

## New Zealand.



### ANALYSIS.

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1913, No. 61.

Title.

An Act to provide for the Establishment and Regulation of the  
Police Force. [15th December, 1913.]

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

Short Title.

1. This Act may be cited as the Police Force Act, 1913.

2. In this Act, if not inconsistent with the context,—

“Commissioned officer” means any officer of the Force appointed by the Governor :

“Commissioner” means the Commissioner of Police appointed under this Act :

“The Force” means the officers and men of the Police Force of New Zealand :

“Member of the Force” means any person employed in the Force :

“Minister” means the Minister of Justice.

Interpretation.

#### *Appointments and Powers.*

3. The Governor may from time to time appoint a fit and proper person to be the Commissioner of Police, who shall have the general control of the Force.

Appointment of Commissioner of Police.

4. In case of the illness or absence from New Zealand of the Commissioner, or for any other cause, the Governor may appoint the officer next in rank in the Force to the Commissioner, or any other person whom he thinks fit, to perform all or any of the duties imposed upon the Commissioner by this or any other Act.

Governor may appoint person to act in case of absence or illness of Commissioner.

5. The Governor may appoint such number of Superintendents, Inspectors, Sub-Inspectors, and other officers of the Force as he deems necessary.

Appointment of Superintendents, &c.

6. Superintendents, and Inspectors to whom districts are assigned by the Minister, shall, subject to the control and authority of the Commissioner, be respectively charged with the government, direction, and superintendence of such members of the Force as are stationed within their districts ; and Inspectors to whom districts are not so assigned and all Sub-Inspectors and other officers shall have such limited authority in relation to the Force as the Minister directs.

Powers of Superintendents, &c.

7. The Commissioner may from time to time, with the approval of the Minister, appoint as many sergeants of police and constables of different grades as he deems necessary for the preservation of peace and order, the prevention of crime, and the apprehension of offenders against the peace.

Appointment of sergeants and constables.

#### *Suspension or Dismissal of Officers.*

8. (1.) The Governor may at any time discharge or dismiss the Commissioner, or any Superintendent, Inspector, or Sub-Inspector, who has been guilty of conduct rendering it unfitting that he should remain in the Force, or who is for any reason unfit to remain in the Force.

Discharge of officers.

(2.) The Governor may at any time reduce any such officer of police who has been guilty of any act of misconduct or insubordination, or who is remiss or negligent in the execution of his duty.

(3.) The Governor may also at any time suspend any such officer of police against whom a charge of misconduct or insubordination has been made till such time as the charge has been inquired into and finally dealt with, but in no case can suspension without pay continue for more than twenty days.

Dismissal or suspension of sergeants and constables.

9. The Commissioner may at any time dismiss from the Force any constable who has been guilty of any act of misconduct or insubordination, or who, in the opinion of the Commissioner, is remiss or negligent in the execution of his duty or otherwise unfit to remain in the Force; and he may, with the approval of the Minister, discharge or dismiss any sergeant who has been guilty of conduct rendering it unfitting that he should remain in the Force, or who is, for any reason, unfit to remain in the Force. He may also with the like approval reduce any sergeant who has been guilty of any act of misconduct or insubordination, or who is remiss or negligent in the discharge of his duty. He may also, if he thinks fit, suspend any member of the Force against whom a charge of misconduct or insubordination has been made till such time as the charge has been inquired into and finally dealt with.

Superintendent or Inspector may suspend constables.

10. Any Superintendent or Inspector may, if he deems it expedient so to do, suspend any constable who is charged with any act of misconduct or insubordination till such time as the charge has been inquired into and finally dealt with, but in no case can suspension without pay continue for more than twenty days.

*Regulation and Discipline of Force.*

Members of Force to take oath for faithful discharge of duty.

11. (1.) No person shall be capable of holding office as a member of the Force, or of acting in any way therein, until he has taken and subscribed the following oath before a Justice or such other person as the Governor may appoint to administer the same:—

“I, A. B., do swear that I will well and truly serve our Sovereign Lord the King in the Police Force, without favour or affection, malice or ill will, until I am legally discharged; that I will see and cause His Majesty's peace to be kept and preserved; that I will prevent to the best of my power all offences against the same; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law. So help me God.”

