

**Reprint  
as at 8 December 2009**



**Policing Act 2008**

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Commencement    see section 2

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the New Zealand Police.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Policing Act 2008.

**2 Commencement**

- (1) Section 130(2) comes into force on the commencement of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008.
- (2) The rest of this Act comes into force on 1 October 2008.

**Part 1**  
**Preliminary provisions**

**3 Purpose**

The purpose of this Act is to provide for policing services in New Zealand, and to state the functions and provide for the governance and administration of the New Zealand Police.

**4 Interpretation**

In this Act, unless the context otherwise requires,—

**authorised officer** means a Police employee authorised under section 24

**Commissioner** means the Commissioner of Police holding office under section 12

**confidential Police document** means any Police report, notice, circular, or other document in any form that—

- (a) contains information the disclosure of which would be likely to prejudice the maintenance of law, including the prevention, detection, and investigation of offences; and
- (b) is produced by any Police employee



**constable** means a Police employee who—

- (a) holds the office of constable (whether appointed as a constable under the Police Act 1958 or this Act); and
- (b) includes a constable who holds any level of position within the New Zealand Police

**court process** means a summons, warrant, order, direction, or other process of a Court or judicial officer, or of a Registrar or Deputy Registrar of a Court

**criminal court process** means a court process issued through a Registrar of the High Court, or the Registrar of a District Court of criminal jurisdiction

**Deputy Commissioner** means a Deputy Commissioner of Police holding office under section 13

**general instructions** means general instructions issued by the Commissioner under section 28

**health practitioner** means a person who is or is deemed to be registered with an authority as a practitioner of a particular health profession under the Health Practitioners Competence Assurance Act 2003

**Judge** means a Judge of any court

**judicial officer** means a Judge, Justice of the Peace, or Community Magistrate

**medical practitioner** means a health practitioner who is or is deemed to be registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

**Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

**Police** means the instrument of the Crown continued in existence by section 7(1)

**Police article** means any crest, badge, emblem, design, logogram, or other distinguishing article used, worn, or carried by any Police employee while on duty and described in regulations made under this Act

**Police dog** means a dog that is—

- (a) undergoing or has successfully completed a course of instruction at the Police Dog Training Centre; and
- (b) being used for police duties

**Police dog handler** means a Police employee who is undergoing or has successfully completed a course of instruction at the Police Dog Training Centre that qualifies the employee to perform duties as a Police dog handler

**Police employee** means a person employed under section 18 and, except in Part 4, includes a person seconded to the Police

**Police property**—

- (a) means property used by, or in the possession or under the control of, the Police (whether belonging to the Crown or not); and
- (b) includes a confidential Police document or copy of that document

**Police uniform** means distinctive clothing or equipment that—

- (a) is issued by the Commissioner to be worn by Police employees while on duty; and
- (b) has a colour scheme, pattern, or style that enables the person wearing it to be readily identifiable as a Police employee

**policing**—

- (a) means the performance by the Police of any of its functions; and
- (b) includes the exercise by Police employees of powers that they have because they are constables or authorised officers (whether the powers are statutory or given by the common law)

**State services superannuation scheme** means any superannuation scheme to which Police employees may belong or are required to belong, being a superannuation scheme—

- (a) established under section 84A(a) of the State Sector Act 1988 by the Commissioner; or
- (b) arranged under section 84A(b) or (c) of the State Sector Act 1988 by the Commissioner

**supervisor** means, in relation to a Police employee,—

- (a) a Police employee who holds a supervisory position in relation to that Police employee; and
- (b) includes a Police employee who is nominated by a supervisor to be acting supervisor of that employee.

**5 Status of examples**

In this Act, an example is only illustrative of the provision it relates to and does not limit the provision.

**6 Act binds the Crown**

This Act binds the Crown.

**Part 2**

**Organisation and governance**

**Subpart 1—New Zealand Police, principles,  
functions, and roles of others**

**7 New Zealand Police**

- (1) There continues to be an instrument of the Crown known as the New Zealand Police.
- (2) The New Zealand Police is the same organisation as that—
  - (a) established as the Police Force under the Police Force Act 1886; and
  - (b) continued in existence as the Police Force under the Police Force Act 1908, the Police Force Act 1913, and the Police Force Act 1947; and
  - (c) continued in existence as the New Zealand Police under the Police Act 1958; and
  - (d) existing immediately before the commencement of this Act.

**8 Principles**

This Act is based on the following principles:

- (a) principled, effective, and efficient policing services are a cornerstone of a free and democratic society under the rule of law:

- (b) effective policing relies on a wide measure of public support and confidence:
- (c) policing services are provided under a national framework but also have a local community focus:
- (d) policing services are provided in a manner that respects human rights:
- (e) policing services are provided independently and impartially:
- (f) in providing policing services every Police employee is required to act professionally, ethically, and with integrity.

## **9 Functions of Police**

The functions of the Police include—

- (a) keeping the peace:
- (b) maintaining public safety:
- (c) law enforcement:
- (d) crime prevention:
- (e) community support and reassurance:
- (f) national security:
- (g) participation in policing activities outside New Zealand:
- (h) emergency management.

## **10 Roles of others acknowledged**

- (1) It is acknowledged that important and valuable roles in the performance of the functions of the Police are played by—
  - (a) public agencies or bodies (for example, certain departments of State, and local authorities); and
  - (b) the holders of certain statutory offices (for example, Māori wardens); and
  - (c) parts of the private sector (for example, the private security industry).
- (2) It is also acknowledged that it is often appropriate, or necessary, for the Police to perform some of its functions in co-operation with individual citizens, or agencies or bodies other than the Police.

**11 Effect of sections 8 to 10**

Nothing in sections 8 to 10—

- (a) imposes particular duties on, or gives particular powers to, the Police, the Commissioner, any Police employee, or the Minister; or
- (b) affects the powers, functions, or duties of any agency other than the Police, or any person who is not the Commissioner, a Police employee, or the Minister.

Subpart 2—Commissioner, Deputy  
Commissioners, and acting Commissioner

**12 Appointment of Commissioner**

- (1) The Governor-General may, on the recommendation of the Prime Minister, appoint a fit and proper person as the Commissioner of Police for a term not exceeding 5 years.
- (2) The Commissioner holds office at the pleasure of the Governor-General.
- (3) A person who holds office as a constable when appointed Commissioner continues to hold the office of constable while he or she is Commissioner.

Compare: 1958 No 109 s 3

**13 Appointment of Deputy Commissioners**

- (1) The Governor-General may, on the recommendation of the Prime Minister, appoint 1 or more fit and proper people as Deputy Commissioners of Police for a term not exceeding 5 years.
- (2) A Deputy Commissioner holds office at the pleasure of the Governor-General.
- (3) A person who holds office as a constable when appointed a Deputy Commissioner continues to hold the office of constable while he or she is a Deputy Commissioner.

Compare: 1958 No 109 s 4

**14 Appointment process**

The State Services Commissioner—

- (a) is responsible for managing the process for the appointment of the Commissioner and any Deputy Commissioners:
- (b) must provide advice on nominations for Commissioner and any Deputy Commissioners to the Prime Minister and the Minister.

### **15 Appointment of acting Commissioner**

- (1) In the event of the Commissioner's incapacity because of illness, absence, or any other cause,—
  - (a) the Governor-General may, on the recommendation of the Prime Minister, appoint an acting Commissioner for any specified period; and
  - (b) until that appointment, the longest serving Deputy Commissioner is deemed to be appointed acting Commissioner.
- (2) The acting Commissioner has all the powers, functions, duties, and responsibilities of the Commissioner.
- (3) No appointment under subsection (1), and no act by a person appointed under subsection (1), may be questioned on the ground that the occasion for the person's appointment had not arisen or had ceased.

Compare: 1958 No 109 s 4(5), (6)

### **16 Responsibilities and independence of Commissioner**

- (1) The Commissioner is responsible to the Minister for—
  - (a) carrying out the functions and duties of the Police; and
  - (b) the general conduct of the Police; and
  - (c) the effective, efficient, and economical management of the Police; and
  - (d) tendering advice to the Minister and other Ministers of the Crown; and
  - (e) giving effect to any lawful ministerial directions.
- (2) The Commissioner is not responsible to, and must act independently of, any Minister of the Crown (including any person acting on the instruction of a Minister of the Crown) regarding—
  - (a) the maintenance of order in relation to any individual or group of individuals; and

- (b) the enforcement of the law in relation to any individual or group of individuals; and
- (c) the investigation and prosecution of offences; and
- (d) decisions about individual Police employees.

Compare: SR 1992/14 r 3

**17 Delegation of powers, functions, or duties of Commissioner**

- (1) The Commissioner may, as he or she thinks fit, delegate to any person any of his or her powers, functions, or duties under this Act or any other enactment.
- (2) A delegation under subsection (1)—
  - (a) may be made subject to any conditions or restrictions that the Commissioner thinks appropriate, including any factors that must be taken into account when the delegation is exercised:
  - (b) may be made generally or in any particular case:
  - (c) is revocable at will:
  - (d) does not prevent the Commissioner from exercising any power, or carrying out any function or duty:
  - (e) does not affect the responsibility of the Commissioner for the actions of any person acting under delegation.
- (3) A person who is delegated any powers, functions, or duties under subsection (1)—
  - (a) may, with the prior written approval of the Commissioner, delegate those powers, functions, or duties to any other person:
  - (b) may, subject to any conditions or restrictions, exercise those powers, functions, or duties in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.
- (4) Every person purporting to act under any delegation under subsection (1) is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

Compare: 1958 No 109 ss 4(4), 55A; 1988 No 20 s 41

### Subpart 3—Police employees

#### *Appointment of Police employees*

#### **18 Commissioner may appoint Police employees**

- (1) The Commissioner may from time to time appoint the people that the Commissioner thinks necessary for the efficient exercise and performance of the powers, functions, and duties of the Police.
- (2) The power conferred by subsection (1) includes power to appoint people on an acting, temporary, or casual basis or for any period that the Commissioner and the employee agree.
- (3) The Commissioner may assign to a Police employee any level of position that the Commissioner considers appropriate.
- (4) Unless expressly provided to the contrary in this Act, the Commissioner has all of the rights, duties, and powers of an employer in respect of Police employees.

Compare: 1958 No 109 s 5(1), (2), (4), (5)

#### *Standards of behaviour for Police employees*

#### **19 Undertaking by new Police employees**

- (1) A new Police employee, before beginning his or her duties, must give a solemn undertaking that he or she will faithfully and honestly perform his or her duties as a Police employee.
- (2) The undertaking—
  - (a) must be given before the employee's supervisor; and
  - (b) may be recorded in any manner that the Commissioner determines from time to time.

#### **20 Code of conduct**

- (1) The Commissioner must prescribe a code of conduct for Police employees, stating the standards of behaviour expected from Police employees.
- (2) It is the duty of every Police employee to conduct himself or herself in accordance with the code of conduct.

#### **21 Form of, and communication of, code of conduct**

- (1) The code of conduct under section 20 may be issued as a general instruction or in any other manner or form.



- (2) Even if the code of conduct is not issued as a general instruction, section 29 applies to it with all necessary modifications.

*Appointment of constables*

**22 Police employee becomes constable by taking constable's oath**

- (1) A Police employee may become a constable only by taking the constable's oath, in either of the following forms, before the Commissioner or a person authorised by the Commissioner to administer the constable's oath:

*“English form*

“I, [name], swear that I will faithfully and diligently serve Her (or His) Majesty [specify the name of the reigning Sovereign], Queen (or King) of New Zealand, her (or his) heirs and successors, without favour or affection, malice or ill-will. While a constable I will, to the best of my power, keep the peace and prevent offences against the peace, and will, to the best of my skill and knowledge, perform all the duties of the office of constable according to law. So help me God.

*“Māori form*

“Tēnei au, a [ingoa], e kī taurangi nei, ka rato pirihianga, urupū hoki ahau i Te Arikinui, a [tohua te ingoa o te Arikinui kei runga i te torona], Kuini (Kīngi rānei) o Niu Tīreni, me ōna uri whakaheke, i roto i te kore tautoko, kore aroha rānei, kore mahi kino, kore whakaaro kino rānei. I ahau e pirihihana ana ka pōkaikaha ahau ki te hohou i te rongo me te kaupare atu i ngā mahi kotikoti i te rongo, ā, i roto i ōku tino pūkenga me ōku mōhio, ka whakatutuki i ngā mahi kua whakaritea hei mahi mā te pirihihana e ai ki te ture. Nō reira, āwhina mai i ahau e te Atua.”

- (2) Before administering the constable's oath under this section, the Commissioner or person authorised by the Commissioner to administer the oath must be satisfied that the Police employee is—
- (a) adequately trained to exercise the powers of a constable; and
  - (b) capable of exercising the powers of a constable.

Compare: 1958 No 109 s 37(1)

**23 Further provisions relating to constables**

- (1) Nothing in section 18(4) limits or affects the powers and duties conferred or imposed on the office of constable by common law or any enactment.
- (2) The Commissioner and a constable may agree that the constable will cease to hold the office of constable.
- (3) Subsection (2) does not limit the circumstances in which a constable may cease to hold the office of constable.
- (4) If a person ceases to hold the office of constable, that does not, of itself, mean that the person is no longer a Police employee.
- (5) A person ceases to hold the office of constable if for any reason the person ceases to be a Police employee.

Compare: 1958 No 109 s 5(1), (3), (6)

*Authorised officers***24 Authorised officers**

- (1) The Commissioner may, by warrant, authorise a Police employee in either or both of the following ways:
  - (a) authorise the employee to exercise any particular power of a constable under any enactment other than this Act, except the power to arrest or search any person;
  - (b) authorise the employee to perform 1 or more particular policing roles set out in Schedule 1.
- (2) Before authorising a Police employee under subsection (1), the Commissioner must be satisfied that the person is—
  - (a) adequately trained to exercise the power to be conferred or the role to be performed, or both, as the case may be; and
  - (b) capable of exercising that power or carrying out the role, or both, as the case may be.
- (3) The Commissioner may at any time, by written notice to a person authorised under subsection (1), withdraw the authorisation by withdrawing the warrant.

