



Queensland

Police Service Administration Act 1990

Police Service Administration Regulation 2016

Current as at 20 March 2020

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Police Service Administration Regulation 2016

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Police Service Administration Regulation 2016

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Police Service Administration Regulation 2016*.

2 Commencement

This regulation commences on 1 July 2016.

3 Definitions

The dictionary in schedule 3 defines particular words used in this regulation.

Part 2 Oath and affirmation

4 Oath of office

- (1) For section 3.3 of the Act, the following oath is prescribed for a person to take and subscribe before beginning to perform duty as an officer—‘I, A.B., swear by almighty God that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second and Her Heirs and Successors according to law in the office of constable or in such other capacity as I may be hereafter appointed, promoted, or may be reduced, without favour or affection, malice or ill-will, from this date and until I am legally discharged; that I will cause Her Majesty’s peace to be kept and preserved; 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 Queensland Police Service I will to the best of my skill and knowledge discharge all the

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duties legally imposed upon me faithfully and according to law. So help me God.’.

- (2) However, subsection (3) applies if the person’s first performance of duty as an officer is to be as an officer of a rank (*starting rank*) other than constable.
- (3) The oath prescribed for the person to take and subscribe before beginning to perform duty as an officer is the oath stated in subsection (1) subject to the word ‘constable’ being replaced by the word or words stating the rank that is the starting rank.

5 Affirmation of office

- (1) For section 3.3 of the Act, the following affirmation is prescribed for a person to make and subscribe before beginning to perform duty as an officer—‘I, A.B., do solemnly, sincerely and truly affirm and declare that I will well and truly serve our Sovereign Lady Queen Elizabeth the Second and Her Heirs and Successors according to law in the office of constable or in such other capacity as I may be hereafter appointed, promoted, or may be reduced, without favour or affection, malice or ill-will, from this date and until I am legally discharged; that I will cause Her Majesty’s peace to be kept and preserved; 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 Queensland Police Service I will to the best of my skill and knowledge discharge all the duties legally imposed upon me faithfully and according to law.’.
- (2) However, subsection (3) applies if the person’s first performance of duty as an officer is to be as an officer of a rank (*starting rank*) other than constable.
- (3) The affirmation prescribed for the person to make and subscribe before beginning to perform duty as an officer is the affirmation stated in subsection (1) subject to the word ‘constable’ being replaced by the word or words stating the rank that is the starting rank.

6 Oath or affirmation

- (1) A person who must take, or make, and subscribe an oath or affirmation under section 3.3 of the Act must do so before—
- (a) a justice; or
 - (b) a justice of another State; or
 - (c) the commissioner, an executive officer or a commissioned officer; or
 - (d) a member of a police force or police service of another State who may under the law of that State—
 - (i) administer an oath or affirmation for the appointment of a police officer or special constable for that State; or
 - (ii) witness the signing of a document (whether or not sworn) by a person in relation to the person's appointment as a police officer or special constable for that State that has or in part has a similar purpose to an oath or affirmation stated in this part.
- Example of a document mentioned in subparagraph (ii)—*
- An engagement under the *Police Act 1892* (WA), section 10.
- (2) A person who, outside Queensland, administers an oath or affirmation in relation to the appointment of a special constable for Queensland must give the commissioner both of the following within 14 days after the oath or affirmation was administered—
- (a) a statement, signed by the person, of—
 - (i) the person's name and contact address; and
 - (ii) the person's authority to administer the oath or affirmation;
 - (b) a copy of the oath or affirmation as subscribed by the special constable.
- (3) A failure by the person who administered the oath or affirmation to comply with subsection (2) does not invalidate the special constable's appointment.

Part 3

Commissioner's responsibilities

7 Particular matters within scope of prescribed responsibility

For section 4.8(2)(a) of the Act, the following are prescribed as particular matters within the scope of the prescribed responsibility—

- (a) deciding priorities relating to the service;
- (b) deciding the appropriate organisational structure of the service;
- (c) the control of the human, financial or other resources of the service;
- (d) the designation or redesignation of offices;
- (e) deciding the number and deployment of officers or staff members;
- (f) the selection of persons as officers or police recruits;
- (g) the qualifications for offices in the service and the duties attaching to the offices;
- (h) deciding levels of salaries, wages or allowances of members of the service;
- (i) the promotion or demotion of officers or staff members;
- (j) the training and development of members of the service;
- (k) the discipline of members of the service;
- (l) the dress or appearance of members of the service;
- (m) the appraisal of performance of members of the service;
- (n) the approval or administration of leave arrangements;
- (o) the internal redeployment or retraining of officers or staff members;
- (p) the termination of employment of members of the service;

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- (q) deciding the times within which members of the service are to perform their ordinary hours of work;
- (r) developing ways to ensure all members of the service are treated justly, fairly and with compassion;
- (s) deciding the number and location of police establishments or police stations;
- (t) keeping proper records, including records about—
- (i) the action taken by an officer or someone else in relation to a person suspected of having committed an offence; and
 - (ii) the result of any proceeding against the person for the suspected offence;
- (u) for a proceeding against a person for an offence with which the person was charged by an officer—taking part in a conference with the person's lawyer about the conduct of the proceeding to narrow issues or help in the timely resolution of the proceeding;
- (v) without limiting the action that may be taken by the commissioner as a result of the conference—
- (i) deciding whether to amend, substitute or withdraw the charge; and
 - (ii) deciding facts to be presented to the court for the charge; and
 - (iii) if the prosecution has an election (*prosecution's election*) about whether the proceeding for the offence is to be a summary proceeding—deciding whether to make the election; and
- Examples of provisions that provide for a prosecution's election—*
- Criminal Code, section 552A
 - *Drugs Misuse Act 1986*, section 118
 - *Weapons Act 1990*, section 161
- (iv) in deciding whether to make a prosecution's election—having regard to any guidelines under

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the *Director of Public Prosecutions Act 1984*, section 11 applying to the commissioner, or any other relevant consideration; and

- (v) deciding the submissions to be made to a court by a prosecutor in relation to the sentencing of an offender on conviction of an offence;
- (w) the provision of services under the *State Buildings Protective Security Act 1983* for the security of state buildings.