(2.) Every person who has taken and subscribed the oath as aforesaid shall be taken to have, from the day on which the same was taken and subscribed, thereby entered into a written agreement with, and shall be thereby bound to serve, His Majesty as a member of the Force in whatsoever capacity he may, in accordance with the provisions of this Act, be required to serve, and at the current rate of pay of any rank to which he may be appointed or reduced, until legally discharged; and such agreement shall not be set aside, cancelled, or annulled for want of reciprocity; but every such agreement shall be determined by the discharge, dismissal, or other removal from office of any such person, or by the acceptance by the Governor of the resignation of the Commissioner or of any other officer, or by the acceptance by the Commissioner of the resignation of any sergeant or constable.

Evidence of right to hold office.

12. If any question arises as to the right of any member of the Force to hold or execute his office, common reputation shall be deemed

evidence of such right, and it shall not be necessary to have or produce any written appointment or other document or matter whatsoever in proof of such right.

13. When a member of the Force is discharged or dismissed from or otherwise ceases to hold and exercise his office, all powers and authorities vested in him as a member of the Force shall immediately cease.

On discharge or dismissal from office, powers of member of Force to immediately cease.

14. The Governor may from time to time, by Order in Council, make such regulations as he thinks fit for the government of the Force and with respect to all matters necessary for rendering the members of the Force efficient for the discharge of their duties.

Regulations as to government of Force.

15. (1.) No member of the Force may resign his office unless expressly authorized in writing so to do by the Commissioner, or unless he has given to the Commissioner one month's notice in writing of his intention so to resign.

Resignation of members.

(2.) Any member of the Force who resigns his office without having obtained such authority from the Commissioner, or without having given such notice, or who deserts from the Force, is liable to a fine not exceeding twenty pounds, and to forfeit all arrears of pay then due to him.

Desertion.

*Inquiries as to Misconduct of Members of Force.*

16. (1.) Where a Superintendent, Inspector, or Sub-Inspector is accused of a breach of duty or of conduct which would render it inexpedient, in the opinion of the Minister, that he should remain in the Force, and he denies his guilt, the Minister, if he thinks that sufficient cause has been shown for further proceedings, may appoint two or more fit and proper persons, of whom only one shall be a member of the Force, to inquire as to the truth of the charge, and the persons so appointed shall, after fully hearing the case, report to the Minister their opinion thereon; and the Minister may, if he thinks that the charge has been sufficiently proved, impose a fine not exceeding twenty pounds, or may recommend to the Governor the dismissal of the offender or his reduction in rank.

Inquiries as to breaches of duty by members of Force.

(2.) Where a sergeant is accused of misconduct or insubordination, or of any breach of duty, or of conduct which would render it inexpedient, in the opinion of the Commissioner, that he should remain in the Force, and he denies his guilt, the Commissioner may, by writing under his hand, direct any Superintendent or Inspector to inquire as to the truth of the charge and report thereon, and the Commissioner, if he thinks the charge sufficiently proved, may impose a fine not exceeding five pounds, or may recommend to the Minister the dismissal of the offender or his reduction in rank.

(3.) Where a constable is accused of misconduct or insubordination, or of any breach of duty, or of conduct which would render it inexpedient that he should remain in the Force, and he denies his guilt, the Superintendent of the district, or if there is no Superintendent, then the Inspector of the district, shall inquire as to the truth of the charge, and if he thinks the same sufficiently proved may impose a fine not exceeding three pounds, or may recommend to the Commissioner the dismissal of the offender or his reduction in seniority.

(4.) Any person holding an inquiry under this section may issue summonses for the attendance of witnesses, and may examine on oath any person respecting the charge, and may administer oaths to any such person.

(5.) Every person so summoned who does not attend at the time and place named in the summons, or who refuses to be sworn, or, being sworn, refuses to give evidence or answer any question lawfully put to him, is liable to a fine of five pounds, and such fine may be imposed by the person or persons holding the inquiry.

