

POLICE.

No 6 of 1978.

AN ACT to amend the Police Act, 1892-1977.

[Assented to 11th May, 1978.]

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:—

1. (1) This Act may be cited as the *Police Act Amendment Act, 1978*.

Short title
and citation

(2) In this Act the Police Act, 1892-1977, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Police Act, 1892-1978.

Reprinted as
approved for
reprint 7th
June, 1972
and amended
by Acts Nos.
94 of 1972,
41 of 1974,
18 of 1975,
91 of 1975,
148 of 1976
and 50
of 1977.

Section 6
amended.

2. Section 6 of the principal Act is amended by inserting after the word "control", in line five, the words "and discipline".

Section 7
amended.

3. Section 7 of the principal Act is amended—
- (a) by inserting after the section designation "7." the subsection designation "(1)"; and
 - (b) by adding a new subsection as follows—
 - (2) The Minister, or a person authorised by him, may appoint persons to be police cadets who shall have such powers and privileges and be liable to such duties and obligations as may be prescribed, but shall not be members of the Police Force.

Section 9
amended.

4. Section 9 of the principal Act is amended—
- (a) by inserting after the words "Police Force", in line four, the words "and of police cadets"; and
 - (b) by inserting after the words "Police Force", in line ten, the words "and cadets".

Section 14
amended.

5. Section 14 of the principal Act is amended by deleting the words "neglect or violation of duty" in line fourteen and again in line seventeen and substituting in each case the words "offence against the discipline of the Police Force".

Section 19
repealed.

6. Section 19 of the principal Act is repealed.

Sections 23,
24, and 25
repealed and
re-enacted.

7. Section 23, section 24 and section 25 of the principal Act are repealed and re-enacted with amendments to stand as section 23 as follows—

Disciplinary
measures.

23. (1) The Commissioner, or an officer appointed by the Commissioner for the purpose, may examine on oath any member of the Police Force and any police cadet upon a charge of an offence against the discipline of the Police Force being made against any member of the Force or cadet.

(2) Where the member of the Force against whom the charge is alleged is an officer, an examination under this section shall be conducted by an officer of the rank of Chief Superintendent or above.

(3) The Commissioner or officer conducting an examination under this section shall have the same power to summon and examine witnesses and to administer oaths as a Justice.

(4) Where the Commissioner or officer conducting an examination under this section determines as a result of that examination that any other member of the Police Force or any police cadet has committed an offence against the discipline of the Police Force, he shall record that determination in writing and, subject to the provisions of subsection (5) of this section, may thereupon caution such member or cadet or by order in writing impose on him one or more of the following punishments—

- (a) a reprimand;
- (b) a fine not exceeding two hundred dollars;
- (c) reduction to a lower rank;
- (d) reduction in salary to a specified rate within the limits of salary fixed in relation to the rank held by him;
- (e) suspension from duty;
- (f) discharge or dismissal from the Force.

(5) An order made under subsection (4) of this section for reduction in rank or salary, suspension from duty, discharge or for dismissal, shall not have effect unless or until—

- (a) in the case of a member who is not an officer, or of a cadet, it is imposed or confirmed by the Commissioner; or
- (b) in the case of an officer, it is confirmed by the Governor.

(6) An order made under subsection (4) of this section which is subject to confirmation by the Governor shall not be submitted to the Governor for such confirmation unless or until—

- (a) the time within which an appeal to the Board against the punishment, decision or finding to which the order relates may be made under this Act has elapsed and no such appeal has been instituted; or
- (b) such an appeal to the Board has been instituted and has been determined by the Board in accordance with the provisions of this Act.

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

- (a) by deduction from the salary of the member or cadet on whom it is imposed; or
- (b) in like manner to a fine imposed by a Justice under this Act,

or partly in the one way and partly in the other.

Section 28
repealed.

8. Section 28 of the principal Act is repealed.

Section 33E
amended.

9. Section 33E of the principal Act is amended—

- (a) by deleting the words “non-commissioned officer or constable of the Police Force”, in lines two and three, and substituting the words “member of the Police Force or a police cadet”;
- (b) by deleting the words “insubordination, neglect of duty or misconduct”, in lines five and six, and substituting the words “an offence”;
- (c) by deleting the words “the non-commissioned officer or constable”, in lines seven and eight, and substituting the words “that member or cadet”.

