

NORTHERN TERRITORY OF AUSTRALIA

POLICE ADMINISTRATION REGULATIONS 1994

As in force at 31 July 2019

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 31 July 2019

POLICE ADMINISTRATION REGULATIONS 1994

Regulations under the *Police Administration Act 1978*

Part 1 Preliminary

1 Citation

These Regulations may be cited as the *Police Administration Regulations 1994*.

2 Definitions

In these Regulations, unless the contrary intention appears:

personnel record means a personnel record kept under regulation 20.

Registrar means the Registrar of Appeal Boards appointed under section 97(1) of the Act.

Part 2 Establishment

3 Determination to be notified

A determination under section 15 of the Act shall be notified in the *Police Gazette* as soon as practicable after it comes into effect.

4 Eligibility for appointment

- (1) For the purposes of section 16(1)(a) and (aa) of the Act, the Commissioner shall, from time to time, determine the criteria for eligibility of a person for appointment to the Police Force.
- (2) A determination under subregulation (1) shall be published in the *Police Gazette* as soon as practicable after it is made.

5 Appointments to be notified

The appointment of a person to be a member shall be notified in the *Police Gazette* as soon as practicable after the appointment is made.

6 Qualification for promotion

- (1) For the purposes of section 16(1)(b) of the Act, the Commissioner shall, from time to time, determine the qualifications for promotion.
- (2) A determination under subregulation (1) shall be notified in the *Police Gazette* as soon as practicable after it is made.

7 Promotions – Constables

- (1) Subject to subregulation (2), the Commissioner shall promote a member under section 16(1)(b) of the Act who holds the rank of Constable to the rank of Senior Constable immediately on the member becoming qualified for promotion to that rank.
- (2) If the Commissioner is of the opinion that a member whom the Commissioner is required by subregulation (1) to promote will be unable to efficiently discharge the duties of the rank to which the member is so required to be promoted, the Commissioner shall:
 - (a) refuse to promote the member; and
 - (b) serve on the member a notice in writing setting out the decision and the Commissioner's reasons for the decision.
- (3) A member whom the Commissioner refuses to promote under subregulation (2) may, not later than 14 days after the notice under that subregulation is served on the member, request the Commissioner to undertake a review of the decision to refuse to promote the member.
- (4) As soon as practicable after receiving a notice under subregulation (3) the Commissioner shall undertake a review of the decision and shall:
 - (a) promote the member to the rank of Senior Constable; or
 - (b) confirm the decision to refuse to promote the member and serve on the member a notice in writing setting out the Commissioner's reasons for confirming the decision.
- (5) A decision of the Commissioner under subregulation (4) is final.

- (6) Where the Commissioner after undertaking a review under subregulation (4) refuses to promote a member under this regulation, the Commissioner shall, when necessary, ensure that the member is offered appropriate training to enhance the member's prospect for promotion in the future.

8 Vacancies to be advertised

- (1) The Commissioner shall not promote a member to a rank otherwise than under regulation 7 unless, not less than 14 days before the promotion, the Commissioner causes notice to be published in the *Police Gazette* seeking applications under subregulation (2) for promotion to the rank.
- (2) An application referred to in subregulation (1) shall be in the form and contain such information as the Commissioner, from time to time, determines.
- (3) This regulation does not prevent a member making an application referred to in subregulation (1) where the rank the subject of the application is lower than the rank held by the member at the time of the application but, where such an application is successful and the member is appointed to the lower rank, the terms and conditions of service as a member attaching to the rank held by the member immediately before the appointment shall, on the appointment, cease and the member's terms and conditions of service shall, with effect on and from the appointment, be the terms and conditions of service attaching to the rank from time to time held by the member after the appointment.

9 Promotions – other than Constables

The Commissioner shall not promote a member under section 16 of the Act (other than a member promoted in accordance with regulation 7) unless:

- (a) the Commissioner is satisfied that the member is qualified for promotion to the rank; and
- (b) in relation to the particular position within the rank to which the member is promoted, the member has superior merit to other members who applied for promotion to the position within the rank.