(6.) The amount of any fine imposed under subsection one, two, or three of this section may be deducted from any moneys due or thereafter becoming due from the Crown to the offender by way of salary or otherwise.

**Appeals.**

17. (1.) Every member of the Force into whose conduct any inquiry under the last preceding section has been held and who is dissatisfied with the result of the inquiry may appeal therefrom to a Board of Appeal constituted in manner hereinafter appearing.

(2.) The Board of Appeal shall be nominated by the Minister, and shall consist of a Magistrate (who shall be the Chairman of the Board), an officer of the Force senior or equal in rank to the appellant, and some other person not being a member of the Force.

(3.) Every appeal shall be commenced by a notice of appeal in writing in the prescribed form addressed to the Minister, and transmitted to him by the appellant through the Commissioner within seven days after the date on which the result of the inquiry is communicated to the appellant.

(4.) The Board of Appeal shall forthwith consider the appeal and the grounds thereof, and shall have power to summon witnesses and to hear any evidence on oath which it may deem necessary for the proper determination of the appeal.

(5.) Every person so summoned who does not attend at the time and place named in the summons, or who refuses to be sworn, or, being sworn, refuses to give evidence or answer any question lawfully put to him, is liable to a fine of five pounds, and such fine may be imposed by the Board of Appeal.

(6.) The Board of Appeal shall after full inquiry report thereon to the Minister, who may thereupon make such order in the matter as he thinks fit.

(7.) If in the opinion of the Board any appeal is frivolous or vexatious, the Board may order the appellant to pay the costs of the appeal, and the sum so ordered to be paid may be deducted from any pay due or accruing due to the appellant.

*Offences.*

Members to be dismissed from the Force for certain offences.

18. If any member of the Force is convicted of any crime punishable by imprisonment, or keeps a house for the sale of wine, beer, or spirituous liquors either in his own or any other name, or is directly or indirectly interested in any such house, he shall be dismissed from the Force.

Penalty for neglect of duty, &c.

19. Any member of the Force who deserts his post, or assaults his superior in rank in the Force, or neglects or refuses to obey or execute any process lawfully directed to be by him executed, shall

on conviction for any such offence be liable to a fine not exceeding twenty-five pounds, and, in addition, may be dismissed from the Force.

20. If any person who having been a member of the Force has resigned, or has been discharged or dismissed, or has otherwise ceased to hold and execute his office, does not forthwith deliver over everything whatsoever which may have been supplied to him for the execution of his office, or which may be in his custody by virtue thereof, to such person as the Commissioner may appoint in that behalf, he shall on summary conviction be liable to imprisonment for any period not exceeding three months; and any Justice may issue his warrant to any constable to search for and seize to the use of His Majesty all arms, ammunition, accoutrements, horses, saddles, bridles, clothing, and other appointments and things whatsoever which are not so delivered over.

On resignation or dismissal from Force, members to return all Government property in their possession.

21. Every person who, not being a member of the Force, has in his possession any arms or ammunition, or any article of clothing, accoutrements, or appointments supplied to any member of the Force, and is not able to satisfactorily account for his possession thereof, or puts on or assumes the dress, name, designation, or description of any member of the Force, is liable, in addition to any other penalty to which he may be liable, to a fine not exceeding fifty pounds.

Having possession of property of the Force.

22. Every person who, not being a member of the Force,—

- (a.) Gives or offers or promises to give to any member of the Force any bribe, pecuniary or otherwise, or makes any agreement with any member of the Force to induce him in any way to forego his duty; or
- (b.) Requests or incites or induces any member of the Force, or the members of the Force generally, or any section thereof, to act in any manner contrary to duty; or
- (c.) Connives at any act whereby any regulation of the Governor in Council in relation to the Force may be evaded,

Bribing, &c., members of the Force.

is liable on summary conviction to imprisonment for any period not exceeding one year or to a fine not exceeding fifty pounds.

