



ANALYSIS

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1973, No. 103

An Act to amend the Police Act 1958

[23 November 1973]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Police Amendment Act 1973, and shall be read together with and deemed part of the Police Act 1958 (hereinafter referred to as the principal Act).

2. Commissioner—Section 3 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) The Governor-General may from time to time appoint a fit and proper person to be the Deputy Commissioner of Police, who shall have and may exercise such of the powers, authorities, duties, and functions of the Commissioner as the Commissioner may delegate to him either generally or in any particular case.

“(3) Every delegation under subsection (2) of this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner.

“(4) In the case of absence from duty of the Commissioner (whether by reason of illness, absence from New Zealand, or for any other reason whatever) or in the case of a vacancy in the office of Commissioner (whether by reason of death, resignation, or otherwise) and for so long as the absence or vacancy continues, the Deputy Commissioner shall have and may exercise all the powers, authorities, duties, and functions of the Commissioner.

“(5) The fact that the Deputy Commissioner exercises any power, authority, duty, or function, pursuant to this section, shall, in the absence of proof to the contrary, be sufficient evidence of his authority to do so.”

3. Assistant Commissioners—Section 4 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) The fact that an Assistant Commissioner exercises any power, authority, duty, or function pursuant to this section, shall, in the absence of proof to the contrary, be sufficient evidence of his authority to do so.”

4. Suspension pending hearing of charge—(1) Section 32 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Commissioner may suspend from duty any member of the Police who he considers has been guilty of misconduct or neglect of duty, with or without pay, or without such part of his pay, as the Commissioner so directs, until such time as, in respect of the alleged misconduct or neglect, the member has been sentenced or otherwise dealt with by a Court or a decision as to guilt and penalty has been made under section 33 of this Act.”

(2) The said section 32 is hereby further amended by repealing subsection (4), and substituting the following subsections:

“(4) Notwithstanding anything in subsection (1) of this section, if the Commissioner directs that any member be suspended without all or any part of his pay, the member or such person as the member may appoint to represent him may within 7 days after the member receives that direction, make oral or written submissions to the Commissioner as to why he should receive all or some more of his pay.

“(5) The Commissioner shall within 7 days after the receipt of any submission made under subsection (4) of this section consider the submission and inform the member or his

representative of his decision. If the Commissioner decides that the member should receive all or some more of his pay the member shall be entitled to receive all or some more of his pay in accordance with that decision.

“(6) Notwithstanding anything in subsection (1) or subsection (5) of this section, where under this section a member is suspended from duty and no conviction is recorded in any Court and no charge is proved at an inquiry under section 33 of this Act, the member shall be entitled to receive full pay in respect of the period of suspension but otherwise he shall not receive nor be entitled to receive more pay than that first directed by the Commissioner to be received by the member in respect of that period unless and to the extent that the Commissioner further directs pursuant to this subsection.

“(7) Notwithstanding anything in this section, in the event of any appeal being commenced from the decision of any Court sentencing or otherwise dealing with the member, or from any decision as to the guilt of or the penalty to be imposed on the member made under section 33 of this Act, the suspension of the member shall continue until the appeal has been determined on the same or such new terms as to pay as the Commissioner shall so direct under this subsection.”

(3) Section 4 of the Police Amendment Act 1964 is hereby consequentially repealed.

5. Appeal following inquiry into breach of duty—Section 34 is hereby amended by omitting from subsection (3) the words “and the member shall be suspended from duty without pay”.

6. Dismissal—Section 35 of the principal Act is hereby amended by adding, as subsections (2) to (5), the following subsections:

“(2) No dismissal under this section shall take effect until 7 days after receipt by the member of written notice of the dismissal given to him by the Commissioner.

“(3) Subject to subsection (4) of this section, during any time after receipt by a member of written notice of dismissal under this section, the member shall, until the dismissal takes effect under this section or is so determined otherwise by the Commissioner, be suspended from duty with or without pay, or without such part of his pay, as the Commissioner shall so direct in the written notice of dismissal.

“(4) At any time before any dismissal under this section takes effect, the member or such person as he may appoint to represent him may make oral or written submissions to the Commissioner as to why the dismissal should not take effect, and as to why he should receive all or some more of his pay. In the case of any submissions being made as to why the dismissal should not take effect the dismissal shall not take effect until the Commissioner has considered the submissions and confirmed the dismissal by so notifying the member or his representative in writing.

“(5) The Commissioner shall within 7 days after the receipt of any submission made under subsection (4) of this section consider the submission and inform the member or his representative of his decision. If the Commissioner decides that the dismissal should not take effect, the Commissioner shall so inform the member or his representative, in which case the dismissal shall not take effect. If the Commissioner decides that the member should receive all or some more of his pay during any period of suspension from duty under this section the member shall be entitled to receive all or more of his pay in accordance with that decision.”

7. Appeal against dismissal—(1) Section 36 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every appeal against dismissal under the said section 35 shall be commenced by a notice of appeal delivered to the Commissioner within 7 days after the dismissal takes effect under that section.”

(2) The said section 36 is hereby further amended by omitting from subsection (3) the words “without pay”, and substituting the words “on the same or such new terms as to pay as the Commissioner shall so direct under this subsection”.

This Act is administered in the Police Department.
