



New South Wales

Police Amendment (Police Promotions) Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Police Act 1990* to create exceptions to the general requirement that appointments by way of promotion to vacant non-executive police officer positions of a particular rank are to be made from the promotion list for that rank and according to rankings on that list. As a result of the proposed Act, promotion appointments to certain specialist positions (being a position which requires specialist qualifications or unique knowledge, skills or experience and which is specially designated by the Commissioner of Police) may, if the position has not been able to be filled after being advertised to persons on the promotion list for the rank concerned, be made from outside the relevant promotion list. The current exception that enables appointments to specialist positions to be made from a promotion list otherwise than in accordance with the order of rankings on the promotion list is continued. The Bill also provides for police officers to be promoted, following a selection process, to superintendent positions otherwise than in accordance with the rankings on the relevant promotion list. Appointments of sergeants to senior sergeant positions will also be made following a selection process as there will no longer be a promotion list for the grade of senior sergeant.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Police Act 1990 No 47

At present under section 66 of the *Police Act 1990*, the Commissioner of Police must, in deciding to appoint a person by way of promotion to a vacant non-executive police officer position of a certain rank, appoint a person from the promotion list for that rank who has the greatest merit according to rankings on the list. An exception currently exists for appointments to positions that require specialist qualifications, in which case a person who has the qualifications required for the position may be appointed from the relevant promotion list (and not necessarily in accordance with the order of rankings on that list).

Schedule 1 [4] restates the existing exception referred to above and inserts new provisions dealing with promotion appointments to vacant non-executive police officer positions in other cases.

Proposed section 66AA (3) provides that, in the case of a specialist position designated by the Commissioner that has not been able to be filled from the promotion list after being advertised to persons on the list, an appointment may be made from outside the promotion list on the basis that the person obtain the required qualifications for the position within a certain period (see proposed section 66AA (5)). Similarly, section 66AA (6) provides that a person may be provisionally appointed from the relevant promotion list to a specialist position that requires a specific qualification even though the person does not hold the qualification. The permanent appointment of the person is subject to the person obtaining the relevant qualification within a certain period.

Section 66AA (8) authorises the Commissioner to require a person who applies for a specialist position to undergo a psychological assessment of the person's suitability for the position.

Proposed section 66AB enables promotion appointments, after a selection process, to be made to vacant positions of the rank of superintendent from the promotion list for that rank regardless of the rankings on the list.

Proposed section 66AC provides for the appointment of police officers (who are of the rank of sergeant) to the grade of senior sergeant following a selection process.

Schedule 1 [2] and [3] are consequential amendments.

Schedule 1 [6] and [7] provide that promotion lists are only to be established in relation to ranks (ie sergeant, inspector and superintendent) and not for grades (such as the grade of senior sergeant) within a rank. **Schedule 1 [1] and [5]** are consequential amendments.

Schedule 1 [8] and [9] enable the Commissioner, in deciding to suspend or remove a person from a promotion list or from the process of being placed on a promotion list, or in reversing a decision to appoint a person, to have regard to information as to the person's integrity regardless of whether the information was previously available or considered.

Schedule 1 [10] enables regulations of a savings and transitional nature to be made as a consequence of the enactment of the proposed Act.



New South Wales

Police Amendment (Police Promotions) Bill 2013

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Police Act 1990 No 47	3



New South Wales

Police Amendment (Police Promotions) Bill 2013

No. , 2013

A Bill for

An Act to amend the *Police Act 1990* to make further provision with respect to the promotion system for police officers; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Police Amendment (Police Promotions) Act 2013</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1	Amendment of Police Act 1990 No 47	1
[1]	Section 66 Appointments to be made on merit	2
	Omit “or grade within the rank” from section 66 (4).	3
[2]	Section 66 (4)	4
	Insert at the end of the subsection:	5
	Note. This Division contains exceptions to this subsection (see for example sections 66AA–66AC).	6 7
[3]	Section 66 (5)	8
	Omit the subsection.	9
[4]	Sections 66AA–66AC	10
	Insert after section 66:	11
66AA	Promotion appointments to specialist positions	12
(1)	In this section, <i>specialist position</i> means a position of any rank identified by the Commissioner as requiring specialist qualifications or unique knowledge, skills or experience.	13 14 15
(2)	Appointments from promotion list	16
	The Commissioner may, in the case of a vacant specialist position, appoint a person by way of promotion to the position from the promotion list for the rank concerned who has the greatest merit according to rankings on that list of persons who, in the opinion of the Commissioner, have the qualifications or the knowledge, skills or experience required for the position.	17 18 19 20 21
(3)	Appointments from outside of promotion list	22
	In the case of a vacant specialist position designated by the Commissioner for the purposes of this subsection and specified as such on an intranet site of the NSW Police Force, the Commissioner may, following a selection process, appoint a person by way of promotion to the position who, in the opinion of the Commissioner, has the greatest merit among the candidates for the position, but only if:	23 24 25 26 27 28
(a)	the person has completed the required time at rank (as determined by the regulations) in a position that is immediately below the rank of the vacant specialist position, and	29 30 31
(b)	the vacant specialist position is not able to be filled from the promotion list for the rank concerned.	32 33
(4)	For the purposes of subsection (3), a vacant specialist position of the kind referred to in that subsection is not able to be filled from a promotion list if:	34 35
(a)	in the case of a position of the rank of superintendent or inspector—a permanent appointment has not been made to the position after it has been advertised twice to the persons on the list, or	36 37 38
(b)	in the case of a position of the rank of sergeant—a permanent appointment has not been made to the position after it has been advertised:	39 40 41
(i)	twice to the persons on the list established as a principal promotion list for that rank, and	42 43
(ii)	twice to the persons on the list established as a reserve promotion list for that rank.	44 45

