

POLICE RESERVE ACT.

Act No. 26, 1941.

An Act to provide for the appointment of police reservists; to amend the Police Regulation Act, 1899-1935, the Police Offences Act, 1901-1936, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 10th April, 1941.]

George VI.
No. 26, 1941.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Police Reserve Act, 1941." Short title and division into Parts.

(2) This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF POLICE REGULATION ACT, 1899-1935.

PART III.—AMENDMENT OF POLICE OFFENCES ACT, 1901-1936.

PART II.

AMENDMENT OF POLICE REGULATION ACT, 1899-1935.

2. (1) This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement.

(2)

Police Reserve Act.

No. 26, 1941. (2) The Police Regulation Act, 1899-1935, is
 Amendment amended—
 of Act No.
 20, 1899.

Sec. 1.
 (Division
 into Parts.)

(a) by inserting in section one after the matter relating to Part II the following matter:—

PART II A.—POLICE RESERVE.

New Part
 II A.

(b) by inserting after section twenty-seven the following new Part:—

PART II A.

POLICE RESERVE.

Appointment
 of members
 of police
 reserve.

27A. (1) The Commissioner may, subject to disallowance by the Governor, appoint such and so many persons as he thinks fit to be members of the police reserve.

(2) A person under the age of forty years shall not be appointed to be a member of the police reserve unless the Colonial Secretary, upon being satisfied that special circumstances exist which render the appointment of such person desirable, has approved of the appointment of such person.

(3) Upon the expiration of a period of six months after the termination of the war between His Majesty and Germany every person then holding office as a member of the police reserve shall cease to hold such office, and thereafter no person shall be appointed under this Part to be a member of the police reserve.

In this subsection “the war between His Majesty and Germany” means the war between His Majesty and Germany existing at the commencement of the Police Reserve Act, 1941.

Appointees
 to take
 oath.

27B. (1) No person appointed to be a member of the police reserve shall be capable of holding such office or of acting in any way therein until he has taken and subscribed the following oath:—

I, A.B., do swear that I will well and truly serve our Sovereign Lord the King in the office of member of the police reserve without favour or affection,
 malice

malice or ill-will, and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects, and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law. So help me God.

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Such oath shall be administered by a justice, and shall in all cases be subscribed by the person taking the same, and when so taken and subscribed shall be forwarded to the Commissioner by the justice before whom the same was taken.

(2) Every person appointed to be a member of the police reserve who has taken and subscribed the oath in accordance with subsection one of this section is in this Part referred to as a "police reservist."

(3) Every such person taking and subscribing such oath shall be deemed to have thereby entered into a written agreement with and shall be thereby bound to serve His Majesty as a member of the police reserve from the day upon which such oath has been taken and subscribed until legally discharged.

Provided that—

- (a) no such agreement shall be set aside, cancelled, or annulled for want of reciprocity;
- (b) such agreement may be cancelled at any time by the lawful discharge, dismissal, or other removal from office of any such person accepted by the Commissioner or other person acting in his stead.

27c. (1) Every police reservist shall, in the execution of his office as a police reservist have, exercise and enjoy all such powers, authorities, advantages, and immunities, and be liable to all such duties and responsibilities as any constable

Power of
police
reservist.

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constable duly appointed now has or hereafter may have by virtue of the common law or of any Act or Imperial Act for the time being in force.

(2) Every police reservist shall in the execution of his office as a police reservist act under the direction and control of the Commissioner or any other member of the police force under whom he is placed by the Commissioner.

Payments.

27D. (1) Payments may be made to a police reservist by way of—

- (a) reimbursement of out-of-pocket expenses necessarily incurred in the execution of his office as a police reservist;
- (b) an allowance in consideration of wages lost by the police reservist while required for duty, which allowance shall not exceed the amount of wages lost;
- (c) any other allowance approved by the Minister:

Provided that any payment made by way of allowance under paragraph (b) or paragraph (c) of this subsection to a police reservist shall not exceed the rate of pay (or the equivalent daily rate) for watchmen fixed by any award or industrial agreement for the time being in force under the Industrial Arbitration Act, 1912-1939, in respect of the industries or callings for which the Watchmen, Caretakers, Cleaners, etc. (State) Conciliation Committee is established.