23. Every person having been dismissed from any Police Force who, by concealing the fact of such dismissal, and any person who, by any false or forged certificates or any false representations, obtains admission into the Force, or who by any such means receives any pay, gratuity, or pension, is liable on summary conviction to imprisonment for any period not exceeding three months.

Penalty for gaining admission to Force by false representations.

24. (1.) No member of the Force shall during the time he continues in the Force take any part in any election of a member of the General Assembly otherwise than by voting, or in any manner influence or seek to influence any other elector at any such election.

Members of Force not to engage in politics otherwise than by voting.

(2.) Every member of the Force who commits an offence against this section is liable on conviction to a fine not exceeding twenty-five pounds; but nothing herein shall subject any member of the Force to any penalty for any act done by him in the discharge of his duty at or concerning any election.

*Miscellaneous Provisions.*

Minister may  
appoint Committees  
of Inquiry.

25. (1.) The Minister may from time to time appoint a Committee of Inquiry, consisting of commissioned officers of the Force, for the purpose of investigating and reporting to the Commissioner on the claim of any member or members of the Force with respect to their promotion, pay, clothing, or leave of absence, or on any other matter connected with the Force.

(2.) Any member of the Committee may issue summonses for the attendance of witnesses, and may examine on oath any person respecting the matter of the investigation, and may administer oaths to any such person.

(3.) Every person so summoned who does not attend at the time and place named in the summons, or who refuses to be sworn, or, being sworn, refuses to give evidence or answer any question lawfully put to him, is liable to a fine of five pounds, and such fine may be imposed by the Committee.

Age of  
retirement.

26. Every member of the Force shall retire from the service on attaining the age of sixty-five years :

Provided that where in the opinion of the Governor the special circumstances of any case require that any member should remain in the Force after attaining the age aforesaid he may, by warrant under his hand, permit that member to remain in the Force for an additional period not exceeding six months.

Unclaimed goods  
lawfully in  
possession of Police  
Force to be sold  
by auction, and  
proceeds paid into  
Public Service  
Superannuation  
Fund.

27. (1.) Any goods and chattels which have lawfully come to the possession of any member of the Force and which are unclaimed shall, by the direction of the Commissioner, be sold and disposed of by public auction, a notice of such sale having been previously published three times in the *Gazette* and in the *New Zealand Police Gazette*, and in some newspaper circulating in the neighbourhood :

Provided that non-perishable goods shall be held twelve months before being sold.

(2.) The proceeds of every such sale, after deducting the costs thereof, shall be paid to and form part of the Public Service Superannuation Fund.

(3.) The Commissioner may, if he thinks fit, appoint any person, not being the holder of a license under the Auctioneers Act, 1908, to conduct any sale by auction under this section.

Sergeants and  
constables to  
execute  
warrants, &c., of  
Magistrates or  
Justices.

Execution of  
warrants by  
members of Force  
other than members  
to whom directed.

28. Every sergeant and constable shall obey and execute all the lawful summonses, warrants, executions, orders, and commands of any Magistrate or Justice issued through the Clerk of a Magistrate's Court.

29. Any process, warrant, or order of any Court or any Justice directed, delivered, or given to any sergeant or constable shall and may be executed and enforced by any other member of the Force or his assistants; and every such last-mentioned member of the Force and his assistants shall have the same rights, powers, and authorities for and in the execution of such process, warrant, or order as if the same had been originally directed to him or them expressly by name.

30. (1.) Where an action is brought against any member of the Force for any act done in obedience to the warrant or order of a Magistrate or Justice, such member shall not be responsible for any irregularity in the issuing of the warrant or order, or for want of jurisdiction in the Magistrate or Justice issuing the same.

Protection of police officers for acts done in obedience to warrant or order of Magistrate or Justice.

(2.) On the production of any such warrant or order, and on proof that the signature thereto is in the handwriting of the person whose name appears subscribed thereto, and that such person is reputed to be and acts as a Magistrate or Justice possessing jurisdiction in the case, and that the acts complained of were done in obedience to such warrant, the tribunal trying the said issue shall find a verdict for such member, and such member shall recover his costs of suit.

