

# Government Sector Employment (NSW Police Force) Rules 2017

[2017-594]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Government Sector Employment (NSW Police Force) Rules 2017



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	5
1 Name of Rules .....	5
2 Commencement .....	5
3 Definitions .....	5
4 Application of Rules .....	6
5 Comparative assessment .....	6
6 Suitability assessment .....	7
<b>Part 2 Merit-based employment and related matters</b> .....	7
7 Definition .....	7
8 Merit principles to be applied in employment decisions .....	7
9 Talent pools .....	8
10 Ongoing employment .....	8
11 Temporary or term employment .....	9
12 Maximum period of temporary employment of non-executive administrative employees .....	9
13 Conversion of temporary or term employment to ongoing employment at-level .....	10
14 Use of initial suitability and comparative assessments when extending temporary or term employment .....	11
15 Temporary assignments .....	11
16 Limited advertising of vacancies arising from agency restructure .....	11
17 Dispensation with requirements of Part .....	12

**Part 3 Contracts of employment and other provisions relating to executives**

..... 12

18 Model contracts of employment ..... 12

19 Requirement to comply with contract of employment..... 13

20 Contract of employment subject to conditions of engagement being satisfied ..... 13

21 Report on termination of employment of executives..... 13

22 Ongoing conditions of employment..... 13

23 Assignment to other role—payment of allowances..... 14

24 Part-time work ..... 14

25 Capability-based assessments ..... 14

26 Certain leave or payments not available ..... 14

27 Election to be paid money value of accrued leave ..... 14

**Part 4 Administrative employees—initial engagement, conditions of employment and other provisions**

..... 14

28 Probation period ..... 14

29 Formal qualifications ..... 15

30 Security and other clearances ..... 15

31 Health assessment ..... 15

32 Reporting charges and convictions for serious offences..... 16

33 Reporting of bankruptcy ..... 17

34 Public holidays..... 17

35 Absence from duty ..... 17

36 Increments ..... 18

37 Fitness for duty ..... 18

38 Excess non-executive administrative employees ..... 19

39 Termination of employment of non-executive administrative employees..... 20

**Part 5 Transfer and secondment of administrative employees ..... 20**

Note..... 20

40 Transfer of administrative employees to government sector agencies ..... 20

41 Merit assessment in relation to transfers ..... 21

42 Secondment of administrative employees .....	21
43 Review of employer-initiated transfers or secondments.....	22

**Part 6 Misconduct by administrative employees—procedural requirements**

.....	23
44 Initial stage for dealing with allegations of misconduct.....	23
45 Inquiries.....	24
46 Findings by Commissioner .....	24
47 Records relating to misconduct .....	24

**Part 7 Workforce diversity**..... 25

48 Employment of eligible persons as non-executive administrative employees.....	25
49 Information relating to workforce diversity.....	26

**Part 8 Performance management**..... 26

50 Core requirements of performance management system for NSW Police Force.....	26
51 Dealing with unsatisfactory performance—administrative employees.....	26
52 Performance management—executives .....	27

**Schedule 1 Model contract of employment for Commissioner of Police** ..27

**Schedule 2 Model contract of employment for NSW Police Force senior executives (police officers)**

.....	32
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**Schedule 3 Model contract of employment for NSW Police Force senior executives (administrative employees)**

.....	37
-------	----

**Schedule 4 Consequential amendments to Government Sector Employment (General) Rules 2014**

.....	42
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# Government Sector Employment (NSW Police Force) Rules 2017



New South Wales

## Part 1 Preliminary

### 1 Name of Rules

These Rules are the *Government Sector Employment (NSW Police Force) Rules 2017*.

### 2 Commencement

These Rules commence on 31 October 2017 and are required to be published on the NSW legislation website.

### 3 Definitions

(1) In these Rules:

**above-level** means:

- (a) in the case of a non-executive administrative employee—at a higher classification of work than the employee's current classification or in a senior executive band, or
- (b) in the case of a NSW Police Force senior executive—in a band higher than the band in which the executive is employed.

**at-level** means:

- (a) in the case of a non-executive administrative employee—at the same classification of work as the employee's current classification, or
- (b) in the case of a NSW Police Force senior executive—within the same band as the band in which the executive is employed.

**administrative employee** means a member of the NSW Police Force other than a police officer.

**capability-based assessment** means a process that assesses a person's capabilities against those required for a role.

**Commissioner** means the Commissioner of Police.

**comparative assessment**—see rule 5.

**external advertising** means the process of advertising on the NSW Government jobs website. It may also include any other form of advertising that is accessible to the general public.

**GSE Act** means the [Government Sector Employment Act 2013](#).

**non-executive administrative employee** means a member of the NSW Police Force other than a police officer or a NSW Police Force senior executive.

**NSW Police Force senior executive** (or **executive**) means a person employed in the NSW Police Force (whether as a police officer or an administrative employee) as a NSW Police Force senior executive as referred to in section 32 of the [Police Act 1990](#).

**role** of a NSW Police Force senior executive or a non-executive administrative employee means the duties and responsibilities of any such executive or employee.

**suitability assessment**—see rule 6.

**Note—**

The GSE Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of these Rules.

(2) Notes included in these Rules do not form part of these Rules.

#### **4 Application of Rules**

(1) These Rules apply only in relation to NSW Police Force senior executives and non-executive administrative employees.

(2) However, subrule (1) does not affect the operation of the following:

(a) rules 18 (1), 49 and 50,

(b) Schedule 1.

#### **5 Comparative assessment** (cf rule 17 GSE (General) Rules 2014)

(1) For the purposes of these Rules, a **comparative assessment** is the process of assessing an individual's claim against:

(a) the pre-established standards for a role, and

(b) any other claimants for the role.

(2) The process is to include the following:

- (a) screening for essential requirements such as a qualification or licence,
- (b) reviewing an application and resume,
- (c) at least 3 capability-based assessments, one of which is an interview,
- (d) referee checks against the pre-established standards for the role.

(3) More than one assessor must be involved in a comparative assessment.

**6 Suitability assessment** (cf rule 18 GSE (General) Rules 2014)

- (1) For the purposes of these Rules, a **suitability assessment** is the process of assessing an individual against the pre-established standards for a role (and not against other persons).
- (2) The process is to include the following:
  - (a) screening for essential requirements such as a qualification or licence,
  - (b) reviewing a resume,
  - (c) at least 2 capability-based assessments, one of which is an interview,
  - (d) referee checks against the pre-established standards for the role.

## Part 2 Merit-based employment and related matters

### 7 Definition

In this Part:

**relevant person** means a person who is (or is to be) employed as a NSW Police Force senior executive or non-executive administrative employee.

### 8 Merit principles to be applied in employment decisions

 (cf rule 16 GSE (General) Rules 2014)

- (1) This rule applies to any of the following decisions (an **employment decision**):
  - (a) the employment of relevant persons in any kind of employment and the assignment under section 36 or 81D of the *Police Act 1990* of relevant persons to roles,
  - (b) the conversion to ongoing employment of a relevant person's temporary or term employment,
  - (c) the transfer or secondment of an employee to the NSW Police Force from another government sector agency.
- (2) Any employment decision relating to an executive role or a non-executive role in the NSW Police Force is to be based on an assessment of the capabilities, experience and

knowledge of the relevant person concerned against the pre-established standards for the role to determine the person best suited to the requirements of the role and the needs of the NSW Police Force.

- (3) Without limiting subrule (2), the following principles apply in relation to employment decisions:
- (a) any recruitment action (whether for ongoing employment, temporary or term employment or casual employment) is to take into account:
    - (i) long and short term capability needs to meet the objectives of the NSW Police Force, and
    - (ii) existing workforce capabilities,
  - (b) pre-established standards for a role are to be expressed as levels against each capability or other requirements for the role,
  - (c) any assessment for a role is to include appropriate methods to assess different requirements,
  - (d) except in the case where a development opportunity is being provided, a relevant person may be employed in a role only if the person meets the pre-established standards for the role or type of role,
  - (e) any employment decision is to be made on balance taking into account all the results provided by the assessment process.

