

Queensland



**POLICE SERVICE
ADMINISTRATION
AMENDMENT ACT 1993**

Act No. 77 of 1993

Queensland



POLICE SERVICE ADMINISTRATION AMENDMENT ACT 1993

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ACTS REPEALED

Queensland



**Police Service Administration Amendment Act
1993**

Act No. 77 of 1993

An Act to amend the *Police Service Administration Act 1990*

[Assented to 15 December 1993]

The Parliament of Queensland enacts—**Short title**

1. This Act may be cited as the *Police Service Administration Amendment Act 1993*.

Amended Act

2. The *Police Service Administration Act 1990* is amended as set out in this Act.

Amendment of s.5.2 (Appointment to be on merit on impartial procedures)

3.(1) Section 5.2(2) and(3)—
renumber as subsections (5) and (6).

(2) Section 5.2(1)—
omit, insert—

‘5.2(1) In this section—

“**transfer**” of a police officer to a position means the appointment of a police officer to a position in which the police officer will hold the same rank and be entitled to at least the same level of salary.

‘(2) A decision to appoint a person as a police recruit or to a police officer position must be made by fair and equitable procedures that—

- (a) include inviting applications and selection on the basis of the merit of applicants; and
- (b) prevent unjust discrimination, whether in favour of or against a person.

‘(3) However, if a decision is made to transfer a police officer on a basis prescribed by regulation, the decision need not involve the procedures mentioned in subsection (2)(a).

‘(4) Written notice to a police officer of a transfer because of a decision under subsection (3) must specify the prescribed basis used for the transfer.’

Replacement of section 5.13 (Officer not to refuse transfer)

4. Section 5.13—

omit, insert—

‘Officer not to refuse transfer, but may object

‘5.13(1) A police officer who is transferred to a position must accept the transfer, even if the officer has not applied for it.

‘(2) However, if the officer did not apply for the transfer, the officer may—

- (a) object to the transfer under section 5.13A; or
- (b) apply for a review of the transfer under section 9.3.

‘Objection to transfer

‘5.13A(1) If a police officer is transferred to a position without applying for the transfer, the officer may object to the transfer by giving the Commissioner written reasons for the objection within 14 days of receiving written notice of the transfer.

‘(2) The Commissioner may allow or reject the objection.

‘(3) If the Commissioner allows the objection, the transfer stops having effect.

‘(4) If the Commissioner rejects the objection, the Commissioner must

‘(5) This section—

- (a) does not limit the right of an officer to apply to a Commissioner for Police Service Reviews for a review of the transfer (a “**transfer review**”); but
- (b) does limit the right of an officer to object to a transfer under this section once the officer has applied for a transfer review.

‘(6) If an officer objects to a transfer under this section, the time allowed

by regulation for an application for a transfer review does not start to be counted until the day the Commissioner gives the officer written reasons under subsection (4).

‘(7) If an officer applies for a transfer review, the officer cannot start or proceed further with an objection under this section.

‘Delay in attendance for duty on directed transfer to allow for objection and review

‘5.13B(1) If a police officer is transferred to a position, the Commissioner cannot direct the officer to attend for duty in the position until—

- (a) after the time allowed for an objection under section 5.13A(1) has ended; and
- (b) if the officer objects to the transfer—the Commissioner decides the objection.

‘(2) If—

- (a) the officer objects to the transfer under section 5.13 ; and
- (b) the Commissioner rejects the objection;

the Commissioner cannot direct the police officer to attend for duty until after the time allowed by regulation for an application to a Commissioner for Police Service Reviews for a review of the transfer has ended.

‘(3) Despite section 9.2, if the officer applies to a Commissioner for Police Service Reviews for a review of the transfer, the Commissioner cannot direct the officer to attend for duty—

- (a) if the officer then withdraws the application—until at least 14 days after the withdrawal; or
- (b) if the officer does not withdraw the application and the Commissioner decides under section 9.5 to proceed with the transfer—until at least 14 days after the day the officer receives written notice of the Commissioner’s decision.

‘(4) This section does not limit the Commissioner’s powers to direct an officer to attend for duty in a position in circumstances the Commissioner considers are urgent.’.

Amendment of s.9.3 (Application for review)**5. Section 9.3(1)—**

omit, insert—

‘9.3(1) A police officer who is aggrieved by a decision about—

- (a) the selection of an officer for appointment to a police officer position, whether on promotion or transfer, if the selection procedures mentioned in section 5.2(2)(a) were required to be complied with; or
- (b) the selection of an officer for transfer to a police officer position, if the selection procedures mentioned in section 5.2(2)(a) were not required to be complied with; or
- (c) action against the officer for breach of discipline; or
- (d) suspension or standing down of the officer; or
- (e) another decision prescribed by regulation as open to review under this Part;

may apply to have the decision reviewed by a Commissioner for Police Service Reviews.

