appointment to act is for a period of less than 3 months—for any unbroken period of leave of more than 5 ordinary working days taken by the person during the period that the person is appointed to act in a NSW Police Force senior executive role.
- (5) Subclause (4) (a) does not prevent an allowance being paid under this clause to a person who works part-time.

(6) In this clause:

notional salary, in relation to a NSW Police Force senior executive role to which a person is appointed to act, means the total amount of the remuneration package that corresponds to a point, as determined by the Commissioner for the purposes of the acting appointment, within the remuneration range for the role, less the superannuation guarantee amount payable in respect of a person employed in the role at that remuneration point.

superannuation guarantee amount means the minimum amount payable to a superannuation fund or scheme in respect of a person that is sufficient to avoid an individual superannuation guarantee shortfall, within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, in respect of the person.

140E Payment where allowance not adequate or available

- (1) If the Commissioner is satisfied that, but for this clause, the actual expenses properly and reasonably incurred by a member of the NSW Police Force in the performance of official duties:
- (a) are not adequately covered by an allowance to which the member is entitled under this Regulation, or
 - (b) are not covered by any allowance payable under this Regulation or under any State industrial instrument,
- the member is to be paid an allowance equivalent to the amount of those additional expenses or the amount of those expenses (as the case requires).
- (2) An allowance is not payable under this clause unless the member of the NSW Police Force produces official receipts for the expenses incurred by the member.
- (3) An allowance under this clause may be reduced if it exceeds without good cause any limit approved in advance by the Commissioner for the expenses concerned.

140F Allowance for secondments

A member of the NSW Police Force who is seconded to a government sector agency within the meaning of the *Government Sector Employment Act 2013* is entitled to be paid an allowance at the same rate as the person would be entitled under clause 140C or 140D had the secondment been a temporary assignment or acting appointment (as the case requires) for which an allowance is payable under those clauses.

140G Assignment to other role—payment of allowances

If an allowance of a particular kind is payable in relation to the role of a NSW Police Force senior executive or administrative employee and the senior executive or administrative employee is assigned to another role in respect of which the allowance is not payable, the senior executive or employee is no longer entitled to the allowance.

Schedule 2 Amendment of Police Act 1990 No 47

[1] Schedule 4 Savings, transitional and other provisions

Insert after clause 95:

95A Recruitment action relating to administrative officers and employees

- (1) Any recruitment action relating to an administrative officer position that was commenced within the period of 12 months immediately before 31 October 2017, but not completed before that date, may be completed as if this Act had not been amended by the amending Act.
- (2) Without limiting the operation of subclause (1), the Commissioner may, in taking recruitment action that was pending immediately before 31 October 2017 in relation to an administrative officer position, or in taking recruitment action that is commenced before 31 October 2019 in relation to an administrative employee role, choose to proceed:
 - (a) under the provisions of this Act and the regulations made under this Act (as in force immediately before 31 October 2017) relating to the recruitment of administrative officers (the *former recruitment provisions*), in which case those provisions continue, despite the amendments made by the amending Act, to have effect in relation to the recruitment action, or
 - (b) under the provisions of this Act (as amended by the amending Act), the regulations made under this Act (as so amended), and the government sector employment rules made under the *Government Sector Employment Act 2013*, relating to the recruitment of administrative employees (the *new recruitment procedures*).
- (3) Any recruitment action relating to an administrative employee role on and from 31 October 2019 must comply with the new recruitment procedures.

95B Existing arrangements relating to use of staff (secondments etc)

- (1) Any arrangement under section 95 or 95A of this Act that had effect immediately before 31 October 2017 is not affected by the amendments made to this Act by the amending Act.
- (2) In the case of any such existing arrangement that is in the nature of a secondment to or from a government sector agency within the meaning of the *Government Sector Employment Act 2013*, the person concerned is entitled to return to the government sector agency from which the person was seconded at the same work level at which the person was employed immediately before being seconded.

[2] Schedule 4, clause 96

Omit the clause. Insert instead:

96 Eligibility lists

- (1) An eligibility list that was current under this Act (or the regulations made under this Act) immediately before 31 October 2017 may continue to be used in relation to a role that is comparable to the position for which the list was created, but only until such time as the list would otherwise cease to have effect in accordance with this Act (or the regulations made under this Act) as in force immediately before that date.

- (2) If, in accordance with clause 95A (2) (a), recruitment action is taken under the former recruitment provisions, an eligibility list for the purposes of that recruitment may be created under this Act (or the regulations made under this Act) as if this Act had not been amended by the amending Act.
- (3) Any such eligibility list ceases to have effect on 31 October 2018.

[3] Schedule 4, clause 98

Omit the clause.