

Version No. 131
Police Regulation Act 1958
No. 6338 of 1958

Version incorporating amendments as at 1 July 2010

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Version No. 131
Police Regulation Act 1958
No. 6338 of 1958

Version incorporating amendments as at 1 July 2010

An Act to consolidate the Law relating to the Police Force in
Victoria.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):

1 Short title and commencement

This Act may be cited as the **Police Regulation
Act 1958**, and shall come into operation on a day
to be fixed by proclamation of the Governor in
Council published in the Government Gazette.

* * * * *

S. 1
amended by
Nos 6957
s. 4(1)(a), 7081
s. 15(2)(a)(b),
10250 s. 20.

S. 2
amended by
No. 10087
s. 3(1)(Sch. 1
item 182),
repealed by
No. 35/1993
s. 4.

3 Definitions

(1) In this Act unless inconsistent with the context or
subject-matter—

agency photograph means a photograph of the
face of a person, who has been found guilty
of an offence, that was taken by a law
enforcement agency at the time of an arrest
of the person by the agency on suspicion of

No. 3750 s. 3.

S. 3
amended by
No. 120/1994
s. 7(1).

S. 3(1) def. of
*agency
photograph*
inserted by
No. 52/2007
s. 4(1).

s. 3

an offence, or at the time the person was interviewed by the agency in respect of an offence, or at the time another investigative procedure into the person was carried out by the agency in respect of an offence;

S. 3(1) def. of *Appeals Board* inserted by No. 61/1999 s. 4(b).

Appeals Board means Police Appeals Board established by section 87;

S. 3(1) def. of *appointed member* inserted by No. 30/1999 s. 4, repealed by No. 61/1999 s. 4(a).

* * * *

S. 3(1) def. of *authorised media organisation* inserted by No. 52/2007 s. 4(1).

authorised media organisation means a media organisation authorised under section 118W;

S. 3(1) def. of *chief executive* inserted by No. 34/2008 s. 133.

chief executive of a public authority means—

- (a) in relation to the force—the Chief Commissioner; or
- (b) in relation to a public service body within the meaning of the **Public Administration Act 2004**—the public service body Head within the meaning of that Act; or
- (c) in relation to any other body, whether or not incorporated, established by or under an Act for a public purpose—the chief executive officer, by whatever name called, of the body;

Director means the Director, Police Integrity under section 6 of the **Police Integrity Act 2008**;

S. 3(1) def. of *Director* inserted by No. 63/2004 s. 4(1)(a), amended by No. 34/2008 s. 142(1)(a).

domestic partner of a person means—

S. 3(1) def. of *domestic partner* inserted by No. 40/2010 s. 26(1)(a).

- (a) a person who is, or was at the time of the person's death, in a registered domestic relationship with the person; or
- (b) a person to whom the person is not married but with whom, in the opinion of the ESS Board, the person is, or was at the time of the person's death, living as a couple on a genuine domestic basis (irrespective of gender);

ESS Board means the Emergency Services Superannuation Board established under the **Emergency Services Superannuation Act 1986**;

S. 3(1) def. of *ESS Board* inserted by No. 120/1994 s. 6(1)(a).

former member of police personnel means a person who has been a member of police personnel but is no longer a member of police personnel;

S. 3(1) def. of *former member of police personnel* inserted by No. 52/2007 s. 4(1).

* * * * *

S. 3(1) def. of *insolvent under administration* inserted by No. 61/1999 s. 4(b), repealed by No. 4/2008 s. 32(Sch. item 24).

s. 3

S. 3(1) def. of
journalism
organisation
inserted by
No. 52/2007
s. 4(1).

journalism means the practice of collecting,
preparing for dissemination or disseminating
any of the following material for the purpose
of making it available to the public—

- (a) material having the character of news
or current affairs;
- (b) material consisting of commentary or
opinion on or analysis of news or
current affairs;

S. 3(1) def. of
law
enforcement
agency
inserted by
No. 52/2007
s. 4(1).

law enforcement agency means—

- (a) the force, or a member of an equivalent
body in another State of the
Commonwealth or the Northern
Territory; or
- (b) the Director; or
- (c) the Australian Federal Police within the
meaning of the Australian Federal
Police Act 1979 of the Commonwealth;
or
- (d) the Australian Crime Commission
within the meaning of the Australian
Crime Commission Act 2002 of the
Commonwealth; or
- (e) the Chief Examiner and Examiners
appointed under Part 3 of the **Major
Crime (Investigative Powers) Act
2004**; or
- (f) the Special Investigations Monitor; or
- (g) the Police Integrity Commission
constituted by the Police Integrity
Commission Act 1996 of New South
Wales; or

-
- (h) the Independent Commission Against Corruption constituted by the Independent Commission Against Corruption Act 1988 of New South Wales; or
 - (i) the New South Wales Crime Commission constituted by the New South Wales Crime Commission Act 1985 of New South Wales; or
 - (j) the Crime and Misconduct Commission established under the Crime and Misconduct Act 2001 of Queensland; or
 - (k) the Corruption and Crime Commission established under the Corruption and Crime Commission Act 2003 of Western Australia; or
 - (l) the Australian Commission for Law Enforcement Integrity established under the Law Enforcement Integrity Commissioner Act 2006 of the Commonwealth;

legal practitioner means an Australian lawyer within the meaning of the **Legal Profession Act 2004**;

S. 3(1) def. of *legal practitioner* inserted by No. 61/1999 s. 4(b), substituted by No. 18/2005 s. 18(Sch. 1 item 83).

media organisation means a person or body that engages in journalism;

S. 3(1) def. of *media organisation* inserted by No. 52/2007 s. 4(1).

s. 3

S. 3(1) def. of
*member of
police
personnel*
inserted by
No. 52/2007
s. 4(1).

member of police personnel means a person who
is—

- (a) the Chief Commissioner; or
- (b) a Deputy Commissioner or Assistant
Commissioner; or
- (c) another member of the force; or
- (d) an executive or employee employed
under Part 3 of the **Public
Administration Act 2004** in the office
of the Chief Commissioner; or
- (e) a police reservist appointed under
Part VI; or
- (f) a protective services officer appointed
under Part VIA; or
- (g) a police recruit appointed under
section 8A;

S. 3(1) def. of
*member of
staff of the
Office of
Police
Integrity*
inserted by
No. 63/2004
s. 4(1)(a),
substituted by
No. 34/2008
s. 142(1)(c).

member of staff of the Office of Police Integrity
has the same meaning as it has in the **Police
Integrity Act 2008**;

the force means officers and other members of the
police force of Victoria whether employed
upon land or upon water;

member of the force shall apply to every person
(whether male or female) employed in the
force;

Office of Police Integrity means the Office of
Police Integrity within the meaning of the
Police Integrity Act 2008;

S. 3(1) def. of
*Office of
Police
Integrity*
inserted by
No. 63/2004
s. 4(1)(a),
amended by
No. 34/2008
s. 142(1)(b).

Ombudsman means the Ombudsman appointed
under section 3 of the **Ombudsman Act
1973**;

S. 3(1) def. of
Ombudsman
inserted by
No. 32/2004
s. 9(1).

Part means Part of this Act;

partner of a person means the person's spouse or
domestic partner;

S. 3(1) def. of
partner
inserted by
No. 40/2010
s. 26(1)(a).

* * * * *

S. 3(1) def. of
Police Board
inserted by
No. 72/1992
s. 4,
repealed by
No. 61/1999
s. 4(a).

police gaol has the same meaning as in the
Corrections Act 1986;

S. 3(1) def. of
police gaol
inserted by
No. 79/2004
s. 74.

* * * * *

S. 3(1) def. of
*Police
Ombudsman*
inserted by
No. 32/2004
s. 9(1),
repealed by
No. 63/2004
s. 4(1)(b).

s. 3

S. 3(1) def. of
prison
inserted by
No. 79/2004
s. 74,
substituted by
No. 48/2006
s. 42(Sch.
item 28).

prison has the same meaning as in the
Corrections Act 1986 but includes a youth
justice centre established under section 478
of the **Children, Youth and Families Act
2005**;

S. 3(1) def. of
*public
authority*
inserted by
No. 34/2008
s. 133.

public authority means—

- (a) the force; or
- (b) a public service body within the
meaning of the **Public Administration
Act 2004**; or
- (c) any other body, whether or not
incorporated, established by or under an
Act for a public purpose;

S. 3(1) def. of
public officer
inserted by
No. 34/2008
s. 133.

public officer means—

- (a) a member of the force; or
- (b) a person who is employed by or in a
public authority or acting on behalf of a
public authority;

S. 3(1) def. of
Scheme
inserted by
No. 120/1994
s. 6(1)(a).

Scheme means the Emergency Services
Superannuation Scheme established under
the **Emergency Services Superannuation
Act 1986**;

S. 3(1) def. of
*Special
Investigations
Monitor*
inserted by
No. 79/2004
s. 74.

Special Investigations Monitor means the Special
Investigations Monitor appointed under
section 5 of the **Major Crime (Special
Investigations Monitor) Act 2004**;

spouse of a person means the person to whom the person is, or was at the time of the person's death, married.

S. 3(1) def. of *spouse* inserted by No. 8722 s. 2(a), substituted by Nos 120/1994 s. 6(1)(b), 40/2010 s. 26(1)(b).

(2) In this Act (other than in sections 59 and 62)—

S. 3(2) inserted by No. 120/1994 s. 7(2).

(a) words importing the feminine gender include the masculine gender; and

(b) words importing the masculine gender include the feminine gender.

(3) Without limiting the generality of subsection (2), in this Act (other than in sections 59 and 62) a reference to "his widow" is to be construed as a reference to "his or her partner" where the member of the force or pensioner is deceased and other parts of speech and grammatical forms of "widow" are to be construed as having a corresponding meaning.

S. 3(3) inserted by No. 120/1994 s. 7(2), amended by No. 40/2010 s. 26(2).

(4) In this Act a reference to a person who has been found guilty of an offence is a reference to a person—

S. 3(4) inserted by No. 52/2007 s. 4(2).

(a) against whom a court has made a formal finding that he or she is guilty of the offence; or

(b) against whom a finding has been made under—

(i) section 17(1)(b) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that he or she was not guilty of the offence because of mental impairment; or

(ii) section 17(1)(c) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that he or she committed the offence—

or against whom a similar finding has been made under equivalent provisions of the laws of a jurisdiction other than Victoria—

where—

- (c) if there has been any appeal against the finding in the period within which the finding may be appealed against, the appeal is concluded and the finding has not been overturned on the appeal; or
- (d) the finding has not been appealed against in the period within which the finding may be appealed against.

(5) For the purposes of the definition of *domestic partner* in subsection (1)—

- (a) *registered domestic relationship* has the same meaning as in the **Relationships Act 2008**; and
- (b) in determining whether persons who are not or were not in a registered domestic relationship are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the **Relationships Act 2008** as may be relevant in a particular case.

S. 3(5)
inserted by
No. 40/2010
s. 26(3).

PART I—APPOINTMENTS AND RETIREMENTS

Pt 1 (Heading)
substituted by
No. 7081
s. 15(3).

4 Constitution of the police force

- (1) The Governor in Council may from time to time appoint a Chief Commissioner of Police (hereinafter referred to as the Chief Commissioner) and may from time to time suspend reduce discharge or dismiss any such Chief Commissioner.
- (1A) The appointment of the Chief Commissioner shall be for such term not exceeding five years as the Governor in Council thinks fit on and from such date as is specified in the appointment.
- (2) The Governor in Council may from time to time appoint so many Deputy Commissioners (not exceeding four) and so many Assistant Commissioners (not exceeding ten) as he thinks fit and may from time to time suspend reduce discharge or dismiss any such Deputy or Assistant Commissioner:
- * * * * *
- (2AA) The appointment of a Deputy Commissioner or an Assistant Commissioner is to be for the term, not exceeding 5 years, that the Governor in Council thinks fit on and from the date specified in the appointment.

S. 4(1)
substituted by
No. 6957
s. 2(a).

S. 4(1A)
inserted by
No. 8179
s. 3(a)(i).

S. 4(2)
amended by
Nos 8097
s. 2, 9066
s. 2(a), 9527
s. 2, 10031
s. 4.

S. 4(2)
Proviso
amended by
No. 35/1993
s. 5,
repealed by
No. 30/1999
s. 5(1).

S. 4(2AA)
inserted by
No. 72/1992
s. 5(a).

Police Regulation Act 1958
No. 6338 of 1958
Part I—Appointments and Retirements

s. 4

S. 4(2A)
inserted by
No. 9646
s. 2(1),
repealed by
No. 52/2003
s. 52(Sch. 1
item 9).

* * * * *

S. 4(3)
amended by
Nos 8179
s. 3(a)(ii), 8487
s. 2,
substituted by
No. 9906 s. 2,
repealed by
No. 10250
s. 4(1),
new s. 4(3)
inserted by
No. 15/1989
s. 4,
substituted by
Nos 73/1996
s. 64(1),
30/1999
s. 5(2).

- (3) If—
- (a) there is a vacancy in the office of a Deputy Commissioner; or
 - (b) a Deputy Commissioner is suspended, sick or absent from office; or
 - (c) a Deputy Commissioner has been appointed as Acting Chief Commissioner—
- a member of the force may be appointed as an Acting Deputy Commissioner in accordance with subsection (3A).

S. 4(3A)
inserted by
No. 72/1992
s. 5(b),
substituted by
No. 30/1999
s. 5(2).

- (3A) The appointment of an Acting Deputy Commissioner may be made by the Chief Commissioner, for a period not exceeding 4 weeks, or by the Governor in Council, for a period not exceeding 12 months.

S. 4(3B)
inserted by
No. 30/1999
s. 5(2).

- (3B) The Governor in Council may, at any time, revoke the appointment of a member of the force as an Acting Deputy Commissioner (including an appointment made by the Chief Commissioner).

S. 4(3C)
inserted by
No. 30/1999
s. 5(2).

- (3C) A person appointed as an Acting Deputy Commissioner is eligible for re-appointment, but a person appointed as an Acting Deputy Commissioner by the Chief Commissioner may only be re-appointed by the Governor in Council.

Police Regulation Act 1958
No. 6338 of 1958
Part I—Appointments and Retirements

s. 4AA

(4) An Acting Deputy Commissioner ceases to hold office—

(a) if the appointment is revoked; or

(b) on the Deputy Commissioner being restored to office after the suspension or recommencing the duties of the office after the temporary absence.

(5) An Acting Deputy Commissioner while so acting has all the responsibilities, powers, authorities and duties and may perform all the functions of the Deputy Commissioner in whose place he or she acts.

* * * * *

S. 4(4)
repealed by
No. 10250
s. 4(1),
new s. 4(4)
inserted by
No. 15/1989
s. 4,
amended by
No. 73/1996
s. 64(2)(a).

S. 4(4)(b)
amended by
No. 73/1996
s. 64(2)(b).

S. 4(5)
inserted by
No. 15/1989
s. 4.

S. 4(6)
inserted by
No. 15/1989
s. 4,
repealed by
No. 73/1996
s. 64(2)(c).

4AA Appointment of Acting Assistant Commissioner

(1) The Chief Commissioner may appoint a member of the force to be an Acting Assistant Commissioner—

(a) while an office of Assistant Commissioner is vacant; or

(b) during any period when an Assistant Commissioner is suspended, sick or absent from his office.

S. 4AA
inserted by
No. 73/1996
s. 65.

s. 4AB

- (2) An Acting Assistant Commissioner while so acting has all the responsibilities, powers, authorities and duties and may perform all the functions of the Assistant Commissioner in whose place he or she acts.
- (3) The Chief Commissioner may, at any time, revoke the appointment of a member of the force as an Acting Assistant Commissioner.

S. 4AB
inserted by
No. 30/1999
s. 6.

4AB Appointment of Acting Chief Commissioner

- (1) The Governor in Council may appoint a member of the force as Acting Chief Commissioner—
 - (a) while the office of Chief Commissioner is vacant; or
 - (b) during any period when the Chief Commissioner is suspended, sick or absent from office.
- (2) An Acting Chief Commissioner while so acting has all the responsibilities, powers, authorities and duties and may perform all the functions of the Chief Commissioner.
- (3) A person appointed as Acting Chief Commissioner is eligible for re-appointment.
- (4) The Governor in Council may, at any time, revoke the appointment of a member of the force as Acting Chief Commissioner.

S. 4A
inserted by
No. 72/1992
s. 6,
repealed by
No. 61/1999
s. 5.

* * * * *

Police Regulation Act 1958
No. 6338 of 1958
Part I—Appointments and Retirements

s. 4B

*	*	*	*	*	S. 4B inserted by No. 72/1992 s. 6, amended by No. 30/1999 s. 7, repealed by No. 61/1999 s. 5.
*	*	*	*	*	S. 4C inserted by No. 72/1992 s. 6, repealed by No. 61/1999 s. 5.
*	*	*	*	*	S. 4D inserted by No. 72/1992 s. 6, substituted by No. 30/1999 s. 8, repealed by No. 61/1999 s. 5.
*	*	*	*	*	S. 4E inserted by No. 72/1992 s. 6, amended by Nos 26/1997 s. 48(a), 46/1998 s. 7(Sch. 1), repealed by No. 61/1999 s. 5.
*	*	*	*	*	S. 4F inserted by No. 72/1992 s. 6, amended by No. 30/1999 s. 9, repealed by No. 61/1999 s. 5.

Police Regulation Act 1958
No. 6338 of 1958
Part I—Appointments and Retirements

s. 5

S. 4G
inserted by
No. 72/1992
s. 6,
repealed by
No. 61/1999
s. 5.

No. 3750 s. 5.
S. 5
amended by
No. 11/1992
s. 4(1).

S. 5(2)
inserted by
No. 11/1992
s. 4(2).

S. 6
substituted by
No. 6957
s. 2(b).

S. 6(1)
amended by
Nos 9066
s. 2(b), 10250
s. 5(1).

* * * * *

5 Authority of Chief Commissioner and officers

- (1) The Chief Commissioner shall have, subject to the directions of the Governor in Council, the superintendence and control of the force, and all officers of police shall have the superintendence and control of that portion of the force which is placed under their charge subject to the authority herein conferred upon the Chief Commissioner and to the regulations made or to be made by the Governor in Council as is hereinafter provided.
- (2) Without limiting the generality of subsection (1), the Chief Commissioner may determine—
 - (a) the type or design of any uniform or equipment to be worn or carried by members of the force, police recruits, police reservists and protective services officers; and
 - (b) the conditions under which any uniform or equipment is to be worn or carried.

6 Powers of Deputy Commissioner

- (1) Anything by this or any other Act or by any regulation made under this or any other Act appointed or authorized or required to be done or signed by the Chief Commissioner may be done or signed by a Deputy Commissioner and shall be as valid and effectual as if done or signed by the Chief Commissioner.

(1A) Subsection (1) does not apply to the Chief Commissioner's power to dismiss a member of the force under section 68 or suspend a member under section 68A.

S. 6(1A)
inserted by
No. 30/1999
s. 10(1).

(2) All courts judges and persons acting judicially shall take judicial notice of the seal and signature of the Chief Commissioner, of a Deputy Commissioner, of an Assistant Commissioner, of an Acting Chief Commissioner, of an Acting Deputy Commissioner and of an Acting Assistant Commissioner.

S. 6(2)
amended by
Nos 9066
s. 2(b),
15/1989
s. 5, 30/1999
s. 10(2).

6A Delegation by Chief Commissioner

S. 6A
inserted by
No. 6570
s. 2,
amended by
No. 10250
s. 5(2),
substituted by
No. 15/1989
s. 6.

(1) The Chief Commissioner may delegate, by instrument, to—

S. 6A(1)
amended by
Nos 30/1999
s. 10(3),
87/2005 s. 13,
52/2007
s. 5(1).

(a) a member of the force; or

(b) a police reservist; or

(c) a protective services officer; or

(d) an employee within the meaning of the **Public Administration Act 2004**; or

S. 6A(1)(d)
amended by
No. 26/1997
s. 48(a),
substituted by
No. 46/1998
s. 7(Sch. 1),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 158.1).

(e) a class of the people specified in paragraphs (a) to (d)—

any power, discretion, function, authority or duty of the Chief Commissioner under this Act, any other Act or any regulations, other than this power

of delegation, the power to declare an incident requiring urgent cross-border assistance under section 102Q or extend a declaration under section 102R or the power to dismiss a member of the force under section 68 or suspend a member under section 68A or the power to authorise the giving of a photograph under section 118R or the power to authorise a media organisation under section 118W.

S. 6A(1A)
inserted by
No. 52/2007
s. 5(2).

(1A) The Chief Commissioner may delegate, by instrument, to a member of the force, of or above the rank of inspector, the power to authorise the giving of a photograph under section 118R or the power to authorise a media organisation under section 118W.

S. 6A(2)
amended by
No. 52/2007
s. 5(3).

(2) A delegation under subsection (1) or (1A) may be made to a person or a class of people by name, or by reference to the office, offices or employment held.

Nos 3750 s. 8,
4592 s. 5(2).

7 Medical Board

S. 7(1)
amended by
Nos 23/1994
s. 118 (Sch. 1
item 43.1),
97/2005
s. 182(Sch.
item 40.1),
13/2010
s. 51(Sch.
item 42.1).

- (1) The Governor in Council may from time to time appoint three persons registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student) as a Board hereinafter designated the Medical Board for the purpose of examining the members of the force at such periods as the regulations for the time being in force may require; and the Governor in Council may from time to time remove any member of such Board, and appoint another in his stead.
- (2) Any two members of such Board shall form a quorum and shall have and may exercise and perform all or any of the powers and duties of such Board.

**8 Appointments to and promotions and transfers
within the force**

Nos 3750 s. 8,
4592 s. 3, 5126
s. 23(1)(b).

(1) The Chief Commissioner may, in accordance with the regulations, appoint, promote and transfer—

S. 8
amended by
Nos 6957
s. 2(c)(d), 8179
s. 3(b)(c), 8745
s. 2,
substituted by
Nos 9906 s. 3,
10250 s. 4(2),
42/1990
s. 4(1).

(a) so many commanders, chief superintendents, superintendents, chief inspectors and inspectors; and

(b) so many senior sergeants, sergeants, senior constables and constables—

as the Governor in Council thinks necessary.

(2) A person appointed or promoted under subsection (1)(a) shall on the certification of the Governor in Council, be an officer of the force.

* * * * *

S. 8(3)
repealed by
No. 30/1999
s. 11(1).

(4) Every appointment as a constable is subject to two years' probation, and every other appointment and every promotion to one year's probation.

(5) The Chief Commissioner may disallow a promotion or terminate an appointment at any time during an initial or further period of probation.

(6) Unless a promotion is earlier disallowed (under this section or on an appeal) or an appointment is earlier terminated—

(a) at the end of the initial period of probation, the Chief Commissioner must—

(i) confirm the promotion or appointment;
or

(ii) disallow the promotion or terminate the appointment; or

s. 8AA

- (iii) extend the probation for a period not exceeding one year; and
- (b) at the end of the further period of probation, the Chief Commissioner must—
 - (i) confirm the promotion or appointment; or
 - (ii) disallow the promotion or terminate the appointment.
- (7) If a promotion is disallowed, from the time of disallowance the member's rank is the rank he or she held immediately before promotion.
- (8) If the Chief Commissioner terminates the appointment of a person who was not a member of the force immediately before being appointed, the appointee must be dismissed from the force.
- (9) In determining whether or not an initial or further period of probation has ended, any period of suspension, leave without pay, sick leave of one month or more continuously, maternity leave or long service leave must be disregarded.

S. 8AA
inserted by
No. 42/1990
s. 4(1).

8AA Appeals against non-selection for promotion

S. 8AA(1)
amended by
Nos 72/1992
s. 7, 35/1993
s. 6, 61/1999
s. 6(1).

- (1) Subject to the regulations, a member of the force who considers that he or she has a better claim to promotion or transfer under section 8 than the member selected for promotion or transfer may appeal to the Appeals Board.
- (2) No appeal may be had in relation to the rank of superintendent, chief superintendent or commander.

S. 8AA(2A)
inserted by
No. 23/1996
s. 3.

- (2A) No appeal may be had in relation to a position of constable (general duties) or senior constable (general duties).

- (2B) No appeal may be had in relation to the promotion of a constable who holds a position to the rank of senior constable in the same position.
- (3) The only grounds for appeal are—
- (a) in relation to the rank of senior sergeant, sergeant or senior constable—
 - (i) superior efficiency; or
 - (ii) equal efficiency and greater seniority;
 - (b) in relation to the rank of inspector or chief inspector—superior efficiency.
- (4) An appeal must be lodged within 10 days after the day on which the member is notified of the member selected for promotion or transfer.
- (5) If the regulations provide for the notification of members selected for promotion or transfer, a member is to be taken, for the purposes of subsection (4), to have been notified of a member selected for promotion or transfer on the day on which the selection is notified in accordance with the regulations.

S. 8AA(2B)
inserted by
No. 30/1999
s. 11(2).

S. 8AA(4)
inserted by
No. 9/2001
s. 4.

S. 8AA(5)
inserted by
No. 9/2001
s. 4.

8AB Grounds for promotion or transfer

S. 8AB
inserted by
No. 42/1990
s. 4(1).

- (1) In a promotion or transfer under section 8 and in an appeal under section 8AA—
- (a) regard shall be had to the efficiency of the candidates; and
 - (b) regard shall not be had to their relative seniority unless, in relation only to the rank of senior sergeant, sergeant or senior constable, they are considered to be equally efficient.
- (1A) This section does not apply to a promotion or transfer to a position of constable (general duties) or senior constable (general duties).

S. 8AB(1A)
inserted by
No. 23/1996
s. 4(1).

s. 8A

S. 8AB(1B)
inserted by
No. 30/1999
s. 11(3).

(1B) This section does not apply to a promotion of a constable who holds a position to the rank of senior constable in the same position.

(2) For the purposes of this section and sections 8 and 8AA—

efficiency means—

- (a) the aptitude and special qualifications necessary for the discharge of the duties of the position in question, together with merit, diligence, good conduct, quality of service, mental capacity and physical fitness; and
- (b) potential to develop the executive ability and leadership and management skills essential in senior executive positions—in relation to the rank of inspector; and
- (c) the executive ability and leadership and management skills essential in senior executive positions—in relation to the rank of commander, chief superintendent, superintendent or chief inspector;

S. 8AB(2)
def. of
general duties
inserted by
No. 23/1996
s. 4(2).

general duties means primary response and general patrol duties;

transfer means the transfer of a member of the force from one position in the force to another at the same rank.

S. 8A
inserted by
No. 10250
s. 6.

8A Police recruits

- (1) Subject to this Act and the regulations, the Chief Commissioner may from time to time appoint so many police recruits as the Chief Commissioner thinks necessary to meet the needs of the force.

- (2) A police recruit may be appointed for such period as the Chief Commissioner determines.
- (3) The Chief Commissioner may terminate an appointment at any time or extend it for such further period as the Chief Commissioner determines.
- (4) A police recruit is not a member of the force except for the purposes of Division 4A of Part IV.

S. 8A(4)
amended by
No. 67/2007
s. 3.

* * * *

S. 8A(5)
repealed by
No. 11/1992
s. 5.

* * * *

S. 9
amended by
No. 6957
s. 2(e)(i)(ii),
repealed by
No. 42/1990
s. 12(1)(a).

10 Women to receive salaries etc. at same rate as men

No. 3750 s. 9.

Women who are members of the force shall be entitled to receive salaries wages and allowances at the same rates as men of corresponding rank who are members of the force are entitled to receive.

11 Authority of constables

No. 3750 s. 10.

Every constable shall have such powers and privileges and be liable to all such duties as any constable duly appointed now has or hereafter may have either by the common law or by virtue of any Act of Parliament now or hereafter to be in force in Victoria, and any member of the police force of higher rank than a constable shall have all the powers and privileges of a constable whether conferred by this Act or otherwise.

Police Regulation Act 1958
No. 6338 of 1958
Part I—Appointments and Retirements

s. 13

S. 12
repealed by
No. 42/1990
s. 12(2).

* * * * *

No. 3750
ss 12, 13.

13 Oath to be taken by members of the force

S. 13(1)
amended by
No. 9527
s. 3.

(1) Any person appointed to be a member of the force shall not be capable of acting in any way as such member until he has taken and subscribed the oath set forth in Form A of the Second Schedule.

S. 13(2)
amended by
Nos 9902
s. 2(1)(Sch.
item 204),
15/1989
s. 7(1)(a)(b),
57/1989
s. 3(Sch.
item 156.1),
30/1999
s. 12(a).

(2) The said oath shall be administered by any magistrate (or, in the case of appointment of a person to a rank other than Chief Commissioner or Deputy Commissioner, by any Deputy Commissioner or Assistant Commissioner) and such oath shall in all cases be subscribed by the person taking the same; and the oath so taken by the Chief Commissioner shall be forthwith transmitted to the Minister by the magistrate before whom the same was taken, and the oaths so taken and subscribed by all other persons appointed to any office under this Act shall be forwarded by the magistrate, Deputy Commissioner or Assistant Commissioner before whom the same were taken to the Chief Commissioner.

S. 13(3)
amended by
Nos 8179
s. 3(d), 10250
s. 7.

(3) Every person who has taken and subscribed such oath shall be taken to have, from the day on which such oath has been taken and subscribed, thereby entered into a written agreement with, and shall be thereby bound to serve Her Majesty as a member of the force, and in whatsoever capacity he is hereinafter required to serve, and at the current rate of pay of any rank to which he is appointed or reduced until legally discharged; and such agreement shall not be set aside cancelled or annulled for want of reciprocity, but every such

agreement shall be determined by the discharge dismissal or other removal from office of any such person, or by the acceptance of the resignation of the Chief Commissioner or of any Deputy or Assistant Commissioner by the Governor in Council, or by the acceptance of the resignation of any other member of the force by the Chief Commissioner.

14 Three months' notice of resignation to be given by members of the force

No member of the force shall be at liberty to resign his office or to withdraw himself from the duties thereof notwithstanding the period of his engagement has expired unless expressly authorized in writing so to do by the Chief Commissioner or unless he gives to such Chief Commissioner 3 months' notice in writing of his intention so to resign or withdraw.

Penalty: 20 penalty units.

No. 3750 s. 14.
S. 14
amended by
Nos 8097 s. 3,
15/1989
s. 8(1),
42/1990
s. 8(a).

15 Repute to be evidence of appointment

If any question arises as to the right of the Chief Commissioner or other member of the force to hold or exercise the duties of his office, common reputation shall be deemed prima facie evidence of such right, and it shall not be necessary to have or produce any written appointment or other document or matter whatsoever in proof of such right.

No. 3750 s. 15.

16 All powers vested in members of the force to cease upon discharge

When any member of the force is discharged or dismissed from or otherwise ceases to hold and exercise his office, all powers and authorities vested in him as a member of the force shall immediately cease.

No. 3750 s. 16.

s. 16A

S. 16A
inserted by
No. 7081
s. 15(1),
amended by
Nos 7142
s. 2(Sch.),
8179
s. 3(e)(i)–(iii),
9460 s. 4(a),
10258
s. 7(1)(a)–(c),
50/1988
s. 93(2)(Sch. 2
Pt 2 item 45),
substituted by
No. 42/1995
s. 224(Sch. 2
item 30).

16A Right to early retirement

- (1) Any member holding the rank of Chief Commissioner shall be entitled to elect to retire upon attaining the age of 55 years or at any time thereafter.
- (2) Any member of the force who becomes an officer within the meaning of the **State Superannuation Act 1988** shall be entitled to elect to retire upon attaining the age of 50 years or at any time thereafter.

S. 16B
inserted by
No. 9646 s. 3,
amended by
Nos 50/1988
s. 93(2)(Sch. 2
Pt 2 item 45),
23/1994
s. 118(Sch. 1
item 43.2),
substituted by
No. 26/1997
s. 39.

16B Incapacitated officers

- (1) The Chief Commissioner may of his or her own volition or at the request of a member of the force inquire into the fitness and capacity of the member to discharge the duties of his or her office.
- (2) In connection with that inquiry the Chief Commissioner may require the member to submit himself or herself for examination by the Police Medical Officer or by a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student) nominated by the Chief Commissioner.
- (3) If the Chief Commissioner is satisfied that the member is incapacitated for the performance of his or her duty by infirmity of mind or body he or she may cause the member to be retired.

S. 16B(2)
amended by
Nos 97/2005
s. 182(Sch.
item 40.2),
13/2010
s. 51(Sch.
item 42.2).

PART II—DUTIES AND DISCIPLINE

17 Standing orders etc.

The Chief Commissioner may from time to time issue, amend and revoke—

- (a) orders, to be known as standing orders, for the general administration of the force;
- (b) instructions for the effective and efficient conduct of the force's operations.

* * * * *

No. 3750 s. 17.
S. 17
amended by
No. 6833
s. 2(a)(b),
substituted by
No. 42/1990
s. 5.

S. 18
amended by
Nos 7876
s. 2(3), 8179
s. 3(f)(i)(ii),
57/1989
s. 3(Sch.
item 156.2),
repealed by
No. 42/1990
s. 12(2).

18A Assistance to coroners

The Chief Commissioner of Police shall direct that a sufficient number of members of the police force be present at any place at which an inquest may be held (whether or not an inquest is being held) whenever a coroner so requests.

S. 18A
inserted by
No. 10257
s. 91(a).

19 Members of police force who may execute process and warrants

Every member of the force shall execute all process to him directed for levying the amount of any recognisance forfeited to Her Majesty or of any fine imposed on any persons at any sitting of the Supreme Court whether in Melbourne or elsewhere or at any other court or of any other fine imposed under any Act in force in Victoria, and every member of the force shall obey and execute all the lawful summonses warrants

No. 3750 s. 19.
S. 19
amended by
Nos 7876
s. 2(3), 8179
s. 3(g),
57/1989
s. 3(Sch.
item 156.3),
30/1999
s. 12(b).

executions orders and commands of the
Magistrates' Court in all cases civil or criminal.

No. 3750 s. 20.
S. 20
amended by
Nos 8179
s. 3(h), 10250
s. 8(a)(b),
10257 s. 91(b),
57/1989
s. 3(Sch.
item 156.4),
30/1999
s. 12(b),
77/2008
s. 129(Sch. 2
item 19).

20 Process directed to one may be executed by another

Any process or any warrant order or command of any court or any coroner under the **Coroners Act 2008** or any board tribunal commission or other body (whether constituted by one or by more than one person) established by or under any Act or any member or officer of any such board tribunal commission or body directed delivered or given to any member of the force may be executed and enforced by any other member of the force or his assistants, and every such last-mentioned member of the force and his assistants shall have the same rights powers and authorities for and in the execution of such process warrant order or command, as if the same had been originally directed to him or them expressly by name.

**PART III—SUPERANNUATION GRATUITIES PENSIONS
ALLOWANCES AND FUNDS**

Pt 3 (Heading)
amended by
No. 7081
s. 15(4).

**Division 1—Provisions applicable to members of the force
appointed before November 25th 1902¹**

**21 Division to apply to appointments before
25 November 1902**

No. 3750 s. 21.

Subject to the provisions of section forty this Division shall apply to members of the force appointed before the twenty-fifth day of November One thousand nine hundred and two who were serving as such on the first day of January One thousand nine hundred and twenty-four or subsequently to the said date and shall not apply to members of the force appointed on or after the twenty-fifth day of November One thousand nine hundred and two.

22 Rate of superannuation allowance

No. 3750 s. 22.

Any member of the force who has served for a period of not less than ten years and has attained the full age of fifty-five years may be superannuated, and shall on retirement receive at his option either a gratuity of one month's pay for each year's service, or a yearly pension according to the following scale; that is to say, after ten year's service ten-fiftieths of the pay received by him during the period of twelve consecutive months immediately preceding the date of his retirement and an increase of one-fiftieth for each succeeding year up to thirty years' service completed.

No. 3750 s. 23.

23 Superannuation on account of ill health

- (1) When any member of the force has served for ten years and has not attained the full age of fifty-five years, if a certificate to the effect set forth in the Third Schedule signed by the members of the Medical Board is forwarded to the Governor in Council by the said Board, the Governor in Council may superannuate such member, and he shall thereupon be entitled to receive at his option the gratuity or the pension provided by the last preceding section for members of the force who have attained the full age of fifty-five years.
- (2) Should any member of the force to whom a pension has on or after the twenty-first day of September One thousand nine hundred and fourteen been granted die before the sum to which he would have been entitled on his retirement as a gratuity has been received by him by way of pension then the difference between such sum and the amount actually received by him shall be paid to his widow and children.

No. 3750 s. 24.
S. 24
amended by
No. 120/1994
s. 6(1)(c).

24 Gratuity or yearly pension to members disabled in the performance of duty

When any member of the force has served for a less period than ten years, if without his own default and in the discharge of his duty he receives such bodily injury as to incapacitate him for active service, he may retire from the force, and the ESS Board may grant to such member a gratuity not exceeding one month's pay for each year's service or a yearly pension not exceeding half the pay received by him during the year preceding his retirement, or in the event of his death before so retiring such gratuity shall be granted to his widow and children.

25 Gratuity to members retiring from ill health

No. 3750 s. 25.

When any member of the force has served for a less period than ten years, if a certificate to the effect set forth in the Third Schedule signed by the members of the Medical Board is forwarded to the Chief Commissioner, such member shall be entitled to his discharge and to receive a gratuity of one month's pay for each year of service at his then rate of pay.

26 Conditions on which pensions are withdrawable

No. 3750 s. 26.