Part 4 **Officers to be familiar with Act etc.**

8 **Officers to be familiar with Act etc.**

- (1) An officer must take reasonable steps to familiarise himself or herself with each of the following—
 - (a) the Act;
 - (b) each regulation made under the Act;
 - (c) each direction by the commissioner under section 4.9 of the Act applying to the officer;
 - (d) each determination or ruling made, or standard set or adopted, by the commissioner under section 10.28(2) of the Act applying to the officer;
 - (e) the code of conduct for public service agencies under the *Public Sector Ethics Act 1994*, part 4, division 2;
 - (f) any approved standard of practice for the service under the *Public Sector Ethics Act 1994*, section 12F.
- (2) The commissioner must—
 - (a) ensure a copy of each document mentioned in subsection (1) is reasonably accessible to each officer; and

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- (b) direct the attention of new officers to the requirements of subsection (1).

Part 5 Performance appraisal

9 Performance appraisal of officers

- (1) The commissioner must ensure there is a regular system of appraisal of the performance of officers.
- (2) The system must provide for—
 - (a) each officer to receive information on the officer's performance; and
 - (b) if, after appraisal, it is considered that the officer's performance needs to improve—the remedial steps available to improve the officer's performance.

Part 6 Vacancies, promotions and transfers

10 Vacancies to be advertised

- (1) This section applies if the commissioner proposes to make an appointment to a position in the service to fill a vacancy in the position.
- (2) The commissioner may advertise the vacancy in the Queensland Police Gazette at least 14 days before an appointment is made filling the vacancy.
- (3) The advertisement—
 - (a) must state the date on or before which applications for appointment to the vacancy may be made to the commissioner; and
 - (b) must state—
 - (i) the tenure period for the position; or

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- (ii) any maximum or minimum tenure period for the position; and
 - (c) may state criteria relevant to obtaining the appointment.
- (4) An officer may apply for appointment to the position—
 - (a) if the officer is of the rank of the position; or
 - (b) if the officer is not of the rank of the position—the officer meets any conditions of eligibility to apply for the position that are stated in the advertisement.
- (5) Subsection (4) does not prevent a person who is not an officer applying for appointment to the position if the vacancy is advertised by the commissioner both under this section and in another way.

11 Re-advertising vacancies

- (1) This section applies if a position in the service was advertised under section 10.
- (2) The commissioner may readvertise the vacancy each time the commissioner considers no officer suitable to fill the vacancy has applied for appointment to the position in response to the previous advertisement of the vacancy under section 10 or this section.
- (3) Section 10 applies to the readvertisement, and who may apply for appointment to the position, as if the readvertisement were an advertisement to which section 10 applies.
- (4) If a vacancy is advertised under subsection (2), the commissioner may appoint to the position an officer who applied for the position, even if the officer failed to meet any stated criteria relevant to obtaining the appointment.
- (5) A person who failed to meet stated criteria relevant to obtaining appointment to a position but is appointed to the position under subsection (4) on promotion can hold the rank of the position only while in the position, unless the commissioner decides otherwise.

12 Part-time employment

- (1) For section 5.7(1)(a) of the Act, each position as a commissioned officer is prescribed as a position open to appointment on a part-time basis.
- (2) For section 5.9(1)(b) of the Act, each position as a noncommissioned officer or constable is prescribed as a position open to appointment on a part-time basis.

13 Transfers that need not be on the basis of merit

For section 5.2(3) of the Act, each basis as follows, if it applies to the officer in relation to the transfer concerned, is prescribed—

- (a) a determination under the *Industrial Relations Act 1999*, section 149B(1);
- (b) a determination under the *Industrial Relations Act 1999*, section 149(2), as in force before 17 February 2012, made before 17 February 2012 and operating after 16 February 2012;
- (c) an industrial agreement between the commissioner, the Queensland Police Union of Employees and the Queensland Police Commissioned Officers' Union of Employees;
- (d) an award, including an award made under a law of the Commonwealth, replacing an industrial agreement mentioned in paragraph (c).

14 How to apply for appointment

An application for appointment to a position in the service advertised under section 10 or readvertised under section 11 must be made in the way required by the commissioner.

15 Commissioner may require applicant who is an officer to be examined or assessed

The commissioner may require an officer who applies for a position in the service to be examined or assessed, or both, to gauge the officer's potential, and mental or physical fitness, to discharge the duties of the position.

16 Promotion—integrity

The question of an officer's integrity when considering the officer's application for appointment to a position in the service on promotion becomes more crucial as the rank of the position increases in seniority.

17 Promotion—complaint against officer

- (1) If an officer applies for appointment to a position in the service on promotion, the commissioner may ask the chairman of the Crime and Corruption Commission to comment on the integrity of the officer before the commissioner considers the officer for promotion.
- (2) Subsection (4) applies if, on a request under subsection (1), the chairman informs the commissioner there is a current complaint made or referred to the Crime and Corruption Commission under the *Crime and Corruption Act 2001* against the officer and the complaint has—
 - (a) credibility; and
 - (b) a proper basis for belief; and
 - (c) a degree of seriousness that would debar the officer from promotion to the position if it were true.
- (3) It does not matter if the complaint is against more than 1 person.
- (4) The commissioner must presume the officer does not have the integrity required for promotion to the position.
- (5) The presumption continues until—

-
- (a) the Crime and Corruption Commission—
 - (i) decides to take no action against the officer on the complaint; or
 - (ii) decides that action, to deal with the complaint, against the officer be discontinued; or
 - (b) the complaint, so far as it is against the officer, is finalised by—
 - (i) taking disciplinary action against the officer; or
 - (ii) QCAT deciding under the *Crime and Corruption Act 2001* whether corrupt conduct has been proved against the officer; or
 - (iii) starting a prosecution against the officer for an offence relating wholly or partly to the subject matter of the complaint.
- (6) An entity (for example, a court, tribunal or professional body), other than the commissioner, can not draw an adverse inference about an officer because of a presumption under subsection (4) about the officer.

