

**POLICE REGULATION (APPEALS) AMENDMENT ACT  
1987 No. 292**

NEW SOUTH WALES



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**POLICE REGULATION (APPEALS) AMENDMENT ACT 1987**  
**No. 292**

NEW SOUTH WALES



**Act No. 292, 1987**

An Act to amend the Police Regulation (Appeals) Act 1923 with respect to appeals to the Government and Related Employees Appeal Tribunal against promotions in the police force to senior sergeant and sergeant. [Assented to 16 December 1987]

*Police Regulation (Appeals) Amendment 1987*

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**The Legislature of New South Wales enacts:**

**Short title**

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

**Commencement**

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

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

**Amendment of Act No. 33, 1923**

3. The Police Regulation (Appeals) Act 1923 is amended as set out in Schedules 1 and 2.

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**SCHEDULE 1—AMENDMENTS RELATING TO APPEALS  
AGAINST PROMOTIONS TO SENIOR SERGEANT**

(Sec. 3)

(1) Long title—

Omit “to constitute a Police Appeal Board and to make provision for the reference to such board of appeals”, insert instead “to provide for appeals to the Government and Related Employees Appeal Tribunal”.

(2) Section 2 (Definitions)—

Section 2, definitions of “Sergeant first class”, “Sergeant third class”—

Omit the definitions.

(3) Section 2A (Membership etc. of the Tribunal)—

Section 2A (a)—

Omit “or 4 (1)”, insert instead “, 4 (1) or 5AA (1)”.

(4) Section 3 (Appeals to Tribunal against promotions of certain constables of police)—

(a) Section 3 (1)—

Omit the subsection, insert instead:

(1) Where—

(a) the Commissioner decides to promote a member of the police force of the rank of constable to a higher grade in that rank; and

*Police Regulation (Appeals) Amendment 1987*


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 SCHEDULE 1—AMENDMENTS RELATING TO APPEALS AGAINST PROMOTIONS TO SENIOR SERGEANT—*continued*

- (b) the member is not the member of the police force who, according to the rules governing promotion in the police force, is next in seniority for promotion,  
any other member of the police force of the rank of constable who, immediately before that decision, was—
- (c) of a grade below that higher grade but above the grade of the member; or
- (d) of the same grade as that member but senior to him or her in that grade,  
may, if (according to the rules governing promotion in the police force) the member is qualified for promotion to that higher grade, appeal to the Tribunal against that decision.
- (b) Section 3 (6), (8)—  
Omit “rank” wherever occurring, insert instead “grade”.
- (5) Section 4 (**Appeals to Tribunal against promotions to sergeant**)—  
Section 4 (1)—  
Omit “6B or”.
- (6) Section 5AA—  
After section 5, insert:  
**Appeals to Tribunal against promotions to senior sergeant**  
5AA. (1) Where, under the Police Regulation Act 1899, the Commissioner decides to appoint a member of the police force who is a senior constable or a sergeant (but is not a senior sergeant) to a vacant position in the rank of sergeant, being a position for a sergeant of the grade of senior sergeant, any other member of the police force who—
- (a) was an applicant for appointment to the vacant position;  
and
- (b) is a senior constable or a sergeant (but is not a senior sergeant),  
may appeal to the Tribunal against the decision of the Commissioner.
- (2) The only ground upon which an appeal may be made under this section is that the merit of the appellant, within the meaning of section 6B of the Police Regulation Act 1899, is greater than that of the member of the police force to whom the decision appealed against relates.
- (3) Subject to subsection (4), the provisions of—

*Police Regulation (Appeals) Amendment 1987***SCHEDULE 1—AMENDMENTS RELATING TO APPEALS AGAINST PROMOTIONS TO SENIOR SERGEANT—*continued***

- (a) Division 3 of Part III of the Government and Related Employees Appeal Tribunal Act 1980, section 30 (1) (a) and (2) (a) excepted;
- (b) Part IV of that Act, sections 35, 36 and 38 excepted; and
- (c) Parts V and VI of that Act,

apply to and in respect of an appeal under this section in the same way as they apply to and in respect of an appeal under section 20 of that Act.

(4) For the purposes of subsection (3), the provisions of the Government and Related Employees Appeal Tribunal Act 1980 applied by that subsection shall be construed as if—

- (a) references to an employee were references to a member of the police force;
- (b) references to an employer were references to the Commissioner;
- (c) the reference in section 29 of that Act to section 19 (1) were a reference to section 6B (1) (e) of the Police Regulation Act 1899;
- (d) section 34 of that Act had been amended by omitting the words “may be formal or” and by inserting instead the words “shall be”; and
- (e) section 48 (3) of that Act had been amended by omitting the words “and shall be given effect to by the employer against whose decision the appeal was brought”.

**SCHEDULE 2—AMENDMENTS RELATING TO APPEALS AGAINST PROMOTIONS TO SERGEANT**

(Sec. 3)

- (1) Section 2A (**Membership etc. of the Tribunal**)—  
Section 2A (a)—  
After “5AA (1)”, insert “or (1A)”.
- (2) Section 4 (**Appeals to Tribunal against promotions to sergeant**)—  
Omit the section.
- (3) Section 5 (**Procedure for the hearing and determination of appeals under s. 3**)—  
(a) Section 5 (1)—  
Omit “or 4 (1)”.

*Police Regulation (Appeals) Amendment 1987*

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SCHEDULE 2—AMENDMENTS RELATING TO APPEALS AGAINST  
PROMOTIONS TO SERGEANT—*continued*

(b) Section 5 (2)—

Omit “, and for the purpose of that application a reference in that Division to a decision shall be construed so as to include a reference to the excluding of the name of a person from, or the placing of the name of a person in, a priority list as referred to in section 4 (1)”.

(4) Section 5AA (**Appeals to Tribunal against promotions to senior sergeant or sergeant**)—

(a) Section 5AA (1A)—

After section 5AA (1), insert:

(1A) Where, under the Police Regulation Act 1899, the Commissioner decides to appoint a member of the police force who is a senior constable to a vacant position in the rank of sergeant, not being a position for a sergeant of the grade of senior sergeant, any other member of the police force who—

(a) was an applicant for appointment to the vacant position;  
and

(b) is a senior constable,

may appeal to the Tribunal against the decision of the Commissioner.

(b) Section 5AA (4) (c)—

After “section 6B (1) (e)”, insert “or 6C (1) (e), as the case may require,”.