

Western Australia

Police Amendment Act 2009

As at 03 Dec 2009

No. 42 of 2009

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Western Australia

Police Amendment Act 2009

No. 42 of 2009

An Act to amend the *Police Act 1892* and to consequentially amend various other Acts.

[Assented to 3 December 2009]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Police Amendment Act 2009*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Police Act 1892* amended

3. Act amended

This Part amends the *Police Act 1892*.

4. Section 9 amended

In section 9 after “Force,” (each occurrence) insert:

police auxiliary officers,

5. Section 13 amended

In section 13 after “ordinary, and every” insert:

police auxiliary officer and

6. Section 23 amended

(1) In section 23(1) after “Force,” (each occurrence) insert:

police auxiliary officer,

(2) In section 23(4):

(a) after “Force or any” insert:

police auxiliary officer,

(b) after “such member,” insert:

police auxiliary officer,

- (c) in paragraph (b) after “member,” insert:
police auxiliary officer,
 - (d) delete paragraph (c) and insert:
 - (c) demotion;
 - (e) in paragraph (d) delete “rank” and insert:
office
 - (f) in paragraph (f) delete “of an” and insert:
of a police auxiliary officer or
- (3) In section 23(5):
- (a) delete “reduction in rank or” and insert:
demotion or reduction in
 - (b) in paragraph (a) delete “or of a” and insert:
or of a police auxiliary officer,
- (4) Delete section 23(7) and insert:
- (7) A fine imposed on a person under this section may be recovered —
- (a) by deducting the amount from the salary of the person as a single sum or by instalments, as the Commissioner decides; or

- (b) as a debt due to the State in a court of competent jurisdiction.

7. Section 33 replaced

Delete section 33 and insert:

33. Fines and penalties to be credited to Consolidated Account

All fines and penalties imposed under this Part on a person appointed under this Act must be credited to the Consolidated Account.

8. Section 33E amended

In section 33E:

- (a) after “Force,” (first occurrence) insert:

a police auxiliary officer,
- (b) delete “that member cadet” and insert:

that member, cadet, police auxiliary officer,
- (c) after “office of” insert:

police auxiliary officer or

9. Section 33K amended

(1) In section 33K in the definition of *member* after paragraph (d) insert:

(e) a police auxiliary officer;

(2) In section 33K in the definition of *removal from office* after paragraph (b) insert:

(c) the cancellation of the appointment of a police auxiliary officer under section 38G(4);

10. Part IIIB inserted

After Part IIIA insert:

Part IIIB — Police auxiliary officers

38F. Terms used

In this Part —

Commissioner means the Commissioner of Police appointed under section 5;

police auxiliary officer means a police auxiliary officer appointed under section 38G;

police officer means a person appointed under Part I as an officer or constable of the Police Force, other than as the Commissioner.

38G. Appointing police auxiliary officers

(1) The Commissioner may appoint any person as a police auxiliary officer.

- (2) A police auxiliary officer's appointment is —
 - (a) for such period as the Commissioner decides;
and
 - (b) on such terms and conditions of service, including remuneration, as the Commissioner decides from time to time; but they must not be less favourable than is provided for in —
 - (i) any applicable award, order or agreement under the *Industrial Relations Act 1979*; or
 - (ii) the *Minimum Conditions of Employment Act 1993*.
- (3) The Commissioner may at any time amend the terms of a police auxiliary officer's appointment referred to in section 38H(3).
- (4) Subject to Part IIB, the Commissioner may at any time cancel the appointment of a police auxiliary officer.
- (5) The appointment of a police auxiliary officer, its terms and conditions and any cancellation of it must be in writing and signed by the Commissioner.
- (6) The Commissioner must issue a police auxiliary officer with a certificate of his or her appointment as a police auxiliary officer.
- (7) A police auxiliary officer whose appointment as such ceases must return any certificate issued to him or her under subsection (6) to the Commissioner.

Penalty: a fine of \$500.

38H. Functions of police auxiliary officers

- (1) Unless the document appointing a police auxiliary officer says otherwise —
 - (a) a police auxiliary officer has all of the powers, duties and obligations that a police officer or a member of the Police Force has under any written law other than this Act; and
 - (b) any authorisation, exemption or exception in any written law other than this Act that applies to a police officer or a member of the Police Force applies to a police auxiliary officer,unless that written law expressly says otherwise.
- (2) If a provision of a written law other than this Act refers to a police officer or to a member of the Police Force but does not confer a power, duty or obligation on, or create an authorisation, exemption or exception for, a police officer or a member of the Police Force, the provision is to be taken to include a reference to a police auxiliary officer, unless the contrary intention appears in the provision.
- (3) The document appointing a police auxiliary officer may limit the powers, duties or obligations of the officer or the application of any authorisation, exemption or exception to the officer in any way the Commissioner thinks fit.
- (4) Without limiting subsection (3) or section 38G(3), the document appointing a police auxiliary officer may do any or all of the following —
 - (a) limit the powers that the officer may exercise;
 - (b) limit when the officer may exercise his or her powers or any of them;
 - (c) limit where in the State the officer may exercise his or her powers or any of them;

- (d) limit the circumstances in which the officer may exercise his or her powers or any of them;
- (e) limit the offences in respect of which the officer may exercise his or her powers or any of them;
- (f) limit the purposes for which the officer may exercise his or her powers or any of them;
- (g) limit or prohibit the possession or use of any thing that the officer would otherwise be authorised under a written law to possess or use, despite the written law.

