



ANALYSIS

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1976, No. 154

An Act to amend the Police Act 1958

[14 December 1976]

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 1976, and shall be read together with and deemed part of the Police Act 1958 (hereinafter referred to as the principal Act).

2. Deputy Assistant Commissioners—(1) The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. The Governor-General may from time to time appoint, from the commissioned officers for the time being holding the rank of Chief Superintendent or Superintendent, such Deputy Assistant Commissioners of Police as he considers necessary.”

(2) The principal Act is hereby amended by repealing section 6, and substituting the following section:

“6. Certain commissioned officers to hold office during pleasure of Governor-General—The Commissioner, the Deputy Commissioner, each Assistant Commissioner, each Deputy Assistant Commissioner, and each Chief Superintendent shall hold office during the pleasure of the Governor-General.”

3. Retirement of medically unfit—Section 28 (1) of the principal Act is hereby amended by inserting, after the words “substantially medically unfit”, the words “(whether the unfitness relates to the physical or mental condition of the member)”.

4. Suspension pending hearing of charge—Section 32 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Where the conduct of the member is the subject of criminal proceedings the period of suspension under this section may be extended for such further period, not exceeding 28 days after the date on which the proceedings are finally determined, as the Commissioner considers necessary to enable him to consider whether the member should be dismissed under section 35 of this Act.”

5. Inquiries as to breaches of duty by non-commissioned officer or constable—(1) Section 33 (1) (a) of the principal Act is hereby amended by inserting, after the words “member of the Police,”, the words “and of whom 1 shall be appointed to act as Chairman at the inquiry,”.

(2) Section 33 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Notwithstanding anything in subsection (2) or subsection (3) of this section, in any case to which either of those subsections applies the Commissioner may, if he thinks it desirable to do so, appoint 2 or more persons, of whom only 1 shall be a member of the Police, and of whom 1 shall be appointed to act as Chairman at the inquiry, to conduct the inquiry.”

6. Appeal following inquiry into breach of duty—(1) Section 34 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Pending the hearing of the appeal any dismissal of the appellant shall remain in abeyance, but the Commissioner may suspend the member from duty with or without pay, or without such part of his pay, as the Commissioner so directs.”

(2) Section 5 of the Police Amendment Act 1973 is hereby consequentially repealed.

7. Appeal by Commissioner against finding of disciplinary proceedings—The principal Act is hereby amended by inserting, after section 34, the following section:

“34A. (1) Where any inquiry has been held under section 33 of this Act into the conduct of any member of the Police and the Commissioner is dissatisfied with the finding, or with any part of the finding, of the inquiry as being erroneous in point of law, he may appeal to the Appeal Board against the finding, or that part of the finding, of the inquiry on a question of law only.

“(2) Every such appeal shall be commenced by a notice of appeal delivered to the Appeal Board within 21 days after the findings of the inquiry are given. The Commissioner shall serve a copy of the notice on the member of the Police whose conduct was the subject of the inquiry.

“(3) The Appeal Board shall hear and determine the question or questions of law arising on any case referred to it under this section and shall—

“(a) Confirm the finding of the inquiry in relation to the question or questions of law raised in the appeal; or

“(b) Recommend to the Minister that the matter be referred back to the person or persons who conducted the original inquiry for the rehearing of the matter in accordance with the Appeal Board’s determination of that question or those questions; or

“(c) Make such other recommendations to the Minister in relation to the case as it thinks appropriate;—and the Minister may thereupon direct that no further action be taken or, as the case may require, that the matter be reheard or that effect be otherwise given to the recommendations of the Appeal Board.

“(4) Where a case is referred back for rehearing—

“(a) The provisions of sections 32 to 34 of this Act, so far as they are applicable and with the necessary modifications, shall apply:

“(b) The procedure to be followed at the rehearing shall be the same as that laid down by or under this Act for the conduct of inquiries under section 33 of this Act, subject to such modifications as the person or persons rehearing the matter may think necessary or desirable:

“Provided that the person or persons rehearing the matter may, but shall not be obliged to, accept any evidence that was presented to the person or persons who conducted the original inquiry without requiring it to be formally presented, heard, or proved again:

“(c) The Minister or, as the case may require, the Commissioner may, if he is satisfied that the person or any of the persons who conducted the original inquiry is, by reason of absence, illness, or other sufficient cause, incapable of rehearing the matter, appoint any other person whom, in accordance with the provisions of section 33 of this Act, he could have appointed to conduct the original inquiry.”

8. Member may appeal before various bodies by another member—Section 40 of the principal Act is hereby amended by inserting, after the words “or before a Licensing Committee”, the words “or before any other Commission, Inquiry, Board, or Tribunal”.

9. Delegation of powers by Commissioner—The principal Act is hereby amended by inserting, before section 56, the following section:

“55A. (1) The Commissioner may from time to time, by writing under his hand, either generally or particularly, delegate to such member or members of the Police, of a rank not less than Inspector, as he thinks fit all or any of his powers, authorities, duties, and functions under this Act or any regulations made under this Act.

“(2) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

“(3) Subject to subsection (1) of this section, any delegation under this section may be made to a specified member of the Police or to members of the Police of a specified rank

or class, or may be made to the holder or holders for the time being of a specified office or class of offices.

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

“(5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Commissioner of Police by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of the Commissioner.

“(6) The revocation of any such delegation shall not affect in any way anything done under the delegated authority.”

10. Regulations—Section 64 (2) of the principal Act is hereby amended by inserting in paragraph “(h)”, after the words “under this Act”, the words “(including matters preliminary or incidental thereto)”.

This Act is administered in the Police Department.