10 Promotions to be provisional

- (1) The promotion of a member to a rank (other than a promotion referred to in regulation 7 or to a rank above the rank of Senior Sergeant or in accordance with a direction under section 93(4)(b) of the Act):
- (a) shall be notified in the *Police Gazette*; and
 - (b) is provisional until confirmed under subregulation (2).
- (2) Where the Commissioner is satisfied that:
- (a) all members eligible to appeal against the promotion in accordance with section 92 of the Act have waived their right to appeal against the promotion or the period within which they may appeal has expired and no such appeal has been made; or
 - (b) where such an appeal has been made:
 - (i) the appeal has been struck out;
 - (ii) the appeal has been heard and disallowed; or
 - (iii) the appeal has been withdrawn,
- the Commissioner shall confirm the promotion.
- (3) Where a promotion is confirmed under subregulation (2) the member promoted shall be deemed to have been promoted to the rank on the date on which the provisional promotion took effect.

11 Prescribed positions for purposes of section 17

The positions specified in Schedule 1 are prescribed for the purposes of section 17 of the Act.

12 Prescribed amount for purposes of section 17A

For the purposes of section 17A(1) of the Act, the prescribed amount is, in relation to a member referred to in that subsection, 20% of the base salary applicable to the rank held by the member.

Part 3 Appeals

Division 1 Promotions appeals

13 Promotions appeals

- (1) For the purposes of section 92 of the Act:
 - (a) the prescribed form is Form 1 of Schedule 2; and
 - (b) an appeal under the section shall be made by delivering, or sending by post, the prescribed form referred to in paragraph (a) to the Registrar within the time specified in or allowed under the section.
- (2) The Registrar shall, as soon as practicable after receiving a prescribed form under subregulation (1), notify the Commissioner of the making of the appeal and the Commissioner shall, as soon as practicable after being notified:
 - (a) establish a Promotions Appeal Board; or
 - (b) if a Promotions Appeal Board has been established, request the Board,

to determine the appeal.
- (3) The Chairman of the Promotions Appeal Board that is to determine an appeal under section 92 of the Act shall, not later than 14 days after the appeal is made, fix a date, time and place for the hearing of the appeal.
- (4) The Registrar shall notify the appellant and the member whose promotion or appointment is the subject of the appeal of the date, time and place for the hearing of the appeal fixed under subregulation (3).
- (5) The date fixed under subregulation (3) for the hearing of the appeal shall be not later than 28 days after the date the appeal is made.

14 Hearing of promotions appeals

In determining an appeal under section 92 of the Act, a Promotions Appeal Board:

- (a) shall conduct its proceedings with as little formality and technicality, and with as much expedition as is possible;
- (b) may adjourn its proceedings on such conditions, including conditions as to costs and expenses, as it thinks fit; and

- (c) is not bound by the rules of evidence and may inform itself in such manner as it thinks fit.

Division 2 Inability and disciplinary appeals

15 Inability and disciplinary appeals

- (1) For the purposes of section 94 of the Act:
 - (a) the prescribed form is Form 2 of Schedule 2; and
 - (b) an appeal under the section shall be made by delivering, or sending by post, the prescribed form referred to in paragraph (a) to the Registrar within the time specified in the section.
- (2) The Registrar shall, as soon as practicable after receiving a prescribed form under subregulation (1), notify the Commissioner of the making of the appeal and the Commissioner shall, as soon as practicable after being notified, depending on the nature of the appeal:
 - (a) establish a Disciplinary or Inability Appeal Board; or
 - (b) if a Disciplinary or Inability Appeal Board has been established, request the Board,

to determine the appeal.
- (3) An Appeal Board that is to determine an appeal under section 94 of the Act shall, as soon as practicable after the appeal is made, determine whether or not the appeal is to be conducted by an oral hearing and the Chairman of the Board shall, where a hearing is to be conducted, fix a date, time and place for the hearing.
- (4) The Registrar shall notify the appellant and the Commissioner or the prescribed member, as the case may be, of the Board's decision under subregulation (3) and, where a hearing is to be conducted, notify the appellant and the Commissioner or the prescribed member of the date, time and place fixed under subregulation (3).

16 Admission of additional material on appeal

For the purposes of section 95(3) of the Act:

- (a) the prescribed form is Form 3 of Schedule 2; and

- (b) an application shall be made by delivering, or sending by post, the prescribed form referred to in paragraph (a) to the Registrar at the time the appeal is made or not later than 14 days after the date the appeal is made.