Compare: 1958 No 109 s 6(2)

**25 Powers conferred on Police employee authorised to perform policing role**

A Police employee authorised under section 24(1)(b) to perform a policing role has the powers specified in Schedule 1 in relation to that role.

**26 Provisions relating to powers conferred on authorised officers**

If an authorised officer is, under section 24(1)(a) or under section 25 and Schedule 1, given the powers of a constable to do a particular thing, the authorised officer is deemed to be a constable when doing that thing for the purpose of—

- (a) any ancillary or incidental powers that a constable would have under any enactment or rule of law;
- (b) any requirements under any enactment or rule of law that would apply in relation to the doing of that thing by a constable;
- (c) any protections from liability that a constable would have under any enactment or rule of law.

**27 Power to amend Schedule 1 by Order in Council**

- (1) The Governor-General may by Order in Council on the recommendation of the Minister, amend Schedule 1 to—
  - (a) add to, omit from, or otherwise amend any power specified in relation to any particular policing role;
  - (b) add a new policing role and specify powers in relation to it;
  - (c) omit a specified policing role.
- (2) An Order in Council made under this section is a regulation for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989.
- (3) An Order in Council made under subsection (1),—
  - (a) if made on or before 30 June in any year, expires on the close of 31 December of that year unless it is expressly confirmed by Act of Parliament passed during that year; and
  - (b) if made on or after 1 July in any year, expires on the close of 31 December in the following year unless it is

expressly confirmed by Act of Parliament passed before the end of that following year.

- (4) The expiry of an Order in Council made under subsection (1) does not affect the validity of any act done pursuant to, or in accordance with, the Order in Council before the Order in Council expires.

#### Subpart 4—General instructions

##### **28 General instructions**

- (1) The Commissioner may issue general instructions for Police employees.
- (2) A general instruction has no effect to the extent that it is inconsistent with this Act or any regulations made under it.
- (3) A general instruction remains in force until cancelled by the Commissioner.
- (4) If there is any inconsistency between general instructions and the provisions of any manual or circular issued under the Commissioner's authority, or any local order, the general instructions prevail.

Compare: 1958 No 109 s 30(1), (1A), (2)

##### **29 Communication of general instructions**

- (1) The Commissioner must take reasonable steps to ensure that all general instructions are communicated to all Police employees.
- (2) A general instruction is taken to have been communicated to a Police employee when the instruction has been—
- (a) published in a magazine that is published under the authority of the Commissioner and distributed to all Police employees; or
  - (b) brought to the personal notice of a Police employee.
- (3) Any communication referred to in subsection (2)(a) or (b) may be made in 1 or more of the following ways:
- (a) electronic communication (for example, by electronic mail):
  - (b) in non-electronic form (for example, by distributing the publication in a paper-based format):

- (c) by distribution by any other form of technology that allows the dissemination of the material in question to Police employees.

Compare: 1958 No 109 s 30(3), (4)

### Subpart 5—Command and control of Police

#### **30 Command and control**

- (1) Every Police employee must obey and be guided by—
  - (a) general instructions; and
  - (b) the Commissioner’s circulars; and
  - (c) any applicable local orders.
- (2) Every Police employee must obey the lawful commands of a supervisor.
- (3) In the absence of a supervisor, the supervisor’s authority and responsibility devolves on—
  - (a) the Police employee available who is next in level of position; and
  - (b) in the case of equality, the longest serving Police employee.
- (4) No Police employee may, when exercising any power or carrying out any function or duty, act under the direction, command, or control of—
  - (a) a Minister of the Crown; or
  - (b) a person who is not authorised by or under this Act or any other enactment or rule of law to direct, command, or control the actions of a Police employee.
- (5) Subsection (4) does not apply to a Police employee outside New Zealand who—
  - (a) is part of an overseas operation within the meaning of section 86; or
  - (b) is an employee within the meaning of section 91.

Compare: SR 1992/14 r 5

#### **31 Commissioner may take charge of policing operation**

- (1) The Commissioner may at any time take charge of, or appoint a Police employee to take charge of, a policing operation.
- (2) The Commissioner may relieve a Police employee in charge of a policing operation if the Commissioner considers it ne-

cessary for the effective and efficient exercise of the powers, functions, and duties of the Police.

- (3) In this section, **policing operation** means a specific policing activity that is not of permanent duration.

### Part 3

#### Powers, operations, and offences

##### *Identification of people detained by Police*

#### **32 Identifying particulars of person in custody**

- (1) The purpose of this section is to enable the Police to obtain information that may be used now or in the future by the Police for any lawful purpose.
- (2) For the purpose of this section, a constable may take the identifying particulars of a person who is in the lawful custody of the Police if that person is detained for committing an offence and is—
- (a) at a Police station; or
  - (b) at any other place being used for Police purposes.
- (3) A constable—
- (a) must take the person's identifying particulars in a manner that is reasonable in the circumstances; and
  - (b) may only use reasonable force that may be necessary to secure the person's identifying particulars.
- (4) A person who, after being cautioned, fails to comply with a direction of a constable exercising his or her powers under this section—
- (a) commits an offence; and
  - (b) is liable to imprisonment for a term not exceeding 6 months, to a fine not exceeding \$5,000, or to both.
- (5) In this section and section 33,—
- identifying particulars** means, in relation to a person, any or all of the following:
- (a) the person's biographical details (for example, the person's name, address, and date of birth):
  - (b) the person's photograph or visual image:
  - (c) impressions of the person's fingerprints, palm-prints, or footprints

**place** includes any land, building, premises, or vehicle.

Compare: 1958 No 109 s 57(1), (2)

### **33 Identifying particulars for summons**

- (1) The purpose of this section is to enable the Police to obtain information that may be used now or in the future by the Police for any lawful purpose.
- (2) For the purpose of this section, a constable who has good cause to suspect a person of committing an offence and who intends to bring proceedings against the person in respect of that offence by way of summons, may detain that person at any place—
  - (a) in order to take the person's identifying particulars; and
  - (b) only for the period necessary to take the person's identifying particulars.
- (3) A constable—
  - (a) must take the person's identifying particulars in a manner that is reasonable in the circumstances; and
  - (b) may only use reasonable force that may be necessary to secure the person's identifying particulars.
- (4) A person who, after being cautioned, fails to comply with a direction of a constable exercising his or her powers under this section—
  - (a) commits an offence; and
  - (b) is liable to imprisonment for a term not exceeding 6 months, to a fine not exceeding \$5,000, or to both.

Compare: 1958 No 109 s 44E

### **34 Storage, etc, of identifying particulars on Police information recording system**

The identifying particulars of a person that are obtained under section 32 or 33—

- (a) may be entered, recorded, and stored on a Police information recording system; but
- (b) any photographs or visual images of a person and any impressions of a person's fingerprints, palm-prints, or footprints that are obtained under section 32 or 33 must, as soon as practicable, be destroyed—

- (i) after a decision is made not to bring proceedings against the person in respect of the offence for which the particulars were taken:
- (ii) after the completion of proceedings against the person in respect of the offence for which the particulars were taken, unless—
  - (A) the person is convicted; or
  - (B) the person is discharged under section 106 of the Sentencing Act 2002; or
  - (C) an alternative resolution is imposed where the person admits to an offence (for example, diversion).

Compare: 1958 No 109 s 57(3)

#### *Other Police powers*

### **35 Temporary closing of roads**

- (1) A constable may temporarily close to traffic any road, or part of a road, leading to or from or in the vicinity of a place, if the constable has reasonable cause to believe that—
  - (a) public disorder exists or is imminent at or near that place; or
  - (b) danger to a member of the public exists or may reasonably be expected at or near that place; or
  - (c) an indictable offence not triable summarily under section 6 of the Summary Proceedings Act 1957 has been committed or discovered at or near that place.
- (2) In this section,—
  - road** has the meaning given in section 315(1) of the Local Government Act 1974 except that it includes—
    - (a) a motorway within the meaning of section 2 of the Transit New Zealand Act 1989; and
    - (b) a private road within the meaning of section 315(1) of the Local Government Act 1974; and
    - (c) a private way within the meaning of section 315(1) of the Local Government Act 1974

**temporarily** means for a period that is reasonably necessary in the circumstances



**traffic** means all or any specified type of traffic (including pedestrian traffic).

Compare: 1974 No 66 s 342A

### **36 Care and protection of intoxicated people**

- (1) A constable who finds a person intoxicated in a public place, or intoxicated while trespassing on private property, may detain and take the person into custody if—
  - (a) the constable reasonably believes that the person is—
    - (i) incapable of protecting himself or herself from physical harm; or
    - (ii) likely to cause physical harm to another person; or
    - (iii) likely to cause significant damage to any property; and
  - (b) the constable is satisfied it is not reasonably practicable to provide for the person's care and protection by—
    - (i) taking the person to his or her place of residence; or
    - (ii) taking the person to a temporary shelter.
- (2) A person detained under subsection (1)—
  - (a) must be released as soon as the person ceases to be intoxicated;
  - (b) must not be detained longer than 12 hours after the person is first detained, unless a health practitioner recommends that the person be further detained for a period not exceeding 12 hours.
- (3) A health practitioner must not recommend the further detention of a person detained under subsection (1) unless the health practitioner satisfies himself or herself that—
  - (a) the person remains intoxicated and is incapable of protecting himself or herself from physical harm; and
  - (b) the person does not have health needs that may require medical attention; and
  - (c) it is not reasonably practicable to provide for the person's continuing care and protection by—
    - (i) taking the person to his or her place of residence; or
    - (ii) taking the person to a temporary shelter.

- (4) In this section,—  
**intoxicated** means observably affected by alcohol, other drugs, or substances to such a degree that speech, balance, co-ordination, or behaviour is clearly impaired  
**temporary shelter** means a place (other than a place operated by the Police) that is capable of providing for the care and protection of an intoxicated person.
- (5) Section 31 of the Crimes Act 1961 applies in respect of the power to detain and take a person into custody under this section as if the power were a power of arrest.  
Compare: 1966 No 97 ss 37A, 38; 1992 No 46 s 122A

*Searches of people in custody*

**37 General searches of people in custody**

- (1) This section applies to any person who—
- (a) has been taken into lawful custody; and
  - (b) is—
    - (i) at a Police station; or
    - (ii) in other premises, or in a vehicle, being used for Police purposes; and
  - (c) is to be detained securely (whether pending a decision as to bail under section 21 of the Bail Act 2000, or in any other circumstances).
- (2) A constable, or a searcher used in accordance with section 38, may—
- (a) conduct a search of a person to whom subsection (1) applies; and
  - (b) take from him or her all money, and all or any property, found on him or her or in his or her possession.
- (3) In acting under subsection (2), a constable or searcher may use or cause to be used any reasonable force necessary to conduct a search or take any money or property.
- (4) Nothing in this section affects the right at common law of a constable to search any person on the person's arrest.  
Compare: 1958 No 109 s 57A(1), (4), (5)

**38 Searchers**

- (1) The Police employee in charge of the place or vehicle in which a person is detained in custody may use a searcher to carry out a search of the person under section 37 if—
- (a) the searcher's use is necessary to enable the search to be carried out—
    - (i) by someone of the same sex as the person; or
    - (ii) within a reasonable time of the person's being taken into custody; and
  - (b) the Police employee is satisfied that the searcher has received appropriate training.
- (2) The searcher must carry out the search as if he or she were a Police employee.

Compare: 1958 No 109 s 57B

**39 Property taken from people in custody**

- (1) All money and every item of property taken from a person under section 37 must be returned to him or her when he or she is released from custody, except—
- (a) any money or property that, in the opinion of a constable, may need to be given in evidence in proceedings arising out of a charge brought against the person;
  - (b) any money or property whose possession by the person may, in the opinion of a constable, constitute an offence.
- (2) Despite subsection (1), where a person to whom section 37(1) applies is released from Police custody, all money and every item of property taken from him or her under section 37 (other than money or property of a kind described in subsection (1)(a) or (b)) must, where practicable, be delivered—
- (a) to the person into whose custody he or she is released; or
  - (b) if he or she is being released from Police custody in order to be held in custody in a facility, to the person in charge of the facility.
- (3) Subsection (1) is subject to an order of the Court made under—
- (a) section 40; or
  - (b) section 404 of the Crimes Act 1961.

Compare: 1958 No 109 s 57A(1), (2), (3)

**40 District Court Judge may determine title to certain property**

- (1) This section applies to property if—
  - (a) it is in the possession of a Police employee; and
  - (b) it is not property distrained under the warrant of a judicial officer; and
  - (c) there is doubt whether a person claiming it, or which of 2 or more persons claiming it, is entitled to its possession.
- (2) If this section applies to property, a District Court Judge, on the application of any Police employee, or of a claimant to it,—
  - (a) may make an order for its delivery to any person appearing to the District Court Judge to be its owner, or entitled to its possession; or
  - (b) if the owner or person entitled to possession cannot be found, may make any order with respect to its possession the Judge thinks fit.
- (3) An application under this section must be made by originating application to a District Court in its civil jurisdiction.
- (4) If, after the making of an order under subsection (2) in relation to any property, an action is commenced against a Police employee or the Crown for the recovery of the property or its value, evidence of the order, and the delivery of the property in accordance with the order,—
  - (a) may be given and must be received by the court concerned; and
  - (b) if given, is a complete defence to the action.
- (5) However, no such order or delivery affects the right of any persons entitled by law to possession of the property to recover the property.

Compare: 1958 No 109 s 58

**41 Unclaimed property**

- (1) Except as provided in subsections (4) and (5), property that has come into the possession of a Police employee as a consequence of being lost or found, and is not claimed after being held for 3 months or more, must, by the direction of the Commissioner, be sold by auction.

