

POLICE (No. 2).

3° Elizabeth II., No. XXV.

No. 25 of 1954.

AN ACT to amend the Police Act, 1892-1953.

[Assented to 20th October, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation

1. (1) This Act may be cited as the *Police Act Amendment Act (No. 2), 1954.*

(2) In this Act the Police Act, 1892-1953,

Act 55 Victoriæ No. 27, 1892, as reprinted with amendments to and including Act No. 15 of 1952 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938 and further amended by Acts Nos. 28 of 1953 and 6 of 1954,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Police Act, 1892-1954.

2. This Act shall come into operation on a day to be fixed by proclamation. Commence-
ment.

3. Section three of the principal Act is amended by adding after line eight the following:— S. 3 amended.

PART IIA.—POLICE APPEAL BOARD, ss. 33A to 33J.

4. Section twenty-three of the principal Act is repealed and re-enacted as follows:— S. 23 repealed
and
re-enacted.

23. The Commissioner or some other commissioned officer of the Police Force appointed by the Commissioner for the purpose may examine on oath into any charge of insubordination, neglect of duty or misconduct against the discipline of the Force against any non-commissioned officer, and, if the Commissioner considers the charge is satisfactorily proved, he may inflict a fine not exceeding fifteen pounds on the accused or order his reduction in rank, discharge or dismissal from the Force.

5. Section twenty-four of the principal Act is amended by— S. 24
amended

- (a) substituting for the word "Minister" in line two the word, "Commissioner";
- (b) substituting for the word "three" in line six the word "ten";
- (c) insert after the word, "pounds" in line six, the words, "or order his discharge or dismissal from the Force";
- (d) deleting the words, " , or to imprisonment for any period of not more than three days, and every such sentence, if by an officer other than the Commissioner shall be subject to the approval of the Minister" in lines six to ten inclusive;
- (e) deleting the words, "or imprisonment" in lines fourteen and fifteen and sixteen.

S. 26
repealed.

6. Section twenty-six of the principal Act is repealed.

Part IIA
added.

7. The principal Act is amended by adding after section thirty-three the following heading and sections:—

PART IIA.—POLICE APPEAL BOARD.

Inter-
pretation.

33A. In this Part unless the context requires otherwise—

“Board” means the Police Appeal Board constituted under this Part;

“chairman” means the chairman of the Board;

“Commissioner” means the person for the time being holding the office of Commissioner of Police;

“member” means a member of the Board.

Constitution
of Board.

33B. (1) A Police Appeal Board is constituted in accordance with this Part.

(2) The Board consists of three members—

(a) a Stipendiary, Police or Resident Magistrate appointed by the Governor and who shall be chairman;

(b) a person appointed by the Commissioner; and

(c) a member of the Police Force elected by the members of the Police Force in manner prescribed.

Allowances.

(3) Each member of the Board is entitled to such allowances for out of pocket expenses as the Minister may determine.

Tenure of
office.

33C. (1) Subject to the provisions of subsection (2) of this section, every member shall hold office until the thirtieth day of June in the second year after the year in which he was appointed or elected and at the expiration of his term is eligible for re-appointment.

(2) If any member—

- (a) dies or resigns his office;
- (b) becomes incapable of continuing as a member;
- (c) is guilty of misbehaviour or of incapacity;
- (d) ceases to hold the required qualifications to be a member;
- (e) is required to carry out duties the location or nature of which in the opinion of the Minister make it inconvenient or undesirable that he continue as a member,

his office on the Board becomes vacant and a successor shall be appointed, who shall hold office for the residue of the term for which his predecessor was appointed.

(3) (a) Where the office of the elective member becomes vacant or the person holding that office is for any reason temporarily unable to act in his office, the member of the Police Force who received the second highest number of votes at the last previous election held under this Part, shall be appointed by the executive of the Police Union of Workers of Western Australia to fill the vacancy for the remainder of the term for which his predecessor was elected, or shall be so appointed to be acting member during the period of inability as the case may be.

(b) Where there is only one candidate at the election or if for any reason the person who received the second highest number of votes at the election is unable to act the executive of the Union may appoint a member of the Police Force to fill the vacancy or be the acting member.

(4) Where the office of the chairman or the member appointed by the Commissioner becomes vacant or the person holding the office is temporarily unable to act in his office, the Governor may appoint a Stipendiary, Police or Resident Magistrate or the Commissioner may appoint a person as the case may require, to fill the

vacancy for the remainder of the term for which his predecessor was appointed or to be acting Chairman or member during the period of inability as the case may be.