Any pension or retiring allowance shall be granted to members of the force only upon the condition that it is liable to be forfeited and may be withdrawn by the Governor in Council in any of the following cases—

- (a) on conviction of the grantee for any indictable offence;
- (b) on his knowingly associating with suspected persons thieves or other offenders;
- (c) on his refusing to give information and assistance to the police whenever in his power for the detection and apprehension of criminals, and for the suppression of any disturbance of the public peace;
- (d) on his refusing to resume his duties in his former office in the force when required by the Governor in Council;
- (e) if he enters into or continues to carry on any business occupation or employment which in the opinion of the Governor in Council is disgraceful or injurious to the public or in which he makes use of the fact of his former employment in the police force in a manner which the Governor in Council considers to be discreditable and improper.

s. 27

No. 3750 s. 27.

27 Members retiring after twenty years' service

Every member of the force who has attained the age of forty years, and who has served not less than twenty years, shall be entitled to retire upon a gratuity at the rate of one month's pay for every year of service.

No. 3750 s. 28.

S. 28
amended by
No. 120/1994
s. 6(1)(c).

28 Gratuity or pension to relatives where life lost on duty

Should any member of the force lose his life in the discharge of his duty, a gratuity or pension equal to what he would have been entitled to if he had reached the age of fifty-five years shall be paid to his widow or children or to any other relative of such member depending upon him for support as the ESS Board may determine.

No. 3750 s. 29.

S. 29
amended by
No. 120/1994
s. 6(1)(c).

29 Allowances of retiring members to be considered when estimating gratuity etc.

Where under this Act the amount of any gratuity or retiring allowance to be granted to any member of the force is based upon the rate of pay of such member of the force, such rate of pay shall be understood to include not only the salary or wages which he may receive but likewise a money equivalent for the several allowances to which he is entitled as a member of the force, and the rate of this equivalent shall be estimated for each year by the ESS Board.

No. 3750 s. 30.

30 Dismissed members not entitled to pension

No member of the force who has been discharged or dismissed therefrom for misconduct of any kind shall be entitled to any pension gratuity or allowance.

S. 31
repealed by
No. 120/1994
s. 6(1)(d).

* * * * *

Police Regulation Act 1958
No. 6338 of 1958
Part III—Superannuation Gratuities Pensions Allowances and Funds

s. 36

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S. 32
amended by
No. 9902
s. 2(1)(Sch.
item 205),
repealed by
No. 120/1994
s. 6(1)(d).

S. 33
amended by
Nos 9902
s. 2(1)(Sch.
item 205),
57/1989
s. 3(Sch. item
156.5(a)(b)),
repealed by
No. 120/1994
s. 6(1)(d).

S. 34
amended by
No. 9902
s. 2(1)(Sch.
item 205),
repealed by
No. 120/1994
s. 6(1)(d).

S. 35
repealed by
No. 120/1994
s. 6(1)(d).

36 Time in other branches to count

No. 3750 s. 36.

Any member of the force claiming a gratuity or pension shall be entitled to count as service in the force any period served by him in any other branch of the public service of Victoria before he became a member of the force.

37 Provision not to apply to transfer to police force from other public departments

No. 3750 s. 37.

The last preceding section shall not apply to any person who after the first day of November One thousand eight hundred and ninety-five has been or is transferred to the police force from any other

branch of the public service unless such person was appointed to some office in the public service prior to the passing of the Act No. 710 and was employed continuously in the public service until such transfer.

For the purposes of this and the last preceding section the departments corresponding to the departments subject to the **Railways Act 1958** respectively and to Part IX of **The Constitution Act Amendment Act 1958** respectively and the department formerly subject to the **Defence Act 1890** shall be deemed to have been branches of the public service.

No. 3750 s. 38.

38 Definition of service in this Division

In this Division the words "service" or "served" wherever occurring shall, as from the first day of November One thousand eight hundred and ninety-five and so far only as regards any persons transferred to the police force as hereinbefore mentioned, be taken to refer to service in the police force.

Division 2—Provisions applicable to members of the force appointed on or after 25th November 1902

Introductory

Nos 3750
s. 39, 4592
s. 5(1).

39 Definitions

- (1) In this Division unless inconsistent with the context or subject-matter—

adult child has the same meaning as in section 45A(1);

S. 39(1) def. of
adult child
inserted by
No. 40/2010
s. 27.

dependant, in relation to a deceased person,
means—

S. 39(1) def. of
dependant
inserted by
No. 40/2010
s. 27.

- (a) his or her partner; or
- (b) a child of the person; or
- (c) any other person who in the opinion of
the Board was at the date of the death
of the person wholly or partially
dependent on the person or who at that
date had a legal right to look to him or
her for financial support;

medical certificate means a certificate in the form
or to the effect of Form A or Form B of the
Third Schedule to this Act, signed by not
less than two of the members of the Medical
Board;

pay means only salary or wages and does not
include any allowances or any money
equivalent for any allowances which
(in addition to his salary or wages) a member
of the force is entitled to receive as such;

* * * * * S. 39(1) def. of
*Police
Pensions
Fund*
repealed by
No. 120/1994
s. 6(1)(e).

* * * * * S. 39(1) def. of
*Police Super-
annuation
Board*
repealed by
No. 120/1994
s. 6(1)(e).

(2) For the purposes of this Division—

- (a) the expression ***total disablement*** means total
loss of earning capacity in any employment,
and in the case of partial disablement the

degree of disablement shall be based upon the degree to which earning capacity is affected;

(b) any injury suffered by a member of the force—

(i) whilst on duty or whilst on a journey necessary to enable him to report for duty or to return home after duty; or

(ii) whilst not on duty in the performance of some act which is within the scope of his ordinary duties; or

(iii) in consequence of some act performed in the execution of his duty;

shall be deemed to have been suffered in the execution of his duty; and

(c) any injury intentionally inflicted or incurred in the performance of a duty involving special risks shall be deemed to be a non-accidental injury.

Application of this Division

No. 3750 s. 40.

40 Application to members of the force

(1) This Division shall apply to members of the force appointed on or after the twenty-fifth day of November One thousand nine hundred and two who were serving as such on the first day of January One thousand nine hundred and twenty-four and to members of the force appointed after the said date and save as hereinafter provided shall not apply to members of the force appointed before the twenty-fifth day of November One thousand nine hundred and two.

S. 40(2)
repealed by
No. 42/1990
s. 13(a).

* * * * *

- (3) The provisions of this Division, unless otherwise expressly stated, shall apply to the Chief Commissioner in like manner, so nearly as circumstances admit, as they apply to any other member of the force, except that the certificate of approved service may be given by the Chief Secretary and that the Chief Commissioner shall be entitled after not less than ten years' approved service to receive an ordinary pension for life calculated in accordance with scale number two in the table in the Fourth Schedule to this Act and subject to the provisions and the general rules in the said Schedule.
- (4) Notwithstanding anything in the foregoing provisions of this section the provisions of this Part shall not apply—

S. 40(4)
inserted by
No. 7081 s. 16.

- (a) to any person appointed to be a member of the police force other than a police cadet on or after the appointed day within the meaning of Part I of the **Superannuation Act 1963**; or
- (b) to any member of the force who becomes an officer within the meaning of the **Superannuation Act 1958** pursuant to Part I of the **Superannuation Act 1963**—

but this Part shall continue on and after the said day to apply to—

- (i) police cadets; and
- (ii) members of the force who do not become officers within the meaning of the **Superannuation Act 1958**;

Provided that when any police cadet is appointed to the rank of constable or any higher rank he shall cease to be subject to this Part and shall be entitled to a refund of the whole of the rateable deductions previously made from his pay.

s. 42

S. 41
repealed by
No. 8722
s. 2(b).

* * * *

Retirement pensions allowances and gratuities

42 Entitlement to pensions

S. 42(2)
substituted by
No. 7081
s. 17.

- (1) Every member of the force to whom this Part applies shall upon his retirement be entitled to receive an ordinary pension for life.
- (2) Any member of the police force to whom this Part continues to apply after the transfer day within the meaning of Part I of the **Superannuation Act 1963** and who at that time or at any time thereafter holds the rank of Chief Commissioner and who elects to retire at any time after attaining the age of sixty years and before attaining the age of sixty-five years shall notwithstanding anything to the contrary in this Act be entitled upon his retirement to receive a pension for life in accordance with the following provisions—
 - (a) the pension shall be a percentage as hereinafter provided of the pension which he would have received on retirement upon attaining the age of sixty-five years if his salary and years of service at that time were the same as on the actual day of retirement;
 - (b) if he retires on his sixtieth birthday the appropriate percentage shall be Seventy-five per centum;
 - (c) if he retires at any time after his sixtieth birthday the appropriate percentage shall be Seventy-five per centum plus an additional Five-twelfths per centum for every completed calendar month by which his age

at the day of retirement is greater than on his sixtieth birthday.

42A Pensioner may elect to convert part of pension entitlement to lump sum payment entitlement

S. 42A
inserted by
No. 9460
s. 4(b).

- (1) Notwithstanding anything in this Act but subject to this section a pensioner who is receiving a pension under section 42 provided that he has not made an election under subsection (3) may, within the period of three months immediately prior to his attaining the age of 65 years, elect in writing to convert not more than 30 per centum of his fortnightly pension entitlement or \$46.50, whichever is the greater to an equivalent entitlement by way of a lump sum payment as determined by an actuary appointed by the ESS Board.
- (2) Where a pensioner makes an election under subsection (1) he shall be entitled to the lump sum payment when he attains the age of 65 years and his pension shall thereupon be reduced by the amount of the pension entitlement converted to a lump sum.
- (3) Notwithstanding anything in this Act but subject to this section a contributor or pensioner (not being a pensioner at the commencement of the **Superannuation Act 1980**) who is or will be entitled to a pension under section 42 may, within the period commencing three months prior to his retirement and ending three months after his retirement, elect in writing to convert not more than 30 per centum of his fortnightly pension entitlement or \$46.50, whichever is the greater to an equivalent entitlement by way of a lump sum payment as determined by an actuary appointed by the ESS Board.

S. 42A(1)
amended by
Nos 9672
s. 49(a),
120/1994
s. 9(1).

S. 42A(3)
amended by
No. 9672
s. 49(b),
120/1994
s. 9(1).

- (4) Where a contributor or pensioner makes an election under subsection (3) he shall be entitled to the lump sum payment on retirement or on the day on which he makes the election (whichever is the later) and his pension shall be reduced by the amount of the pension entitlement converted to a lump sum on the day on which he becomes entitled to the lump sum payment.
- (5) Any election under this section shall apply only in relation to that part of the entitlement of the applicant which relates to the pension that would be payable to him after he becomes entitled to the lump sum payment, until his death.
- (6) The provisions of this section shall not apply to enable a contributor or pensioner, who, at any time after he has attained the age of 55 years, has received a pension under section 43 to elect to convert any of his fortnightly pension entitlement under section 42 to a lump sum entitlement.
- (7) A person shall not be entitled to make more than one election under this section.

S. 42A(9)
re-numbered
as s. 42A(7)
by No. 9549
s. 2(1)(Sch.
item 161).

No. 3750 s. 43.

43 Pensions and gratuities to members of the force

Subject to the provisions of this Division every member of the force—

- (a) if he has completed ten years' approved service and is incapacitated for the performance of his duty by infirmity of mind or body, shall be entitled on a medical certificate to retire and receive an ordinary pension for life; and

- (b) if at any time he is incapacitated for the performance of his duty by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default, shall be entitled on a medical certificate to retire and receive a special pension for life; and
- (c) if he has not completed ten years' approved service and is incapacitated for the performance of his duty by infirmity of mind or body not occasioned by such injury as aforesaid, shall be entitled on a medical certificate to retire and receive a gratuity.

44 Entitlement of partner to pension or gratuity

S. 44
(Heading)
inserted by
No. 40/2010
s. 28(1).

S. 44
amended by
No. 7538 s. 2,
substituted by
Nos 8722
s. 2(c), 9066
s. 3.

- (1) Where a member of the force dies—
 - (a) whilst serving in the force;
 - (b) whilst entitled to a pension under this Division; or
 - (c) in consequence of any disease or injury on account of which he retired from the force—

S. 44(1)
amended by
No. 40/2010
s. 28(2)(3).

his partner shall, unless she is entitled under subsection (2) to a partner's special pension, be entitled, subject to this Division, to a partner's ordinary pension.

- (2) Where a member or retired member of the force dies from the effect of an injury received in the execution of his duty without his own default, his

S. 44(2)
amended by
No. 40/2010
s. 28(2)(3).

s. 44

partner shall, if the injury was non-accidental, be entitled, subject to this Division, to a partner's special pension.

S. 44(3)
amended by
Nos 120/1994
s. 6(1)(f)(i)(ii),
40/2010
s. 28(2).

- (3) A partner who is entitled to a pension under this Division may apply to the ESS Board for a gratuity in lieu of the whole or any part thereof; and the ESS Board may if it thinks fit grant to any partner who is entitled to such a pension a gratuity in lieu of the whole or any part thereof.

S. 44(4)
inserted by
No. 120/1994
s. 8(1),
amended by
No. 40/2010
s. 28(2).

- (4) No benefit is payable under this Division to a partner who became the partner of a retired member of the force only after he or she had finally ceased to be a member of the force and within 2 years of the death of the retired member of the force.

S. 44(5)
inserted by
No. 120/1994
s. 8(1),
repealed by
No. 40/2010
s. 29.

* * * * *

S. 44(6)
inserted by
No. 120/1994
s. 8(1).

- (6) A person is not entitled to receive under this Division at the same time more than one pension but is entitled to whichever of those pensions is the greater.

S. 44(7)
inserted by
No. 120/1994
s. 8(1),
amended by
No. 40/2010
s. 28(2).

- (7) Despite anything in this Division, only one partner pension is payable in the case of the death of any one member of the force or retired member of the force, and if after the ESS Board has made reasonable enquiries more than one person should appear to the ESS Board to qualify for a partner pension then—

S. 44(7)(a)
amended by
No. 40/2010
s. 28(2).

- (a) if the member of the force or retired member of the force has by request in writing to the ESS Board directed that the partner pension be paid wholly to one of the persons qualified to receive it or that each be paid

part, the ESS Board must give effect to the expressed intentions;

- (b) if paragraph (a) does not apply, the ESS Board must determine in accordance with subsection (8) which of the persons who qualifies is to receive the pension or must apportion it between them as the ESS Board considers appropriate.

**S. 44(7)(b)
amended by
No. 40/2010
s. 30(1).**

- (8) In making a determination under subsection (7), the ESS Board must consider all of the circumstances of the relationship between the deceased member or retired member of the force and each person who may qualify for a pension as a partner or former partner of the deceased member or retired member of the force, including, if applicable—

**S. 44(8)
inserted by
No. 40/2010
s. 30(2).**

- (a) the period of time for which that person was in a relationship with the member or retired member;
- (b) the period of time since the relationship between that person and the member or retired member ended;
- (c) the financial dependency of that person on the member or retired member at the date of death of the member or retired member;
- (d) whether that person has any dependent children from his or her relationship with the member or retired member;
- (e) any submissions made by that person to the ESS Board under subsection (9);
- (f) any other factor that the ESS Board considers relevant.

- (9) A person who was the partner of the deceased member or retired member of the force may make written submissions to the ESS Board as to his or

**S. 44(9)
inserted by
No. 40/2010
s. 30(2).**

s. 45

her eligibility for a pension as a partner or former partner of the deceased member or retired member.

S. 44A
inserted by
No. 8722
s. 2(c),
repealed by
No. 120/1994
s. 8(2).

* * * *

S. 44B
inserted by
No. 8722
s. 2(c),
amended by
No. 19/1989
s. 16(Sch.
items 44.1–
44.6),
repealed by
No. 120/1994
s. 8(2).

* * * *

Nos 3750
s. 45, 4592
s. 7(2).

45 Allowances and gratuities to children and dependants

Subject to the provisions of this Division—

S. 45(a)
amended by
Nos 7910
s. 11(2),
40/2010
s. 31(1).

(a) where a member of the force dies whilst in the force, or where a member of the force having been granted a pension dies his children—

(i) who are under the age of eighteen years; or

S. 45(a)(ii)
amended by
No. 8722
s. 2(d)(i).

(ii) who are between the ages of eighteen years and twenty-five years and who in the opinion of the Board are full-time students—

and any adult children shall be entitled to allowances as provided in the Fourth Schedule;

(b) if a child or adult child of a member of the force is entitled to an allowance under this Division, the ESS Board may grant with the consent—

S. 45(b)
amended by
No. 8722
s. 2(d)(ii),
substituted by
No. 120/1994
s. 8(3),
amended by
No. 40/2010
s. 31(2)(a).

(i) of the member's partner; or

S. 45(b)(i)
amended by
No. 40/2010
s. 31(2)(b).

(ii) if there is no partner, the guardian of the child or adult child —

S. 45(b)(ii)
amended by
No. 40/2010
s. 31(2).

a gratuity not exceeding the value of the allowance payable under paragraph (a) as calculated by an actuary appointed by the ESS Board; and

(c) where a member of the force dies whilst in the force, or where a member of the force (having been granted a pension) dies within twelve months after the grant of the pension, or at any time from the effects of an injury received in the execution of his or her duty without his or her own default, the Board may grant a gratuity to any dependant who has been wholly or mainly dependent upon the member or, if there is more than one such dependant, apportion the gratuity between those dependants in accordance with section 45B.

S. 45(c)
amended by
No. 40/2010
s. 31(3).

45A Registration of names of adult children

S. 45A
inserted by
No. 40/2010
s. 32.

(1) For the purposes of section 45, a member or retired member of the force may register with the ESS Board the name of a child (an *adult child*) of himself or herself or of his or her partner who—

s. 45B

- (a) has attained the age of 18 years; and
 - (b) is a person with a disability as described in section 8(1) of the Disability Services Act 1986 of the Commonwealth; and
 - (c) wholly or partially relies on the member or retired member for financial support.
- (2) A person who is not registered under this section may lodge a claim in a form approved by the ESS Board to be considered an adult child—
- (a) on the death of a member or retired member of the force; or
 - (b) if the person is a child of a deceased member or retired member of the force, on the expiration of his or her child pension.
- (3) In determining whether a registered person or claimant is an adult child, the ESS Board must consider reports from at least 2 registered medical practitioners appointed by the ESS Board as medical officers for the purposes of this Act.
- (4) A determination under this section may be subject to regular reviews by the ESS Board.

S. 45B
inserted by
No. 40/2010
s. 32.

45B Registration of names of dependants

- (1) For the purposes of section 45, a member or retired member of the force may register the names of persons whom he or she considers to be his or her dependants (other than a partner or child) with the ESS Board.
- (2) A person who has not been registered under subsection (1) may lodge a claim in a form approved by the ESS Board as a dependant of a deceased member or retired member.

- (3) Before apportioning benefits under section 45, the ESS Board must consider whether any registered person or claimant under that section was a dependant of the deceased member or retired member.
- (4) The ESS Board must provide a reasonable opportunity for any registered person or claimant to make written submissions in a form approved by the Board as to the degree of his or her dependency.
- (5) In making a determination under this section the ESS Board must consider—
 - (a) the degree of financial dependency of that person on the member or retired member at the date of death; and
 - (b) any other factor that the ESS Board considers relevant.
- (6) Nothing in this section limits the ESS Board's discretion to determine what proportions (if any) of the deceased member's or retired member's benefits each dependant is to receive.

46 Scales of pensions, allowances and gratuities

Nos 3750
s. 46, 4592
s. 6, 5460 s. 3.

The pensions allowances and gratuities payable under this Division shall be in accordance with the scales and provisions contained in the Fourth Schedule to this Act; and the general rules contained in Part III of the said Schedule shall apply to such pensions allowances and gratuities.

s. 46A

S. 46A
(Heading)
inserted by
No. 40/2010
s. 33(1).

S. 46A
inserted by
No. 7538
s. 3,
amended by
No. 8722
s. 2(e)(i)-(v),
substituted by
No. 9460
s. 4(c).

46A Member may elect to increase partner's pension entitlement in certain circumstances

S. 46A(1)
amended by
Nos 42/1990
s. 13(b),
40/2010
s. 33(2).

(1) A member of the police force to whom this Part applies may at any time not more than six months and not less than three months before attaining the age of his retirement make a proposal to increase the pension that would be payable to his partner should he predecease the partner after his retirement in consideration of—

(a) a reduction of the amount of pension that would be payable to him after his retirement;
or

S. 46A(1)(b)
amended by
No. 120/1994
s. 6(1)(g).

(b) a payment to the ESS Board.

S. 46A(2)
amended by
No. 40/2010
s. 33(2)(3).

(2) A member may not propose an increase in the pension payable to the partner if the increase in the partner's pension would make the partner's pension more than two-thirds of the pension that would be payable to the member upon his retirement disregarding the reduction (if any) proposed to be made.

S. 46A(3)
amended by
Nos 120/1994
s. 6(1)(g),
40/2010
s. 33(3).

(3) Every such proposal shall be in writing in the prescribed form signed by the member, shall be lodged with the ESS Board and shall specify (as the case requires) the amount by which the

member proposes to reduce his pension or the amount he proposes to pay to the Board for the purchase of an increase in his partner's pension or both the amount so proposed to be reduced and the amount so proposed to be paid.

(4) The ESS Board must—

- (a) arrange for the member to be examined by a registered medical practitioner appointed by the ESS Board; and
- (b) forward to an actuary appointed by the ESS Board the medical report prepared under paragraph (a) together with any information that the ESS Board considers the actuary may require in relation to the member's proposal.

S. 46A(4)
amended by
No. 23/1994
s. 118 (Sch. 1
item 43.3),
substituted by
No. 120/1994
s. 9(2).

(5) The actuary shall consider the information and medical report and shall advise the Board on the member's proposal and certify the amount of the increase in the partner's pension that would in the opinion of the actuary be justified as a result of the proposed reduction in the member's pension or the proposed payment by the member.

S. 46A(5)
amended by
Nos 120/1994
s. 9(3),
40/2010
s. 33(3).

(6) If the Board approves the member's proposal the Board shall notify the member in writing of such approval and of the amount certified to the Board by the actuary in accordance with the provisions of subsection (5).

S. 46A(6)
amended by
No. 120/1994
s. 9(3).

(7) If the member notifies the Board in writing prior to his retirement that he accepts the amount of increase certified by the actuary—

S. 46A(7)
amended by
No. 120/1994
s. 9(3).

- (a) the pension payable to him on his retirement shall be reduced by the amount proposed by him and the amount of his partner's pension shall be increased by the amount certified to the Board by the actuary and accepted by the member prior to his retirement; and

S. 46A(7)(a)
amended by
Nos 120/1994
s. 9(3),
40/2010
s. 33(3).

s. 46B

S. 46A(7)(b)
amended by
Nos 120/1994
s. 9(3),
40/2010
s. 33(3).

- (b) in the case of a proposal to purchase an increase in the partner's pension on payment of the amount proposed by the member to the Board the amount of his partner's pension shall be increased by the amount certified to the Board by the actuary and accepted by the member prior to his retirement.

S. 46B
inserted by
No. 7910
s. 6(2).

46B Amount of pension payable to pensioner

- (1) Notwithstanding any other provision of this Act the pension payable to any pensioner who is employed in the service of the Crown shall be reduced by the amount by which five-sevenths of the amount of his pension together with the remuneration he receives from his employment in the service of the Crown exceed the current equivalent of his salary on retirement.

S. 46B(2)
amended by
No. 8179
s. 3(i).

- (2) In this section—
current equivalent of the salary on retirement in relation to a pensioner means such salary as applies from time to time to the rank which the pensioner held on the day prior to his retirement, but, in the case of a pensioner who retired before the coming into operation of section 2 of the **Police Regulation (Amendment) (No. 2) Act 1971** and on the day prior to such retirement held the rank of—

- (a) superintendent, grade I—means such salary as applies from time to time to the rank of chief superintendent;
- (b) superintendent, grade II—means such salary as applies from time to time to the rank of superintendent;
- (c) inspector, grade I—means such salary as applies from time to time to the rank of inspector;

- (d) inspector, grade II—means such salary as applies from time to time to the rank of inspector;
- (e) sergeant—means such salary as applies from time to time to the rank of senior sergeant;
- (f) senior constable—means such salary as applies from time to time to the rank of sergeant;
- (g) first constable—means such salary as applies from time to time to the rank of senior constable;

employed in the service of the Crown in relation to a pensioner means a person employed under a contract of service—

- (a) by the Crown whether employed pursuant to the **Public Administration Act 2004**, Part 2.4 of the **Education and Training Reform Act 2006** or otherwise; or
- (b) by any public statutory authority constituted under the law of the State—

whether the contract relates to permanent temporary casual full-time part-time or other type of employment.

S. 46B(2)
def. of
*employed in
the service of
the Crown*
amended by
Nos 9019
s. 2(Sch.
item 185),
120/1994 s. 13,
46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 158.2),
24/2006
s. 6.1.2(Sch. 7
item 31).

- (3) This section does not apply to the payment of a pension to a pensioner—
 - (a) who is in receipt of a pension under this Act as a widow of a member of the force or a pensioner;
 - (b) who being a pensioner became employed in the service of the Crown prior to the commencement of section 6 of the **Superannuation (Amendment) Act 1969**.

s. 46C

S. 46C
inserted by
No. 40/2010
s. 34.

46C Disclosure of contents of medical reports

- (1) Within 28 days of the receipt of a medical report under this Part, the ESS Board must provide access to the contents of the medical report to the member of the force to whom it relates in a way described in section 28(1) of the **Health Records Act 2001**.
- (2) Despite subsection (1), the ESS Board is not required to disclose the contents of a medical report if the disclosure of that information is prohibited under section 26 or 27 of the **Health Records Act 2001**.

Approved service

Nos 3750
s. 47, 5448
s. 2.

47 Service to be reckoned for pension

- (1) The service of a member of the force for the purposes of this Division (including service during any period declared by regulations to be a period of probationary service) shall be subject to such deductions in respect of sickness misconduct or neglect of duty as may be made therefrom in pursuance of any regulations, not exceeding the period during which he is absent from duty on account of sickness misconduct or neglect of duty (as the case may be).
- (2) The expression ***approved service*** shall, for the purposes of this Division, mean such service as may, after such deductions as aforesaid (if any), be certified by the Chief Commissioner to have been diligent and faithful service and, in the case of a member of the police force who having been a member of the land sea or air forces of any part of the Queen's dominions joined the police force within a period of twelve months from the date of his discharge from such forces, shall include his war service.

- (3) Where a deduction is made from the service of a member of the force in respect of sickness misconduct or neglect of duty, notice of the deduction shall be given to him as soon as may be after the occurrence of the cause for which the deduction is made; and he may appeal to the Chief Commissioner against any act of any superior officer which prevents him from reckoning any period of actual service as approved service and any period of actual service allowed by the Chief Commissioner on such appeal shall be deemed to be approved service.
- (4) For the purposes of this section *war service* means service with the land sea or air forces of any part of the Queen's dominions during the war which commenced in the year One thousand nine hundred and fourteen or during the war which commenced in the year One thousand nine hundred and thirty-nine or any continuation thereof.

Grant revision forfeiture and offences in respect of pensions

*	*	*	*	*	S. 48 amended by No. 23/1994 s. 118 (Sch. 1 item 43.4), repealed by No. 120/1994 s. 6(1)(d).
*	*	*	*	*	S. 49 amended by No. 120/1994 s. 6(1)(g), repealed by No. 40/2010 s. 35.

s. 50

No. 3750 s. 50.

S. 50
substituted by
No. 120/1994
s. 10.

S. 51
repealed by
No. 7081
s. 18,
new s. 51
inserted by
No. 120/1994
s. 10,
amended by
No. 52/1998
s. 311(Sch. 1
item 74),
substituted by
No. 40/2010
s. 36.

50 Assignment of benefits

Benefits under this Part cannot in any way be assigned, charged or passed by operation of law other than under an Act of the Commonwealth.

51 Payment of benefits if person is incapable of managing financial affairs

- (1) The ESS Board may determine that a person who would ordinarily be entitled to receive benefits is incapable of managing his or her financial affairs.
- (2) A determination under subsection (1) may be made by reason of any restriction or lack of capability of the person resulting from any absence, loss or abnormality of mental, psychological, physiological or anatomical structure or function.
- (3) If the ESS Board makes a determination under subsection (1), the ESS Board may cause that person's benefits or any part of that person's benefits to be paid to—
 - (a) the person's guardian or administrator; or
 - (b) if there is no guardian or administrator, a person nominated by the ESS Board for the benefit of that person and any or all of his or her dependants—

until the ESS Board determines that the person is capable of managing his or her financial affairs.

No. 3750 s. 52.

S. 52(1)
amended by
Nos 10/2004
s. 15(Sch. 1
item 21.1),
68/2009
s. 97(Sch.
item 93.1).

52 Penalty for obtaining pension etc. by fraud

- (1) Every person who obtains or attempts to obtain for himself or for any other person—
 - (a) any pension gratuity or allowance under this Division or any payment on account thereof;
or

(b) the return of any rateable deductions from pay under this Division—

by means of any false declaration, false certificate, false representation, false evidence, or personation, or by malingering or feigning disease or infirmity, or by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, or by any other fraudulent conduct, shall be liable on conviction on indictment to imprisonment for a term of not more than two years, or on summary conviction to imprisonment for a term of not more than three months or to a penalty of not more than 0·5 penalty unit, and in any case to forfeit any pension gratuity allowance or other sum so obtained.

- (2) Any penalty imposed or sum forfeited for an offence under this section shall be paid into the Scheme.

S. 52(2)
amended by
No. 120/1994
s. 6(1)(h).

Rateable deductions

* * * * *

S. 53
repealed by
No. 120/1994
s. 6(1)(d).

54 Dismissal etc. for misconduct

Nos 3750
s. 54, 4592
s. 9.

- (1) A member of the force who for misconduct of any kind has been discharged or dismissed therefrom shall not be entitled to any pension or gratuity under this Division.
- (2) Where a member of the force not having been discharged or dismissed for misconduct of any kind leaves the force without a pension or gratuity, there shall be paid to him the whole of

S. 54(1)
amended by
No. 6957
s. 3(a)(i).

S. 54(2)
amended by
No. 6957
s. 3(a)(ii).

Police Regulation Act 1958

No. 6338 of 1958

Part III—Superannuation Gratuities Pensions Allowances and Funds

s. 55

the rateable deductions which have been made from his pay without any interest thereon:

S. 54(2)
Proviso
amended by
Nos 6957
s. 3(a)(iii),
8722 s. 2(f)(i),
40/2010
s. 37(1).

Provided that where a member of the force is for misconduct of any kind discharged or dismissed, the whole or any part of such rateable deductions as aforesaid may be applied in such manner as the said Board recommends for the benefit of the member's partner, children or adult children (if any).

S. 54(3)
amended by
Nos 8722
s. 2(f)(ii),
120/1994
s. 6(1)(g),
40/2010
s. 37(2).

- (3) On the death before retirement of a member of the force who leaves no partner there shall be paid to the personal representative of such member the whole of the rateable deductions which have been made from the pay of such member without any interest thereon, less the amount certified by the ESS Board to be necessary to pay any allowance or gratuity payable to the children or adult children or any other dependant of such member.

Heading
preceding
s. 55
repealed by
No. 26/1997
s. 48(b).

* * * *

S. 55
amended by
Nos 7081
s. 19, 8047
s. 16(a)(b),
8722 s. 2(g),
9460
s. 4(d)(e)(i)(ii),
9902
s. 2(1)(Sch.
item 205),
repealed by
No. 120/1994
s. 6(1)(d).

* * * *

Saving of right of dismissal and reduction

56 Saving of right of dismissal and reduction in rank

No. 3750 s. 56.
S. 56
amended by
No. 6957
s. 3(b).

Nothing in this Division shall prejudice any existing right of suspending reducing discharging or dismissing a member of the force or shall prevent his claim to pension or gratuity from being refused on account of misconduct or on account of any of the grounds on which a pension (if granted) would be liable to be forfeited and withdrawn.

Division 3—Additional provisions

Provisions of 1948 and 1949

57 Definitions

No. 5359 s. 2.

In the next two succeeding sections unless inconsistent with the context or subject-matter—

pay means only salary or wages and does not include any allowance or any money equivalent for any allowance which (in addition to his salary or wages) a member of the force is entitled to receive as such;

pensioner means a person who has retired from the force and is receiving a pension pursuant to this Act or any corresponding previous enactment.

58 Pensions of members who retired before 2 January 1948

Nos 5359 s. 3,
5448 s. 3.

- (1) In the case of a pensioner who became a member of the force on or after the twenty-fifth day of November One thousand nine hundred and two and retired from the force before the second day of January One thousand nine hundred and forty-eight, as on and from the said second day of

January and so long as a pension is payable to him the rate of such pension shall be calculated as if—

- (a) the pay on the said second day of January for the rank he held at retirement were his pay at the date of retirement; and
- (b) subparagraph (i) of the proviso to paragraph (a) of rule 19 of the Fourth Schedule to this Act were not applicable to the calculation of such pension—

and the necessary adjustments shall be made in respect of payments of pension made to any such pensioner on or after the said second day of January.

- (2) Subject to the next succeeding subsection, in the case of a pensioner who became a member of the force before the twenty-fifth day of November One thousand nine hundred and two and retired from the force before the second day of January One thousand nine hundred and forty-eight, as on and from the said second day of January and so long as a pension is payable to him the rate of such pension shall be calculated as if—

- (a) he were a person to whom the provisions of Division two of Part III of this Act apply and who on the said second day of January retired from the force with the same rank and service as such pensioner; and
- (b) subparagraph (i) of the proviso to paragraph (a) of rule 19 of the Fourth Schedule to this Act were not applicable to the calculation of such pension—

and the necessary adjustments shall be made in respect of payments of pension made to any such pensioner on or after the said second day of January.

Police Regulation Act 1958
No. 6338 of 1958
Part III—Superannuation Gratuities Pensions Allowances and Funds

s. 58

* * * * *

S. 58(3)
repealed by
No. 42/1990
s. 13(c).

(4) For the purposes of this section any pensioner who—

- (a) served as a member of the force for not less than ten years;
- (b) was not reduced in rank while a member of the force; and
- (c) held the rank of constable at the time of his retirement—

shall be deemed to have held the rank of first constable at the time of his retirement.

(5) Notwithstanding anything in the foregoing provisions of this section—

- (a) except insofar as paragraph (b) of this subsection applies, the rate of pension payable to any pensioner shall not at any time by virtue of this section be more than twenty-five per centum greater than the rate of pension payable to him immediately before the second day of January One thousand nine hundred and forty-eight;
- (b) in the case of a pensioner who has elected as mentioned in subsection (3) of this section, as from and after the coming into operation of the **Police Regulation (Amendment) Act 1949** the rate of pension payable to him shall not by virtue of this section be more than twenty-five per centum greater than the rate of pension which would have been payable to him at the date of his retirement if (apart from subsection (3) of this section) he had then been a person to whom Division two of

Part III of the **Police Regulation Act 1928** applied;

- (c) no pensioner shall by virtue of this section (except by virtue of an election mentioned in subsection (3) of this section) suffer any reduction of the pension which he was receiving before the said second day of January.

Nos 5359 s. 4,
5488 s. 4.

59 Retrospective increase in certain widows' pensions

- (1) (a) Where immediately before the second day of January One thousand nine hundred and forty-eight the widow of a member of the force or of a pensioner was not entitled to receive any pension or was entitled to receive a pension of not more than \$83.20 per annum, then as on and from the said second day of January and as long as a pension is payable to her a pension of \$104 per annum shall be payable to such widow, and the necessary adjustments shall be made in respect of payments of pension to any such widow on and after the said second day of January;
- (b) Where a member of the force or pensioner has died on or after the second day of January One thousand nine hundred and forty-eight and before the commencement of the **Police Regulation (Amendment) Act 1948** and his widow was not entitled to receive any pension or was entitled to receive a pension of not more than \$83.20 per annum, then as on and from the date of the death of the member or pensioner and as long as a pension is payable to her a pension of \$104 per annum shall be payable to such widow, and the necessary adjustments shall be made in respect of payments of pension to

any such widow on and after the date of the death of the pensioner.

- (2) (a) The pension of any widow (other than a widow referred to in the last preceding subsection) of a member of the force or pensioner who died before the second day of January One thousand nine hundred and forty-eight shall as on and from the said second day of January and as long as a pension is payable to her be the pension payable immediately before the said second day of January plus twenty-five per centum, and the necessary adjustments shall be made in respect of payments of pension to any such widow on and after the said second day of January;
- (b) Where a member of the force or pensioner has died on or after the second day of January One thousand nine hundred and forty-eight and before the commencement of the **Police Regulation (Amendment) Act 1948** the pension of his widow (not being a widow referred to in the last preceding subsection) shall as on and from the date of the death of the member or pensioner and as long as a pension is payable to her be the pension payable as at the date of the death of the member or pensioner plus twenty-five per centum, and the necessary adjustments shall be made in respect of payments of pension to any such widow on and after the date of the death of the member or pensioner;
- (c) Notwithstanding anything in the foregoing provisions of this subsection no pension payable to a widow shall by virtue of this subsection be so increased as to exceed at

any time after the second day of January One thousand nine hundred and forty-eight—

- (i) in the case of a widow's ordinary pension, the maximum pension payable under this Act appropriate to the relevant rank and service of her husband in the force;
- (ii) in the case of a widow's special pension, an amount equal to one-third of the annual pay which would have been payable on the said second day of January to a member of the force having the same rank and service as her husband had at the time of his death or retirement; and in calculating the annual pay for the purposes of this subparagraph, subparagraph (i) of the proviso to paragraph (a) of rule 19 of the Fourth Schedule to this Act shall not apply—

and the necessary adjustments shall be made in respect of payments of pension made to any such widow on or after the said second day of January.