- (2) The auction may be held—
  - (a) at premises open to the public; or
  - (b) through the Internet, using a website established by the Commissioner or through a website provided by any other operator of an on-line auction service authorised for the purpose by the Commissioner; or
  - (c) in any other way the Commissioner considers will give the public a reasonable opportunity to bid for the property.
- (3) Property may not be sold under subsection (1) unless a notice of its proposed sale has earlier been published in a newspaper circulating in the district in which the sale is to be held, or on a website authorised for the purpose by the Commissioner.
- (4) Perishable property may be sold at any time and in any manner the Commissioner directs.
- (5) Property (whether perishable or not) that has no monetary value, or only negligible monetary value, may be destroyed.
- (6) The Commissioner may, if he or she thinks fit, appoint any person, whether or not the holder of any licence required to conduct an auction under the Auctioneers Act 1928, to conduct an auction under this section.

Compare: 1958 No 109 s 59(1), (4)

#### **42 Unclaimed money, and proceeds of sale of unclaimed property**

- (1) Any money that has come into the possession of a Police employee in the course of duty, and is unclaimed, must be paid into a Crown Bank Account.
- (2) The proceeds of every sale under section 41 must be paid into a Crown Bank Account, after deducting the costs incurred in—
  - (a) advertising and conducting the sale; and
  - (b) storing, transporting, testing, or otherwise preparing the goods for sale.

Compare: 1958 No 109 s 59(2), (3)

*Operational provisions***43 Execution of court processes**

- (1) Every constable must obey and execute all lawful criminal court processes.
- (2) A court process directed to one constable may be executed by another constable and his or her assistants.
- (3) A constable has the same rights, powers, and authorities for and in the execution of a court process directed to another constable as if the process had been originally directed to him or her expressly by name.
- (4) A constable may arrest a person for whose arrest an unexecuted court process has been issued even if the constable does not have the process in his or her possession.

Compare: 1958 No 109 s 38

**44 Protection of Police employees acting under court processes**

- (1) A Police employee acting under a court process is not responsible for any irregularity, or any lack of jurisdiction, in its issuing.
- (2) This subsection applies to an action if—
  - (a) it is an action against a Police employee in respect of acts done in obedience to a court process; and
  - (b) the process is produced; and
  - (c) it is proved that—
    - (i) the process was issued out of a Court; or
    - (ii) the signature on the process is in the handwriting of the person whose name appears on it, and that the person is reputed to be and acts as a judicial officer, or Registrar or Deputy Registrar of a Court; and
  - (d) it is proved that the acts were done in obedience to the process.
- (3) If subsection (2) applies to an action,—
  - (a) the Court trying it must enter a verdict for the Police employee concerned; and
  - (b) the employee may recover his or her costs.

- (4) In this section, **court process** includes a computer printout to which section 88 or 93 of the Summary Proceedings Act 1957 applies.

Compare: 1958 No 109 s 39

**45 Police employee may appear in Court by another employee**

A Police employee who is to appear (otherwise than as a witness) in the execution of his or her duty may appear by another Police employee in any proceedings—

- (a) in a District Court; or
- (b) before the Liquor Licensing Authority, a District Licensing Agency, or any other Commission, Inquiry, Board, or Tribunal.

Compare: 1958 No 109 s 40

**46 Police dogs may accompany Police dog handlers**

Despite any other enactment or rule of law,—

- (a) a Police dog under the control of a Police dog handler may enter and be on any place that the Police dog handler may in the course of Police duties lawfully enter or be on;
- (b) neither the Commissioner nor a Police dog handler in charge of a Police dog is liable in any way by reason only of a Police dog's having entered or been on any place under paragraph (a).

Compare: 1958 No 109 s 44A

*Offences*

**47 Gaining employment with Police by false representations**

- (1) A person commits an offence who, for the purpose of gaining employment with the Police, intentionally submits false or forged documents or makes false representations when applying for employment.
- (2) A person who commits an offence against this section is liable to imprisonment for a term not exceeding 6 months, to a fine not exceeding \$5,000, or to both.

Compare: 1958 No 109 s 49

**48 Personation and representing vehicle, etc, as Police vehicle**

- (1) A person commits an offence who, without reasonable excuse, and in circumstances likely to lead a person to believe that the person is a Police employee,—
- (a) pretends to be a Police employee by his or her words, conduct, or demeanour; or
  - (b) assumes the name, designation, or description of a Police employee.
- (2) A person commits an offence who, without reasonable excuse, uses any of the following things in circumstances likely to lead a person to believe that the user is a Police employee:
- (a) a Police uniform, or item of that uniform, or a Police article;
  - (b) a uniform, or item of uniform, or article that closely resembles a Police uniform, or item of that uniform, or Police article.
- (3) A person commits an offence who, without reasonable excuse, represents any vehicle, craft, or other conveyance as being in the service of the Police in circumstances likely to lead a person to believe the vehicle, craft, or conveyance is in the service of the Police.
- (4) A person who commits an offence against this section is liable to imprisonment for a term not exceeding 12 months, to a fine not exceeding \$15,000, or to both.

Compare: 1958 No 109, ss 51, 51A

**49 Use of term Police or New Zealand Police in operating name**

- (1) A person commits an offence who, without reasonable excuse, carries on an activity under an operating name that includes the word “Police” or the words “New Zealand Police”, in a manner likely to lead a person to believe that the activity is endorsed or authorised by the Police or any part of the Police.
- (2) A person who commits an offence against this section is liable,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$5,000;



- (b) in the case of a body corporate, to a fine not exceeding \$20,000.

**50 Unlawful possession of Police property**

- (1) A person commits an offence who, without lawful authority or reasonable excuse, has in his or her possession any Police property.
- (2) A person who commits an offence against this section is liable to imprisonment for a term not exceeding 3 months, to a fine not exceeding \$2,000, or to both.

Compare: 1958 No 109, ss 52, 61A

**51 Failing to help Police employee**

- (1) A Police employee in the lawful execution of his or her duty may, if it is reasonably necessary in the circumstances, ask a person who is 18 years old or older to help the Police employee do 1 or both of the following:
  - (a) apprehend or secure a person:
  - (b) convey a person in the employee's charge to a Police station or other place.
- (2) A person who fails to give help, when so asked, commits an offence and is liable to a fine not exceeding \$2,000.

Compare: 1958 No 109 s 53

**52 Unlawful dealings with prisoners**

- (1) A person commits an offence who, without the permission of a Police employee,—
  - (a) holds any restricted communication with a prisoner in the custody or charge of a Police employee; or
  - (b) delivers any thing, or causes it to be delivered, to that prisoner.
- (2) A person who commits an offence against this section is liable to imprisonment for a term not exceeding 3 months, to a fine not exceeding \$2,000 or to both.
- (3) In this section, **restricted communication** means—
  - (a) any communication that may prejudice the maintenance of the law, the safe custody of the prisoner, the safety of any other person, or the security of any prison:

- (b) any communication whatsoever that takes place after the Police employee, in whose custody or charge the prisoner is, has forbidden that communication or directed that it cease.

Compare: 1958 No 109 s 54; 2004 No 50 s 143(3)

**53 Killing or injuring Police dogs**

- (1) A person who intentionally kills, maims, wounds, or otherwise injures a Police dog without lawful authority or reasonable excuse commits an offence.
- (2) A person who commits an offence against this section is liable to imprisonment for a term not exceeding 24 months, to a fine not exceeding \$15,000, or to both.

Compare: 1958 No 109 s 44C

**54 Offences triable summarily**

Every offence against this Act is punishable on summary conviction.

**Part 4**  
**Provisions relating to employment of**  
**Police employees**

**55 Interpretation**

In this Part, unless the context otherwise requires,—

**Authority** has the meaning given in section 5 of the Employment Relations Act 2000

**lockout** has the meaning given in section 82 of the Employment Relations Act 2000

**service organisation** means any union representing Police employees or any group of Police employees

**strike** has the meaning given in section 81 of the Employment Relations Act 2000

**union** has the meaning given in section 5 of the Employment Relations Act 2000.

**56 Application of Employment Relations Act 2000**

Except as expressly provided in this Act, the Employment Relations Act 2000 applies in relation to the Police.

Compare: 1958 No 109 s 96

**57 Application of Privacy Act 1993 to assessment for suitability for employment**

Nothing in principles 2, 3, or 10 of the Privacy Act 1993 applies in relation to information collected, obtained, held, used, disclosed by, or disclosed to the Police for the purpose of any assessment by the Commissioner of the suitability of any particular person for employment with the Police.

**58 Employment principles**

Subject to this Act, the Commissioner must operate a personnel policy that complies with the principle of being a good employer by following, as if he or she were the chief executive of a Department, the provisions of sections 56 and 58 of the State Sector Act 1988.

Compare: 1958 No 109 s 7

**59 Appointments on merit**

(1) In making an appointment under section 18, the Commissioner must give preference to the person who is best suited to the position.

(2) This section is subject to sections 64 and 65.

Compare: 1958 No 109 s 8

**60 Obligation to notify vacancies**

(1) If the Commissioner intends to fill a position that is vacant or is to become vacant in the Police, the Commissioner must, wherever practicable, notify the vacancy or prospective vacancy in a manner sufficient to enable suitably qualified people to apply for the position.

(2) This section is subject to sections 64 and 65.

Compare: 1958 No 109 s 9

**61 Obligation to notify appointments**

The Commissioner must notify Police employees of every appointment (other than that of an acting, temporary, or casual employee) to a vacant position in the Police.

Compare: 1958 No 109 s 10

**62 Review of appointments**

Section 65 of the State Sector Act 1988 (which relates to review of appointments) applies in respect of any appointment made by the Commissioner under section 18 as if the Police were a Department and the Commissioner were the chief executive of that Department.

Compare: 1958 No 109 s 11

**63 Acting appointments**

- (1) In the case of the absence from duty for any reason of a Police employee or in the case of a vacancy for any reason and from time to time while the absence or vacancy continues, or for any other special purpose, the Commissioner may—
  - (a) appoint an employee temporarily to any higher level of position; or
  - (b) authorise an employee to exercise or perform all or any of the powers and duties under this Act or any other enactment, of any level of position higher than that employee's own level of position.
- (2) Any appointment or authority under this section may be given or made before the occasion arises or while it continues.
- (3) No appointment or authority under this section, and nothing done by any employee acting pursuant to the appointment or authority, may be questioned in any proceedings on the ground that—
  - (a) the occasion has not arisen or had ceased; or
  - (b) the employee had not been appointed to any level of position to which the authority relates.
- (4) The Commissioner may at any time revoke any appointment made or authority given under this section.

Compare: 1958 No 109 s 13

**64 Power to transfer employees within Police**

- (1) This section applies if the Commissioner at any time finds in respect of any duties being carried out by the Police—
  - (a) that those duties are no longer to be carried out by the Police; or
  - (b) that a greater number of employees is employed at a location on those duties than the Commissioner considers to be necessary for the efficient carrying out of those duties.
- (2) The Commissioner may, subject to any applicable employment agreement, but without complying with sections 59(1) and 60(1), appoint to other positions in the Police any or all of the employees who are carrying out those duties.
- (3) Before making an appointment under this section, the Commissioner must consult with the employee about the proposed appointment.
- (4) Nothing in section 62 applies in relation to any appointment made under this section.

Compare: 1958 No 109 s 15(1), (3), (4)

**65 Power to temporarily assign, second, and locate employees and other persons within Police**

- (1) The Commissioner may, subject to any applicable employment agreement, but without complying with sections 59(1) and 60(1)—
  - (a) assign a Police employee to a temporary position in the Police;
  - (b) assign a person to a position in the Police;
  - (c) second a Police employee to a position with another employer;
  - (d) relocate a Police employee—
    - (i) on the graduation of that person from initial recruit training; or
    - (ii) within the district in which the employee is stationed, and at the employee's existing level of position, to meet Police requirements, after considering the employee's circumstances and the merit of all employees who have indicated an interest in the position; or

- (iii) on the return of that person to duty from an overseas assignment, leave without pay, parental leave, or other special leave; or
  - (iv) to fill a vacancy in a temporary international assignment, after considering all employees who have indicated an interest in the position; or
  - (v) in order to rotate an employee within the district in which he or she is stationed; or
  - (vi) for substantial welfare or personal reasons:
- (e) locate a person who is rejoining the Police as an employee.
- (2) Subsection (3) applies if—
- (a) the Commissioner assigns a person to a temporary position under subsection (1)(a) or assigns a person to a position under subsection (1)(b) without complying with sections 59(1) and 60(1); and
  - (b) the person has occupied that position or been on that secondment for a period of at least 14 months.
- (3) The position occupied, or the secondment, must be considered to have been vacated by that person and, subject to any applicable employment agreement, any further assignment to or secondment of that position must be dealt with in compliance with sections 59(1) and 60(1).

*Special provisions concerning terms and  
conditions of employment*

**66 Consultation with, and participation by, State Services  
Commissioner**

- (1) Before entering into negotiations for terms and conditions of employment of Police employees, the Commissioner must consult with the State Services Commissioner over the terms and conditions of employment to be negotiated.
- (2) The State Services Commissioner may at any time, either before or during the negotiations, indicate to the Commissioner that he or she wishes to participate with the Commissioner in the negotiation or continued negotiation of the conditions of employment of Police employees.

- (3) If the State Services Commissioner indicates that he or she wishes to participate, the Commissioner must allow the State Services Commissioner to participate in the negotiations.

Compare: 1958 No 109 ss 67(4), 75(3)

**67 Referral of negotiations for terms and conditions of employment applying to constables to arbitration procedure**

- (1) This section applies to bargaining for terms and conditions of employment—
- (a) that are applicable to constables or any class or description of constables; and
  - (b) that are to be fixed in a collective employment agreement.
- (2) A dispute concerning any terms and conditions of employment referred to in subsection (1) must be dealt with in accordance with the procedure set out in Schedule 2 if—
- (a) the Authority recommends under section 50H of the Employment Relations Act 2000 that that process be followed; or
  - (b) a mediator appointed by the chief executive of the Department of Labour or by agreement of the parties to the bargaining is satisfied that no action short of that process will settle the dispute.

*Superannuation schemes*

**68 State services superannuation schemes**

- (1) The Commissioner may exercise in respect of Police employees the powers conferred by section 84A of the State Sector Act 1988 (which relates to the establishment of superannuation schemes for employees) on any employer in the State services.
- (2) Sections 84A and 84B of the State Sector Act 1988 apply accordingly with all necessary modifications.
- (3) Subsection (4) applies to all constables or any class or description of constables who are not members of the Government Superannuation Fund Police Sub-Scheme.