Division 3 Witnesses at appeal hearings

17 Witnesses at appeal hearings

- (1) Except as provided in these Regulations, an Appeals Board is not liable to pay the fees and expenses of a person appearing before it as a witness.
- (2) A witness at a hearing of an appeal, not being a member, shall, with the approval of the Chairman of the Appeal Board hearing the appeal, be paid an allowance by the Commissioner.
- (3) An allowance referred to in subregulation (2) shall be an amount equal to the amount of the salary or wages lost by the witness for the day or days of attendance at the hearing or, if the witness is not in receipt of a salary or wages, an amount which would be reasonable having regard to the occupation of the witness and the time lost in attendance.
- (4) Subject to subregulation (5), a witness shall be entitled to be paid, in addition to the allowance referred to in subregulation (2), the cost of conveyance to the hearing and reasonable travelling expenses.
- (5) Subject to subregulation (6), the Commissioner shall not be required to pay travelling expenses or any other expenses incurred by a witness summoned by or on behalf of an appellant.
- (6) Subregulation (5) does not apply in a case where the Appeal Board hearing the appeal finds in favour of the appellant and the evidence given by the witness summoned by or on behalf of the appellant was, in the opinion of the Chairman of the Board, material.
- (7) All claims for witnesses' expenses in connection with the hearing of an appeal shall be submitted to the Chairman of the Appeal Board hearing the appeal who shall furnish to the Commissioner certificates as to attendance and such other particulars as may be necessary to enable the Commissioner to assess the amounts to be paid under this regulation.
- (8) Where a member is summoned to appear as a witness before an Appeal Board, the member shall be taken as being on duty during the time the member is:
 - (a) attending the hearing for the purpose of giving evidence; and

-
- (b) travelling to and from the place where the hearing is held and the police station to which the member is attached.
 - (9) Nothing in subregulation (8) entitles a member to be paid overtime for any time the member is taken as being on duty under that subregulation.

Part 4 Discipline

18 Prescribed members

For the purposes of Part IV of the Act, a prescribed member is a member holding the rank of:

- (a) Senior Sergeant;
- (b) Superintendent;
- (c) Commander;
- (d) Assistant Commissioner; or
- (e) Deputy Commissioner.

19 Disciplinary powers of prescribed members

- (1) For the purposes of section 84D of the Act, a prescribed member of the rank of:
 - (a) Senior Sergeant may, subject to subregulations (2)(a) and (3)(a), do one or more of the things specified in section 84D(a), (b), (c), (d) or (j) of the Act;
 - (b) Superintendent or Commander may, subject to subregulations (2)(b) and (3)(b), do one or more of the things specified in section 84D(a), (b), (c), (d) or (j) of the Act;
 - (c) Assistant Commissioner may, subject to subregulation (2)(c), do one or more of the things specified in section 84D(a), (b), (c) (d), (g) or (j) of the Act;
 - (d) Deputy Commissioner may do one or more of the things specified in section 84D of the Act other than dismiss a member under paragraph (k) of that section.
- (2) A member of the rank of:
 - (a) Senior Sergeant may not impose a fine under section 84D(d) of the Act or order costs, compensation or restitution to be paid under section 84D(j) of the Act of more than \$100;

- (b) Superintendent or Commander may not impose a fine under section 84D(d) of the Act or order costs, compensation or restitution to be paid under section 84D(j) of the Act of more than \$250; or
 - (c) Assistant Commissioner may not impose a fine under section 84D(d) of the Act or order costs, compensation or restitution to be paid under section 84D(j) of the Act of more than \$1000.
- (3) A member of the rank of:
- (a) Senior Sergeant may not fix a period under section 84D(c) of the Act of longer than 3 months; or
 - (b) Superintendent or Commander may not fix a period under section 84D(c) of the Act of longer than 6 months.

Part 4AA Police powers

19A Infringement notice offence

For section 133AA of the Act, each of the following is prescribed as an infringement notice offence:

- (a) an offence for which an infringement notice may be served under regulation 3 of the *Summary Offences Regulations 1994*;
- (b) a police infringement offence as defined in regulation 7(1) of the *Liquor Regulations 1981*;
- (c) an infringement notice offence as defined in section 20(1) of the *Misuse of Drugs Act 1990*.

