

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 12 October 1965

Words struck out by the Committee of the Whole are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule.

Hon. Mr Allen

POLICE AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Police Act 1958

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

1. Short Title—This Act may be cited as the Police Amendment Act 1965, and shall be read together with and deemed part of the Police Act 1958* (hereinafter referred to as the principal Act).

*1958, No. 109

Amendments: 1961, No. 122; 1964, No. 20

No. 119—2

Price 1s.

2. Interpretation—Section 2 of the principal Act is hereby amended by adding the following definition:

“‘Tribunal’ means the Police Staff Tribunal established under this Act.”

3. New Part IV added to principal Act—The principal Act is hereby amended by adding the following new Part: 5

“PART IV

“THE POLICE STAFF TRIBUNAL

“67. **Police Staff Tribunal**—(1) There is hereby established a Tribunal to be known as the Police Staff Tribunal. 10

“(2) The Tribunal shall consist of three persons who shall be appointed by the Governor-General in Council on the recommendation of the Minister, and of whom—

“(a) One, to be the Chairman of the Tribunal, shall be a Judge or an additional Judge or a temporary Judge of the Court of Arbitration or a Stipendiary Magistrate, whose appointment as Chairman of the Tribunal is agreed upon by the Minister and the service organisations, or, in default of agreement, is recommended by the Minister: 15 20

“(b) One shall be appointed as the Government member:

“(c) One shall be appointed on the nomination of the service organisation if there is only one service organisation or, if there are two or more, on the joint nomination of the service organisations, or, in default of a joint nomination, after consultation by the Minister with each service organisation. 25

“(3) Except as provided by subsection (4) of this section, every member of the Tribunal shall be appointed for a term of three years but may from time to time be reappointed or may at any time be removed from office by the Governor-General in Council for disability, insolvency, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister. 30 35

“(4) If any member of the Tribunal dies, or is removed from office, or resigns, the vacancy so created shall be filled by the appointment, in the manner prescribed by subsection (2) of this section for appointment to the vacant office, of some person qualified for that office. Every person so appointed shall be appointed for the residue of the term for which his predecessor was appointed. 40

“(5) Unless he sooner vacates his office as provided by subsection (4) of this section, every member of the Tribunal shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed
5 may have expired.

“(6) The powers of the Tribunal shall not be affected by any vacancy in the membership thereof.

“(7) The presence of the Chairman and of at least one other member shall be necessary to constitute a sitting of the
10 Tribunal.

“(8) The decision of a majority of the members present at a sitting of the Tribunal shall be the decision of the Tribunal. If the members present are equally divided in opinion, the decision of the Chairman shall be the decision of the Tribunal.

15 “68. **Deputies**—(1) In the event of the incapacity of the Chairman or any other member of the Tribunal by reason of illness, absence, or any other cause, the Governor-General in Council may, in the manner prescribed by section 67 of this Act for appointments to the office concerned, appoint
20 some other person qualified for appointment to that office to act in the place of the Chairman or other member.

“(2) Every person so appointed shall, while the incapacity continues, be deemed for all purposes to be the Chairman or other member of the Tribunal, as the case may be.

25 “(3) No appointment of a deputy and no acts done by him as such, and no acts done by the Tribunal while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

30 “69. **Tribunal to be Commission of Inquiry**—(1) For the purpose of carrying out its functions under this Act, the Tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908, and, subject to the provisions of this Act, all the provisions of that Act
35 shall apply accordingly.

“(2) The Chairman of the Tribunal, or any other person purporting to act by direction or with the authority of the Chairman, may issue summonses requiring the attendance of witnesses before the Tribunal, or the production of docu-
40 ments, or may do any other act preliminary or incidental to the hearing of any matter by the Tribunal.

“70. Fees and travelling allowances—(1) The Tribunal is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

“(2) There shall be paid out of money appropriated by Parliament for the purposes of this Act to the members of the Tribunal and to assessors appointed under this Part remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the assessors (as well as the members of the Tribunal) were members of a statutory Board within the meaning of that Act.

“71. Functions of Tribunal—(1) The Tribunal shall have the following functions in relation to the remuneration and conditions of service of members of the Police, that is to say—

“(a) To make principal orders and other orders as hereinafter provided:

“(b) To make recommendations to the Minister, upon application made as hereinafter provided, in respect of any matters other than the matters in respect of which principal orders may be made.

“(2) No principal order shall be made in respect of remuneration payable to any member of the Police in excess of the amount for the time being prescribed by Order in Council as the maximum amount in respect of which principal orders may be made.

“(3) In exercising its powers and functions under this Act, the Tribunal shall have regard to—

“(a) The special conditions applicable to employment in the Police:

“(b) So far as any such comparison is possible, the levels of remuneration received by and other matters affecting the remuneration of persons doing work of comparable responsibility in employment outside the Police:

“(c) The need to maintain adequate margins of remuneration between ranks in the Police:

“(d) The need to provide sufficient inducement for recruitment:

“(e) Such other matters as the Tribunal considers relevant or as may be agreed upon between the Commissioner and the service organisations concerned.