**9 Talent pools** (cf rule 19 GSE (General) Rules 2014)

- (1) A **talent pool** is a list of those persons (whether or not existing members of the NSW Police Force) who have satisfied the pre-established standards for a role or type of role through a comparative assessment conducted by a government sector agency (including the NSW Police Force).
- (2) A talent pool may be used for recruitment of relevant persons to ongoing employment or for temporary or term employment.
- (3) A person may be included in a talent pool for no longer than the period of 12 months following the completion of the comparative assessment that entitled the person to be included in the talent pool.

**10 Ongoing employment** (cf rule 20 GSE (General) Rules 2014)

- (1) Subject to subrule (2), the following decisions must be based on a comparative assessment after external advertising:
  - (a) the decision to employ a relevant person in ongoing employment in a particular classification of work or band and the initial assignment of the person to a role in



that classification or band,

(b) any subsequent decision to employ the person in a different classification of work or in a different band and the initial assignment of the person to a role in that classification or band.

(2) The decision to employ a non-executive administrative employee in ongoing employment at a higher classification of work than the employee's current classification in the NSW Police Force is not required to comply with subrule (1) if:

(a) the employee has been performing duties in the NSW Police Force at that higher classification (or at a classification similar to that higher classification) for a period of at least 12 months, and

(b) the Commissioner is satisfied that the employee has the qualifications, experience, standard of work performance and capabilities to enable the employee to perform the duties associated with that higher classification.

(3) The process for employing a non-executive administrative employee in accordance with subrule (2) is to be completed by no later than 31 October 2020.

**11 Temporary or term employment** (cf rules 21 & 22 GSE (General) Rules 2014)

(1) The decision to employ a relevant person in temporary or term employment for a period of up to 12 months must be based on either a suitability assessment or a comparative assessment.

(2) The decision to employ a relevant person in temporary or term employment for a period of more than 12 months must be based on a comparative assessment after external advertising.

(3) If a relevant person is employed in temporary or term employment on the basis of a suitability assessment, the person cannot continue in that employment after 12 months unless the person does so on the basis of a comparative assessment. In such a case, action to undertake the additional requirements of a comparative assessment should commence not later than 9 months after the commencement of the person's temporary or term employment.

(4) The Commissioner may exempt the employment of a relevant person from subrule (3) if the Commissioner determines that the special circumstances of the case justify the exemption.

**12 Maximum period of temporary employment of non-executive administrative employees** (cf rule 10 GSE (General) Rules 2014)

(1) The maximum total period for which a non-executive administrative employee may be employed in temporary employment is 4 years within any continuous period of 5 years.

- (2) Despite subrule (1), a non-executive administrative employee may be employed in temporary employment for a further period or periods of up to 4 years (the **maximum temporary period**) if the decision to employ the person for any such further period is based on a comparative assessment after external advertising. The recruitment process should be commenced not later than 3 months before the start of the proposed further period of temporary employment.
- (3) If a person is employed under subrule (2) after a comparative assessment (the **initial assessment**) for less than the maximum temporary period and the person is subsequently employed for a further period within the maximum temporary period, a further comparative assessment is not required in connection with the decision to employ the person for that further period if:
  - (a) the person is to be assigned to the same role as the role to which the person was assigned after the initial assessment, or
  - (b) the Commissioner is satisfied that it is appropriate to rely on the initial assessment for the role to which the person is to be assigned.
- (4) The period of 4 years referred to in subrule (1) or (2) may, with the approval of the Commissioner in any particular case, be extended for an additional period of up to 12 months.
- (5) The Commissioner may, after consulting the Public Service Commissioner, determine classes of exceptions to this rule. Any such determination is to be made publicly available on a website provided and maintained by the Commissioner.

**13 Conversion of temporary or term employment to ongoing employment at-level** (cf rule 12 GSE (General) Rules 2014)

- (1) The Commissioner may convert the temporary or term employment of a relevant person to ongoing employment if:
  - (a) the ongoing employment is at-level, and
  - (b) the person has been employed for a period of at least 12 months.
- (2) The conversion to ongoing employment under this rule:
  - (a) must be based:
    - (i) on the results of a comparative assessment (whether a previous comparative assessment or a new comparative assessment) after external advertising, and
    - (ii) on the relevant person's most recent performance under the NSW Police Force's performance management system, and
  - (b) is subject to the satisfactory conduct of the relevant person.

**14 Use of initial suitability and comparative assessments when extending temporary or term employment** (cf rule 22B GSE (General) Rules 2014)

If a relevant person is employed in accordance with rule 11 after a suitability or comparative assessment (the **initial assessment**) and the person's temporary or term employment is subsequently extended for a further period, a further suitability or comparative assessment is not required in connection with the decision to employ the person for that further period if:

- (a) the person is to be assigned to the same role as the role to which the person was assigned after the initial assessment, or
- (b) the Commissioner is satisfied that it is appropriate to rely on the initial assessment for the role to which the relevant person is to be assigned.

**Note—**

The extension of an administrative employee's temporary employment is limited by the maximum period of temporary employment under rule 12 (unless an exception under rule 12 (5) applies).

**15 Temporary assignments** (cf rule 11 GSE (General) Rules 2014)

- (1) A relevant person may be temporarily assigned by the Commissioner to another role in the NSW Police Force if:
  - (a) the person who is usually assigned to that other role is unavailable for any reason, or
  - (b) there is no person assigned to that other role.

**Note—**

The regulations under the [Police Act 1990](#) provide for an allowance in the case where the temporary assignment involves a higher role.

See also section 33 (5) of the [Police Act 1990](#) which provides for the appointment of members of the NSW Police Force to act in executive roles.

- (2) A temporary assignment under this rule may be terminated at any time by the Commissioner.
- (3) On completion of a relevant person's temporary assignment under this rule, the person, unless assigned to a different role under section 36 or 81D of the [Police Act 1990](#), continues to have the role assigned to the person under section 36 or 81D of that Act immediately before the start of the temporary assignment.
- (4) Sections 36 and 81D of the [Police Act 1990](#) do not apply to a temporary assignment under this rule.

**16 Limited advertising of vacancies arising from agency restructure** (cf rule 23 GSE)

(General) Rules 2014)

- (1) If, during the course of a major restructure affecting the NSW Police Force, the Commissioner considers that a significant number of administrative employees are likely to be determined to be excess employees, the Commissioner may, in taking recruitment action to fill a vacancy in a non-executive administrative employee role that arises as part of the restructure, limit the recruitment to the following candidates:
  - (a) administrative employees employed in ongoing employment,
  - (b) administrative employees who have been employed in temporary employment for a period of at least 12 months.
- (2) This rule has effect despite any requirement under these Rules for external advertising in relation to the role concerned.

#### **17 Dispensation with requirements of Part**

- (1) The Commissioner may, in making a decision under this Part, dispense with any requirement under this Part that would otherwise apply in relation to the decision if the Commissioner is satisfied that the requirement should be dispensed with because of operational needs of the NSW Police Force.
- (2) The Commissioner and the Public Service Commissioner may agree on the kinds of operational needs of the NSW Police Force that justify dispensing with any of the requirements under this Part.

### **Part 3 Contracts of employment and other provisions relating to executives**

#### **18 Model contracts of employment** (cf rule 43 GSE (General) Rules 2014)

- (1) The contract of employment specified in Schedule 1 is, for the purposes of section 38 (2) of the *Police Act 1990*, prescribed as the model contract of employment for the Commissioner.
- (2) The contract of employment specified in Schedule 2 is, for the purposes of section 38 (2) of the *Police Act 1990*, prescribed as the model contract of employment for a NSW Police Force senior executive who is a police officer.
- (3) The contract of employment specified in Schedule 3 is, for the purposes of section 38 (2) of the *Police Act 1990*, prescribed as the model contract of employment for a NSW Police Force senior executive who is an administrative employee.
- (4) The provisions of a model contract of employment prescribed under this rule:
  - (a) are mandatory (except any provisions that are not applicable, as indicated in the model contract), and

(b) are subject to the GSE Act, the *Police Act 1990* and the regulations under that Act, the *Government Sector Employment Regulation 2014* and these Rules.

