

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 15 October 1969.

Words struck out by the Committee 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, as follows:

1. Short Title—This Act may be cited as the Police Amendment Act 1969, 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; 1965, No. 57; 1968, No. 100

2. New heading and sections inserted—(1) The principal Act, as amended by section 3 of the Police Amendment Act 1965, is hereby further amended by repealing the heading to Part IV.

(2) The principal Act, as so amended, is hereby further amended by inserting in Part IV, before section 67, the following heading and sections: 5

“REMUNERATION AND CONDITIONS OF EMPLOYMENT

“66A. Determinations as to salary, allowances, and expenses—(1) Subject to the provisions of this Part of this Act, the Commissioner may from time to time, on his own motion or following an application by a service organisation, issue determinations prescribing— 10

“(a) Salaries or scales of salaries and overtime rates for ranks of police and for subdivisions of those ranks as those subdivisions are prescribed by determination or Tribunal order: 15

“(b) The terms and conditions on which relieving, travelling, lodging, meal, and other allowances and expenses, including clothing allowances and allowances payable in respect of work warranting payment, may be granted: 20

“(c) The rates of any such allowances and expenses.

“(2) No determination under this section shall be issued without the prior consent of the Minister of State Services. 25

“(3) Every determination under this section shall be published in the *Police Gazette*.

“(4) Except as otherwise provided in this Act the remuneration and conditions of employment of members of the Police shall be prescribed by the Commissioner by determination under this Part of this Act and not otherwise. 30

“66B. Steps to be taken before issue of a determination—(1) Before the Commissioner issues a determination, other than a determination arising out of an application by a service organisation under section 66C of this Act, he shall give to every service organisation any member of which would be affected by the proposed determination notice of his intention to issue the determination, which notice shall include a copy of the proposed determination in draft form or shall otherwise fully indicate the purpose and effect thereof. 35 40

“(2) At any time within 14 days after the date on which it receives notice of intention to issue a determination as aforesaid, a service organisation may give notice to the Commissioner that it wishes to negotiate on the proposed determination, and shall indicate the grounds on which it objects to the proposed determination.

“(3) Any service organisation that gives notice to the Commissioner that it wishes to negotiate on a proposed determination shall commence negotiations with the Commissioner within 14 days after the date on which notice was given to the Commissioner, and (except as provided in subsection (4) of this section) the determination to which objections have been raised shall not be issued until the negotiation has taken place.

“(4) If a service organisation does not give notice to the Commissioner that it wishes to negotiate on a proposed determination, or if, having given notice of its intention to negotiate, it fails to commence negotiations within 14 days after the date on which the notice is given, or fails in the opinion of the Commissioner to pursue the negotiations with due diligence, the Commissioner may proceed to issue the proposed determination.

“(5) At any time within 2 months (or such extended period as the Commissioner may in any case notify to the service organisations to which notice is given under subsection (1) of this section) after the date of the issue of any determination made under this section, any service organisation whose members are affected by the determination may apply in writing to the Tribunal for an order of the Tribunal varying the determination.

“66c. Application for review of remuneration or conditions of employment—(1) Any service organisation whose members are affected may apply to the Commissioner for a review of any matter prescribed under this Part of this Act in relation to any class or classes of members of the Police at any time after the expiration of 10 months from the date on which any determination (other than an amending determination) made by the Commissioner under this Part of this Act or any order issued by the Tribunal under this Part of this Act (being a determination or order that relates to that matter and affects the said class or any of the said classes) comes into force.

