

**POLICE REGULATION (MERIT APPOINTMENTS)
AMENDMENT ACT 1987 No. 291**

NEW SOUTH WALES



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SERGEANTS**

**POLICE REGULATION (MERIT APPOINTMENTS) AMENDMENT
ACT 1987 No. 291**

NEW SOUTH WALES



Act No. 291, 1987

An Act to amend the Police Regulation Act 1899 with respect to the appointment of senior sergeants and sergeants in the police force and to make consequential amendments to the Police Regulation (Allegations of Misconduct) Act 1978. [Assented to 16 December 1987]

See also Police Regulation (Appeals) Amendment Act 1987.

Police Regulation (Merit Appointments) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Police Regulation (Merit Appointments) Amendment Act 1987.

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on 1 January 1988.

(2) Section 4 (b), Schedule 2 and section 3, in its application to that Schedule, shall commence on 1 April 1989.

Amendment of Act No. 20, 1899

3. The Police Regulation Act 1899 is amended as set out in Schedules 1 and 2.

Consequential amendment of Act No. 84, 1978

4. The Police Regulation (Allegations of Misconduct) Act 1978 is amended—

(a) by omitting from section 35A (1) (c) (i) the words “or an inspector of any grade” and by inserting instead the words “, an inspector of any grade or a sergeant of the grade of senior sergeant”;

(b) by omitting from section 35A (1) (c) (i) the words “of the grade of senior sergeant” and by inserting instead the words “of any grade”.

**SCHEDULE 1—AMENDMENTS RELATING TO APPOINTMENTS
OF SENIOR SERGEANTS**

(Sec. 3)

(1) Section 5 (**Appointment and authority of superintendent etc.**)—

Section 5 (3)—

After section 5 (2), insert:

(3) A member of the police force who is not a senior constable or is not of a higher rank than constable may not be appointed under this section.

(2) Section 6 (**Appointment and authority of sergeants and constables of police**)—

Section 6 (1)—

Omit the subsection, insert instead:

(1) The Commissioner may, subject to disallowance by the Governor, appoint—

Police Regulation (Merit Appointments) Amendment 1987

SCHEDULE 1—AMENDMENTS RELATING TO APPOINTMENTS
OF SENIOR SERGEANTS—*continued*

- (a) so many sergeants, including sergeants of the grade of senior sergeant; and
 - (b) so many constables of police, of such grades as are specified by rules made under this Act,
- as the Commissioner deems necessary for the preservation of the peace throughout New South Wales.
- (3) Section 6A (**Appointment of women police**)—
Omit the section.
- (4) Section 6B—
Omit the section, insert instead:
- Procedure for appointment as senior sergeant**
- 6B. (1) An appointment of a person to a vacant position in the rank of sergeant, being a position for a sergeant of the grade of senior sergeant, shall not be made unless—
- (a) applications for appointment to the position have been invited from members of the police force by advertisement in accordance with directions given by the Commissioner in relation to the position;
 - (b) the person is a senior constable or a member of the police force of a higher rank than constable and has applied for appointment to the position;
 - (c) except as provided by paragraph (d)—in the opinion of the Commissioner, the merit of the person is greater than that of all of the other applicants for appointment to the position;
 - (d) if, in the opinion of the Commissioner, there are two or more applicants for appointment to the position of equal merit—the person is, in accordance with the rules for determining seniority among members of the police force, senior to the other applicant, or all of the other applicants, of equal merit;
 - (e) the Commissioner has caused particulars of the decision to make the appointment, including the name of the person, to be published in the Police Personnel Notices or in such other manner as may be prescribed by rules made under this Act; and
 - (f) the time for lodging an appeal under the Police Regulation (Appeals) Act 1923 has expired or, if such an appeal has been lodged, it has been withdrawn or disallowed.

Police Regulation (Merit Appointments) Amendment 1987

**SCHEDULE 1—AMENDMENTS RELATING TO APPOINTMENTS
OF SENIOR SERGEANTS—*continued***

(2) Subsection (1) does not apply to a successful appellant in an appeal under the Police Regulation (Appeals) Act 1923 against a decision of the Commissioner to appoint another person to the vacant position.

(3) If, in the opinion of the Commissioner, a transfer of a senior sergeant to a vacant position for a senior sergeant is in the best interests of the police force—

- (a) the Commissioner may make the transfer; and
- (b) the other requirements of this section do not apply to the transfer.

(4) In assessing the merit of an applicant, the Commissioner shall consider any report submitted under section 35A (1) (c) of the Police Regulation (Allegations of Misconduct) Act 1978 in respect of the applicant.

(5) In this section—

“merit” means—

- (a) the possession by an applicant of qualifications determined by the Commissioner in respect of a position;
- (b) the aptitude of the applicant for the discharge of the duties of the position; and
- (c) the integrity, diligence and good conduct of the applicant.

(5) Section 6C (**Priority lists for promotion to sergeant, other than senior sergeant**)—

(a) Section 6C (1), definitions of “lower ranking member of the police force”, “qualified lower ranking member of the police force”—

Omit “third class” wherever occurring.

(b) Section 6C (1), definition of “sergeant third class”—

Omit the definition.

(c) Section 6C (2), (3), (7)–(9)—

Omit “third class” wherever occurring.

(d) Section 6C (11)—

After section 6C (10), insert:

(11) In this section, a reference to a sergeant does not include a reference to a sergeant of the grade of senior sergeant.