18 Selection panel

If a person (the *applicant*) applies for appointment to a position in the service, the commissioner may form a selection panel of at least 3 persons to make a recommendation to the commissioner about—

- (a) if the applicant is a member of the service—whether the applicant should be considered for selection to the position; or
- (b) otherwise—the applicant’s engagement by the service.

19 Notice of appointments to police officer positions and transfers, promotions, demotions and dismissals

The commissioner must notify each of the following in the Queensland Police Gazette—

- (a) an appointment to a police officer position;
- (b) a transfer, promotion, demotion or dismissal of an officer.

Part 7 Resignation, retirement and withdrawal of services

20 How non-contract officer may resign

- (1) For section 8.1(2) of the Act, a non-contract officer may resign from the service at any time by giving the commissioner written notice of the officer's intention to resign, at least 3 months before the day of the intended resignation, unless the commissioner approves a shorter period.
- (2) In this section—

non-contract officer means an officer who does not hold a position in the service on the basis of a contract that provides for the way of the officer's resignation.

21 Minimum retirement age

- (1) For section 8.2(a) of the Act, the prescribed age for an officer, other than an officer who holds a position in the service on a contract basis, is 55 years.
- (2) Subsection (1) is subject to any Act that provides for any other retirement age for the officer.

22 Withdrawal of services

An officer must not—

- (a) withdraw from the officer's duties as an officer, whether as a constable or otherwise, unless the withdrawal is authorised under the Act or by the commissioner; or

- (b) do an act or make an omission that, if done or omitted to be done by at least 2 officers, would constitute a strike within the meaning of the *Industrial Relations Act 1999*.

Maximum penalty—100 penalty units.

Part 8 Continuous service

23 Calculation of continuous service

- (1) For section 5.10(6) of the Act, service as an officer is taken to be continuous if the officer has not had a break in service as an officer of more than 12 months.
- (2) For section 5.14(1)(b) of the Act, the following offices under the Crown are prescribed—
- (a) any office in a public sector unit;
 - (b) any office in the public service of the Commonwealth or a State, if service in the office was permanent;
 - (c) any office in a police service or police force of the Commonwealth or a State, if service in the office was permanent;
 - (d) any office in the naval, military or air force service of the Commonwealth, if service in the office was permanent.
- (3) For section 5.14(3) of the Act, service of an officer is to be taken as continuous if the officer has not had a break of more than 12 months between holding an office under the Crown mentioned in subsection (2) and becoming an officer.

Part 9 Ranks

24 Ranks of officers—Act, s 5.1

- (1) For section 5.1 of the Act, the ranks of officers are declared to be those mentioned in schedule 1, column 2.

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- (2) Schedule 1, column 1 states the category of officer to which the rank of officer belongs.

Part 10 Awards

25 Valour Medal

The commissioner may award a medal called the Queensland Police Valour Medal (the *Valour Medal*) to either of the following persons who, in the execution of the person's duty as a member of the service, performed an act of exceptional bravery in hazardous circumstances—

- (a) a member of the service;
- (b) a former member of the service, whether alive or dead.

26 Silver Bar to Valour Medal

- (1) This section applies to a member of the service who—
- (a) is awarded the Valour Medal; and
 - (b) before or after the award, in the execution of the member's duty as a member of the service, performed or performs an act of exceptional bravery in hazardous circumstances.
- (2) The commissioner may give the member a Silver Bar to the Valour Medal.

27 Other awards

The commissioner may make other awards to recognise and commend a member of the service who, in the execution of the member's duty as a member of the service, demonstrates either of the following—

- (a) conspicuous or exemplary bravery;
- (b) conspicuous or exemplary performance of work.

28 Wearing of awards

An award under this part, including a Silver Bar to the Valour Medal, may be worn only in the way the commissioner decides.

29 Design and style of awards

The design and style of—

- (a) the Valour Medal must be as approved by the Governor in Council; or
- (b) any other award under this part must be as decided by the commissioner.

30 Awards may be made for conduct that happened before or after commencement of Act

An award may be made under this part for conduct that happened before or after the commencement of the Act.

Part 11 Review of decisions

Division 1 Preliminary

31 Object of pt 11

The object of this part is to do the following with proper regard for the efficiency, effectiveness and professionalism of the service—

- (a) provide officers with an independent review of decisions for the redress of particular grievances;
- (b) ensure decisions made in relation to officers are—
 - (i) fair, just and compassionate; and
 - (ii) made in accordance with sound personnel management practices.

32 Definitions for pt 11

In this part—

former officer has the meaning given by section 7A.1(1)(b) of the Act.

party to a review means—

- (a) the officer who applied for the review; or
- (b) the former officer who applied for the review; or
- (c) if the review is of a decision to select an officer for appointment to a police officer position, whether on promotion or transfer—the officer selected for appointment to the position; or
- (d) if the review is of a decision to select an officer for transfer to a police officer position—the officer selected for the transfer; or
- (e) if the review is of a decision to take disciplinary action—the prescribed officer who made the decision; or
- (f) if the review is of any other kind of decision—the officer who made the decision; or
- (g) any officer nominated by the commissioner to assist the review commissioner conducting or who is to conduct the review.

reviewable decision means—

- (a) a decision mentioned in section 9.3(1)(a) to (d) of the Act; or
- (b) a decision mentioned in section 33.

review commissioner means a commissioner for police service reviews.

Division 2 Additional decision open to review

33 Additional decision open to review

For section 9.3(1)(e) of the Act, a decision by the commissioner to appoint an officer to a position as a staff member under section 8.3(5)(a) of the Act is open to review under part 9 of the Act.