“(2) Where the Commissioner has made a determination following on the application of a service organisation, the service organisation may apply to the Tribunal for an order in respect of only such portions of the determination as had not given full effect to the application of the service organisation to the Commissioner. 5

“(3) In any case where no determination is issued by the Commissioner, as a result of an application made to him by a service organisation, within 2 months after the date on which the application is lodged with him, the application may be forwarded by the service organisation to the Tribunal, and in that event shall be deemed to be an application for an order of the Tribunal. 10

“66D. **Amending determinations**—(1) Subject to the provisions of this Part of this Act, the Commissioner may at any time and from time to time during the currency of any determination or order made under this Part of this Act make determinations for all or any of the following purposes: 15

“(a) To amend the provisions of any determination or Tribunal order for the purpose of remedying any defect therein or giving fuller effect thereto: 20

“(b) To amend the provisions of any determination or Tribunal order for such purpose and in such manner as may be agreed in writing between the Commissioner and every service organisation having any member affected by matters covered by the determination or order: 25

“(c) To interpret the provisions of any determination or Tribunal order:

“(d) To amend the determination or Tribunal order for the purpose of conforming with any decision of the Government of New Zealand that is conveyed to the Commissioner in writing by the Minister of State Services, and arises from a recommendation of the Advisory Committee on Higher Salaries in the State Services, or to make consequential adjustments to salary rates following any such decision: 30 35

“(e) To amend any determination or Tribunal order for the purpose of prescribing adjustments to salary rates resulting from a half-yearly survey conducted by the Department of Labour under section 24 of the State Services Remuneration and Conditions of Employment Act 1969. 40

“(2) At any time within 2 months after the date of the issue of any amending determination made under paragraph (a), paragraph (b), paragraph (c), or paragraph (e) of subsection (1) of this section, any service organisation whose

5 members are affected thereby may apply in writing to the Tribunal, and the Tribunal shall have jurisdiction to hear and determine any such application, and may make such order as it thinks fit varying, confirming, or cancelling the amending determination.

10 “(3) Without restricting the foregoing provisions of this section, it is hereby declared that at any time within 2 months after the issue of any determination under this Act the Commissioner may make an amending determination cancelling or varying the previous determination.

15 “(4) A determination issued under this Part of this Act may be revoked or amended after the expiration of 1 year from the date on which it came into force, but shall not be revoked or amended before the expiration of that year except as provided in this Part of this Act.

20 “66E. **Consolidating determinations**—Notwithstanding anything to the contrary in this Act, the Commissioner may make determinations consolidating any existing determinations or Tribunal orders or both:

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

30 “66F. **Criteria**—(1) In exercising their powers and functions under this Part of this Act, the Commissioner and the Tribunal shall have regard to—

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

35 “(b) So far as 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:

40 “(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 Commissioner or the Tribunal, as the case may be, considers relevant, or as may be agreed upon between the Commissioner and the service organisations concerned.

“(2) No determination under paragraph (b) or paragraph (c) of subsection (1) of section 66A of this Act in respect of a matter where the conditions and circumstances are the same in any other branch of the State services and the Police, and no Tribunal order in respect of any such matter, shall contain any provision in respect of the matter that is more favourable than a corresponding provision of any determination or Tribunal order made under the State Services Remuneration and Conditions of Employment Act 1969, or under the corresponding provisions of any former enactment, and applicable to that other branch of the State services.

“(3) No determination or Tribunal order made under this Part of this Act prescribing adjustments to salary rates resulting from a half-yearly survey conducted by the Department of Labour shall prescribe adjustments in respect of basic salary more favourable than the corresponding adjustments made for other branches of the State services.

“66G. **Jurisdiction to prescribe salaries**—(1) The maximum salary that the Commissioner may prescribe under this Part of this Act shall be that for the time being fixed by Order in Council under section 18 of the State Services Remuneration and Conditions of Employment Act 1969.

“(2) Salaries in excess of that maximum may be paid in respect of such positions and at such rates and under such conditions as may be prescribed by *(the Minister of State Services) Order in Council*.”

3. Police Staff Tribunal—(1) Section 67 of the principal Act, as inserted by section 3 of the Police Amendment Act 1965, is hereby amended by repealing paragraph (a) of subsection (2), and substituting the following paragraph:

“(a) One, who shall be the Chairman of the Police Staff Tribunal, shall be the Chairman of the State Services Tribunal.”