- (4) The Commissioner may make it a condition of employment of employees to whom this subsection applies that those employees contribute to a State services superannuation scheme.

Compare: 1958 No 109 ss 26A, 67(7)

*Strikes and lockouts involving constables*

**69 Unlawful strikes and lockouts involving constables**

- (1) A strike by, or lockout of, any number of constables is unlawful.
- (2) Where a strike occurs or is threatened, the Commissioner may apply to the Employment Court for an injunction to prevent the strike or for an order for the resumption of full work.
- (3) Where a lockout occurs or is threatened, the appropriate service organisation may apply to the Employment Court for an injunction to prevent the lockout or for an order for the lockout to cease.
- (4) The Employment Court has full and exclusive jurisdiction to hear and determine any proceedings under this section, and no other Court has jurisdiction to hear and determine those proceedings.

Compare: 1958 No 109 s 80

*Suspension or removal of Police employees*

**70 Suspension or removal of Police employees**

The Commissioner may at any time, subject to this Act and the conditions of employment set out in any applicable employment agreement,—

- (a) suspend any Police employee from that employee's employment, with or without pay;
- (b) remove any Police employee from that employee's employment.

Compare: 1958 No 109 s 5(4)

**71 Removal from employment of person convicted of gaining employment with Police by false representations**

If a Police employee is convicted of an offence against section 47 (gaining employment with the Police by false representations), any employment contract between that employee and



the Commissioner is cancelled and the person must be treated as having been removed from his or her employment with the Police.

*Compulsorily or voluntarily leaving Police due to incapacity*

**72 Commissioner to prescribe health standards**

- (1) For the purpose of section 74, the Commissioner must prescribe standards of health required of Police employees to ensure that they are fit to perform competently their duties and any other duties that may reasonably be required of them from time to time.
- (2) Standards prescribed under subsection (1) may be expressed to apply to all Police employees generally, or to any particular class or description of Police employees, whether designated by reference to level of position, duties, or otherwise.
- (3) Before prescribing standards under subsection (1), the Commissioner must consult with the service organisations and the Government Superannuation Fund Authority.

Compare: 1958 No 109 s 28A

**73 Form of, and communication of, health standards**

- (1) Standards prescribed under section 72 may be issued as a general instruction or in any other manner or form.
- (2) Even if the prescribed standards are not issued as a general instruction, section 29 applies to them with all necessary modifications.

**74 Commissioner may require employee to leave Police due to incapacity**

- (1) The Commissioner may require a Police employee to leave the Police if the conditions in subsection (2) exist.
- (2) The conditions referred to in subsection (1) are—
  - (a) that the Commissioner is satisfied that the employee is incapable of performing competently his or her duties and any other duties that may reasonably be required of the employee from time to time; and

- (b) that 2 medical practitioners or a medical practitioner and another health practitioner nominated in each case by the Commissioner certify—
  - (i) that the employee's incapacity is referable to the employee's inability to meet any standards prescribed under section 72; and
  - (ii) that the employee has failed to respond, or is unlikely to respond, within a reasonable time to treatment, counselling, or other remedial assistance.
- (3) If the Commissioner requires an employee to leave the Police under this section, the Commissioner must—
  - (a) notify the employee in writing; and
  - (b) specify in the notice under paragraph (a) the time (being not less than one month from the date of the notice) within which the Commissioner requires the employee to leave.
- (4) In any case described in subsection (2), the employee may, with the consent of the Commissioner, waive the right to notice and leave the Police immediately.

Compare: 1958 No 109 ss 28, 28C(1), (2)

#### **75 When employee required to leave Police ceases to be employee**

- (1) A Police employee who is required under section 74 to leave the Police ceases to be a Police employee—
  - (a) on the expiration of the time specified in the notice; or
  - (b) if the employee waives the right to notice with the consent of the Commissioner under section 74(4), on the date that the Commissioner gives to the employee written notice of consent to the waiver.
- (2) Despite subsection (1), if the employee takes a personal grievance action in respect of the requirement to leave the Police,—
  - (a) the employee remains a Police employee but must be placed on unpaid leave until the action is determined or completed; but
  - (b) if reinstatement is not ordered, the employee ceases to be a Police employee on the date on which written no-

tice of the decision determining or completing the action is given to the employee.

Compare: 1958 No 109 s 28C(3), (4)

**76 Leaving Police voluntarily due to incapacity**

- (1) On the application of any Police employee, the Commissioner may permit the employee to leave the Police if the conditions in subsection (2) exist.
- (2) The conditions referred to in subsection (1) are that the Commissioner is satisfied that the employee is incapable of performing competently his or her duties and any other duties that may reasonably be required of the employee from time to time, and—
  - (a) 2 medical practitioners or a medical practitioner and another health practitioner nominated in each case by the Commissioner certify—
    - (i) that the employee's incapacity is referable to the employee's inability to meet any standards prescribed under section 72; and
    - (ii) that the employee has failed to respond, or is unlikely to respond, within a reasonable time to treatment, counselling, or other remedial assistance; or
  - (b) the Commissioner is satisfied that the employee's incapacity is referable to any personal factor relating to the special circumstances of the employee and directly attributable to the employee's employment with the Police.
- (3) If the Commissioner decides to permit an employee to leave the Police under this section,—
  - (a) the Commissioner must give the employee written notice of the decision; and
  - (b) the employee ceases to be an employee of the Police on the date specified in the notice.
- (4) If the Commissioner refuses to permit an employee to leave the Police under this section, the Commissioner must give the employee written notice of the decision.

Compare: 1958 No 109 s 28D

**77 Commissioner must consult Government Superannuation Fund, etc, before nominating health practitioners if employee is member of scheme**

- (1) The Commissioner must consult the Government Superannuation Fund Authority and the trustees of any State services superannuation scheme about the health practitioners that the Authority or the trustees approves to be nominated from time to time under sections 74 and 76.
- (2) Subsection (3) applies if the Police employee in question in section 74 or 76 is a member of the Government Superannuation Fund Police Sub-Scheme or a State services superannuation scheme.
- (3) The Commissioner may nominate under section 74(2)(b) or 76(2)(a) only health practitioners approved under subsection (1).

Compare: 1958 No 109 ss 28(5A), 28C(1A), 28D(1A)

**78 Entitlement to allowances, etc**

A person who ceases to be a Police employee under section 74 or 76 is entitled to receive the allowances and other benefits that may be prescribed by or under the Government Superannuation Fund Act 1956 or the State services superannuation scheme to which that person belongs, as the case may require.

Compare: 1958 No 109 s 28F

*Restrictions on resignation*

**79 Restriction on resignation by constable**

If in the Governor-General's opinion special circumstances require that no constable resign without permission, the Governor-General may, by warrant under the Governor-General's hand, declare that no constable may resign that person's employment with the Police except on the conditions set out in the warrant.

Compare: 1958 No 109 s 14

**Part 5**  
**Biometric information, international  
policing, and other miscellaneous  
provisions**

Subpart 1—Biometric information relating  
to prospective Police employees, Police  
employees, and certain associates

**80 Interpretation**

In this subpart,—

**biometric information**, in relation to a person, means anything that is—

- (a) a DNA profile of the person; or
- (b) fingerprints or palm-prints taken from the person

**Police associate** means a person who is not a Police employee, but performs (or may in the future perform) with or for Police employees duties whose performance may involve the risk of accidentally contaminating crime scenes or evidence

**staff biometric information**,—

- (a) in relation to a person being considered for employment as a Police employee, means anything that is a DNA profile derived from a bodily sample obtained under section 81, or biometric information obtained under section 81:
- (b) in relation to a person who is a Police employee, means anything that is—
  - (i) a DNA profile derived from a bodily sample obtained under section 82(1), or biometric information obtained under section 82(1); or
  - (ii) a DNA profile derived from a bodily sample obtained under section 81, or biometric information obtained under section 81, when the person was being considered for employment as a Police employee, whose use for the purposes of the Police employee has authorised (and not later forbidden) under section 82(2):
- (c) in relation to a Police associate, means anything that is a DNA profile derived from a bodily sample obtained

under section 82(1), or biometric information obtained under section 82(1).

**81 Prospective Police employees may be required to provide bodily sample and biometric information**

As a condition of being considered for employment as a Police employee, a person may be required to do either or both of the following things:

- (a) provide a bodily sample suitable for obtaining a DNA profile of the person for the purposes of section 83(1);
- (b) allow any biometric information the Commissioner thinks appropriate to be taken for the purposes of section 83(1).

**82 Police employees and associates may voluntarily provide bodily sample and biometric information**

- (1) A Police employee or Police associate may do either or both of the following things:
  - (a) provide a bodily sample suitable for obtaining a DNA profile of the person, together with a written statement that the sample is provided for the purposes of section 83(2);
  - (b) allow any biometric information the Commissioner thinks appropriate to be taken, and give the Commissioner a written statement that the information is provided for the purposes of section 83(2).
- (2) A Police employee may give the Commissioner a written statement—
  - (a) authorising the use for the purposes of section 83(2) of biometric information obtained under section 81; or
  - (b) forbidding the use for the purposes of section 83(2) of biometric information whose use for those purposes the Police employee has earlier authorised by a statement under paragraph (a).
- (3) No Police employee or Police associate can be required—
  - (a) to provide a bodily sample for the purposes of section 83(2); or
  - (b) to allow biometric information to be taken for the purposes of section 83(2); or

- (c) to authorise the use for the purposes of section 83(2) of biometric information obtained under section 81.
- (4) Subsection (3) does not affect any power to require a person to provide a bodily sample or allow biometric information to be taken otherwise than for the purposes of section 83(2).
- (5) This subsection applies to fingerprints taken by the Police at a time before the commencement of this Act—
  - (a) from a person who was then a sworn or non-sworn member of the Police within the meaning of the Police Act 1958; and
  - (b) because the person was then such a member of the Police.
- (6) Fingerprints to which subsection (5) applies—
  - (a) must for all purposes be treated as biometric information obtained under subsection (1); but
  - (b) if the person had ceased to be such a member of the Police before the commencement of this Act, must be permanently deleted from every electronic information recording system on which it is stored (or, in the case of fingerprints held in hard-copy form, destroyed)—
    - (i) promptly after the person asks the Commissioner in writing to delete or destroy it; and
    - (ii) in any event, no later than 12 months after that commencement.

### **83 Use of staff biometric information restricted**

- (1) Staff biometric information relating to a person being considered for employment as a Police employee must be used only for matching against other information held by the Police for the purpose of—
  - (a) determining whether the person has been convicted of an offence; or
  - (b) if, when matched against other information held by the Police, it indicates that the person may have been involved in the commission of an offence,—
    - (i) investigating the offence; and
    - (ii) if relevant, prosecuting a person charged with committing the offence; or

- (c) if the person later becomes a Police employee, eliminating him or her from being considered in the investigation of a crime.
- (2) Staff biometric information relating to a person who is a Police employee or Police associate—
- (a) must be used only for matching against other information held by the Police for the purpose of eliminating him or her from being considered in the investigation of a crime; and
  - (b) is not admissible in evidence in any proceedings against the person (even after the person ceases to be a Police employee or Police associate).

**84 Sample to be destroyed once profile derived and stored**

The Commissioner must ensure every bodily sample obtained under section 81 or 82(1) is destroyed promptly after a DNA profile has been successfully derived from it, and information relating to the profile has been stored.

**85 Staff biometric information to be deleted or destroyed if prospective employee not employed, or subject asks**

- (1) The Commissioner must ensure that all staff biometric information held by the Police that relates to a person is permanently deleted from every electronic information recording system on which it is stored (or, in the case of information held in hard-copy form, destroyed),—
- (a) in the case of a person being considered for employment as a Police employee, promptly after the Commissioner decides not to employ the person; and
  - (b) in the case of a person who is a Police employee or Police associate,—
    - (i) promptly after the person asks the Commissioner in writing to delete or destroy it; and
    - (ii) in any event, no later than 12 months after the person ceases to be a Police employee or Police associate.
- (2) The Commissioner must ensure that, promptly after the deletion or destruction of information under subsection (1) or section 82(6)(b), the person to whom the information relates (or



his or her personal representative) is given written notice of its deletion or destruction.

## Subpart 2—International policing

### *International policing: overseas operations*

#### **86 Interpretation**

In sections 87 to 90, unless the context otherwise requires,—

##### **overseas operation—**

- (a) means a person or group of people that, before, on, or after the commencement of this Act, is authorised by the Government of New Zealand to participate in duties overseas involving peacekeeping, the maintenance or restoration of law and order or functioning government institutions, or any other activity in respect of which the Government of New Zealand wishes to provide assistance (whether or not in conjunction with personnel from 1 or more other countries); but
- (b) does not include a Police employee who is part of a United Nations activity and to whom sections 91 to 95 apply.

Compare: 2004 No 17 s 4

#### **87 Jurisdiction over Police and civilian employees overseas**

- (1) This section applies to any Police employee or any other person who is not a member of the armed forces while that employee or that other person—
  - (a) is part of an overseas operation; and
  - (b) is outside New Zealand.
- (2) If any person to whom this section applies does, or omits to do, an act outside New Zealand (whether or not the act or omission concerned constitutes an offence under the laws in force in the place where it took place) that if done or omitted within New Zealand would constitute an offence, that act or omission is deemed to have taken place within New Zealand unless—
  - (a) the person is subject to the criminal jurisdiction of the place in which the act or omission took place; and
  - (b) the authorities in that place—

- (i) are not subject to any obligation to cede jurisdiction to the New Zealand authorities in respect of that act or omission; and
  - (ii) bring criminal proceedings against the person in that place.
- (3) No information may be laid against any person over whom jurisdiction is claimed by virtue of subsection (2) without the consent of the Attorney-General.