(5) Any amendment made to Schedule 1, 2 or 3 does not apply to a contract of employment entered into before the amendment is made.

**19 Requirement to comply with contract of employment** (cf rule 44 GSE (General) Rules 2014)

A NSW Police Force senior executive must comply with any of the obligations imposed on the executive under the executive's contract of employment.

**20 Contract of employment subject to conditions of engagement being satisfied** (cf rule 45 GSE (General) Rules 2014)

The contract of employment of a NSW Police Force senior executive is subject to all the conditions to which the engagement of the executive is subject being satisfied.

**21 Report on termination of employment of executives** (cf rule 42 GSE (General) Rules 2014)

(1) If the employment of a NSW Police Force senior executive is terminated by the Commissioner under section 40 of the *Police Act 1990*, the Commissioner is, as soon as practicable after terminating the executive's employment, to provide a written report to the Public Service Commissioner on the termination.

(2) The report is to be signed by the Commissioner and include the following:

(a) a summary of the process taken by the Commissioner in terminating the employment,

(b) the reasons for terminating the employment.

**22 Ongoing conditions of employment** (cf rule 46 GSE (General) Rules 2014)

(1) A NSW Police Force senior executive must ensure that the executive at all times holds and maintains the formal qualifications or clearances (if any) required for the executive's role.

(2) The Commissioner may attach a specific condition of employment to the role assigned to a NSW Police Force senior executive.

(3) Any such condition cannot vary the terms of the executive's contract of employment (including changing the executive's remuneration package).

(4) If the NSW Police Force senior executive assigned to a role to which any such condition is attached is assigned to a different role that does not have the condition of employment attached to it, the condition no longer applies in relation to the executive.

**23 Assignment to other role—payment of allowances** (cf rule 47 GSE (General) Rules 2014)

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

**24 Part-time work** (cf rule 48 GSE (General) Rules 2014)

- (1) The Commissioner may approve a request by a NSW Police Force senior executive to undertake work on a part-time basis (namely, that the executive is not available for duty during the whole or part of a normal working day).
- (2) An agreement between the Commissioner and a NSW Police Force senior executive about part-time work must specify the days or parts of days when the executive is available for duty.
- (3) The remuneration of the executive is to be calculated on a pro-rata basis (excluding allowances in the nature of reimbursement where the part-time executive will receive the same amount as a full-time executive in the same circumstances).

**25 Capability-based assessments** (cf rule 50 GSE (General) Rules 2014)

A NSW Police Force senior executive must participate in:

- (a) periodic capability-based assessments, and
- (b) any assessment relating to the technical requirements of the executive's role.

**26 Certain leave or payments not available** (cf rule 51 GSE (General) Rules 2014)

A NSW Police Force senior executive is not entitled to any allocated day off for working flexible hours or to be paid for working overtime.

**27 Election to be paid money value of accrued leave** (cf cl 37 GSE Reg 2014)

A NSW Police Force senior executive may elect at any time to be paid the whole or part of the money value of the executive's accrued annual or extended leave.

**Part 4 Administrative employees—initial engagement, conditions of employment and other provisions**

**28 Probation period** (cf rule 5 GSE (General) Rules 2014)

- (1) This rule applies to an administrative employee whose engagement in ongoing employment in the NSW Police Force for the first time (or following the cessation of any previous employment in the NSW Police Force) is made subject to the condition that the employee is required:
  - (a) to serve a period of probation on commencing employment, and

(b) to satisfy the requirements for the role to which the employee is assigned during that period of probation.

- (2) Any such period of probation is to be 6 months or such longer period as the Commissioner may determine in respect of the administrative employee.
- (3) If an administrative employee is required to serve a period of probation, the Commissioner may, at any time during or at the end of the probation period:
  - (a) confirm the employee's employment, or
  - (b) in the case of a NSW Police Force senior executive—terminate the executive's employment under section 40 (2) of the *Police Act 1990*, or
  - (c) in the case of a non-executive administrative employee—terminate the employee's employment under section 81E of the *Police Act 1990*.

**29 Formal qualifications** (cf rules 7 & 46 (1) GSE (General) Rules 2014)

- (1) This rule applies to an administrative employee whose engagement in the NSW Police Force is made subject to a condition that the person is required to have such qualifications as the Commissioner may determine to be necessary for performing the duties of the role to which the person is to be assigned.
- (2) An administrative employee who is required to have any such qualifications but who has not provided evidence of the qualifications may be employed on the condition that the employee provides that evidence in the time and manner determined by the Commissioner.
- (3) An administrative employee must ensure that the employee at all times holds and maintains the qualifications required for the role to which the employee is assigned.

**30 Security and other clearances** (cf rule 8 GSE (General) Rules 2014)

- (1) This rule applies to an administrative employee whose engagement in the NSW Police Force is made subject to a condition that the employee is required to have such security or other clearances as the Commissioner determines are necessary for performing the duties of the role to which the person is to be assigned.
- (2) An administrative employee who is required to have any such security or other clearances must ensure that those clearances are maintained.

**31 Health assessment** (cf rule 9 GSE (General) Rules 2014)

- (1) This rule applies to an administrative employee whose engagement in the NSW Police Force is made subject to a condition that the employee's fitness to perform the duties of the role to which the employee is assigned has been confirmed by a health assessment.

- (2) For the purposes of this rule, **fitness to perform the duties of a role** includes the ability to carry out the role without endangering the health and safety of the public, of other members of the NSW Police Force or of the administrative employee concerned.
- (3) The form of the health assessment may include (but is not limited to) any one or more of the following:
  - (a) a declaration (which may be a statutory declaration if required) provided by the administrative employee concerning any illness, disability or condition of which the employee is aware that might make the employee unfit to carry out the role,
  - (b) a medical examination by a medical practitioner approved by the Commissioner or the Public Service Commissioner,
  - (c) an examination, by a medical practitioner, optometrist or other appropriately qualified health care professional, approved by the Commissioner or the Public Service Commissioner, of a particular aspect of the administrative employee's health likely to detrimentally affect the employee's capacity to carry out the role.
- (4) The Commissioner is to give the health care professional providing a health assessment referred to in subrule (3) (b) or (c) any requested information about the role concerned that is reasonably required for the purpose of providing the assessment.

### **32 Reporting charges and convictions for serious offences** (cf cl 9 GSE Reg 2014)

- (1) An administrative employee who is charged with, or is convicted of, a serious offence must immediately report that fact in writing to the Commissioner.
- (2) If the manager of an administrative employee has reason to believe that the employee:
  - (a) has been charged with, or has been convicted of, a serious offence, and
  - (b) has not reported the matter to the Commissioner,

the manager must immediately inform the Commissioner in writing that the manager has reason to believe that the administrative employee has been charged with, or has been convicted of, the serious offence.

- (3) In this rule:

**convicted** of an offence includes being found guilty of the offence without the court proceeding to a conviction.

**manager** of an administrative employee means the manager of the part of the NSW Police Force in which the employee is employed.

**serious offence** has the same meaning as in section 69 of the GSE Act.



**33 Reporting of bankruptcy** (cf cl 10 GSE Reg 2014)

- (1) If an administrative employee (other than a non-executive administrative employee employed in casual employment) becomes bankrupt or makes a composition, arrangement or assignment for the benefit of the employee's creditors, the employee must:
  - (a) immediately notify the Commissioner in writing of the bankruptcy, composition, arrangement or assignment, and
  - (b) within such period as the Commissioner specifies, provide the Commissioner with such further information with respect to the cause of the bankruptcy or of the making of the composition, arrangement or assignment as the Commissioner requires.
- (2) The Commissioner may, as a condition of the engagement of an administrative employee in a role in the NSW Police Force relating to financial management in the NSW Police Force, require the person to declare, before the person is engaged in that role, whether or not the person has at any time been declared bankrupt or made a composition, arrangement or assignment for the benefit of the person's creditors.