Part 4AB Custody notification service

19B Duty to notify custody notification service provider if Aboriginal person in custody received at police station or watch house

- (1) The member for the time being in charge of a police station or watch house has a duty to immediately ask any person in custody who is received at the police station or watch house if the person is an Aboriginal person.

- (2) If the response to the question asked under subregulation (1) indicates that the person is an Aboriginal person, the member has a duty to immediately inform the person that a custody notification service provider will be notified that the person is in custody.
- (3) As soon as practicable after informing the person in accordance with subregulation (2), the member has a duty to notify the custody notification service provider:
 - (a) that the person is in custody; and
 - (b) of the place where the person is in custody.
- (4) This regulation does not apply in relation to a person held in custody under section 128 or 133AB of the Act.
- (5) In this regulation:

custody notification service provider means the North Australian Aboriginal Justice Agency Ltd ACN 118 017 842.

Part 4A Forensic examinations

20A Corresponding jurisdictions

For paragraph (b) of the definition of ***corresponding jurisdiction*** in section 4 of the Act, each member country of the International Criminal Police Organization (Interpol) is a foreign country.

20B DNA analysis of samples

- (1) For section 147C(3) of the Act, the following types of DNA analysis are prescribed:
 - (a) genomic (nuclear);
 - (b) mitochondrial.
- (2) However, a sample may be analysed to obtain information only for the following purposes:
 - (a) to compare DNA profiles for a person's identification;
 - (b) to determine the gender of a person;
 - (c) to link a person with one or more of the following:
 - (i) another person;
 - (ii) a place;

- (iii) a thing.

Part 5 Personnel records

20 Personnel records

- (1) The Commissioner shall cause to be kept and maintained a personnel record concerning the conduct and service of each member.
- (2) The personnel record of a member shall contain a record of all actions taken or decisions or opinions made under the Act in respect of the member.

21 Inspection of personnel records

- (1) A member may apply to the person having responsibility for keeping and maintaining the member's personnel record to inspect his or her personnel record.
- (2) An application under subregulation (1) may be made at any time and the person having responsibility for keeping and maintaining the personnel record shall, on receiving the application, make the record available to the member for inspection.
- (3) A member who makes an application under this regulation is not required to disclose the reason for applying to inspect his or her personnel record.
- (4) An inspection of a member's personnel record under this regulation shall be carried out in the presence of the person having responsibility for keeping and maintaining the record or a person nominated by that person.
- (5) A member may make copies of, or take extracts from, his or her personnel record.

22 Removal of adverse entry in personnel records

- (1) A member may, at any time, apply to the Commissioner to have an adverse report recorded in the member's personnel record removed from his or her personnel record.
- (2) The Commissioner shall, on receiving an application under subregulation (1):
 - (a) remove the report referred to in the application from the member's personnel record; or

- (b) advise the member in writing of the Commissioner's reasons for not removing the report.

Part 6 Miscellaneous

23 Repeal

The *Police Administration Regulations 1994*, comprising the Regulations specified in Schedule 3, are repealed.

24 Transitional

Where, immediately before the commencement of these Regulations, a member was qualified for promotion to a rank in accordance with regulation 6 of the *Police Administration Regulations 1994*, as then in force, the member shall, on that commencement, continue to be qualified for promotion to that rank as if these Regulations had not come into operation and notwithstanding anything in a determination of the Commissioner determining the qualifications for promotions made for the purposes of these Regulations.

Schedule 1 Prescribed positions

regulation 11

Senior Constable
Sergeant
Senior Sergeant
Superintendent
Commander

Schedule 2

FORM 1

regulation 13

NORTHERN TERRITORY OF AUSTRALIA

Police Administration Act 1978

section 92

NOTICE OF APPEAL

TO: The Registrar of Appeal Boards.

APPELLANT:

Name:
Rank:
Number:
Station:

PROMOTION, DECISION, APPOINTMENT OR ACTION APPEALED AGAINST:

I appeal to the Promotions Appeal Board against the decision of the Commissioner specified below:

- * Promotion under section 16(1)(b) or (3) of the Act:
 Name of member promoted:
 Rank to which provisional promotion made:
 Date on which provisional promotion appealed against was notified in the *Police Gazette*:
- * Decision under section 17(b) of the Act:
 Nature of decision:
 Date on which decision appealed against was notified in the *Police Gazette*:
- * Appointment under section 18(5) of the Act:

 Nature of appointment:
 Date on which appointment appealed against was notified in the *Police Gazette*:

* Refusal under section 166AA(3) to promote or transfer member:
.....