Compare: 2004 No 17 s 5

### **88 Powers of arrest and detention**

- (1) Subsection (2) applies to any offence in respect of which the laying of an information requires the consent of the Attorney-General under section 87(3).
- (2) If any person is alleged to have committed an offence to which this subsection applies,—
  - (a) the person may be arrested without warrant within or outside New Zealand; or
  - (b) a warrant for the person's arrest may be issued in New Zealand and executed within or outside New Zealand,—

and the person may be detained in custody within or outside New Zealand or, if the person is in, or has been taken to, New Zealand, remanded in custody or on bail, even though the consent of the Attorney-General has not been obtained to the laying of an information in respect of that offence; but no further proceedings may be taken until that consent has been obtained.
- (3) The provisions of the Crimes Act 1961 relating to arrest apply in respect of the arrest of a person referred to in subsection (2) for an act or omission to which section 87 applies, in all respects as if the act or omission had occurred in New Zealand.
- (4) Any person arrested outside New Zealand may be detained in custody outside New Zealand for as long as is reasonably necessary to enable the person to be taken to New Zealand.

Compare: 2004 No 17 s 6

**89 Breach of code of conduct**

If a Police employee does or omits to do an act, and that act or omission would, if it occurred in New Zealand, be a breach of the code of conduct prescribed under section 20, the employee may be dealt with as if the act or omission had occurred in New Zealand.

Compare: 2004 No 17 s 7

**90 Saving of jurisdiction**

Nothing in sections 86 to 89 limits or affects the provision of any enactment or rule of law relating to the liability of persons in respect of acts done or omitted beyond New Zealand.

Compare: 2004 No 17 s 8

*International policing: United Nations  
operations*

**91 Interpretation and application**

- (1) In this section and sections 92 to 95, unless the context otherwise requires,—

**act or omission** means an act or omission done or omitted to be done outside New Zealand

**crime** means an act or omission that if it occurred in New Zealand would be a criminal offence under any New Zealand enactment

**employee** means a Police employee who is an employee for the purposes of United Nations activity.

- (2) For the purposes of this section, a Police employee is deemed to be an employee for the purposes of a United Nations activity from the time he or she leaves New Zealand to undertake duties with the United Nations until he or she returns to New Zealand or earlier ceases to be an employee.

Compare: 1964 No 1 ss 2, 3

**92 Trial in New Zealand for crimes committed outside New Zealand**

- (1) An employee who commits a crime outside New Zealand is liable to be proceeded against and punished as if it had occurred

in New Zealand and the courts of New Zealand have jurisdiction accordingly.

- (2) Subsection (1) is subject to sections 91 to 95.
- (3) Despite anything in any other enactment, no proceedings for the trial and punishment of an employee may be brought under sections 91 to 95 in any court without the consent of the Attorney-General.
- (4) The consent of the Attorney-General is not required for an employee to be arrested and detained in custody.

Compare: 1964 No 1 s 4

### **93 Arrest and detention of offender**

- (1) The provisions of the Crimes Act 1961 relating to arrest apply in respect of the arrest of an employee who is suspected of committing a crime.
- (2) An employee arrested under this section may be detained and held in custody until the employee can be dealt with according to law.

Compare: 1964 No 1 s 5

### **94 Breach of code of conduct**

Any employee whose act or omission would, if it had occurred in New Zealand, be a breach of the code of conduct prescribed under section 20 may be dealt with as if the act or omission had occurred in New Zealand.

Compare: 1964 No 1 s 6

### **95 Saving of jurisdiction**

Nothing in sections 91 to 94 limits or affects the provisions of any enactment or rule of law relating to the liability of persons in respect of acts done or omitted beyond New Zealand.

## Subpart 3—Miscellaneous provisions

### **96 Evidence of Police identity and authority**

- (1) The Commissioner must provide every Police employee with evidence of the employee's identity and authority.
- (2) The evidence must state all prescribed information and,—

- (a) if the Police employee to whom it relates is a constable, must state that he or she has the policing powers of a constable; and
  - (b) if the Police employee to whom it relates is authorised to perform one or more particular policing roles set out in Schedule 1, must state (by reference to the name of the role or roles concerned) that he or she has the policing powers of an authorised officer.
- (3) The evidence—
  - (a) must bear all prescribed things;
  - (b) may state, bear, or otherwise contain (for example, by having a microchip embedded in it) any additional information or thing the Commissioner thinks appropriate;
  - (c) may be in any form the Commissioner thinks appropriate.
- (4) Subsection (1) does not prevent the Commissioner from providing (in addition to the evidence required by that subsection to be provided) supplementary forms of evidence of identity, authority, or both, for particular Police employees, Police employees of a particular description, or all Police employees; and any form of evidence provided—
  - (a) may state any information (whether or not required by subsection (1), or prescribed);
  - (b) may contain (for example, by having a microchip embedded in it) any information;
  - (c) may state information in a language other than English;
  - (d) may bear any things (whether or not prescribed).
- (5) A Police employee must surrender all evidence of identity, authority, or both supplied to him or her by the Commissioner if the employee—
  - (a) goes on leave of any kind for a period longer than 12 months; or
  - (b) resigns or retires; or
  - (c) is suspended or removed.
- (6) Despite subsections (1) and (2), if any question arises as to the right of any constable to hold or execute his or her office,—
  - (a) common reputation is evidence of that right; and

- (b) it is not necessary to produce evidence of the constable's identity and authority.

Compare: 1958 No 109 s 41; 1996 No 27 s 7

### **97 When policing powers cease**

- (1) All powers and authorities vested in a Police employee by virtue of holding office as constable cease immediately when the Police employee—
  - (a) is suspended; or
  - (b) ceases to hold the office of constable.
- (2) All powers and authorities vested in a Police employee cease immediately when the employee is suspended or ceases to be a Police employee.

Compare: 1958 No 109 ss 37(2), 44

### **98 Evidentiary provisions**

In any proceedings,—

- (a) the Commissioner may certify that at a specified time or during a specified period—
  - (i) a dog named in the certificate was a Police dog; or
  - (ii) a person named in the certificate was a Police dog handler; or
  - (iii) a particular uniform was a Police uniform; or
  - (iv) a particular item of uniform was an item of Police uniform; or
  - (v) a particular crest, badge, emblem, design, logogram, or other distinguishing article was a Police article; and
- (b) the Commissioner's certificate is, in the absence of proof to the contrary, sufficient evidence of the matters certified.

Compare: 1958 No 109 ss 44D, 51A(6)

### **99 Police involvement in elections**

- (1) No constable, authorised officer, or supervisor may take part in any election of a member of the House of Representatives or a member of a local authority other than—
  - (a) by voting; or

- (b) as a candidate in accordance with sections 52 and 53 of the Electoral Act 1993 or subsections (2) to (4) of this section; or
  - (c) in the discharge of his or her duties as a constable, authorised officer, or supervisor.
- (2) If a constable, authorised officer, or supervisor desires to become a candidate for election as a member of a local authority,—
  - (a) he or she must be placed on leave of absence for the purposes of his or her candidature; and
  - (b) subsections (3) to (6) of section 52 of the Electoral Act 1993 apply accordingly with any necessary modifications.
- (3) If a constable, authorised officer, or supervisor is elected as a member of a local authority,—
  - (a) he or she must, as soon as he or she is declared to be elected, be treated as having vacated his or her position as a Police employee; and
  - (b) subsections (3) to (6) of section 53 of the Electoral Act 1993 apply accordingly with any necessary modifications.
- (4) In this section, **local authority** and **member of a local authority** have the meanings given in section 5(1) of the Local Electoral Act 2001.

**100 Scope of review by State Services Commissioner**

If the State Services Commissioner is directed or requested under section 11 of the State Sector Act 1988 to carry out, under section 6(b) of that Act, a review of the performance of the Police, that review may relate only to the matters referred to in section 16(1).

**101 Annual report**

The annual report of the Police required under section 43 of the Public Finance Act 1989—

- (a) must include an account of the performance of the Police and its operations during the period under review; and

- (b) must include any information required under any other enactment; and
- (c) may include any other matters affecting the Police or policing that the Commissioner thinks fit.

Compare: 1958 No 109 s 65

## 102 Regulations

The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) prescribing crests, badges, emblems, designs, logograms, or other distinguishing articles used, worn, or carried by any Police employee while on duty;
- (b) prescribing the information and things relating to a Police employee that the evidence of identity and authority provided to him or her under section 96(1) must state or bear;
- (c) requiring the Commissioner to establish and maintain a register—
  - (i) showing, in relation to any specified role within the Police, the qualifications, training, and skills required by the Commissioner to be held by a Police employee performing that role; and
  - (ii) showing, in relation to each Police employee, the qualifications, training, and skills held by that person relevant to the person's employment within the Police;
- (d) prescribing the information required to be contained in the register referred to in paragraph (c) for each Police employee whose name is entered in the register;
- (e) providing for matters relating to the governance and conduct of Police employees outside New Zealand, whether as part of an overseas operation within the meaning of section 86 or as an employee within the meaning of section 91;
- (f) providing for such other matters as are contemplated by or necessary for giving effect to the provisions of this Act and for its due administration.



*Transitional and savings provisions*

**103 Disciplinary matters**

- (1) This section applies to any disciplinary matter arising in relation to conduct by a Police employee where the conduct occurred before the commencement of this Act.
- (2) The matter must be dealt with in accordance with any applicable provisions of the Police Act 1958 and the Police Regulations 1992 that were in force at the time the conduct occurred, as if those provisions were still in force, unless the employee elects that the matter be dealt with as if the conduct had occurred after the commencement of this Act.

**104 Agreements under section 67 of Police Act 1958**

- (1) Every agreement under section 67 of the Police Act 1958 that is in force immediately before the commencement of this Act continues in force according to its tenor.
- (2) If there is a dispute about the interpretation, application, or operation of any provision of any agreement continued in force by subsection (1),—
  - (a) a person bound by the agreement or any party to the agreement may pursue that dispute in accordance with Part 10 of the Employment Relations Act 2000; and
  - (b) the person or party pursuing the dispute must ensure that every service organisation that was involved in negotiations for the making or renewal of the agreement has notice of the existence of the dispute.

**105 Collective agreements under section 75 of Police Act 1958**

Every collective employment agreement under section 75 of the Police Act 1958 that is in force immediately before the commencement of this Act continues in force according to its tenor.

**106 Individual employment agreements**

Every individual employment agreement under section 67A, 75, or 76 of the Police Act 1958 that is in force immediately before the commencement of this Act continues in force according to its tenor.

**107 Continuation of process for agreement underway under section 67 of Police Act 1958**

- (1) This section applies if, at the commencement of this Act, a process is underway for the fixing of conditions of employment under section 67 of the Police Act 1958.
- (2) The process must be continued as if the Police Act 1958 had not been repealed unless the parties agree in writing that the process be continued in accordance with the Employment Relations Act 2000.
- (3) If the parties agree under subsection (2) to continue the process in accordance with the Employment Relations Act 2000, the process must be treated as a process for negotiating a collective employment agreement under that Act.

**108 Existing members of Police to be treated as Police employees**

- (1) A person who, immediately before the commencement of this Act, was a sworn or non-sworn member of the Police within the meaning of the Police Act 1958 is to be treated as if he or she had been appointed as a Police employee under section 18.
- (2) For all purposes in relation to a person referred to in subsection (1), the period of the person's service with the Police is to be treated as including any period or periods of service with the Police before the commencement of this Act.

**109 Existing members of Police authorised under section 6(2) of Police Act 1958**

- (1) A warrant issued under section 6(2) of the Police Act 1958 and in force immediately before the commencement of this Act continues according to its tenor and with any necessary modifications.
- (2) A warrant saved by subsection (1) may be withdrawn under section 24(3) as if it had been issued under section 24(1).
- (3) The person authorised by a warrant saved by subsection (1) must be treated for all purposes as if he or she were an authorised officer.

**110 Pensions in respect of death or disablement**

Section 42 of the Police Act 1958 continues to apply as if it had not been repealed in respect of any person who was, immediately before the commencement of this Act, receiving a pension under that section.

**111 Identity cards**

- (1) The Commissioner is not required to comply with section 96 until the commencement of regulations under section 102 prescribing the form of the evidence of identity and authority referred to in that section, or until the day that is 12 months after the commencement of this Act, whichever occurs first.
- (2) If a Police employee has been issued by the Commissioner with evidence of identity and authority for the purpose of performing that employee's duties that evidence must, until the end of the period described in subsection (1), be presented by that employee in any circumstance where evidence of identity and authority under section 96 would otherwise be required.

**112 Delegations by Commissioner**

- (1) Any delegation made by the Commissioner under section 4(3) or 55A of the Police Act 1958 that is in force immediately before the commencement of this Act and that could have been made under section 17 of this Act continues according to its tenor as if—
  - (a) it had been made under section 17; and
  - (b) section 17 had been in force when the delegation was made.
- (2) Nothing in this section limits the Interpretation Act 1999.

**113 Appointments and authorisations by Commissioner under section 13 of Police Act 1958**

- (1) Any appointment made or authorisation given by the Commissioner under section 13 of the Police Act 1958 that is in force immediately before the commencement of this Act and that could have been made or given under section 63 of this Act continues according to its tenor as if—
  - (a) it had been made under section 63; and

- (b) section 63 had been in force when the appointment or authorisation was made or given.
- (2) Nothing in this section limits the Interpretation Act 1999.

#### **114 Police crest and badge**

Until the commencement of regulations under this Act prescribing a Police crest and badge,—

- (a) this Act applies as if the crest and badge whose design was, immediately before the commencement of this Act, depicted in Schedule 1 of the Police Regulations 1992 were prescribed as the crest and badge worn by any Police employee while on duty; and
- (b) the definition in section 4 of **Police article** has effect accordingly.