(5)	The following provisions apply to the appointment of a person to a vacant specialist position under subsection (3):	1 2
(a)	the person is to be appointed to the position initially on a provisional basis for a period of at least 2 years or such additional period as the Commissioner may determine in any particular case (the <i>provisional period</i>),	3 4 5 6
(b)	the person may be permanently appointed to the position only if the person has, during the provisional period, gained the requisite qualifications for placement on the promotion list for the rank to which the position relates,	7 8 9 10
(c)	if the person is not permanently appointed to the position within the provisional period, the person's provisional appointment is revoked.	11 12
(6)	Appointments to specialist positions that require specific qualifications	13
	The Commissioner may, in the case of a vacant specialist position identified by the Commissioner as requiring a specific qualification, appoint by way of promotion to the position a person who is on the promotion list for the rank concerned even though the person does not hold the qualification.	14 15 16 17
(7)	The following provisions apply to the appointment of a person to a specialist position under subsection (6):	18 19
(a)	the person is to be appointed to the position initially on a provisional basis,	20 21
(b)	the person is, while appointed on such a basis, required to obtain the qualification within the period determined by the Commissioner,	22 23
(c)	the person may be permanently appointed to the position only if the person obtains the qualification within that period,	24 25
(d)	if the person does not obtain the qualification within that period, the person's provisional appointment is revoked.	26 27
(8)	Psychological assessment of applicants for specialist positions	28
	The Commissioner may require a person applying for appointment by way of promotion to a vacant specialist position to undergo a psychological assessment of the person's suitability for the position. A person is not eligible to be appointed by way of promotion to a vacant specialist position in respect of which a psychological assessment is required if the person refuses to undergo the assessment or fails to satisfy the requirements or criteria relevant to the assessment.	29 30 31 32 33 34 35
(9)	Section 66 (4) does not apply to an appointment under this section.	36
66AB	Promotion appointments—superintendents	37
(1)	The Commissioner may, in the case of a vacant position of the rank of superintendent, appoint by way of promotion from the promotion list for that rank a person who, in the opinion of the Commissioner, has the greatest merit among the candidates for the position regardless of the rankings on that list.	38 39 40 41
(2)	Any such appointment may only be made after a selection process.	42
(3)	This section does not limit section 66AA in its application to positions of the rank of superintendent.	43 44
(4)	Section 66 (4) does not apply to an appointment under this section.	45

66AC	Promotion appointments—senior sergeants	1
(1)	The Commissioner may invite expressions of interest from police officers of the rank of sergeant for appointment to a position within the grade of senior sergeant.	2 3 4
(2)	Following a selection process, the Commissioner may appoint to such a position a person who, in the opinion of the Commissioner, has the greatest merit among the candidates for the position.	5 6 7
(3)	Except in such circumstances as may be determined by the Commissioner, a person is not eligible to be appointed to a position within the grade of senior sergeant unless the person has completed a period of, or periods totalling, not less than 2 years at the rank of sergeant.	8 9 10 11
(4)	A person who is appointed to a position within the grade of senior sergeant does not retain the title or any benefits associated with that grade if the person is transferred to a position within another grade.	12 13 14
(5)	Section 66 (4) does not apply to an appointment under this section.	15
[5]	Section 67 Temporary appointments	16
	Omit “or grade” from section 67 (2).	17
[6]	Sections 70 (1) and (2) (d) and (e), 71 (1) (a) and 78 (1)	18
	Omit “or grade within a rank” wherever occurring.	19
[7]	Section 70 Promotion lists	20
	Omit “senior sergeant,” from section 70 (1).	21
[8]	Section 71 Integrity matters	22
	Omit “(being information that was not considered when the decision to appoint the person was made)” from section 71 (4).	23 24
[9]	Section 71 (6)	25
	Omit “(being information that was not previously considered)”.	26
[10]	Schedule 4 Savings, transitional and other provisions	27
	Insert after “ <i>Royal Commissions and Ombudsman Legislation Amendment Act 2013</i> ” in clause 2 (1):	28 29
	<i>Police Amendment (Police Promotions) Act 2013</i>	30