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SPECIAL GAZETTE

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Police Amendment (Medical Retirement) Act 2019

Police Amendment (Medical Retirement) Act 2019 Commencement Proclamation 2019

Made under the *Police Amendment (Medical Retirement) Act 2019* section 2(b) by the Governor in Executive Council.

1. Citation

This proclamation is the *Police Amendment (Medical Retirement) Act 2019 Commencement Proclamation 2019*.

2. Commencement of Act

The *Police Amendment (Medical Retirement) Act 2019*, other than Part 1, comes into operation on the day after the day on which this proclamation is published in the *Gazette*.

K. BEAZLEY, Governor.

L.S.

M. ROBERTS, Minister for Police.

Notes: The *Police Force Amendment Regulations (No. 3) 2019*, other than regulations 1 and 2, come into operation when the *Police Amendment (Medical Retirement) Act 2019* Part 2 comes into operation.

The *Police (Medical Retirement) Regulations 2019*, other than regulations 1 and 2, come into operation when the *Police Amendment (Medical Retirement) Act 2019* Part 2 comes into operation.

The *Industrial Relations Commission Amendment Regulations (No. 2) 2019*, other than regulations 1 and 2, come into operation when the *Police Amendment (Medical Retirement) Act 2019* Part 3 comes into operation.

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

Industrial Relations Act 1979

Industrial Relations Commission Amendment Regulations (No. 2) 2019

Made by the Chief Commissioner of The Western Australian Industrial Relations Commission.

1. Citation

These regulations are the *Industrial Relations Commission Amendment Regulations (No. 2) 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 3 comes into operation.

3. Regulations amended

These regulations amend the *Industrial Relations Commission Regulations 2005*.

Industrial Relations Commission Amendment Regulations (No. 2) 2019

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4. Part 9C inserted

After regulation 94 insert:

**Part 9C — Appeals under the *Police Act 1892*
section 33ZI**

94A. Terms used

In this Part —

appeal against retirement on medical grounds means an appeal under the *Police Act 1892* section 33ZI;

appellant means a police officer who institutes an appeal against retirement on medical grounds;

Commissioner of Police means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

police officer has the meaning given to ***member*** in the *Police Act 1892* section 33ZB.

94B. Notice of appeal against retirement on medical grounds

An appeal by a police officer against retirement on medical grounds is instituted under the *Police Act 1892* section 33ZI(3) if the police officer completes and files in the office of the Registrar 3 copies of a notice of appeal to the Commissioner of Police in the approved form.

94C. Service of notice of appeal against retirement on medical grounds

Within 7 days after an appeal against retirement on medical grounds is instituted, the Registrar must serve a copy of the notice instituting the appeal on the Commissioner of Police.

Industrial Relations Commission Amendment Regulations (No. 2) 2019

r. 4**94D. Response by Commissioner of Police**

- (1) Except as otherwise directed by the Commission, the Commissioner of Police must respond to the notice of appeal within 28 days after the service of the notice of appeal by completing and filing in the office of the Registrar 3 copies of —
 - (a) a response stating the Commissioner of Police's reasons for deciding that the appellant should be retired on medical grounds; and
 - (b) a list of all documents, as defined in regulation 20(1), that the Commissioner of Police considered before making the decision; and
 - (c) a summary of facts or issues of law relied upon by the Commissioner of Police, including any relevant matters set out in the *Police Act 1892* section 33ZJ(4); and
 - (d) a reply containing any matters the Commissioner of Police wishes to raise in relation to the appellant's case.
- (2) The response, the list of documents, the summary of facts and the reply must be in an approved form.
- (3) The Registrar must serve a copy of the response, the list of documents, the summary of facts and the reply on the appellant.

94E. Documents relied on to be filed and served

- (1) Except as otherwise directed by the Commission, within 28 days after the service on the appellant of the documents referred to in regulation 94D —
 - (a) both the Commissioner of Police and the appellant must file in the office of the Registrar

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3 copies of every document relied upon by that party in its case; and

- (b) the Registrar must serve a copy of those documents on the other party.
- (2) If, under an agreement between the Commissioner of Police and the appellant, one party files a document on behalf of both parties, the requirements of subregulation (1) in relation to that document are taken to have been satisfied.

94F. Notice of reformulated reasons under *Police Act 1892* s. 33ZK(11)

- (1) The notice of the reformulated reasons required under the *Police Act 1892* section 33ZK(11)(a) to be given to the Commission by the Commissioner of Police is to be given by completing and filing in the office of the Registrar 3 copies of —
- (a) a statement of the Commissioner of Police's reformulated reasons; and
 - (b) a summary of facts or issues of law relied upon by the Commissioner of Police in reformulating the reasons, including any relevant matters set out in the *Police Act 1892* section 33ZJ(4); and
 - (c) a reply containing any matters the Commissioner of Police wishes to raise in relation to the appellant's case.
- (2) The statement, the summary of facts and the reply must be in an approved form.
- (3) The Registrar must serve a copy of the statement, the summary of facts and the reply on the appellant.

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- (4) If the notice is not given at least 7 days before the resumption of the appeal, the Commission may adjourn the hearing of the appeal to a further date to allow the Commission or the appellant sufficient time to consider the contents of the notice.

94G. Withdrawal or discontinuance of appeal against retirement on medical grounds

- (1) An appellant may withdraw or wholly discontinue an appeal against retirement on medical grounds, or withdraw any part of the appeal, by completing and filing in the office of the Registrar 3 copies of a notice of withdrawal or discontinuance in the approved form.
- (2) The Registrar must serve a copy of the notice on the Commissioner of Police.

Chief Commissioner

The Western Australian Industrial Relations Commission.

Police Act 1892

Police Force Amendment Regulations (No. 3) 2019

Made by the Commissioner of Police under section 9 of the Act.

1. Citation

These regulations are the *Police Force Amendment Regulations (No. 3) 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. Regulations amended

These regulations amend the *Police Force Regulations 1979*.

4. Regulation 1402 deleted

Delete regulation 1402.

C. DAWSON, Commissioner of Police.

M. ROBERTS, Minister for Police.