#### **115 Sitting members of local authorities**

- (1) A sitting member does not have to be treated as having vacated his or her position as a Police employee on the commencement of section 99.
- (2) An elected sitting member does not have to be placed on leave of absence for the purposes of his or her candidature for election as a member of the local authority concerned at a future election if he or she has not, at some earlier future election, failed to be elected as a member of the local authority concerned.
- (3) An elected sitting member does not have to be treated as having vacated his or her position as a Police employee on being declared to be elected a member of the local authority concerned at a future election if he or she has not, at some earlier future election, failed to be elected as a member of the local authority concerned.
- (4) Subsections (1) to (3) override section 99(2) and (3).
- (5) In this section,—  
**elected sitting member** means a constable, authorised officer, or supervisor who, immediately before the commencement of section 99, was an elected member of a local authority

**future election** means a triennial general election held under the Local Electoral Act 2001 after the commencement of section 99

**local authority** and **member of a local authority** have the meanings given by section 5(1) of the Local Electoral Act 2001

**local authority concerned**, in relation to a sitting member,—

(a) means the local authority of which he or she was a member immediately before the commencement of section 99; and

(b) includes a successor to the local authority concerned

**sitting member** means a constable, authorised officer, or supervisor who, immediately before the commencement of section 99, was a member of a local authority.

#### *Validation of constable's oaths*

Heading: inserted, on 8 December 2009, by section 4 of the Policing (Constable's Oaths Validation) Amendment Act 2009 (2009 No 58).

#### **115A Validation of constable's oaths**

A Police employee or judicial officer who has administered the constable's oath described in section 22(1) in the period that commenced on 1 October 2008 and ended with the close of 12 October 2009 is to be treated as having been authorised, throughout that period, by the Commissioner to administer the oath and as having administered the oath in accordance with section 22.

Section 115A: inserted, on 8 December 2009, by section 4 of the Policing (Constable's Oaths Validation) Amendment Act 2009 (2009 No 58).

#### *Terms relating to Police in other enactments*

#### **116 Terms relating to Police in other enactments**

Unless the context otherwise requires,—

(a) a reference in an enactment other than this Act to any of the following terms must be read as a reference to a constable:

(i) a member of Police:

(ii) a member of the Police:

- (iii) a member of the New Zealand Police:
  - (iv) a Police officer:
  - (v) an officer of the Police:
  - (vi) a policeman:
  - (vii) a sworn member of the Police.
- (b) a reference in an enactment other than this Act to a commissioned officer of Police (or of the Police) must be read as a reference to a constable who is of or above the level of position of inspector:
- (c) a reference in an enactment other than this Act to a non-commissioned officer of Police (or of the Police) must be read as a reference to a constable who is of or above the level of position of sergeant but below the level of position of inspector:
- (d) a reference in an enactment other than this Act to a non-sworn member of Police (or of the Police) must be read as a reference to a Police employee who is not a constable.

#### **117 References to constables in other enactments**

In any enactment other than this Act, unless the context otherwise requires, **constable** has the meaning given in section 4.

#### *Amendments to District Courts Act 1947*

#### **118 Amendments to District Courts Act 1947**

- (1) This section amends the District Courts Act 1947.
- (2) Section 17(1) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) have the powers of a constable and take the oath in either of the forms set out in subsection (3) before any Justice.”
- (3) Section 17 is amended by adding the following subsection:
- “(3) The oath referred to in subsection (1)(a) is as follows:
- “ ‘*English form*
- “ ‘I, [*name*], swear that I will faithfully and diligently serve Her (or His) Majesty [*specify the name of the reigning Sovereign, as in: Queen Elizabeth the Second*], Queen (or King) of New Zealand, her (or his) heirs and successors,

as a bailiff at [*place*], without favour or affection, malice or ill-will. While I hold this office I will, to the best of my power, keep the peace and prevent offences against the peace and will, to the best of my skill and knowledge, perform all the duties of the office of bailiff according to law. So help me God.

“ ‘*Māori form*

“ ‘Tēnei au, a [*ingoa*], e kī taurangi nei, ka rato piri-honga, urupū hoki ahau i Ia Arikiniui [*tohua te ingoa o te Arikiniui kei runga i te torona, pērā ki a Kuini Irahāpeti te Tuarua*], Kuini (Kīngi *rānei*) o Niu Tīreni, me ōna uri whakaheke, hei kaituku hāmene ki [*wāhi*] i roto i te kore tautoko, kore aroha rānei, kore mahi kino, kore whakaaro kino rānei. I te wā ke tēnei tūranga ahau ka pōkaikaha ahau ki te hohou i te rongō me te kaupare atu i nga mahi kotikoti i te rongō, ā, i roto i ōku tino pūkenga me ōku mōhio, ka whakatutuki i ngā mahi kua whakaritea hei mahi mā te kaituku hāmene, e ai ki te ture. Nō reira, āwhina mai i ahau e te Atua.’ ”

*Amendments to Employment Relations Act 2000*

**119 Amendments to Employment Relations Act 2000**

Sections 120 to 122 amend the Employment Relations Act 2000.

**120 New sections 100F and 100G inserted**

The following sections are inserted after section 100E:

**“100F Code of good faith for employment relationships in relation to provision of services by New Zealand Police**

“(1) Schedule 1C contains a code of good faith for employment relationships in relation to the provision of services by the New Zealand Police.

“(2) The code—

“(a) applies subject to the other provisions of this Act and any other enactment; and

“(b) in particular, does not limit the application of the duty of good faith in section 4 in relation to the New Zealand Police.

- “(3) Compliance with the code does not, of itself, necessarily mean that the duty of good faith in section 4 has been complied with.
- “(4) It is a breach of the duty of good faith in section 4 for a person to whom the code applies to fail to comply with the code.
- “(5) This section does not prevent a code of good faith approved under section 35 or a code of employment practice approved under section 100A applying to employment relationships in relation to the provision of services by the New Zealand Police.
- “(6) However, in the case of any inconsistency, the code set out in Schedule 1C prevails over a code approved under section 35 or 100A.

**“100G Amendments to or replacement of code of good faith for employment relationships in relation to provision of services by New Zealand Police**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend or replace the code of good faith for employment relationships in relation to the provision of services by the New Zealand Police set out in Schedule 1C.
- “(2) The Minister must not make a recommendation under subsection (1) unless—
- “(a) requested to do so by the Commissioner of Police and service organisations representing not less than three-quarters of service organisation members employed by the Police; and
- “(b) the Minister has consulted the Minister of Police and any other persons and organisations that he or she considers appropriate.
- “(3) In this section, **service organisation** has the same meaning as in section 55 of the Policing Act 2008.”

**121 Schedule 1 amended**

Part A of Schedule 1 is amended by adding the following item:

- “16 The provision of Police emergency response services as defined in clause 3 of Schedule 1C.”



**122 New Schedule 1C inserted**

The Schedule 1C set out in Schedule 3 of this Act is inserted after Schedule 1B.

*Amendment to Criminal Records (Clean Slate)  
Act 2004*

**123 Amendment to Criminal Records (Clean Slate) Act 2004**

- (1) This section amends the Criminal Records (Clean Slate) Act 2004.
- (2) Section 19(3)(d)(iii) is amended by omitting “member of the police” and substituting “Police employee”.

*Amendments to Land Transport Act 1998*

**124 Amendments to Land Transport Act 1998**

- (1) This section amends the Land Transport Act 1998.
- (2) Section 22(3) is amended by omitting the words “in person at the nearest police station or”.
- (3) Section 22(5) is amended by omitting “to the nearest police station or”.

*Amendment to State Sector Act 1988*

**125 Amendment to State Sector Act 1988**

- (1) This section amends the State Sector Act 1988.
- (2) Section 44(2) is amended by repealing paragraph (d) and substituting the following paragraph:  
“(d) The Commissioner of Police is the chief executive of the New Zealand Police.”

*Amendments to Summary Offences Act 1981*

**126 Amendment to Summary Offences Act 1981**

Sections 127 and 128 amend the Summary Offences Act 1981.

**127 Interpretation**

- (1) Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:

“**authorised officer** has the meaning given in section 4 of the Policing Act 2008

“**Police dog** has the meaning given in section 4 of the Policing Act 2008

“**Police dog handler** has the meaning given in section 4 of the Policing Act 2008”.

- (2) Section 2 is amended by repealing the definition of **constable** and inserting the following definition in its appropriate alphabetical order:

“**constable** has the meaning given in section 4 of the Policing Act 2008”.

**128 Resisting Police, prison, or traffic officer**

- (1) Section 23(a) is amended by inserting “or any authorised officer,” after “constable”.
- (2) Section 23(b) is amended by inserting “authorised officer,” after “constable”.
- (3) Section 23 is amended by adding the following paragraph:
- “(c) any Police dog working under the control of a Police dog handler.”

*Amendment to Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001*

**129 Amendment to Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001**

- (1) This section amends the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001.
- (2) The following regulation is inserted after regulation 9A:

**“9B Exclusion for substances when used in policing**

Nothing in these regulations applies to class 1 to 5 substances when used—

- “(a) in policing operations by Police tactical groups; or
- “(b) on a vehicle, ship, or aircraft authorised to carry class 1 substances in policing operations by Police tactical groups; or
- “(c) in any Police training in respect of the activities referred to in paragraph (a) or (b).”

*Other enactments amended, repeals, and  
revocations*

**130 Consequential amendments and repeals**

- (1) The Acts specified in Schedule 4 are amended in the manner set out in that Schedule.
  - (2) Section 46F(2)(b)(i) of the Burial and Cremation Act 1964 is amended by omitting “member of the police” and substituting “constable”.
  - (3) The regulations specified in Schedule 5 are amended in the manner set out in that Schedule.
  - (4) The enactments specified in Part 1 of Schedule 6 are repealed.
  - (5) The enactments specified in Part 2 of Schedule 6 are revoked.
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**Schedule 1**  
**Policing roles**

s 24

**Part 1****Police jailer and escort**

- 1 A Police employee warranted as a Police jailer and escort has the following powers:
  - (a) the powers of a constable under sections 32, 33, 36, and 37 of this Act:
  - (b) the powers of a constable to search a person in the lawful custody of the Police:
  - (c) the powers of a constable to transport, or accompany during transport, a person in the lawful custody of the Police to or from any destination.
  
- 2 The power in clause 1(c) includes the custody, control, and supervision of the detainee during the transport and any custody, control, and supervision while the detainee is at any place to or from which the detainee is transported (other than a prison or police station) that is incidental to the transport.

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**Example**

A Police employee managing the custody of prisoners at court.  
A Police employee assisting with custodial functions at a Police station as part of his or her training.

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**Part 2****Police guard**

- 3 A Police employee warranted as a Police guard has the following powers:
  - (a) the powers of a constable under sections 32(2), 35, and 36 of this Act:
  - (b) the powers of a constable to search a person in the lawful custody of the Police.

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**Example**

A Police employee protecting Parliament.

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### Part 3

#### Police specialist crime investigator

- 4 A Police employee warranted as a Police specialist crime investigator has the following powers:
- (a) the powers of a constable to apply for a warrant under any enactment:
  - (b) the powers of a constable to execute any warrant, order, or other process of any court or of any Judge, Community Magistrate, or Justice:
  - (c) the powers of a constable to execute any unexecuted process for the arrest of any person without having the process in his or her possession:
  - (d) where authorised by a constable to arrest a person for an offence, the powers of a constable to arrest that person:
  - (e) the powers of a constable under sections 32, 33, and 37 of this Act:
  - (f) the powers of a constable to search a person in the lawful custody of the Police:
  - (g) the powers of a constable to transport, or accompany during transport, a person in the lawful custody of the Police to or from any destination.
- 5 The power in clause 4(b) does not include the power to stop a vehicle under section 314B of the Crimes Act 1961.
- 6 For the purpose of clause 4(d), whatever state of mind is necessary in order for the arrest to be lawfully made, it is sufficient if the constable who authorises the arrest to be made has that state of mind.
- 7 The power in clause 4(g) includes the custody, control, and supervision of the detainee during the transport and any custody, control, and supervision while the detainee is at any place to or from which the detainee is transported (other than a prison or police station) that is incidental to the transport.

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Part 3—*continued*

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**Example**

A Police employee working as a forensic accountant.

A Police employee working as an electronic-crime investigator.

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Part 4

Police transport enforcement officer

- 8 A Police employee warranted as a Police transport enforcement officer has the following powers:
- (a) the powers of a constable under section 42A of the Transport Act 1962:
  - (b) the powers of a constable under sections 113(2)(a), (c), and (d), 113(3), and 114(1), (2), and (3) of the Land Transport Act 1998:
  - (c) the powers of a constable under section 32, 33, 35, and 36 of this Act:
  - (d) the powers of a constable to execute any unexecuted process for the arrest of any person without having the process in his or her possession:
  - (e) the powers of a constable under sections 12, 13, and 15 of the Aviation Crimes Act 1972:
  - (f) the powers of a constable under sections 144, 148B, 149A, 149B, 149BA, 149C, 172(1), 226, and 280D of the Customs and Excise Act 1996:
  - (g) the powers of a constable under sections 46(2)–(5), 51(1), 52(1), 54(1) and (3), 55(1), 56(1), and 58(1) of the Maritime Security Act 2004.

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**Example**

A Police employee working at a roadside drink driver or drug-affected driver screening operation.

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## Schedule 2

s 67

### Procedure for compulsory final offer arbitration for constables

#### 1 Arbitrating body

- (1) The arbitrating body is a committee appointed from time to time under this clause.
- (2) The committee consists of—
  - (a) members nominated in accordance with the following rules:
    - (i) up to a total of 2 members may be nominated by the service organisation or, if more than 1 service organisation is a party to the dispute, by the service organisations jointly;
    - (ii) up to 2 members may be nominated by the Commissioner;
    - (iii) the number of members nominated under subparagraph (i) must be the same as the number nominated under subparagraph (ii); and
  - (b) a person to chair the committee, who is to be either—
    - (i) a person mutually agreed by the appropriate service organisation and the Commissioner; or
    - (ii) a person designated by the chief executive of the Department of Labour.
- (3) If the service organisation or the Commissioner fails to make nominations for the purposes of subclause (2)(a) or act in such a way that the committee cannot be established in accordance with subclause (2), the chief executive of the Department of Labour must appoint as members of the committee the people that the chief executive thinks fit.