“72. Principal orders as to pay and conditions of service—

(1) Subject to the provisions of this Part of this Act, the Tribunal may from time to time in respect of members of the Police make principal orders not inconsistent with this Act
5 for all or any of the following purposes:

- “ (a) Prescribing salaries or scales of salaries and overtime rates for ranks of police and for subdivisions of those ranks as those subdivisions are prescribed by the Tribunal:
- 10 “ (b) Prescribing the terms and conditions on which relieving, travelling, lodging, meal, and other allowances and expenses may be granted and prescribing the rates of any such allowances or expenses as aforesaid:
- 15 “ (c) Prescribing clothing allowances and allowances payable in respect of work warranting the payment thereof.

“ (2) Every principal order shall continue in force until it is revoked by a subsequent principal order.

20 “ (3) Subject to the provisions of this Part, no principal order shall be revoked until it has been in force at least one year. For the purpose of this subsection a principal order shall be deemed to come into force on the earliest date on which any provision of the order comes into force.

25 “ (4) No principal order shall be deemed to be invalid on the ground that it delegates to or confers on the Commissioner or any other person any discretionary authority.

“73. Power to amend principal orders—Subject to the provisions of this Part of this Act, the Tribunal may from
30 time to time during the currency of any principal order make orders for all or any of the following purposes:

- “ (a) To amend the provisions of the principal order for the purpose of remedying any defect therein or giving fuller effect thereto:
- 35 “ (b) To amend the provisions of the principal order for such purpose and in such manner as the Tribunal is satisfied that all the parties to the application for the principal order have agreed upon:
- 40 “ (c) To interpret the provisions of the principal order or of any order amending the principal order.

“74. **Power to consolidate orders**—Notwithstanding anything to the contrary in this Part, the Tribunal may make principal orders consolidating any existing orders, and may include therein any matters in respect of which principal orders may be made under section 72 of this Act: 5

“Provided that where a consolidating order is made, all limitations of time applicable under this Act to the making of any order or to any matter ancillary thereto shall apply to every provision of any such consolidating order in all respects as if the consolidating order had not been made. 10

“75. **Application for order or recommendation to be made to Tribunal and served on respondent**—(1) Any service organisation or the Commissioner may at any time apply in writing to the Tribunal for a principal order or other order or for a recommendation in accordance with the provisions of this Part of this Act. Any such application may be made by two or more service organisations jointly. 15

“(2) An application under this section shall be deemed to be made on the day on which it is lodged with the Tribunal.

“(3) Except as provided by sections 74 and 76 of this Act, no application for a principal order to replace an existing principal order shall be made until the existing order has been in force for at least ten months. 20

“(4) In the case of an application made by any service organisation the Commissioner shall be the respondent. 25

“(5) In the case of any application made by the Commissioner every service organisation in respect of whose members or any of them an order or recommendation is applied for shall be a respondent.

“(6) Every application under this section shall name the applicant and the respondent or respondents and shall contain a statement of any claims made by the applicant sufficient to show the general nature of the claims. 30

“(7) A copy of every application shall as soon as it is made be sent by the applicant to the respondent, to every service organisation that is not a respondent, and to *(the Secretary to the Treasury)* the Minister of Finance and the Minister in Charge of Police. 35

“76. **Earlier applications for new principal order**—(1) Notwithstanding the provisions of sections 72 and 74 of this Act, an application for a principal order to replace an existing principal order may, with the consent of the Tribunal, be made earlier than authorised under subsection (3) of section 75 of this Act if the Tribunal is satisfied that circumstances 40

have changed to such an extent since the existing principal order was made that an application for a new principal order is justified.

5 “(2) In considering an application for consent under sub-section (1) of this section the Tribunal shall have regard to—

“(a) Any substantial change in the level of the cost of living since the existing principal order was made:

“ (b) Such other matters as the Tribunal considers relevant.

10 “(3) Where an application for a principal order is made under this section, the Tribunal, if it thinks fit, may revoke the existing principal order notwithstanding that the period specified in subsection (3) of section 72 of this Act has not elapsed.

15 “77. **Statement by respondent**—(1) At any time within one month after a copy of any application is sent to any respondent under section 75 of this Act or within such further time as the Tribunal may in any case allow, the respondent may lodge with the Tribunal a statement in detail admitting such of the claims in the application as he desires to admit or making a
20 counter proposal with respect to all or any of the claims in the application.

“ (2) A copy of every such statement shall at the same time be sent by the respondent to the applicant.

25 “78. **Amendment of applications and statements**—Subject to the provisions of any rules or regulations made under this Part of this Act, the person making any application or statement under this Part of this Act may amend it at any time before the final determination of the application by the Tribunal.

30 “79. **Orders by consent**—Where all the parties to any application for a principal order or other order agree in writing upon all or any of the terms to be incorporated in the order, the Tribunal may, if it thinks fit, in making its order incorporate in the order all or any of the terms so agreed
35 upon without making inquiry into the matters to which those terms relate except so far as may be necessary to ensure that the order is in accordance with this Part of this Act.