- (3) The foregoing provisions of this section shall not apply in the case of a widow whose husband was not a person to whom the provisions of Division two of Part III of this Act or any corresponding previous enactment applied.
- (4) Where immediately before the second day of January One thousand nine hundred and forty-eight the widow of a member of the force was receiving a pension pursuant to the provisions of section twenty-eight of the **Police Regulation Act 1928** then as on and from the said second day of January and so long as a pension is payable to her the pension of such widow shall be the pension payable to her immediately before the said second

day of January plus twenty-five per centum; and the necessary adjustments shall be made in respect of payments of pension made to any such widow on or after the said second day of January.

* * * * *

S. 59(5)
repealed by
No. 42/1990
s. 13(d).

Provisions of 1950

60 Definitions

No. 5460 s. 2.

- (1) In the next three succeeding sections unless inconsistent with the context or subject-matter—

appointed day means the thirtieth day of June One thousand nine hundred and fifty;

pensioner means a person who has retired from the force before the appointed day and who on or after the appointed day is receiving a pension pursuant to the provisions of this Act or any corresponding previous enactment.

- (2) For the purposes of the said sections and paragraph 5 of the Fourth Schedule to this Act any member of the force who held for any material period the rank of—

S. 60(2)
amended by
No. 7332
s. 2(Sch. 1
item 95).

- (a) constable (with at least ten years service and not having been reduced in rank)—shall be deemed to have held the rank of first constable;
- (b) second-class sergeant or first-class sergeant—shall be deemed to have held the rank of sergeant;

(c) sub-inspector—shall be deemed to have held the rank of inspector—

for such period.

No. 5460 s. 4.

61 Increase of rates of pension to pensioners who retired before 30 June 1950

(1) The rate of pension payable under this Act to each pensioner shall be—

(a) the rate payable under Division two of Part III of this Act to a member of the force who—

(i) on the appointed day first became entitled to a similar pension; and

(ii) during the three years immediately preceding the appointed day held the same rank or ranks for the same period or periods as the pensioner held during the three years immediately prior to the date of his retirement; or

(b) the rate payable to the pensioner immediately before the appointed day plus twenty per centum—

whichever is the lower rate.

(2) No pensioner shall by virtue of this section suffer any reduction of the rate of pension which he was receiving immediately before the appointed day.

Nos 5460 s. 6,
5467 s. 2.

62 Increase of rates of pension to widows entitled to pension before 30 June 1950

(1) The rate of pension payable under this Act to any widow who became entitled to a widow's ordinary pension before the appointed day shall be—

(a) the rate which would be payable to her if she had first become entitled to the pension on the appointed day; or

- (b) the rate payable to her immediately before the appointed day plus twenty per centum—
whichever is the lower rate.
- (2) The rate of pension payable under this Act to any widow who became entitled to a widow's special pension before the appointed day shall be—
 - (a) the rate which would be payable to her if her husband—
 - (i) had on the appointed day while serving in the force died from the effects of a non-accidental injury received in the execution of his duty without his own default; and
 - (ii) during the three years immediately preceding the appointed day held the same rank or ranks for the same period or periods as he held during the three years immediately prior to the date of his actual death or retirement; or
 - (b) the rate payable to her immediately before the appointed day plus twenty per centum—
whichever is the lower rate.
- (3) The rate of pension payable under this Act to any widow to whom the foregoing subsections of this section do not apply shall be the rate payable to such widow immediately before the appointed day plus twenty per centum.

63 Appropriate retrospective adjustments to be made

No. 5460 s. 7.

- (1) Any necessary adjustments shall be made in respect of payments of pension made to any pensioner or widow after the appointed day.
- (2) In respect of any such adjustments or of any adjustments authorized under the **Police Regulation (Amendment) Act 1948** as amended

by any Act payments shall (where the case so requires) be made to the personal representatives of a deceased recipient of pension in respect of the period up to death.

Heading
preceding
s. 64
amended by
No. 6486
s. 2(2).

Provisions of 1955 and 1958

No. 5897 s. 2.

64 Retrospective payments to pensioners widows and children already entitled to pensions etc.

S. 64(1)
amended by
No. 6486
s. 2(1)(a).

- (1) Notwithstanding anything in this Act the pension or allowance payable to or in respect of any pensioner widow or child to or in respect of whom a pension or allowance was payable under the Police Regulation Acts immediately before the commencement of the **Police Regulation (Pensions) Act 1955** shall be at the respective rates provided by this section.
- (2) In this section *then rate of pension* means the rate of pension, including any additional amount payable under the **Superannuation Police and State Pensions Act 1953**, that was payable (apart from the operation of this section) to or in respect of the pensioner or widow concerned immediately before the commencement of the **Police Regulation (Pensions) Act 1955**.
- (3) Subject to this section the rate of pension payable to such a pensioner shall be—
 - (a) if his then rate of pension was not more than \$364—such then rate increased by one-seventh thereof;
 - (b) if his then rate of pension was more than \$364 but not more than \$728—such then rate increased by \$52;

- (c) if his then rate of pension was more than \$728—a rate of \$780 or such then rate (excluding any additional amount payable under the **Superannuation Police and State Pensions Act 1953**) increased by one-sixth thereof (whichever is the greater).

S. 64(3)(c)
amended by
No. 6486
s. 2(1)(b).

- (4) Subject to this section the rate of pension payable to such a widow shall be her then rate of pension increased by one-quarter thereof.

* * * * *

S. 64(5)
repealed by
No. 6486
s. 2(1)(c).

- (6) Notwithstanding anything in the foregoing provisions of this section—

- (a) the rate of pension payable to any such pensioner shall not exceed the rate payable under Division two of Part III of this Act to a member of the force who—

- (i) on the commencement of the **Police Regulation (Pensions) Act 1955** first became entitled to a similar pension; and
- (ii) during the three years immediately preceding the commencement of that Act held the same rank or ranks for the same period or periods as the pensioner held during the three years immediately prior to the date of his retirement;

s. 64A

- (b) the rate of pension payable to any such widow shall not exceed the rate which would be payable to her if she had first become entitled to the pension on the commencement of that Act.

Heading
preceding
s. 64A
inserted by
No. 6695
s. 2.

Provisions of 1960

S. 64A
inserted by
No. 6695
s. 2.

64A Basic rate of pension

S. 64A(1)
amended by
Nos 8722
s. 2(h)(i),
40/2010
s. 38(1).

- (1) In this section *basic rate of pension* means the pension payable per annum to any pensioner or partner under the provisions of this Act other than the provisions of this section.
- (2) (a) Where the basic rate of pension payable to a pensioner is not more than \$728 the rate of pension payable to such pensioner shall be his basic rate of pension plus \$65 or the rate of \$728 per annum whichever is the less.

S. 64A(2)(b)
amended by
No. 8722
s. 2(h)(ii)(iii).

- (b) Where the basic rate of pension payable to a widow is not more than \$388.27 the rate of pension payable to such widow shall be her basic rate of pension plus \$44.37 or the rate of \$388.27 per annum whichever is the less.

General provision about final salary

Heading
preceding
s. 64B
inserted by
No. 15/1989
s. 9.

64B Final salary for superannuation benefit purposes

S. 64B
inserted by
No. 15/1989
s. 9.

- (1) Despite anything in this or any other Act, or in any regulations made under any other Act, for the purposes of determining the amount of superannuation benefits payable to a member of the force whose service is terminated by resignation during the period for which that member remains on probation for the rank to which he or she was most recently appointed, the final salary of that member must be taken to be the salary applicable, on the day before the resignation takes effect, to the previous rank of the member.

- (2) In this section—

disability, in relation to a member of the force, means the inability of the member, due to a continuing or recurring injury, disease or infirmity, to perform his or her duties, or any other duties as directed by the Chief Commissioner, for which he or she is suited by education, training or experience, or for which he or she would be suited as a result of retraining as certified by at least 2 persons registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

S. 64B(2)
def. of
disability
amended by
Nos 49/1992
s. 112, 23/1994
s. 118(Sch. 1
item 43.5),
97/2005
s. 182(Sch.
item 40.3),
13/2010
s. 51(Sch.
item 42.3).

previous rank, in relation to a member, means the rank of the member immediately before his or her most recent promotion on probation, whether or not his or her probationary appointment to that previous rank had been confirmed;

s. 64C

resignation means the termination of service by a member of the force other than by reason of death or disability.

Heading
preceding
s. 64C
inserted by
No. 42/1990
s. 6(1).

Provision for indexation

S. 64C
inserted by
No. 42/1990
s. 6(1).

64C Indexation of pensions

(1) In this section—

S. 64C(1)
def. of
*consumer
price index*
amended by
No. 120/1994
s. 11.

consumer price index means the all groups consumer price index number for all Capital Cities published by the Commonwealth statistician in respect of the June quarter and the December quarter for each year;

prescribed half year means the half year ended 30 June 1989 or any subsequent half year ending on 31 December or 30 June in which the consumer price index is higher than the previous highest consumer price index in or since the half year ended 30 June 1989;

prescribed percentage in relation to a prescribed half year after 30 June 1989 means the percentage calculated to two decimal places in accordance with the formula—

$$\frac{A - B}{B} \times \frac{100}{1}$$

where A is the consumer price index number for the prescribed half year and B is the consumer price index for the next preceding prescribed half year.

- (2) A pension under this Act, together with any supplementary pension granted under the **Pensions Supplementation Act 1966** (whether granted before on or after the repeal of the **Pensions Supplementation Act 1966**), must—
- (a) if it is then payable, be increased on the payment of the first instalment of pension in the month of December or June by an amount equal to one-sixth of the prescribed percentage for the next preceding prescribed half year (if any) of the pension for every whole month or part of a month during the preceding half year in respect of which a pension has been payable; or
 - (b) if for any reason it is not then payable, be notionally so increased as if then payable.
- (3) If a pensioner becomes liable to have the amount of any pension, allowance, subsidy, concession or other benefit payable to the pensioner under the Social Security Act 1947 of the Commonwealth or the Veterans' Entitlements Act 1986 of the Commonwealth reduced by reason of an increase in the amount of the pensioner's fortnightly pension entitlement under this Act, the ESS Board may, on the application in writing of the pensioner at any time within the period commencing 3 months before the date on which the reduction is due to take effect and ending 3 months after the date on which the reduction took effect, convert the amount of the increase in the pensioner's fortnightly pension entitlement to an equivalent entitlement by way of a lump sum payment as determined by an actuary appointed by the Board.

S. 64C(2)
amended by
No. 120/1994
s. 12.

S. 64C(3)
amended by
No. 120/1994
s. 6(1)(g).

s. 66

S. 64C(4)
amended by
No. 120/1994
s. 6(1)(g).

- (4) If an application by a pensioner under subsection (3) is approved by the ESS Board, the pensioner is entitled to the lump sum payment on the day on which the reduction in the amount of the Commonwealth pension or other benefit is due to take effect or on the day on which the approval is given (whichever is the later) and the pensioner's pension is to be reduced by the amount of the pension entitlement converted to a lump sum on the day on which the pensioner becomes entitled to the lump sum payment.

S. 64C(5)
amended by
No. 40/2010
s. 38(1).

- (5) An approval under this section operates to convert the proportion of the fortnightly pension entitlement of the pensioner's partner following the pensioner's death that is identical to the proportion of the pensioner's fortnightly pension entitlement that is converted.

Pt 3 Div. 4
(Heading)
substituted by
No. 26/1997
s. 48(c).

Division 4—ESS Board

S. 65
amended by
No. 7332
s. 2(Sch. 1
item 96),
repealed by
No. 120/1994
s. 6(1)(d).

* * * * *

No. 3750 s. 58.

S. 66
amended by
Nos 9460
s. 4(f),
120/1994
s. 6(1)(i).

66 Applications for pensions, gratuities etc.

All applications for pensions, gratuities, allowances or lump sums under this Act or any corresponding previous enactment shall be made to the ESS Board.

Police Regulation Act 1958
No. 6338 of 1958
Part III—Superannuation Gratuities Pensions Allowances and Funds

s. 67B

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S. 67
amended by
No. 7538
s. 4(a)(b), 9460
s. 4(f), 9902
s. 2(1)(Sch.
item 206),
49/1992
s. 114,
repealed by
No. 120/1994
s. 6(1)(d).

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S. 67A
inserted by
No. 49/1992
s. 115,
amended by
No. 120/1994
s. 6(1)(g),
repealed by
No. 4/1996
s. 134(7)(a).

67B Preservation of minimum benefit

S. 67B
inserted by
No. 49/1992
s. 115.

- (1) If the amount of the benefit paid or payable under this Act in respect of any contributor or former contributor is less than the amount contributed by him or her to the Scheme and interest as determined by the ESS Board on that amount, there is to be paid out of the Scheme to that person in the manner that the ESS Board determines the difference between the two amounts.

S. 67B(1)
amended by
Nos 120/1994
s. 6(1)(g)(i),
4/1996
s. 134(7)(b).

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S. 67B(2)
repealed by
No. 4/1996
s. 134(7)(a).

Police Regulation Act 1958

No. 6338 of 1958

Part III—Superannuation Gratuities Pensions Allowances and Funds

s. 67C

S. 67C
inserted by
No. 49/1992
s. 115,
amended by
No. 120/1994
s. 6(1)(g),
repealed by
No. 4/1996
s. 134(7)(a).

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S. 67D
inserted by
No. 49/1992
s. 115,
repealed by
No. 4/1996
s. 134(7)(a).

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Pt 3 Div. 5
(Heading and
ss 67C–67E)
inserted by
No. 95/2000
s. 12.

Division 5—Beneficiary choice program

New s. 67C
inserted by
No. 95/2000
s. 12.

67C Definitions

In this Division—

Beneficiary Choice Scheme means the
Beneficiary Choice Scheme established
under Part 3A of the **State Superannuation
Act 1988**;

eligible pensioner means a person who at any
time during the election period is receiving,
or becomes entitled to receive—

- (a) a pension under section 42; or
- (b) a pension as a partner under section 44;
or
- (c) a pension or a gratuity under section 43
and has attained 55 years of age; or

S. 67C def. of
*eligible
pensioner*
amended by
No. 40/2010
s. 38(1).

- (d) a pension or a gratuity under section 43 and has not attained the age of 55 years, at the discretion of the ESS Board;

election period means the period—

- (a) specified by the Minister in a notice published in the Government Gazette in respect of all or particular classes of eligible pensioners; and
- (b) if the Minister on the advice of the ESS Board so decides, as extended to a later date as is specified by the Minister in a further notice published in the Government Gazette.

67D Application to participate

New s. 67D
inserted by
No. 95/2000
s. 12.

- (1) An eligible pensioner may during the relevant election period apply in writing to the ESS Board to participate in the beneficiary choice program in the form approved by the ESS Board.
- (2) An eligible pensioner must elect to convert the whole or 50 per cent of his or her pension or gratuity entitlement.
- (3) If an eligible pensioner has a partner, the eligible pensioner must also elect to convert the same percentage of his or her partner's pension entitlement.
- (4) An application under this section—
 - (a) can not be withdrawn after it has been accepted by the ESS Board;
 - (b) ceases to have any effect if the applicant dies before the application is accepted by the ESS Board.

S. 67D(3)
amended by
No. 40/2010
s. 38(2).

s. 67E

S. 67E
inserted by
No. 95/2000
s. 12.

67E Commutation

- (1) If the ESS Board accepts an application under section 67D, the ESS Board must commute the pension entitlement specified in the application into a complying pension under the Beneficiary Choice Scheme.
- (2) The method of calculating the commutation benefit of an eligible pensioner under subsection (1) is to be determined by the Minister on the advice of an actuary appointed by the ESS Board.
- (3) The ESS Board is released from any liability in respect of the entitlements of an eligible pensioner and of any partner specified in the application under section 67D as soon as the eligible pensioner becomes entitled to a complying pension under the Beneficiary Choice Scheme.

S. 67E(3)
amended by
No. 40/2010
s. 39.

**PART IV—EMPLOYMENT, DISCIPLINARY AND OTHER
MATTERS**

Pt 4 (Heading)
amended by
No. 6957
s. 4(1)(b),
substituted by
No. 35/1993
s. 7.

Division 1—Dismissal of unsuitable members

New Pt 4
Div. 1
(Heading)
inserted by
No. 30/1999
s. 13.

**68 Chief Commissioner may dismiss unsuitable
members**

S. 68
amended by
Nos 6957
s. 4(1)(c), 9646
s. 7 (as
amended by
No. 9902
s. 2(1)(Sch.
item 208)),
15/1989
s. 10(1)(2),
42/1990
s. 4(2)(a)(b),
11/1992 s. 6,
repealed by
No. 35/1993
s. 8, new s. 68
inserted by
No. 30/1999
s. 13.

- (1) The Chief Commissioner, by written order, may dismiss a member of the force (other than a Deputy Commissioner or an Assistant Commissioner) if the Chief Commissioner is satisfied that the member is unsuitable to continue as a member of the force, having regard to—
 - (a) the member's integrity; and
 - (b) the potential loss of community confidence in the force were the member to continue as a member of the force.
- (2) Before dismissing a member under this section, the Chief Commissioner—
 - (a) must give the member a notice setting out the grounds on which the Chief Commissioner considers the member is unsuitable to continue as a member of the force; and
 - (b) must give the member at least 21 days in which to make written submissions in relation to the proposed dismissal; and
 - (c) must take into account any submissions made by the member during that period.

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- (3) The order must set out the reasons why the Chief Commissioner is satisfied that the member is unsuitable to continue as a member of the force.
 - (4) The dismissal takes effect when the order is made.
 - (5) The Chief Commissioner must give written notice of the order to the member as soon as practicable after it is made.
 - (6) A notice under subsection (2)(a) or (5) may be given to a member—
 - (a) in person; or
 - (b) by sending it by post, facsimile or other electronic means to the member at his or her usual or last known residential address; or
 - (c) by leaving it at the member's usual or last known residential address with a person on the premises apparently at least 16 years old and apparently residing there.
 - (7) A notice under subsection (2)(a) or (5) is to be taken to have been given to a member—
 - (a) in the case of delivery in person—at the time of delivery;
 - (b) in the case of posting—2 business days after the day on which the document was posted;
 - (c) in the case of facsimile or other electronic transmission—at the time the transmission is received.
 - (8) If a facsimile or other electronic transmission is received after 4.00 p.m. on any day, it is to be taken to have been received on the next business day.
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(9) In this section—

business day means a day other than—

- (a) a Saturday or Sunday; or
- (b) a public holiday or public half-holiday in the place to where the notice is sent or delivered.

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Pt 4 Div. 1
(Heading)
inserted by
No. 35/1993
s. 9,
repealed by
No. 59/1996
s. 10(Sch. 2
item 18).

68A Suspension pending decision

- (1) If the Chief Commissioner gives a member of the force a notice under section 68(2)(a), the Chief Commissioner may suspend the member with pay pending the making of an order under section 68(1).
- (2) A suspension under subsection (1) lasts until the earliest of—
 - (a) the making of an order under section 68(1) dismissing the member; and
 - (b) the lifting of the suspension by the Chief Commissioner; and
 - (c) the expiration of the period of 60 days after the giving of the notice under section 68(2)(a).
- (3) The Chief Commissioner may apply to the chairperson of the Appeals Board for an extension of the time specified in subsection (2)(c).

S. 68A
inserted by
No. 11/1992,
s. 7,
amended by
Nos 47/1992
s. 25(7)(a)(b),
83/1992 s. 184
(Sch. 6 item
17.1(a)(b)),
repealed by
No. 59/1996
s. 10(Sch. 2
item 18),
new s. 68A
inserted by
No. 30/1999
s. 13.

S. 68A(3)
amended by
No. 61/1999
s. 6(2)(a).

s. 68B

- (4) The chairperson may give the extension if he or she reasonably believes it is necessary for the proper consideration of the matter by the Chief Commissioner.
- (5) An extension may be given more than once.

S. 68B
inserted by
No. 30/1999
s. 13.

68B Application for review of dismissal order

S. 68B(1)
amended by
No. 61/1999
s. 6(2)(a).

- (1) A member of the force who is dismissed from the force by an order under section 68(1) may apply to the Appeals Board for a review of the Chief Commissioner's decision to make the order on the ground that the decision was not sound, defensible or well-founded.
- (2) An application for review must be made within 14 days after the member is notified of the making of the order to which the application relates.
- (3) An application for review does not stay the operation of the order to which it relates.

S. 68C
inserted by
No. 30/1999
s. 13.

68C Procedure on review

S. 68C(1)
amended by
No. 61/1999
s. 6(2)(b)(i)(ii).

- (1) In conducting a review under this Division, the Appeals Board must proceed as follows—
 - (a) first, it must consider the Chief Commissioner's reasons for the decision to dismiss the applicant from the force;
 - (b) secondly, it must consider the case presented by the applicant as to why the decision was not sound, defensible or well-founded;
 - (c) thirdly, it must consider the case presented by the Chief Commissioner in answer to the applicant's case.

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S. 68C(2)
repealed by
No. 61/1999
s. 6(2)(c).

- (3) The applicant has at all times the burden of establishing that the decision to dismiss the applicant from the force was not sound, defensible or well-founded.

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S. 68C(4)
repealed by
No. 61/1999
s. 6(2)(c).

68D What may the Appeals Board order?

S. 68D
inserted by
No. 30/1999
s. 13.

- (1) If the Appeals Board is satisfied that the decision to dismiss the applicant from the force was not sound, defensible or well-founded, the Appeals Board may—

S. 68D(1)
amended by
No. 61/1999
s. 6(2)(d)(i)(ii).

- (a) order the Chief Commissioner to re-instate the applicant as a member of the force on terms not less favourable to the applicant than those that would have been applicable if he or she had not been dismissed; or
- (b) if the Appeals Board considers that it would be impracticable to re-instate the applicant, order the Chief Commissioner to pay to the applicant an amount of compensation not exceeding the amount of remuneration of the applicant during the period of 12 months immediately before being dismissed; or
- (c) refer the matter back to the Chief Commissioner for re-consideration in accordance with any directions or recommendations that the Appeals Board considers appropriate.

S. 68D(1)(b)
amended by
No. 61/1999
s. 6(2)(d)(ii).

S. 68D(1)(c)
amended by
No. 61/1999
s. 6(2)(d)(ii).

Police Regulation Act 1958
No. 6338 of 1958
Part IV—Employment, Disciplinary and Other Matters

s. 68D

S. 68D(2)
amended by
No. 61/1999
s. 6(2)(e).

- (2) If the Appeals Board makes an order under subsection (1)(a), it may also—
 - (a) order the Chief Commissioner to pay the applicant an amount stated in the order that does not exceed the amount that the applicant would, but for being dismissed, have received before being re-instated; and
 - (b) order that the period of service of the applicant as a member of the force is taken not to have been broken by the dismissal.
- (3) If the applicant was on leave without full pay during any part of the period of 12 months immediately before being dismissed, the maximum amount of compensation that may be ordered under subsection (1)(b) to be paid is to be determined as if the applicant had received full pay while on leave.

S. 68D(4)
amended by
No. 61/1999
s. 6(2)(e).

- (4) When assessing any compensation payable, the Appeals Board must take into account—
 - (a) whether the applicant made a reasonable attempt to find alternative employment; and
 - (b) the remuneration received in any alternative employment or that would have been payable if the applicant had succeeded in obtaining alternative employment.

S. 68D(5)
amended by
No. 61/1999
s. 6(2)(e).

- (5) If the Appeals Board is not satisfied that the decision to dismiss the applicant from the force was not sound, defensible or well-founded, the Appeals Board must confirm the order of the Chief Commissioner.

68E Evidence

S. 68E
inserted by
No. 30/1999
s. 13.

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S. 68E(1)(2)
repealed by
No. 61/1999
s. 6(2)(f).

(3) Subject to subsection (4), evidence is not to be adduced before the Appeals Board in a review under this Division unless—

S. 68E(3)
amended by
No. 61/1999
s. 6(2)(g)(i).

(a) notice of intention to do so, and of the substance of the evidence, has been given to the Appeals Board before the commencement of the hearing of the review; and

S. 68E(3)(a)
amended by
No. 61/1999
s. 6(2)(g)(ii).

(b) the Appeals Board gives leave.

S. 68E(3)(b)
amended by
No. 61/1999
s. 6(2)(g)(ii).

(4) Subsection (3) does not apply to the following—

- (a) the Chief Commissioner's order;
- (b) the notice given under section 68(2)(a);
- (c) any information before the Chief Commissioner at the time of making the order, including any submissions made under section 68(2)(c).

(5) The Appeals Board—

S. 68E(5)
amended by
No. 61/1999
s. 6(2)(h).

- (a) may give leave under subsection (3)(b) in such circumstances as it thinks fit and having regard to the nature of the review; and

s. 68F

- (b) without limiting paragraph (a), must give leave under subsection (3)(b) if it is satisfied—
 - (i) that there is a real probability that the applicant may be able to show that the Chief Commissioner has acted on wrong or mistaken information; or
 - (ii) that there is cogent evidence to suggest that the information before the Chief Commissioner was unreliable, having been placed before the Chief Commissioner maliciously, fraudulently or vexatiously; or
 - (iii) that the evidence sought to be adduced might materially have affected the Chief Commissioner's decision.

S. 68F
inserted by
No. 30/1999
s. 13.

68F Witnesses

S. 68F(1)
amended by
No. 61/1999
s. 6(2)(i)(ii).

- (1) None of the following is a compellable witness in a review under this Division unless the Appeals Board gives leave—
 - (a) the Chief Commissioner;
 - (b) a member of the force;
 - (c) a person employed in the office of the Chief Commissioner.

S. 68F(2)
amended by
No. 61/1999
s. 6(2)(i)(i).

- (2) The Appeals Board may give leave only if it considers that extraordinary grounds exist that warrant leave being given.

Police Regulation Act 1958
No. 6338 of 1958
Part IV—Employment, Disciplinary and Other Matters

s. 68G

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S. 68F(3)(4)
repealed by
No. 61/1999
s. 6(2)(j)(ii).

68G Representation and costs

S. 68G
inserted by
No. 30/1999
s. 13.

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S. 68G(1)
repealed by
No. 61/1999
s. 6(2)(k)(i).

(2) Subject to subsection (3), each party is to bear their own costs of a review under this Division.

S. 68G(2)
repealed by
No. 61/1999
s. 6(2)(k)(ii).

(3) The Appeals Board may order that a party pay all or a specified part of the other party's costs of a review under this Division if satisfied that the first party has conducted themselves in the review in a way that unnecessarily disadvantaged the other party.

S. 68G(3)
amended by
No. 61/1999
s. 6(2)(l)(i)(ii).

(4) An order for costs may be enforced as a debt in a court of competent jurisdiction.

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Ss 68H, 68I
inserted by
No. 30/1999
s. 13,
repealed by
No. 61/1999
s. 6(2)(m).

Pt 4 Div. 2
(Heading)
inserted by
No. 35/1993
s. 10.

Nos 5126 s. 3,
5260 s. 3(1),
6091 s. 3(1).
S. 69
amended by
Nos 6833 s. 3,
6957
s. 4(1)(d)(e),
8179
s. 3(j)(i)(ii),
8487 s. 3, 8745
s. 5, 9066 s. 4,
9433 s. 2, 9646
s. 4(a)–(d),
9906 s. 4, 9975
s. 4(a)(b),
10250
s. 9(a)(b),
32/1987
s. 5(1)(a)(b),
15/1989 s. 11,
42/1990
s. 4(3)(a)(i)(ii)
(b)(c), 11/1992
s. 8(1)(a)(b)(2),
substituted by
No. 35/1993
s. 10.

S. 69(1)(ab)
inserted by
No. 36/2001
s. 116.

S. 69(1)(ac)
inserted by
No. 34/2008
s. 142(2)(a).

S. 69(1)(ba)
inserted by
No. 67/2007
s. 4.

Division 2—Discipline

69 Breaches of discipline

- (1) A member of the force commits a breach of discipline if he or she—
 - (a) contravenes a provision of this Act or the regulations; or
 - (ab) fails to comply with a direction under section 55 or 90 of the **Whistleblowers Protection Act 2001**; or
 - (ac) fails to comply with a direction given under section 47 of the **Police Integrity Act 2008**; or
 - (b) fails to comply with a standing order or instruction of the Chief Commissioner; or
 - (ba) fails to comply with a direction given under Division 4A of Part IV; or

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| (bb) refuses to consent to the use of evidence derived from a sample in the circumstances referred to in section 85D; or | S. 69(1)(bb) inserted by No. 67/2007 s. 4. |
| (bc) fails to comply with a direction given under Division 5 of Part 2 of the Police Integrity Act 2008 ; or | S. 69(1)(bc) inserted by No. 34/2008 s. 142(2)(b). |
| (bd) refuses to consent to the use of evidence derived from a sample in the circumstances referred to in section 33 of the Police Integrity Act 2008 ; or | S. 69(1)(bd) inserted by No. 34/2008 s. 142(2)(b). |
| (c) engages in conduct that is likely to bring the force into disrepute or diminish public confidence in it; or | |
| (d) fails to comply with a lawful instruction given by the Chief Commissioner, a member of or above the rank of senior sergeant or a person having the authority to give the instruction; or | |
| (e) is guilty of disgraceful or improper conduct (whether in his or her official capacity or otherwise); or | |
| (f) is negligent or careless in the discharge of his or her duty; or | |
| (g) without the approval of the Chief Commissioner— | |
| (i) applies for or holds a licence or permit to conduct any trade, business or profession; or | |
| (ii) conducts any trade, business or profession; or | |
| (iii) accepts any other employment; or | |
| (h) acts in a manner prejudicial to the good order or discipline of the force; or | |
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s. 70

- (i) has been charged with an offence (whether under a Victorian law or under a law of another place) and the offence has been found proven.
- (2) A member of the force who aids, abets, counsels or procures, or who, by any act or omission, is directly or indirectly knowingly concerned in or a party to the commission of a breach of discipline, also commits a breach of discipline.
- (3) A member of the force may commit a breach of discipline under subsection (1) in respect of conduct engaged in while seconded to the Office of Police Integrity.

S. 69(3)
inserted by
No. 63/2004
s. 4(2).

No. 5126 s. 4.
S. 70
amended by
Nos 6957
s. 4(1)(f), 8097
s. 4, 8179
s. 3(k), 9433
s. 3(a)-(c),
9646 s.
5(a)(b)(i)(ii)
(c)-(f), 15/1989
s. 12, 42/1990
s. 4(4)(a)-(d),
11/1992 s. 9,
83/1992 s. 184
(Sch. 6 item
17.2(a)-(c)),
substituted by
No. 35/1993
s. 10.

70 Preliminary investigation

- (1) If the Chief Commissioner reasonably believes that a member of the force may have committed a breach of discipline, the Chief Commissioner may begin an investigation of the matter.
- (2) At any time during an investigation into a matter the Chief Commissioner may—
 - (a) transfer the member to other duties; or
 - (b) direct the member to take any leave which has accrued to him or her; or
 - (c) suspend the member from the Force with pay.

S. 70(2)
amended by
No. 30/1999
s. 14(1)(a)(i).

S. 70(2)(b)
amended by
No. 30/1999
s. 14(1)(a)(ii).

- (3) If the Chief Commissioner has not charged a member within 3 months of taking action under subsection (2), the Chief Commissioner must withdraw the transfer, direction or suspension.
- (4) The Chief Commissioner may apply to the Chairperson of the Appeals Board for an extension of the time specified in subsection (3).
- (5) The Chairperson may give the extension if he or she reasonably believes it is necessary for the inquiry.

S. 70(4)
amended by
No. 61/1999
s. 6(3).

71 Charging

No. 5126 s. 5.

- (1) If, after conducting a preliminary investigation, the Chief Commissioner or an officer authorised by the Chief Commissioner reasonably believes that a member of the force has committed a breach of discipline, the Chief Commissioner or authorised officer may charge the member with the commission of that breach of discipline.

S. 71
amended by
No. 9019
s. 2(1)(Sch.
item 185),
substituted by
No. 35/1993
s. 10.

- (2) If the Chief Commissioner or authorised officer reasonably believes that the member has committed an offence referred to in the First Schedule, the Chief Commissioner or authorised officer must not charge the member with the commission of a breach of discipline until the Chief Commissioner or authorised officer has consulted the Director of Public Prosecutions.

S. 71(2)
repealed by
No. 30/1999
s. 14(1)(b)(i),
new s. 71(2)
inserted by
No. 61/1999
s. 7,
substituted by
No. 9/2001
s. 5.

- (2A) If the Chief Commissioner or authorised officer reasonably believes that the member has committed any other offence, the Chief Commissioner or authorised officer may consult the Director of Public Prosecutions before charging the member with the commission of a breach of discipline.

S. 71(2A)
inserted by
No. 9/2001
s. 5.

S. 71(3)(b)
amended by
No. 30/1999
s. 14(1)(b)(ii).

- (3) Upon charging a member, the Chief Commissioner or authorised officer may—
 - (a) transfer the member to other duties; or
 - (b) direct the member to take any leave which has accrued to him or her; or
 - (c) suspend the member from the Force with or without pay.
- (4) Any action taken under subsection (3) remains in force until the charge has been finally determined.

No. 5126 s. 7.
S. 72
amended by
Nos 6957
s. 4(1)(g), 9902
s. 2(1)(Sch.
item 207),
42/1990
s. 13(e),
substituted by
No. 35/1993
s. 10.

72 Form of charge

- (1) A charge must—
 - (a) be in writing; and
 - (b) contain particulars of the alleged breach of discipline; and
 - (c) specify when and where an inquiry into the charge is to be conducted; and
 - (d) specify that the member must state in writing whether or not he or she admits or denies the truth of the charge; and
 - (e) specify the time within which the member must make the statement under paragraph (d).
- (2) If a member has not made the statement required under subsection (1)(d) within the time specified under subsection (1)(e), the Chief Commissioner can proceed without the statement.

73 Inquiry into a charge

The Chief Commissioner or an officer authorised by the Chief Commissioner must inquire into and determine a charge.

No. 5126 s. 8.
S. 73
amended by
No. 9646 s. 7
(as amended
by No. 9902
s. 2(1)(Sch.
item 208)),
substituted by
No. 35/1993
s. 10.

74 Authorised officers

The Chief Commissioner may authorise any member of the force or any person employed under the **Public Administration Act 2004** to charge a member or to inquire into and determine a charge under section 73.

No. 5126 s. 9.
S. 74
substituted by
No. 35/1993
s. 10,
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 158.3).

75 Procedure on an inquiry

No. 5126 s. 10.
S. 75
substituted by
No. 35/1993
s. 10.

- (1) A member of the force who is charged with a breach of discipline may appear at the inquiry into the charge or may be represented by any person other than a legal practitioner.
- (2) If a member who is the subject of an inquiry does not attend in person or by representative at the time and place fixed for the inquiry, the person conducting the inquiry may proceed in his or her absence.
- (3) At an inquiry—
 - (a) subject to this section, the procedure of the inquiry is at the discretion of the person conducting it; and

S. 75(1)
amended by
No. 35/1996
s. 453(Sch. 1
item 65.1).

s. 76

- (b) the proceedings must be conducted with as little formality and technicality as the requirements of this Act and the proper consideration of the matter permit; and
- (c) the person conducting the inquiry is not bound by the rules of evidence but may inform himself or herself in any way he or she sees fit; and
- (d) the person conducting the inquiry is bound by the rules of natural justice.

S. 75(4)
amended by
No. 69/2009
s. 54(Sch. Pt 2
item 38).

- (4) Sections 14, 15, 16 and 21A of the **Evidence (Miscellaneous Provisions) Act 1958** apply to the conduct of an inquiry as if the person conducting the inquiry were a Board or the Chairman of a Board appointed by the Governor in Council.

No. 5126 s. 11.
S. 76
amended by
Nos 7349
s. 2(a), 9646
s. 7 (as
amended by
No. 9902
s. 2(1)(Sch.
item 208)),
substituted by
No. 35/1993
s. 10.

76 Determination of the inquiry

- (1) If, after considering all the submissions made at an inquiry the person conducting the inquiry finds that the charge has been proved, the person conducting the inquiry may make one or more of the following determinations—

- (a) to reprimand the member; or

- (b) to adjourn the hearing of the inquiry into the charge on the condition that the member be of good behaviour for a period not exceeding 12 months or on any other condition specified in the determination; or

- (c) to impose a fine not exceeding 40 penalty units; or

- (ca) to impose a period, not exceeding 2 years, during which the member will not be eligible for promotion or transfer to other duties; or

S. 76(1)(b)
amended by
No. 30/1999
s. 14(1)(c).

S. 76(1)(ca)
inserted by
No. 30/1999
s. 14(1)(d).

- (d) to reduce rank or seniority of the member; or
 - (e) to reduce the remuneration of the member; or
 - (f) to transfer the member to other duties; or
 - (g) to dismiss the member.
- (2) The person conducting the inquiry may also determine that the member make any restitution or pay any compensation or costs that are appropriate for that matter.
- (3) If the person conducting the inquiry reduces a member in rank, the Chief Commissioner must determine the seniority of that member in relation to other members of that rank to which he or she has been reduced.
- (4) If the person conducting the inquiry finds that the charge has not been proved—
- (a) any suspension against the member relating to the charge expires; and
 - (b) if the member has been suspended without pay, an amount equal to the pay the member would have received during that period of suspension must be paid to the member; and
 - (c) if the member has been directed to take leave, the member must be credited with any leave taken at that direction.

77 Enforcement of the determination

- (1) The Chief Commissioner and, where the Chief Commissioner has not conducted the inquiry, the person conducting the inquiry must take all action necessary to give effect to a determination made on an inquiry.