#### 2 Statement as to state of negotiations

The appropriate service organisation and the Commissioner must each provide the arbitrating body with a signed statement as to—

- (a) the issues in dispute; and
- (b) the position on those issues of the party providing the statement; and

- (c) full particulars of the final offer being made by the party providing the statement.

### **3 Copies of statement**

When the arbitrating body has received both of the statements required under clause 2, it must supply—

- (a) a copy of the service organisation's statement to the Commissioner; and
- (b) a copy of the Commissioner's statement to the service organisation.

### **4 Hearing and determination of dispute**

- (1) The arbitrating body, after giving the parties an opportunity to be heard, must, in accordance with the provisions of this schedule, hear and determine the dispute and settle the terms of the agreement.
- (2) The arbitrating body must, at the conclusion of the hearing and before making its determination, give each of the parties the opportunity to restate in writing, within a specified time or before a specified date, its final offer.
- (3) If a party restates its final offer, the offer as restated is that party's final offer for the purposes of clause 7.

### **5 Criteria to be observed by arbitrating body**

The arbitrating body, in hearing and determining a dispute in relation to a proposed agreement, must have regard to—

- (a) the recruitment and retention of suitably qualified Police employees to hold the office of constable and to be covered by the proposed agreement; and
- (b) the need for fairness and equity in the rate of pay and conditions of employment for work covered by the proposed agreement; and
- (c) any changes in the content of any job or in the skills, duties, or responsibilities of positions covered by the proposed agreement, including factors that are specific to the work covered by the proposed agreement; and
- (d) any changes in productivity arising from, for example, the introduction of new technology; and



- (e) relativities within the proposed agreement, and between it and other agreements; and
- (f) the need for an agreement to recognise the special conditions applicable to employment in the Police, including the prohibition on strikes by constables; and
- (g) any other matters that the Commissioner, the appropriate service organisation, or the arbitrating body, as the case may be, considers relevant.

**6 Application of criteria**

In applying the criteria, the arbitrating body is not bound by historical precedent and practice of any sort.

**7 Duty of arbitrating body to accept one final offer**

In determining any dispute in relation to a proposed agreement, the arbitrating body must accept in full either the final position presented by the appropriate service organisation or the final position presented by the Commissioner.

**8 Right of parties to agree on other methods**

Nothing in this schedule prevents the parties from agreeing to have the dispute or any issues in dispute determined in a way different from that set out in this schedule.

**9 Power of arbitrating body to waive technical irregularities**

The arbitrating body in its discretion may waive any technical irregularity or omission that may have occurred in the submission or reference of a dispute to the arbitrating body, if it is satisfied that the provisions of this Act have been substantially complied with.

**Schedule 3**

s 122

**New Schedule 1C in Employment  
Relations Act 2000****Schedule 1C**

ss 100F, 100G

**Code of good faith for employment  
relationships in relation to provision of  
services by Police****1 Application**

- (1) This code applies to the following parties:
  - (a) the New Zealand Police (the **Police**):
  - (b) Police employees:
  - (c) service organisations:
  - (d) other employers to the extent that they provide services to the Police:
  - (e) employees of the employers referred to in paragraph (d) to the extent that they are engaged in providing services to the Police:
  - (f) unions whose members are employees referred to in paragraph (e) (**other unions**).
- (2) However, to avoid doubt, subclause (1)(d) and (e) applies in relation to the provision of services only if the services are provided to the Police in its role as a provider of Police emergency response services.
- (3) Before the Police enters into an agreement or arrangement with another employer for the provision of services to the Police, it must notify the employer that this code will apply to the employer in relation to the provision of those services.
- (4) However, failure to comply with subclause (3) does not affect the validity of an agreement or arrangement referred to in that subclause.

**2 Purpose**

The purpose of this code is—

- (a) to promote productive employment relationships in relation to the provision of services by the Police:
- (b) to require the parties to make or continue a commitment—

- (i) to the safety of the public and Police employees; and
  - (ii) to develop, maintain, and provide high quality policing services; and
  - (iii) to engage constructively and participate fully and effectively in all aspects of their employment relationships:
- (c) to recognise the importance of—
- (i) collective arrangements; and
  - (ii) the role of service organisations and other unions.

### **3 Interpretation**

In this schedule, unless the context otherwise requires,—

**industrial action** means a strike by, or a lockout of, Police employees

**Police emergency response services** means services provided by the Police that directly or indirectly enable maintenance of the Police's effective response to calls for service where—

- (a) people are injured or in danger; or
- (b) there is a serious, immediate, or imminent risk to life or property; or
- (c) a crime is being or has just been committed and the offenders are still at the scene or have just left

**service organisation** has the same meaning as in section 55 of the Policing Act 2008.

## General

### **4 General requirements**

- (1) In all aspects of their employment relationship, the parties must—
  - (a) engage constructively; and
  - (b) participate fully and effectively.
- (2) In their employment relationship, the parties must—
  - (a) behave openly and with courtesy and respect towards each other; and
  - (b) create and maintain open, effective, and clear lines of communication, including providing information in a timely manner; and

- (c) recognise the role of Police employees as advocates for public safety; and
  - (d) make time to meet as and when required—
    - (i) to address not only the industrial issues between the parties but also issues facing the Police, the other employers, and the employees; and
    - (ii) to search for solutions that will result in productive employment relationships and the enhanced delivery of services; and
    - (iii) to ensure that any change is managed effectively; and
  - (e) recognise the time and resource constraints that may affect their ability to participate fully, and make allowances for those constraints.
- (3) To enable employees, service organisations, and other unions to comply with subclause (1), employers must ensure that appropriate steps are taken in their workplaces to encourage, enable, and facilitate employee, service organisation, and other union involvement.
- (4) The parties must use their best endeavours to resolve, in a constructive manner, any differences between them.
- (5) Subclauses (2) to (4) do not limit subclause (1).

### Collective bargaining

#### **5 Agreement on suitable person**

As part of the arrangement required under section 32(1)(a), the parties must make every endeavour to agree on a suitable person for the purposes of clause 11(1).

#### **6 Collective bargaining and collective agreements**

- (1) The parties must support collective bargaining where it is practical and reasonable to do so.
- (2) The parties must, as far as practical and reasonable, support the definition of coverage that best recognises the parties' commitment to collective employment arrangements.

**7 Specific things employers must not do during collective bargaining**

During collective bargaining employers must not—

- (a) communicate directly with service organisation or other union members in relation to the collective bargaining; or
- (b) negotiate with employees who are not service organisation or other union members with a view to undermining or influencing the collective bargaining; or
- (c) attempt to discourage employees from joining or remaining with the service organisation or other union; or
- (d) contract out services with a view to undermining or influencing the collective bargaining.

**8 Mutual obligations**

- (1) During collective bargaining each party must—
  - (a) give thorough and reasonable consideration to the other's proposals; and
  - (b) not act in a manner that undermines the other or the authority of the other; and
  - (c) not deliberately attempt to provoke a breakdown in the bargaining.
- (2) If agreement cannot be reached or the collective bargaining is in difficulty, the parties must give favourable consideration to attending mediation without delay, and must consider third party decision-making.
- (3) The parties must recognise that collective bargaining and collective agreements need to—
  - (a) provide for the opportunity for participation of service organisation, and other union, officials, delegates, and members in decision-making where those decisions may have an impact on the work or working environment of those members; and
  - (b) provide for the release of employees to participate in decision-making where appropriate, acknowledging the key role of service organisation, and other union, delegates in the collective representation of their members; and

- (c) provide for service organisation, and other union, delegates to carry out their roles, including the time needed for communication and consultation with members, and for delegate education.

### Public safety

#### **9 Obligation for Police to provide for public safety during industrial action**

During industrial action, the Police must provide for public safety by ensuring that emergency response services are available.

#### **10 Contingency plans**

- (1) As soon as notice of industrial action is received or given, the Police must develop (if it has not already done so) a contingency plan and take all reasonable and practicable steps to ensure that it can provide Police emergency response services if industrial action occurs.
- (2) If the Police believes it cannot arrange to deliver Police emergency response services during industrial action without the assistance of members of a service organisation or organisations, or other union or unions, the Police must make a request to the relevant service organisation or other union seeking the service organisation's, or other union's, and its members' agreement to maintain or to assist in maintaining Police emergency response services.
- (3) The request must include specific details about—
  - (a) the Police emergency response service the Police seeks assistance to maintain; and
  - (b) the Police's contingency plan relating to that Police emergency response service; and
  - (c) the support it requires from service organisation, or other union, members.
- (4) A request must be made by the close of the day after the date of the notice of industrial action.
- (5) As soon as practicable after the Police has made a request, but not later than 4 days after the date of the notice of industrial action, the parties must meet and negotiate in good faith and make every reasonable effort to agree on—

- (a) the extent of the Police emergency response service necessary to provide for public safety during the industrial action; and
  - (b) the number of employees necessary to enable the Police to provide that Police emergency response service; and
  - (c) a protocol for the management of emergencies that require additional emergency response services.
- (6) An agreement reached between the parties must be recorded in writing.

## **11 Adjudication**

- (1) If the parties cannot reach agreement under clause 10(5) they must, within 5 days after the date of the notice of industrial action, refer the matter for adjudication by a suitable person as agreed by the parties under clause 5.
- (2) The adjudicator must conduct the adjudication in a manner he or she considers appropriate and must—
- (a) receive and consider representations from the parties; and
  - (b) in consultation with the parties, seek expert advice if the adjudicator considers that it is necessary to do so; and
  - (c) attempt to resolve any differences between the parties to enable them to reach agreement and, if that is not possible, make a determination binding on the parties; and
  - (d) provide a determination to the parties as soon as possible but not later than 7 days after the date of notice of industrial action.
- (3) The parties must use their best endeavours to give effect to the determination.
- (4) The parties must bear their own costs in relation to any adjudication.

### Public comments during collective bargaining

## **12 Recognition of service organisation members' right to make public comments during collective bargaining**

- (1) The Police must respect and recognise the right of service organisation members to comment publicly and engage in public

debate during collective bargaining on matters relevant to the collective bargaining.

- (2) This clause applies subject to clauses 13 to 15.

**13 Employee must first raise matter with employer**

Before a service organisation member exercises the right specified in clause 12(1) in relation to the operations of the Police, the employee must first—

- (a) raise the matter with the Police; and
- (b) provide a reasonable time for the Police to respond.

**14 When service organisation member may make public comments**

If the service organisation member is dissatisfied with the Police's response or there is no response from the Police, the service organisation member may exercise the right specified in clause 12(1) if the service organisation member makes it clear that he or she is—

- (a) speaking in a personal capacity; or
- (b) speaking on behalf of the service organisation with its authority to do so.

**15 Confidentiality**

When exercising the right specified in clause 12(1), a service organisation member employee must not breach legal or operational requirements of confidentiality in respect of individual cases, operations, or investigations.

**16 Rights of service organisation not affected**

To avoid doubt, clauses 12 to 15 do not prevent a service organisation, or other union, or its representatives from making public comments or engaging in public debate on any matter relating to the Police.

**17 Transitional provision**

This code applies to bargaining for any collective agreement which began before the commencement of the code.

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**Schedule 4**

s 130(1)

**Consequential amendments to other Acts**

**Alcoholism and Drug Addiction Act 1966 (1966 No 97)**

Section 37A: repeal.

**Anti-Personnel Mines Prohibition Act 1998 (1998 No 111)**

Section 4(1)(a): omit “member of the police” and substitute “Police employee”.

**Arms Act 1983 (1983 No 44)**

Definition of **member of the Police** in section 2: repeal and substitute:

“**member of the Police** means a Police employee within the meaning of section 4 of the Policing Act 2008”.

Section 72(1): omit “rank” and substitute “level of position”.

Section 72(3): omit “rank” and substitute “level of position”.

**Bail Act 2000 (2000 No 38)**

Heading to section 21: omit “**member of police**” and substitute “**Police employee**”.

Section 21: omit “member of the police” in each place it appears and substitute in each case “Police employee”.

Heading to section 22: omit “**member of police**” and substitute “**Police employee**”.

Section 22: omit “member of the police” in each place it appears and substitute in each case “Police employee”.

Section 23: omit “member of the police” in each place it appears and substitute in each case “Police employee”.

**Births, Deaths, and Marriages Registration Act 1995 (1995 No 16)**

Section 7(1): omit “member of the Police” and substitute “Police employee”.

Section 40(2)(b)(i): omit “member of the Police” and substitute “Police employee”.

**Births, Deaths, and Marriages Registration Act 1995 (1995 No 16)**—*continued*

Section 50(1)(b): omit “unit of the Police of New Zealand forming part of a United Nations force” and substitute “United Nations activity within the meaning of sections 91 to 95 of the Policing Act 2008”.  
Section 50(2)(b): insert “or level of position” after “rank”.

**Care of Children Act 2004 (2004 No 90)**

Section 76(6): omit “section 39 of the Police Act 1958 (which relates to protection of members of the police” and substitute “section 44 of the Policing Act 2008 (which relates to protection of Police employees”.

**Child Support Act 1991 (1991 No 142)**

Section 240(2)(dc): omit “member of the New Zealand Police” and substitute “Police employee”.

**Children, Young Persons, and Their Families Act 1989 (1989 No 24)**

Section 211(2)(b): omit “rank” and substitute “level of position”.  
Section 211(2)(b): omit “highest ranking” and substitute “most senior”.  
Section 384D(2): omit “member of the police” and substitute “Police employee”.  
Section 445B(6): omit “section 39 of the Police Act 1958 (which relates to the protection of members of the Police” and substitute “section 44 of the Policing Act 2008 (which relates to protection of Police employees”.

**Civil Defence Emergency Management Act 2002 (2002 No 33)**

Section 20(1)(b): omit “member of the police” and substitute “Police employee”.

**Conservation Act 1987 (1987 No 65)**

Section 26ZZK(1)(a): omit “member of the Police” and substitute “Police employee”.

**Coroners Act 2006 (2006 No 38)**

Section 115: omit “members of the police” and substitute “Police employees”.

Section 43(2): omit “rank” and substitute “level of position”.

**Corrections Act 2004 (2004 No 50)**

Section 38(2)(b): omit “member of the police or an officer of a police jail” and substitute “Police employee”.

