

Western Australia

Police Amendment Act 2008

As at 31 Mar 2008

No. 8 of 2008

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Police Amendment Act 2008

(No. 8 of 2008)

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Police Amendment Act 2008

Part 1 0 Preliminary matters

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Western Australia

Police Amendment Act 2008

No. 8 of 2008

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

[Assented to 31 March 2008]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary matters

1. Short title

This is the *Police Amendment Act 2008*.

2. Commencement

- (1) This Act, other than section 23, comes into operation on the day after the day on which it receives the Royal Assent.
- (2) Section 23 comes into operation on a day to be fixed by proclamation.
- (3) Different days may be fixed under subsection (2) for different provisions.
- (4) A day fixed under subsection (2) must not be before the day on which the *Criminal Investigation (Consequential Provisions) Act 2006* Schedule 1 clause 8 comes into operation.

Part 2 — *Police Act 1892* amended

3. The Act amended

The amendments in this Part are to the *Police Act 1892**.

[* *Reprint 12 as at 1 June 2005.*]

4. Section 9 amended

Section 9 is amended as follows:

- (a) by deleting “and of police cadets,” and inserting instead —

“

, police cadets and Aboriginal police liaison officers,

”;

- (b) by deleting “and cadets” and inserting instead —

“ , cadets and Aboriginal police liaison officers, ”.

5. Section 13 amended

Section 13 is amended by inserting after “ordinary,” —

“ and every Aboriginal police liaison officer, ”.

6. Section 15 repealed

Section 15 is repealed.

7. Section 23 amended

- (1) Section 23(1) is amended as follows:

- (a) by deleting “and any police cadet” and inserting instead —

“

, police cadet or Aboriginal police liaison officer

”;

- (b) by deleting “or cadet.” and inserting instead —

“ , cadet or liaison officer. ”.

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(2) Section 23(4) is amended as follows:

(a) by deleting “or any police cadet” and inserting instead —

“

or any police cadet or Aboriginal police liaison officer

”;

(b) by deleting “or cadet” and inserting instead —

“ , cadet or liaison officer ”;

(c) in paragraph (b) by deleting “or cadet;” and inserting instead —

“ , cadet or liaison officer; ”;

(d) in paragraph (f) by inserting after “Force” —

“

or, in the case of an Aboriginal police liaison officer, cancellation of his appointment

”.

(3) Section 23(5) is amended as follows:

(a) by inserting after “dismissal” —

“ or cancellation of appointment ”;

(b) in paragraph (a) by inserting after “cadet” —

“ or liaison officer ”.

(4) Section 23(7) is repealed and the following subsection is inserted instead —

“

(7) A fine imposed under this section may be recovered —

(a) by deducting the amount from the salary of the member, cadet or liaison officer concerned 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.

”.

8. Section 33E amended

Section 33E is amended as follows:

- (a) by deleting “or a police cadet” and inserting instead —

“

, a police cadet or an Aboriginal police liaison officer

”;

- (b) by deleting “or cadet” and inserting instead —

“ cadet or liaison officer ”;

- (c) by inserting after “duty,” —

“

removed from the office of Aboriginal police liaison officer,

”.

9. Section 33K amended

Section 33K is amended as follows:

- (a) in the definition of “member” by deleting paragraph (d) and inserting instead —

“

(d) an Aboriginal police liaison officer;

”;

- (b) in the definition of “removal action” by deleting paragraph (c) and inserting instead —

“

(c) the cancellation of the appointment of an Aboriginal police liaison officer under section 38B(4);

”;

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- (c) in the definition of “removal from office” by deleting paragraph (b) and inserting instead —

“

- (b) the cancellation of the appointment of an Aboriginal police liaison officer under section 38B(4);

”.

