



## ANALYSIS

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1992, No. 68

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

[30 June 1992]

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 (No. 2) 1992, 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 1st day of July 1992.

**2. Members of the Police**—(1) Section 5 (1) of the principal Act (as substituted by section 3 of the Police Amendment Act 1989) is hereby amended by omitting the words “(including acting or temporary or casual appointees)”.

(2) Section 5 of the principal Act (as so substituted) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) The power conferred by subsection (1) of this section includes power—

“(a) To engage an appointee for such period as the Commissioner and the appointee may agree:

“(b) To appoint acting or temporary or casual appointees.”

**3. Suspension pending hearing of charge**—Section 32 of the principal Act is hereby amended—

(a) By omitting from subsection (3A) (as inserted by section 4 of the Police Amendment Act 1976) the expression “section 35”, and substituting the expression “section 5”:

(b) By omitting from subsection (6) and also from subsection (7) (as substituted by section 4 (2) of the Police Amendment Act 1976) the expression “section 33”, and substituting in each case the expression “section 12”.

**4. Delegation of powers by Commissioner**—Section 55A of the principal Act (as inserted by section 9 of the Police Amendment Act 1976) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The Commissioner may from time to time, by writing under his or her hand, either generally or particularly,—

“(a) Delegate to any Assistant Commissioner of Police any of the powers, authorities, duties, and functions of the Commissioner:

“(b) Delegate to such other member or members of the Police as he or she thinks fit all or any of the Commissioner’s powers, authorities, duties, and functions under this Act or any regulations made under this Act.”

**5. Committees of Inquiry**—(1) The principal Act is hereby amended by repealing section 56, and substituting the following section:

“56. (1) The Minister may from time to time appoint a Committee of Inquiry, consisting of a District Court Judge and one or more members of the Police, for the purpose of investigating and reporting to the Commissioner on any matter connected with the Police, but any such Committee shall not investigate any matter that may be determined by a Court under Part IV of this Act.

“(2) Subsections (4) to (8) of section 12 of this Act shall, with the necessary modifications, apply to any such Committee of Inquiry as if its members were appointed to hold an inquiry under that section.

“(3) Subject to this section, such a Committee of Inquiry may regulate its procedure in such manner as it sees fit.”

(2) The Police Amendment Act 1965 is hereby consequentially repealed.

**6. Particulars for identification of persons in custody—**

(1) Section 57 of the principal Act is hereby amended by repealing subsection (4) (as added by section 11 of the Police Amendment Act 1988).

(2) Section 11 of the Police Amendment Act 1988 is hereby consequentially repealed.

**7. General search of person in custody—**(1) Section 57A of the principal Act (as inserted by section 2 of the Police Amendment Act 1979) is hereby amended by repealing subsection (6) (as added by section 12 of the Police Amendment Act 1988).

(2) Section 12 of the Police Amendment Act 1988 is hereby consequentially repealed.

**8. Regulations—**(1) Section 64 (2) of the principal Act is hereby amended by repealing paragraphs (b) and (c), and substituting the following paragraph:

“(b) Prescribing the ranks of sworn or non-sworn members of the Police:”

(2) Section 64 (2) (h) of the principal Act is hereby amended by omitting the words “of appeals and”.

**9. Employment Contracts Act 1991 and State Sector Act 1988 not to apply—**Section 96 (2) (b) of the principal Act (as substituted by section 15 of the Police Amendment Act 1991) is hereby amended by inserting, after the words “any person or body”, the words “of any power”.

**10. Transfer of traffic officers and other Ministry of Transport employees to the Police—**(1) Subject to this section, every person who, immediately before the commencement of this Act,—

(a) Was a traffic officer in the Ministry of Transport; or

(b) Was employed in some other capacity in that Ministry,—being a person whom the Secretary for Transport and the Commissioner have determined should transfer to the Police on the 1st day of July 1992, is hereby deemed to be appointed as a non-sworn member of the Police and shall have a rank or grade, or both, assigned by the Commissioner.

(2) No person who is appointed as a non-sworn member of the Police by subsection (1) (a) of this section shall be appointed under section 5 of the principal Act as a sworn member of the Police if he or she—

- (a) Has failed to complete the training determined by the Commissioner to be required in the case of persons to whom this subsection applies; or
- (b) Does not satisfy the criteria agreed between the Commissioner and the Secretary for appointment of such persons as sworn members of the Police, whether such criteria relate to age, fitness, previous convictions for offences against any enactment, or other matters.

(3) When assigning a rank or grade, or both, to any person under subsection (1) of this section, the Commissioner shall have regard to the rank and grade (if any) held by the person immediately before the commencement of this Act.

(4) Nothing in this section shall affect the powers of the Commissioner to assign to a person a different rank on the completion of the person's training referred to in subsection (2) (a) of this section.

(5) The office of traffic officer in the Ministry of Transport is hereby abolished.

**11. Traffic officers to retain powers**—Every traffic officer appointed as a non-sworn member of the Police by section 10 (1) of this Act shall have and may exercise all the powers of a traffic officer under the Transport Act 1962 or any other enactment.