‘(1A) An application for the review of a decision mentioned in subsection (1)(a) may only be made by a person who properly applied for appointment to the position concerned and was unsuccessful.

‘(1B) An application for the review of a decision mentioned in subsection (1)(b) may only be made by a police officer who was transferred to the position concerned without applying for the transfer.’.

Repeals**6. The Acts mentioned in Schedule 2 are repealed.**

SCHEDULE 1

MINOR AMENDMENTS

section 2

1. Section 1.4—

omit, insert—

Definitions

1.4 In this Act—

“approved form” means a form approved by the Commissioner for use under this Act;

“award” has the same meaning as in the *Industrial Relations Act 1990*;

“breach of discipline” means a breach of this Act or a direction of the Commissioner given under this Act, but does not include misconduct;

“commissioned officer” means a person who holds a position in the Police Service as a commissioned officer;

“Commissioner” means the Commissioner of the Police Service;

“Commissioner for Police Service Reviews” means a Commissioner for Police Service Reviews under section 9.2A;

“constable” means a person who holds a position in the Police Service as a constable;

“disciplinary action” means action taken for misconduct, official misconduct or a breach of discipline;

“executive officer” means a person who holds a position in the Police Service as an executive officer;

“industrial agreement” has the meaning given by the *Industrial Relations Act 1990*;

“industrial authority” means the Industrial Commission or Industrial Court;

SCHEDULE 1 (continued)

“misconduct” means conduct that—

- (a) is disgraceful, improper or unbecoming an officer; or
- (b) shows unfitness to be or continue as an officer; or
- (c) does not meet the standard of conduct the community reasonably expects of a police officer;

“noncommissioned officer” means a person who holds a position in the Police Service as a noncommissioned officer;

“officer” means a police officer;

“official misconduct” has the meaning given by sections 2.22 and 2.23 of the *Criminal Justice Act 1989*;

“place” means any, or any part of any, land, water, building, structure, vehicle, vessel, aircraft or carriage;

“police officer” means a person declared under section 2.2(2) to be a police officer;

“police recruit” means a person who holds a position in the Police Service as a police recruit;

“prescribed responsibility” means the Commissioner’s responsibility under section 4.8;

“recruit” means a police recruit;

“Service” means the Police Service;

“special constable” means a person who holds a position as a special constable;

“staff member” means a person who is a staff member of the Police Service under section 2.5(1);

“transfer” of a police officer to a position has the meaning given by section 5.2(1).

“Meaning of “tenure not limited by time”

‘1.5 A person is appointed to a position on a **“tenure not limited by time”** if the appointment does not specify an appointment period.’.

SCHEDULE 1 (continued)

2. Section 2.2(3)—

omit.

3. Section 2.5—

omit, insert—

‘Administration of staff members

‘2.5(1) Staff members are—

- (a) officers of the public service assigned to perform duties in the Police Service; and
- (b) persons appointed as staff members by the Commissioner under—
 - (i) section 8.3(5); or
 - (ii) section 34 of the *Public Service Management and Employment Act 1988*.

‘(2) While performing duties in the Service, a staff member is subject to the Commissioner’s directions.’.

4. Section 3.1—

omit, insert—

‘Meaning of “officer” in Part

‘3.1 In this Part—

“officer” includes a special constable.’.

5. Section 3.3 (after ‘prescribed’)—

insert ‘by regulation’.

SCHEDULE 1 (continued)

6. Section 3.6

omit, insert—

‘Performance of duty

‘3.6 An officer performing a function of the Police Service is performing a duty of an officer even if what the officer is doing could be done by another person.’.

7. Section 4.2—

omit, insert—

‘Appointment

‘4.2(1) The Governor in Council may, on a recommendation agreed to by the Chairperson of the Criminal Justice Commission, appoint an appropriate person as Commissioner of the Police Service.

‘(2) The appointment is to be made by Gazette notice.’.

8. Section 4.3(1)—

omit ‘, from time to time’.

9. Section 4.3(1)(a) and (2)—

omit ‘Chairman’, insert ‘Chairperson’.

10. Section 4.3(1)(c)—

omit ‘industrial award’, insert ‘award’.

11. Section 4.4—

omit, insert—

SCHEDULE 1 (continued)

‘Term of appointment

‘4.4 The Commissioner is to be appointed for a term not less than 3 years or more than 5 years.’.

12. Section 4.5(3)(d)—

omit ‘or conviction elsewhere of an offence that, had it been committed in the State would be an indictable offence’.

13. Section 4.5(4)(a)—

omit ‘of the Minister in which the Chairman’,
insert ‘in which the Chairperson’.

14. Section 4.7(2)—

omit ‘, or a delegate of the Commissioner,’.