(2) Section 67 of the principal Act is hereby further amended by omitting from subsection (3) the words “a term of three years”, and substituting the words “a term not exceeding three years”.

4. Deputies—Section 68 of the principal Act, as inserted by section 3 of the Police Amendment Act 1965, is hereby amended—

- 5 (a) By omitting from subsection (1) the words “the Chairman or any other member of the Tribunal”, and substituting the words “any member of the Tribunal other than the Chairman”:
- (b) By omitting the words “Chairman or other” in each place where they appear:
- 10 (c) By omitting from subsection (2) the words “as the case may be”.

5. Powers of Tribunal—The principal Act is hereby amended by repealing section 71, as inserted by section 3 of the Police Amendment Act 1965, and substituting the following section:

15 “71. (1) The Tribunal shall, subject to the limitations and provisions specified in this Part of this Act, have jurisdiction to hear and determine any application made or referred to it under subsection (5) of section 66B, or subsection (2) of section 66C, or subsection (2) of section 66D of this Act.

20 “(2) The Tribunal shall have power to alter any rate of remuneration or condition of employment prescribed in a determination in respect of employees in the Police who receive a rate of remuneration not exceeding the amount for 25 the time being prescribed by Order in Council.

“ (3) Any determination of the Commissioner shall continue in force notwithstanding the lodgment of an application in respect of that determination with the Tribunal, and shall remain in force until varied by an order of the Tribunal or a 30 subsequent determination.

“ (4) In exercising its functions in terms of this section, the Tribunal shall have regard to all the matters to which the Commissioner is directed to have regard under the provisions of this Part of this Act when making the determination in 35 respect of which the application has been lodged with the Tribunal.

“ (5) In determining any application in respect of which it may issue an order, the Tribunal may confirm, modify, or cancel the decision of the Commissioner which is the subject 40 of the application.”

6. Applications—The principal Act is hereby amended by repealing section 72, as inserted by section 3 of the Police Amendment Act 1965, and substituting the following section:

“72. (1) Any application made pursuant to section 71 of this Act shall be in writing in accordance with the provisions of this Part of this Act, and shall be invalid unless the provisions of this Part of this Act in respect of the making of applications to the Tribunal have first been complied with. 5

“(2) Any application under this section shall be deemed to be made on the day on which it is lodged with the Tribunal. 10

“(3) Every application under this section shall name the applicant and the class or group involved (if any), and the type of order required, and shall contain a detailed statement of the claims made by the applicant. 15

“(4) The applicant shall, immediately the application is lodged with the Tribunal, deliver to the Commissioner and to every service organisation a copy of the application bearing a date stamp of the Tribunal, so as to verify it as being a copy of an application lodged with the Tribunal and to indicate the date on which it was received.” 20

7. Orders of the Tribunal—(1) Section 84 of the principal Act (as inserted by section 3 of the Police Amendment Act 1965) is hereby amended by adding the following subsections: 25

“(4) Every order of the Tribunal shall continue in force until it is revoked by a subsequent determination of the Commissioner or order of the Tribunal. 25

“(5) No order of the Tribunal 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.” 30

(2) The said section 84 of the principal Act is hereby further amended by omitting from subsection (2) the words “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”. 35

8. Repeals and savings—(1) The following enactments are hereby repealed:

- (a) Sections 30A, 73 to 77, 79, and 85 of the principal Act: 40
- (b) Subsections (1) and (2) of section 2 of the Police Amendment Act 1968.

(2) Notwithstanding the repeal of section 30A of the principal Act, any general instruction issued by the Commissioner under that section shall remain in force until it is replaced by a determination of the Commissioner or a
5 Tribunal order.

(3) Every allowance that was payable immediately before the commencement of this section shall continue to be payable until a determination is made in respect of that allowance.