**12. Application of principal Act to traffic officers**—(1) Notwithstanding anything in section 27 of the principal Act, where a person appointed as a non-sworn member of the Police by section 10 (1) of this Act is subsequently appointed as a sworn member of the Police, the said section 27 shall apply to the person with the following modifications:

- (a) The 1st day of July 1992 is hereby deemed to be the operative date for that person;
- (b) The table set out in subsection (3) of that section shall apply to that person as if he or she were a member of the Police immediately before the operative date;
- (c) No member to whom this subsection applies shall be regarded as a specialist member of the Police.

(2) The following provisions of the principal Act shall apply to every traffic officer who is a non-sworn member of the Police

by virtue of section 10 (1) of this Act, as if he or she were a sworn member of the Police, namely,—

- (a) Section 38 (which relates to the execution of processes):
- (b) Section 50 (which relates to the failure to return Police property):
- (c) Section 51A (which relates to the unauthorised use of Police uniforms).

(3) For the purposes of paragraphs (b) and (c) of subsection (2) of this section, all uniforms and equipment that were, before the 1st day of July 1992, supplied by the Secretary for Transport to a person who was a traffic officer in the Ministry of Transport, being uniforms and equipment held by that person at the close of the 30th day of June 1992, shall be deemed to have been supplied to that person for the execution of his or her office as a non-sworn member of the Police.

**13. Conditions of employment of traffic officers who become sworn members of the Police**—Every person referred to in section 10 (1) of this Act who is appointed as a sworn member of the Police shall be deemed to be continuing in the employ of the Commissioner for the purposes of section 69 (3) of the principal Act.

**14. Conditions of employment of non-sworn section 10 (1) appointees**—Every person who is appointed by section 10 (1) of this Act as a non-sworn member of the Police shall receive terms and conditions of employment that are based on the terms and conditions of employment applicable to the person immediately before the commencement of this Act.

**15. No compensation payable for cessation of employment in Ministry of Transport**—No person appointed as a non-sworn member of the Police by section 10 (1) of this Act shall be entitled to receive any payment or other benefit by reason only of that person ceasing by virtue of that section to be employed in the Ministry of Transport.

**16. Provisions relating to fitness tests**—Notwithstanding anything in the principal Act, the appointment of a traffic officer as a sworn member of the Police shall be subject to the condition that he or she shall meet the standards of medical and physical health prescribed by the Commissioner under section 28A of the principal Act in accordance with the following timetable:

- (a) A person under 40 years of age on the 1st day of July 1992 is required to meet the prescribed standards before he or she is appointed as a sworn member of the Police:
- (b) A person of 40 years of age and under 53 years of age on the 1st day of July 1992 is required to meet the prescribed standards within 3 years after that date:
- (c) A person of 53 years of age and under 55 years of age on the 1st day of July 1992 is required to meet the prescribed standards within 5 years after that date.

**17. Savings**—(1) Where, before the 1st day of July 1992, any traffic officer in the Ministry of Transport has become a party to any proceedings, the proceedings may be continued, completed, and enforced by any sworn or non-sworn member of the Police.

(2) Where, before the 1st day of July 1992, any traffic officer in the Ministry of Transport has commenced an action under any Act, the action may be continued, completed, and enforced by any sworn or non-sworn member of the Police.

(3) Notwithstanding anything in section 42A(10) of the Transport Act 1962, an infringement fee shall be deemed to have been paid to the enforcement authority if it is or has been paid to the Police at the address endorsed for the purpose on the infringement notice.

(4) Where—

(a) Before the 1st day of July 1992 any person was required by any enactment to serve the Secretary with any document or to notify the Secretary of any matter, and that document or matter has not been so served or notified before that date; and

(b) On the 1st day of July 1992 that enactment requires that document to be served on the Commissioner or requires that matter to be notified to the Commissioner,—

it shall be sufficient compliance with the new service or notification requirement if the document is served on the Secretary or the matter is notified to the Secretary, as the case may require.

**18. References in other enactments to traffic officers**—Every reference (however expressed) in any other enactment to a person appointed under section 6 of the Transport Act 1962 as a traffic officer in the Ministry of Transport shall, unless the context otherwise requires, hereafter be read as a reference to

a non-sworn member of the Police who has the powers of a traffic officer by virtue of section 11 of this Act.

**19. Ombudsmen's jurisdiction in relation to traffic officers**—(1) Notwithstanding anything in this Act, an Ombudsman may—

- (a) Complete any investigation commenced under the Ombudsmen Act 1975 before the 1st day of July 1992, being an investigation in respect of any decision or recommendation made, or any act done or omitted, before that 1st day of July by any traffic officer in the Ministry of Transport:
- (b) On or after the 1st day of July 1992, commence and complete an investigation under that Act in respect of any such decision or recommendation made, or any such act done or omitted.

(2) The Ombudsmen Act 1975 shall apply to every such investigation as if the traffic officer to whom the investigation relates were a traffic officer in the Ministry of Transport.

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This Act is administered in the Police Department.

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