**34 Public holidays** (cf cl 12 GSE Reg 2014)

- (1) An administrative employee is entitled to be absent from duty on the following days unless the employee is required to attend for duty by the Commissioner or by a person authorised by the Commissioner:
  - (a) a day that is a public holiday throughout the State,
  - (b) a day (or part of a day) that is a public holiday under the [Public Holidays Act 2010](#) in that part of the State at or from which the employee is working,
  - (c) a day between Boxing Day and New Year's Day determined by the Commissioner.
- (2) In the case of an administrative employee who is a NSW Police Force senior executive, this rule is subject to the executive's contract of employment under section 38 of the [Police Act 1990](#).

**35 Absence from duty** (cf cl 13 GSE Reg 2014)

- (1) An administrative employee must not be absent from duty unless reasonable cause is shown.
- (2) If an administrative employee is absent from duty because of illness or other emergency, the employee must, as soon as practicable, provide an explanation for the absence.
- (3) If the administrative employee fails to provide that explanation to the satisfaction of

the Commissioner, the Commissioner is to cause to be deducted from the pay of the employee the amount paid to the employee for the period of absence.

- (4) This rule does not prevent the Commissioner from taking any other action that the Commissioner is authorised to take in relation to an administrative employee who is absent from duty without authorised leave.
- (5) In the case of an administrative employee who is a NSW Police Force senior executive, this rule is subject to the executive's contract of employment under section 38 of the [Police Act 1990](#).

**36 Increments** (cf cl 14 GSE Reg 2014)

- (1) The payment to a non-executive administrative employee of an increment in accordance with any State industrial instrument is, unless otherwise provided by the instrument, to be made only with the prior approval of the Commissioner.
- (2) The payment of an increment to a non-executive administrative employee (including any decision by the Commissioner to accelerate the progression of a non-executive administrative employee through the increment scale applying to the employee) is subject to:
  - (a) performance requirements under the NSW Police Force's performance management system, and
  - (b) the satisfactory conduct of the employee as determined by the Commissioner.
- (3) The payment of an increment to a non-executive administrative employee is subject to the satisfactory performance of duties by, and the satisfactory conduct of, the employee as determined by the Commissioner.
- (4) The payment of an increment may be deferred from time to time, but may not be deferred for more than 12 months at any one time.
- (5) A non-executive administrative employee must be promptly notified in writing by the Commissioner of any decision to defer payment of an increment. The notice must include the reasons for the decision.

**37 Fitness for duty** (cf cl 15 GSE Reg 2014)

- (1) For the purposes of this rule, an administrative employee is not fit for duty if the health of the employee:
  - (a) may render the employee a risk to the health and safety of other members of the NSW Police Force or the general public, or
  - (b) is likely to be seriously affected by the employee remaining on duty or, if the employee is absent from duty, by the employee resuming duty.

- (2) If the Commissioner has reason to believe that an administrative employee is not fit for duty, the Commissioner may direct the employee to submit to such medical examination or other health assessment as the Commissioner may consider necessary.
- (3) If the Commissioner gives an administrative employee a direction under subrule (2), the employee:
  - (a) must, if on duty, cease duty immediately, and
  - (b) must not resume duty until the completion of the medical examination or other health assessment concerned unless the concurrence of a nominated medical assessor is first obtained or a certificate is furnished by a medical practitioner that the employee is fit for duty.
- (4) If the Commissioner receives a health assessment from a nominated medical assessor that an administrative employee is fit for duty and the employee is absent from duty, the Commissioner is to direct in writing that the employee must resume duty.
- (5) If the Commissioner receives a health assessment from a nominated medical assessor that an administrative employee is not fit for duty:
  - (a) the Commissioner is to direct in writing that the employee must cease duty immediately or, if absent from duty, must not resume duty, and
  - (b) the employee must not resume duty unless the Commissioner, on the advice of a nominated medical assessor, approves the resumption of duty in writing.
- (6) If a direction has been given to an administrative employee under subrule (4) or (5), the nature of the leave, if any, to be granted to the employee during the absence from duty is to be determined by the Commissioner after consideration of any relevant advice of the nominated medical assessor.
- (7) The Commissioner is to give the health care professional providing a health assessment of an administrative employee under this rule any requested information about the employment of the employee that is reasonably required for the purpose of providing the assessment.
- (8) In this rule:

***nominated medical assessor*** means a person or body, or a person who is a member of a class of persons, nominated by the Commissioner or the Public Service Commissioner for the purposes of this rule.

**38 Excess non-executive administrative employees** (cf rule 13 GSE (General) Rules 2014)

The Commissioner may determine that a non-executive administrative employee who is employed in ongoing employment is excess to the requirements of the NSW Police Force.

**39 Termination of employment of non-executive administrative employees** (cf rule 14 GSE (General) Rules 2014)

- (1) The employment of a non-executive administrative employee may not be terminated under section 81E of the *Police Act 1990* unless:
  - (a) the employee is, to the extent that it is reasonably practicable to do so, notified of the proposed termination and given a reasonable opportunity to make submissions in relation to the proposed termination, and
  - (b) the Commissioner has taken any such submissions into consideration.
- (2) This rule does not limit any other statutory requirements relating to the termination of employment of a non-executive administrative employee.

**Part 5 Transfer and secondment of administrative employees**

**Note—**

See Part 6 of the *Government Sector Employment (General) Rules 2014* which deals with the transfer of other government sector employees to the NSW Police Force.

**40 Transfer of administrative employees to government sector agencies**

- (1) An administrative employee may be transferred to the service of a government sector agency by agreement between the Commissioner and the head of the agency.
- (2) Except where the administrative employee initiates the transfer or consents to a transfer at a lower level, an administrative employee may only be transferred to a government sector agency at the same or equivalent grade or level.
- (3) An administrative employee who requests a transfer must do so in writing to the Commissioner.
- (4) If the transfer of an administrative employee is initiated by the Commissioner, the Commissioner must:
  - (a) provide reasonable notice to the employee of the transfer, and
  - (b) advise the employee that the employee may request a review of the transfer within 10 business days after the employee is notified of the transfer.

**Note—**

Section 64 (2) of the GSE Act also requires the employee to be consulted.

- (5) The transfer of an administrative employee to a government sector agency has effect only if it is confirmed in writing by the Commissioner and the head of the agency. A copy of the confirmation is to be provided to the employee.

#### **41 Merit assessment in relation to transfers**

If an administrative employee is transferred to a government sector agency, the head of the government sector agency to which the employee is transferred is to ensure that the employee is suitable for the role, position or work to be assigned to the employee in that agency.

#### **42 Secondment of administrative employees**

- (1) An administrative employee may be seconded, for a period not exceeding 2 years, to the service of a government sector agency by agreement between the Commissioner and the head of the agency.
- (2) Any such agreement is to set out the following:
  - (a) the period of the secondment,
  - (b) the financial responsibilities of the Commissioner and the government sector agency in relation to the employee's entitlements,
  - (c) the procedure to be followed on completion of the secondment,
  - (d) the circumstances in which the secondment may be terminated and the form of notice to be given to terminate the secondment before the end of the agreed period.
- (3) A copy of the agreement must be provided to the administrative employee concerned.
- (4) An administrative employee who requests a secondment must do so in writing to the Commissioner.
- (5) If the secondment of an administrative employee is initiated by the Commissioner, the Commissioner must:
  - (a) provide reasonable notice of the secondment to the employee, and
  - (b) advise the employee that the employee may request a review of the secondment within 10 business days after the employee is notified of the secondment.

**Note—**

Section 64 (2) of the GSE Act also requires the employee to be consulted.