Nature of action:
.....

Date of action:
(Attach a copy of the letter advising of the action)

Dated:, 19.....

.....
Signature

* Delete whichever is inapplicable

FORM 2

regulation 15

NORTHERN TERRITORY OF AUSTRALIA

Police Administration Act 1978

section 94

NOTICE OF APPEAL

TO: The Registrar of Appeal Boards.

APPELLANT:

Name:

Rank:

Number:

Station:

ACTION, DIRECTION, INTENTION, DECISION OR OPINION APPEALED AGAINST:

I appeal to the Disciplinary Appeal Board/Inability Appeal Board* against the determination of the Commissioner/ prescribed member* specified below:

- * (a) the action of the Commissioner under section 78;
- * (b) the action of a prescribed member under section 81(3);
- * (c) the action of the Commissioner or prescribed member under section 79(3)(d) or 83;
- * (d) a direction, action or intention by or of the Commissioner under section 89; or
- * (e) a decision or opinion as a result of which such an action was taken, direction given or intention made under section 78, 79(3)(d), 81(3), 83 or 89.

* Date of action, &c.:

* Date notice of action &c., served on appellant:

* Date appellant responded to notice of action served on him/her*:

The grounds on which I make this appeal are specified below:

.....
.....

Dated:, 19.....

.....
Signature

* Delete whichever is inapplicable

FORM 3

regulation 16

NORTHERN TERRITORY OF AUSTRALIA

Police Administration Act 1978

section 95(3)

ADMISSION OF ADDITIONAL MATERIAL

TO: The Registrar of Appeal Boards.

APPELLANT:

Name:
Rank:
Number:
Station:

In respect of the appeal made by me on, the following material was not available to the Commissioner/prescribed member* before taking the action or forming the intention that is being appealed against.

(Include details of additional material)
.....
.....

The reasons why I consider that the Appeal Board should admit the material are specified below:
.....

I, therefore, apply to the Appeal Board to admit the material.

Dated:, 19....

.....
Signature

* Delete whichever is inapplicable

Schedule 3 Regulations repealed

regulation 23

1979, No. 8
1980, No. 1
1980, No. 37
1981, No. 2
1984, No. 3
1985, No. 33
1989, No. 39
1990, No. 34

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2**LIST OF LEGISLATION*****Police Administration Regulations (SL No. 44, 1994)***

Notified	1 December 1994
Commenced	1 December 1994

Amendment of Police Administration Regulations (SL No. 18, 1997)

Notified	11 June 1997
Commenced	11 June 1997

Police Administration Amendment (Forensic Examinations) Regulations 2005 (SL No. 27, 2005)

Notified	17 August 2005
Commenced	17 August 2005 (r 2, s 2 <i>Police Administration Amendment (Forensic Procedures) Act 2004</i> (Act No. 57, 2004) and <i>Gaz G33</i> , 17 August 2005, p 5)

Police Administration Amendment Act 2014 (Act No. 45, 2014)

Assent date	5 December 2014
Commenced	17 December 2014 (<i>Gaz S126</i> , 17 December 2014)

Justice Legislation Amendment (Drug Offences) Act 2016 (Act No. 17, 2016)

Assent date	8 June 2016
Commenced	s 17 (to ext ins new s 15): 10 October 2016; rem: 18 July 2016 (<i>Gaz S67</i> , 18 July 2016)

Police Administration Amendment Regulations 2019 (SL No. 17, 2019)

Notified	31 July 2019
Commenced	31 July 2019 (<i>Gaz G31</i> , 31 July 2019)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr: 1, 19A, 23 and 24 and sch 2.

4 LIST OF AMENDMENTS

r 19	amd No. 18, 1997
pt 4AA hdg	ins Act No. 45, 2014, s 13
r 19A	ins Act No. 45, 2014, s 13
	amd Act No. 17, 2016, s 46
pt 4AB hdg	ins No. 17, 2019, r 4
r 19B	ins No. 17, 2019, r 4
pt 4A hdg	ins No. 27, 2005, r 4
rr 20A – 20B	ins No. 27, 2005, r 4