No. 5126 s. 12.
S. 77
amended by
Nos 7349
s. 2(b), 9646
s. 7 (as
amended by
No. 9902
s. 2(1)(Sch.
item 208)),
substituted by
No. 35/1993
s. 10.

s. 78

S. 77(2)
amended by
No. 30/1999
s. 14(1)(e).

- (2) A fine or requirement to pay compensation or costs or make restitution may be recovered in the Magistrates' Court as a civil debt or by deducting the amount from the pay of the member or from any other amount payable to the member by the State.

No. 5126 s. 13.
S. 78
amended by
No. 42/1990
s. 4(5),
substituted by
No. 35/1993
s. 10.

78 Adjournment of charge

- (1) If the hearing of an inquiry into a charge has been adjourned under section 76(1)(b), the time and place of the further hearing must be fixed at the time of the adjournment.
- (2) If, at the further hearing of the inquiry into the charge, the person conducting the hearing is satisfied that the member has been of good behaviour, he or she must dismiss the charge, but in any other case the hearing must be continued in the same manner as if it had not been adjourned.

Pt 4 Div. 3
(Heading)
inserted by
No. 35/1993
s. 10.

Division 3—Members alleged to have committed criminal offences punishable by imprisonment

No. 5126 s. 14.
S. 79
amended by
No. 6505 s. 2,
substituted by
No. 35/1993
s. 10.

79 Where member believed to have committed a criminal offence punishable by imprisonment

S. 79(1)
amended by
No. 30/1999
s. 14(1)(f)(i).

- (1) If the Chief Commissioner reasonably believes a member of the force to have committed an offence punishable by imprisonment the Chief Commissioner may cause an investigation into the matter under the criminal law to be commenced and may, at any time during that investigation—

S. 79(1)(b)
amended by
No. 30/1999
s. 14(1)(f)(ii).

- (a) transfer the member to other duties; or
- (b) direct the member to take any leave which has accrued to him or her; or

- (c) suspend the member from the Force with pay.
- (2) If a member of the force has been charged under the criminal law with an offence punishable by imprisonment (whether or not within the State or within any other jurisdiction) the Chief Commissioner may—
 - (a) transfer the member to other duties; or
 - (b) direct the member to take any leave which has accrued to him or her; or
 - (c) suspend the member from the Force, with or without pay.

S. 79(2)(b)
amended by
No. 30/1999
s. 14(1)(f)(ii).

80 Where charge found proven against a member

No. 5126 s. 15.
S. 80
substituted by
No. 35/1993
s. 10.

- (1) If a member of the force has been charged under the criminal law with an offence punishable by imprisonment (whether or not within the State or in any other jurisdiction) and the offence has been found proven, the Chief Commissioner may—
 - (a) do one or more of the following—
 - (i) reprimand the member;
 - (ii) reduce rank or seniority of the member;
 - (iii) reduce the remuneration of the member; or
 - (b) require the member to be of good behaviour for a period not exceeding 12 months or on any other condition specified in the determination; or
 - (c) impose a fine not exceeding 40 penalty units; or

S. 80(1)(a)
substituted by
No. 26/1997
s. 40.

S. 80(1)(b)
substituted by
No. 26/1997
s. 40,
amended by
No. 30/1999
s. 14(1)(g).

S. 80(1)(c)
substituted by
No. 26/1997
s. 40.

Police Regulation Act 1958
No. 6338 of 1958
Part IV—Employment, Disciplinary and Other Matters

s. 80

S. 80(1)(ca)
inserted by
No. 30/1999
s. 14(1)(h).

(ca) to impose a period, not exceeding 2 years,
during which the member will not be eligible
for promotion or transfer to other duties; or

S. 80(1)(d)
substituted by
No. 26/1997
s. 40.

(d) transfer the member to other duties; or

S. 80(1)(e)
substituted by
No. 26/1997
s. 40.

(e) dismiss the member.

S. 80(1)(f)(g)
repealed by
No. 26/1997
s. 40.

* * * * *

S. 80(2)
amended by
No. 68/2009
s. 97(Sch.
item 93.2).

(2) If a member who has been dismissed under this
section is subsequently pardoned or the conviction
of the member is subsequently set aside, the
member may be re-appointed to the force at the
rank the member held before dismissal.

(3) Upon a re-appointment under subsection (2), the
member is deemed to have continued in the force
as if not dismissed and as if, during the period
during which the member was not performing his
or her duties because of the dismissal, the member
had been on leave of absence without pay.

(4) For the purposes of subsection (3), a member is
not to be taken to be entitled to any other leave
credits for any period during which he or she is to
be taken to have been on leave of absence without
pay.

S. 80(5)
inserted by
No. 30/1999
s. 14(2).

(5) A fine imposed under this section may be
recovered in the Magistrates' Court as a civil debt
or by deducting the amount from the pay of the
member or from any other amount payable to the
member by the State.

81 Action not to be taken against a member twice

The Chief Commissioner must not take action against a member under Division 2 in respect of an act for which that member has had action taken against him or her under section 80(1).

No. 5126 s. 16.
S. 81
substituted by
No. 35/1993
s. 10.

Division 4—Fitness for duty

Pt 4 Div. 4
(Heading)
inserted by
No. 35/1993
s. 10.

82 Inquiry into fitness for duty

- (1) If the Chief Commissioner reasonably believes that a member is incapable of performing his or her duties or inefficient in performing his or her duties and that incapacity or inefficiency is not caused by any infirmity of mind or body, the Chief Commissioner must inquire into the matter.

No. 5126 s. 17.
S. 82
amended by
Nos 9066 s. 5,
9646 s. 6(a)-(f),
9975 s. 5,
32/1987
s. 5(2)(a)(b),
substituted by
No. 15/1989
s. 13,
amended by
Nos 42/1990
s. 4(6)(a)(b),
11/1992 s. 10,
substituted by
No. 35/1993
s. 10.

- (2) The Chief Commissioner may authorise a member of the force or a person employed under the **Public Administration Act 2004** to inquire into a matter under this Division.

S. 82(2)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 158.3).

83 Notice of the inquiry

- (1) The person conducting the inquiry must give notice of the inquiry in writing to the member who is the subject of the inquiry.
- (2) A notice under subsection (1) must—
- (a) state the time and place at which the inquiry is to be conducted; and

No. 5126 s. 18.
S. 83
repealed by
No. 11/1992
s. 11,
new s. 83
inserted by
No. 35/1993
s. 10.

- (b) give particulars of the alleged incapacity or inefficiency.

No. 5126 s. 19.
S. 84
repealed by
No. 11/1992
s. 12,
new s. 84
inserted by
No. 35/1993
s. 10.

84 Procedure at an inquiry

S. 84(1)
amended by
No. 35/1996
s. 453(Sch. 1
item 65.1).

- (1) A member of the force who is the subject of an inquiry may appear at the inquiry or may be represented by any person other than a legal practitioner.
- (2) If a member who is the subject of an inquiry does not attend in person or by representative at the time and place fixed for the inquiry, the person conducting the inquiry may proceed in his or her absence.
- (3) At an inquiry—
 - (a) subject to this section, the procedure of the inquiry is at the discretion of the person conducting it;
 - (b) the proceedings must be conducted with as little formality and technicality as the requirements of this Act and the proper consideration of the matter permit;
 - (c) the person conducting the inquiry is not bound by the rules of evidence but may inform himself or herself in any way he or she sees fit; and
 - (d) the person conducting the inquiry is bound by the rules of natural justice.

- (4) Sections 14, 15, 16 and 21A of the **Evidence (Miscellaneous Provisions) Act 1958** apply to the conduct of an inquiry as if the person conducting the inquiry were a Board or the Chairman of a Board appointed by the Governor in Council.

S. 84(4)
amended by
No. 69/2009
s. 54(Sch. Pt 2
item 38).

85 Determination of the inquiry

No. 5126 s. 20.
S. 85
substituted by
Nos 8745 s. 3,
35/1993 s. 10.

If, after considering all the submissions made at the inquiry, the person conducting the inquiry finds that the member is incapable of performing his or her duties or inefficient in performing his or her duties, the person conducting the inquiry may—

- (a) transfer the member to other duties; or
- (b) reduce the member in rank; or
- (c) dismiss the member.

* * * * *

S. 85A
inserted by
No. 8745 s. 3,
repealed by
No. 35/1993
s. 10.

Division 4A—Testing of Members for Alcohol or Drugs of Dependence

Pt 4 Div. 4A
(Heading and
ss 85A–85H)
inserted by
No. 67/2007
s. 5.

85A Definitions

New s. 85A
inserted by
No. 67/2007
s. 5.

In this Division—

approved health professional has the same meaning as in the **Road Safety Act 1986**;

S. 85A def. of
*approved
health
professional*
inserted by
No. 55/2009
s. 58.

critical incident means an incident involving a member of the force while that member was on duty which—

- (a) resulted in the death of, or serious injury to, a person; and
- (b) also involved any one or more of the following—
 - (i) the discharge of a firearm by the member;
 - (ii) the use of force by the member;
 - (iii) the use of a motor vehicle by the member (including as a passenger) in the course of the member's duties;
 - (iv) the death of, or serious injury to, the person while the person was in the custody of the member;

drug of dependence has the same meaning as it has in the **Drugs, Poisons and Controlled Substances Act 1981**;

registered medical practitioner means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

S. 85A def. of *registered medical practitioner* substituted by No. 13/2010 s. 51(Sch. item 42.4).

serious injury includes an injury that—

- (a) is life threatening; or
- (b) is likely to result in permanent impairment; or
- (c) is likely to require long-term rehabilitation; or
- (d) is, in the opinion of the Chief Commissioner, of such nature, or

occurred in such circumstances, that the infliction of it is likely to bring the force into disrepute or diminish public confidence in it.

85B Testing of members in certain circumstances

**S. 85B
inserted by
No. 67/2007
s. 5.**

- (1) This section applies to a member of the force if the Chief Commissioner reasonably believes that the member—
 - (a) because of the consumption of alcohol or a drug of dependence by the member, is incapable of performing his or her duties, or is inefficient in performing his or her duties; or
 - (b) has been involved in a critical incident; or
 - (c) ought to be tested for alcohol or a drug of dependence for the good order or discipline of the force.
- (2) The Chief Commissioner may, in accordance with the regulations, direct a member of the force to whom this section applies to do one or more of the following—
 - (a) furnish a sample of breath; or
 - (b) furnish a sample of urine; or
 - (c) allow a registered medical practitioner or an approved health professional to take from the member a sample of the member's blood—for the purpose of testing for the presence of alcohol or a drug of dependence.
- (3) The Chief Commissioner—
 - (a) must not give a direction under subsection (2) unless satisfied that the results of the testing may be relevant to—

**S. 85B(2)(c)
amended by
No. 55/2009
s. 59(1).**

s. 85C

- (i) the management of the member's performance of his or her duties; or
 - (ii) an investigation under Part IV or IVA in respect of the member; or
 - (iii) a proceeding arising out of, or connected with, any such investigation; and
- (b) may give a direction in the circumstances referred to in subsection (1)(b) only if—
- (i) in the case of a critical incident referred to in paragraph (b)(iii) of the definition of **critical incident**, the direction is given within 3 hours after the critical incident occurred; or
 - (ii) in the case of any other critical incident, the direction is given within a reasonable time after the critical incident occurred.

S. 85B(4)
amended by
No. 55/2009
s. 59(2).

- (4) No action lies against a registered medical practitioner or an approved health professional in respect of anything properly and necessarily done by the practitioner or health professional in the course of taking any sample which the practitioner or health professional believes on reasonable grounds was required or allowed to be taken from any member under this Division.
- (5) Nothing in this section affects the operation of Part 5 of the **Road Safety Act 1986**.

S. 85C
inserted by
No. 67/2007
s. 5.

85C Chief Commissioner may have regard to evidence in certain circumstances

The Chief Commissioner may have regard to evidence derived from a sample obtained in accordance with a direction made under this Division in—

- (a) managing the member's performance of his or her duties; or
- (b) in any investigation under Part IV or IVA in respect of the member; or
- (c) in any proceeding arising out of, or connected with, any such investigation.

85D Taking of sample when member is unconscious or otherwise unable to comply with direction

S. 85D
inserted by
No. 67/2007
s. 5.

- (1) If a member of the force whom the Chief Commissioner believes was involved in a critical incident is unconscious or is otherwise unable to comply with a direction given to him or her, the Chief Commissioner may direct a registered medical practitioner to take from the member a sample of the member's blood for analysis for the purpose of testing for the presence of alcohol or a drug of dependence.
- (2) If a sample of a member's blood is taken in the circumstances referred to in subsection (1), the Chief Commissioner must, upon the member regaining consciousness or otherwise becoming able to comply with a direction given to him or her, advise the member—
 - (a) of the taking of the sample; and
 - (b) that he or she may refuse to consent to the use of any evidence derived from the sample; and
 - (c) that a refusal to consent to the use of the evidence constitutes a breach of discipline under section 69.
- (3) Evidence derived from a sample obtained in accordance with a direction under subsection (1) must be destroyed if the member from whom the sample was taken refuses to consent to the use of

the evidence in the circumstances set out in that subsection.

- (4) The Chief Commissioner must cause any sample taken under subsection (1) and in respect of which consent is refused under subsection (2) to be destroyed.
- (5) Nothing in this section affects the operation of Part 5 of the **Road Safety Act 1986**.

S. 85E
inserted by
No. 67/2007
s. 5.

85E Admissibility of test result in certain proceedings

- (1) Evidence derived from a sample obtained in accordance with a direction made under section 85B or 85D is inadmissible in any proceeding in a court, tribunal or before a person or body authorised to hear and receive evidence.
- (2) Subsection (1) does not apply—
 - (a) in a proceeding under the **Accident Compensation Act 1985** to rebut or support an allegation that the presence of alcohol or a drug of dependence contributed to the injury in respect of which the proceeding was commenced; or
 - (b) in a prosecution under the **Occupational Health and Safety Act 2004** to rebut or support an allegation that the presence of alcohol or a drug of dependence contributed to the occurrence of the act, matter or thing constituting the offence in respect of which the prosecution is brought; or
 - (c) in a proceeding arising out of, or connected with, an investigation under Part IV or IVA in respect of the member; or
 - (d) in a proceeding arising out of, or connected with, a critical incident.

- (3) Subsection (2) does not apply to evidence derived from a sample obtained in accordance with a direction made under section 85D if the member from whom the sample was taken refuses or has refused to consent to the use of the evidence in the circumstances set out in section 85D(2).
- (4) In this section, a *proceeding* includes a coronial inquest or inquiry.

85F Confidentiality of test results

The Chief Commissioner must ensure that the result of any test conducted in accordance with a direction given under this Division is handled in accordance with the regulations.

S. 85F
inserted by
No. 67/2007
s. 5,
amended by
No. 40/2010
s. 44(1).

85G Offence to disclose identifying information

- (1) A person must not, other than as required or authorised by this Act or the regulations, disclose to any other person the identity of a person to whom or in respect of whom a direction is given under this Division.

Penalty: 60 penalty units.

- (2) Subsection (1) does not apply to disclosure by—
- (a) the person to whom or in respect of whom a direction is given under this Division; or
- (b) the Director or a member of staff of the Office of Police Integrity.

S. 85G
inserted by
No. 67/2007
s. 5.

* * * * *

Note to
s. 85G(2)
repealed by
No. 34/2008
s. 142(3).

- (3) Subsection (1) does not apply to the disclosure of information in a proceeding of a kind referred to in section 85E(2).

S. 85H
inserted by
No. 67/2007
s. 5.

85H Regulations

The regulations may make provision for or with respect to—

- (a) the persons authorised—
 - (i) to administer breath tests or to conduct breath analyses or other tests for the purpose of detecting the presence of alcohol or drugs of dependence; and
 - (ii) to operate equipment for that purpose;
- (b) the circumstances in which a breath sample, a urine sample or a blood sample may be taken;
- (c) the procedure for the taking of samples of breath, urine or blood;
- (d) the devices used in carrying out the breath tests, breath analyses and other tests, including the calibration, inspection and testing of those devices;
- (e) the accreditation of persons conducting analyses for the presence of drugs of dependence;
- (f) the procedure for the handling and analysis of samples of urine or blood;
- (g) offences relating to interference with test results or the testing procedure;
- (h) the handling and confidentiality of test results.

Division 5—Effect of suspension dismissal or reduction of rank of a member

Pt 4 Div. 5
(Heading)
inserted by
No. 35/1993
s. 10.

86 Suspension of a member

No. 5126 s. 21.
S. 86
amended by
Nos 6886 s. 3,
11/1992 s. 13,
substituted by
No. 35/1993
s. 10.

- (1) Despite anything to the contrary in this or any other Act or regulation, a member of the force who has been suspended without pay under section 71(3)(c) or 79(2)(c), may, with the approval of the Chief Commissioner, undertake paid employment during the period of that suspension.
- (2) Immediately upon being suspended, a member must surrender his or her certificate of identity, uniform and equipment issued to him or her for the performance of his or her duties.

S. 86(2)
amended by
No. 30/1999
s. 14(3)(a).

Penalty: 50 penalty units.

* * * * *

S. 86(3)–(5)
repealed by
No. 30/1999
s. 14(3)(b).

- (6) A member who has been suspended from the Force must comply with an order from a superior officer to temporarily return to work. A member who does not comply with such an order is guilty of an offence and liable upon conviction to a penalty of 5 penalty units.
- (7) A member who is suspended must not, while on suspension, enter any police premises, other than those areas available to the public, unless under a direction to do so.

Penalty: 5 penalty units.

s. 86AAA

S. 86AAA
inserted by
No. 30/1999
s. 15.

86AAA Forfeiture of salary by suspended member

(1) If—

- (a) a charge is proven against a member of the force under Division 2; or
- (b) a member of the force has been charged with an offence referred to in section 80 and the offence has been found proven; or
- (c) a member resigns from the force before any charge under Division 2 or any criminal charge referred to in section 80 is finalised—

and the member has been suspended, the member forfeits all salary that accrued to him or her during the member's suspension and must repay any salary that has been paid to him or her during the suspension.

- (2) Any salary not repaid under subsection (1) may be recovered by the Chief Commissioner, as a debt due to the State, in a court of competent jurisdiction.
- (3) The Chief Commissioner may, on application to him or her in writing, determine that subsection (1) does not apply to a member of the force.

S. 86AA
inserted by
No. 35/1993
s. 10.

86AA No compensation for dismissal or reduction of rank

A member of the force is not entitled to any compensation for a reduction in his or her salary which is consequent upon a reduction in his or her rank or his or her dismissal under this Part except in accordance with any arrangement made with the employer of members of the force about the termination of employment of members of the force.

Division 6—Annual report of Chief Commissioner

Pt 4 Div. 6
(Heading)
inserted by
No. 35/1993
s. 10.

86AB Annual report of Chief Commissioner

S. 86AB
inserted by
No. 35/1993
s. 10.

- (1) The Chief Commissioner must prepare a report in respect of each year ending on 30 June on—
 - (a) any action taken by the Chief Commissioner or an authorised officer under this Part and on the outcome of that action (including the result of any Appeals Board review of that action); and
 - (b) any action taken by the Chief Commissioner under section 102P.
- (2) The Chief Commissioner must submit the report to the Minister not later than 30 September in that year.

S. 86AB(1)
amended by
Nos 30/1999
s. 16, 61/1999
s. 8(a),
substituted by
No. 87/2005
s. 14.

s. 86A

Pt 4A
(Heading)
inserted by
No. 10250
s. 10,
substituted by
Nos 14/1988
s. 18(Sch. 1
item 1),
32/2004
s. 10(1).
Pt 4A
(ss 86A–86U)
inserted by
No. 10250
s. 10.

PART IVA—COMPLAINTS AND INVESTIGATIONS²

Division 1—Preliminary

S. 86A
inserted by
No. 10250
s. 10.

86A Definitions

In this Part—

S. 86A def. of
Authority
repealed by
No. 14/1988
s. 14(a).

* * * *

S. 86A def. of
conduct
substituted by
No. 26/1997
s. 41(1).

conduct, in relation to a member of the force,
means—

- (a) an act or decision or the failure or refusal by the member to act or make a decision in the exercise, performance or discharge, or purported exercise, performance or discharge, whether within or outside Victoria, of a power, function or duty which the member has as or, by virtue of being, a member of the force; or
- (b) conduct which constitutes an offence punishable by imprisonment; or

- (c) conduct which is likely to bring the force into disrepute or diminish public confidence in it; or
- (d) disgraceful or improper conduct (whether in the member's official capacity or otherwise);

*	*	*	*	*	S. 86A def. of <i>Deputy Ombudsman</i> inserted by No. 14/1988 s. 14(b), repealed by No. 32/2004 s. 9(2).
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*	*	*	*	*	S. 86A def. of <i>Ombudsman</i> inserted by No. 14/1988 s. 14(b), repealed by No. 32/2004 s. 9(2).
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serious misconduct, in relation to a member of the force, means—

- (a) conduct which constitutes an offence punishable by imprisonment; or
- (b) conduct which is likely to bring the force into disrepute or diminish public confidence in it; or
- (c) disgraceful or improper conduct (whether in the member's official capacity or otherwise).

S. 86A def. of *serious misconduct* inserted by No. 26/1997 s. 41(2).

86B Provisions of this Act prevail

A provision of this Act that is inconsistent with a provision of the **Ombudsman Act 1973** prevails, to the extent of the inconsistency, over the provision of that Act.

S. 86B inserted by No. 10250 s. 10, substituted by No. 14/1988 s. 15.

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86C

Ss 86C–86H
inserted by
No. 10250
s. 10,
repealed by
No. 14/1988
s. 18(Sch. 1
items 2–7).

* * * *

S. 86I
inserted by
No. 10250
s. 10,
substituted by
No. 14/1988
s. 16,
amended by
No. 32/2004
s. 10(2)(a),
repealed by
No. 63/2004
s. 4(3).

* * * *

S. 86J
inserted by
No. 10250
s. 10,
amended by
Nos 14/1988
s. 18(Sch. 1
items 8–11),
15/1989 s. 14,
57/1989
s. 3(Sch.
item 156.6),
61/1999
s. 8(b),
32/2004
s. 10(2)(a),
63/2004
s. 4(4)(5)(a),
79/2004
ss 75, 76,
repealed by
No. 34/2008
s. 134.

* * * *

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86K

* * * * *

S. 86JA
inserted by
No. 79/2004
s. 77,
repealed by
No. 34/2008
s. 134.

86K Offences

S. 86K
inserted by
No. 10250
s. 10,
amended by
No. 15/1989
s. 15(1)(a).

(1) A person who—

S. 86K(1)
amended by
No. 30/1999
s. 17(1).

(a) without lawful excuse (proof of which lies upon the person) wilfully obstructs hinders or resists any person in the exercise of his or her powers under this Part; or

S. 86K(1)(a)
amended by
Nos 14/1988
s. 18(Sch. 1
item 12),
32/2004
s. 10(2)(a),
63/2004
s. 4(5)(b)(i),
34/2008
s. 142(4).

(b) without lawful excuse (proof of which lies upon the person) refuses or wilfully fails to comply with any lawful requirement of any person in the exercise of his or her powers under this Part; or

S. 86K(1)(b)
inserted by
No. 15/1989
s. 15(1)(b),
amended by
Nos 32/2004
s. 10(2)(a),
63/2004
s. 4(5)(b)(i),
79/2004
s. 78(a),
34/2008
s. 142(4).

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86K

S. 86K(1)(b)
amended by
No. 14/1988
s. 18(Sch. 1
item 12),
re-numbered
as s. 86K(1)(c)
by No.
15/1989
s. 15(1)(c),
amended by
Nos 15/1989
s. 15(1)(d),
32/2004
s. 10(2)(a),
63/2004
s. 4(5)(b)(i),
34/2008
s. 142(4).

(c) wilfully makes a statement which the person
knows to be false or misleading in a material
particular or misleads or attempts to mislead
any person in the exercise of his or her
powers under this Part—

is guilty of an offence.

Penalty: 10 penalty units or imprisonment for
12 months or both.

S. 86K(2)
inserted by
No. 15/1989
s. 15(2),
amended by
Nos 32/2004
s. 10(2)(a),
63/2004
s. 4(5)(b)(i)(ii),
repealed by
No. 79/2004
s. 78(b).

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S. 86KA
inserted by
No. 79/2004
s. 79,
repealed by
No. 34/2008
s. 142(5).

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Ss 86KB,
86KC
inserted by
No. 79/2004
s. 79,
repealed by
No. 34/2008
s 142(6).

* * * *

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations^{1F}

s. 86L

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S. 86KD
inserted by
No. 79/2004
s. 79,
repealed by
No. 67/2007
s. 6.

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Pt 4A Div. 1A
(Heading and
ss 86KE–
86KK)
inserted by
No. 34/2008
s. 135,
amended by
No. 60/2008
ss 9, 10,
repealed by
No. 34/2008
s. 142(7).

Division 2—Complaints and investigations

Pt 4A Div. 2
(Heading)
substituted by
No. 30/1999
s. 17(2).

86L Making of complaints

S. 86L
inserted by
No. 10250
s. 10.

- (1) A complaint about the conduct of a member of the force may be made—
- (a) to another member of the force; or
 - (b) to the Director.

S. 86L(1)(b)
amended by
Nos 14/1988
s. 18(Sch. 1
item 13),
32/2004
s. 10(2)(a),
63/2004
s. 4(5)(c)(i).

Note

Complaints made to the Director are investigated under Part 3 of the **Police Integrity Act 2008**.

Note to
s. 86L(1)
inserted by
No. 34/2008
s. 142(8)(a).

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86L

(2) A complaint about the conduct of a member of the force—

S. 86L(2)(a)
amended by
Nos 14/1988
s. 18(Sch. 1
item 13),
26/1997
s. 42(1),
32/2004
s. 10(2)(a),
63/2004
s. 4(5)(c)(i).

- (a) may not be made to the Director by a member of the force except as set out in subsection (2A); and
- (b) may be made by a person or a body of persons, whether corporate or unincorporate; and
- (c) may be made by a person on that person's own behalf or on behalf of another person; and
- (d) if so requested by the Director or member of the force, must be in writing.

S. 86L(2)(d)
amended by
Nos 14/1988
s. 18(Sch. 1
item 13),
32/2004
s. 10(2)(a),
63/2004
s. 4(5)(c)(i).

S. 86L(2A)
inserted by
No. 26/1997
s. 42(2),
substituted by
No. 30/1999
s. 18(1),
amended by
Nos 32/2004
s. 10(2)(a),
63/2004
s. 4(5)(c)(i).

(2A) A member of the force must make a complaint to a member of the force of a more senior rank to that member, or to the Director, about the conduct of another member of the force if he or she has reason to believe that the other member is guilty of serious misconduct.

S. 86L(2B)
inserted by
No. 36/2001
s. 117.

(2B) If a member of the force is required to make a complaint under section 86L(2A) about the conduct of another member of the force, it is sufficient compliance for the purposes of that subsection if the member makes a disclosure of

that conduct in accordance with Part 2 of the
Whistleblowers Protection Act 2001 to—

- | | |
|---|---|
| (a) if the disclosure relates to the Chief Commissioner, the Ombudsman or the Director; or | S. 86L(2B)(a) amended by Nos 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(c)(i). |
| (b) if the disclosure relates to any other member of the force, the Ombudsman, the Director or the Chief Commissioner. | S. 86L(2B)(b) amended by Nos 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(c)(i). |
| (3) If a complaint is made to a member of the force by a person who is not a member of the force, the member must advise the complainant that the complainant may make the complaint to the Director. | S. 86L(3) amended by Nos 14/1988 s. 18(Sch. 1 item 13), 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(c)(i). |
| (4) A person may make a complaint to the Director notwithstanding that the complaint has already been made to a member of the force. | S. 86L(4) amended by Nos 14/1988 s. 18(Sch. 1 item 13), 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(c)(i). |

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S. 86L(5) amended by Nos 14/1988 s. 18(Sch. 1 item 13), 15/1989 s. 16(1), 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(c)(i), repealed by No. 34/2008 s. 142(8)(b).

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86LA

S. 86L(5A)
inserted by
No. 15/1989
s. 16(2),
amended by
Nos 32/2004
s. 10(2)(a),
63/2004
s. 4(5)(c)(i),
repealed by
No. 34/2008
s. 142(8)(b).

* * * * *

S. 86L(6)
amended by
Nos 15/1989
s. 16(3),
30/1999
s. 18(2),
repealed by
No. 34/2008
s. 142(8)(b).

* * * * *

S. 86L(7)
inserted by
No. 15/1989
s. 16(4),
amended by
Nos 32/2004
s. 10(2)(a),
63/2004
s. 4(5)(c)(i)(ii),
repealed by
No. 34/2008
s. 142(8)(b).

* * * * *

S. 86L(8)(9)
inserted by
No. 15/1989
s. 16(4),
repealed by
No. 34/2008
s. 142(8)(b).

* * * * *

S. 86LA
inserted by
No. 36/2001
s. 118.

86LA Whistleblowers Protection Act 2001 applies to certain complaints

- (1) If a member of the force makes a complaint in accordance with section 86L(2A) to a member of the force of a more senior rank about a member other than the Chief Commissioner, the member receiving the complaint must refer the complaint to the Chief Commissioner.

- (2) The **Whistleblowers Protection Act 2001** applies to a complaint referred to in subsection (1) as if the complaint were a disclosure made to the Chief Commissioner in accordance with Part 2 of that Act.

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S. 86LA(3)(4) amended by Nos 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(d), repealed by No. 34/2008 s. 142(9).

86M Complaints made to a member of the force

- (1) The Chief Commissioner must investigate a complaint made to a member of the police force about the serious misconduct of a member of the police force.

S. 86M inserted by No. 10250 s. 10, amended by No. 14/1988 s. 18(Sch. 1 item 14), substituted by No. 26/1997 s. 43(1).

- (2) The Chief Commissioner must as soon as practicable after a complaint of serious misconduct is made give to the Director in writing the prescribed details of the complaint.

S. 86M(2) amended by Nos 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(d).

- (3) The Chief Commissioner must as soon as practicable after commencing an investigation into any alleged serious misconduct by a member of the force give to the Director in writing the prescribed details of the investigation.

S. 86M(3) amended by Nos 32/2004 s. 10(2)(a), 63/2004 s. 4(5)(d).

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86O

S. 86N
inserted by
No. 10250
s. 10,
amended by
Nos 14/1988
s. 18(Sch. 1
item 15),
32/2004
ss 10(2)(b), 11,
63/2004
s. 4(5)(e),
79/2004 s. 80,
repealed by
No. 34/2008
s. 142(10).

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S. 86NA
inserted by
No. 32/2004
s. 12,
amended by
Nos 63/2004
ss 4(5)(f)(6)
(7)(a), 79/2004
s. 81(1)(2),
repealed by
No. 34/2008
s. 142(11).

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S. 86O
inserted by
No. 10250
s. 10.

86O Investigations by the Chief Commissioner

S. 86O(1)
amended by
Nos 14/1988
s. 18(Sch. 1
item 16),
32/2004 s. 13,
63/2004
s. 4(7)(a).

(1) The Chief Commissioner must as often as requested by the Director report in writing to the Director on the progress of an investigation.

(2) The Chief Commissioner may attempt to resolve a complaint by conciliation and must—

S. 86O(2)(a)
amended by
Nos 14/1988
s. 18(Sch. 1
item 16),
32/2004 s. 13,
63/2004
s. 4(7)(a).

(a) before commencing to conciliate, notify the Director of the proposed attempt; and

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86O

(b) notify the Director of the results of the attempt.

S. 86O(2)(b) amended by Nos 14/1988 s. 18(Sch. 1 item 16), 32/2004 s. 13, 63/2004 s. 4(7)(a).

(3) After completing an investigation the Chief Commissioner must in writing report to the Director on the results of the investigation and the action (if any) taken or proposed to be taken.

S. 86O(3) amended by Nos 14/1988 s. 18(Sch. 1 item 16), 32/2004 s. 13, 63/2004 s. 4(7)(a).

* * * * *

S. 86P inserted by No. 10250 s. 10, amended by Nos 14/1988 s. 18(Sch. 1 item 17), 15/1989 s. 17, 9/2001 s. 6(1), substituted by No. 32/2004 s. 14, amended by Nos 63/2004 s. 4(7)(a), 79/2004 s. 81(3)–(6), 67/2007 s. 7, repealed by No. 34/2008 s. 142(12).

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S. 86PA inserted by No. 32/2004 s. 14, amended by Nos 63/2004 s. 4(7)(a), 79/2004 s. 82, 34/2008 s. 136, repealed by No. 34/2008 s. 142(12).

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86Q

S. 86PB
inserted by
No. 79/2004
s. 83 (as
amended by
No. 97/2004
s. 8(1)–(3)),
repealed by
No. 34/2008
s. 142(12).

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**Ss 86PC–
86PE**
inserted by
No. 79/2004
s. 83,
repealed by
No. 34/2008
s. 142(12).

* * * * *

S. 86PF
inserted by
No. 34/2008
s. 137,
repealed by
No. 34/2008
s. 142(12).

* * * * *

S. 86Q
inserted by
No. 10250
s. 10.

86Q Power to require answers etc. of a member of the force

S. 86Q(1)
amended by
Nos 14/1988
s. 18(Sch. 1
item 18),
26/1997
s. 44(1),
32/2004 s. 15,
63/2004
s. 4(7)(a),
34/2008
s. 142(13).

- (1) For the purposes of an investigation into a complaint concerning a possible breach of discipline under section 69, the Chief Commissioner may direct any member of the force to furnish any relevant information, produce any relevant document or answer any relevant question.

S. 86Q(2)
substituted by
No. 26/1997
s. 44(2).

- (2) A member of the force who does not comply with a direction commits a breach of discipline and is liable to be dealt with as for a breach of discipline under section 69.

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86Q

- (3) Except in proceedings for perjury, for a breach of discipline under section 69 or for failure to comply with a direction, or review proceedings under Division 1 of Part IV, any information, document or answer given pursuant to a direction is not admissible in evidence before any court or person acting judicially.

S. 86Q(3)
amended by
Nos 26/1997
s. 44(3),
30/1999 s. 19.

* * * * *

S. 86QA
inserted by
No. 32/2004
s. 16,
amended by
Nos 63/2004
s. 4(7)(a),
79/2004
s. 84(1)(2),
repealed by
No. 34/2008
s. 142(14).

* * * * *

S. 86R
inserted by
No. 10250
s. 10,
amended by
Nos 14/1988
s. 18(Sch. 1
item 19),
9/2001 s. 6(2),
32/2004
s. 17(a),
63/2004
s. 4(7)(a)(b),
79/2004
s. 84(3)(4),
repealed by
No. 34/2008
s. 142(14).

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86T

S. 86S
inserted by
No. 10250
s. 10,
amended by
Nos 14/1988
s. 18(Sch. 1
item 20),
9/2001 s. 6(3),
32/2004
s. 17(b),
63/2004
s. 4(7)(a),
substituted by
No. 79/2004
s. 85,
repealed by
No. 34/2008
s. 142(14).

* * * * *

S. 86T
inserted by
No. 10250
s. 10.

86T Advice to complainant

- (1) In the case of a complaint made to a member of the force, the Chief Commissioner must in writing advise the complainant of the results of the investigation and of the action taken or proposed to be taken.

**Note to
s. 86T(1)**
inserted by
No. 34/2008
s. 142(15)(a).

Note

See section 48 of the **Police Integrity Act 2008** for an equivalent provision applicable in the case of a complaint made to the Director.

S. 86T(2)
amended by
Nos 14/1988
s. 18(Sch. 1
item 21),
32/2004
s. 17(b),
63/2004
s. 4(7)(a),
repealed by
No. 34/2008
s. 142(15)(b).

* * * * *

S. 86T(3)
inserted by
No. 79/2004
s. 86,
amended by
No. 34/2008
s. 142(15)(c).

- (3) Subsection (1) does not apply if the Chief Commissioner is of the opinion that it would be contrary to the public interest to advise the complainant of the results of the investigation or of the action taken or proposed to be taken.

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86TA

*	*	*	*	*	S. 86TA inserted by No. 36/2001 s. 119, amended by Nos 32/2004 s. 17(b)(c), 63/2004 s. 4(7)(c)–(e), repealed by No. 34/2008 s. 142(16).
*	*	*	*	*	S. 86TB inserted by No. 60/2008 s. 11, repealed by No. 34/2008 s. 142(16A) (as amended by No. 60/2008 s. 8).
*	*	*	*	*	S. 86TC inserted by No. 60/2008 s. 11, repealed by No. 34/2008 s. 142(16A) (as amended by No. 60/2008 s. 8).
*	*	*	*	*	S. 86U inserted by No. 10250 s. 10, amended by Nos 14/1988 s. 18(Sch. 1 item 22), 32/2004 s. 17(d), 63/2004 s. 4(7)(f), repealed by No. 34/2008 s. 142(17).

s. 86V

S. 86V
inserted by
No. 30/1999
s. 20.

S. 86V(1)(b)
substituted by
No. 32/2004
s. 17(e),
amended by
Nos 63/2004
s. 4(7)(f),
34/2008
s. 142(18).

86V Prohibition of victimisation

- (1) A person must not take detrimental action, or cause, incite or permit detrimental action to be taken, against a member of the force—
 - (a) because the member has made a complaint under section 86L about the conduct of any member of the force; or
 - (b) because the member has given information or evidence to the Chief Commissioner or Director in the course of an investigation or further investigation under this Part or Part 3 of the **Police Integrity Act 2008**; or
 - (c) because the person believes that the member has made, or intends to make, a complaint referred to in paragraph (a) or has given, or intends to give, information or evidence referred to in paragraph (b).
- Penalty: 120 penalty units or imprisonment for 12 months or both.
- (2) In determining whether a person takes detrimental action against a member of the force it is irrelevant—
 - (a) whether or not a factor in subsection (1) is the only or dominant reason for the action;
 - (b) whether the person acts alone or in association with any other person.
 - (3) It is a defence to a prosecution under subsection (1) that the complaint was made frivolously, vexatiously or in bad faith.