- (6) The head of the government sector agency to which an administrative employee is seconded is, unless the secondment is provided as a development opportunity, to ensure that the employee is suitable for the role, position or work to be assigned to the employee in that agency.
- (7) Any merit assessment in relation to the secondment of an administrative employee is to be to the satisfaction of the head of the government sector agency to which the

employee is or is to be seconded.

- (8) An administrative employee who is seconded to a government sector agency is, on completion of the secondment, entitled to return to the NSW Police Force at the same work level at which the employee was employed immediately before being seconded.

#### **43 Review of employer-initiated transfers or secondments**

- (1) This rule applies in relation to the transfer or secondment of an administrative employee that has not been initiated by the employee (referred to in this rule as an ***employer-initiated transfer or secondment***).
- (2) The administrative employee in respect of whom an employer-initiated transfer or secondment applies may apply to the Commissioner for a review of the transfer or secondment.
- (3) If an application is made for the review of an employer-initiated transfer or secondment, the transfer or secondment (as the case requires) of the administrative employee to the service of a government sector agency does not have effect until the review is completed.
- (4) An application by an administrative employee for the review of an employer-initiated transfer or secondment must be made:
  - (a) in writing to the Commissioner, and
  - (b) no later than 10 business days after the day on which the employee is notified of the transfer or secondment.
- (5) The review of an employer-initiated transfer or secondment is to be conducted by a NSW Police Force senior executive (the ***reviewer***) who was not involved in the decision to transfer or temporarily second the administrative employee to a government sector agency.
- (6) The reviewer is to conduct a review of the employer-initiated transfer or secondment within 10 business days after the application for review is made.
- (7) The administrative employee may make submissions to the reviewer, including reasons why the proposed transfer or secondment would cause undue hardship to the employee.
- (8) In conducting a review, the reviewer is:
  - (a) to assess whether or not the employer-initiated transfer or secondment is appropriate having regard to all relevant circumstances (including any submissions provided by the administrative employee), and
  - (b) to make such findings as the reviewer thinks appropriate.

- (9) Any such findings are to be notified to the Commissioner.
- (10) The Commissioner is to make a decision in relation to the matter subject to the review and notify the administrative employee in writing of the decision.
- (11) Any decision by the Commissioner in relation to the matter is final.

## **Part 6 Misconduct by administrative employees—procedural requirements**

### **44 Initial stage for dealing with allegations of misconduct** (cf rule 38 GSE (General) Rules 2014)

- (1) An allegation of misconduct by an administrative employee may be made by any person to the Commissioner.
- (2) The administrative employee in respect of whom the allegation is made is referred to in this Part as the **relevant employee**.
- (3) After making an initial assessment of the allegation, the Commissioner may decide not to proceed with the matter if the Commissioner is satisfied that:
  - (a) the allegation is vexatious or trivial, or
  - (b) the incident or conduct concerned does not amount to misconduct, or
  - (c) there is likely to be difficulty in establishing the facts of the matter.
- (4) If, after making an initial assessment, the Commissioner decides to proceed with the matter, the relevant employee is to be advised:
  - (a) of the details of the allegation of misconduct, and
  - (b) of the action that may be taken under section 69 (4) of the GSE Act against the employee.
- (5) The relevant employee is to be given a reasonable opportunity to make a statement in relation to the allegation.
- (6) The Commissioner may, as a result of any such statement by the relevant employee:
  - (a) decide to proceed to deal with the matter in accordance with this Part, or
  - (b) decide not to proceed any further with the matter.

The relevant employee is to be notified of the Commissioner's decision.
- (7) The person making an allegation of misconduct is to be informed of any decision by the Commissioner under this rule not to proceed with the matter.

**45 Inquiries** (cf rule 39 GSE (General) Rules 2014)

- (1) The Commissioner may, in dealing with an allegation of misconduct, conduct such inquiries as the Commissioner thinks appropriate for the purposes of determining whether the misconduct has occurred.
- (2) A formal hearing involving the legal representation of the relevant employee or any other person and the calling and cross-examination of witnesses is not to be held in relation to an allegation of misconduct and the taking of any action with respect to the employee.

**46 Findings by Commissioner** (cf rule 40 GSE (General) Rules 2014)

- (1) The Commissioner may, in dealing with an allegation of misconduct:
  - (a) make a finding of misconduct by the relevant employee (in which case the employee is to be notified of the finding in writing), or
  - (b) make a finding that misconduct by the relevant employee has not occurred (in which case the Commissioner is to dismiss the allegation and advise the relevant employee in writing).
- (2) The Commissioner may not take any action under section 69 (4) of the GSE Act in relation to an administrative employee unless:
  - (a) the employee is notified of the proposed action to be taken, and
  - (b) the employee is given a reasonable opportunity to make submissions in relation to the proposed action, and
  - (c) if any such submissions are made, the Commissioner has taken those submissions into consideration.
- (3) If the Commissioner makes a finding of misconduct in relation to an administrative employee, the Commissioner may, instead of taking action under section 69 (4) of the GSE Act, require the conduct of the employee to be monitored over a specified period notified to the employee.
- (4) If, during that specified period, the Commissioner is satisfied that the administrative employee has engaged in misconduct of the same or similar kind as the misconduct the subject of the previous finding, the Commissioner may take any action under section 69 (4) of the GSE Act in respect of the employee.
- (5) In that case, the employee is not required to be given an opportunity to make submissions in relation to the action proposed to be taken by the Commissioner.

**47 Records relating to misconduct** (cf rule 41 GSE (General) Rules 2014)

- (1) If an allegation of misconduct by an administrative employee is made under this Part,



the Commissioner is to keep a written record of the proceedings and action taken in respect of the allegation.

- (2) Any personnel file kept by the Commissioner on such an employee is to include information about any finding of misconduct by the employee that is, in the opinion of the Commissioner, in the public interest to be included. In forming that opinion, the Commissioner is to have regard to the nature and seriousness of the misconduct and the need to minimise any unnecessary or prejudicial information being kept on a person's file.

## **Part 7 Workforce diversity**

### **48 Employment of eligible persons as non-executive administrative employees** (cf rule 26 GSE (General) Rules 2014)

- (1) An eligible person may be employed by the Commissioner as a non-executive administrative employee.
- (2) The Commissioner must be satisfied that the eligible person employed in a role under this rule is suitable for the role and have the greatest merit of the eligible persons seeking to be employed in the role.
- (3) Part 2 applies for the purposes of subrule (2) but with such modifications as are necessary to facilitate the employment of eligible persons. Without limiting the operation of this subrule, the capabilities of eligible persons must be assessed against the pre-established standards for the role using such capability-based assessments as the Commissioner considers relevant.

- (4) In this rule:

**eligible person** means any of the following:

- (a) an Aboriginal person or Torres Strait Islander,
  - (b) a person with a disability,
  - (c) a person under the age of 25 years,
  - (d) a person who, on or after 1 December 2015, enters or has entered Australia on a Refugee and Humanitarian (Migrant) (Class XB) visa issued by the Commonwealth,
  - (e) a person who belongs to a group of persons designated by the Public Service Commissioner as being disadvantaged in employment.
- (5) The designation by the Public Service Commissioner of any such group of persons is to be made publicly available on a website provided and maintained by the Public Service Commissioner.

- (6) A person referred to in paragraph (d) of the definition of **eligible person** is not to be considered to be an eligible person for the purposes of this rule after the end of the period of 5 years following the date on which the person enters Australia in the manner referred to in that paragraph.

**49 Information relating to workforce diversity** (cf rule 27 GSE (General) Rules 2014)

The Commissioner is to ensure that information relating to workforce diversity within the NSW Police Force is collected and is able to be provided to the Public Service Commissioner if required to do so under section 16 of the GSE Act.

**Note—**

Under section 16 of the GSE Act, the Public Service Commissioner may require the head of a government sector agency to provide reports and information relating to workforce diversity in the agency.

