



## ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Other commissioned officers</p> <p>3. Recruits</p> <p>4. Temporary members of the Police</p> <p>5. Appeal against recommendations for appointments</p> <p>6. Inquiries as to breaches of duty</p> <p>7. Appeal following inquiry into breach of duty</p>	<p>8. Appeal by Commissioner against finding of disciplinary proceedings</p> <p>9. Dismissal</p> <p>10. Oath to be taken</p> <p>11. Particulars for identification of person in custody</p> <p>12. General search of person in custody</p> <p>13. Limitation of actions</p> <p>14. Regulations</p>
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1988, No. 3

**An Act to amend the Police Act 1958**

[10 March 1988

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Police Amendment Act 1988, and shall be read together with and deemed part of the Police Act 1958 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

**2. Other commissioned officers**—Section 7 (1) of the principal Act is hereby amended by omitting the word "Minister", and substituting the word "Commissioner".

**3. Recruits**—The principal Act is hereby amended by inserting, after section 11, the following new section:

"11A. (1) The Commissioner may from time to time, in accordance with and subject to the provisions of regulations made under this Act, appoint such recruits as the Commissioner considers necessary.

"(2) For the purposes of this Act, recruits shall be members of the Police.

"(3) Notwithstanding subsection (2) of this section,—

“(a) Except as expressly provided in this Act, no recruit shall have or exercise in relation to members of the public any of the powers, functions, or duties of a member of the Police under this Act, or under any other enactment or at common law:

“(b) The provisions of this Act applying to members of the Police shall apply to recruits subject to such necessary or reasonable modifications as may be prescribed by regulations made under this Act.

“(4) Every recruit appointed under this section shall hold office at the will of the Commissioner.”

**4. Temporary members of the Police**—(1) Section 12 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Commissioner may from time to time appoint as temporary members of the Police such commissioned officers (other than commissioned officers holding office during the pleasure of the Governor-General), non-commissioned officers, and constables as the Commissioner considers necessary.”

(2) Section 12 (3) of the principal Act is hereby amended by omitting the words “of the Minister or as the case may require,”.

**5. Appeal against recommendations for appointments**—(1) Section 14 (1) of the principal Act is hereby amended by omitting the words “or a cadet”, and substituting the words “a cadet, or a recruit”.

(2) Section 14 (4) of the principal Act (as enacted by section 4 of the Police Amendment Act 1978) is hereby amended by omitting the words “the Minister or the Commissioner, as the case may require,”, and substituting the words “the Commissioner”.

**6. Inquiries as to breaches of duty**—(1) Section 33 (1) of the principal Act is hereby amended by omitting from both paragraph (a) and paragraph (b) the word “Minister”, and substituting in each case the word “Commissioner”.

(2) Section 33 (3) of the principal Act is hereby amended by inserting, after the word “constable”, the words “or a cadet or a recruit”.

(3) Section 33 (5) of the principal Act is hereby amended by omitting the words “the Minister or, as the case may require, the Commissioner,”, and substituting the words “the Commissioner”.

**7. Appeal following inquiry into breach of duty—**(1) Section 34 (1) of the principal Act is hereby amended by inserting, after the words “a cadet”, the words “or a recruit”.

(2) Section 34 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) The Appeal Board shall after full inquiry report thereon to the Commissioner, making such recommendations as it thinks fit, whether as to the allowing or dismissal of the appeal, the dismissal of the offender from the Police, the penalty to be imposed on the offender, the granting or refusal of pay during any period of suspension resulting from the charge, or otherwise, and the Commissioner may thereupon make such order in the matter as the Commissioner thinks fit, except that in no case shall a penalty be inflicted that is more severe than that recommended by the Board.”

**8. Appeal by Commissioner against finding of disciplinary proceedings—**Section 34A (4) of the principal Act (as enacted by section 7 of the Police Amendment Act 1976) is hereby amended by omitting from paragraph (c) the words “The Minister or, as the case may require,”.

**9. Dismissal—**Section 35 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Commissioner may at any time dismiss from the Police—

“(a) Any commissioned officer below the rank of Chief Superintendent; or

“(b) Any non-commissioned officer; or

“(c) Any constable,—

who in the opinion of the Commissioner is for any reason unfit to remain a member of the Police.”

**10. Oath to be taken—**Section 37 (1) of the principal Act is hereby amended by omitting the words “member of the Police”, and substituting the word “constable”.

**11. Particulars for identification of person in custody—**Section 57 of the principal Act is hereby amended by adding the following subsection:

“(4) For the purposes of this section, a recruit appointed under section 11A of this Act shall have the powers, functions, and duties of a member of the Police.”

**12. General search of person in custody**—Section 57A of the principal Act (as enacted by section 2 of the Police Amendment Act 1979) is hereby amended by adding the following subsection:

“(6) For the purposes of this section, a recruit appointed under section 11A of this Act shall have the powers, functions, and duties of a member of the Police.”

**13. Limitation of actions**—Section 60 of the principal Act is hereby repealed.

**14. Regulations**—Section 64 (2) of the principal regulations is hereby amended by inserting, after paragraph (h), the following paragraph:

“(ha) Prescribing conciliation procedures in respect of complaints lodged about members of the Police, and the circumstances in which such procedures may or are to be followed:”.

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This Act is administered in the Police Department.

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