15. Section 4.7(2), (3) and (4)—

omit ‘Chairman’, *insert* ‘Chairperson’.

16. Section 4.8(4)(a)—

omit ‘industrial awards’, *insert* ‘awards’.

17. Section 4.9(4)(a)—

omit ‘, or a delegate of the Commissioner,’.

18. Section 4.10—

omit, insert—

SCHEDULE 1 (continued)

‘Delegation

‘4.10(1) The Commissioner may delegate powers of the Commissioner under this Act or any other Act to a police officer or staff member.

‘(2) Without limiting subsection (1), the Commissioner may also, under subsection (1), delegate powers of the Commissioner to discharge the prescribed responsibility.’.

19. Section 4.11—

omit, insert—

‘Acting as Commissioner

‘4.11(1) The Minister may appoint an appropriate person to act as Commissioner—

- (a) whenever there is a vacancy in the office of Commissioner; or
- (b) during a period when the Commissioner is suspended from office or cannot perform the duties of office because of physical or mental incapacity.

‘(2) The Commissioner may appoint an appropriate person to act as Commissioner during another period when the Commissioner is absent from duty or cannot perform the duties of the office.

‘(3) The remuneration payable to a person who acts as Commissioner must not be more than the remuneration payable to the Commissioner.’.

20. Section 5.4(2)—

omit ‘, from time to time’.

21. Section 5.4(2)(c)—

omit ‘industrial award’, insert ‘award’.

22. Section 5.5—

omit, insert—

SCHEDULE 1 (continued)

‘Acting as executive officer

‘5.5(1) The Commissioner may appoint an appropriate person to act as executive officer during—

- (a) any vacancy, or all vacancies, in the office of executive officer; or
- (b) any period, or all periods, when the executive officer is absent from duty or, for another reason, cannot perform the duties of the office.

‘(2) The remuneration payable to a person who acts as an executive officer must not be more than the remuneration payable to the executive officer.’.

23. Section 5.7(3)(c)—

omit ‘industrial award’, insert ‘award’.

24. Section 5.8—

omit, insert—

‘Acting as commissioned officer

‘5.8(1) The Commissioner may appoint an appropriate person to act as a commissioned officer during—

- (a) any vacancy, or all vacancies, in the office of commissioned officer; or
- (b) any period, or all periods, when a commissioned officer is absent from duty or, for another reason, cannot perform the duties of the office.

‘(2) The remuneration payable to a person who acts as a commissioned officer must not be more than the remuneration payable to a person appointed to the office.

‘(3) While a person acts as a commissioned officer, the person is relieved of the duties of a constable at common law or under any Act or law.’.

SCHEDULE 1 (continued)

25. Section 5.11(1)—

omit ‘, from time to time’.

26. Section 5.11(1)(c)—

omit ‘industrial award’, *insert* ‘award’.

27. Section 5.15—

omit ‘*Industrial Conciliation and Arbitration Act 1961–1988*’,
insert ‘*Industrial Relations Act 1990*’.

28. Section 6.1(1)(b)—

omit, insert—

‘(b) an officer is charged with an indictable offence; or’.

29. Section 6.3(3)—

omit ‘, or a delegate of the Commissioner, forthwith’,
insert ‘immediately’.

30. Section 8.2(a)—

omit ‘for the time being’.

31. Section 8.3(2) (2nd sentence)—

omit ‘refuses or’.

32. Section 8.3(7)(b)—

omit ‘, or by a delegate of the Commissioner’.

SCHEDULE 1 (continued)

33. After section 9.2—

insert—

‘Commissioner for Police Service Reviews

‘9.2A(1) The Chairperson of the Criminal Justice Commission may nominate a member of the Criminal Justice Commission to be a Commissioner for Police Service Reviews.

‘(2) More than 1 person may hold office as a Commissioner for Police Service Reviews at any time.’.

34. Section 9.4(1) and (2)

omit ‘the Commissioner for Police Service Reviews’,

insert ‘a Commissioner for Police Service Reviews’,

35. Section 9.5(1)

omit ‘the Commissioner for Police Service Reviews’,

insert ‘a Commissioner for Police Service Reviews’,

36. Section 10.1(1) (1st dot point)—

omit ‘made pursuant to authorization of the Commissioner or a delegate of the Commissioner’,

insert ‘authorised by the Commissioner under section 10.2’.

37. Section 10.4(3)—

omit ‘, or a delegate of the Commissioner,’.

38. Section 10.8—

omit ‘1916–1988’, *insert* ‘1990’.

SCHEDULE 1 (continued)

39. Section 10.10(1)—

omit ‘notice published in the *Gazette*’, *insert* ‘Gazette notice’.

40. Section 10.12(2)(c)—

omit ‘or a delegate of the Commissioner’.

41. Section 10.13(1)—

omit ‘, or a delegate of the Commissioner.’.