Division 3 Application for review

34 How to apply for review—Act s 9.4(1)

- (1) An officer may start a review of a reviewable decision by written application for a review of the decision to the secretary appointed under section 35.
- (2) The application must be made within 14 days after the officer receives written notice of the decision.
- (3) An officer who is an unsuccessful applicant for appointment to a police officer position is taken to have received written notice of the decision from the commissioner on the day notice of another person's appointment to the position is published in the Queensland Police Gazette.
- (4) In this section—
officer includes a former officer.

35 Appointment of secretary to review commissioners and written notice to parties of application

- (1) The chairman of the Crime and Corruption Commission may appoint a person as secretary to the review commissioners.
- (2) The secretary must, on receiving an application for review of a reviewable decision, give all parties to the review written notice of the application.

Division 4 Conduct of review

36 Functions of review commissioner

The functions of a review commissioner are—

- (a) to conduct a review, for part 9 of the Act, of all material provided by the parties to the review that is relevant to the application for the review at the time the application was decided, whether or not it was submitted to be considered by the person who made the decision under review; and
- (b) to hear submissions for the review at the place the review commissioner considers necessary.

Note—

For a review commissioner's function to make recommendations to the commissioner on conclusion of a review, see section 9.5(1) of the Act.

37 Review commissioner not to act for particular applications

A review commissioner must not consider or hear an application for review of a reviewable decision if the review commissioner was involved in making the decision.

38 Practice and procedure on a review

On a review of a reviewable decision, a review commissioner is not bound by rules or practice about evidence and may be informed on any matter the review commissioner considers is relevant to the review in the way the review commissioner considers appropriate.

39 Representation of officer who made decision

On a review of a reviewable decision, an officer may appear as the representative of the officer who made the decision.

40 Prohibition on disclosure for a review

- (1) The review commissioner conducting, or who conducted, a review of a reviewable decision may, by order, prohibit a person from disclosing stated oral, written or other matter—
 - (a) if the review has not ended—that has been given, or is later given, to the review commissioner for the review; or
 - (b) if the review has ended—that was given to the review commissioner for the review.

Examples of stated oral, written or other matter—

- oral or written submissions
 - oral or written statements by the parties as to facts in issue
 - stated photographs or other material
 - a named or otherwise described document
 - a stated document, or class of documents, that exists or may come into existence
- (2) However, an order may be made under subsection (1) only against either or both of the following persons—
 - (a) each person who was or is—
 - (i) a party to the review and is named in the order; or
 - (ii) a party to the review;
 - (b) each person (who has not been or is not a party to the review) who is or becomes aware of the terms of the order.
 - (3) The review commissioner may make an order under subsection (1) only if the review commissioner considers on reasonable grounds the disclosure would be—
 - (a) unfair to a person; or
 - (b) contrary to the public interest.
 - (4) The order must state that the order does not apply to—
 - (a) disclosure to a lawyer, or other person, for the purpose of a person to whom the order applies obtaining legal

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services (whether or not in relation to the review) from an Australian or an overseas lawyer; or

- (b) disclosure authorised or required under an Act.
- (5) The order may be changed or revoked—
 - (a) if the review has not ended—by the review commissioner before the review ends; or
 - (b) by any review commissioner after the review ends.
- (6) The order, change or revocation may be made or done orally or in writing, but if it is made or done orally, must be confirmed in writing as soon as practicable after the order, change or revocation is made.

41 Withdrawal of application for review

- (1) An officer who applies for a review of a reviewable decision may at any time withdraw the application.
- (2) If the officer withdraws the application, the review ends.
- (3) If a review commissioner has started to consider, but not decided, an officer's application for a review of a reviewable decision and the officer voluntarily resigns from the service, the application is taken to be withdrawn.
- (4) In this section—
officer includes a former officer.

42 Frivolous or vexatious application for review

- (1) A review commissioner may refuse to further consider an application for a review of a reviewable decision if the review commissioner is satisfied on reasonable grounds that the application is frivolous or vexatious.
- (2) If, under subsection (1), a review commissioner refuses to further consider an application for a review of a reviewable decision, the review is taken to be completed.

Division 5 Stay of transfer if officer must change place of residence

43 Commissioner to stay transfer if officer must change place of residence

- (1) This section applies if—
 - (a) the commissioner decides to transfer an officer to a position; and
 - (b) because of the transfer, the officer must change the officer's place of residence; and
 - (c) the officer applies under section 34 for a review of the decision.
- (2) The commissioner must stay the decision until the commissioner decides under section 9.5(2) of the Act to proceed with the transfer or revoke the decision.

Division 6 Conclusion of review

44 Conclusion of review

- (1) The review commissioner who conducted a review of a reviewable decision must give written advice to all parties to the review of the review commissioner's recommendation, under section 9.5(1) of the Act, for the matter under review.
- (2) If a review commissioner—
 - (a) conducted part of a review of a reviewable decision; and
 - (b) under section 42 refuses to further consider the application for the review on the basis that the review commissioner is satisfied, on reasonable grounds, the application is frivolous or vexatious;the review commissioner must give written advice of the refusal and the basis for the refusal to all parties to the review.

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- (3) The review commissioner must give a brief summary of the review commissioner's reasons for the recommendation, or refusal, to all parties to the review.
- (4) The commissioner of the police service must, as soon as practicable after deciding the action (if any) to take, under section 9.5(2) of the Act, in relation to the review—
 - (a) inform the review commissioner, and all parties to the review, of the commissioner of the police service's decision on the review; and
 - (b) if the commissioner of the police service decides not to implement the recommendation of the review commissioner—give a brief summary of the reasons for the decision to the following—
 - (i) all parties to the review;
 - (ii) the review commissioner.

Division 7 Other provisions about review commissioners

45 Review commissioner dies or is incapable of completing review

- (1) This section applies if a review commissioner—
 - (a) starts to consider an application for a review of a reviewable decision; and
 - (b) either—
 - (i) dies before recommendations about the application are made; or
 - (ii) for any reason is incapable of completing the review.
- (2) Any other review commissioner may review the decision afresh by way of reconsideration on the merits of the case without being affected by the uncompleted review.