38I. Police auxiliary officers not in the Police Force

- (1) A police auxiliary officer is not a member of the Police Force of Western Australia for the purposes of this Act.
- (2) Subsection (1) does not affect the operation of section 38H(1) or (2) or 136.

11. Section 136 amended

In section 136(1) in the definition of *member of the Police Force* delete “III or IIIA.” and insert:

III, IIIA or IIIB.

Part 3 — Other Acts amended

12. *Bail Act 1982* amended

- (1) This section amends the *Bail Act 1982*.
- (2) In section 3(1) delete the definitions of:
authorised police officer
police officer
- (3) In section 3(1) insert in alphabetical order:

authorised police officer means —

- (a) a police officer who holds the rank of sergeant, or a higher rank;
- (b) the police officer who is for the time being in charge of a police station;
- (c) whichever of these officers is for the time being in charge of a lock-up —
 - (i) a police officer;
 - (ii) a special constable appointed under the *Police Act 1892* Part III whose powers, duties and obligations are or include those of an authorised police officer under this Act;
 - (iii) a police auxiliary officer appointed under the *Police Act 1892* Part IIIB whose powers, duties and obligations are or include those of an authorised police officer under this Act;

13. *Civil Judgments Enforcement Act 2004* amended

- (1) This section amends the *Civil Judgments Enforcement Act 2004*.

- (2) In section 106 delete the definition of *police officer*.
- (3) In section 106 insert in alphabetical order:

police office-holder means a person who holds an appointment made under the *Police Act 1892* Part I, III, IIIA or IIIB;

- (4) In section 107(2)(c) delete “police officer,” and insert:

police office-holder,

- (5) In section 109(6) delete “police officer)” and insert:

police office-holder)

14. *The Criminal Code* amended

- (1) This section amends *The Criminal Code*.
- (2) In section 70A(1) delete the definition of *police officer*.

15. *Criminal Investigation Act 2006* amended

- (1) This section amends the *Criminal Investigation Act 2006*.
- (2) In section 3(1) delete the definition of *police officer*.

16. *Criminal Investigation (Identifying People) Act 2002* amended

- (1) This section amends the *Criminal Investigation (Identifying People) Act 2002*.
- (2) In section 3(1) delete the definition of *police officer*.

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- (3) In section 22(1) delete “III or IIIA” and insert:

III, IIIA or IIIB

17. Cross-border Justice Act 2008 amended

- (1) This section amends the *Cross-border Justice Act 2008*.
(2) In section 7(1) in the definition of *police officer* after paragraph (a)(iii) insert:

or

- (iv) a person who holds office under the *Police Act 1892* Part IIIB as a police auxiliary officer;

18. Food Act 2008 amended

- (1) This section amends the *Food Act 2008*.
(2) In section 8 delete the definition of *police officer*.

19. Industrial Relations Act 1979 amended

- (1) This section amends the *Industrial Relations Act 1979*.
(2) Delete Schedule 3 clause 2(3) and insert:
(3) Despite subclause (2), an Arbitrator does not have jurisdiction to enquire into or deal with, or refer to the Commission in Court Session or the Full Bench, any matter relating to or arising from the transfer, demotion, reduction in salary, suspension from duty, removal, discharge, dismissal or cancellation of the appointment under the *Police Act 1892* of a police officer, police auxiliary officer or Aboriginal police liaison officer or, in the case of a

special constable, the cancellation under that Act of the constable's appointment.

20. *Juries Act 1957* amended

- (1) This section amends the *Juries Act 1957*.
- (2) In section 3(1) delete the definition of *police officer*.

21. *Misuse of Drugs Act 1981* amended

- (1) This section amends the *Misuse of Drugs Act 1981*.
- (2) In section 3(1) delete the definition of *police officer*.

22. *Public Interest Disclosure Act 2003* amended

- (1) This section amends the *Public Interest Disclosure Act 2003*.
- (2) In section 3(1) delete the definition of *police officer*.
- (3) In section 3(1) in the definition of *public officer* delete paragraph (e) and insert:

(e) a person who holds an appointment made under the *Police Act 1892* Part I, III, IIIA or IIIB;

- (4) In section 5(3)(d) delete “a police officer —” and insert:

a person who holds an appointment made under the *Police Act 1892* Part I, III, IIIA or IIIB —

23. *Spent Convictions Act 1988* amended

- (1) This section amends the *Spent Convictions Act 1988*.

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- (2) In Schedule 3 clause 1(1) in the Table item 3 after “constable” insert:

or police auxiliary officer

24. *Stock (Identification and Movement) Act 1970* amended

- (1) This section amends the *Stock (Identification and Movement) Act 1970*.
- (2) In section 5 delete the definition of ***Police officer***.
- (3) In the provisions listed in the Table delete “Police” (each occurrence) and insert:

police

Table

s. 5 def. of <i>legible</i>	s. 37(3)
s. 38	s. 40
s. 43(3)	s. 47
s. 48	s. 50(2)
s. 50(3)	s. 54(2)

25. *Workers’ Compensation and Injury Management Act 1981* amended

- (1) This section amends the *Workers’ Compensation and Injury Management Act 1981*.

- (2) In section 5 in the definition of *worker* delete “member of the police force,” (each occurrence) and insert:

police officer or Aboriginal police liaison officer
appointed under the *Police Act 1892*,

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