42. Section 10.13(2)—

omit, insert—

‘(2) The person must comply with a direction given to the person under subsection (1).

Maximum penalty—100 penalty units.’.

43. Section 10.13(3)(a)—

omit ‘, or a delegate of the Commissioner.’.

44. Section 10.14(1)—

omit ‘ prescribed form, a Stipendiary’, *insert* ‘approved form, a’.

45. Section 10.14(1)(a)—

omit ‘, or a delegate of the Commissioner.’.

46. Section 10.14(1)(b)—

omit ‘or the delegate of the Commissioner’.

SCHEDULE 1 (continued)

47. Section 10.15(3)(b)—

omit ‘Revenue’.

48. Section 10.16(2)—

omit ‘Order in Council’, *insert* ‘regulation’.

49. Section 10.16(3)—

omit, insert—

‘(3) In a proceeding for the recovery of a service charge for the provision of a prescribed police service, a certificate purporting to be signed by the Commissioner and stating that a specified amount is payable to the Commissioner by a specified person for a specified police service is evidence of the matter stated.’.

50. Section 10.19(d) (1st dot point)—

omit ‘, or a delegate of the Commissioner, first obtained’.

51. Section 10.20(2)—

omit ‘: Provided that’,

insert ‘.

(3) However,’.

52. After section 10.20—

insert—

‘Assault etc. of police officer

‘10.20A(1) In this section—

“assault” has the meaning given by the Criminal Code;

“obstruct” means hinder, resist or attempt to obstruct.

SCHEDULE 1 (continued)

‘(2) A person must not assault or obstruct a police officer in the performance of the officer’s duties.

Maximum penalty—4 penalty units or 6 months imprisonment.’

53. Section 10.22(1)—

omit ‘defined in section 10.19 or 10.20’,

insert ‘against—

- (a) section 10.19 (Offences); or
- (b) section 10.20 (Bribery or corruption of officers or staff members); or
- (c) section 10.20A (Assault etc. of police officer)’.

54. Section 10.23(1)(a)—

omit ‘ defined in section 10.19 or 10.20’,

insert ‘against section 10.19, 10.20 or 10.20A’.

55. Section 10.23(1)(b)—

omit ‘, or a delegate of the Commissioner’.

56. Section 10.23(2)—

omit ‘, or a delegate of the Commissioner,’.

57. Section 10.24—

omit ‘Children’s Court’, *insert* ‘Childrens Court’.

58. Section 10.25(1)—

omit, insert—

SCHEDULE 1 (continued)

‘Regulations

‘10.25(1) The Governor in Council may make regulations for the purposes of this Act.

‘(1A) A regulation may provide with respect to—

- (a) management and control of the affairs of the Police Service; and
- (b) powers, duties, entitlements, obligations and liabilities of officers and recruits; and
- (c) powers and duties of staff members; and
- (d) the institution and conduct of appeals or reviews about appointments, disciplinary action or related action within the Police Service.’.

59. Section 10.25 (as amended)—

renumber (and relocate) as section 10.28.

60. Part 11—

omit, insert—

‘PART 11—TRANSITIONAL PROVISIONS**‘Interpretation of certain references**

‘11.1(1) A reference in any Act or statutory instrument to—

- (a) the Police Force is taken to be a reference to the Police Service; and
- (b) the Commissioner of Police is taken to be a reference to the Commissioner of the Police Service; and
- (c) a member of the police force, a police officer or a constable is taken to be a reference to an officer; and
- (d) a member of the police force, a police officer or a constable holding a rank that does not exist in the Police Service, but did

SCHEDULE 1 (continued)

exist in the Police Force, is taken to be a reference to an officer holding a corresponding rank in the Police Service.

‘(2) A regulation may prescribe a rank in the Police Service to be a corresponding rank to a rank in the Police Force.’.

SCHEDULE 2**ACTS REPEALED**

section 6

*Police Act 1937**Police Acts Amendment Act 1951 (No. 2)**Police Acts Amendment Act 1953**Police Acts Amendment Act 1954**Police Acts Amendment Act 1957**Police Acts Amendment Act 1958**Police Acts Amendment Act 1959**Police Acts Amendment Act 1960**Police Acts Amendment Act 1962**Police Acts Amendment Act 1963**Police Acts Amendment Act 1964**Police Act and Another Act Amendment Act 1970**Police Act Amendment Act 1971**Police Act Amendment Act 1973**Police Act and Another Act Amendment Act 1977**Police Act Amendment Act 1978**Police Act Amendment Act 1980**Police Act Amendment Act 1984**Police Act Amendment Act 1985**Police Act Amendment Act 1985 (No. 2)**Police Act Amendment Act 1987*

SCHEDULE 2 (continued)

*Police Act Amendment Act 1989**Police Act Amendment Act 1989 (No. 2)*