

POLICE SERVICE BILL 1990*

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Police and Superannuation Legislation (Amendment) Bill 1990 is cognate with this Bill.

The object of this Bill is to establish the Police Service of New South Wales and to provide for its management and for the employment of its members. The Police Service is to be an integrated body that replaces the Police Force and the Police Department.

The Bill enacts modern legislation relating to police administration to replace the Police Regulation Act 1899 and the Police Board Act 1983. The legislation relating to allegations of misconduct against police officers and to appeals by police officers in connection with discipline or promotion has not been revised.

PART 1 - PRELIMINARY

Part 1 (**clauses 1-3**) contains the usual provisions relating to the short title of the proposed Act and its commencement and to definitions. The Bill uses the expression "police officer" to describe the specially designated members of the Police Service who carry out operational and certain other police duties. The expression "administrative officer" is used in the Bill to describe all other members of the Police Service except temporary employees. The definition of "merit" in relation to appointments reflects existing requirements.

PART 2 - THE POLICE SERVICE OF NEW SOUTH WALES

Part 2 (**clauses 4-14**) establishes the Police Service and provides for its composition, functions and management.

* Amended in committee - see table at end of volume.

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Clause 4 establishes the Police Service.

Clause 5 provides that the Police Service is comprised of the Commissioner of Police, members of the Police Service Senior Executive Service, all other police officers and administrative officers and temporary employees.

Clause 6 specifies the mission and general functions of the Police Service. In addition to police services for the prevention and detection of crime, the clause includes existing police services relating to rescues and emergencies.

Clause 7 requires members of the Police Service to act in accordance with certain stated values.

Clause 8 makes the Commissioner responsible (subject to the direction of the Minister) for the management and control of the Police Service. The clause reflects the existing arrangements for police administration.

Clause 9 enables the Treasurer to determine the maximum number of staff in the Police Service.

Clause 10 enables the Commissioner to create, abolish and otherwise deal with positions in the Police Service. Apart from police officers of the rank of constable and temporary employees, all appointments to the Police Service are to be to specified positions and not to specified ranks.

Clause 11 provides for the designation by the Commissioner of those positions in the Police Service which involve operational or other police duties and which are to be held by police officers.

Clauses 12–14 specify the ranks and grades of police officers, requires an oath to be taken by police officers and preserves the common law and other functions of police officers.

PART 3 - THE POLICE BOARD OF NEW SOUTH WALES

Part 3 (**clauses 15–23**) continues the Police Board and re-enacts provisions at present contained in the Police Board Act 1983. The membership and functions of the Board are not changed except for the additional personnel management functions conferred on the Board in connection with the proposed Police Service Senior Executive Service.

PART 4 - THE COMMISSIONER OF POLICE

Part 4 (**clauses 24-31**) provides for the appointment and conditions of employment of the Commissioner of Police. The Part re-enacts existing provisions relating to the Commissioner, including the requirement that the Police Board invite applications for the position and recommend the applicant with the greatest merit and the requirement that any applicant who is not already a police officer be appointed for a fixed term. The Part enables the appointment of an acting Commissioner and provides a general power of delegation instead of the detailed existing statutory requirements for a Deputy Commissioner or Assistant Commissioner to act as Commissioner in certain circumstances.

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PART 5 - THE POLICE SERVICE SENIOR EXECUTIVE SERVICE

Part 5 (**clauses 32-61**) provides for a senior executive service within the Police Service. The provisions dealing with the Police Service Senior Executive Service are similar to those dealing with the senior executive service in the Public Sector Management Act 1988, except that the employer functions are to be exercised by the Police Board. The members eligible for inclusion are police officers (other than the Commissioner) of or above the rank of superintendent and administrative officers who are to be paid remuneration that exceeds that for a Grade 12 administrative officer in the Public Service.

Division 1 (**clause 32**) contains definitions.

Division 2 (**clauses 33-35**) provides that the senior executive service comprises the persons holding the positions specified in Schedule 2 to the proposed Act. The positions are to be included by proclamation on the recommendation of the Police Board.

Division 3 (**clauses 36-39**) provides for the appointment of members of the senior executive service. Appointments are to be made on the recommendation of the Police Board. The person recommended for appointment must be the applicant with the greatest merit. Vacant positions must be advertised both within and outside the Police Service unless the Minister approves of the position being advertised only within the Police Service.

Division 4 (**clauses 40-44**) deals with the employment of senior executive officers. Officers are to be employed for a term (not exceeding 5 years) and their employment is to be governed by a contract of employment. The employment of a senior executive officer is excluded from the jurisdiction of industrial tribunals and judicial review by the courts.

Division 5 (**clauses 45-47**) deals with the remuneration of senior executive officers. The total remuneration package is to be determined by the Statutory and Other Officers Remuneration Tribunal and the agreement of the parties as to whether any part of that package is to be taken in the form of specified employment benefits is to be set out in the contract of employment.