10. Part IIIA replaced

Part IIIA is repealed and the following Part is inserted instead —

“

Part IIIA — Aboriginal police liaison officers

38A. Interpretation

In this Part, unless the contrary intention appears —

“**APLO**” means an Aboriginal police liaison officer appointed under section 38B(1);

“**Commissioner**” means the Commissioner of Police appointed under section 5;

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

38B. Appointing and terminating Aboriginal police liaison officers

- (1) The Commissioner may appoint any person of Aboriginal descent as an Aboriginal police liaison officer.
- (2) An APLO’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 those terms of an APLO's appointment referred to in section 38C(3).
 - (4) Subject to Part IIB, the Commissioner may at any time cancel the appointment of an APLO.
 - (5) The appointment of an APLO, its terms and conditions and any cancellation of it must be in writing and signed by the Commissioner.

38C. Functions of APLOs

- (1) Unless the document appointing an APLO says otherwise —
 - (a) an APLO 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 an APLO,

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 an APLO, unless the contrary intention appears in the provision.

- (3) The document appointing an APLO may limit the powers, duties or obligations of the APLO or the application of any authorisation, exemption or exception to the APLO in any way the Commissioner thinks fit.
- (4) Without limiting subsection (3) or section 38B(3), the document appointing an APLO may do any or all of the following —
 - (a) limit the powers that the APLO may exercise;
 - (b) limit when the APLO may exercise his or her powers or any of them;
 - (c) limit where in the State the APLO may exercise his or her powers or any of them;
 - (d) limit the circumstances in which the APLO may exercise his or her powers or any of them;
 - (e) limit the offences in respect of which the APLO may exercise his or her powers or any of them;
 - (f) limit the purposes for which the APLO may exercise his or her powers or any of them;
 - (g) limit or prohibit the possession or use of any thing that the APLO would otherwise be authorised under a written law to possess or use, despite the written law.

38D. APLOs not in the Police Force

- (1) An APLO 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 38C(1) or (2) or 136.

38E. Transitional

If immediately before the commencement of this Part, a person is an aboriginal aide appointed under this Act as it was before this Part commenced, then on the commencement of this Part —

- (a) the person is to be taken to be an APLO appointed under this Part on the terms and conditions applicable to his or her appointment as an aboriginal aide; and
- (b) the instrument of appointment that appoints him or her to be an aboriginal aide is to be taken to be the document that appoints him or her as an APLO; and
- (c) this Part applies to and in respect of the person as if he or she had been appointed under it to be an APLO.

”.

Part 3 — Other Acts amended

11. *Corruption and Crime Commission Act 2003* amended

- (1) The amendments in this section are to the *Corruption and Crime Commission Act 2003**.

[* *Reprint 2 as at 7 July 2006.*]

- (2) Section 3 is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) under Part IIIA of the *Police Act 1892* to be an Aboriginal police liaison officer;

”.

- (3) Section 90(1)(b) is amended by deleting “aboriginal aide” and inserting instead —

“ Aboriginal police liaison officer ”.

- (4) Section 90(5) is amended by deleting “aboriginal aide” and inserting instead —

“ Aboriginal police liaison officer ”.

12. *Court Security and Custodial Services Act 1999* amended

- (1) The amendments in this section are to the *Court Security and Custodial Services Act 1999**.

[* *Reprint 2 as at 9 September 2005.*

For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1.]

- (2) Section 3 is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) under Part IIIA of the *Police Act 1892* to be an Aboriginal police liaison officer;

”.

13. Industrial Relations Act 1979 amended

- (1) The amendments in this section are to the *Industrial Relations Act 1979**.

[* *Reprint 10 as at 8 July 2005.*
For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, and Acts Nos. 34 of 2004 and 36 of 2006.]

- (2) Schedule 3 clause 1 is amended in the definition of “police officer” by deleting paragraph (d) and inserting instead —

“

- (d) under Part IIIA of the *Police Act 1892* to be an Aboriginal police liaison officer.

”.

14. Juries Act 1957 amended

- (1) The amendments in this section are to the *Juries Act 1957**.

[* *Reprint 4 as at 2 September 2005.*
For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1, and Acts Nos. 34 of 2004 and 28 of 2006.]

- (2) The Second Schedule Part I clause 2(h) is amended by deleting “aboriginal aide” and inserting instead —

“ Aboriginal police liaison officer ”.