Save as aforesaid, a police reservist shall not be entitled to any remuneration in respect of his service as such.

(2) Payments in pursuance of subsection one of this section shall be made out of moneys provided by Parliament.

(3) Any payment for which a police reservist may be eligible under subsection one of this section may be withheld in any case where the Commissioner is not satisfied that the police reservist is well-conducted and efficient in the discharge of his duties.

27E.

27E. (1) (a) No police reservist shall be at liberty to resign his office or to withdraw from the duties thereof unless expressly authorised in writing so to do by the Commissioner or other member of the police force under whom he is placed by the Commissioner, or unless he gives to the Commissioner or such other member of the police force three months' notice of his intention so to resign or withdraw.

No. 26, 1941.
Resignation,
dismissal,
etc.

(b) Any police reservist who so resigns or withdraws without such previous permission or notice shall on conviction be liable to a penalty not exceeding twenty pounds.

(2) The Commissioner or other member of the police force under whom a police reservist is placed by the Commissioner may at his discretion determine the services of or suspend or dismiss such police reservist.

(3) The Commissioner shall forthwith determine the services of a police reservist whose appointment as such is disallowed by the Governor.

27F. (1) When a police reservist ceases for any cause to hold his office, all powers and authorities vested in him as a police reservist shall immediately cease.

Cesser of
powers and
authorities.

(2) Any police reservist so ceasing to hold his office, who does not forthwith deliver over all the arms, ammunition, accoutrements, and other appointments and things supplied to him for the execution of such office, or in his custody by virtue thereof, to some person appointed by any order special or general of the Commissioner shall, upon conviction, be liable to a penalty not exceeding twenty pounds or to imprisonment for a term not exceeding three months.

(3) Any justice may and shall issue his warrant to search for and seize to the use of His Majesty all and every the arms, ammunition, accoutrements and other appointments and things not so delivered over wherever the same are found.

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Pensions in
case of
incapacity
or death.

27g. (1) Where a police reservist, in the execution of his duty as a police reservist and without his own default, contracts any illness or receives any injury and—

- (a) is incapacitated by infirmity of mind or body occasioned by such illness or injury; or
- (b) dies from the effects of such illness or injury,

the Governor may order and direct payment of a pension in accordance with this section.

(2) The pensions payable in accordance with this section shall be—

- (a) in the case of total incapacity of the member of the police reserve—

- (i) four pounds four shillings per fortnight for such member;
- (ii) one pound sixteen shillings per fortnight for the wife of such member;
- (iii) one pound per fortnight for the first child of such member under the age of sixteen years;
- (iv) fifteen shillings per fortnight for the second child of such member under the age of sixteen years;
- (v) ten shillings per fortnight each for any other children of such member under the age of sixteen years;

- (b) in the case of specific or partial incapacity of the member of the police reserve—such less rates than those referred to in paragraph (a) of this subsection as may be determined by the Governor, having regard to the nature and probable duration of the incapacity;

- (c) in the case of the death of the member of the police reserve—

- (i) two pounds seven shillings per fortnight for the widow of such member;

(ii)

- (ii) one pound per fortnight for the first child of such member under the age of sixteen years; No. 26, 1941.
- (iii) fifteen shillings per fortnight for the second child of such member under the age of sixteen years;
- (iv) ten shillings per fortnight each for any other children of such member under the age of sixteen years;
- (d) in the case of the death of a person who had been a member of the police reserve and who, at the date of his death, was in receipt of a pension under paragraph (a) or paragraph (b) of this subsection—the rates set out in paragraph (c) of this subsection or such less rates as may be determined by the Governor having regard to the nature of the incapacity by reason of which such pension was being paid.