46 Remuneration and allowances of review commissioner

A review commissioner must be paid the remuneration or allowances decided by the Minister from amounts—

- (a) appropriated by Parliament for the department in which the *Crime and Corruption Act 2001* is administered; and
- (b) paid by that department to the Crime and Corruption Commission for the commission's purposes.

Part 12 Alcohol tests

Division 1 Random alcohol tests

47 When random alcohol test may be conducted without approval of commissioner or deputy commissioner

- (1) For section 5A.9(3)(b) of the Act, this section prescribes the criteria for deciding when a random alcohol test may be conducted without the approval of the commissioner or deputy commissioner.
- (2) The commissioner must divide all relevant persons into the groups the commissioner considers appropriate.
- (3) The selection of a group for testing must be performed using a system approved by the commissioner that—
 - (a) randomly selects from the groups the name or other identifier of 1 group; and
 - (b) ensures 2 or more groups that the commissioner decides are in the same location (having regard to the structure of the service or the PSBA) are not selected on the same day; and
 - (c) gives the name or other identifier of the selected group.
- (4) Enough groups must be selected using the system to ensure that, together, the number of relevant persons in the groups selected during each year will, when selected, be at least 10%

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of the number of persons who were relevant persons at the start of the year.

- (5) A random alcohol test may be conducted without the approval of the commissioner or deputy commissioner only on a relevant person who is—
- (a) on duty when required to submit to the test; and
 - (b) a person of the selected group as it exists at that time.

48 Period within which to conduct random alcohol test

- (1) For section 5A.9(3)(a) of the Act, this section prescribes the criteria for deciding when a random alcohol test may be conducted.
- (2) A random alcohol test may be conducted on a relevant person only within the following period—
- (a) if the relevant person and the nearest authorised person work at the same place or the relevant distance is not over 100km—24 hours after a random alcohol test notice is given for the selected group that includes the relevant person;
 - (b) if the relevant distance is over 100km but not over 200km—1 week after a random alcohol test notice is given for the selected group that includes the relevant person;
 - (c) if the relevant distance is over 200km but not over 300km—1 month after a random alcohol test notice is given for the selected group that includes the relevant person;
 - (d) if the relevant distance is over 300km—6 months after a random alcohol test notice is given for the selected group that includes the relevant person.

- (3) In this section—

relevant distance, if the relevant person and the nearest authorised person do not work at the same place, means the shortest distance by usable road between the place where the

relevant person works and the place where the nearest authorised person works.

Division 2 Arranging alcohol tests

49 ADT coordinator and group coordinators

The commissioner may approve an appropriately qualified member of the service or a PSBA employee as—

- (a) the alcohol and drug testing coordinator (the *ADT coordinator*); or
- (b) the random alcohol testing local coordinator (*group coordinator*) for a particular group selected under section 47.

50 ADT coordinator to notify group coordinator of group's selection

- (1) This section applies if the system mentioned in section 47 gives the name or other identifier of a selected group.
- (2) The ADT coordinator must give the group coordinator a written notice (a *random alcohol test notice*)—
 - (a) stating the name or other identifier of the selected group; and
 - (b) requiring the group coordinator to advise an authorised person of the group that has been selected that the group has been selected for a random alcohol test.

51 Authorised person to consult with ADT coordinator before requiring particular test

- (1) This section applies if—
 - (a) an authorised person knows a relevant person has entered into an agreement under section 5A.21A of the Act for the provision of counselling or rehabilitation about the relevant person's use of alcohol or a drug; and

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- (b) the agreement has not ended.
- (2) The authorised person must if reasonably practicable consult with the ADT coordinator before requiring the relevant person to submit to an alcohol test under section 5A.8(c) of the Act.

52 When and where relevant person may be recalled to duty for alcohol test

A relevant person who is not on duty must not be recalled to duty at a place for the purpose of being required to submit to an alcohol test unless—

- (a) the alcohol test is not a random alcohol test; and
- (b) the relevant person—
 - (i) has been involved in a critical incident; and
 - (ii) does not live at the place.

Division 3 Procedure for alcohol test and reporting test result

53 Sufficient specimen of breath for testing

- (1) This section applies if an authorised person requires a relevant person to submit to an alcohol test.
- (2) The authorised person may require the relevant person to blow into the instrument, used to perform the test, on as many occasions as are reasonably necessary to provide a sufficient specimen of breath for testing.

54 Claim that alcohol is present in mouth

- (1) This section applies if—
 - (a) an authorised person requires a relevant person to submit to an alcohol test; and
 - (b) the relevant person tells the authorised person that—

- (i) alcohol from a stated source is or may be present in the relevant person's mouth; and
 - (ii) the alcohol was taken into the relevant person's mouth within the last 20 minutes.
- (2) A specimen of the relevant person's breath may only be taken after 20 minutes have passed since the claim was made.

55 Breath testing instruments

- (1) This section applies if the commissioner gives a direction that a reading shown by a particular type of instrument approved under section 5A.10(4)(a) of the Act, when used under part 5A of the Act, must be reduced by a stated amount.
- (2) In deciding whether a relevant person is over the limit applying to the relevant person, the reading shown by the instrument must be reduced by the stated amount.

56 Authorised person must report test result

- (1) Subsections (2) and (3) apply if an authorised person requires a relevant person to submit to an alcohol test and the relevant person—
 - (a) was over the limit for alcohol applying to the relevant person when tested; or
 - (b) failed to provide a specimen of breath as required.
- (2) The authorised person must advise the relevant person, the ADT coordinator and the following person, in writing, of the information mentioned in subsection (3)—
 - (a) if the relevant person is a member of the service and a commissioned officer is responsible for supervising the relevant person—the commissioned officer;
 - (b) if the relevant person is a member of the service and no commissioned officer is responsible for supervising the relevant person—a commissioned officer nominated by the ADT coordinator;

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- (c) if the relevant person is a relevant PSBA employee—the PSBA chief operating officer.
- (3) The information is—
- (a) the concentration of alcohol in the relevant person’s breath when tested; or
- (b) if the relevant person failed to provide a specimen of breath as required—that fact.
- (4) If a relevant person provided a specimen of breath as required and was not over the limit applying to the relevant person when tested, the authorised person must advise the ADT coordinator, in writing, of that fact.