(4) In this section—

detrimental action means action causing, comprising or involving any of the following—

- (a) injury, damage or loss;
- (b) intimidation or harassment;
- (c) ostracism;
- (d) discrimination, disadvantage or adverse treatment in relation to employment;
- (e) dismissal from, or prejudice in, employment;
- (f) disciplinary proceedings;

member of the force includes an employee in the office of the Chief Commissioner.

*	*	*	*	*	Pt 4A Div 2A (Heading and ss 86VAA– 86VAC) inserted by No. 34/2008 s. 138, repealed by No. 34/2008 s. 142(19).
*	*	*	*	*	Pt 4A Div 2B (Heading and ss 86VAD– 86VAI) inserted by No. 34/2008 s. 138, repealed by No. 34/2008 s. 142(20).

Police Regulation Act 1958
No. 6338 of 1958
Part IVA—Complaints and Investigations1F

s. 86W

Pt 4A Div. 3
(Heading and
ss 86W–86Z)
inserted by
No. 32/2004
s. 18,
amended by
Nos 63/2004
s. 4(7)(f),
79/2004
ss 87, 88 (as
amended by
No. 97/2004
s. 9(5)),
108/2004
s. 117(1)
(Sch. 3
item 158.4),
29/2006
s. 3(Sch. 1
item 30),
substituted as
Pt 4A Div. 3
(Heading and
ss 86VA–
86VO) by
No. 34/2008
s. 139,
repealed by
No. 34/2008
s. 142(21).

* * * *

Pt 4A Div. 4
(Heading and
ss 86ZA–
86ZN)
inserted by
No. 79/2004
s. 89 (as
amended by
No. 97/2004
ss 7(3)(4),
9(6)),
amended by
No. 87/2005
s. 15,
repealed by
No. 34/2008
s. 142(22).

* * * *

PART V—POLICE APPEALS BOARD

Pt 5 (Heading)
substituted by
Nos 35/1993
s. 11, 61/1999
s. 9.

Division 1—Establishment of Police Appeals Board

Pt 5 Div. 1
(Heading)
inserted by
No. 35/1993
s. 12,
substituted by
No. 61/1999
s. 10.

87 Establishment of Appeals Board

The Police Appeals Board is established.

Nos 3750
s. 60, 5126
s. 22.
S. 87
amended by
Nos 8179
s. 3(l), 9433
s. 4, 10250
s. 11(1),
16/1986 s. 30,
15/1989
s. 18(1)(a)-(d)
(2)(3)(4)(a)-(c),
substituted by
Nos 35/1993
s. 12, 61/1999
s. 10.

* * * * *

S. 87A
inserted by
No. 6957
s. 6(1),
amended by
Nos 8179
s. 3(m), 9433
s. 5(a)(b),
10250
s. 11(2)(a)(b),
15/1989
s. 18(5),
repealed by
No. 35/1993
s. 12.

Police Regulation Act 1958
No. 6338 of 1958
Part V—Police Appeals Board

s. 88

S. 87B
inserted by
No. 10250
s. 12,
amended by
No. 57/1989
s. 3(Sch.
item 156.7),
repealed by
No. 35/1993
s. 12.

* * * *

S. 88
substituted by
No. 6957
s. 6(1),
amended by
Nos 8179
s. 3(n)(i)(ii),
9066
s. 6(a)-(c),
9433 s. 6,
10250
s. 13(a)-(f),
15/1989
ss 18(6),
19(1)(2),
42/1990
s. 7(1)(a)-(d)
(i)(ii)(e),
substituted by
Nos 35/1993
s. 12, 61/1999
s. 10.

88 Functions of Appeals Board

The functions of the Appeals Board are—

- (a) to hear and determine appeals under section 8AA or 118B(4);
- (b) to conduct reviews of decisions on application under section 91F;
- (c) to conduct reviews under Division 1 of Part IV;
- (d) any other functions conferred on it by or under this or any other Act.

S. 88A
inserted by
No. 6957
s. 6(1),
amended by
No. 9906 s. 5,
substituted by
No. 10250
s. 14,
amended by
No. 42/1990
s. 7(2),
repealed by
No. 35/1993
s. 12.

* * * *

Police Regulation Act 1958
No. 6338 of 1958
Part V—Police Appeals Board

s. 89

* * * * *

S. 88B
inserted by
No. 6957
s. 6(1),
substituted by
No. 10250
s. 14,
amended by
Nos 19/1989
s. 16(Sch.
items 44.7,
44.8), 42/1990
s. 7(3),
repealed by
No. 35/1993
s. 12.

* * * * *

S. 88C
inserted by
No. 10250
s. 14,
amended by
Nos 42/1990
s. 7(4),
11/1992
s. 14(1),
repealed by
No. 35/1993
s. 12.

89 Membership of Appeals Board

Nos 3750
s. 62, 5126
s. 22.
S. 89
amended by
No. 6957
s. 6(2),
substituted by
No. 10250
s. 15(1),
amended by
No. 15/1989
s. 19(3),
substituted by
Nos 35/1993
s. 12, 61/1999
s. 10.

- (1) The Appeals Board consists of a chairperson and 2 or more deputy chairpersons appointed by the Governor in Council.

S. 89(1)
amended by
No. 9/2001
s. 7(a).

Police Regulation Act 1958
No. 6338 of 1958
Part V—Police Appeals Board

s. 90

S. 89(2)
amended by
No. 9/2001
s. 7(b).

- (2) At least one of the members of the Appeals Board must be a legal practitioner of at least 5 years' standing.
- (3) A member holds office, subject to this Act, for the term specified in his or her instrument of appointment, not exceeding 3 years from the date of appointment, and is eligible for re-appointment.
- (4) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

S. 89(4)
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 158.5),
80/2006
s. 26(Sch.
item 84).

Nos 3750
s. 63, 5126
s. 22.

90 Remuneration

A member of the Appeals Board is entitled to be paid the remuneration and allowances (if any) fixed from time to time by the Governor in Council.

S. 90
amended by
No. 42/1990
s. 7(5),
substituted by
No. 35/1993
s. 12,
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
No. 61/1999
s. 10.

S. 90A
inserted by
No. 9433 s. 7,
repealed by
No. 42/1990
s. 7(6).

* * * * *

91 Vacancies, resignation and removal from office

- (1) The office of a member of the Appeals Board becomes vacant if he or she—
 - (a) becomes an insolvent under administration; or
 - (b) is convicted of an offence punishable by imprisonment; or
 - (c) resigns from office by delivering a signed letter of resignation to the Minister; or
 - (d) is removed from office under subsection (2).
- (2) The Governor in Council, on the recommendation of the Minister, may remove a member from office if the member—
 - (a) becomes incapable of performing his or her duties; or
 - (b) is negligent in the performance of those duties; or
 - (c) engages in improper conduct; or
 - (d) is convicted of an offence.

S. 91
amended by
Nos 6957
s. 7(a)-(f), 9019
s. 2(1)(Sch.
item 186),
9906
s. 6, 10250
s. 15(2)(a)(b),
19/1989
s. 16(Sch.
item 44.9),
42/1990
s. 7(7),
substituted by
No. 35/1993
s. 12,
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
No. 61/1999
s. 10.

91A Acting members

- (1) If a member of the Appeals Board is unable to perform the duties of the office, the Governor in Council may appoint a person qualified to be appointed as that member to act as the member during the period of inability.
- (2) The Governor in Council—
 - (a) subject to this Act, may determine the terms and conditions of appointment of an acting member; and
 - (b) may at any time terminate the appointment.

S. 91A
inserted by
No. 9433 s. 8,
amended by
Nos 15/1989
s. 19(4),
19/1989 s. 16
(Sch.
item 44.10),
substituted by
Nos 35/1993
s. 12, 61/1999
s. 10.

s. 91B

- (3) While the appointment of an acting member remains in force, the acting member has and may exercise all the powers and perform all the duties and functions of the member.

S. 91B
inserted by
No. 35/1993
s. 12,
amended by
No. 26/1997
s. 48(d),
substituted by
No. 61/1999
s. 10.

91B Effect of vacancy or defect

- (1) An act or decision of the Appeals Board is not invalid only because—
- (a) of a vacancy in its membership; or
 - (b) of a defect or irregularity in the appointment of any of its members.
- (2) Subsection (1)(a) does not apply in respect of a review referred to in section 91M(1).

S. 91C
inserted by
No. 35/1993
s. 12,
substituted by
No. 61/1999
s. 10.

91C Annual report of the Appeals Board

- (1) The Appeals Board must prepare a report in respect of each year ending on 30 June on its work and activities for that year.
- (2) The Appeals Board must submit the report to the Minister not later than 30 September next following.
- (3) The Minister must cause a copy of each report submitted to him or her under this section to be laid before each House of the Parliament as soon as possible after receiving the report.

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S. 91D
inserted by
No. 35/1993
s. 12,
repealed by
No. 61/1999
s. 10.

Division 2—Appeals and reviews by the Appeals Board

Pt 5 Div. 2
(Heading)
inserted by
No. 35/1993
s. 12,
amended by
No. 61/1999
s. 11(1).

91E Appeals to the Appeals Board

S. 91E
inserted by
No. 35/1993
s. 12.

- (1) An appeal under section 8AA or 118B(4) is to be
by way of a re-hearing.

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S. 91E(2)
repealed by
No. 61/1999
s. 11(2)(a).

91F Application for a review by the Appeals Board

S. 91F
inserted by
No. 35/1993
s. 12,
amended by
No. 23/1996
s. 5(1).

- (1) Subject to this section, a member of the force may
apply to the Appeals Board for a review of a
decision by the Chief Commissioner or a person
authorised by the Chief Commissioner—

S. 91F(1)
amended by
No. 61/1999
s. 11(2)(b).

- (a) not to confirm the member's promotion; or
(b) to disallow the member's promotion; or
(c) to terminate the member's appointment; or
(d) to compulsorily transfer the member; or

- (e) to make a determination under
section 76(1)(c) or 80(1)(c) to impose a fine
exceeding 5 penalty units or to make a
determination under section 76(1)(ca), (d),
(e), (f) or (g) section 80(1)(a)(ii) or (iii), (ca),
(d) or (e) or section 85(a)(b) or (c); or

S. 91F(1)(e)
amended by
Nos 23/1996
s. 5(2),
26/1997
s. 48(e),
30/1999
s. 21(1)(a)(b).

Police Regulation Act 1958
No. 6338 of 1958
Part V—Police Appeals Board

s. 91F

S. 91F(1)(f)
inserted by
No. 23/1996
s. 5(2),
amended by
No. 30/1999
s. 21(2).

(f) that the member is unsuitable for promotion to a position of senior constable (general duties); or

S. 91F(1)(g)
inserted by
No. 30/1999
s. 21(2).

(g) not to promote a constable who holds a position to the rank of senior constable in the same position.

S. 91F(2)
inserted by
No. 23/1996
s. 5(3).

- (2) Subsection (1)(d) does not apply to the compulsory transfer of—
- (a) a superintendent, chief superintendent or commander; or
 - (b) an inspector or chief inspector except where the transfer is to or from a country police district for a period of more than 6 months.

S. 91F(2A)
inserted by
No. 9/2001
s. 8.

- (2A) An application for a review must be made within 14 days after the member is notified of the making of the decision to which the application relates.

S. 91F(3)
inserted by
No. 23/1996
s. 5(3).

- (3) The Chief Commissioner may from time to time determine any area to be the Melbourne metropolitan area for the purposes of this section.

S. 91F(4)
inserted by
No. 23/1996
s. 5(3).

- (4) In this section—

country police district means any police district outside the Melbourne metropolitan area determined under this section;

general duties means primary response and general patrol duties;

S. 91F(4)
def. of
member of the force
inserted by
No. 61/1999
s. 11(2)(c).

member of the force includes a person who was a member of the force immediately before his or her dismissal or the termination of his or her appointment.

91G Appeals Board's powers on a review

S. 91G
inserted by
No. 35/1993
s. 12,
substituted by
No. 61/1999
s. 12.

- (1) On a review under this Division, the Appeals Board may, subject to this section—
 - (a) affirm the decision under review; or
 - (b) set aside the decision under review and, in substitution for it, make any other decision or determination that the person who made the decision could have made; or
 - (c) set aside the decision under review and refer the matter for determination by the Chief Commissioner in accordance with any directions or recommendations of the Appeals Board.
- (2) On a review of a decision to terminate a member's appointment or to make a determination to dismiss a member, the Appeals Board may—
 - (a) order the Chief Commissioner to re-instate the applicant as a member of the force; or
 - (b) if the Appeals Board considers that it would be impracticable to re-instate the applicant, order the Chief Commissioner to pay to the applicant an amount of compensation not exceeding the amount of remuneration of the applicant during the period of 12 months immediately before being dismissed or terminated.
- (3) Subsection (2) does not apply to a review of a decision to make a determination under section 80(1)(e) to dismiss a member.
- (4) If the applicant was on leave without full pay during any part of the period of 12 months immediately before being dismissed, the maximum amount of compensation that may be ordered under subsection (2)(b) to be paid is to be

s. 91H

determined as if the applicant had received full pay while on leave.

- (5) When assessing any compensation payable, the Appeals Board must take into account—
- (a) whether the applicant made a reasonable attempt to find alternative employment; and
 - (b) the remuneration received in any alternative employment or that would have been payable if the applicant had succeeded in obtaining alternative employment.

S. 91H
inserted by
No. 35/1993
s. 12.

91H Appeal or review may proceed in absence of member

S. 91H(1)
amended by
No. 35/1996
s. 453(Sch. 1
item 65.2),
repealed by
No. 61/1999
s. 13(a).

* * * * *

S. 91H(2)
amended by
No. 61/1999
s. 13(b)(i)(ii).

- (2) If an appellant or applicant for review under this Division does not attend in person or by representative at the time and place fixed for the appeal or review, the Appeals Board may proceed in his or her absence.

S. 91H(3)
repealed by
No. 61/1999
s. 13(c).

* * * * *

S. 91I
inserted by
No. 35/1993
s. 12,
amended by
No. 30/1999
s. 29.

91I Extension of action taken against member

If a member has applied for a review of a determination under section 91F(1)(e) and that member was, pending the outcome of the inquiry at which the determination was made, transferred, on leave or suspended, the Chief Commissioner may require the member to remain transferred, on leave or suspended until the review is completed.

Division 3—General procedure of Appeals Board

Pt 5 Div. 3
(Heading and
ss 91J–91S)
inserted by
No. 61/1999
s. 14.

91J Natural justice

The Appeals Board is bound by the rules of natural justice in all proceedings before it.

S. 91J
inserted by
No. 61/1999
s. 14.

91K Appeal Board must have regard to public interest and interests of applicant on review

S. 91K
inserted by
No. 61/1999
s. 14.

- (1) Without limiting the matters to which the Appeals Board is otherwise required or permitted to have regard in any review under this Act, the Board must have regard to—

- (a) the public interest; and
- (b) the interests of the applicant for review.

- (2) For the purposes of this section—

public interest includes—

- (a) the interest of maintaining the integrity of, and community confidence in, the force; and
- (b) in the case of a review under Division 1 of Part IV, the fact that the Chief Commissioner made an order under section 68(1).

91L General procedure of Appeals Board

S. 91L
inserted by
No. 61/1999
s. 14.

- (1) The Appeals Board must conduct all proceedings before it with as little formality and technicality, and as much speed, as the requirements of this Act and the proper consideration of the subject-matter permit.
- (2) Subject to this Act, the Appeals Board may regulate its own procedure.

s. 91M

S. 91M
inserted by
No. 61/1999
s. 14.

91M Constitution of Appeals Board for appeals and reviews

S. 91M(1)
amended by
No. 9/2001
s. 9(a).

- (1) The following reviews are to be conducted by the Appeals Board constituted by 3 of its members (at least one of whom is a legal practitioner of at least 5 years' standing)—
 - (a) a review of a decision to terminate a member's appointment;
 - (b) a review of a decision to make a determination to dismiss a member;
 - (c) a review under Division 1 of Part IV.
- (2) Every other review, and every appeal, is to be conducted by the Appeals Board constituted by—
 - (a) the chairperson or a deputy chairperson sitting alone; or
 - (b) the chairperson and a deputy chairperson sitting together.
- (3) For the purposes of subsections (1) and (2), the chairperson is to determine who is to hear an appeal or review.
- (4) If the Appeals Board is constituted for the purposes of an appeal or review by more than one member, any question arising on the appeal or review is to be decided—
 - (a) according to the opinion of a majority of the members of the Appeals Board; or
 - (b) if the Appeals Board is constituted by the chairperson and a deputy chairperson and they are divided in opinion—according to the opinion of the chairperson.

S. 91M(3)
amended by
No. 9/2001
s. 9(b).

91MA Hearings to be public unless otherwise ordered

**S. 91MA
inserted by
No. 9/2001
s. 10.**

- (1) Subject to this section, all hearings of the Appeals Board must be held in public.
- (2) The Appeals Board, on its own initiative or on the application of a party, may direct that a hearing or any part of it be held in private, if the Appeals Board is satisfied that the holding of the hearing or part in private would facilitate the conduct of the proceeding or would otherwise be in the public interest.
- (3) If the Appeals Board considers it necessary to do so in the public interest, it may make an order prohibiting the reporting or other publication or disclosure of any hearing or part of a hearing or of any information derived from the hearing or part, except by, or with the leave of, the Appeals Board.
- (4) If an order is made under subsection (3), the Appeals Board must cause a copy of the order to be displayed in a conspicuous place where the hearing is held.

91N Appearance and representation

**S. 91N
inserted by
No. 61/1999
s. 14.**

An appellant or applicant for review under this Act—

- (a) may appear at the appeal or review; and
- (b) in a review, may be represented by any person other than a legal practitioner.

91O Evidence

**S. 91O
inserted by
No. 61/1999
s. 14.**

- (1) The Appeals Board is not bound by the rules of evidence or any practices or procedures applicable to courts of record and, subject to section 68E, may inform itself on any matter as it sees fit.

s. 91P

- (2) The Appeals Board may require evidence to be given on oath and, for that purpose, a member of the Appeals Board may administer an oath or cause an oath to be administered.

S. 91P
inserted by
No. 61/1999
s. 14.

91P Witness summons

- (1) Subject to sections 68E and 68F, the chairperson of the Appeals Board may issue a summons to a person to attend the Appeals Board to give evidence and produce any documents that are referred to in the summons.
- (2) A summons to attend may be served on a person—
- (a) in person; or
 - (b) by sending it by post, facsimile or other electronic means to the person at his or her usual or last known residential address; or
 - (c) by leaving it at the person's usual or last known residential address with a person on the premises apparently at least 16 years old and apparently residing there.
- (3) A summons to attend is to be taken to have been served on a person—
- (a) in the case of delivery in person—at the time of delivery;
 - (b) in the case of posting—2 business days after the day on which the document was posted;
 - (c) in the case of facsimile or other electronic transmission—at the time the transmission is received.

- (4) If a facsimile or other electronic transmission is received after 4.00 p.m. on any day, it is to be taken to have been received on the next business day.
- (5) A person who has been properly served with a summons to attend must not, without reasonable excuse, fail to—
 - (a) attend as required by the summons until he or she has been excused or released from attendance by the Appeals Board; or
 - (b) produce any document referred to in the summons that is in his or her possession.

Penalty: Imprisonment for 1 month or 10 penalty units or both.

- (6) In this section—

business day means a day other than—

- (a) a Saturday or Sunday; or
- (b) a public holiday or public half-holiday in the place to where the summons is sent or delivered.

91Q Chief Commissioner to give effect to Appeals Board orders and decisions

The Chief Commissioner must give effect to an order or decision of the Appeals Board.

S. 91Q
inserted by
No. 61/1999
s. 14.

91R Contempt of Appeals Board

A person must not—

- (a) insult a member of the Appeals Board while that member is performing functions as member under this Act; or
- (b) insult, harass, intimidate, obstruct or hinder a person attending a hearing of the Appeals Board; or

S. 91R
inserted by
No. 61/1999
s. 14.

s. 91S

S. 91R(ca)
inserted by
No. 9/2001
s. 11.

- (c) misbehave at a hearing of the Appeals Board; or
- (ca) contravene an order under section 91MA(3) that has been displayed in accordance with section 91MA(4); or
- (d) do any other act in relation to a proceeding before the Appeals Board that would, if the Appeals Board were the Supreme Court, constitute contempt of that Court.

Penalty: Imprisonment for 3 months or
30 penalty units or both.

S. 91S
inserted by
No. 61/1999
s. 14.

91S Protection of participants

- (1) A member of the Appeals Board has, in the performance of his or her functions as member under this Act, the same protection and immunity as a judge of the Supreme Court has in the performance of his or her duties as judge.
- (2) A person representing a party in a proceeding before the Appeals Board has the same protection and immunity as a legal practitioner has in representing a party in proceedings in the Supreme Court.
- (3) A party to a proceeding before the Appeals Board has the same protection and immunity as a party to proceedings in the Supreme Court.
- (4) A person appearing as a witness in a proceeding before the Appeals Board has the same protection and immunity as a witness has in proceedings in the Supreme Court.

91T Extension of time

**S. 91T
inserted by
No. 9/2001
s. 12.**

- (1) The Appeals Board, on application by any person, may extend any time limit fixed—
- (a) by or under this Act for the lodging of an appeal or the making of an application for a review; or
 - (b) by or under this Act or the regulations for the doing of any other thing in, or in relation to, a proceeding before the Appeals Board.
- (2) The Appeals Board may—
- (a) extend a time limit even if the time has expired before an application for extension is made;
 - (b) impose conditions on the extension of a time limit.
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Pt 5A
(Heading)
inserted by
No. 35/1993
s. 13,
substituted by
No. 30/1999
s. 22(a).

PART VA—ENFORCEMENT

Pt 5A Div. 1
(Heading)
inserted by
No. 30/1999
s. 22(b).

Division 1—Reinstatement

No. 4592 s. 4.
S. 92
amended by
Nos 6505
s. 2, 6957
s. 3(c)(i)-(iii),
40/2010
s. 40(1).

92 Reinstatement of certain discharged etc. members of force

Where whether before or after the commencement of this Act a member of the force has been on the ground of misconduct of any kind discharged or dismissed subsequently and it is proved to the satisfaction of the Governor in Council that such member was innocent of such misconduct the Governor in Council may reinstate such member to the force with a rank and seniority not lower than the member's rank and seniority at the time of the member's discharge dismissal or retirement, and the period between such discharge dismissal or retirement and such reinstatement shall for the purposes of Division two of Part III of this Act be deemed to be a period of approved service:

S. 92
Proviso
amended by
No. 40/2010
s. 40(2).

Provided that where pursuant to the proviso to subsection (2) of section fifty-four of this Act the whole or any part of the rateable deductions made from the pay of such member have been applied for the benefit of the member's partner or children or adult children such member shall before he or she is reinstated pay to the Police Pensions Fund an amount equal to the amount so applied.

Division 2—Offences

Pt 5A Div. 2
(Heading)
inserted by
No. 30/1999
s. 22(c).

* * * *

S. 93
repealed by
No. 6957
s. 5.

* * * *

S. 94
amended by
Nos 8179
s. 3(o),
15/1989
s. 8(2),
57/1989
s. 3(Sch.
item 156.8),
repealed by
No. 42/1990
s. 8(b).

95 Bribery and corruption

No. 3750 s. 67.

(1) A member of the force must not—

- (a) take or solicit any bribe, pecuniary or otherwise; or
- (b) take or solicit any payment from, or make any collusive agreement with, another person to neglect the member's duty, to take advantage of the member's position or to act in such a manner as to bring discredit to the force.

S. 95
substituted by
No. 8179
s. 3(p),
amended by
Nos 9066 s. 7,
42/1990
s. 8(c)(i)(ii),
substituted by
No. 30/1999
s. 23.

Penalty: 100 penalty units.

- (2) Proceedings for an offence against subsection (1) may be commenced within the period of 3 years after the commission of the alleged offence.

s. 96

No. 3750 s. 68.

S. 96
amended by
Nos 8179
s. 3(a), 9945
s. 3(3)(Sch. 2
item 28),
57/1989
s. 3(Sch. item
156.9(a)(b)),
42/1990
s. 8(d),
11/1992
s. 14(2)(a)-(c).

96 Penalty for not delivering accoutrements

S. 96(1)
amended by
Nos 30/1999
s. 24(a),
68/2009
s. 97(Sch.
item 93.3).

- (1) Every person who having been a member of the force has been discharged or dismissed from or has otherwise ceased to hold and execute his office and who does not forthwith deliver over everything whatsoever which has been supplied to him for the execution of his office or which is in his custody by virtue thereof, to such person as is appointed by any order special or general issued by the Chief Commissioner, shall on a charge-sheet filed by any officer or senior sergeant, be liable to a penalty of not more than 50 penalty units.

S. 96(2)
inserted by
No. 11/1992
s. 14(3),
repealed by
No. 30/1999
s. 24(b).

* * * *

S. 96(3)
inserted by
No. 11/1992
s. 14(3),
amended by
No. 35/1993
s. 14,
repealed by
No. 30/1999
s. 24(b).

* * * *

97 Penalty for personating etc. members of the force

If any person not being a member of the force has in his possession any arms or ammunition or any article of clothing accoutrements or appointments supplied to any member of the force, and is not able satisfactorily to account for his possession thereof, or puts on or assumes any dress name designation or description used by or in relation to any member of the force or any class of members of the force or gives or offers or promises to give any bribe pecuniary or otherwise, or makes any agreement with any member of the force to induce him in any way to forgo his duty, or concert or connives at any act whereby any rule order or regulation of the Governor in Council in relation to the force may be evaded or uses the designation rank or description which he previously held in the force, every such person so offending shall in addition to any other punishment for which he is liable for such an offence, on a charge-sheet filed by any member of the force be liable to a penalty of not more than 100 penalty units.

No. 3750 s. 69.

S. 97
amended by
Nos 6957 s. 8,
8745 s. 4,
57/1989
s. 3(Sch.
item 156.10),
42/1990
s. 8(e),
68/2009
s. 97(Sch.
item 93.4).

98 Penalty on persons wrongfully obtaining admission into the force

Every person having been dismissed from the force who by concealing the fact of such dismissal, and every person who by any false or forged certificates, or any false representations, obtains admission into the force, or who by any such means receives any pay gratuity or pension shall be guilty of an indictable offence, and shall be liable to a penalty of not more than 20 penalty units.

No. 3750 s. 70.

S. 98
amended by
Nos 9576
s. 11(1), 9945
s. 3(3)(Sch. 2
item 28),
42/1990
s. 8(f).

Pt 5A Div. 3
(Heading)
inserted by
No. 30/1999
s. 25.

Division 3—Search and seizure

S. 99
amended by
Nos 6957
s. 12(2), 9906
s. 7,
repealed by
No. 42/1990
s. 8(g),
new s. 99
inserted by
No. 30/1999
s. 25.

99 What is a relevant offence?

In this Division—

S. 99 def. of
public place
inserted by
No. 25/2009
s. 22(b).

public place has the same meaning as in section 3
of the **Summary Offences Act 1966**;

S. 99 def. of
*relevant
offence*
amended by
No. 25/2009
s. 22(a).

relevant offence means an offence against any of
the following—

- (a) section 86(2);
- (b) Division 2 of this Part;
- (c) section 127A;

S. 99 def. of
vehicle
inserted by
No. 25/2009
s. 22(b).

vehicle includes motor vehicle, aircraft and vessel.

S. 100
repealed by
No. 42/1990
s. 8(h),
new s. 100
inserted by
No. 30/1999
s. 25.

100 Entry, search and seizure

S. 100(1)
amended by
No. 25/2009
s. 23(1).

- (1) A member of the force may enter any place
(including any vehicle on or in that place) or a
particular vehicle located in a public place, and
may search for and seize anything that the
member believes on reasonable grounds may be

evidence of the commission of a relevant offence that is found at that place or on or in that vehicle if the entry, search and seizure are made—

- (a) with the consent of the occupier of the place;
or
 - (b) in accordance with a warrant issued under section 100A; or
 - (c) as provided by section 100D.
- (2) The power conferred by this section to seize a thing includes the power—
- (a) to remove the thing from the place or vehicle where it was found; and **S. 100(2)(a) amended by No. 25/2009 s. 23(2)(a).**
 - (b) to guard the thing at that place or that vehicle; and **S. 100(2)(b) amended by No. 25/2009 s. 23(2)(b).**
 - (c) to make copies of the whole or any part of the thing.
- (3) A member of the force must not enter and search any place with the consent of the occupier unless, before the occupier consents to that entry, the member has informed the occupier—
- (a) of the purpose of the search; and
 - (b) that the occupier may refuse to give consent to the entry and search or to the seizure of anything found during the search; and
 - (c) that the occupier may refuse to consent to the making of copies of the whole or any part of anything found during the search; and
 - (d) that anything seized during the search may be used in evidence in proceedings.

-
- (4) If an occupier consents to an entry and search, the member of the force who requested consent must before entering the place ask the occupier to sign an acknowledgment in the prescribed form stating—
- (a) that the occupier has been informed of the purpose of the search and that anything seized during the search may be used in evidence in proceedings; and
 - (b) that the occupier has been informed that he or she may refuse to give consent to the entry and search; and
 - (c) that the occupier has given consent; and
 - (d) the date and time that the occupier consented.
- (5) If an occupier consents to the seizure of any thing during a search under this section, the member of the force must before seizing the thing ask the occupier to sign an acknowledgment stating—
- (a) that the occupier has consented to the seizure; and
 - (b) the date and time that the occupier consented.
- (6) An occupier who signs an acknowledgment must be given a copy of the signed acknowledgment before the member of the force leaves the place.
- (7) If, in any proceeding, an acknowledgment signed by the occupier is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and search or to the seizure of the thing.
-

100A Search warrant

S. 100A
inserted by
No. 30/1999
s. 25.

- (1) A member of the force may apply to a magistrate for the issue of a search warrant in relation to a particular place (including any vehicle on or in that place) or a particular vehicle located in a public place if the member believes on reasonable grounds that there is, or may be within the next 72 hours, at that place or on or in that vehicle a thing, or things of a particular kind, that may be evidence of the commission of a relevant offence.
- (2) If a magistrate is satisfied by the evidence on oath, whether oral or by affidavit, of a member of the force that there are reasonable grounds to believe that there is, or may be within the next 72 hours, at a place or on or in a vehicle a thing, or things of a particular kind, that may be evidence of the commission of a relevant offence, the magistrate may issue a search warrant, in accordance with the **Magistrates' Court Act 1989**, authorising a member of the force named in the warrant—
 - (a) to enter the place or the vehicle specified in the warrant, if necessary by force; and
 - (b) to search for and seize a thing, or things of a particular kind, named or described in the warrant and which the member believes on reasonable grounds to be evidence of the commission of a relevant offence.
- (3) A search warrant issued under this section must state—
 - (a) the purpose for which the search is required and the nature of the alleged offence; and

S. 100A(1)
amended by
No. 25/2009
s. 24(1).

S. 100A(2)
amended by
No. 25/2009
s. 24(2)(a).

S. 100A(2)(a)
amended by
No. 25/2009
s. 24(2)(b).

s. 100B

- (b) any condition to which the warrant is subject; and
 - (c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and
 - (d) a day, not later than 28 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) Except as provided by this Act, the rules to be observed with respect to search warrants under the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

S. 100B
inserted by
No. 30/1999
s. 25.

100B Announcement before entry

S. 100B(1)(a)
amended by
No. 25/2009
s. 25(1)(a).

S. 100B(1)(b)
substituted by
No. 25/2009
s. 25(1)(b).

- (1) On executing a search warrant, the member executing the warrant—
- (a) must announce that he or she is authorised by the warrant to enter the place or the vehicle located in a public place; and
 - (b) if the member has been unable to obtain unforced entry—
 - (i) in the case of a warrant issued in relation to a place, must give any person at the place an opportunity to allow entry to the place; or
 - (ii) in the case of a warrant issued in relation to a vehicle located in a public place, must give any person on or in the vehicle an opportunity to allow entry to the vehicle.
- (2) A member need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the place or the vehicle is required to ensure—
- (a) the safety of any person; or

S. 100B(2)
amended by
No. 25/2009
s. 25(2).

- (b) that the effective execution of the search warrant is not frustrated.

100C Details to be given to occupier or person in charge of vehicle

S. 100C
(Heading)
inserted by
No. 25/2009
s. 26(1).
S. 100C
inserted by
No. 30/1999
s. 25,
amended by
No. 25/2009
s. 26(2)(3) (ILA
s. 39B(1)).

- (1) In the case of a warrant issued in respect of a particular place, if the occupier of the place or another person who apparently represents the occupier is present at the place when a search warrant is being executed, the member executing the warrant must—
- (a) identify himself or herself to that person; and
- (b) give the person a copy of the warrant.
- (2) In the case of a warrant issued in relation to a particular vehicle located in a public place, if there is a person apparently in charge of the vehicle when a search warrant is being executed, the member executing the warrant must—
- (a) identify himself or herself to that person; and
- (b) give the person a copy of the warrant.

S. 100C(2)
inserted by
No. 25/2009
s. 26(3).

100D Seizure of things not mentioned in the warrant

S. 100D
inserted by
No. 30/1999
s. 25.

A member of the force executing a search warrant may seize a thing not named or described, or not of a kind named or described, in the warrant if—

- (a) the member believes on reasonable grounds that the thing—
- (i) is of a kind that could have been included in a search warrant issued under this Division; or
- (ii) will afford evidence of the commission of any relevant offence; and

s. 100E

- (b) the member believes on reasonable grounds that it is necessary to seize the thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating an offence.

S. 100E
inserted by
No. 30/1999
s. 25.

100E Copies of seized documents

- (1) If a member of the force retains possession of a document seized from a person under this Division (other than a document that is the property of the State), the member must give the person, within a reasonable time, a copy of the document certified as a true copy by the member.
- (2) A copy of a document certified under subsection (1) shall be received in all courts and tribunals to be evidence of equal validity to the original.

S. 100F
inserted by
No. 30/1999
s. 25.

100F Retention and return of seized things

- (1) If a member of the force seizes a thing under this Division (other than a thing that is the property of the State), the member must take reasonable steps to return it to the person from whom it was seized if—
 - (a) the reason for its seizure no longer exists; and
 - (b) the thing is not required, or likely to be required, in connection with any investigation or proposed investigation under Part IV or IVA.
- (2) If the thing seized has not been returned within 6 months after it was seized, the member must take reasonable steps to return it unless—
 - (a) proceedings for the purpose for which the thing was retained have commenced within that 6 month period and those proceedings (including any appeal) have not been completed; or

- (b) an investigation under Part IV or IVA to which the thing is relevant has commenced within that 6 month period and that investigation has not been completed; or
- (c) the Magistrates' Court makes an order under section 100G extending the period during which the thing may be retained.

100G Magistrates' Court may extend 6 month period

S. 100G
inserted by
No. 30/1999
s. 25.

- (1) A member of the force may apply to the Magistrates' Court within 6 months after seizing a thing under this Division for an extension of the period for which the member may retain the thing.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
 - (a) for the purposes of an investigation into whether a relevant offence has occurred; or
 - (b) to enable evidence of the commission of a relevant offence to be obtained for the purposes of a prosecution; or
 - (c) for the purposes of an investigation or proposed investigation under Part IV or IVA.

100H Things seized may be used in connection with investigations into conduct

S. 100H
inserted by
No. 30/1999
s. 25.

A thing seized (whether under this or any other Act) in relation to a relevant offence or an offence punishable by imprisonment may be used in connection with an investigation into the conduct of a member of the force under Part IV or IVA.

Pt 5A Div. 4
(Heading)
inserted by
No. 30/1999
s. 26.

Division 4—Imprisonment

No. 3750 s. 73.
S. 101
amended by
Nos 9945
s. 3(3)(Sch. 2
item 29),
57/1989
s. 3(Sch. item
156.11(a)–(d),
42/1990
s. 8(i)(i)–(iii)).

101 Imprisonment may be substituted for pecuniary penalties

Imprisonment may in the discretion of the court be substituted in lieu of any pecuniary penalty for any of the offences mentioned in this Act provided that such imprisonment does not exceed fifteen days where such pecuniary penalty is not more than 10 penalty units or two months where such penalty is more than 10 penalty units and less than 50 penalty units, or six months where such penalty is more than 50 penalty units. Whenever any penalty or forfeiture has been imposed by the court under the provisions hereof and the person convicted does not forthwith pay the same the court may direct that such person be imprisoned as the court thinks fit for a term of not more than two months if the penalty does not exceed 20 penalty units, and for a term of not more four months if the penalty is above 20 penalty units and not exceeding 50 penalty units, and for a term of not more than six months if the penalty is above 50 penalty units, and such person shall be detained accordingly unless he sooner pays the penalty.

No. 3750 s. 74.
S. 102
amended by
No. 42/1990
s. 13(f)(i)(ii).

102 Imprisonment in any place specially appointed

Every member of the force who is subject to punishment of imprisonment under this Act, or for whom imprisonment has been substituted in lieu of a pecuniary penalty for any act of insubordination or misconduct against the discipline of the force, shall be confined in any place specially appointed by the Governor in Council as a police prison instead of a prison or

other place where he might be confined under this Act, and no imprisonment or confinement of any member of the force under this Act shall be deemed to be part of any period for which he has engaged to serve in the force; and the period of any such confinement shall in no case exceed the period of imprisonment to which such member has been sentenced.