(3) The provisions of section thirty-three of this Act shall apply mutatis mutandis to and in respect of a person receiving a pension under this section.

(4) All pensions payable under this section shall be paid out of moneys provided by Parliament.

27H. Any expenses incurred in respect of the equipment and maintenance of police reservists and in the execution of their duties as such shall be paid out of moneys provided by Parliament. Expenses incurred.

27I. Any person who for any unlawful purpose or without proper authority puts on the dress or accoutrements or takes the name, designation, or character of a police reservist shall be liable on conviction to a penalty not exceeding twenty pounds. Penalty for unlawfully wearing uniform, etc.

27J. Whosoever assaults, resists, or obstructs any police reservist whilst in the execution of his office, or promotes, incites, or encourages any Penalty for assault, etc.

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any other person so to do shall be liable on conviction to a penalty not exceeding fifty pounds or to imprisonment for any term not exceeding six months.

Limitation
of rights.

27K. Nothing in this Part of this Act contained shall be deemed to confer upon a police reservist any right to receive any pay, salary, allowance, reimbursement, pension or gratuity other than those specially provided for in this Part of this Act, or to confer upon a police reservist any right under the Police Regulation (Appeals) Act, 1923.

Regulations.

27L. (1) The Governor may make regulations not inconsistent with this Part of this Act prescribing all matters which are necessary or convenient to be prescribed for carrying into effect the objects and purposes of this Part of this Act.

(2) In particular and without prejudice to the generality of subsection one of this section such regulations may provide—

- (a) for fixing the conditions of appointment and discharge of police reservists;
- (b) for securing that only fit and proper persons shall be appointed as police reservists;
- (c) for rendering police reservists efficient in the discharge of their duties;
- (d) for preventing neglect or abuse;
- (e) for the imposition of penalties not exceeding twenty pounds for any breach of the regulations.

(3) Any penalty imposed by such regulations shall be recoverable in a summary manner.

(4) Such regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date specified in the regulations;

(c)

- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session. No. 26, 1941.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

- (3) The Workers' Compensation Act, 1926-1938, is amended by inserting at the end of the definition of "Worker" in subsection one of section six the following word and new paragraph:— Amendment of Act No. 15, 1926.
Sec. 6 (1).
(Definitions.)

or (g) a member of the police reserve appointed under Part IIa of the Police Regulation Act, 1899-1939, employed upon duties as such member, so far as the employment upon such duties is concerned.

- (4) The Police Regulation Act, 1899-1935, as amended by subsequent Acts and by subsection two of this section, may be cited as the Police Regulation Act, 1899-1941. Citation of Police Regulation Act, 1899.

- (5) The Workers' Compensation Act, 1926-1938, as amended by subsection three of this section, may be cited as the Workers' Compensation Act, 1926-1941. Citation of Workers' Compensation Act, 1926.

PART III.

AMENDMENT OF POLICE OFFENCES ACT, 1901-1936.

3. The Police Offences Act, 1901-1936, is amended— Amendment of Act No. 6, 1901.

- (a) by inserting in subsection (1A) of section one hundred and one after the words "may think fit" the words "A Police Magistrate or any two Justices may— Sec. 101 (1A).
(Special constables.)

- (a) at the request of the Commissioner of Police nominate and appoint any person who is a member of the police force

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force of the Australian Capital Territory or of any State of the Commonwealth of Australia as a special constable for the State of New South Wales for such time as such Magistrate or Justices may think fit;

- (b) at the request of the Commissioner of Police and subject to the approval of the Colonial Secretary nominate and appoint any person as a special constable for the State of New South Wales for such time as such Magistrate or Justices may think fit."

Sec. 103.
(Power of
special
constables.)

- (b) by omitting from section one hundred and three all words following the words "now has" and by inserting in lieu thereof the words "or hereafter may have by virtue of the common law or of any Act or Imperial Act for the time being in force."
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