Division 4 Other matters

57 Form of commissioner’s or deputy commissioner’s approval about submission to random alcohol test

- (1) The commissioner or deputy commissioner may give a written approval under section 5A.9(2)(a) of the Act in relation to a relevant person by reference to the persons of a group, or class, as it exists when the relevant person is required to submit to an alcohol test under the approval.

Examples of a group or class—

- relevant persons of a particular work section
 - relevant persons stationed at a particular police station
 - relevant persons who occupy a particular building
 - relevant persons of a particular rank or a particular classification level in the public service
 - relevant persons performing a particular function
- (2) Subsection (1) does not limit the form in which a written approval may be given under section 5A.9(2)(a) of the Act.

Part 13 Targeted substance tests

Division 1 Arranging targeted substance tests

58 Authorised person to consult with ADT coordinator before requiring particular test

- (1) This section applies if—
 - (a) an authorised person knows a relevant person has entered into an agreement under section 5A.21A of the Act for the provision of counselling or rehabilitation about the relevant person’s use of alcohol or a drug; and
 - (b) the agreement has not ended.
- (2) The authorised person must if reasonably practicable consult with the ADT coordinator before requiring the relevant person to submit to a targeted substance test under section 5A.13(1)(b) of the Act.

59 Deciding time and place for targeted substance test on operative

An authorised person must, in deciding the time and place for performing a targeted substance test on a relevant person who is an operative, consider—

- (a) the safety of the relevant person; and
- (b) the effect requiring the relevant person to submit to the test at a particular time and place may have on any operation in which the relevant person is taking part.

60 When and where relevant person may be recalled to duty for targeted substance test

A relevant person who is not on duty must not be recalled to duty at a place for the purpose of being required to submit to a targeted substance test unless—

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- (a) either—
 - (i) the relevant person has been involved in a critical incident; or
 - (ii) an authorised person reasonably suspects the relevant person has contravened section 5A.12 of the Act when the relevant person was on duty; and
- (b) the relevant person does not live at the place.

Division 2 Procedure for targeted substance test and reporting test result

61 Relevant person to advise details of medication etc.

- (1) This section applies if an authorised person requires a relevant person to provide a specimen of urine for a targeted substance test.
- (2) Before providing the specimen the relevant person must, unless the relevant person has a reasonable excuse, advise the following person in the approved form of the information mentioned in subsection (3)—
 - (a) if the relevant person is a relevant PSBA employee—the PSBA chief operating officer;
 - (b) if the relevant person is not a relevant PSBA employee—the commissioner.
- (3) The information is—
 - (a) any medication or other substance that—
 - (i) may result in there being evidence of a targeted substance in the relevant person’s urine when tested; or
 - (ii) may otherwise affect the result of the targeted substance test; and

Example for subparagraph (ii)—

a substance that may affect the rate at which a targeted substance is excreted from the body or mask the use of a targeted substance

- (b) any incident that may affect the result of the targeted substance test.
- (4) It is a reasonable excuse for the relevant person to fail to comply with subsection (2) if complying with the requirement might tend to incriminate the relevant person.
- (5) The relevant person must give the authorised person the completed approved form as soon as is reasonably practicable.
- (6) If the relevant person gives the authorised person the completed approved form, the authorised person must give it to the ADT coordinator.

62 If relevant person claims to be unable to provide specimen because of a medical condition

- (1) This section applies if a relevant person—
 - (a) is required by an authorised person to provide a specimen of urine for a targeted substance test; and
 - (b) tells the doctor or registered nurse to whom the specimen is required to be provided under section 5A.14 of the Act that the relevant person is unable to provide a specimen of urine because of a medical condition.
- (2) The relevant person must immediately advise the authorised person that the relevant person is unable to provide a specimen of urine because of a medical condition.
- (3) The relevant person must also give the following information to the doctor or registered nurse—
 - (a) the name, if known, and nature of the medical condition;
 - (b) how the medical condition affects the relevant person's ability to provide a specimen of urine;
 - (c) how long the relevant person has had the medical condition;

- (d) the name and address of any doctor treating the medical condition.

63 Water may be drunk if relevant person claims to be unable to immediately provide specimen

- (1) This section applies if a relevant person—
 - (a) is required by an authorised person to provide a specimen of urine for a targeted substance test; and
 - (b) tells the doctor or registered nurse to whom the specimen is required to be provided that the relevant person is unable to immediately provide the specimen.
- (2) The doctor or registered nurse may—
 - (a) allow the relevant person to drink up to 500mL of water as soon as is reasonably practicable; and
 - (b) direct the relevant person to provide the specimen within 1 hour after drinking the water.

64 Requirements about collecting and dealing with urine specimens

- (1) Subsection (2) prescribes for section 5A.14 of the Act requirements about the collection of urine specimens.
- (2) A person involved in the collection of urine specimens must comply with the requirements in the standard about the collection of drugs of abuse in human urine as if the requirements applied to a urine specimen for a targeted substance test.
- (3) Subsection (4) prescribes for section 5A.14 of the Act the way a specimen of urine obtained under that section must be dealt with.
- (4) A person involved in dealing with the specimen must comply with the requirements in the standard about the way a specimen of human urine must be dealt with after it has been obtained as if the requirements applied to a urine specimen for a targeted substance test.

(5) Subsection (2) or (4) applies subject to any direction by the commissioner under section 4.9 of the Act.

