

Act No. 292

POLICE REGULATION (APPEALS) AMENDMENT BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Police Regulation (Merit Appointments) Amendment Bill 1987.

The object of this Bill is to amend the Police Regulation (Appeals) Act 1923 as a consequence of the proposed enactment of the Police Regulation (Merit Appointments) Amendment Act 1987, which will introduce merit-based appointments in the police force for sergeants and senior sergeants.

The proposed amendments will enable a member of the police force who is eligible for and applies for promotion to a vacant position for a sergeant or senior sergeant to appeal to the Government and Related Employees Appeal Tribunal on the ground that the merit of the appellant is greater than that of the person whom the Commissioner of Police has decided to appoint to the position.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the amendments relating to appeals to the Government and Related Employees Appeal Tribunal against promotions to sergeant will commence on 1 April 1989. The rest of the proposed Act, including the amendments relating to appeals against promotions to senior sergeant, will commence on 1 January 1988.

Clause 3 is a formal provision giving effect to the Schedules of amendments to the Principal Act.

SCHEDULE 1—AMENDMENTS RELATING TO APPEALS AGAINST PROMOTIONS TO SENIOR SERGEANT

Schedule 1 (1) amends the long title of the Principal Act so as to remove an obsolete reference to the former Police Appeal Board.

Police Regulation (Appeals) Amendment 1987

Schedule 1 (2) amends section 2 (Definitions) of the Principal Act so as to omit definitions which will be made redundant by the proposed Police Regulation (Merit Appointments) Amendment Act 1987.

Schedule 1 (3) amends section 2A (Membership etc. of the Tribunal) of the Principal Act so as to provide that the Commissioner of Police is to be regarded as the employer for the purpose of constituting the Tribunal to hear an appeal under proposed section 5AA (Appeals to Tribunal against promotions to senior sergeant).

Schedule 1 (4) amends section 3 (Appeals to Tribunal against promotions of certain constables of police) of the Principal Act so as to make it clear that the section deals only with appeals against promotions of constables to higher grades within that rank.

Schedule 1 (5) amends section 4 (Appeals to Tribunal against promotions to sergeant) of the Principal Act by omitting the reference to section 6B of the Police Regulation Act 1899 so as to limit the application of that section to promotions to vacant positions for sergeants who are not senior sergeants.

Schedule 1 (6) inserts proposed section 5AA (Appeals to Tribunal against promotions to senior sergeant) into the Principal Act. The new section will provide for appeals to the Tribunal against decisions of the Commissioner regarding appointments to vacant positions for senior sergeants. A right of appeal will lie to the Tribunal only where appointment to the vacant position in question would be a promotion for the appellant. An appeal will be able to be brought only on the ground that the merit of the appellant is greater than that of the proposed appointee.

The new section will apply (with certain specified modifications) the provisions of the Government and Related Employees Appeal Tribunal Act 1980. However, as with present appeals under section 5A (Appeal against decision to recommend appointment of inspector) of the Principal Act, all appeals to the Tribunal under the new section will be informal (there is provision in the 1980 Act for promotion appeals to be formal in certain circumstances).

**SCHEDULE 2—AMENDMENTS RELATING TO APPEALS AGAINST
PROMOTIONS TO SERGEANT**

Schedule 2 (1) amends section 2A (Membership etc. of the Tribunal) of the Principal Act as a consequence of the amendment to be made to proposed section 5AA referred to below.

Schedule 2 (2) repeals section 4 (Appeals to Tribunal against promotions to sergeant) of the Principal Act as a consequence of the amendment to be made to proposed section 5AA referred to below.

Schedule 2 (3) amends section 5 (Procedure for the hearing and determination of appeals under s. 3) of the Principal Act by omitting references to the repealed section 4.

Schedule 2 (4) extends the operation of proposed section 5AA (Appeals to Tribunal against promotions to senior sergeant or sergeant) of the Principal Act so that it will provide not only for appeals against promotions to vacant positions for senior sergeants, but also for appeals against promotions to vacant positions for other sergeants.