Police Regulation Act 1958
No. 6338 of 1958

s. 102A

Pt 5B
(Heading and
ss 102A–102I)
inserted by
No. 63/2004
s. 3 (as
amended by
No. 79/2004
s. 130),
amended by
Nos 79/2004
ss 90–95,
108/2004
s. 117(1)
(Sch. 3 items
158.6–158.8),
43/2006
s. 47(Sch.
item 4),
52/2007 s. 6,
67/2007
ss 8–13,
repealed by
No. 34/2008
s. 142(23).

* * * *

PART VC—SPECIAL CONSTABLES

Division 1—Appointment of special constables generally

Pt VC
(Heading and
ss 102L–
102U)
inserted by
No. 87/2005
s. 16.

102L Appointment of special constables

S. 102L
inserted by
No. 87/2005
s. 16.

- (1) The Chief Commissioner may appoint special constables in accordance with this Part and the regulations.
- (2) A special constable must be a person who is a member of—
 - (a) the Australian Federal Police; or
 - (b) the police force of another State or a Territory; or
 - (c) the police force of another country or part of another country.
- (3) The Chief Commissioner may appoint as special constables—
 - (a) named persons; or
 - (b) persons identified by reference to a particular work location; or
 - (c) persons identified by reference to a particular operational unit or work group; or
 - (d) persons by reference to any other identifiable designation.

Example

The Chief Commissioner could appoint as special constables—

- (a) A.B. and C.D. of the police force of New South Wales;
- (b) all members of the police force of New South Wales who are for the time being stationed at the Albury Police Station;

s. 102M

- (c) all members of the police force of South Australia who are for the time being in the South Australian Police Star Group.

- (4) The appointment of one or more special constables must be in writing.

S. 102M
inserted by
No. 87/2005
s. 16.

102M Oath or affirmation

- (1) A person is not capable of acting in the office of special constable until he or she has taken and subscribed the oath, or made and subscribed the affirmation, set out in Form C in the Second Schedule.
- (2) The oath or affirmation may be administered—
 - (a) in Victoria by the Chief Commissioner, a Deputy Commissioner, an Assistant Commissioner or a magistrate; or
 - (b) in the jurisdiction in which the special constable is permanently appointed by a person who is authorised under the law of that jurisdiction to administer an oath or affirmation of appointment to a member of the police force of that jurisdiction.
- (3) If the oath or affirmation is administered in Victoria by a person other than the Chief Commissioner, the person must forward a copy of the oath or affirmation as subscribed by the special constable to the Chief Commissioner within 14 days.
- (4) If the oath or affirmation is administered outside Victoria, the person who administers it must forward to the Chief Commissioner, within 14 days—
 - (i) a copy of the oath or affirmation as subscribed by the special constable; and

- (ii) a written statement, signed by the person, of the person's name and authority to administer the oath or affirmation.
- (5) Failure to comply with subsection (3) or (4) does not invalidate the appointment of a special constable.

102N Status and powers of special constable

S. 102N
inserted by
No. 87/2005
s. 16.

- (1) Subject to this section, a special constable is a member of the force.
- (2) Without limiting subsection (1), a special constable has all the powers and privileges, and is subject to all the duties, of a constable at common law or under any Act.

Note

Special constables also have immunity as members of the force (see section 123) and are not required to produce proof of their appointment (see section 15).

- (3) A special constable is not a member of the force for the purposes of—
 - (a) sections 8, 8AA, 8AB, 13, 14, 16A and 16B;
 - (b) Parts III, IV (except section 69) and (V);
 - (c) sections 119, 120, 120A, 120B and 129;
 - (d) regulations made under section 130(1)(a), (b), (c), (d), (db), (dd) and (e).
- (4) A special constable is not entitled to receive any remuneration or allowances from the force unless he or she is acting as an agent of the police force to which he or she is permanently appointed.

s. 102O

S. 102O
inserted by
No. 87/2005
s. 16.

102O Termination of appointment

- (1) The Chief Commissioner may, orally or in writing, terminate the appointment of a special constable at any time.

Note

Section 16 provides that all powers and authorities of a member of the force cease when the member ceases to be a member and section 96 requires him or her to hand back any police equipment.

- (2) The power of termination under subsection (1) may be exercised in respect of—
 - (a) named special constables; or
 - (b) special constables identified by reference to a particular work location; or
 - (c) special constables identified by reference to a particular operational unit or work group; or
 - (d) special constables by reference to any other identifiable designation.
- (3) If the Chief Commissioner terminates the appointment of a special constable orally, the Chief Commissioner must, within 14 days, send written confirmation of the termination to—
 - (a) the chief officer of the police force to which the special constable is permanently appointed; and
 - (b) if the special constable is terminated by name—the person whose appointment has been terminated.
- (4) Failure to comply with subsection (3) does not invalidate the termination of appointment.

102P Discipline

**S. 102P
inserted by
No. 87/2005
s. 16.**

- (1) If the Chief Commissioner reasonably believes that a special constable may have committed a breach of discipline, the Chief Commissioner may conduct or cause to be conducted an investigation of the matter.

Note

Section 69 sets out what constitutes a breach of discipline.

- (2) If the Chief Commissioner reasonably believes that a special constable has committed an offence punishable by imprisonment, the Chief Commissioner may conduct or cause to be conducted an investigation of the matter under the criminal law.
- (3) At any time during or after an investigation under subsection (1) or (2), the Chief Commissioner may forward details or the results of the investigation to the chief officer of the police force to which the special constable is permanently appointed.
- (4) If a special constable has been charged under the criminal law with an offence punishable by imprisonment, the Chief Commissioner may forward details or the results of the charge to the chief officer of the police force to which the special constable is permanently appointed.
- (5) This section applies whether or not the Chief Commissioner has terminated the appointment of the special constable.

Division 2—Incidents requiring urgent cross-border assistance

S. 102Q
inserted by
No. 87/2005
s. 16.

102Q Declaration of incident

- (1) The Chief Commissioner or a Deputy Commissioner may, orally or in writing, declare an incident to be an incident requiring urgent cross-border assistance for the purposes of this Act.
- (2) In determining whether to make a declaration, the Chief Commissioner or Deputy Commissioner must have regard to—
 - (a) the nature, urgency and seriousness of the incident; and
 - (b) the adequacy of the resources and capabilities of the force to deal with the incident without the assistance of other jurisdictions; and
 - (c) the expertise and assistance that could be expected to be provided by other jurisdictions.
- (3) A person who has made a declaration under this section must forward a copy of the declaration, or written confirmation of the declaration, to the Minister as soon as practicable, and in any event within 14 days, after making the declaration.
- (4) If a Deputy Commissioner makes a declaration under this section, he or she must forward a copy of the declaration, or written confirmation of the declaration, to the Chief Commissioner as soon as practicable.
- (5) Failure to comply with subsection (3) or (4) does not invalidate the declaration.

102R Period of declaration

**S. 102R
inserted by
No. 87/2005
s. 16.**

- (1) A declaration made under section 102Q remains in force for the period (not exceeding 14 days inclusive of the day of making) specified in the declaration.
- (2) A declaration may be extended once only, for a maximum period of 14 days inclusive of the day of making, if the extension is made while the declaration is still in force.
- (3) Section 102Q applies to the making of an extension of a declaration in the same way as it applies to the making of a declaration.

102S Appointment of special constables during declared incident

**S. 102S
inserted by
No. 87/2005
s. 16.**

- (1) During the period in which a declaration under this Division is in force, special constables may be appointed under section 102L orally or in writing.
- (2) If any special constables are appointed during the period in which a declaration under this Division is in force, the person who appointed them must, as soon as practicable after the end of that period—
 - (a) forward written confirmation of the appointment to the Minister, specifying—
 - (i) the name of each person appointed; and
 - (ii) the police force to which each such person is permanently appointed; and
 - (iii) the rank of each such person in that police force; and
 - (b) forward written confirmation of the appointment to each person appointed that he or she was appointed as a special constable and specifying the period of the appointment.

s. 102T

- (3) Subsection (2) applies whether a special constable was appointed individually or by reference to a work location, operational unit, work group or other designation.
- (4) Failure to comply with subsection (2) does not invalidate the appointment of a special constable.

S. 102T
inserted by
No. 87/2005
s. 16.

102T Oath or affirmation

- (1) Despite section 102M(1), it is not necessary for a special constable appointed during the period in which a declaration under this Division is in force to take an oath or make an affirmation before acting in the office of special constable.
- (2) However, a special constable appointed during the period in which a declaration under this Division is in force must take and subscribe an oath or make and subscribe an affirmation in accordance with section 102M as soon as practicable after his or her appointment.

S. 102U
inserted by
No. 87/2005
s. 16.

102U Termination of appointment

Unless terminated earlier under section 102O, a special constable who is appointed during the period in which a declaration under this Division is in force ceases to be a special constable at the end of that period.

PART VI—RETIRED POLICE RESERVE

103 Appointment of police reservists

No. 6017 s. 2.

- (1) The Chief Commissioner may from time to time appoint so many fit and proper persons to be police reservists as the Governor in Council thinks necessary.
- (2) The Governor in Council may at any time revoke any such appointment.
- (3) The persons so appointed as police reservists shall constitute the Retired Police Reserve of Victoria but shall not be members of the force within the meaning of this Act except for the purposes of sections 19, 20, 123 and 124 and Parts IV, IVA and V of this Act.

S. 103(3)
amended by
Nos 26/1997
s. 45(1),
61/1999
s. 15(1).

104 Qualifications

No. 6017 s. 3.

A person shall not be deemed a fit and proper person for appointment as or to continue as a police reservist unless—

* * * * *

S. 104(a)
repealed by
No. 73/1996
s. 66.

- (b) he is free from any illness or physical defect which would render him physically unfit to perform the duties of a police reservist;
- (c) he is an Australian citizen or a British subject within the meaning of section 55(2)(a) or (b) of the **Interpretation of Legislation Act 1984** and of good character and reputation; and
- (d) he has served for not less than two years in the police force of Victoria.

S. 104(c)
amended by
No. 61/1986
s. 5(4).

s. 105

No. 6017 s. 4.

105 Oath

(1) A person appointed to be a police reservist shall not be capable of holding such office or of acting in any way therein until he has taken and subscribed the oath set out in Form B of the Second Schedule to this Act.

S. 105(2)
amended by
Nos 15/1989
s. 7(2)(a)–(c),
57/1989
s. 3(Sch.
item 156.12).

(2) Such oath shall be administered by the Chief Commissioner, a Deputy Commissioner, an Assistant Commissioner, or a magistrate and shall be subscribed by the person taking it, and when so taken and subscribed before a person other than the Chief Commissioner shall be forwarded to the Chief Commissioner by the magistrate or other person before whom it was taken.

No. 6017 s. 5.

106 Powers and privileges

Every person appointed a police reservist shall on taking and subscribing such oath, and until he is legally discharged, have exercise and enjoy all such powers authorities advantages and immunities and be liable to all such duties and responsibilities as any constable appointed under this Act has by virtue of the common law.

No. 6017 s. 6.

107 Duty of police reservists

Every police reservist shall in the execution of his duty act under the direction and control of the Chief Commissioner or of any other member of the force or other police reservist under whom he is placed by the Chief Commissioner.

No. 6017 s. 7.

108 Training

A police reservist may be required by the Chief Commissioner to attend a course of instruction and training prescribed by the Chief Commissioner.

109 Discipline

For the purpose of maintaining discipline a police reservist is subject, as far as is applicable, to Part IV and any regulations made for the purposes of that Part, and to the standing orders and instructions issued by the Chief Commissioner.

No. 6017 s. 8.
S. 109
substituted by
No. 26/1997
s. 46.

110 Equipment and uniform

No. 6017 s. 9.

- (1) Each police reservist shall be supplied free of charge with such equipment as is deemed by the Chief Commissioner to be necessary for the carrying out of his duties.
- (2) A police reservist may be required by the Chief Commissioner to perform duty in uniform in which case the Chief Commissioner may supply such uniform free of charge.

111 Resignation

No. 6017 s. 10.

- (1) A police reservist shall not resign his office or withdraw from the duties thereof unless expressly authorized in writing so to do by the Chief Commissioner or other person authorized by the Chief Commissioner, or unless he gives to the Chief Commissioner or other person authorized by the Chief Commissioner seven days' notice in writing of his intention so to resign or withdraw.
- (2) Any person who contravenes or fails to comply with the provisions of this section shall be liable to a penalty of not more than 5 penalty units.

S. 111(2)
amended by
No. 42/1990
s. 8(j).

112 Dismissal or termination of service

No. 6017 s. 11.

The Chief Commissioner may at his discretion terminate the service of or suspend or dismiss any police reservist.

s. 113

No. 6017 s. 12.

113 Cessation of powers on dismissal etc.

When any police reservist is dismissed or ceases to hold his office, all powers and authorities vested in him as a police reservist shall immediately cease, and he shall forthwith return to such person as the Chief Commissioner whether generally or in any particular case appoints for the purpose all uniforms equipment and other items supplied to him or of which he has custody or control by virtue of his office.

S. 114
amended by
Nos 9392
s. 2(a)(b), 9469
s. 2, 9975 s. 6,
repealed by
No. 11/1992
s. 15(1).

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S. 115
amended by
No. 10250
s. 16,
repealed by
No. 11/1992
s. 15(1).

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S. 115A
inserted by
No. 9392 s. 3,
repealed by
No. 11/1992
s. 15(1).

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S. 115B
inserted by
No. 9392 s. 3,
amended by
No. 11/1992
s. 15(2).

115B Long service leave

The provisions of sections 120 and 120A with respect to members of the police force shall, so far as those provisions are applicable and with such modifications as are necessary, extend and apply with respect to police reservists.

116 Obstructing etc. police reservists

Any person who assaults resists or obstructs any police reservist while in the execution of his duty or promotes incites or encourages any other person so to do shall be liable to a penalty of not more than 0·4 penalty unit or to imprisonment for a term of not more than three months.

No. 6017 s. 15.
S. 116
amended by
No. 10/2004
s. 15(Sch. 1
item 21.2)

117 Repute to be evidence of appointment

If any question arises as to the right of any police reservist to hold or exercise the duties of his office, common reputation shall be deemed prima facie evidence of such right, and it shall not be necessary to have or produce any written appointment or other document or matter whatsoever in proof of such right.

No. 6017 s. 16.

118 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
- (a) the government of police reservists with respect to any matter necessary for making them efficient for the discharge of their duties;
 - (b) any matter by this Part permitted or authorized to be prescribed by regulations.

No. 6017 s. 17.

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S. 118(2)
repealed by
No. 6886 s. 3.

Police Regulation Act 1958
No. 6338 of 1958
Part VIA—Protective Services Officers

s. 118A

Pt 6A
(Heading
and ss 118A–
118K)
inserted by
No. 32/1987
s. 4.

PART VIA—PROTECTIVE SERVICES OFFICERS

S. 118A
inserted by
No. 32/1987
s. 4.

118A Definition

In this Part *officer* means an officer appointed
under this Part.

S. 118B
inserted by
No. 32/1987
s. 4.

118B Appointment of protective services officers

S. 118B(1)
substituted by
No. 42/1990
s. 9(1)(a).

- (1) The Chief Commissioner may, in accordance with the regulations, appoint and promote so many protective services officers as the Governor in Council thinks necessary for the purposes of providing services for the protection of persons holding certain official or public offices and of certain places of public importance.

S. 118B(1A)
inserted by
No. 42/1990
s. 9(1)(a).

- (1A) The number of officers must not at any time exceed 150.

S. 118B(2)
substituted by
No. 26/1997
s. 45(2),
amended by
No. 61/1999
s. 15(2).

- (2) Officers are not members of the force except for the purposes of Parts IV, IVA and V and section 123.

S. 118B(3)
repealed by
No. 11/1992
s. 16(a).

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Police Regulation Act 1958
No. 6338 of 1958
Part VIA—Protective Services Officers

s. 118B

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|---|--|
| (3A) Despite subsection (2), the provisions of sections 120 and 120A relating to members of the police force shall, so far as those provisions are applicable and with the necessary modifications, extend and apply to protective services officers. | S. 118B(3A) inserted by No. 42/1990 s. 10, amended by No. 11/1992 s. 16(b). |
| (4) Subject to the regulations, an officer who considers that he or she has a better claim to promotion than the officer selected for promotion may appeal to the Appeals Board. | S. 118B(4) substituted by No. 42/1990 s. 9(1)(b), amended by Nos 35/1993 s. 15, 61/1999 s. 15(3), 9/2001 s. 13(1). |
| (4A) An appeal must be lodged within 10 days after the day on which the officer is notified of the officer selected for promotion. | S. 118B(4A) inserted by No. 9/2001 s. 13(2). |
| (4B) If the regulations provide for the notification of officers selected for promotion, an officer is to be taken, for the purposes of subsection (4A), to have been notified of an officer selected for promotion on the day on which the selection is notified in accordance with the regulations. | S. 118B(4B) inserted by No. 9/2001 s. 13(2). |
| (5) The only ground for appeal is superior efficiency. | S. 118B(5) inserted by No. 42/1990 s. 9(1)(b). |
| (6) In a promotion and in an appeal regard shall be had only to the efficiency of the candidates. | S. 118B(6) inserted by No. 42/1990 s. 9(1)(b), amended by No. 9/2001 s. 13(3). |
| (7) For the purposes of this section, <i>efficiency</i> means the aptitude and special qualifications necessary for the discharge of the duties of the position in question, together with merit, diligence, good conduct, quality of service, mental capacity and physical fitness. | S. 118B(7) inserted by No. 42/1990 s. 9(1)(b). |
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s. 118C

S. 118C
inserted by
No. 32/1987
s. 4.

118C Oath

- (1) A person appointed as an officer is not capable of acting in the office until he or she has taken and subscribed the oath set out in Form B in the Second Schedule, as appropriately modified.
- (2) The oath shall be administered by the Chief Commissioner, a Deputy Commissioner, an Assistant Commissioner, or a magistrate and subscribed by the person taking it and the magistrate or other person (other than the Chief Commissioner) by whom the oath is administered must forward a copy of the oath as so taken and subscribed to the Chief Commissioner.

S. 118C(2)
amended by
Nos 15/1989
s. 7(3)(a)(b),
57/1989
s. 3(Sch.
item 156.13).

S. 118D
inserted by
No. 32/1987
s. 4.

118D Powers and privileges of officers

An officer who has taken and subscribed the oath has and may exercise, in the execution of his or her duties, the same powers, authorities, advantages and immunities, and is liable to the same duties and responsibilities, as a constable appointed under this Act has and may exercise, or to which such a constable is liable, by virtue of the common law.

S. 118E
inserted by
No. 32/1987
s. 4.

118E Direction and control of officers

An officer, in the execution of his or her duties, is subject to the direction and control of the Chief Commissioner.

S. 118F
inserted by
No. 32/1987
s. 4,
substituted by
No. 26/1997
s. 47.

118F Discipline

For the purpose of maintaining discipline, an officer is subject, as far as is applicable, to Part IV and any regulations made for the purposes of that Part, and to the standing orders and instructions issued by the Chief Commissioner.

118G Resignation

An officer must not resign or withdraw from duty unless expressly authorised in writing by the Chief Commissioner or by a person authorised in that behalf by the Chief Commissioner or unless the officer gives to the Chief Commissioner or such other person 14 days' notice in writing of the intention to resign or withdraw.

S. 118G
inserted by
No. 32/1987
s. 4.

118H Dismissal

The Chief Commissioner may terminate the service of, or suspend, dismiss or reduce in rank, an officer.

S. 118H
inserted by
No. 32/1987
s. 4,
amended by
No. 15/1989
s. 20.

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S. 118I
inserted by
No. 32/1987
s. 4,
repealed by
No. 73/1996
s. 67.

118J Offence

A person must not assault or obstruct an officer in the execution of the officer's duty.

Penalty: 10 penalty units.

S. 118J
inserted by
No. 32/1987
s. 4.

118K Regulations

The Governor in Council may make regulations for or with respect to—

- (a) the qualifications and procedures for appointment, promotion and transfer of officers;
- (aa) a rank structure for officers;

S. 118K
inserted by
No. 32/1987
s. 4.

S. 118K(a)
amended by
No. 42/1990
s. 9(2).

S. 118K(aa)
inserted by
No. 15/1989
s. 21.

- (b) the discipline of officers;

Police Regulation Act 1958
No. 6338 of 1958
Part VIA—Protective Services Officers

s. 118K

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- (c) any matter relating to the efficiency of officers in the discharge of their duties; and
 - (d) any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
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**PART VIB—DISCLOSURE OF VEHICLE ACCIDENT
INFORMATION**

Pt 6B
(Heading and
ss 118L–
118Q)
inserted by
No. 110/2004
s. 17.

118L Definitions

S. 118L
inserted by
No. 110/2004
s. 17.

In this Part—

authorised purpose means, in relation to the disclosure or use of vehicle accident information relating to a vehicle accident, any one or more of the following purposes—

- (a) to obtain legal advice in relation to the vehicle accident; or
- (b) to recover any loss or damage incurred or suffered, or costs incurred, as a result of the vehicle accident, whether by way of legal proceedings or otherwise; or
- (c) to assess and determine a claim under a contract of insurance made in relation to—
 - (i) the death or injury of a person as a result of the vehicle accident; or
 - (ii) the damage to, or destruction of, property as a result of the vehicle accident; or
- (d) to assess and determine a claim for compensation under a statutory insurance scheme law in respect of the death of or injury to a person as a result of the vehicle accident; or
- (e) to investigate the vehicle accident for a purpose set out in paragraph (a), (b), (c) or (d);

authorised representative means—

- (a) a relevant insurer; or
- (b) a person authorised, in writing, by a person referred to in section 118N(1)(a) to (c) to request vehicle accident information on that person's behalf in accordance with that section;

injury means personal or bodily injury and includes psychological or psychiatric injury;

non-Victorian statutory insurance scheme law means a law of another State or a Territory or the Commonwealth declared under section 118M to be a non-Victorian statutory insurance scheme law;

personal representative, in relation to a person who dies or is injured, or whose property has been damaged or destroyed, as a result of a vehicle accident, means—

- (a) if the person is a child, the parent or guardian of the child;
- (b) if the person is a person with a disability and an administrator or guardian has been appointed under the **Guardianship and Administration Act 1986** in respect of that person, that administrator or guardian;
- (c) if the person does not have legal capacity and the person has appointed an attorney under an enduring power of attorney, that attorney;
- (d) if the person dies as a result of the vehicle accident, the administrator or executor of that person's estate;

registered operator has the same meaning as in the **Road Safety Act 1986**;

relevant insurer means—

- (a) statutory scheme insurer if that insurer must assess and determine a claim for compensation by a person referred to in section 118N(1)(a) or (b), or the personal representative of a person who dies or is injured as a result of a vehicle accident, under a statutory insurance scheme law;
- (b) an insurer against whom a claim has been made under a contract of insurance by a person referred to in section 118N(1)(a) or (b), or the personal representative of a person who dies or is injured as a result of a vehicle accident or whose property is damaged or destroyed as a result of a vehicle accident;

statutory scheme insurer means—

- (a) the Victorian WorkCover Authority established under the **Accident Compensation Act 1985** or an authorised agent or self-insurer within the meaning of that Act; or
- (b) the Transport Accident Commission established under the **Transport Accident Act 1986**; or
- (c) a person established under a non-Victorian statutory insurance scheme law, or a person who assesses and determines claims for compensation under a non-Victorian statutory insurance scheme law, declared under section 118M to be a statutory scheme insurer;

statutory insurance scheme law means—

- (a) the **Accident Compensation Act 1985**;
or
- (b) the **Transport Accident Act 1986**; or
- (c) non-Victorian statutory insurance
scheme law;

vehicle has the same meaning as in the **Road Safety Act 1986**;

vehicle accident means an incident involving a vehicle that results in—

- (a) the death or injury of a person; or
- (b) damage to, or the destruction of,
property;

vehicle accident information means any of the following information relating to a vehicle accident held by the Chief Commissioner of Police that has been recorded, collected or obtained by a member of the police force in the course of his or her duty—

- (a) information that identifies—
 - (i) the driver or registered operator or passenger of any vehicle involved in the vehicle accident;
 - (ii) a person who witnessed the vehicle accident;
 - (iii) a person who dies or is injured as a result of the vehicle accident;
- (b) a statement of—
 - (i) the driver or a passenger of any vehicle involved in the vehicle accident;

- (ii) a person who witnessed the vehicle accident;
- (iii) a person injured as a result of the vehicle accident;
- (c) information that identifies any vehicle involved in the vehicle accident; and
- (d) the full particulars of the vehicle accident.

118M Declaration of non-Victorian statutory insurance scheme laws and persons as statutory scheme insurers

S. 118M
inserted by
No. 110/2004
s. 17.

The Minister, by notice published in the Government Gazette, may for the purpose of this Part declare—

- (a) a law of another State or a Territory or the Commonwealth to be a non-Victorian statutory scheme law;
- (b) a person established under a non-Victorian statutory scheme law, or a person who assesses and determines claims for compensation under a non-Victorian statutory scheme law, to be a statutory scheme insurer.

118N Certain persons may request vehicle accident information from police

S. 118N
inserted by
No. 110/2004
s. 17.

- (1) A person—
 - (a) who is injured as a result of a vehicle accident; or
 - (b) whose property is damaged or destroyed as a result of a vehicle accident; or
 - (c) who is a personal representative of a person who dies or is injured, or whose property is damaged or destroyed, as a result of a vehicle accident; or

s. 118O

- (d) who is an authorised representative of a person referred to in paragraph (a) or (b), or a personal representative referred to in paragraph (c)—

may request from a member of the force, or a person employed in the office of the Chief Commissioner, vehicle accident information relating to the accident.

- (2) A request may only be for an authorised purpose.
(3) A request must be in accordance with section 118O.

S. 118O
inserted by
No. 110/2004
s. 17.

118O Form and content of application for vehicle accident information

- (1) Every request under section 118N must be in writing.
(2) A request from a person (other than an authorised representative) must also be accompanied by—
(a) if the person is a natural person—
(i) a statutory declaration by that person stating that the person is a person to whom section 118N(1) applies and the purpose of that person's request; and
(ii) proof, to the satisfaction of the Chief Commissioner, of the identity of that person; or
(b) if the person is not a natural person, a statutory declaration by an officer or employee of that person stating that the person is a person to whom section 118N(1) applies and the purpose of that person's request.

- (3) A request from an authorised representative must also be accompanied by the relevant written authority (if required) and—
- (a) if the authorised representative is a natural person, a statutory declaration by that person stating the purpose of their request for vehicle accident information; or
 - (b) if the authorised representative is not a natural person, a statutory declaration by an officer or employee of that person stating the purpose of their request for vehicle accident information.
- (4) A request from a person who is a personal representative must also be accompanied by proof, to the satisfaction of the Chief Commissioner, that the person is a personal representative for the purposes of this Part.

118P Disclosure of vehicle accident information

On receipt of a request under section 118N, a member of the force, or a person employed in the office of the Chief Commissioner, may disclose vehicle accident information to the person requesting the information under that section if the member or person is satisfied that the requirements set out in section 118O have been met.

S. 118P
inserted by
No. 110/2004
s. 17.

118Q Disclosure or use of vehicle accident information for a purpose other than an authorised purpose prohibited

- (1) A person referred to in section 118N(1)(a) to (d) must not disclose or use vehicle accident information disclosed to that person by a member of the force, or a person employed in the office of the Chief Commissioner, except for an authorised purpose.

Penalty: 60 penalty units.

S. 118Q
inserted by
No. 110/2004
s. 17.

Police Regulation Act 1958
No. 6338 of 1958
Part VIB—Disclosure of Vehicle Accident Information

s. 118Q

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- (2) A person who obtains vehicle accident information from a person referred to in section 118N(1)(a) to (d) must not disclose or use vehicle accident information except for an authorised purpose.

Penalty: 60 penalty units.

PART VIC—AGENCY PHOTOGRAPHS

Pt 6C
(Heading and
ss 118R–
118ZA)
inserted by
No. 52/2007
s. 7.

**118R Chief Commissioner may authorise the giving of
agency photographs to media organisations**

S. 118R
inserted by
No. 52/2007
s. 7.

- (1) If an agency photograph of a person who has been found guilty of an offence is in the possession of the force, the Chief Commissioner may, on application by an authorised media organisation under section 118S, authorise that the photograph be given to the authorised media organisation for use in the course of journalism carried out by that organisation.
- (2) The Chief Commissioner must not make an authorisation under subsection (1) on an application made more than 6 months after the person photographed was found guilty of the offence referred to in subsection (1).
- (3) An authorisation under subsection (1)—
 - (a) must be in writing; and
 - (b) is subject to the conditions specified in the authorisation.
- (4) Subsection (1) has effect despite anything to the contrary in the **Information Privacy Act 2000**, the **Freedom of Information Act 1982** or any other Act (other than the Charter of Human Rights and Responsibilities).

s. 118S

- (5) Despite anything to the contrary in the **Freedom of Information Act 1982**, that Act is not to be construed as empowering an application to be made by a media organisation under that Act for access to an agency photograph, if the application is made within 6 months after the person photographed has been found guilty of an offence.

Note

See section 124A which makes certain provisions as to documents issued for publication by the Chief Commissioner.

S. 118S
inserted by
No. 52/2007
s. 7.

118S Application for giving of agency photograph

- (1) An authorised media organisation may apply to the Chief Commissioner for authorisation, under section 118R, for the giving of an agency photograph that is in the possession of the force.
- (2) An application under subsection (1) must—
- (a) be in writing in the form approved by the Chief Commissioner and be accompanied by the prescribed fee; and
 - (b) set out the reasons why the authority should be given, and in doing so, address the matters set out in section 118T.

S. 118T
inserted by
No. 52/2007
s. 7.

118T Considerations to be taken into account in authorising the giving of agency photographs

Before authorising the giving of an agency photograph under section 118R, the Chief Commissioner must have regard to the following matters, to the extent that the matters can be ascertained at the time the Chief Commissioner makes the decision to give the authorisation—

- (a) the public interest, including but not limited to the following—

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- (i) the nature and seriousness of the offence referred to in section 118R(1);
 - (ii) the age of the person photographed;
 - (iii) the sentence given to the person photographed;
 - (iv) any suppression orders involving the person photographed or involving any other person who might be affected by the giving of the photograph to the media organisation;
 - (v) any effect that might result from the giving of the photograph on any other court proceedings;
 - (vi) any deterrent effect that might result from the giving of the photograph;
 - (vii) any other possible legal constraint on the giving of the photograph, including, but not limited to any constraint under the **Sex Offenders Registration Act 2004**, the **Victims' Charter Act 2006**, the **Children, Youth and Families Act 2005** and the **Judicial Proceedings Reports Act 1958**;
 - (viii) any information known to the Chief Commissioner, as to the person photographed being suspected, on reasonable grounds, of having committed other offences that are similar to the offence referred to in section 118R(1);
 - (ix) any other relevant matter; and
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- (b) the interests of the victim and of any witness to the offence referred to in section 118R(1), including but not limited to the following—
 - (i) whether or not any victim of or witness to the offence referred to in section 118R(1) could be identified by the giving of the photograph;
 - (ii) the likely impact on any such victim or witness of the giving of the photograph; and
- (c) the interests of the person photographed, including but not limited to the following—
 - (i) any special circumstances of the person photographed, including, physical or mental health issues;
 - (ii) any risk to the person photographed or his or her family that might occur as a result of the giving of the photograph.

S. 118U
inserted by
No. 52/2007
s. 7.

118U Offences as to use of agency photographs

- (1) A media organisation must not use an agency photograph that has been authorised to be given to the media organisation under section 118R except—
 - (a) in the course of journalism carried out by that organisation; and
 - (b) in accordance with the authorisation under section 118R under which the photograph is given to the media organisation; and
 - (c) in accordance with—
 - (i) any applicable privacy standard published or determined by the Australian Press Council; or

- (ii) any applicable code published or determined by, or registered with or notified to the Australian Communications and Media Authority, established under the Australian Communications and Media Authority Act 2005 of the Commonwealth.

Penalty: 40 penalty units.

- (2) If an authorised media organisation is found guilty of an offence under subsection (1), the Chief Commissioner may revoke the authorisation of that media organisation.

118V Notification of authorisation under section 118R

S. 118V
inserted by
No. 52/2007
s. 7.

- (1) On deciding to authorise the giving of an agency photograph to a media organisation under section 118R, the Chief Commissioner must, without delay, notify the person photographed that the decision to authorise the giving of the photograph has been made.
- (2) A notice under subsection (1)—
 - (a) must be given by posting the notice, by ordinary mail, to the last known address of the person photographed; and
 - (b) must set out the media organisation to whom the photograph is to be given.

118W Authorisation for media

S. 118W
inserted by
No. 52/2007
s. 7.

- (1) The Chief Commissioner may, on application by a media organisation under section 118X, authorise the media organisation to be given agency photographs.
- (2) An authorisation under subsection (1) remains in force until revoked by the Chief Commissioner or surrendered by the media organisation to whom it is given.

s. 118X

- (3) An authorisation under subsection (1)—
 - (a) must be in writing; and
 - (b) is subject to any conditions specified in the authorisation.
- (4) A media organisation that has been authorised under subsection (1) must comply with the authorisation.
Penalty: 20 penalty units.
- (5) If an authorised media organisation has been found guilty of an offence under subsection (4), the Chief Commissioner may revoke the authorisation of that media organisation.

S. 118X
inserted by
No. 52/2007
s. 7.

118X Application for authorisation under section 118W

- (1) A media organisation may apply to the Chief Commissioner for authorisation under section 118W.
- (2) An application under subsection (1) must be in the form approved by the Chief Commissioner and accompanied by the prescribed fee.

S. 118Y
inserted by
No. 52/2007
s. 7.

118Y Protection against actions for defamation or breach of confidence

Where authorisation has been given under section 118R to give an agency photograph to an authorised media organisation an action for defamation or breach of confidence does not lie—

- (a) against the Chief Commissioner, a member of the force, the Crown, a Minister or an officer because of the giving of the authorisation; and
- (b) against a media organisation who publishes the agency photograph in accordance with this Act and the authorisation.

118Z Protection in respect of offences

Where an authorisation has been given under section 118R to give an agency photograph to an authorised media organisation, neither the person authorising the giving of the agency photograph nor any other person concerned in authorising the giving of the agency photograph, is guilty of an offence by reason only of the authorising of the giving of the agency photograph.

S. 118Z
inserted by
No. 52/2007
s. 7.

118ZA Procedure under section 124A not affected

Nothing in this Part affects or limits the operation of section 124A.

S. 118ZA
inserted by
No. 52/2007
s. 7.

PART VII—MISCELLANEOUS PROVISIONS

No. 3750 s. 75.

119 Governor may recommend increase of pensions etc.

Nothing in this Act contained shall be taken to prevent the Governor from recommending by message to the Legislative Assembly any addition to any pension gratuity or allowance in consideration or recognition of any special services rendered by any member of the force entitled thereto or of any other unusual circumstances.

Nos 5126
s. 24, 5549
s. 2.

120 Long service leave

S. 120(1)
amended by
Nos 7135
s. 9(2)(a), 8759
s. 2(a)(i)(ii),
9906 s. 8(a).

- (1) Every member of the police force who has served for ten years shall be entitled in accordance with regulations made under this section to be granted by the Chief Commissioner three months long service leave with pay in respect of that period of ten years service and one and a half months long service leave with pay in respect of each additional period of five years completed service.

S. 120(1A)
inserted by
No. 9469 s. 3,
amended by
No. 9906
s. 8(a).

- (1A) Where a member of the police force is by virtue of subsection (1) entitled to a period of long service leave with pay, the Chief Commissioner, may at the request of the member, allow the member to take the whole or any part of the long service leave at half pay for a period equal to twice the whole or the part, as the case may be, of the period to which he is so entitled.

Police Regulation Act 1958
No. 6338 of 1958
Part VII—Miscellaneous Provisions

s. 120

(2) Where—

S. 120(2)
amended by
Nos 7135
s. 9(2)(b), 8759
s. 2(b)
(i)-(iv)(c), 8959
s. 2, 9906
s. 8(b).

(a) on account of ill health or pursuant to any of the provisions of section 16A a member of the force retires; or

S. 120(2)(a)
substituted by
No. 6957
s. 9(1),
amended by
No. 9392
s. 4(a).

(b) a member of the force dies;

* * * * *

S. 120(2)(c)
repealed by
No. 8759
s. 2(d).

that member shall in accordance with the regulations made under this section be entitled, or (in the case of death) shall be deemed to have been entitled, to be granted by the Chief Commissioner—

where the period of service is not less than four years but less than ten years, then in respect of the period of service;

where the period of service is more than ten years, then in addition to any entitlement under subsection (1) in respect of any part of the period of service which does not give rise to any entitlement under subsection (1)—

such amount of long service leave with pay as equals one-fortieth of the period of service.

Police Regulation Act 1958
No. 6338 of 1958
Part VII—Miscellaneous Provisions

s. 120

S. 120(3)
amended by
No. 9906
s. 8(c).

- (3) The Chief Commissioner shall have discretion as to the time of granting any leave under this section so that the police force will not be unduly affected by the granting of such leave to numbers of members at or about the same time.

S. 120(4)
amended by
Nos 6957
s. 9(2), 9392
s. 4(b), 9906
s. 8(c).

- (4) Where on account of ill health or pursuant to any of the provisions of section 16A a member of the force retires, that member may by notice in writing to the Chief Commissioner elect to take pay in lieu of the whole or any part of any such leave to which he is then entitled and the Chief Commissioner shall grant him pay in lieu thereof accordingly.

