

## POLICE AMENDMENT BILL

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### EXPLANATORY NOTE

This Bill amends the Police Act 1958.

*Clause 1* relates to the Short Title.

*Clause 2* creates a new rank of Deputy Assistant Commissioner between that of Assistant Commissioner and that of Chief Superintendent.

*Clause 3* amends section 28 of the principal Act which provides that members of the Police may be required to retire if they are found to be substantially medically unfit. The amendment makes it clear that the unfitness may relate to the mental as well as the physical health of the member.

*Clause 4* provides that where a member is suspended from duty pending the outcome of criminal proceedings against him, and he is subsequently convicted, the period of suspension may be extended for a further 28 days to enable the Commissioner to decide whether the member should be dismissed under section 35 of the principal Act.

*Clause 5* enables the Commissioner to appoint 2 or more persons to undertake an inquiry into the conduct of a non-commissioned officer or a constable. At present, the Commissioner may appoint only 1 person to conduct such an inquiry.

*Clause 6* provides that where an inquiry has been held into the conduct of any member of the Police and he appeals against the result of the inquiry or the penalty imposed, the Commissioner may suspend the member pending the determination of the appeal. Any such suspension may be with or without pay, or without such part of the member's pay as the Commissioner directs.

*Clause 7* entitles the Commissioner to appeal to the Appeal Tribunal against a finding of a disciplinary inquiry as being erroneous on a point of law.

*Clause 8* widens the power of a member of the Police to appear before various judicial bodies by another member. At present, this power exists only in respect of a Magistrate's Court, the Licensing Control Commission, or a Licensing Committee. The amendment extends this list to include any other Commission, Inquiry, Board, or Tribunal.

*Clause 9* empowers the Commissioner to delegate any of his functions and powers under the principal Act to any member of the Police of the rank of Inspector or above.

*Hon. Mr McCready*

## POLICE AMENDMENT

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### 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  
5 the same, as follows:

1. **Short Title**—This Act may be cited as the Police Amendment Act 1976, and shall be read together with and deemed part of the Police Act 1958\* (hereinafter referred to as the principal Act).

\*Reprinted, 1969, Vol. 4, p. 2747  
Amendments: 1972, No. 32; 1973, No. 103

**2. Deputy Assistant Commissioners—**(1) The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. The Governor-General may from time to time appoint, from the commissioned officers for the time being holding the rank of Chief Superintendent or Superintendent, such Deputy Assistant Commissioners of Police as he considers necessary.”

(2) The principal Act is hereby amended by repealing section 6, and substituting the following section:

**“6. Certain commissioned officers to hold office during pleasure of Governor-General—**The Commissioner, the Deputy Commissioner, each Assistant Commissioner, each Deputy Assistant Commissioner, and each Chief Superintendent shall hold office during the pleasure of the Governor-General.”

**3. Retirement of medically unfit—**Section 28 (1) of the principal Act is hereby amended by inserting, after the words “substantially medically unfit”, the words “(whether the unfitness relates to the physical or mental condition of the member)”.

**4. Suspension pending hearing of charge—**Section 32 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Where the conduct of the member is the subject of criminal proceedings the period of suspension under this section may be extended for such further period, not exceeding 28 days after the date on which the proceedings are finally determined, as the Commissioner considers necessary to enable him to consider whether the member should be dismissed under section 35 of this Act.”

**5. Inquiries as to breaches of duty by non-commissioned officer or constable—**Section 33 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Notwithstanding anything in subsection (2) or subsection (3) of this section, in any case to which either of those subsections applies the Commissioner may, if he thinks it desirable to do so, appoint 2 or more persons to conduct the inquiry.”

**6. Appeal following inquiry into breach of duty—**

(1) Section 34 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

- 5 “(3) Pending the hearing of the appeal any dismissal of the appellant shall remain in abeyance, but the Commissioner may suspend the member from duty with or without pay, or without such part of his pay, as the Commissioner so directs.”
- 10 (2) Section 5 of the Police Amendment Act 1973 is hereby consequentially repealed.

**7. Appeal by Commissioner against finding of disciplinary proceedings—**The principal Act is hereby amended by inserting, after section 34, the following section:

- 15 “34A. (1) Where any inquiry has been held under section 33 of this Act into the conduct of any member of the Police and the Commissioner is dissatisfied with the finding, or with any part of the finding, of the inquiry as being erroneous in law, he may appeal to the Appeal Board against the
- 20 finding, or that part of the finding, of the inquiry on a question of law only.

“ (2) Every such appeal shall be commenced by a notice of appeal delivered to the Appeal Board within 14 days after the result of the inquiry is made known to him. The Commissioner shall serve a copy of the notice on the member of the Police whose conduct was the subject of the inquiry.

“ (3) The Appeal Board shall hear and determine the question or questions of law arising on any case referred to it under this section and shall—

- 30 “(a) Recommend to the Minister that the matter be referred back to the person or persons who conducted the original inquiry for the rehearing of the matter in accordance with the Appeal Board’s determination of that question or those questions;
- 35 or

“ (b) Make such other recommendations to the Minister in relation to the case as it thinks appropriate; and the Minister may thereupon make such order in the matter as he thinks fit.

- 40 “(4) Where a case is referred back for rehearing—
- “ (a) The provisions of sections 32 to 34 of this Act, so far as they are applicable and with the necessary modifications, shall apply:

“(b) The procedure to be followed at the rehearing shall be the same as that laid down by or under this Act for the conduct of inquiries under section 33 of this Act:

“(c) The Minister may, if he is satisfied that the person or any of the persons who conducted the original inquiry is, by reason of absence, illness, or other sufficient cause, incapable of rehearing the matter, appoint any other person whom, in accordance with the provisions of section 32 of this Act, he could have appointed to conduct the original inquiry.”

**8. Member may appeal before various bodies by another member**—Section 40 of the principal Act is hereby amended by inserting, after the words “or before a Licensing Committee”, the words “or before any other Commission, Inquiry, Board, or Tribunal”.

**9. Delegation of powers by Commissioner**—The principal Act is hereby amended by inserting, before section 56, the following section:

“55A. (1) The Commissioner may from time to time, by writing under his hand, either generally or particularly, delegate to such member or members of the Police, of a rank not less than Inspector, as he thinks fit all or any of his powers, authorities, duties, and functions under this Act or any regulations made under this Act.

“(2) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

“(3) Subject to subsection (1) of this section, any delegation under this section may be made to a specified member of the Police or to members of the Police of a specified rank or class, or may be made to the holder or holders for the time being of a specified office or class of offices.

“(4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner of Police.

“(5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Commissioner of Police by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of the Commissioner.

“(6) The revocation of any such delegation shall not affect in any way anything done under the delegated authority.”