Appointment
of
secretary.

33D. The Minister shall appoint a person to be secretary to the Board, who shall convene all meetings of the Board, keep a record of all its proceedings and decisions and carry out such other duties as may be prescribed.

Right of
appeal.

33E. Where under the provisions of this Act a non-commissioned officer or constable of the Police Force has been convicted upon a summary investigation by the Commissioner or other officer appointed by the Commissioner, of insubordination, neglect of duty or misconduct against the discipline of the Police Force, if the non-commissioned officer or constable is punished by the Commissioner or other officer as the case may be, by being discharged or dismissed from the Police Force, suspended from duty, reduced in rank, fined, or transferred by way of punishment, he may appeal to the Board in accordance with the provisions of this Act against the punishment and against any decision or finding on which the punishment was based.

Institution
of appeal.

33F. (1) An appeal shall be instituted by a notice of appeal containing the matters prescribed given by the appellant to the secretary of the Board within fourteen days from the date the punishment, decision or finding appealed against is given and the Board shall hear the appeal within thirty days from the date the notice of appeal is so lodged.

(2) The Chairman shall fix a time and place for the appeal and the secretary shall give the appellant and the Commissioner at least seven days' notice of the time and place so fixed.

(3) Where the hearing of the appeal is not commenced within the period of thirty days as prescribed by subsection (1) of this section, the punishment, decision or finding appealed against

is rescinded and the appellant shall be reimbursed from moneys appropriated by Parliament for the administration of this Act, any loss of salary or expenses he has incurred as a result of the punishment, decision or finding, but if the hearing of the appeal is commenced within the period of thirty days the Board may allow any adjournment it thinks fit.

33G. (1) Upon the hearing of the appeal the Board may—

Witnesses
at and
evidence
taken on
appeal.

- (a) take evidence on oath or affirmation;
- (b) admit evidence taken at any summary investigation held under the provisions of sections twenty-three and twenty-four of this Act and at which the appellant was present and had an opportunity of hearing the evidence and of giving evidence;
- (c) admit as evidence any statement or document which in its opinion is relevant to the subject matter of the appeal.

(2) The Board may—

Powers of
Board.

- (a) issue summonses under the hand of the Chairman or the secretary of the Board requiring any witnesses to attend before the Board and give evidence, or to produce to the Board any books, documents or writings in his possession or under his control, which are relevant to the subject matter of the appeal;
- (b) require any person before the Board to take an oath or affirmation and answer questions put to him by the Board or by or on behalf of any party to the appeal.

(3) A person who—

Offence.

- (a) refuses or fails to comply with any requirement of a summons issued by the Board under this section and served on him;

- (b) refuses to take an oath or affirmation when required by the Board;
- (c) without lawful excuse refuses to answer a question which the Board requires him to answer;
- (d) wilfully interrupts the proceedings of the Board or in the course of the proceedings behaves offensively to the Chairman or a member,

is guilty of an offence.

Penalty: Fifty pounds.

(4) In any proceedings before the Board any party to the appeal may respectively be represented by his counsel, solicitor or agent duly appointed in writing for the purpose, who may examine and cross-examine witnesses and address the Board.

Deter-
mination
of appeal.

33H. (1) (a) Upon an appeal the Board may confirm, modify or reverse any decision, finding or punishment appealed against or make such other order thereon which the Board deems just and the decision of the Board is final.

(b) The Board may fix the costs of any appeal and direct by whom and the proportions in which they are payable but in every case the Board shall award costs against an appellant whose appeal is considered by the Board to be trivial, frivolous or vexatious.

(c) Costs awarded against an appellant are recoverable in a court of competent jurisdiction as a debt due to the Crown.

(d) Costs awarded to an appellant shall be paid from moneys appropriated by Parliament for the purpose of the administration of this Act.

(2) The decision of any two members is the decision of the Board; but the deliberations of

the Board and the individual views of a member except of his own volition shall not be disclosed or published.

33I. The Chairman shall forward to the Commissioner a copy, certified by the Chairman as correct of the decision of the Board and the Commissioner shall give effect to the decision of the Board.

Transmission
of decision.

33J. The Governor may make regulations prescribing any matters necessary or convenient to be prescribed for giving effect to this Part and without limiting the generality of this power, with respect to—

Regulations.

- (a) the nomination and election of members;
 - (b) the mode of appealing and the practice and procedure on appeal; and
 - (c) the duties to be performed by the secretary of the Board.
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