Division 6 (**clauses 48-54**) provides for the retirement and removal from office of senior executive officers. Officers may be removed at any time. An officer who has not elected and paid for a right of return to the public sector (or who elects to forgo that right) is entitled to compensation of a maximum of 12 months' salary if removed from the office except for disciplinary reasons.

Division 7 (**clauses 55-68**) contains general provisions, including the preservation of the rights of incumbent officers whose positions become senior executive positions and the transfer of senior executive officers.

PART 6 - NON-EXECUTIVE OFFICERS OF THE POLICE SERVICE

Part 6 (**clauses 62-89**) deals with the appointment and employment of police or administrative officers other than senior executive officers.

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Division 1 (**clauses 62 and 63**) contains preliminary matters, including definitions.

Division 2 (**clauses 64-64**) contains general provisions relating to appointments. Non-executive commissioned police officers (such as inspectors) are to be appointed on the recommendation of the Police Board. Other police and administrative officers are to be appointed by the Commissioner. Provision is made to enable certain positions to be advertised for appointment by either police officers or administrative officers. Provision is also made for temporary appointments and transfers.

Division 3 (**clauses 68-72**) provides for the appointment of non-executive commissioned police officers. As at present, only police officers are eligible. The Police Board must recommend for appointment the applicant with the greatest merit.

Division 4 (**clauses 43-78**) provides for the appointment of police officers of the rank of sergeant or constable. The existing provisions for the appointment of constables are retained (except for the removal of the maximum age for appointment of 35 years). The existing provisions for merit-based appointments of sergeants and the restriction of appointments to existing police officers are also retained.

Division 5 (**clauses 79-81**) provides for the appointment of non-executive administrative officers. The existing provisions of the Public Sector Management Act 1988 for merit-based appointments (from within or outside the Service) are retained.

Division 6 (**clauses 82 and 83**) deals with the retirement and vacation of office of non-executive officers.

Division 7 (**clauses 84-86**) retains the existing provisions for the Public Employment Industrial Relations Authority to act as employer for the purposes of the determination of salary, industrial agreements and awards relating to non-executive officers.

Division 8 (**clauses 87-89**) contains general provisions relating to non-executive officers, including the right of administrative Officers in the Police Service to apply for positions in the Public Service as if they had continued to be public servants.

PART 7 - TEMPORARY EMPLOYEES OF THE POLICE SERVICE

Part 7 (**clauses 90 and 91**) provides for the employment in the Police Service of temporary employees in similar terms to the provisions for the employment of temporary employees of the Public Service.

PART 8 - GENERAL PROVISIONS RELATING TO EMPLOYMENT OF ALL MEMBERS OF THE POLICE SERVICE

Part 8 (**clauses 92-96**) enacts general provisions relating to the employment of members of the Police Service, including the re-enactment of existing provisions for members contesting parliamentary elections and the attachment of the wages of members.

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PART 9 - DISCIPLINE OF MEMBERS OF THE POLICE SERVICE

Part 9 (**clauses 97 and 98**) retains the existing provisions relating to discipline of police officers and administrative officers. The discipline of police officers is dealt with in the regulations and in the Police Regulation (Allegations of Misconduct) Act 1978. The discipline of administrative officers is dealt with by preserving the application of the relevant provisions of the Public Sector Management Act 1988.

PART 10 - OFFENCES RELATING TO THE POLICE SERVICE

Part 10 (**clauses 99–106**) retains existing offences under the Police Regulation Act 1899 and the Police Board Act 1983. In particular, offences relating to bribery, neglect of duty, the wearing of police uniforms and the use of police designations are retained.

PART 11 - CHARGES FOR POLICE SERVICES

Part 11 (**clauses 107–110**) re-enacts provisions recently included in the Police Regulation Act 1899 relating to charges for police services (including charges for attending sporting events, for escorts and for responding to false security alarms).

PART 12 - MISCELLANEOUS

Part 12 (**clauses 111–119**) contains miscellaneous provisions, including the protection from personal liability of police officers engaged in rescues etc., and the existing special risk benefit payable to police officers hurt on duty who are not contributors to the Police Superannuation Fund (and therefore not eligible for the compensation entitlements of those contributors). The Part also contains a power to make regulations for the management and control of the Police Service.

Schedule 1 contains provisions relating to the members and procedure of the Police Board.

Schedule 2 is the Schedule in which the positions of senior executive officers are to be included by proclamation.

Schedule 3 contains a list of the Acts which are to be repealed, including the Police Regulation Act 1899 and the Police Board Act 1983.

Schedule 4 contains savings and transitional provisions. In particular, the Schedule continues the existing appointments of the members of the Police Board, the Commissioner and existing police officers and officers of the Police Department.