Police Regulation (Merit Appointments) Amendment 1987

SCHEDULE 1—AMENDMENTS RELATING TO APPOINTMENTS
OF SENIOR SERGEANTS—*continued*

- (6) Section 6D (**Deferment of promotion**)—
- (a) Section 6D (1)—
Omit “6B or”.
- (b) Section 6D (2), (3)—
Omit “6B (8) or 6C (8), as the case may be,” insert instead “6C (8)”.
- (7) Section 12 (**Rules for government and discipline of police**)—
Section 12 (1A), (1B)—
Omit the subsections.
- (8) Section 36—
After section 35, insert:
Savings, transitional and validation provisions
36. The Third Schedule has effect.
- (9) Third Schedule—
After the Second Schedule, insert:

THIRD SCHEDULE

(Sec. 36)

Savings, transitional and validation provisions

Definition

1. In this Schedule—

“1987 Act” means the Police Regulation (Merit Appointments) Amendment Act 1987.

Saving relating to constables

2. A constable of police appointed under this Act before 1 January 1988 shall be deemed to have been appointed under this Act, as amended by the 1987 Act.

Validation and saving relating to sergeants

3. (1) A member of the police force who was a sergeant second class or a sergeant third class before 1 August 1987 shall be deemed to have been appointed under this Act, as amended by the 1987 Act, as a sergeant (but not as a senior sergeant) on the date of his or her appointment as a sergeant third class.

- (2) A member of the police force who, on or after 1 August 1987 but before 1 January 1988, was appointed by the Commissioner as a sergeant (but not as a senior sergeant) shall be deemed to have been appointed as a sergeant (but not as a senior sergeant) under this Act, as amended by the 1987 Act, on the date of his or her appointment.

Police Regulation (Merit Appointments) Amendment 1987

**SCHEDULE 1—AMENDMENTS RELATING TO APPOINTMENTS
OF SENIOR SERGEANTS—*continued***

Validation and saving relating to senior sergeants

4. (1) A member of the police force who before 1 August 1987 was a sergeant first class shall be deemed to have been appointed under this Act, as amended by the 1987 Act, as a senior sergeant on the date of his or her appointment as a sergeant first class.

(2) A member of the police force who, on or after 1 August 1987 but before 1 January 1988, was purportedly appointed by the Commissioner as a senior sergeant shall be deemed to have been appointed as a senior sergeant under this Act, as amended by the 1987 Act, on the date of his or her purported appointment.

Rules

5. (1) The rules made under this Act may contain other provisions of a savings or transitional nature consequent on the enactment of the 1987 Act or the Police Regulation (Appeals) Amendment Act 1987.

(2) A provision referred to in subclause (1) may, if the rules so provide, take effect from 1 August 1987 or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

(4) A provision referred to in subclause (1) shall, if the rules so provide, have effect despite any other clause of this Schedule.

**SCHEDULE 2—AMENDMENTS RELATING TO APPOINTMENTS
OF SERGEANTS**

(Sec. 3)

(1) Section 6C—

Omit the section, insert instead:

Procedure for appointment as sergeant, other than senior sergeant

6C. (1) An appointment of a person to a vacant position in the rank of sergeant, not being a position for a sergeant of the grade of senior sergeant, shall not be made unless—

(a) applications for appointment to the position have been invited from members of the police force by advertisement in accordance with directions given by the Commissioner in relation to the position;

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SCHEDULE 2—AMENDMENTS RELATING TO APPOINTMENTS
OF SERGEANTS—*continued*

- (b) the person is a senior constable or a member of the police force of a higher rank than constable and has applied for appointment to the position;
 - (c) except as provided by paragraph (d)—in the opinion of the Commissioner, the merit of the person is greater than that of all of the other applicants for appointment to the position;
 - (d) if, in the opinion of the Commissioner, there are two or more applicants for appointment to the position of equal merit—the person is, in accordance with the rules for determining seniority among members of the police force, senior to the other applicant, or all of the other applicants, of equal merit;
 - (e) the Commissioner has caused particulars of the decision to make the appointment, including the name of the person, to be published in the Police Personnel Notices or in such other manner as may be prescribed by rules made under this Act; and
 - (f) the time for lodging an appeal under the Police Regulation (Appeals) Act 1923 has expired or, if such an appeal has been lodged, it has been withdrawn or disallowed.
- (2) Subsection (1) does not apply to a successful appellant in an appeal under the Police Regulation (Appeals) Act 1923 against a decision of the Commissioner to appoint another person to the vacant position.
- (3) If, in the opinion of the Commissioner, a transfer of a sergeant who is not a senior sergeant to a vacant position for a sergeant who is not a senior sergeant is in the best interests of the police force—
- (a) the Commissioner may make the transfer; and
 - (b) the other requirements of this section do not apply to the transfer.
- (4) In assessing the merit of an applicant, the Commissioner shall consider any report submitted under section 35A (1) (c) of the Police Regulation (Allegations of Misconduct) Act 1978 in respect of the applicant.
- (5) In this section—
- “merit” means—

Police Regulation (Merit Appointments) Amendment 1987

SCHEDULE 2—AMENDMENTS RELATING TO APPOINTMENTS
OF SERGEANTS—*continued*

- (a) the possession by an applicant of qualifications determined by the Commissioner in respect of a position;
- (b) the aptitude of the applicant for the discharge of the duties of the position; and
- (c) the integrity, diligence and good conduct of the applicant.

- (2) Section 6D (**Deferment of promotion**)—
Omit the section.