15. Occupational Safety and Health Act 1984 amended

- (1) The amendments in this section are to the *Occupational Safety and Health Act 1984**.

[* *Reprint 5 as at 24 June 2005.*
For subsequent amendments see Act No. 38 of 2005.]

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- (2) Section 3(1) is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) under Part IIIA of the *Police Act 1892* to be an Aboriginal police liaison officer;

”.

16. Prisons Act 1981 amended

- (1) The amendments in this section are to the *Prisons Act 1981**.

[* Reprint 5 as at 21 July 2006.]

- (2) Section 3(1) is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) under Part IIIA of the *Police Act 1892* to be an Aboriginal police liaison officer;

”.

17. Protective Custody Act 2000 amended

- (1) The amendments in this section are to the *Protective Custody Act 2000**.

[* Reprint 1 as at 2 June 2006.]

- (2) Section 3 is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) an Aboriginal police liaison officer;

”.

18. *Public Interest Disclosure Act 2003* amended

- (1) The amendments in this section are to the *Public Interest Disclosure Act 2003**.

[* *Act No. 29 of 2003.*

For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1.]

- (2) Section 3(1) is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) appointed under Part IIIA of the *Police Act 1892* to be an Aboriginal police liaison officer;

”.

19. *Spent Convictions Act 1988* amended

- (1) The amendments in this section are to the *Spent Convictions Act 1988**.

[* *Reprint 4 as at 8 July 2005.*

For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1 and Gazette 24 Oct 2006.]

- (2) Schedule 3 clause 1(1) is amended in the Table item 3 by deleting “aboriginal aide” and inserting instead —

“ Aboriginal police liaison officer ”.

20. *Superannuation and Family Benefits Act 1938* amended

- (1) The amendments in this section are to the *Superannuation and Family Benefits Act 1938**.

[* *Reprinted as at 20 July 1999.*

For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1.]

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- (2) Section 6(1) is amended in the definition of “member of the Police Force” by deleting “aboriginal aide” and inserting instead —

“ Aboriginal police liaison officer ”.

21. Tobacco Products Control Act 2006 amended

- (1) The amendments in this section are to the *Tobacco Products Control Act 2006**.

[* *Act No. 5 of 2006.*]

- (2) The glossary is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) Part IIIA to be an Aboriginal police liaison officer;

”.

22. Witness Protection (Western Australia) Act 1996 amended

- (1) The amendments in this section are to the *Witness Protection (Western Australia) Act 1996**.

[* *Reprint 1 as at 10 October 2003.*

For subsequent amendments see Western Australian Legislation Information Tables for 2005, Table 1.]

- (2) Section 3(1) is amended in the definition of “police officer” by deleting paragraph (c) and inserting instead —

“

- (c) an Aboriginal police liaison officer;

”.

23. Various Acts amended in relation to the definition of “police officer”

- (1) The *Corruption and Crime Commission Act 2003* section 3 is amended by deleting the definition of “police officer”.

- (2) The *Court Security and Custodial Services Act 1999* section 3 is amended by deleting the definition of “police officer”.
- (3) The *Industrial Relations Act 1979* Schedule 3 clause 1 is amended as follows:
 - (a) by deleting the semi colon after the definition of “Arbitrator” and inserting instead a full stop;
 - (b) by deleting the definition of “police officer”.
- (4) The Second Schedule Part I clause 2(h) of the *Juries Act 1957* is deleted and the following paragraph is inserted instead —
 - “
 - (h) police officer;
 - ”.
- (5) The *Occupational Safety and Health Act 1984* section 3(1) is amended by deleting the definition of “police officer”.
- (6) The *Prisons Act 1981* section 3(1) is amended by deleting the definition of “police officer”.
- (7) The *Protective Custody Act 2000* section 3 is amended by deleting the definition of “police officer”.
- (8) The glossary in the *Tobacco Products Control Act 2006* is amended by deleting the definition of “police officer”.
- (9) The *Witness Protection (Western Australia) Act 1996* section 3(1) is amended by deleting the definition of “police officer”.

