

Western Australia

Police (Medical Retirement) Regulations 2019

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Defined terms

Police Act 1892

Police (Medical Retirement) Regulations 2019

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Police (Medical Retirement) Regulations 2019*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Police Amendment (Medical Retirement) Act 2019* Part 2 comes into operation.

3. Terms used

In these regulations —

authorised person means a senior executive officer authorised by the CEO (Health) under regulation 4;

CEO (Health) means the chief executive officer of the Department;

Department means the department of the Public Service principally assisting in the administration of the Acts to which the *Health Legislation Administration Act 1984* applies;

medical practitioner has the meaning given in section 33ZB of the Act;

member has the meaning given in section 33ZB of the Act;

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Police Commissioner has the meaning given in section 33ZB of the Act;

privilege means —

- (a) a privilege that would attach to documents prepared for the purpose of pending or contemplated proceedings or in connection with the obtaining or giving of legal advice; or
- (b) immunity from production of documents or materials where their disclosure would be against the public interest; or
- (c) immunity from production of documents or materials under an enactment;

senior executive officer means a senior executive officer (as defined in the *Public Sector Management Act 1994* section 3(1)) employed in the Department;

working day means a day other than a Saturday, a Sunday or a public holiday throughout Western Australia.

4. Authorised persons

For the purposes of regulation 5, the CEO (Health) may, in writing, authorise a senior executive officer to make appointments to medical boards.

5. Examination by medical board

- (1) The purpose of an examination by a medical board under section 33ZC(2) of the Act is to assist the Police Commissioner to determine under Part IIC of the Act whether the member should be retired on medical grounds.
- (2) The medical board must consist of 3 medical practitioners appointed by the CEO (Health) or an authorised person.
- (3) If the CEO (Health) or authorised person considers it appropriate to do so, the CEO (Health) or authorised person

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may appoint 1 or more additional medical practitioners to the medical board.

6. Making documents and materials available to member

- (1) If the Police Commissioner gives a member a notice under section 33ZD(2) of the Act, the Police Commissioner must, as soon as practicable after giving the notice —
 - (a) give the member a copy of the report given to the Police Commissioner by the medical board under section 33ZC(6) of the Act; and
 - (b) give the member a copy of any other documents, and make available to the member for inspection any other materials, that were examined and taken into account by the Police Commissioner in forming the opinion that the member is medically unfit.
- (2) Subregulation (1)(b) does not apply to any document or material that is privileged.
- (3) If the Police Commissioner does not provide the member with a copy of a document or make available to the member for inspection any other material under subregulation (1)(b) because it is privileged, the Police Commissioner must advise the member of the ground for the document or material being privileged.
- (4) The Police Commissioner is not required to comply with section 33ZE(5) of the Act to the extent that —
 - (a) the Police Commissioner has already provided the member with a copy of the documents or made available to the member for inspection any other materials under subregulation (1); or
 - (b) the documents or materials are privileged.
- (5) If the Police Commissioner does not comply with section 33ZE(5) of the Act because any document or material is

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privileged, the Police Commissioner must advise the member of the ground for the document or material being privileged.

- (6) Subregulation (5) does not apply if the Police Commissioner has already advised the member under subregulation (3) of the ground for the document or material being privileged.

7. Service of notices or documents on member

- (1) If a notice or document is required to be given to a member under section 33ZD(2), 33ZE(1)(b), 33ZE(5) or 33ZE(10)(a) of the Act or regulation 6(1), service may be effected on the member —
- (a) by delivering it to the member personally; or
 - (b) by properly addressing and posting it (by pre-paid post) as a letter to the usual or last known place of abode of the member or to an address for service given by the member in writing to the Police Commissioner for the purpose of service of notices and documents under this regulation; or
 - (c) by leaving it for the member at the member's usual or last known place of abode; or
 - (d) by leaving it for the member at an address given by the member in writing to the Police Commissioner for the purpose of service of notices and documents under this regulation; or
 - (e) by emailing the notice or document (whether or not as an attachment) to an email address given by the member in writing to the Police Commissioner for the purpose of service of notices and documents under this regulation.
- (2) Subregulation (1)(e) applies only if —
- (a) the member has, in writing to the Police Commissioner, expressly consented to notices and documents being served on the member by email under this regulation; and

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- (b) at the time the email is sent, the member has not, in writing to the Police Commissioner, withdrawn that consent.
- (3) Service under subregulation (1) is to be taken to be effected —
 - (a) in the case of service under subregulation (1)(a), at the time of delivery to the member; or
 - (b) in the case of service under subregulation (1)(b), on the 7th working day after the date on which the letter was posted; or
 - (c) in the case of service under subregulation (1)(c), at the time it is left at the abode; or
 - (d) in the case of service under subregulation (1)(d), at the time it is left at the address given to the Police Commissioner; or
 - (e) in the case of service under subregulation (1)(e), on the next working day after the date on which the email is sent to the email address given to the Police Commissioner.
- (4) For the purposes of section 33ZE(10)(b) of the Act, a member is taken to receive a notice when service of the notice is taken to be effected under subregulation (3).

8. Restriction on suspending member's pay

During any period in which consideration is being given to a member's retirement on medical grounds under Part IIC of the Act, the Police Commissioner and the Governor must not suspend the member's pay.

M. INGLIS, Clerk of the Executive Council.

Police (Medical Retirement) Regulations 2019**Defined terms**

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
authorised person	3
CEO (Health)	3
Department	3
medical practitioner	3
member	3
Police Commissioner	3
privilege	3
senior executive officer	3
working day	3