## **Part 8 Performance management**

**50 Core requirements of performance management system for NSW Police Force** (cf rule 35 GSE (General) Rules 2014)

- (1) In accordance with section 67 of the GSE Act, the core requirements of the performance management system for members of the NSW Police Force are as follows:
- (a) to set and clarify expectations for employees,
  - (b) to monitor employee performance,
  - (c) to plan and review employee performance,
  - (d) to develop employee capability,
  - (e) to recognise employee achievements,
  - (f) to resolve unsatisfactory employee performance.
- (2) The Public Service Commissioner may determine the essential elements of those core requirements.

**51 Dealing with unsatisfactory performance—administrative employees** (cf rule 36 GSE (General) Rules 2014)

The Commissioner may not take any action under section 68 (2) of the GSE Act in relation to an administrative employee unless:

- (a) the employee's performance is determined by the Commissioner to be unsatisfactory in accordance with the NSW Police Force's performance management system, and
- (b) reasonable steps have been taken to advise the employee that the employee's performance is unsatisfactory and the basis on which it is unsatisfactory, and

- (c) the employee is notified that the Commissioner is proposing to take specified action under section 68 (2) of the GSE Act in respect of the employee, and
- (d) the employee is given a reasonable opportunity to respond to the notice, and
- (e) the Commissioner has taken any such response into consideration.

**52 Performance management—executives** (cf rule 49 GSE (General) Rules 2014)

- (1) A NSW Police Force senior executive must, in accordance with the NSW Police Force’s performance management system:
  - (a) enter into a performance agreement with the Commissioner, and
  - (b) have his or her performance reviewed at least annually.
- (2) A NSW Police Force senior executive may be employed under a contract of employment even though the NSW Police Force’s performance management system has not been implemented or the executive has not entered into a performance agreement. In that case, the executive’s contract of employment is to be construed accordingly.

**Schedule 1 Model contract of employment for Commissioner of Police**

(Rule 18 (1))

**Contract of employment under section 38 of the [Police Act 1990](#)**

**This contract of employment is made**

on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**Between**

THE GOVERNMENT OF NEW SOUTH WALES

**and**

[*Insert full name*] (the “Commissioner”)

**Parties**

**1.1**

This contract of employment is between the Commissioner of Police and the Government of New South Wales.

**Commencement**

**2.1**

The employment of the Commissioner under this contract commences on [*insert date*].

## **Definitions**

### **3.1**

In this contract:

“GSE Act” means the *Government Sector Employment Act 2013*.

“Minister” means the Minister administering the *Police Act 1990*.

“the Rules” means the *Government Sector Employment (NSW Police Force) Rules 2017* made under the GSE Act.

### **3.2**

Terms used in this contract that are defined in the *Police Act 1990* or the GSE Act have the same meanings as they have in those Acts.

## **Band**

### **4.1**

The Commissioner is employed in Band [*specify band*].

## **Office**

### **5.1**

The Commissioner is appointed under section 24 of the *Police Act 1990* to the office of Commissioner of Police.

### **5.2**

The Commissioner must perform the duties and responsibilities of the office of Commissioner of Police.

### **5.3**

Without limiting clause 5.2, the Commissioner is required to:

- (a) take the oath or make the affirmation of office as a police officer in accordance with section 13 of the *Police Act 1990* (if not previously so taken or made), and
- (b) comply with those provisions of the *Police Act 1990*, the *Police Regulation 2015* or of any other Act or law that regulates the functions of, and the exercise of powers by, police officers, and
- (c) maintain base competencies in relation to the following:
  - (i) defensive tactics,
  - (ii) use of firearms,
  - (iii) CPR/first aid training,
  - (iv) physical fitness,
  - (v) safe driving (including holding a driver licence),

- (vi) COPS system literacy,
- (vii) mandatory continuing police education.

## **Core values**

### **6.1**

The Commissioner agrees to perform the duties and responsibilities of the office of Commissioner of Police in accordance with section 7 of the *Police Act 1990*, the NSW Police Force Code of Conduct and Ethics and the government sector core values under section 7 of the GSE Act.

## **Duration of employment**

### **7.1**

The Commissioner is employed under this contract for the period of [*specify term of office in accordance with section 26 of the Police Act 1990*] unless the Commissioner vacates office sooner under section 30 of the *Police Act 1990*.

## **Annual performance agreement**

### **8.1**

The Commissioner is required to enter into an annual performance agreement with the Minister setting out the performance obligations of the Commissioner, and reviews of performance, for the year. The performance agreement continues until a new agreement is entered into.

## **Total remuneration package and allowances**

### **9.1**

The total remuneration package (comprising monetary remuneration and employment benefits) of the Commissioner is specified in the Appendix.

### **9.2**

The Commissioner is entitled to the allowances specified in the Appendix and any allowances conferred under the *Police Act 1990* and the *Police Regulation 2015*.

### **9.3**

The Minister may, subject to the *Police Act 1990* and the GSE Act, vary the total remuneration package and allowances of the Commissioner.

## **Progression**

### **10.1**

If the Commissioner meets the requirements of the annual performance agreement, the Commissioner's total remuneration package may be increased within the range of remuneration applicable to the office of Commissioner. Any such increase is at the discretion of the Minister and is not an entitlement.

### **10.2**

Clause 10.1 does not limit the Minister's power to increase or reduce the Commissioner's total

remuneration package in accordance with the [Police Act 1990](#).

### **Hours of duty**

#### **11.1**

The Commissioner must work the hours necessary to perform the duties and responsibilities of the office of Commissioner.

#### **11.2**

The Commissioner's total remuneration package compensates the Commissioner for any hours worked.

### **Leave**

#### **12.1**

The Commissioner is entitled to leave in accordance with the [Police Regulation 2015](#).

### **Notice of resignation**

#### **13.1**

The Commissioner may resign his or her employment in accordance with section 30 of the [Police Act 1990](#).

#### **13.2**

If notice of resignation is provided, the Minister may direct the Commissioner to cease duties immediately or at some other specified time during the notice period. Any such direction does not affect the Commissioner's entitlement to receive remuneration or to accrue leave during the notice period.

### **Compensation for removal from office**

#### **14.1**

The Commissioner is, on removal from office under section 28 of the [Police Act 1990](#), entitled to the payment of compensation as determined by clause 46 of the [Government Sector Employment Regulation 2014](#).

### **Other paid work**

#### **15.1**

The Commissioner will not undertake any other paid work except with the permission of the Minister.

### **Confidentiality**

#### **16.1**

On termination of employment the Commissioner will not, without lawful authority, disclose or make use of any confidential or secret information acquired by the Commissioner as a consequence of his or her employment.

**Note—**

During his or her employment, the Commissioner must also comply with clause 76 of the *Police Regulation 2015*.

## **Intellectual property**

### **17.1**

Subject to any written agreement to the contrary between the parties, all intellectual property developed by the Commissioner in the course of his or her employment is the sole property of the Government of New South Wales.

## **Employment policies**

### **18.1**

The Commissioner agrees to act in accordance with any applicable employment policies of the NSW Police Force.

### **18.2**

However, those employment policies do not form part of this contract and do not create any express or implied contractual rights or obligations between the Commissioner and the Minister.

## **Variation**

### **19.1**

This contract may only be varied in accordance with the *Police Act 1990* and this contract.

## **APPENDIX**

The following Appendix may be substituted by the Minister.

### **Appendix—Remuneration package and allowances**

The total remuneration package of the Commissioner is [*insert \$ value of package*], comprising [*insert components of remuneration package*]:

The Commissioner is entitled to allowances under the *Police Regulation 2015* and the following additional allowances [*insert any additional allowances*]:

## **Signatures**

### **The Minister**

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name

\_\_\_\_\_

pursuant to the *Police Act 1990* on behalf of the Government of NSW.

### **The Commissioner**

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name in full [*printed*]

\_\_\_\_\_

## **Schedule 2 Model contract of employment for NSW Police Force senior executives (police officers)**

(Rule 18 (2))

### **Contract of employment under section 38 of the [Police Act 1990](#)**

#### **This contract of employment is made**

on the \_\_\_\_\_ day of \_\_\_\_\_ 20

\_\_\_\_\_

#### **Between**

THE GOVERNMENT OF NEW SOUTH WALES

#### **and**

[*Insert full name*] (the “Senior Executive”)

#### **Parties**

##### **1.1**

This contract of employment is between the Senior Executive and the Government of New South Wales.