(6) In this section—

standard means joint Standards Australia and Standards New Zealand standard AS/NZS 4308:2008, section 2.

Editor's note—

AS/NZS 4308:2008 may be purchased from Standards Australia.

65 **Advice by commissioner or PSBA chief operating officer to relevant person of test result**

(1) This section applies if an authorised person requires a relevant person to submit to a targeted substance test.

(2) If the relevant person is a member of the service, the commissioner must at the required time advise the relevant person in writing of the required information.

(3) If the relevant person is a relevant PSBA employee, the PSBA chief operating officer must at the required time advise the relevant person in writing of the required information.

(4) For subsections (2) and (3), the *required time* is—

(a) if the relevant person provided a specimen of urine—as soon as is reasonably practicable after the test finished;
or

(b) if the relevant person failed to provide a specimen of urine—as soon as is reasonably practicable after the failure.

Note—

For the result of a failure to provide a specimen of urine, see section 5A.15 of the Act.

(5) Also, for subsections (2) and (3), the required information is—

(a) if the relevant person provided a specimen of urine—

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- (i) whether the relevant person had evidence of a targeted substance in the relevant person's urine when tested; and
 - (ii) if the relevant person had evidence of a targeted substance in the relevant person's urine when tested—the targeted substance; or
- (b) if the relevant person failed to provide a specimen of urine—that fact.

Part 14 **Self-reporting for counselling or rehabilitation in relation to alcohol or drug use**

66 **Agreements about counselling or rehabilitation**

- (1) For section 5A.21A(8) of the Act, definition *prescribed person*, a member of the service or a relevant PSBA employee may make a request for the provision of counselling or rehabilitation about the member's or employee's personal use of alcohol or a drug to—
- (a) if the request is by a member of the service—
 - (i) the ADT coordinator; or
 - (ii) a member of the service approved by the commissioner for this part; or
 - (b) if the request is by a relevant PSBA employee—
 - (i) the ADT coordinator; or
 - (ii) a person approved by the PSBA chief operating officer for this part.
- (2) For section 5A.21A(7) of the Act, the following matters must be included in an agreement under section 5A.21A of the Act—
- (a) the counselling or rehabilitation to be provided under the agreement;

-
- (b) if the request is by a member of the service, that the service will pay the cost of the counselling or rehabilitation;
 - (c) if the request is by a relevant PSBA employee, that the State will pay the cost of the counselling or rehabilitation;
 - (d) the ADT coordinator may at any time review the agreement;
 - (e) the agreement may be changed only with the written agreement of the parties;
 - (f) the agreement ends on the earliest of the following days—
 - (i) the day the agreement expires;
 - (ii) the day a party gives written notice ending the agreement to the other party;
 - (iii) the day the member stops being a member of the service or the relevant PSBA employee stops being a public service employee.
- (3) The agreement may also include provisions about the testing of the member or employee for alcohol or drugs.

Part 15 **Exchange of policing information**

67 **Approved agencies—Act, s 10.2G**

For section 10.2G of the Act, definition *approved agency*, each of the following entities is an approved agency—

- (a) Australian Crime Commission;
- (b) Australian Federal Police;
- (c) Australian Security Intelligence Organisation;
- (d) Australian Transaction Reports and Analysis Centre;

[s 68]

- (e) Crime and Corruption Commission;
- (f) immigration and border protection department;
- (g) Office of the Director of Public Prosecutions;
- (h) the Parole Board Queensland established under the *Corrective Services Act 2006*;
- (i) the Parole Board Queensland Secretariat established under the *Corrective Services Act 2006*;
- (j) the department in which the *Child Protection Act 1999* is administered;
- (k) the department in which the *Corrective Services Act 2006* is administered;
- (l) the department in which the *Statistical Returns Act 1896* is administered;
- (m) the PSBA;
- (n) the Australian Health Practitioner Regulation Agency established under the Health Practitioner Regulation National Law, section 23;
- (o) the Office of the Health Ombudsman established under the *Health Ombudsman Act 2013*, section 253.

68 Approved information—Act, s 10.2G

For section 10.2G of the Act, definition *approved information*, information mentioned in schedule 2 that is in a QPS database is prescribed.

69 Law enforcement agencies—Act, s 10.2G

For section 10.2G of the Act, definition *law enforcement agency*, each of the following entities is a law enforcement agency—

- (a) Australian Crime Commission;
- (b) Australian Security Intelligence Organisation;

- (c) Crime and Corruption Commission;
- (d) immigration and border protection department.

Part 16 Exchange of criminal history for particular employment screening

70 Interstate screening units—Act, s 10.2S

For section 10.2S of the Act, definition *interstate screening unit*, paragraph (a), each of the following entities is prescribed—

- (a) the central assessment unit under the *Child Safety (Prohibited Persons) Act 2016* (SA);
- (b) the Children’s Guardian as mentioned in the *Child Protection (Working with Children) Act 2012* (NSW);
- (c) the chief executive officer of the Department as defined in the *Working with Children (Criminal Record Checking) Act 2004* (WA), section 4;
- (d) the commissioner for fair trading as mentioned in the *Working with Vulnerable People (Background Checking) Act 2011* (ACT);
- (e) the Registrar under the *Registration to Work with Vulnerable People Act 2013* (Tas);
- (f) the Screening Authority established under the *Care and Protection of Children Act* (NT);
- (g) the Secretary to the Department of Justice as mentioned in the *Working with Children Act 2005* (Vic);
- (h) the Victorian Institute of Teaching established under the *Education and Training Reform Act 2006* (Vic);
- (i) the Screening Agency under the *National Disability Insurance Scheme (Worker Checks) Act 2018* (NSW).

Part 17 **Miscellaneous**

71 **Queensland Police Gazette**

The commissioner must ensure the Queensland Police Gazette is published on a regular basis.

72 **External service providers**

For section 1.4 of the Act, definition *external service provider*, paragraph (c), a public service employee employed in either of the following is declared to be an external service provider for part 1 of the Act—

- (a) CITEC;
- (b) Queensland Shared Services.