31. (1.) For the protection of persons acting in the execution of this Act, all actions against any person for anything done in pursuance of this Act shall be commenced within four months after the act committed, and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action.

Actions in respect of things done pursuant to this Act to be commenced within four months.

(2.) The plaintiff in any such action shall not recover if tender of sufficient amends is made before the action is brought, or if a sufficient sum of money is paid into Court by or on behalf of the defendant after such action is brought, together with the costs incurred up to that time.

(3.) If a verdict is given for the defendant, or the plaintiff is nonsuited or discontinues the action, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client; and, though a verdict is given for the plaintiff in any such action, he shall not have costs against the defendant unless the Judge or Magistrate before whom the trial is held certifies his approbation of the action and of the verdict obtained thereon.

32. (1.) When a member of the Force has taken possession of any goods other than goods distrained under the warrant of any Justice, and it is doubtful whether any person claiming such goods or which of any two or more persons so claiming is entitled to the possession thereof, a Magistrate, on the application of such member and in the presence of all the parties claiming the goods, or in the absence of any such parties who, having had reasonable notice of the hearing of such application, do not appear, may hear, receive, and examine evidence touching the matter of such application, and may order to whom the goods shall be delivered accordingly.

On application by member of Force, Magistrate to determine title to goods taken possession of by such member otherwise than pursuant to warrant.

(2.) If after the making of such order an action is commenced against the aforesaid member of the Force for the recovery of such goods or the value thereof, such order and the delivery of the goods in pursuance thereof may be given and shall be received in evidence in bar of such action; but such order or delivery shall not affect the rights or liabilities of the persons claiming such goods or to whom the same have been delivered as aforesaid.

Member of Force may call for assistance to secure prisoner, &c.

33. Any member of the Force when in the lawful execution of his duty may call upon any male bystander or passer-by, not being under the age of eighteen years, to aid or assist him to secure or convey any prisoner in his charge to a police-station or other place when reasonable necessity exists for calling for such assistance; and every such person who fails to aid or assist such member of the Force when so called upon is liable to a fine not exceeding ten pounds.

Persons holding communications with prisoners without authority may be arrested without warrant.

34. (1.) Every person who holds or attempts to hold any communication with any prisoner in the custody or charge of any member of the Force, or delivers or in any manner attempts to deliver or causes to be delivered to any such prisoner any article or thing whatsoever without the permission of such member of the Force or some responsible officer of the Force in charge of such member of the Force, is guilty of an offence, and is liable to be apprehended without warrant by any constable or other member of the Force, and shall be detained by such constable or any other member of the Force and kept in safe custody until he can be brought before a Magistrate or before two or more Justices, who shall have power to hear and determine such offence.

(2.) Every person who offends against this section is liable to a fine not exceeding twenty pounds.

Proceedings under Act to be taken summarily, and not to be quashed for want of form only.

35. All proceedings under this Act shall be had and taken in a summary way; and no complaint, conviction, order, or other proceeding under this Act shall be quashed or set aside or be deemed void or insufficient for want of form only, or be removed or removable by certiorari or other writ or process whatsoever into the Supreme Court.

Recovery of fines.

36. (1.) Except as hereinbefore specially provided, all fines payable under this Act shall be recovered as provided by the Justices of the Peace Act, 1908.

(2.) All fines so recovered from a member of the Force shall be paid into the Public Service Superannuation Fund, and all fines recovered from all other persons shall be paid into the Public Account and form part of the Consolidated Fund.

#### *Repeal and Savings.*

Repeal and savings.

37. (1.) The Police Force Act, 1908, is hereby repealed.

(2.) All Orders in Council, orders, warrants, appointments, enrolments, registers, regulations, records, instruments, and, generally, all acts of authority which originated under the said Act and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated:

Provided that in the case of current appointments, or engagements, or enrolments for specified terms each such term shall be computed from the date of its original commencement.

(3.) All matters and proceedings commenced under the Act hereby repealed and pending or in progress on the coming into operation of this Act may be continued, completed, and enforced under this Act.