40 “80. **Hearing and adjournments**—(1) At any time after the respondent’s statement in reply to any application has been lodged with the Tribunal or after the expiration of the time allowed for lodging the respondent’s statement, the Tribunal shall appoint a day and place for the hearing of the application and shall notify the applicant and the respondent of the day and place so appointed.

“(2) Unless the Tribunal, pursuant to a request by any party to the application, otherwise approves, the day so appointed shall not be earlier than one month after the making of the application.

“(3) The Tribunal may adjourn the hearing of any application from time to time and from place to place. 5

“(4) The Tribunal may receive as evidence any statement, document, information, or matter which may in its opinion assist it to deal effectually with the matters before it, whether or not the same would be admissible in a court of law: 10

“Provided that any party to an application may apply to the Tribunal for permission to cross-examine any person in respect of any evidence adduced under this subsection, and the Tribunal, if it is of the opinion that the evidence would not be admissible in a court of law in the absence of the opportunity for any such cross-examination, shall grant permission accordingly. 15

“81. **Assessors**—(1) For the purposes of the hearing of any application the applicant may appoint one assessor and the respondent, or the respondents jointly if there are two, may appoint one assessor: 20

“Provided that if the applicant or the respondent consists of more service organisations than one, each service organisation may appoint an assessor and the Commissioner may appoint a number of assessors equivalent to the number appointed by the service organisations. 25

“(2) The assessors appointed in respect of any application shall be entitled to be present and to take part in the hearing and determination of that application as if they were members of the Tribunal, but they shall not be entitled to vote and shall not be parties to any decision of the Tribunal: 30

“Provided that the members of the Tribunal other than the assessors may at any time deliberate in private on the application, or as to any question arising in the proceedings. 35

“(3) The Tribunal’s powers in relation to any application shall not be affected by any failure to appoint an assessor or by the absence of any assessor.

“82. **Advocates**—At the hearing by the Tribunal of any application the applicant and the respondent may be represented by an advocate or advocates. No person shall be an advocate unless he is employed in the Police or any other branch of the Government service or is an officer or servant of a service organisation: 40

“Provided that a party to any proceedings under this Part may be represented by a barrister or solicitor—

“(a) Where any question of law arises; or

“(b) With the consent of all the parties in any other case.

5 “83. **Rules of procedure**—(1) Subject to the provisions of this Act and of any regulations made under this Act, the Tribunal may from time to time make rules for regulating its procedure.

10 “(2) Subject to the provisions of this Act and of any regulations made under this Act, the Tribunal may regulate its procedure in such manner as it thinks fit.

15 “84. **Effect of orders**—(1) Every order made by the Tribunal in accordance with this Part of this Act shall be binding on the Crown and on every member of the Police whom the order purports to affect.

20 “(2) Every order or provision of an order shall be made by the Tribunal so as to come into force on a day to be specified in that behalf in the order being either before or after the date of the order but in the case of a principal order replacing an existing principal order (except as provided by sections 74 and 76 of this Act) not earlier than one year after the date of the coming into force of the existing order.

25 “(3) Every order or provision of an order in respect of which no date is specified as aforesaid shall come into force on the day after the date of the order.

30 “85. **Proceedings before Tribunal not to be appealed against**—Proceedings before the Tribunal shall not be held bad for want of form. No appeal shall lie from any order of the Tribunal, and, except upon the ground of lack of jurisdiction, no proceeding or order as aforesaid shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

35 “86. **Attempts to influence improperly the decisions of the Tribunal**—(1) No person shall in any manner attempt to influence the Tribunal or any member of the Tribunal in respect of any matter before the Tribunal.

40 “(2) Nothing in this section shall be so construed as to prohibit any person from giving information or advice or making representations with respect to any such matter at the request or invitation of the Tribunal, or as an assessor, or as an advocate or witness before the Tribunal.

“(3) Every person who commits a breach of any of the provisions of this section commits an offence, and shall be liable on summary conviction to a fine not exceeding fifty pounds.”

4. Limitation of powers of Committees of Inquiry— 5
Subsection (1) of section 56 of the principal Act is hereby amended by omitting the words “and, without limiting the general application of this subsection, any such Committee may be appointed to investigate as to promotion, pay, and conditions of service in the Police” and substituting the words 10
“but any such Committee shall not investigate any matter in respect of which a principal order may be made by the Police Staff Tribunal under Part IV of this Act.”

5. Consequential amendment—(1) Paragraph (e) of subsection (2) of section 64 of the principal Act is hereby 15
repealed.

(2) Notwithstanding the repeal of the said paragraph (e), any provision of any Order in Council under that paragraph prescribing the rates of salary, allowances, and expenses payable to members of the Police shall remain in force until 20
replaced by a principal order made by the Tribunal under Part IV of this Act.

6. Equal pay provisions—Subsection (1) of section 2 of the Government Service Equal Pay Act 1961 is hereby amended 25
by inserting in the definition of the term “wage-fixing authority”, after paragraph (b), the following paragraph:
“(bb) The Police Staff Tribunal:”.