Part 18 **Repeals and transitional provisions**

Division 1 **Repeals**

74 **Regulations repealed**

The following regulations are repealed—

- Police Service Administration Regulation 1990
- Police Service Administration (Review of Decisions) Regulation 1990
- Police Service (Ranks) Regulation 1991, SL No. 55.

Division 2 **Transitional provisions for Police Service Administration Regulation 2016**

74A **Definition for division**

In this division—

repealed administration regulation means the repealed *Police Service Administration Regulation 1990* as in force at any relevant time.

75 **Existing vacancies advertised but not filled**

- (1) This section applies if, immediately before the commencement—
 - (a) a notification about a vacancy in the service had been published in the Queensland Police Gazette under the repealed administration regulation, section 4.2 or 4.9; and
 - (b) the vacancy had not been filled.
- (2) The repealed administration regulation, part 4 continues to apply in relation to the vacancy as if this regulation had not been made.

76 **Existing ADA State coordinator**

- (1) This section applies if, immediately before the commencement, a person was authorised to be an ADA State coordinator under the repealed administration regulation, section 7A.3(1)(b).
- (2) The person is taken to be the ADT coordinator until the commissioner revokes the commissioner's authorisation of the person as the ADT coordinator.

77 References to ADA State coordinator

In an Act or other document, a reference to the ADA State coordinator may, if the context permits, be taken to be a reference to the ADT coordinator.

78 Existing agreement between commissioner and member of the service for counselling or rehabilitation services

- (1) This section applies if, immediately before the commencement, an agreement was in force under the repealed administration regulation, section 7C.1.
- (2) The agreement is taken to have been made under section 5A.21A(3) of the Act.

79 Existing agreement between PSBA chief operating officer and relevant PSBA employee for counselling or rehabilitation services

- (1) This section applies if, immediately before the commencement, an agreement was in force under the repealed administration regulation, section 7C.1A.
- (2) The agreement is taken to have been made under section 5A.21A(4) of the Act.

80 References to repealed regulations

A reference in an Act or other document to a repealed regulation mentioned in section 74 may, if the context permits, be taken to be a reference to this regulation.

Division 3 **Transitional provision for Weapons
and Other Legislation Amendment
Regulation 2017**

81 **Former Queensland Police Service Valour Award is taken
to be Valour Medal**

- (1) This section applies to a Queensland Police Service Valour Award awarded to a person, under a former awards provision, for having performed an act.
- (2) The Queensland Police Service Valour Award is taken to be a Valour Medal awarded to the person for having performed the act.
- (3) If the person has been given, under a former awards provision, a Silver Bar to the person's Queensland Police Service Valour Award, the person is taken to have been given a Silver Bar to the person's Valour Medal.
- (4) In this section—
former awards provision means—
 - (a) part 10 as in force at any time before the commencement; or
 - (b) the repealed *Police Service Administration Regulation 1990* as in force at any time.

Schedule 1 Ranks and categories of officer

section 24

Column 1 Category of officer	Column 2 Rank of officer
	commissioner
executive officers	deputy commissioner assistant commissioner
commissioned officers	chief superintendent superintendent inspector
noncommissioned officers and constables	senior sergeant sergeant senior constable constable

Schedule 2 Approved information

section 68

- 1 In relation to a person—
- name
 - alias
 - date of birth
 - gender
 - residential or other address
 - driver licence number
 - physical or racial description
 - whether the person is an Aboriginal or Torres Strait Islander
 - distinguishing features, including, for example, tattoos and scars
 - criminal history
 - whether a warrant has been issued in relation to the person and the details of the warrant
 - whether the person is or has been a person of interest in Queensland or another State and, if so, details of why the person is or has been a person of interest in Queensland or another State
 - whether a domestic violence order has been made under the *Domestic and Family Violence Protection Act 2012*, section 23 against the person and, if so, the details of the order
 - whether the person's name has been entered on the child protection register established under the *Child Protection (Offender Reporting) Act 2004*
 - whether a warning about the person, including, for example, a warning about the health or behaviour of the

Schedule 2

person has been recorded in a document in the possession of the service and, if so, the details of the warning

- whether the person has been granted bail and, if so, any conditions of the bail
- whether the person has held a licence for or possessed a weapon and, if so, the details of the licence or possession
- whether the person is or was an escapee from lawful custody and, if so, details relating to the escape
- whether the person is or has been a missing person
- whether a DNA sample has been provided by the person
- any number, identifying the person's fingerprints, assigned or recognised by the service
- a jurisdictional reference number for the person
- a photo of the person
- if the person has died, the date of death.

2 In relation to a matter or thing—

- the details of an unidentified person report
- the details of an unidentified body report.

Schedule 3 Dictionary

section 3

ADT coordinator see section 49(a).

Australian Crime Commission means the Australian Crime Commission under the *Australian Crime Commission Act 2002* (Cwlth).

Australian Security Intelligence Organisation means the Australian Security Intelligence Organisation under the *Australian Security Intelligence Organisation Act 1979* (Cwlth).

Australian Transaction Reports and Analysis Centre means the Australian Transaction Reports and Analysis Centre under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwlth).

Crime and Corruption Commission means the Crime and Corruption Commission established under the *Crime and Corruption Act 2001*, section 220.

former officer, for part 11, see section 32.

group coordinator see section 49(b).

immigration and border protection department means a Commonwealth department in which any of the following laws is administered—

- (a) *Australian Border Force Act 2015* (Cwlth);
- (b) *Customs Act 1901* (Cwlth), other than parts XVB and XVC;
- (c) *Migration Act 1958* (Cwlth).

party to a review, for part 11, see section 32.

random alcohol test notice see section 50(2).

reviewable decision, for part 11, see section 32.

review commissioner, for part 11, see section 32.

selected group means a group of relevant persons selected under section 47 for random alcohol testing.

Valour Medal see section 25.