#### **Commencement**

##### **2.1**

The employment of the Senior Executive under this contract commences on [*insert date*].

#### **Definitions**

##### **3.1**

In this contract:

“Commissioner” means the Commissioner of Police.

“GSE Act” means the [Government Sector Employment Act 2013](#).

“the Rules” means the [Government Sector Employment \(NSW Police Force\) Rules 2017](#) made under the GSE Act.

##### **3.2**



Terms used in this contract that are defined in the *Police Act 1990* or the GSE Act have the same meanings as they have in those Acts.

## **Band**

### **4.1**

The Senior Executive is employed in Band [*specify band*].

## **Role**

### **5.1**

The role in the NSW Police Force assigned to the Senior Executive is described in Appendix A. The description of the role may also include the Senior Executive's rank.

### **5.2**

The Commissioner may vary the description of the role to which the Senior Executive is assigned at any time.

### **5.3**

The Senior Executive must perform the duties and responsibilities of the role to which the Senior Executive is assigned.

### **5.4**

Without limiting clause 5.3, the Senior Executive is required to:

- (a) take the oath or make the affirmation of office as a police officer in accordance with section 13 of the *Police Act 1990* (if not previously so taken or made), and
- (b) comply with those provisions of the *Police Act 1990*, the *Police Regulation 2015* or of any other Act or law that regulates the functions of, and the exercise of powers by, police officers, and
- (c) maintain base competencies in relation to the following:
  - (i) defensive tactics,
  - (ii) use of firearms,
  - (iii) CPR/first aid training,
  - (iv) physical fitness,
  - (v) safe driving (including holding a driver licence),
  - (vi) COPS system literacy,
  - (vii) mandatory continuing police education.

## **Core values**

### **6.1**

The Senior Executive agrees to perform the duties and responsibilities of the assigned role in

accordance with section 7 of the *Police Act 1990*, the NSW Police Force Code of Conduct and Ethics and the government sector core values under section 7 of the GSE Act.

### **Probation period**

#### **7.1**

The Senior Executive's employment is subject to a probation period of 6 months or such longer period as the Commissioner determines.

[OR]

The Senior Executive's employment is not subject to a probation period.

### **Duration of employment**

#### **8.1**

The employment of the Senior Executive under this contract is ongoing employment (that is, employment that continues until the Senior Executive resigns or the Senior Executive's employment is terminated).

[OR]

The employment of the Senior Executive under this contract is, unless the Senior Executive sooner resigns or the Senior Executive's employment is sooner terminated, for the period ending on [*specify date*]. The period of employment may be extended by the Commissioner.

### **Annual performance agreement**

#### **9.1**

The Senior Executive is required to enter into an annual performance agreement with the Commissioner setting out the performance obligations of the Senior Executive, and reviews of performance, for the year. The performance agreement continues until a new agreement is entered into.

### **Capability-based assessments**

#### **10.1**

The Senior Executive agrees to participate in periodic capability-based assessments.

#### **10.2**

The Senior Executive agrees to the use of these assessments for workforce planning purposes.

### **Total remuneration package and allowances**

#### **Note—**

The total remuneration package is for full-time work. Under the Rules, pro-rata remuneration is payable for part-time work.

#### **11.1**

The total remuneration package (comprising monetary remuneration and employment benefits) of the Senior Executive is specified in Appendix B.

## **11.2**

The Senior Executive is entitled to the allowances specified in Appendix B and any allowances conferred under the *Police Act 1990* and the *Police Regulation 2015*.

### **Progression**

#### **12.1**

If the Senior Executive meets the performance requirements under the NSW Police Force's performance management system, the Senior Executive's total remuneration package may be increased within the range of remuneration applicable to the assigned role of the Senior Executive. Any such increase is at the discretion of the Commissioner and is not an entitlement.

#### **12.2**

Clause 12.1 does not limit the Commissioner's power to increase or reduce the Senior Executive's total remuneration package in accordance with the *Police Act 1990*.

### **Hours of duty**

#### **13.1**

The Senior Executive must work the hours necessary to perform the duties and responsibilities of the Senior Executive's role.

#### **13.2**

The Senior Executive's total remuneration package compensates the Senior Executive for any hours worked.

### **Part-time work**

#### **14.1**

If the Commissioner agrees to the Senior Executive undertaking work on a part-time basis, the Senior Executive must work the agreed days or parts of days and the Senior Executive agrees that his or her total remuneration package will be adjusted on a pro-rata basis to reflect the agreed days or parts of days that the Senior Executive works.

### **Leave**

#### **15.1**

The Senior Executive is entitled to leave in accordance with the *Police Regulation 2015*.

### **Notice of resignation**

#### **16.1**

The Senior Executive may resign his or her employment in accordance with section 94C of the *Police Act 1990*.

#### **16.2**

If notice of resignation is provided, the Commissioner may direct the Senior Executive to cease duties immediately or at some other specified time during the notice period. Any such direction does not affect the Senior Executive's entitlement to receive remuneration or to accrue leave during

the notice period.

## **Compensation for termination of employment**

### **17.1**

The Senior Executive is entitled, on the termination of employment by the Commissioner under section 40 (5) of the *Police Act 1990*, to the payment of compensation as determined by clause 46 of the *Government Sector Employment Regulation 2014*.

### **17.2**

If the Senior Executive's employment is terminated with compensation, the Senior Executive agrees that if the Senior Executive is re-employed in the public sector (as referred to in section 41 of the *Police Act 1990*) within the period to which the compensation relates the Senior Executive will repay the proportionate amount, as calculated in accordance with clause 46 of the *Government Sector Employment Regulation 2014*, before the commencement of that re-employment. This obligation continues even though the contract of employment is terminated.

## **Confidentiality**

### **18.1**

On termination of employment the Senior Executive will not, without lawful authority, disclose or make use of any confidential or secret information acquired by the Senior Executive as a consequence of his or her employment.

#### **Note—**

During his or her employment, the Senior Executive must also comply with clause 76 of the *Police Regulation 2015*.

## **Intellectual property**

### **19.1**

Subject to any written agreement to the contrary between the parties, all intellectual property developed by the Senior Executive in the course of his or her employment is the sole property of the Government of New South Wales.

## **Employment policies**

### **20.1**

The Senior Executive agrees to act in accordance with any applicable employment policies of the NSW Police Force.

### **20.2**

However, those employment policies do not form part of this contract and do not create any express or implied contractual rights or obligations between the Senior Executive and the Commissioner.

## **Variation**

### **21.1**

This contract may only be varied in accordance with the *Police Act 1990* and this contract.

## APPENDICES

The Appendices to this contract may be substituted by the Commissioner.

### Appendix A—Assigned role

[insert description of assigned role]

### Appendix B—Remuneration package and allowances

The total remuneration package of the Senior Executive is [insert \$ value of package], comprising [insert components of remuneration package]:

The Senior Executive is entitled to allowances under the [Police Regulation 2015](#) and the following additional allowances [insert any additional allowances]:

## Signatures

### The Commissioner

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name

\_\_\_\_\_

pursuant to the [Police Act 1990](#) on behalf of the Government of NSW.

### The Senior Executive

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name in full [printed]

\_\_\_\_\_

## Schedule 3 Model contract of employment for NSW Police Force senior executives (administrative employees)

(Rule 18 (3))

### Contract of employment under section 38 of the [Police Act 1990](#)

#### This contract of employment is made

on the \_\_\_\_\_ day of \_\_\_\_\_ 20

\_\_\_\_\_

## **Between**

THE GOVERNMENT OF NEW SOUTH WALES

## **and**

[*Insert full name*] (the “Senior Executive”)

## **Parties**

### **1.1**

This contract of employment is between the Senior Executive and the Government of New South Wales.