10. Section 39 of the principal Act is amended— Section 39 amended.

- (a) by inserting after the section designation “39.” the subsection designation “(1)”; and
- (b) by adding a new subsection as follows—

(2) Notwithstanding the provisions of subsection (1) of this section, the Commissioner may for the purposes of the administration of the Police Force by order in writing divide the State, or any part of the State, into regions, divisions, sub-divisions, sections, branches, or sub-branches wherein portions of the Police Force may be stationed or carry out duties. .

11. Section 41 of the principal Act is amended— Section 41 amended.

- (a) by inserting after the section designation “41.” the subsection designation “(1)”; and
- (b) by adding new subsections as follows—

(2) Any officer or constable of the Police Force who has reasonable cause to believe that any ship, boat or other vessel is being, or is likely to be, used for a voyage the purpose of which is to do or attempt to do any act which if done in the State would constitute an offence may, without warrant other than this Act, enter at all times into and upon and take charge of or secure any such ship, boat or vessel or may otherwise take such steps in relation thereto as may be expedient for the purpose of preventing that voyage, using for that purpose such assistance and reasonable force as he may think necessary, and, subject to subsection (3) of this section, may detain the vessel for so long as he has reasonable cause to suspect that any such voyage may be undertaken.

(3) An officer or constable of the Police Force who has detained any vessel pursuant to the provisions of subsection (2) of this section, or any person who is aggrieved by any exercise of the power conferred by that subsection, may apply to a stipendiary magistrate for an order in the matter, and that magistrate may thereupon—

- (a) order the release of the vessel unconditionally;
- (b) order the release of the vessel subject to such conditions as that magistrate may impose;
- (c) order that the vessel be detained for a specified period;
- (d) make an order as to the expenses incurred or to be incurred in relation to the seizure, detention or safe keeping of that vessel; and
- (e) make such order as to costs,

as he may think fit and effect shall be given thereto.

(4) The terms of any conditions imposed on an order made pursuant to subsection (3) of this section may relate not only to the release of the vessel but also as to the use to which the vessel may be put within the period specified in the order, and the order may also be made subject to the requirement that a person enters into a recognisance with or without sureties conditioned upon the observance of the terms imposed in relation to the release and use of the vessel.

(5) An amount ordered in payment of expenses or costs under subsection (3) of this section may be recovered in the same manner as moneys ordered to be paid by Justices upon a conviction for a simple offence.

(6) The detention of any vessel, or the exercise of any other power conferred by subsection (2) of this section, shall not be taken to be unlawful only by reason that it subsequently appears or is found that the vessel was not to be used in the manner, or the circumstances were not such as, the member of the Police Force believed.

(7) Any person who resists, or wilfully obstructs, any member of the Police Force or other person lawfully assisting such a member of the Police Force in the exercise of the powers conferred by subsection (2) of this section, or who endeavours by any unlawful means to prevent any such power from being exercised shall be deemed to have committed a misdemeanour, and shall suffer such punishment by fine, not exceeding five hundred dollars, and such imprisonment, not exceeding six months, as any two or more Justices before whom such offender shall be convicted may determine.

12. Section 67 of the principal Act is amended—

Section 67
amended.

- (a) by inserting after paragraph (3) in line twenty a new paragraph as follows—

(4) Every person who, without lawful authority and with intent—

- (a) to compel another person to abstain from carrying on any activity which pursuant to any

law of the State or of the Commonwealth that person is by virtue of a licence, permit or authorisation issued thereunder empowered to do; or

- (b) to prevent such an activity being carried on; or
- (c) to obstruct any such activity,

manifests that intention by doing any act in relation to that other person, the property of that other person or the activity so empowered, or by failing or omitting to do any act in relation thereto which he is lawfully required to do; and

- (b) by adding at the end of the section a further proviso as follows—

Provided further that it shall be a defence to a charge of an offence contrary to paragraph (4) of this section to show that the intention was manifested in the course of a *bona fide* trade dispute between an employer and workmen engaged in the activity so empowered, and that the act, failure or omission complained of was committed by a person who was a party to that dispute.” .