S. 120(5)
repealed by
No. 8759
s. 2(d).

* * * * *

S. 120(6)
amended by
No. 9906
s. 8(c).

- (6) Where a member of the force entitled to any such leave or to pay in lieu thereof dies before or while taking such leave or (as the case may be) before such pay in lieu is paid the Chief Commissioner shall to the extent that pay in lieu thereof has not already been paid to that member grant pay in lieu of the whole or part of the leave not taken or (as the case may be) grant the pay in lieu to the legal personal representative of the deceased member.
- (7) The nature of the service and the computation of the period of service which entitles members of the force to be granted long service leave and the method of computing pay under this section shall be as prescribed by regulations made under this section and, without affecting the generality of the foregoing, such regulations may provide that service in any prescribed office under the Crown or with a Public or Governmental Authority or service in any office in the service of the

Commonwealth of Australia or of any other Australian State shall to the extent prescribed be taken into account in computing the period of service.

- (8) In the computation of the period of long service leave or pay in lieu thereof to which any member of the force is entitled under this section there shall be taken into account any long service leave or pay in lieu thereof already granted to him under this section as in force before the commencement of the **Police Regulation (Furlough) Act 1951**.
- (9) The provisions of this section shall not apply with respect to any member of the force who before the commencement of the **Police Regulation (Furlough) Act 1951** has attained the appropriate retiring age referred to in section forty-two of this Act or ceased to be a member of the force; but the provisions of section twenty-four of **Police Regulation Act 1946** as in force before the commencement of the **Police Regulation (Furlough) Act 1951** shall (where applicable) apply as if still in force with respect to any such member unless he attained such age or ceased to be a member of the force before the seventeenth day of May One thousand nine hundred and forty-six.
- (10) The Governor in Council may make regulations for or with respect to any matter by this section authorized or required to be prescribed or necessary or expedient to be prescribed for carrying this section into effect.

S. 120(10)
amended by
No. 9906
s. 8(d)(i)(ii).

s. 120A

S. 120A
inserted by
No. 7536 s. 3,
amended by
No. 8759
s. 3(a)(i)(ii)(b),
substituted by
No. 8959 s. 3,
amended by
Nos 9906
s. 9(a)(b),
42/1990
s. 13(g).

120A Payment in lieu of long service leave on resignation or dismissal

Notwithstanding anything in section 120 where a member of the force with service amounting to not less than ten years resigns or is dismissed or for any reason other than age or ill-health has his services terminated, the Chief Commissioner on the written application of the member may in lieu of long service leave with pay grant the payment to the member of a sum determined by the Chief Commissioner which shall not in any case exceed a sum representing pay for services equal to one-fortieth of the period of service:

Provided that no such payment shall be made for any part of the period of service in respect of which long service leave with pay or pay in lieu thereof has been taken by the member.

S. 120B
inserted by
No. 9906
s. 10.

120B Grant of long service leave to Chief Commissioner

The Minister may grant to the Chief Commissioner in accordance with the terms and conditions prescribed for members of the force in section 120 or section 120A long service leave with pay or pay in lieu thereof.

S. 121
repealed by
No. 6957 s. 5,
new s. 121
inserted by
No. 7349
s. 2(c).

121 Payment in respect of recreation leave outstanding at death

S. 121(1)
amended by
No. 11/1992
s. 17(1)(a)(b).

- (1) Where a member of the force who is the Chief Commissioner or a Deputy Commissioner or an Assistant Commissioner dies and at the time of his death he was entitled to any leave of absence for recreation in respect of either the year in which he died or the previous year or both such years there shall be paid to his legal personal representative such amount as would have been payable to such member by way of salary wages and allowances

in respect of the period of the leave had he commenced taking the leave on the day after his death and not died until the expiration of the period of the leave.

- (2) The provisions of subsection (1) shall apply with respect to the leave of absence for recreation of the Chief Commissioner, Deputy Commissioners and Assistant Commissioners who die after the commencement of the **Public Officers Act 1965**.

S. 121(2)
amended by
No. 11/1992
s. 17(2).

122 Disposal of unclaimed goods and chattels

- (1) Any goods and chattels which have lawfully come into the possession of a member of the force and which are unclaimed may be disposed of in accordance with this section.
- (2) Goods and chattels which are of a perishable nature and which are unclaimed after reasonable inquiries have been made as to ownership may then be disposed of.
- (3) Subject to subsection (2), goods and chattels left by any person imprisoned or detained at any time in a police gaol under Part 3 of the **Corrections Act 1986** which are unclaimed after 12 months after being left may then be disposed of.
- (4) In any case to which neither subsection (2) nor subsection (3) applies, goods and chattels which are unclaimed after three months after coming into possession may then be disposed of.
- (5) Disposal shall at the direction of an officer, or a person authorised in writing by the Chief Commissioner to direct the disposal of property, be by—
- (a) sale by public auction; or
- (b) destruction; or

Nos 3750
s. 77, 4592
s. 17.
S. 122
amended by
Nos 6957
s. 2(g), 8179
s. 3(r)(i)(ii),
9902
s. 2(1)(Sch.
item 207),
substituted by
No. 10250
s. 17.

S. 122(3)
amended by
Nos 16/1987
s. 4(3)(Sch. 1
item 18),
9/2001
s. 14(a).

S. 122(5)
amended by
No. 9/2001
s. 14(b).

s. 123

- (c) such other means (including sale not by public auction) as are approved by the Minister either in relation to particular goods and chattels or generally in relation to particular kinds of goods and chattels.
- (6) A notice of sale by public auction must be published in the Government Gazette before the auction takes place.
- (7) The net proceeds of any sale under this section shall be paid to the Consolidated Fund.
- (8) Every sale under this section is valid against all persons.

S. 122(9)
repealed by
No. 84/2001
s. 11.

* * * * *

S. 123
amended by
Nos 6505 s. 2,
8179 s. 3(s),
repealed by
No. 9906
s. 11,
new s. 123
inserted by
No. 61/1999
s. 16.

123 Immunity of members

- (1) A member of the force or a police recruit is not personally liable for anything necessarily or reasonably done or omitted to be done in good faith in the course of his or her duty as a member of the force or police recruit.
- (2) Any liability resulting from an act or omission that, but for subsection (1), would attach to a member of the force or police recruit, attaches instead to the State.
- (3) This section applies to acts or omissions occurring before as well as after the commencement of this section.
- (4) In this section—

police recruit means a person appointed under section 8A.

124 Protection of members in respect of warrants

(1) In this section, *court* means—

No. 3750 s. 79.
S. 124
substituted by
No. 10250
s. 18.

(a) the Magistrates' Court; and

S. 124(1)(a)
substituted by
No. 57/1989
s. 3(Sch. item
156.14(a)).

(b) a magistrate; and

* * * * *

S. 124(1)(c)
repealed by
No. 57/1989
s. 3(Sch. item
156.14(b)).

(d) the registrar of the Magistrates' Court; and

S. 124(1)(d)
amended by
No. 57/1989
s. 3(Sch. item
156.14(c)).

(e) a board tribunal commission or other body
(whether constituted by one or by more than
one person) established by or under any Act;
and

(f) a member of any such board tribunal
commission or body; and

(g) an officer of any such board tribunal
commission or body.

(2) No action may be brought against any member of
the force or any person acting by order of or in aid
of any member of the force for anything done in
obedience to a warrant of a court until—

(a) a written demand for perusal and a copy of
the warrant signed by or on behalf of the
party or parties intending to bring the action
has been made on the member or person or
left at the usual place of abode of the
member or person; and

s. 124A

- (b) that demand is complied with or is refused or neglected for six days after it is made or left (whichever first occurs).
- (3) In any action brought against any member of the force or any person acting by order of or in aid of any member of the force for anything done in obedience to a warrant of a court—
 - (a) the member or person shall not be responsible for any irregularity in the issuing of the warrant or for any want of jurisdiction in the court; and
 - (b) upon the warrant being produced and proved at the trial of the action and upon it being proved that the act complained of was done in obedience to the warrant, verdict and judgment must be given for the defendant, notwithstanding any such irregularity or want of jurisdiction, and the member or person shall recover his or her costs.
- (4) Subsection (3) applies whether or not an action is brought jointly against the court and the member or person.
- (5) If in an action to which subsection (3) applies verdict and judgment is given against the court, an order may be made for the plaintiff's costs to include such costs as the plaintiff is liable to pay the member or person.

S. 124A
inserted by
No. 75/2005
s. 49(Sch. 4
item 2).

124A Certain crime reports privileged

- (1) This section applies to any document issued for publication by the Chief Commissioner of Police or on his or her behalf by a member of the police force of or above the rank of inspector for the purpose of protecting the public or gaining information that may be of assistance in the investigation of an alleged crime.

- (2) The publication—
- (a) in any public newspaper or other periodical publication; or
 - (b) by transmission to the general public in a radio or television program—
- of a copy, or a fair and accurate report or summary, of a document to which this section applies is privileged unless the publication is proved to be made with malice.
- (3) If in a proceeding the plaintiff proves that the defendant was requested by the plaintiff to publish a reasonable letter or statement by way of contradiction or explanation of the copy document, report or summary published by the defendant, then subsection (2) is not available as a defence unless the defendant proves that the defendant published the letter or statement within a reasonable time after the request and in such a manner that it was likely to come to the notice of the same general audience as the copy document, report or summary.
- (4) This section does not limit or abridge any privilege existing by law.

Note

This section re-enacts section 5A of the **Wrongs Act 1958**.

125 Disputed property in possession of police

When any member of the police force has taken possession of any goods other than goods seized under a warrant to seize property issued under section 73 of the **Magistrates' Court Act 1989** and it is doubtful whether any person claiming such goods or which of any two or more persons so claiming is entitled to the possession thereof of the Magistrates' Court, upon the application of such member and in the presence of all the parties

No. 3750 s. 80.
S. 125
amended by
Nos 9019
s. 2(1)(Sch.
item 187),
57/1989
s. 3(Sch. item
156.15(a)(b)),
9/2001 s. 15.

claiming such goods or in the absence of any such parties who having had reasonable notice of the hearing of such application do not appear, may hear receive and examine evidence touching the matter of such application and may order to whom such goods shall be delivered by such member, and such goods shall be delivered accordingly; and if after the making of such order any action is commenced against such member for the recovery of such goods or the value thereof, such order and the delivery of the goods in pursuance thereof may be given and shall be received in evidence in bar of such action, but such order or delivery shall not affect the rights or liabilities of the persons claiming such goods or to whom the same have been delivered as aforesaid.

S. 126
amended by
No. 6957
ss 4(1)(d),
12(3),
repealed by
No. 9906 s. 12,
new s. 126
inserted by
No. 79/2004
s. 96.

126 Deliberations of Ministers and Parliamentary committees not to be disclosed

- (1) A person shall not be required or authorised by virtue of this Act—
- (a) to furnish any information or answer any question; or
 - (b) to produce or inspect so much of any document—

which relates to the deliberations of Ministers or any committee consisting of Members of Parliament where the committee is formed for the purpose of advising the Ministers in respect of their deliberations.

- (2) A certificate issued by the Attorney-General certifying that any information or question or any document or part of a document relates to the deliberations of Ministers or of a committee referred to in subsection (1) is conclusive of the fact so certified.

127 Penalty on persons causing disaffection etc.

Nos 3750
s. 83, 5126
s. 23(1)(e).
S. 127
amended by
No. 42/1990
s. 8(k).

Every person who—

- (a) causes or attempts to cause or does any act calculated to cause disaffection among the members of the force; or
- (b) induces or attempts to induce or does any act calculated to induce any member of the force to withhold his services or to commit breaches of discipline—

shall be liable to a penalty of not more than 10 penalty units:

Provided that nothing in this section shall apply to any person who in good faith—

- (i) points out or endeavours to point out errors or defects in or desirable alterations or improvements to laws regulations or working conditions governing members of the police force; or
- (ii) induces members of the police force to attempt to procure by lawful means the alteration of any of the laws regulations or working conditions governing members of the police force.

s. 127A

127A Unauthorized disclosure of information and documents

S. 127A
inserted by
No. 7081
s. 20.

S. 127A(1)
amended by
No. 42/1990
s. 8(l),
substituted by
No. 52/2007
s. 8(1).

- (1) A person who is a member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is the member's duty not to access, make use of or disclose the information.

Penalty: 240 penalty units or imprisonment for 2 years or both.

S. 127A(1AA)
inserted by
No. 52/2007
s. 8(1).

- (1AA) In any proceedings for an offence against subsection (1), it is a defence if the person charged with the offence took reasonable steps not to access, make use of or disclose the information.

S. 127A(1AB)
inserted by
No. 52/2007
s. 8(1).

- (1AB) A person who is a member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is the member's duty not to access, make use of or disclose the information, and if the person knows, or is reckless as to whether, the information may be used (whether by the person or any other person) to—

- (a) endanger the life or safety of any person; or
- (b) commit, or assist in the commission of an indictable offence; or
- (c) impede or interfere with the administration of justice.

Penalty: 600 penalty units or imprisonment for 5 years or both.

-
- (1AC) An offence against subsection (1AB) is an indictable offence.
- S. 127A(1AC) inserted by No. 52/2007 s. 8(1).
- (1A) Subsection (1) does not prevent a member of the police force from accessing, making use of or disclosing any fact or document referred to in that subsection, whether obtained before or after the commencement of section 11 of the **Criminal Justice Legislation (Miscellaneous Amendments) Act 2002**, on a computerised database in the performance of official duties if the Chief Commissioner of Police has given written authority under subsection (1B) that applies to the member.
- S. 127A(1A) inserted by No. 35/2002 s. 11, amended by No. 52/2007 s. 8(2).
- (1B) The Chief Commissioner of Police may, by instrument in writing, authorise members, or classes of members, of the police force specified in the authority, to access, make use of or disclose, for the performance of their official duties, information, or classes of information, referred to in subsection (1) on a computerised database specified in the authority that is able to be accessed by—
- S. 127A(1B) inserted by No. 35/2002 s. 11, amended by No. 52/2007 s. 8(3).
- (a) members of the police force; or
- (b) persons holding a position within the meaning of section 30 of the **Corrections Act 1986**, other than as volunteers; or
- (c) officers within the meaning of section 85 of the **Corrections Act 1986**.
- (1C) Nothing in subsection (1A) prevents the accessing, making use of or disclosing of health information within the meaning of the **Health Records Act 2001** in accordance with that Act.
- S. 127A(1C) inserted by No. 35/2002 s. 11, amended by No. 52/2007 s. 8(4).
-

Police Regulation Act 1958
No. 6338 of 1958
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s. 127A

S. 127A(1D)
inserted by
No. 110/2004
s. 18.

S. 127A(1E)
inserted by
No. 110/2004
s. 18.

S. 127A(1F)
inserted by
No. 24/2005
s. 26,
amended by
Nos 30/2007
s. 237, 40/2010
s. 44(2).

S. 127A(2)
amended by
No. 42/1990
s. 8(l),
substituted by
No. 52/2007
s. 8(5).

S. 127A(3)
inserted by
No. 52/2007
s. 8(5).

S. 127A(4)
inserted by
No. 52/2007
s. 8(5).

- (1D) Subsection (1) does not prevent a member of the force from disclosing vehicle accident information in accordance with Part VIB.
- (1E) In subsection (1D) *vehicle accident information* has the same meaning as in section 118L.
- (1F) Subsection (1) does not prevent a member of the police force from disclosing to the operator or driver of a tow truck, within the meaning of the **Accident Towing Services Act 2007**, or a person who manages a depot, within the meaning of that Act, in connection with the towing of a vehicle by a tow truck, information disclosed under section 92(3)(da) of the **Road Safety Act 1986** and such a disclosure by a member of the police force is authorised for that purpose.
- (2) A person who is a former member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is the former member's duty not to access, make use of or disclose the information.
- Penalty: 240 penalty units or imprisonment for 2 years or both.
- (3) In any proceedings for an offence against subsection (2), it is a defence if the person charged with the offence took reasonable steps not to access, make use of or disclose the information.
- (4) A person who is a former member of police personnel must not access, make use of or disclose any information that has come into his or her knowledge or possession, by virtue of his or her office or by virtue of performing his or her functions as a member of police personnel, if it is

the former member's duty not to access, make use of or disclose the information, and if the person knows, or is reckless as to whether, the information may be used (whether by the person or any other person) to—

- (a) endanger the life or safety of any person; or
- (b) commit, or assist in the commission of an indictable offence; or
- (c) impede or interfere with the administration of justice.

Penalty: 600 penalty units or imprisonment for 5 years or both.

- (5) An offence against subsection (4) is an indictable offence.

S. 127A(5)
inserted by
No. 52/2007
s. 8(5).

128 No certiorari permitted

No charge complaint conviction order or other proceeding before or by the Magistrates' Court under this Act shall be quashed or set aside or be deemed void or insufficient for want of form only or be removed or removable by certiorari or other process whatsoever into the Supreme Court.

No. 3750 s. 85.
S. 128
amended by
Nos 57/1989
s. 3(Sch. item
156.16(a)(b)),
68/2009
s. 97(Sch.
item 93.5).

129 Power to Minister to enter into and enforce agreements with members of the force

- (1) The Governor in Council may by Order authorize the Minister to enter into agreements with members of the force who undertake special training courses with sureties approved by him and may make regulations prescribing the form of and conditions to be contained in such agreements and providing for or with respect to the payment to the Minister by such members of the force and sureties of such amounts as are fixed by the Minister for or with respect to breaches of such agreements by members of the force.

No. 6091 s. 4.

S. 129(1)
amended by
Nos 6833 s. 4,
6957 s. 2(h),
42/1990
s. 12(1)(b)(i)(ii),
11/1992 s. 18.

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Part VII—Miscellaneous Provisions

s. 129A

S. 129(2)
repealed by
No. 6886
s. 3.

* * * *

S. 129A
inserted by
No. 35/1993
s. 16,
amended by
No. 32/2004
s. 19 (ILA
s. 39B(1)).

129A Supreme Court—limitation of jurisdiction

- (1) It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court awarding compensation in the circumstances set out in section 86AA of this Act.

S. 129A(2)
inserted by
No. 32/2004
s. 19,
repealed by
No. 34/2008
s. 142(24).

* * * *

S. 129A(3)
inserted by
No. 63/2004
s. 5,
repealed by
No. 34/2008
s. 142(24).

* * * *

S. 129A(4)
inserted by
No. 79/2004
s. 97,
substituted by
No. 79/2004
s. 98,
repealed by
No. 34/2008
s. 142(24).

* * * *

S. 129A(5)
inserted by
No. 34/2008
s. 140.

- (5) It is the intention of section 86KJ to alter or vary section 85 of the **Constitution Act 1975**.

S. 129A(6)
inserted by
No. 60/2008
s. 12.

- (6) It is the intention of section 86KJ, as it applies on and after the commencement of section 9 of the **Major Crime (Investigative Powers) and Other Acts Amendment Act 2008**, to alter or vary section 85 of the **Constitution Act 1975**.

130 Regulations

Nos 3750
s. 86, 5126
s. 23(1)(g),
5260 s. 2.

(1) The Governor in Council may make regulations for or with respect to—

- (a) deductions from service for sickness misconduct or neglect of duty;
- (b) the mode in which pensions gratuities or allowances are to be paid;
- (c) the declarations to be made as a condition of the payment of pensions gratuities or allowances payable under Division two of Part III of this Act;
- (d) declaring what period shall be a period of probationary service in the force;

(da) special constables under Part VC;

S. 130(1)(da)
inserted by
No. 6957
s. 10(a),
amended by
No. 9469
s. 4,
substituted by
No. 87/2005
s. 17.

(db) permitting members of the force to accept appointment as members of the police force of the Commonwealth or of any other State or Territory of the Commonwealth or of any other country;

S. 130(1)(db)
inserted by
No. 6957
s. 10(a),
amended by
No. 9469
s. 4.

(dc) regulating the conduct of members of the force while serving as members of any other police force and regulating the conduct of members of any other police force while serving as members of the police force of Victoria;

S. 130(1)(dc)
inserted by
No. 6957
s. 10(a).

(dd) requiring any members of the force to reside in the district or sub-district to which they are attached or to reside in any particular premises within the district or sub-district

S. 130(1)(dd)
inserted by
No. 6957
s. 10(a).

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s. 130

which are provided for the use of and allocated to such members;

S. 130(1)(de)
inserted by
No. 6957
s. 10(a),
amended by
No. 42/1990
s. 11,
substituted by
No. 9/2001
s. 16.

- (de) prescribing fees or charges that may be imposed for the provision of services by members of the force or persons employed in the office of the Chief Commissioner;

S. 130(1)(dea)
inserted by
No. 9066
s. 8(1),
substituted by
Nos 10250
s. 19(a),
11/1992
s. 17(3).

- (dea) authorising the Chief Commissioner to grant leave with or without pay to a member of the force who is a Deputy Commissioner or an Assistant Commissioner and prescribing the effect of that leave on any other entitlement that the member may have or may come to have under this Act or the regulations;

S. 130(1)(df)
inserted by
No. 6957
s. 10(a).

- (df) the government of the members of the force;

S. 130(1)(dg)
inserted by
No. 6957
s. 10(a).

- (dg) any matter necessary or expedient to promote the efficiency of the force or to promote the efficient discharge of duties by any member or any class of members of the force;

S. 130(1)(dh)
inserted by
No. 10250
s. 19(b).

- (dh) the investigation of complaints about the conduct of members of the force;

- (e) appeals provided for in Division two of Part III of this Act and the costs of such appeals;

S. 130(1)(f)
substituted by
No. 35/1993
s. 17,
amended by
No. 61/1999
s. 17.

- (f) appeals and reviews by the Appeals Board;

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s. 131

(g) any proceedings under Part IV;

S. 130(1)(g)
amended by
No. 6957
s. 10(b),
substituted by
No. 35/1993
s. 17.

(h) prescribing scales of fees or expenses to be
paid to witnesses appearing before the
Appeals Board and the classes of cases in
which any prescribed fees or expenses may
be paid;

S. 130(1)(h)
amended by
No. 6957
s. 10(c),
substituted by
No. 35/1993
s. 17,
amended by
No. 61/1999
s. 17.

* * * * *

S. 130(1)(i)
amended by
No. 6957
s. 10(d),
substituted by
No. 42/1990
s. 4(7),
repealed by
No. 35/1993
s. 17.

(j) generally any matter or thing required or
permitted to be prescribed or which is
necessary or convenient to be prescribed for
carrying this Act into effect.

* * * * *

S. 130(2)
repealed by
No. 6886
s. 3.

**131 Transitional provisions on abolition of Police Board
and Police Review Commission**

S. 131
inserted by
No. 61/1999
s. 18.

(1) If—

(a) an application was made to the Police Board
for a review under Division 1 of Part IV; and

(b) the Police Board had not begun to hear the review before the commencement of section 5 of the **Police Regulation (Amendment) Act 1999**—

the review is to be heard by the Appeals Board under this Act as in force after that commencement.

(2) If the Police Board had begun hearing a review under Division 1 of Part IV before the commencement of section 5 of the **Police Regulation (Amendment) Act 1999**, the review is to continue to be heard by the Police Board in accordance with this Act as in force immediately before that commencement, and the Police Board continues to exist for that purpose despite that commencement.

(3) If—

(a) an appeal or an application for review under Division 2 of Part V was made to the Police Review Commission; and

(b) the Police Review Commission had not begun to hear the review before the commencement of section 10 of the **Police Regulation (Amendment) Act 1999**—

the review is to be heard by the Appeals Board under this Act as in force after that commencement.

(4) If the Police Review Commission had begun hearing an appeal or a review under Division 2 of Part V before the commencement of section 10 of the **Police Regulation (Amendment) Act 1999**, the review is to continue to be heard by the Police Review Commission in accordance with this Act as in force immediately before that commencement, and the Police Review

Commission continues to exist for that purpose
despite that commencement.

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S. 132
inserted by
No. 32/2004
s. 20,
repealed by
No. 34/2008
s. 142(25).

* * * * *

S. 133
inserted by
No. 63/2004
s. 6,
amended by
No. 79/2004
s. 99,
repealed by
No. 34/2008
s. 142(25).

134 Transitional provision for special constables

S. 134
inserted by
No. 87/2005
s. 17.

- (1) A person who, immediately before the commencement day, held an appointment as a member of the force under regulation 15 of the Police Regulations 2003, is taken on and after the commencement day to be a special constable as if he or she had been appointed under Division 1 of Part VC of this Act.

- (2) In this section—

commencement day means the day on which section 18 of the **Investigative, Enforcement and Police Powers Acts (Amendment) Act 2005** comes into operation.

* * * * *

S. 135
inserted by
No. 67/2007
s. 14,
repealed by
No. 34/2008
s. 142(25).

S. 136
inserted by
No. 34/2008
s. 141.

136 Transitional provisions for Police Integrity Act 2008

- (1) Section 86KH applies, on and after the commencement day, in respect of any subpoena issued on or after 13 March 2008.
- (2) Section 86PF applies, on and after the commencement day, in respect of a summons issued under section 17 of the **Evidence Act 1958** whether the summons was issued before, on or after that day.
- (3) Sections 86VAD and 86VAE apply, on and after the commencement day, whether the requirement to answer the question, produce the document or other thing or give the information was made before, on or after that day.
- (4) An authorisation of a person under section 86VA(2) that was in force immediately before the commencement day is taken, on and after that day, to be an authorisation of the person under section 86VA(2) as substituted by section 139 of the **Police Integrity Act 2008**.
- (5) An application made under section 86VE as in force immediately before the commencement day that had not been determined before that day is to be determined on or after that day as if section 139 of the **Police Integrity Act 2008** had not been enacted.
- (6) An application for return of a document or thing made under section 86VG before the commencement day that had not been determined before that day is to be determined on or after that day as if it were an application for return of a document or other thing made under section 86VE as substituted by section 139 of the **Police Integrity Act 2008**.

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- (7) An application for a search warrant made under section 86W before the commencement day that had not been determined before that day is to be determined on or after that day as if it were an application for a search warrant under section 86VG as substituted by section 139 of the **Police Integrity Act 2008**.
- (8) A search warrant issued under section 86W before the commencement day that is in force immediately before that day is taken, on and after that day, to be a search warrant issued under section 86VG as substituted by section 139 of the **Police Integrity Act 2008**.
- (9) In this section—
commencement day means the day after the day on which the **Police Integrity Act 2008** receives the Royal Assent.
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SCHEDULES

Sch. 1
repealed by
No. 35/1993
s. 4,
new Sch. 1
inserted by
No. 9/2001
s. 17.

FIRST SCHEDULE

Section 71(2)

REPORTABLE OFFENCES

PART 1—LEVEL 1, 2, 3 OR 4 OFFENCES OR THEIR EQUIVALENT

- 1.1 Any level 1, 2, 3 or 4 offence.
- 1.2 Any indictable offence that is punishable by—
 - (a) level 1, 2, 3 or 4 imprisonment; or
 - (b) a level 1, 2, 3 or 4 fine; or
 - (c) both level 1, 2, 3 or 4 imprisonment and a level 1, 2, 3 or 4 fine.
- 1.3 Any indictable offence (other than an offence referred to in item 1.1 or 1.2) that is punishable by a maximum term of imprisonment of 15 years or more or a maximum fine of 1800 penalty units or more, or both.

PART 2—OTHER CRIMES ACT OFFENCES

- 2.1 Offences against the person
An offence under section 18, 19(1), 20, 21, 21A(1), 22, 23, 24, 26, 28, 29(1), 30, 31(1) or 31A(1) of the **Crimes Act 1958**.
- 2.2 Sexual offences
An offence under section 39(1), 40(1), 44(3) or (4), 45(1), 47(1), 48(1), 49(1), 51, 52, 53, 54, 55, 56, 57, 58, 59(1), 60(1), 60A(1), 68, 69 or 70(1) of the **Crimes Act 1958**.

2.3 Child stealing

An offence under section 63 of the **Crimes Act 1958**.

2.4 Theft

An offence under section 74 of the **Crimes Act 1958**.

2.5 Burglary

An offence under section 76 of the **Crimes Act 1958**.

2.6 Fraud

An offence under section 81, 82, 83, 83A or 86 of the **Crimes Act 1958**.

2.7 Secret commissions

An offence under section 176, 178 or 181 of the **Crimes Act 1958**.

2.8 Destroying or damaging property

An offence under section 197(1) or (3), 198 or 199 of the **Crimes Act 1958** if the Chief Commissioner reasonably believes that the amount or value of the property alleged to be destroyed or damaged exceeds \$500.

2.9 False statements

An offence under section 247 of the **Crimes Act 1958**.

2.10 Contamination of Goods

An offence under section 249, 250 or 251 of the **Crimes Act 1958**.

2.11 Offences connected with explosive substances

An offence under section 317(3) or (4) or 317A of the **Crimes Act 1958**.

2.12 Conspiracy to commit an offence

An offence under section 321(1) of the **Crimes Act 1958**.

2.13 Incitement

An offence under section 321G(1) of the **Crimes Act 1958** in relation to an indictable offence referred to elsewhere in this Schedule or an offence that, if committed in Victoria, would be an indictable offence referred to elsewhere in this Schedule.

2.14 Attempts

An offence—

- (a) under section 321M or 321O(2) of the **Crimes Act 1958** of attempting to commit an indictable offence referred to elsewhere in this Schedule; or
- (b) an offence under section 321O(1) of the **Crimes Act 1958** of attempting to commit in another State or in a Territory an offence which, if committed in whole or in part in Victoria, would be an indictable offence referred to elsewhere in this Schedule.

2.15 Accessories

An offence under section 325(1) of the **Crimes Act 1958** in relation to a serious indictable offence (within the meaning of that section) referred to elsewhere in this Schedule.

2.16 Concealing offences for benefit

An offence under section 326 of the **Crimes Act 1958** in relation to a serious indictable offence (within the meaning of that section) referred to elsewhere in this Schedule.

2.17 Escapes

An offence under section 479A, 479B or 479C of the **Crimes Act 1958**.

PART 3—OTHER STATUTORY OFFENCES

- 3.1 Any indictable offence under any of the following Acts (not being an offence referred to in Part 1)—
- (a) **Drugs, Poisons and Controlled Substances Act 1981**;
 - (b) **Firearms Act 1996**;
 - (c) **Prostitution Control Act 1994**;
 - (d) **Road Safety Act 1986**.
- 3.2 An offence under section 95(1), 96(1), 127 or 127A of this Act.
- 3.2A An offence under section 32 of the **Stalking Intervention Orders Act 2008**.
- 3.3 An offence under section 37 or 123 of the **Family Violence Protection Act 2008**.

Sch. 1
item 3.2A
inserted by
No. 68/2008
s. 81.

Sch. 1 item 3.3
substituted by
No. 52/2008
s. 256.

PART 4—COMMON LAW OFFENCES

4. The following offences at common law (not being an offence referred to in Part 1)—
- (a) common assault involving an allegation of—
 - (i) any physical injury; or
 - (ii) the use of an offensive weapon within the meaning of section 77(1A) of the **Crimes Act 1958** (regardless of whether or not there is any alleged physical injury);
 - (b) false imprisonment;
 - (c) affray;

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Sch. 1

-
- (d) bribery of public official;
(e) misconduct in public office.

Sch. 1A
inserted by
No. 72/1992
s. 8,
amended by
Nos 26/1997
s. 48(f),
46/1998
s. 7(Sch. 1),
30/1999
ss 27, 28,
repealed by
No. 61/1999
s. 19.

* * * * *

SECOND SCHEDULE³

Ss 13, 105.

FORM A

OATH FOR MEMBERS OF THE POLICE FORCE OF VICTORIA

I swear by Almighty God that I will well and truly serve our Sovereign Lady the Queen as a member of the Police Force of Victoria in such capacity as I may be hereafter appointed, promoted, or reduced to without favour or affection malice or ill-will for the period of
from this date, and until I am legally discharged; that I will see and cause Her Majesty's peace to be kept and preserved; and that I will prevent to the best of my power all offences against the same, and that while I shall continue to be a member of the Police Force of Victoria I will to the best of my skill and knowledge discharge all the duties legally imposed upon me faithfully and according to law.

FORM B

**OATH FOR MEMBERS OF THE RETIRED POLICE RESERVE
OF VICTORIA**

I swear by Almighty God that I will well and truly serve our Sovereign Lady the Queen as a member of the Retired Police Reserve of Victoria, without favour or affection, malice or ill-will; that I will see and cause Her Majesty's peace to be kept and preserved; and that I will prevent to the best of my power all offences against the same, and that while I shall continue to be a member of the Retired Police Reserve I will to the best of my skill and knowledge discharge all the duties legally imposed upon me faithfully and according to law.

FORM C

OATH FOR SPECIAL CONSTABLES

I swear by Almighty God that I will well and truly serve our Sovereign Lady the Queen as a special constable in Victoria, without favour or affection, malice or ill-will; that I will see and cause Her Majesty's peace to be kept and preserved; and that I will prevent to the best of my power all offences against the same, and that while I shall continue to be a special constable I will to the best of my skill and knowledge discharge all the duties legally imposed upon me faithfully and according to law.

**Sch. 2 Form C
inserted by
No. 87/2005
s. 19.**

Sch. 2

I do solemnly and sincerely affirm that I will well and truly serve our Sovereign Lady the Queen as a special constable in Victoria, without favour or affection, malice or ill-will; that I will see and cause Her Majesty's peace to be kept and preserved; and that I will prevent to the best of my power all offences against the same, and that while I shall continue to be a special constable I will to the best of my skill and knowledge discharge all the duties legally imposed upon me faithfully and according to law.

Sch. 3

Ss 23, 25, 39.

We certify that on the _____ day of _____ 19____ we examined _____ a member of the Police Force of Victoria and we further certify that we believe that he is incapable of the discharge of his duties as a member of the said force from infirmity of [*state whether of mind or body*] and that we believe such infirmity is likely to be permanent and was not occasioned by any excess or misconduct on his part.

Members of the Medical Board.

No. 4592
s. 5(3).

Having considered medical evidence submitted to us as to the health of _____ a member of the Police Force of Victoria, we certify that we believe that he is incapable of the discharge of his duties as a member of the said force from infirmity of [*state whether of mind or body*] and that we believe such infirmity is likely to be permanent and was not occasioned by any excess or misconduct on his part.

Members of the Medical Board.

Ss 40, 46, 58,
59, 60.

FOURTH SCHEDULE

SCALES OF PENSIONS, ALLOWANCES AND GRATUITIES

PART I

Members of the Police Force

(a) Ordinary Pensions

- 1 *On retirement under section forty-two of this Act*—Such proportion of the annual pay as is specified in scale number 1, set out in the subjoined table.
- 2 *On retirement under paragraph (a) of section forty-three of this Act*—Such proportion of the annual pay as is specified in scale number 2, set out in the said table.

(b) Special Pensions

- 3 *On retirement under paragraph (b) of section forty-three of this Act*—
 - (a) On total disablement from an injury received in the execution of duty—
 - (i) if the injury is non-accidental, such proportion of the annual pay as is specified in scale number 3 in the said table;
 - (ii) if the injury is accidental, such proportion of the annual pay as is specified in scale number 4 in the said table;
 - (iii) if it is not possible to determine definitely whether the injury is accidental or non-accidental, such rate intermediate between the rates prescribed in the preceding paragraphs (i) and (ii) as ESS Board determines.

Sch. 4
cl. 3(a)(iii)
amended by
No. 120/1994
s. 6(2)(a).

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- (b) On partial disablement from an injury received in the execution of duty—

Such proportion of the pension applicable in case of total disablement as the degree of disablement bears to total disablement:

Provide that the pension shall not be less than such proportion of the annual pay as is specified, if the injury was non-accidental, in scale number 5 in the subjoined table, and otherwise in scale number 6 in the said table.

(c) Gratuities

- 4 *On retirement under paragraph (c) of section forty-three of this Act*—The gratuity shall be an amount equal to one-twelfth of the annual pay for each completed year of approved service or, where a member of the force has not completed one year of approved service, an amount equal to one-twelfth of the whole pay received by him or her.

**Sch. 4 cl. 4
amended by
No. 40/2010
s. 43(3).**

TABLE

Scales of Pensions

Completed years of approved service	Proportion of Pension to Pay on Retirement					
	Scale No. 1	Scale No. 2	On retirement under section 43(b)			
			Scale No. 3	Scale No. 4	Scale No. 5	Scale No. 6
	On retirement under section 42	On retirement under section 43(a)	On total disablement from non- accidental injury received in execution of duty	On total disable- ment from accidental injury received in execution of duty	On partial disable- ment from non- accidental injury received in execution of duty	On partial disable- ment from accidental injury received in execution of duty
1 or less	60ths	60ths	60ths	60ths	60ths	60ths
2	..	..	45	30	20	10
3	..	..	45	30	20	10
4	..	..	45	30	20	10
5	..	..	45	30	20	10
6	..	..	45	30	20	10
7	..	..	45	30	20	10
8	..	..	45	30	20	10

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Completed years of approved service	Proportion of Pension to Pay on Retirement					
	Scale No. 1	Scale No. 2	On retirement under section 43(b)			
			Scale No. 3	Scale No. 4	Scale No. 5	Scale No. 6
	On retirement under section 42	On retirement under section 43(a)	On total disablement from non- accidental injury received in execution of duty	On total disable- ment from accidental injury received in execution of duty	On partial disable- ment from non- accidental injury received in execution of duty	On partial disable- ment from accidental injury received in execution of duty
9	. .	. .	45	30	20	10
10	. .	10	45	30	20	10
11	. .	11	48	32	21	11
12	. .	12	48	32	22	12
13	. .	13	48	32	23	13
14	. .	14	48	32	24	14
15	15	15	48	32	25	15
16	16	16	51	34	26	16
17	17	17	51	34	27	17
18	18	18	51	34	28	18
19	19	19	51	34	29	19
20	20	20	51	34	30	20
21	22	22	54	36	32	22
22	24	24	54	36	34	24
23	26	26	54	36	36	26
24	28	28	54	36	38	28
25	30	30	54	36	40	30
26	32	32	57	38	40	32
27	34	34	57	38	40	34
28	36	36	57	38	40	36
29	38	38	57	38	40	38
30 or over	40	40	60	40	40	40

Sch. 4 Pt 2
(Headings)
substituted by
Nos 8722
s. 3(a),
40/2010
s. 41(1).
S. 44.
Nos 5460 s. 5,
5897 s. 3,
6091 s. 2.