## **Commencement**

### **2.1**

The employment of the Senior Executive under this contract commences on [*insert date*].

## **Definitions**

### **3.1**

In this contract:

“Commissioner” means the Commissioner of Police.

“GSE Act” means the [Government Sector Employment Act 2013](#).

“the Rules” means the [Government Sector Employment \(NSW Police Force\) Rules 2017](#) made under the GSE Act.

### **3.2**

Terms used in this contract that are defined in the [Police Act 1990](#) or the GSE Act have the same meanings as they have in those Acts.

## **Band**

### **4.1**

The Senior Executive is employed in Band [*specify band*].

## **Role**

### **5.1**

The role in the NSW Police Force assigned to the Senior Executive is described in Appendix A.

### **5.2**

The Commissioner may vary the description of the role to which the Senior Executive is assigned at any time.

### **5.3**

The Senior Executive must perform the duties and responsibilities of the role to which the Senior

Executive is assigned.

#### **5.4**

The Senior Executive acknowledges that the Senior Executive may be transferred under section 36 (5) of the *Police Act 1990* to the Public Service, the NSW Health Service or the Transport Service and be assigned to role in the band in which the Senior Executive is employed.

### **Core values**

#### **6.1**

The Senior Executive agrees to perform the duties and responsibilities of the assigned role in accordance with section 7 of the *Police Act 1990*, the NSW Police Force Code of Conduct and Ethics and the government sector core values under section 7 of the GSE Act.

### **Probation period**

#### **7.1**

The Senior Executive's employment is subject to a probation period of 6 months or such longer period as the Commissioner determines.

[OR]

The Senior Executive's employment is not subject to a probation period.

### **Duration of employment**

#### **8.1**

The employment of the Senior Executive under this contract is ongoing employment (that is, employment that continues until the Senior Executive resigns or the Senior Executive's employment is terminated).

[OR]

The employment of the Senior Executive under this contract is, unless the Senior Executive sooner resigns or the Senior Executive's employment is sooner terminated, for the period ending on [*specify date*]. The period of employment may be extended by the Commissioner.

### **Annual performance agreement**

#### **9.1**

The Senior Executive is required to enter into an annual performance agreement with the Commissioner setting out the performance obligations of the Senior Executive, and reviews of performance, for the year. The performance agreement continues until a new agreement is entered into.

### **Capability-based assessments**

#### **10.1**

The Senior Executive agrees to participate in periodic capability-based assessments.

#### **10.2**

The Senior Executive agrees to the use of these assessments for workforce planning purposes.

### **Total remuneration package and allowances**

#### **Note—**

The total remuneration package is for full-time work. Under the Rules, pro-rata remuneration is payable for part-time work.

#### **11.1**

The total remuneration package (comprising monetary remuneration and employment benefits) of the Senior Executive is specified in Appendix B.

#### **11.2**

The Senior Executive is entitled to the allowances specified in Appendix B and any allowances conferred under the *Police Act 1990* and the *Police Regulation 2015*.

### **Progression**

#### **12.1**

If the Senior Executive meets the performance requirements under the NSW Police Force's performance management system, the Senior Executive's total remuneration package may be increased within the range of remuneration applicable to the assigned role of the Senior Executive. Any such increase is at the discretion of the Commissioner and is not an entitlement.

#### **12.2**

Clause 12.1 does not limit the Commissioner's power to increase or reduce the Senior Executive's total remuneration package in accordance with the *Police Act 1990*.

### **Hours of duty**

#### **13.1**

The Senior Executive must work the hours necessary to perform the duties and responsibilities of the Senior Executive's role.

#### **13.2**

The Senior Executive's total remuneration package compensates the Senior Executive for any hours worked.

### **Part-time work**

#### **14.1**

If the Commissioner agrees to the Senior Executive undertaking work on a part-time basis, the Senior Executive must work the agreed days or parts of days and the Senior Executive agrees that his/her total remuneration package will be adjusted on a pro-rata basis to reflect the agreed days or parts of days that the Senior Executive works.

### **Leave**

#### **15.1**

The Senior Executive is entitled to leave in accordance with the *Police Regulation 2015*.



## **Notice of resignation**

### **16.1**

The Senior Executive may resign his or her employment in accordance with section 94C of the [Police Act 1990](#).

### **16.2**

If notice of resignation is provided, the Commissioner may direct the Senior Executive to cease duties immediately or at some other specified time during the notice period. Any such direction does not affect the Senior Executive's entitlement to receive remuneration or to accrue leave during the notice period.

## **Compensation for termination of employment**

### **17.1**

The Senior Executive is entitled, on the termination of employment by the Commissioner under section 40 (2) of the [Police Act 1990](#), to the payment of compensation as determined by clause 46 of the [Government Sector Employment Regulation 2014](#).

### **17.2**

If the Senior Executive's employment is terminated with compensation, the Senior Executive agrees that if the Senior Executive is re-employed in the public sector (as referred to in section 41 of the [Police Act 1990](#)) within the period to which the compensation relates the Senior Executive will repay the proportionate amount, as calculated in accordance with clause 46 of the [Government Sector Employment Regulation 2014](#), before the commencement of that re-employment. This obligation continues even though the contract of employment is terminated.

## **Confidentiality**

### **18.1**

On termination of employment the Senior Executive will not, without lawful authority, disclose or make use of any confidential or secret information acquired by the Senior Executive as a consequence of his or her employment.

#### **Note—**

During his or her employment, the Senior Executive must also comply with clause 76 of the [Police Regulation 2015](#).

## **Intellectual property**

### **19.1**

Subject to any written agreement to the contrary between the parties, all intellectual property developed by the Senior Executive in the course of his or her employment is the sole property of the Government of New South Wales.

## **Employment policies**

### **20.1**

The Senior Executive agrees to act in accordance with any applicable employment policies of the NSW Police Force.

## 20.2

However, those employment policies do not form part of this contract and do not create any express or implied contractual rights or obligations between the Senior Executive and the Commissioner.

### Variation

#### 21.1

This contract may only be varied in accordance with the [Police Act 1990](#) and this contract.

### APPENDICES

The Appendices to this contract may be substituted by the Commissioner.

#### Appendix A—Assigned role

*[insert description of assigned role]*

#### Appendix B—Remuneration package and allowances

The total remuneration package of the Senior Executive is *[insert \$ value of package]*, comprising *[insert components of remuneration package]*:

The Senior Executive is entitled to allowances under the [Police Regulation 2015](#) and the following additional allowances *[insert any additional allowances]*:

### Signatures

#### The Commissioner

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name

\_\_\_\_\_

pursuant to the [Police Act 1990](#) on behalf of the Government of NSW.

#### The Senior Executive

Signed

\_\_\_\_\_

Date

\_\_\_\_\_

Name in full *[printed]*

\_\_\_\_\_

## Schedule 4 Consequential amendments to [Government Sector](#)

## Employment (General) Rules 2014

### [1] Rule 4A

Insert after rule 4:

#### 4A NSW Police Force excluded from Rules

Except for Part 6, these Rules do not apply in relation to the NSW Police Force.

### [2] Rule 28 Application of Part

Insert after rule 28 (2):

(2A) This Part does not apply to the transfer or secondment of administrative employees in the NSW Police Force to another government sector agency.

#### Note—

See Part 5 of the *Government Sector Employment (NSW Police Force) Rules 2017* which deals with the transfer or secondment of NSW Police Force administrative employees to other government sector agencies.

Section 64 (4B) of the Act excludes police officers from this Part.

### [3] Rule 36 Dealing with unsatisfactory performance

Omit the note.

### [4] Rule 37

Omit the rule. Insert instead:

#### 37 Definition

In this Part:

**government sector agency** has the same meaning as in section 69 of the Act but does not include the NSW Police Force.

#### Note—

See Part 6 of the *Government Sector Employment (NSW Police Force) Rules 2017* which relates to the procedural requirements for dealing with misconduct by NSW Police Force administrative employees.