Section 38(4): omit “an officer of a police jail or a member of the police” and substitute “a Police employee”.

Section 38(4)(b): omit “officer of a police jail or member of the police” and substitute “Police employee”.

Section 38(8): omit “member of the police” and substitute “Police employee”.

**Criminal Justice Act 1985 (1985 No 120)**

Section 138(2)(c): omit “member of the Police” and substitute “Police employee”.

Section 141: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

**Criminal Records (Clean Slate) Act 2004 (2004 No 36)**

Section 19(3)(c): omit “member of the police” and substitute “Police employee”.

**Crimes Act 1961 (1961 No 64)**

Definition of **constable** in section 2: repeal and substitute:

“**constable** has the meaning given in section 4 of the Policing Act 2008”.

Section 312Q: omit “section 65 of the Police Act 1958” and substitute “section 101 of the Policing Act 2008”.

Section 312Q: insert after paragraph (g):

“(ga) the number of occasions on which the police used an interception device in reliance on section 216B(3)(b):”.

**Crimes Act 1961 (1961 No 64)**—*continued*

Section 312Q: insert after paragraph (k):

“(ka) in relation to road blocks authorised under section 317B,—

“(i) the number of road blocks authorised; and

“(ii) the reason for each authorisation; and

“(iii) the number of persons (if any) arrested as a result of that authorisation; and”.

Section 317B(1): omit “rank” and substitute “level of position”.

**Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)**

Section 44(1): omit “rank” and substitute “level of position”.

Section 44B(2): omit “rank” and substitute “level of position”.

Section 45(2): omit “rank” and substitute “level of position”.

Section 47(1): omit “rank” and substitute “level of position”.

Section 76: omit “section 65 of the Police Act 1958” and substitute “section 101 of the Policing Act 2008”.

**Domestic Violence Act 1995 (1995 No 86)**

Section 23(6): omit “member of the Police” and substitute “Police employee”.

**Electoral Act 1993 (1993 No 87)**

Section 52(1)(b): omit “members” and substitute “employees”.

**Equal Pay Act 1972 (1972 No 118)**

Paragraph (b) of the definition of **Employee** in section 2: repeal.

**Evidence Act 2006 (2006 No 69)**

Section 108(2): repeal paragraph (c) and substitute the following paragraph:

“(c) that the witness has not been found guilty of a breach of the code of conduct prescribed under section 20 of the Policing Act 2008, or (as the case may require) that the witness has not been found guilty of any breach of that kind, other than a breach described in the certificate.”

**Extradition Act 1999 (1999 No 55)**

Section 82(3): omit “section 57A of the Police Act 1958” and substitute “section 37 of the Policing Act 2008”.

**Films, Videos, and Publications Classification Act 1993 (1993 No 94)**

Section 145(1): omit “rank” and substitute “level of position”.

Section 145(3): omit “rank” and substitute “level of position”.

**Financial Transactions Reporting Act 1996 (1996 No 9)**

Section 15(3): omit “member of the Police” and substitute “Police employee”.

Section 15(4): repeal and substitute the following subsection:

“(4) The Commissioner may confer the authority to receive a suspicious transaction report under subsection (3) on any specified Police employee or on Police employees of any level of position, or on any Police employees for the time being holding any specified office or specified class of offices.”

Section 16: omit “member of the Police” and substitute “Police employee”.

Section 20(1)(a): omit “member of the Police” and substitute “Police employee”.

Section 21(2): omit “member of the Police” and substitute “Police employee”.

**Flags, Emblems, and Names Protection Act 1981 (1981 No 47)**

Schedule 3: omit item relating to Police Regulations 1949 (Reprinted with amendments Nos 1-24: SR 1985/259): Regulation 93B.

**Government Communications Security Bureau Act 2003 (2003 No 9)**

Section 25: omit “members” and substitute “employees”.

**Government Superannuation Fund Act 1956 (1956 No 47)**

Section 88F(1): Repeal paragraphs (a) and (b) and substitute:

“(a) who elected or was required to retire from the police under section 27 or 28 of the Police Act 1958; or

**Government Superannuation Fund Act 1956 (1956 No 47)—continued**

- “(b) who elected or was required to retire from the police under section 28C or 28D of the Police Act 1958 on or after attaining the age of 50 years; or
- “(c) who elects or is required to leave the police under section 74 or 76 of the Policing Act 2008 on or after attaining the age of 50 years—”

Section 88G(1): omit “leaves the police under section 28C or section 28D of the Police Act 1958” and substitute “left the police under section 28C or 28D of the Police Act 1958, or leaves the police under section 74 or 76 of the Policing Act 2008” after “Police Act 1958”.

**Human Rights Act 1993 (1993 No 82)**

Heading to section 34: omit “**and Police**”.

Section 34(2): repeal.

**Independent Police Conduct Authority Act 1988 (1988 No 2)**

Definition of **Commissioner** in section 2: omit “Police Act 1958” and substitute “Policing Act 2008”.

Section 12: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

Section 13: omit “member of the Police” and substitute “Police employee”.

Section 14(3): omit “member of the Police” and substitute “Police employee”.

Section 17(3): omit “in accordance with any conciliation procedure established by or under the Police Act 1958”.

Section 27(2): omit “member of the Police” and substitute “Police employee”.

Section 28(2)(b): omit “member of the Police” and substitute “Police employee”.

**Inspector-General of Intelligence and Security Act 1996 (1996 No 47)**

Section 15(2): omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

**International Crimes and International Criminal Court Act  
2000 (2000 No 26)**

Section 29(3)(c): omit “member of the police” and substitute “Police employee”.

Section 53(b): omit “member of the police” in each place it appears and substitute in each case “Police employee”.

Section 53(c): omit “police officer” and substitute “Police employee”.

Section 77(3): omit “section 57A of the Police Act 1958” and substitute “section 37 of the Policing Act 2008”.

Section 97(2)(b)(i): omit “member of the police” and substitute “Police employee”.

Section 141(1)(a): omit “member of the police” and substitute “Police employee”.

Section 144(4)(a): omit “member of the police” and substitute “Police employee”.

Section 146(a): omit “member of the police” and substitute “Police employee”.

Section 153(1): omit “member of the police” in each place it appears and substitute in each case “Police employee”.

**International Terrorism (Emergency Powers) Act 1987 (1987  
No 179)**

Section 17(2): omit “section 65 of the Police Act 1958” and substitute “section 101 of the Policing Act 2008”.

**Interpretation Act 1999 (1999 No 85)**

Definition of **constable** in section 30: repeal.

**Juries Act 1981 (1981 No 23)**

Section 8(g): omit “members” and substitute “employees”.

**Land Transport Act 1998 (1998 No 110)**

Section 5(5)(c): omit “member of the Police” and substitute “Police employee”.

**Land Transport Act 1998 (1998 No 110)**—*continued*

Section 15(2): omit “section 51 of the Police Act 1958” and substitute “section 48 of the Policing Act 2008”.

Section 54(3): omit “section 51 of the Police Act 1958” and substitute “section 48 of the Policing Act 2008”.

Section 211(4): omit “sworn or non-sworn member of the Police” and substitute “Police employee”.

**Lawyers and Conveyancers Act 2006 (2006 No 1)**

Section 150(g): omit “member of the New Zealand Police or” and substitute “Police employee or member of”.

Section 188(2)(e): omit “member of the New Zealand Police or” and substitute “Police employee or member of”.

**Local Government Act 1974 (1974 No 66)**

Section 342A: repeal.

**Maritime Crimes Act 1999 (1999 No 56)**

Section 12(4)(b): omit “member of the police” and substitute “Police employee”.

**Medicines Act 1981 (1981 No 118)**

Section 49A(3)(h): omit “Members of the Police” and substitute “Police employees”.

**Misuse of Drugs Act 1975 (1975 No 116)**

Section 5AA(3)(c): omit “member of the police” and substitute “Police employee”.

Section 18A(1): omit “section 57A of the Police Act 1958” and substitute “section 37 of the Policing Act 2008”.

Section 20(3)(g): omit “members of the Police” and substitute “Police employees”.

**Misuse of Drugs Amendment Act 1978 (1978 No 65)**

Section 15A(1): omit “member of the Police” and substitute “Police employee”.



**Misuse of Drugs Amendment Act 1978 (1978 No 65)—*continued***

Section 16(1)(c): omit “member of the Police” and substitute “Police employee”.

Section 13M: omit “section 65 of the Police Act 1958” and substitute “section 101 of the Policing Act 2008”.

Section 20(7): omit “member of the Police” and substitute “Police employee”.

Section 29: omit “section 65 of the Police Act 1958” and substitute “section 101 of the Policing Act 2008”.

**National Parks Act 1980 (1980 No 66)**

Section 56E(1)(a): omit “member of the Police” and substitute “Police employee”.

**New Zealand Security Intelligence Service Act 1969 (1969 No 24)**

Section 4H(1): omit “members” and substitute “employees”.

**Parole Act 2002 (2002 No 10)**

Section 55: omit “member of the police” in each place it appears and substitute in each case “Police employee”.

Section 66A: omit “Section 39 of the Police Act 1958” and substitute “section 44 of the Policing Act 2008”.

**Proceeds of Crime Act 1991 (1991 No 120)**

Section 69: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

Section 70: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

Heading to section 71: omit “police officers” and substitute “Police employees”.

Section 71: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

**Real Estate Agents Act 1976 (1976 No 9)**

Section 91(5): omit “member of the Police” and substitute “Police employee”.

**Resource Management Act 1991 (1991 No 69)**

Definition of **constable** in section 2: repeal and substitute:

“**constable** has the meaning given in section 4 of the Policing Act 2008”.

**Sports Anti-Doping Act 2006 (2006 No 58)**

Section 28: omit “member of the Police” and substitute “Police employee”.

**Summary Offences Act 1981 (1981 No 113)**

Section 24(a): omit “constable” and substitute “Police employee”.

**Summary Proceedings Act 1957 (1957 No 87)**

Definition of **constable** in section 2: repeal and substitute:

“**constable** has the meaning given in section 4 of the Policing Act 2008”.

Section 192: repeal.

**Tax Administration Act 1994 (1994 No 166)**

Section 85K(5): omit “member of the New Zealand Police” and substitute “Police employee”.

**Telecommunications (Residual Provisions) Act 1987 (1987 No 116)**

Section 10N(2)(a): omit “member of the Police” and substitute “Police employee”.

Section 10O(2): omit “member of the Police” and substitute “Police employee”.

Section 10O(3)(b): omit “member of the Police” and substitute “Police employee”.

Section 10R(1): omit “section 65 of the Police Act 1958” and substitute “section 101 of the Policing Act 2008”.

**Terrorism Suppression Act 2002 (2002 No 34)**

Section 44(3): omit “rank” and substitute “level of position”.

**Victims’ Rights Act 2002 (2002 No 39)**

Section 7: omit “member of the police” and substitute “Police employee”.

Section 24(3)(a): omit “member of the police” and substitute “Police employee”.

**Volunteers Employment Protection Act 1973 (1973 No 25)**

Paragraph (b) of the definition of **state employee** in section 2: omit “sections 67, 67A, 75, and 76 of the Police Act 1958” and substitute “Part 4 of the Policing Act 2008”.

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**Schedule 5**  
**Consequential amendments to**  
**Regulations**

s 130(3)

**Children, Young Persons, and Their Families (Forms)****Regulations 1989 (SR 1989/296)**

Form 5 in Schedule 1: omit “rank” and substitute “level of position”.

Form 6 in Schedule 1: omit “**Senior Sergeant (or Commissioned Officer) of Police**” and substitute “**(level of position in Police)**”.

**Corrections Regulations 2005 (SR 2005/53)**

Regulation 27(v): omit “section 57 of the Police Act 1958 in connection with the laying of charges” and substitute “section 32 or 33 of the Policing Act 2008”.

**Cremation Regulations 1973 (SR 1973/154)**

Regulation 7(1)(c): omit “rank” and substitute “level of position”.

Form D in Schedule 1: omit “Rank” and substitute “Level of position”.

**Evidence Regulation 2007 (SR 2007/204)**

Form in the Schedule: omit “Designation/rank” and substitute “Designation/level of position”.

**Government Superannuation Fund (Ceasing Contributions)****Regulations 1995 (SR 1995/172)**

Regulation 24: Insert the following subclause:

“(2A) Any person who has made a cessation election and later leaves the Police under section 74 or 76 of the Policing Act 2008 may, before attaining the age of 50 years, elect to revoke the cessation election and instead exercise an option conferred by Part 6A of the Act.”

**New Zealand Operational Service Medal Regulations 2002 (SR 2002/234)**

Regulation 4(d)(iii): omit “:” and substitute “; or”.

**New Zealand Operational Service Medal Regulations 2002 (SR 2002/234)—*continued***

Regulation 4(d): add the following subparagraph:

“(iv) the New Zealand Police (within the meaning of the Policing Act 2008):”.

**Sale of Liquor Regulations 1990 (SR 1990/61)**

Form 25 in Schedule 1: omit “rank” and substitute “level of position”.

**Summary Proceedings Regulations 1958 (SR 1958/38)**

Form 49 in Schedule 1: revoke.

**Traffic Regulations 1976 (SR 1976/227)**

Definition of **police officer** in regulation 2: omit “rank,” and substitute “level of position,”.

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**Schedule 6**  
**Enactments repealed or revoked**

s 130(4), (5)

Part 1  
Acts repealed

**Crimes and Misconduct (Overseas Operations) Act 2004 (2004  
No 17)**

**Police Act 1958 (1958 No 109)**

**United Nations (Police) Act 1964 (1964 No 1)**

Part 2  
Regulations revoked

**Police Regulations 1992 (SR 1992/14)**

**Police (United Nations) Regulations 1964 (SR 1964/124)**

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## **Contents**

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## **Notes**

### **1 *General***

This is a reprint of the Policing Act 2008. The reprint incorporates all the amendments to the Act as at 8 December 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted.

For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)



- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

Policing (Constable's Oaths Validation) Amendment Act 2009 (2009 No 58)

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