PART II

Partners, Children and Adult Children

(a) Partners' Pensions

Sch. 4 cl. 5
amended by
No. 6957
s. 11(1),
substituted by
Nos 8179
s. 3(i), 8722
s. 3(b),
amended by
No. 40/2010
ss 41(2), 43(1).

- 5 *Partner's ordinary pension*—The pension shall be at the rate per annum specified hereunder (increased both as to annual rate and as to maximum amount by $33\frac{1}{3}$ per centum per annum), that is to say—

Pensions payable to partner of a member or pensioner whose death or retirement occurred before the coming into operation of section 2 of the **Police Regulation (Amendment) (No. 2) Act 1971**—

If the deceased partner was at the time of his or her death or retirement a police cadet constable or first constable—\$144 per annum, together with an additional \$4 per annum for each full year of approved service over and above five years:

Provided that the maximum pension shall not exceed \$250 per annum;

If the deceased partner was at the time of his or her death or retirement a senior constable—\$264 per annum together with an additional \$4 per annum for each full year of approved service as a senior constable:

Provided that the maximum pension shall not exceed \$312 per annum;

If the deceased partner was at the time of his or her death or retirement a sergeant—\$374 per annum;

If the deceased partner was at the time of his or her death or retirement a sub-inspector or station officer—\$432 per annum;

If the deceased partner was at the time of his or her death or retirement an inspector or of a higher rank than inspector—\$456 per annum.

Pensions payable to partner of a member or pensioner whose death or retirement occurred after the coming into operation of section 2 of the **Police Regulation (Amendment) (No. 2) Act 1971**—

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If the deceased partner was at the time of his or her death or retirement a police cadet constable or senior constable—\$144 per annum, together with an additional \$4 per annum for each full year of approved service over and above five years:

Provided that the maximum pension shall not exceed \$250 per annum;

If the deceased partner was at the time of his or her death or retirement a sergeant—\$264 per annum together with an additional \$4 per annum for each full year of approved service as a senior constable before the coming into operation of section 2 of the **Police Regulation (Amendment) (No. 2) Act 1971** and as a sergeant after the commencement of the said Act:

Provided that the maximum pension shall not exceed \$312 per annum;

If the deceased partner was at the time of his or her death or retirement a senior sergeant—\$374 per annum;

If the deceased partner was at the time of his or her death or retirement a station officer—\$432 per annum;

If the deceased partner was at the time of his or her death or retirement an inspector or of a higher rank than inspector—\$456 per annum.

S. 44.
Sch. 4 cl. 6
substituted by
No. 8722
s. 3(c),
amended by
No. 40/2010
ss 41(3), 43(1).

- 6 *Partner's special pension*—The pension shall be equal to 16/45 of the annual pay of his or her partner at the time of his or her death or retirement.

(b) Partners' Gratuities

Heading
preceding
Sch. 4 cl. 7
amended by
No. 8722
s. 3(d),
substituted by
No. 40/2010
s. 41(4).

- 7 The gratuity shall be of such amount as the ESS Board determines after taking into consideration—
- (a) the advice of the actuary as to value of the pension to which the partner was entitled at the time he or she applied for a gratuity;
 - (b) the proportion of the pension which the partner wishes to receive as a gratuity; and
 - (c) the value of any payments of the pension made to the partner after he or she applied for a gratuity.

S. 44.
Sch. 4 cl. 7
substituted by
No. 7538 s. 5,
amended by
No. 8722
s. 3(e),
substituted by
No. 9066
s. 9(a),
amended by
Nos 10087
s. 3(1)(Sch. 1
item 183),
120/1994
s. 6(2)(b)(c),
40/2010
s. 41(5).

(c) Children's and Adult Children's Allowances

Heading
preceding
Sch. 4 cl. 8
substituted by
No. 40/2010
s. 41(6).

- 8 The pension applicable to a child or adult child of a deceased member or pensioner shall be—
- (1) If the partner of the member or pensioner is alive—
- (a) where there is not more than three such children or adult children, an amount equal to 10 per cent of the member's or pensioner's pension;
 - (b) where there are four or more such children or adult children, an amount equal to 30 per cent of the member's or pensioner's pension divided by the number of children and adult children in

S. 45.
No. 5897 s. 4.
Sch. 4 cl. 8
substituted by
No. 6486
s. 2(3),
amended by
Nos 7417
s. 12(1)(a),
7910
s. 11(3)(a),
8314 s. 11(a),
substituted by
No. 8722
s. 3(f),
amended by
No. 40/2010
s. 41(7).

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respect of whom the pension is for the time being payable—

or \$312 per annum, whichever is the greater.

- (2) If the partner of the member or pensioner is dead or divorced the pension applicable to a child or adult child shall be—
- (a) where there is one such child or adult child, an amount equal to 45 per cent of the pension of the deceased member or pensioner;
 - (b) where there are two such children or adult children, an amount equal to 40 per cent of the pension of the deceased member or pensioner;
 - (c) where there are three such children or adult children, an amount equal to 30 per cent of the pension of the deceased member or pensioner;
 - (d) where there are four or more such children or adult children, an amount equal to the pension of the deceased member or pensioner divided by the number of children and adult children in respect of whom the pension is for the time being payable—

or \$624 per annum, whichever is the greater.

- (3) In this clause *pension of a member or pensioner* means—

- (a) on the death of a member before retirement, the pension to which the member would have been entitled if he or she had been of an age to retire at the time of his or her death; and
- (b) on the death of the member after retirement the pension payable to him or her at the time of his or her retirement.

Sch. 4
cl. 8(3)(a)
amended by
No. 40/2010
s. 43(1)(2).

Sch. 4
cl. 8(3)(b)
amended by
Nos 9460
s. 4(g),
40/2010
s. 43(1)(3).

-
- (4) Where but for this clause pensions would be payable in respect of a child or adult child as a child or adult child of more than one member only the pension which is the greater shall be payable in respect of that child or adult child.
- (5) A pension is not payable under this clause in respect of a child born more than ten months after the death of the member or pensioner.
- 9 Children's allowances shall be payable to children—
- (a) who are under the age of eighteen years; or
- (b) who are between the ages of eighteen years and twenty-five years and who in the opinion of the Board are full-time students—
- and to adult children.
- 9A An allowance in respect of a child shall be payable until the end of the fortnightly pay period in which—
- (a) he or she attains the age of 18 years or in the case of a student he or she attains the age of twenty-five years or the Board ceases to be satisfied that he or she is a full-time student; or
- (b) he or she dies, if he or she dies before attaining the age of 18 years or the age of twenty-five years (as the case may be).
- 9B The Board may at any time require such evidence as it thinks fit in order to decide whether or not a child is a full-time student.
- Sch. 4 cl. 9 substituted by No. 6486 s. 2(3), amended by No. 7417 s. 12(1)(b), substituted by No. 7910 s. 11(3)(b), amended by Nos 8314 s. 11(b), 40/2010 s. 41(8).
- Sch. 4 cl. 9A inserted by No. 7910 s. 11(3)(b), amended by No. 8314 s. 11(b).
- Sch. 4 cl. 9A(a) amended by No. 40/2010 s. 43(2).
- Sch. 4 cl. 9A(b) amended by No. 40/2010 s. 43(2).
- Sch. 4 cl. 9B inserted by No. 7910 s. 11(3)(b).

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Sch. 4 cl. 9C
inserted by
No. 40/2010
s. 41(9).

9C An allowance in respect of an adult child is payable until the end of the fortnightly pay period in which—

(a) the Board ceases to be satisfied that he or she is an adult child; or

(b) he or she dies—

whichever is the earlier.

Heading
preceding
Sch. 4 cl. 10
substituted by
No. 40/2010
s. 41(10).

(d) Children's and Adult Children's Gratuities

Sch. 4 cl. 10
amended by
Nos 120/1994
s. 6(2)(a),
40/2010
ss 41(11),
43(2)(4).

10 The gratuity shall be of such amount as ESS Board determines, not exceeding one-sixtieth of the annual pay for each completed year of approved service of the member of the force or pensioner, or, where he or she had not completed one year of approved service, not exceeding one-sixtieth of the annual pay, so that the total amount of any gratuity or gratuities granted to the children and adult children or to the widow or widower and children and adult children does not exceed one-twelfth of the annual pay for each completed year of approved service, and the total amount of any gratuities granted to the children and adult children shall not, in any case, exceed the annual pay.

(e) Dependants' Gratuities

Sch. 4 cl. 11
amended by
No. 40/2010
s. 43(1).

11 The total amount of any gratuity or gratuities paid to a dependant or dependants of a member of the force or pensioner shall not exceed the amount of the rateable deductions which have been made from his or her pay.

PART III

General Rules

- 12 The same person shall not be entitled, unless expressly so provided in Division two of Part III of this Act, to a gratuity in addition to a pension or allowance, or to both an ordinary pension and a special pension.
- 13 A gratuity shall be paid in one sum, except that in special cases it may be paid by instalments or applied on behalf of the grantee if the ESS Board determines that it would be to the advantage of a partner, child or adult child to do so; and a child's or adult child's allowance or gratuity or a dependant's gratuity may be paid to a guardian or trustee if the ESS Board determines that it would be to the advantage of the child, adult child or dependant to do so.
- 14 (1) If the partner of a member of the force was at the time of the member's death living apart from the member (not having been deserted by the member), a pension or gratuity is to be paid to the partner only if the ESS Board is satisfied that the member regularly contributed to the partner's support.
- (2) The amount of a pension under subclause (1) must not exceed the amount that the member contributed.
- 15 (1) If a person becomes the partner of a pensioner after the pensioner's retirement, a pension is not payable to the partner on the death of the pensioner unless—
- (a) the pensioner was in receipt of a pension under section 43 at the time the person became the pensioner's partner; or
- (b) the person became the pensioner's partner three years or more before the death of the pensioner.

Sch. 4 cl. 13
amended by
Nos 8722
s. 3(g),
120/1994
s. 6(2)(d)(e),
amended by
No. 40/2010
s. 42(1).

Sch. 4 cl. 14
amended by
No. 120/1994
s. 6(2)(b),
substituted by
No. 40/2010
s. 42(2).

Sch. 4 cl. 15
substituted by
No. 8722
s. 3(h),
amended by
Nos 9906
s. 13, 10087
s. 3(1)(Sch. 1
item 183),
40/2010
s. 42(3).

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Sch. 4 cl. 15(2)
amended by
Nos 9975 s. 7,
120/1994
s. 6(2)(c),
repealed by
No. 40/2010
s. 42(4).

* * * *

Sch. 4 cl. 15(3)
substituted by
No. 40/2010
s. 42(5).

(3) A partner of a pensioner who became the pensioner's partner after the pensioner's retirement is not entitled to receive at the same time a pension as a surviving partner and as a former member but is entitled to whichever of those pensions is greater.

Sch. 4 cl. 16
amended by
Nos 8722
s. 3(i)(i)(ii),
120/1994
s. 6(2)(a),
40/2010
ss 42(6), 43(1).

16 The pension of the partner of a member of the force to whom a gratuity has been granted on retirement shall be payable as from such date after his or her death as ESS Board determines and the pension of the partner of a pensioner shall be payable as from the end of the last period in respect of which the pensioner's pension was paid.

Sch. 4 cl. 17
substituted by
No. 8722
s. 3(j),
repealed by
No. 120/1994
s. 6(2)(f).

* * * *

Sch. 4 cl. 18
repealed by
No. 8722
s. 3(j), new
Sch. 4 cl. 18
inserted by
No. 9066
s. 9(b),
amended by
No. 40/2010
s. 42(6).

18 A partner shall not apply for a gratuity more than three months after receiving the first payment of a pension.

- 19 (a) In calculating any pension, gratuity, or allowance for the purposes of Division two of Part III of this Act, **annual pay** means annual pay at the date of death or retirement (as the case may require):

Provided that—

- (i) where a member of the force at the date of his or her retirement or death holds a rank to which he or she has been promoted within the three preceding years, his or her annual pay at the date of the retirement or death shall be deemed to be the average annual amount of pay received by him or her for the said three years, instead of the annual amount actually received by him or her at that date, so, however, that the pension allowance or maximum gratuity payable shall not be less than if he or she had continued in his or her former rank (but nothing in the subparagraph shall apply to or in relation to any former member of the force by virtue only of any change of rank brought about by the **Police Regulation (Amendment) (No. 2) Act 1971**); and
- (ii) where the pay at the date of death or retirement was weekly pay, the amount of the annual pay shall be deemed to be fifty-two times the amount of the weekly pay.
- (b) For the purposes of the foregoing provisions of this rule the following shall be recognized as ranks in the force, that is to say, Chief Commissioner, Deputy Commissioner, Assistant Commissioner, commander, inspecting superintendent, chief superintendent, superintendent, chief inspector, inspector, sub-inspector, station officer and any other officer of different grade, and senior sergeant, sergeant, senior constable, first constable, constable and police cadet.

Sch. 4
cl. 19(a)(i)
amended by
Nos 8179
s. 3(u)(i),
40/2010
s. 43(1)(3).

No. 4592 s. 10.
Sch. 4 cl. 19(b)
amended by
No. 6957
s. 11(2),
substituted by
No. 8179
s. 3(u)(ii),
amended by
No. 8487 s. 4.

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Endnotes

ENDNOTES

1. General Information

The **Police Regulation Act 1958** was assented to on 30 September 1958 and came into operation on 1 April 1959: Government Gazette 18 March 1959 page 893.

Note to long title—

As to special constables, see sections 13–25 of the **Unlawful Assemblies and Processions Act 1958** and section 10 of the **Public Safety Preservation Act 1958**.

As to water police, see sections 3 and 4 of the **Seamen's Act 1958**.

As to a member of the Police Force being lawfully appointed to act as a bailiff, see section 109 of the **Supreme Court Act 1986**.

2. Table of Amendments

This Version incorporates amendments made to the **Police Regulation Act 1958** by Acts and subordinate instruments.

Police Regulation (Amendment) Act 1958, No. 6486/1958

Assent Date: 16.12.58
Commencement Date: 2.1.59: Government Gazette 17.12.58 p. 3922
Current State: All of Act in operation

Statute Law Revision Act 1959, No. 6505/1959

Assent Date: 5.5.59
Commencement Date: 1.4.59: s. 1(2)
Current State: All of Act in operation

Police Regulation (Delegation of Powers) Act 1959, No. 6570/1959

Assent Date: 1.12.59
Commencement Date: 1.12.59
Current State: All of Act in operation

Police Regulation (Pensions) Act 1959, No. 6695/1959

Assent Date: 13.12.60
Commencement Date: 30.12.60: Government Gazette 14.12.60 p. 3918
Current State: All of Act in operation

Police Regulation (Amendment) Act 1961, No. 6833/1961

Assent Date: 12.12.61
Commencement Date: 1.8.62: Government Gazette 1.8.62 p. 2694
Current State: All of Act in operation

Subordinate Legislation Act 1962, No. 6886/1962

Assent Date: 8.5.62
Commencement Date: 1.8.62: Government Gazette 4.7.62 p. 2314
Current State: All of Act in operation

Police Regulation Act 1962, No. 6957/1962

Assent Date: 18.12.62
Commencement Date: 1.10.63: Government Gazette 25.9.63 p. 2916
Current State: All of Act in operation

Superannuation Act 1963, No. 7081/1963

Assent Date: 10.12.63
Commencement Date: 1.2.64: Government Gazette 1.2.64 p. 132
Current State: All of Act in operation

Public Service (Amendment) Act 1964, No. 7135/1964

Assent Date: 5.5.64
Commencement Date: 11.6.64: Government Gazette 10.6.64 p. 1895
Current State: All of Act in operation

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Statute Law Revision Act 1964, No. 7142/1964

Assent Date: 5.5.64
Commencement Date: 5.5.64 but see s. 3
Current State: All of Act in operation

Statute Law Revision Act 1965, No. 7332/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65 but see s. 3
Current State: All of Act in operation

Public Officers Act 1965, No. 7349/1965

Assent Date: 14.12.65
Commencement Date: 14.12.65
Current State: All of Act in operation

Pensions Supplementation Act 1966, No. 7417/1966

Assent Date: 17.5.66
Commencement Date: Pt 1 on 17.5.66: s. 1(2); Pts 2, 3 on 25.5.66: Government Gazette 25.5.66 p. 1927
Current State: All of Act in operation

Public Officers (Long Service Leave) Act 1967, No. 7536/1967

Assent Date: 17.3.67
Commencement Date: 17.3.67
Current State: All of Act in operation

Police Regulation (Pensions) Act 1967, No. 7538/1967

Assent Date: 17.3.67
Commencement Date: 2.8.67: Government Gazette 2.8.67 p. 2445
Current State: All of Act in operation

Justices (Amendment) Act 1969, No. 7876/1969

Assent Date: 25.11.69
Commencement Date: All of Act (*except* ss 3, 5, 6, 7(k)(m)–(o)) on 1.4.70; ss 3, 5, 6, 7(k)(m)–(o) on 1.7.70: Government Gazette 25.2.70 p. 463
Current State: All of Act in operation

Superannuation (Amendment) Act 1969, No. 7910/1969

Assent Date: 16.12.69
Commencement Date: Ss 1, 2, 4–14 on 19.12.69: Government Gazette 19.12.69 p. 4136; s. 3 on 1.7.71: Government Gazette 19.8.70 p. 2827
Current State: All of Act in operation

Superannuation (Amendment) Act 1970, No. 8047/1970

Assent Date: 15.12.70
Commencement Date: 15.12.70
Current State: All of Act in operation

Police Regulation (Amendment) Act 1971, No. 8097/1971

Assent Date: 15.4.71
Commencement Date: 15.4.71
Current State: All of Act in operation

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Police Regulation (Amendment) (No. 2) Act 1971, No. 8179/1971

Assent Date: 23.11.71
Commencement Date: 15.12.71: Government Gazette 15.12.71 p. 3845
Current State: All of Act in operation

Superannuation Act 1972, No. 8314/1972

Assent Date: 8.11.72
Commencement Date: 1.12.72: s. 1(2)
Current State: All of Act in operation

Police Regulation (Amendment) Act 1973, No. 8487/1973

Assent Date: 4.12.73
Commencement Date: 4.12.73
Current State: All of Act in operation

Police Regulation (Pensions) Act 1975, No. 8722/1975

Assent Date: 16.5.75
Commencement Date: 1.7.75: Government Gazette 1.7.75 p. 2327
Current State: All of Act in operation

Police Regulation (Amendment) Act 1975, No. 8745/1975

Assent Date: 5.11.75
Commencement Date: 5.11.75
Current State: All of Act in operation

Police Regulation (Long Service Leave) Act 1975, No. 8759/1975

Assent Date: 18.11.75
Commencement Date: 18.11.75
Current State: All of Act in operation

Police Regulation (Long Service Leave) Act 1976, No. 8959/1976

Assent Date: 16.12.76
Commencement Date: 16.12.76
Current State: All of Act in operation

Statute Law Revision Act 1977, No. 9019/1977

Assent Date: 17.5.77
Commencement Date: 17.5.77 but see s. 2(2)
Current State: All of Act in operation

Police Regulation (Amendment) Act 1977, No. 9066/1977

Assent Date: 29.11.77
Commencement Date: 7.12.77: Government Gazette 7.12.77 p. 3765
Current State: All of Act in operation

Police Regulation (Retired Police Reserve) Act 1980, No. 9392/1980

Assent Date: 13.5.80
Commencement Date: 20.5.80: Government Gazette 28.5.80 p. 1659
Current State: All of Act in operation

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Police Regulation (Charges and Appeals) Act 1980, No. 9433/1980

Assent Date: 5.11.80
Commencement Date: Ss 1, 3–8 on 9.3.81: Government Gazette 4.3.81 p. 741; s. 2 on 1.4.81: Government Gazette 1.4.81 p. 1050
Current State: All of Act in operation

Superannuation Act 1980, No. 9460/1980

Assent Date: 16.12.80
Commencement Date: 1.1.81: Government Gazette 23.12.80 p. 4379
Current State: All of Act in operation

Police Regulation (Amendment) Act 1980, No. 9469/1980

Assent Date: 16.12.80
Commencement Date: 16.12.80
Current State: All of Act in operation

Police Regulation (Appointments) Act 1981, No. 9527/1981

Assent Date: 23.4.81
Commencement Date: 23.4.81
Current State: All of Act in operation

Statute Law Revision Act 1981, No. 9549/1981

Assent Date: 19.5.81
Commencement Date: 19.5.81 but see s. 2(2)
Current State: All of Act in operation

Crimes (Classification of Offences) Act 1981, No. 9576/1981

Assent Date: 26.5.81
Commencement Date: 1.9.81: Government Gazette 26.8.81 p. 2799
Current State: All of Act in operation

Police Regulation (Amendment) Act 1981, No. 9646/1981 (as amended by No. 9902)

Assent Date: 15.12.81
Commencement Date: Ss 1, 3, 4 on 16.12.81: Government Gazette 16.12.81 p. 4148; s. 2 on 11.5.81: s. 1(4); s. 6 on 1.3.82: Government Gazette 24.2.82 p. 533; rest of Act on 28.4.82: Government Gazette 28.4.82 p. 1171
Current State: All of Act in operation

Superannuation (Lump Sum Benefits) Act 1981, No. 9672/1981

Assent Date: 22.12.81
Commencement Date: Ss 25(1)(a), 47 on 24.3.82: s. 1(3); s. 27 on 1.7.81: s. 1(4); s. 39 on 1.11.81: s. 1(5); rest of Act on 1.1.82: Government Gazette 23.12.81 p. 4261
Current State: All of Act in operation

Statute Law Revision Act 1983, No. 9902/1983

Assent Date: 15.6.83
Commencement Date: 15.6.83 but see s. 2(2)
Current State: All of Act in operation

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Police Regulation (Amendment) Act 1983, No. 9906/1983

Assent Date: 21.6.83
Commencement Date: 21.6.83
Current State: All of Act in operation

Penalties and Sentences (Amendment) Act 1983, No. 9945/1983

Assent Date: 20.9.83
Commencement Date: S. 2 on 1.9.81: s. 1(4); s. 8 never proclaimed—
repealed by No. 10096 s. 4(4); rest of Act on 20.12.83:
Government Gazette 14.12.83 p. 4035
Current State: All of Act in operation

Police Regulation (Police Reservists) Act 1983, No. 9975/1983

Assent Date: 29.11.83
Commencement Date: 29.11.83
Current State: All of Act in operation

Police Regulation (Amendment) Act 1984, No. 10031/1984

Assent Date: 27.3.84
Commencement Date: 27.3.84
Current State: All of Act in operation

Statute Law Revision Act 1984, No. 10087/1984

Assent Date: 22.5.84
Commencement Date: 22.5.84 but see s. 3(2)
Current State: All of Act in operation

Police Regulation (Amendment) Act 1985, No. 10250/1985

Assent Date: 10.12.85
Commencement Date: Ss 1-5, 7, 8, 13, 15-21 on 11.12.85: Government
Gazette 11.12.85 p. 4544; ss 11, 12 on 11.2.86:
Government Gazette 11.2.86 p. 321; s. 9 on 19.3.86:
Government Gazette 19.3.86 p. 676; s. 14 on 4.6.86:
Government Gazette 4.6.86 p. 1609; s. 10 on 14.7.86:
Government Gazette 9.7.86 p. 2686; s. 6 on 18.8.86:
Government Gazette 6.8.86 p. 3011; s. 22 never
proclaimed—repealed by No. 14/1988 s. 19
Current State: All of Act in operation

Coroners Act 1985, No. 10257/1985

Assent Date: 10.12.85
Commencement Date: Ss 1-3, Pt 9 on 12.2.86: Government Gazette 12.2.86
p. 382; rest of Act on 1.6.86: Government Gazette
30.4.86 p. 1115
Current State: All of Act in operation

Superannuation Schemes Amendment Act 1985, No. 10258/1985

Assent Date: 10.12.85
Commencement Date: S. 7(1) on 1.1.86: Government Gazette 17.12.85
p. 4633
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Courts Amendment Act 1986, No. 16/1986

Assent Date: 22.4.86
Commencement Date: S. 30 on 1.7.86: Government Gazette 25.6.86 p. 2180
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Constitution (British Subjects) Act 1986, No. 61/1986

Assent Date: 16.9.86
Commencement Date: 27.5.87: Government Gazette 27.5.87 p. 1235
Current State: All of Act in operation

Community Services Act 1987, No. 16/1987

Assent Date: 12.5.87
Commencement Date: S. 4(3)(Sch. 1 item 18) on 22.2.89: Government Gazette 22.2.89 p. 386
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation (Protective Services) Act 1987, No. 32/1987

Assent Date: 12.5.87
Commencement Date: 10.6.87: s. 2
Current State: All of Act in operation

Deputy Ombudsman (Police Complaints) Act 1988, No. 14/1988

Assent Date: 11.5.88
Commencement Date: 11.5.88: Government Gazette 11.5.88 p. 1150
Current State: All of Act in operation

State Superannuation Act 1988, No. 50/1988

Assent Date: 24.5.88
Commencement Date: S. 93(2)(Sch. 2 Pt 2 item 45) on 1.7.88: Government Gazette 1.6.88 p. 1487
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation (Amendment) Act 1989, No. 15/1989

Assent Date: 16.5.89
Commencement Date: Ss 1–32 on 16.5.89: s. 2(1); s. 33 on 23.8.89: Government Gazette 23.8.89 p. 2146
Current State: All of Act in operation

County Court (Amendment) Act 1989, No. 19/1989

Assent Date: 16.5.89
Commencement Date: 1.8.89: Government Gazette 26.7.89 p. 1858
Current State: All of Act in operation

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Police Regulation (Further Amendment) Act 1990, No. 42/1990

Assent Date: 13.6.90
Commencement Date: 1.4.91: Government Gazette 27.3.91 p. 774
Current State: All of Act in operation

Police (Industrial Functions) Act 1992, No. 11/1992

Assent Date: 20.5.92
Commencement Date: 1.7.92: Government Gazette 3.6.92 p. 1306
Current State: All of Act in operation

Industrial Relations (Enterprise Bargaining) Act 1992, No. 47/1992

Assent Date: 23.6.92
Commencement Date: 1.8.92: Government Gazette 22.7.92 p. 1874
Current State: All of Act in operation

Superannuation (Occupational Superannuation Standards) Act 1992, No. 49/1992

Assent Date: 30.6.92
Commencement Date: 30.6.92: Special Gazette (No. 31) 30.6.92 p. 2
Current State: All of Act in operation

Police Regulation (Amendment) Act 1992, No. 72/1992

Assent Date: 24.11.92
Commencement Date: 14.12.92: Government Gazette 9.12.92 p. 3680
Current State: All of Act in operation

Employee Relations Act 1992, No. 83/1992

Assent Date: 24.11.92
Commencement Date: S. 184(Sch. 6 items 17.1, 17.2) on 1.3.93: Special Gazette (No. 63) 27.11.92 p. 1
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation (Discipline) Act 1993, No. 35/1993 (as amended by No. 118/1993)

Assent Date: 25.5.93
Commencement Date: Ss 1, 2, 18 on 25.5.93: s. 2(1); rest of Act on 26.8.93: Government Gazette 26.8.93 p. 2377
Current State: All of Act in operation

Medical Practice Act 1994, No. 23/1994

Assent Date: 17.5.94
Commencement Date: Ss 1, 2 on 17.5.94: s. 2(1); rest of Act on 1.7.94: Government Gazette 23.6.94 p. 1672
Current State: All of Act in operation

Superannuation Acts (Further Amendment) Act 1994, No. 120/1994

Assent Date: 20.12.94
Commencement Date: S. 12 on 13.6.90: s. 2(2); s. 6 on 1.7.94: s. 2(7); s. 8 on 1.7.94: s. 2(7A); ss 7(1)(2), 9–11, 13 on 20.12.94: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Equal Opportunity Act 1995, No. 42/1995

Assent Date: 14.6.95
Commencement Date: S. 224 on 5.10.95: Government Gazette 28.9.95 p. 2731; Sch. 2 item 30 on 1.1.96: Government Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Superannuation Acts (Amendment) Act 1996, No. 4/1996

Assent Date: 18.6.96
Commencement Date: S. 134(7) on 30.6.96: s. 2(12)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation (Selection and Review) Act 1996, No. 23/1996

Assent Date: 2.7.96
Commencement Date: Ss 1, 2 on 2.7.96: s. 2(1); rest of Act on 2.8.96: Government Gazette 1.8.96 p. 1954
Current State: All of Act in operation

Legal Practice Act 1996, No. 35/1996

Assent Date: 6.11.96
Commencement Date: S. 453(Sch. 1 item 65) on 1.1.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Commonwealth Powers (Industrial Relations) Act 1996, No. 59/1996

Assent Date: 12.12.96
Commencement Date: S. 10(Sch. 2 item 18) on 1.1.97: Special Gazette (No. 146) 23.12.96 p. 15
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Miscellaneous Acts (Further Omnibus Amendments) Act 1996, No. 73/1996

Assent Date: 17.12.96
Commencement Date: Ss 64–67 on 17.12.96: s. 2(1).
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police and Corrections (Amendment) Act 1997, No. 26/1997

Assent Date: 20.5.97
Commencement Date: Ss 38, 39 on 26.6.97: Government Gazette 26.6.97 p. 1433; ss 40–48 on 2.10.97: Government Gazette 2.10.97 p. 2731
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 74) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation and Firearms (Amendment) Act 1999, No. 30/1999

Assent Date: 1.6.99
Commencement Date: Pt 1 (ss 1, 2) on 1.6.99: s. 2(1); rest of Act on 22.8.99: Government Gazette 12.8.99 p. 1889
Current State: All of Act in operation

Police Regulation (Amendment) Act 1999, No. 61/1999

Assent Date: 21.12.99
Commencement Date: Ss 4–6, 8–19 on 2.4.00: Government Gazette 30.3.00 p. 569; s. 7 on 1.1.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Superannuation Acts (Beneficiary Choice) Act 2000, No. 95/2000

Assent Date: 5.12.00
Commencement Date: S. 12 on 6.12.00: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation (Miscellaneous Amendments) Act 2001, No. 9/2001

Assent Date: 8.5.01
Commencement Date: 9.5.01: s. 2
Current State: All of Act in operation

Whistleblowers Protection Act 2001, No. 36/2001

Assent Date: 19.6.01
Commencement Date: S. 119 on 19.6.01: s. 2(1); ss 116–118 on 1.1.02: s. 2(2)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Auction Sales (Repeal) Act 2001, No. 84/2001

Assent Date: 11.12.01
Commencement Date: S. 11 on 1.1.03: s. 2(4)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Criminal Justice Legislation (Miscellaneous Amendments) Act 2002, No. 35/2002

Assent Date: 18.6.02
Commencement Date: S. 11 on 19.6.02: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Australian Crime Commission (State Provisions) Act 2003, No. 52/2003

Assent Date: 16.6.03
Commencement Date: S. 52(Sch. 1 item 9) on 17.6.03: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Monetary Units Act 2004, No. 10/2004

Assent Date: 11.5.04
Commencement Date: S. 15(Sch. 1 item 21) on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Ombudsman Legislation (Police Ombudsman) Act 2004, No. 32/2004

Assent Date: 1.6.04
Commencement Date: Ss 9–20 on 2.6.04: s. 2
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Major Crime Legislation (Office of Police Integrity) Act 2004, No. 63/2004
(as amended by No. 79/2004)

Assent Date: 12.10.04
Commencement Date: Ss 3–6 on 16.11.04: Special Gazette (No. 237) 16.11.04 p. 1
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Major Crime (Investigative Powers) Act 2004, No. 79/2004 (as amended by No. 97/2004)

Assent Date: 16.11.04
Commencement Date: Ss 75, 97 on 16.11.04: s. 2(2); ss 74, 76–96, 98, 99 on 16.11.04: Special Gazette (No. 237) 16.11.04 p. 2
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 158) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Transport Legislation (Amendment) Act 2004, No. 110/2004

Assent Date: 21.12.04
Commencement Date: Ss 17, 18 on 22.12.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.5.05
Commencement Date: S. 18(Sch. 1 item 83) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Road Safety (Further Amendment) Act 2005, No. 24/2005

Assent Date: 31.5.05
Commencement Date: S. 26 on 1.6.05: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Defamation Act 2005, No. 75/2005

Assent Date: 2.11.05
Commencement Date: S. 49(Sch. 4 item 2) on 1.1.06: s. 2
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Investigative, Enforcement and Police Powers Acts (Amendment) Act 2005, No. 87/2005

Assent Date: 29.11.05
Commencement Date: Ss 13–19 on 30.11.05: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 40) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 31) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Statute Law (Further Revision) Act 2006, No. 29/2006

Assent Date: 6.6.06
Commencement Date: S. 3(Sch. 1 item 30) on 7.6.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Charter of Human Rights and Responsibilities Act 2006, No. 43/2006

Assent Date: 25.7.06
Commencement Date: S. 47(Sch. item 4) on 1.1.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Children, Youth and Families (Consequential and Other Amendments) Act 2006, No. 48/2006

Assent Date: 15.8.06
Commencement Date: S. 42(Sch. item 28) on 23.4.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

**Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006,
No. 80/2006**

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 84) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

Accident Towing Services Act 2007, No. 30/2007

Assent Date: 24.7.07
Commencement Date: S. 237 on 1.1.09: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

**Justice and Road Legislation Amendment (Law Enforcement) Act 2007,
No. 52/2007**

Assent Date: 17.10.07
Commencement Date: Ss 4(1), 8 on 1.4.08: Government Gazette 27.3.08
p. 607; ss 4(2), 5–7 on 1.6.08: s. 2(2)
Current State: The information relates only to the provision/s
amending the **Police Regulation Act 1958**

Police Regulation Amendment Act 2007, No. 67/2007

Assent Date: 11.12.07
Commencement Date: Ss 6, 8–10, 12, 14 on 18.3.08: Special Gazette
(No. 70) 18.3.08 p. 1; ss 3–5, 7, 11, 13 on 16.4.08:
Special Gazette (No. 100) 15.4.08 p. 1
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

Motor Car Traders Amendment Act 2008, No. 4/2008

Assent Date: 4.3.08
Commencement Date: S. 32(Sch. item 24) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

Police Integrity Act 2008, No. 34/2008 (as amended by No. 60/2008)

Assent Date: 1.7.08
Commencement Date: Ss 133–141 on 2.7.08: s. 2(1); s. 142 on 5.12.08:
Special Gazette (No. 340) 4.12.08 p. 1
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

Family Violence Protection Act 2008, No. 52/2008

Assent Date: 23.9.08
Commencement Date: S. 256 on 8.12.08: Special Gazette (No. 339) 4.12.08
p. 1
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

Major Crime (Investigative Powers) and Other Acts Amendment Act 2008, No. 60/2008

Assent Date: 22.10.08
Commencement Date: Ss 9–12 on 23.10.08: s. 2(1)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Stalking Intervention Orders Act 2008, No. 68/2008

Assent Date: 18.11.08
Commencement Date: S. 81 on 8.12.08: Special Gazette (No. 339) 4.12.08 p. 1
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Coroners Act 2008, No. 77/2008

Assent Date: 11.12.08
Commencement Date: S. 129(Sch. 2 item 19) on 1.11.09: s. 2
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Justice Legislation Amendment Act 2009, No. 25/2009

Assent Date: 17.6.09
Commencement Date: Ss 22–26 on 3.9.09: Government Gazette 3.9.09 p. 2331
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Justice Legislation Further Amendment Act 2009, No. 55/2009

Assent Date: 22.9.09
Commencement Date: Ss 58, 59 on 30.10.09: Government Gazette 29.10.09 p. 2729
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 93) on 1.1.10: Government Gazette 10.12.09 p. 3215
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Statute Law Amendment (Evidence Consequential Provisions) Act 2009, No. 69/2009

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 2 item 38) on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Police Regulation Act 1958**

Police Regulation Act 1958
No. 6338 of 1958

Endnotes

**Statute Law Amendment (National Health Practitioner Regulation) Act 2010,
No. 13/2010**

Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 42) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

Superannuation Legislation Amendment Act 2010, No. 40/2010

Assent Date: 30.6.10
Commencement Date: Ss 26–44 on 1.7.10: Government Gazette 1.7.10
p. 1359
Current State: This information relates only to the provision/s
amending the **Police Regulation Act 1958**

3. Explanatory Details

¹ Pt 3 Div. 1: See also Division 3 of Part 3.

² Pt 4A: Section 13 of the **Deputy Ombudsman (Police Complaints) Act 1988**, No. 14/1988 provides as follows:

13 Abolition of Police Complaints Authority

The Police Complaints Authority is abolished, and the person appointed to that Authority goes out of office, on the commencement of this Act.

The **Deputy Ombudsman (Police Complaints) Act 1988**, No. 14/1988 came into operation on 11 May 1988.

Section 17 of the **Deputy Ombudsman (Police Complaints) Act 1988**, No. 14/1988 provides as follows:

17 Savings and transitional provisions

A complaint about the conduct of a member of the force that had been made under Part IVA of the **Police Regulation Act 1958** before the commencement of this Act must, if the investigation of the complaint had not been finalised before that commencement, be dealt with in accordance with that Part as amended by this Act, whether or not any investigation into that complaint had been begun under that Part.

³ Sch. 2: See Part 4 of the **Evidence (Miscellaneous Provisions) Act 1958**, No. 6246 as to the mode of administering the oath.