

NORTHERN TERRITORY OF AUSTRALIA
POLICE ADMINISTRATION AMENDMENT ACT 2002

Act No. 3 of 2002

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 3 of 2002

AN ACT

to amend the *Police Administration Act*

[Assented to 28 March 2002]
[Second reading 28 November 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Police Administration Amendment Act 2002*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Police Administration Act* is in this Act referred to as the Principal Act.

4. New section

The Principal Act is amended by inserting in Part III, Division 1, before section 35, the following:

"35A. Definitions

"In this Part, unless the contrary intention appears –

'Chairperson' means the person appointed under section 36(2)(a);

'conciliator' means a person appointed under section 40D(1);

'Minister's nominee' means the person appointed under section 36(2)(b);

'Police Association's nominee' means the person appointed under section 36(2)(c)."

5. Repeal and substitution

Sections 36 and 37 of the Principal Act are repealed and the following substituted:

"36. Constitution of Tribunal

"(1) The Tribunal is constituted by –

- (a) the Chairperson;
- (b) the Minister's nominee; and
- (c) the Police Association's nominee.

"(2) The Minister may, by notice in the *Gazette*, appoint –

- (a) a person to be the Chairperson;
- (b) a person to be the Minister's nominee; and
- (c) a person to be the Police Association's nominee.

"(3) The Minister must not appoint a person to be the Chairperson unless the person –

- (a) is a member of the Australian Industrial Relations Commission established by the *Workplace Relations Act 1996* of the Commonwealth whose appointment to the Tribunal has been agreed to by the President of the Commission; or
- (b) is a person who, in the opinion of the Minister, has suitable qualifications and experience to be appointed Chairperson.

"36A. Deputy members

"(1) The Minister may, by notice in the *Gazette*, appoint –

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- (a) a person to be the deputy of the Chairperson;
- (b) a person to be the deputy of the Minister's nominee; and
- (c) a person to be the deputy of the Police Association's nominee.

"(2) The Minister must not appoint a person to be the deputy of the Chairperson unless the person –

- (a) is a member of the Australian Industrial Relations Commission established by the *Workplace Relations Act 1996* of the Commonwealth whose appointment as the deputy of the Chairperson has been agreed to by the President of the Commission; or
- (b) is a person who, in the opinion of the Minister, has suitable qualifications and experience to be appointed as the deputy of the Chairperson.

"(3) A person who is appointed under subsection (1) to be the deputy of the holder of an office is to act in that office while the holder of the office is absent or unable to act as a member of the Tribunal for any reason.

"36B. Commissioner and Association to recommend certain members of Tribunal

"(1) The Minister may only appoint a person to be the Minister's nominee or the deputy of the Minister's nominee if the person is not a member of the Police Force.

"(2) If there is a vacancy in the office of –

- (a) the Minister's nominee or the deputy of the Minister's nominee – the Minister must give notice in writing to the Commissioner and the Commissioner for Public Employment requesting them to recommend in writing a person to the office within 30 days after the notice is given; or
- (b) the Police Association's nominee or the deputy of the Police Association's nominee – the Minister must give notice in writing to the Police Association requesting the Association to recommend in writing a person to the office within 30 days after the notice is given.

"(3) The Minister may only appoint a person to be the Minister's nominee or the deputy of the Minister's nominee after –

- (a) the Minister has received a recommendation in writing from the Commissioner and the Commissioner for Public Employment; or

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- (b) 30 days after notice is given by the Minister under subsection (2)(a).

"(4) The Minister may only appoint a person to be the Police Association's nominee or the deputy of the Police Association's nominee if the person is recommended for appointment in a notice to the Minister given by the Police Association.

"(5) Subsection (4) does not apply if the Police Association has not recommended a person in writing within 30 days after notice is given by the Minister under subsection (2)(b) to be the Police Association's nominee or the deputy of the Police Association's nominee.

"37. Duration of appointment

"(1) Subject to subsection (3), a person appointed under section 36 or 36A holds office for the term of not more than 3 years that is specified in his or her notice of appointment.

"(2) A person appointed under section 36 or 36A is eligible for reappointment.

"(3) A person appointed under section 36 or 36A ceases to be a member of the Tribunal or a deputy of a member of the Tribunal –

- (a) if the Minister receives a written notice of resignation, signed by the person;
- (b) if the Minister appoints another person under that section in the place of that person; or
- (c) if the person dies.

"37A. Members and deputy members to take oath or affirmation

"(1) A member of the Tribunal or a deputy of a member of the Tribunal must, before first exercising his or her powers or performing his or her functions under this Act, make an oath or affirmation set out in Form 3 in the Schedule.

"(2) An oath or affirmation under subsection (1) is to be made before a justice of the peace."

6. Procedures

Section 38 of the Principal Act is amended –

- (a) by inserting at the beginning the following:

"(1) A matter before the Tribunal is to be resolved by a decision of the majority of the members of the Tribunal."; and

(b) by omitting "Subject" and substituting "(2) Subject".

7. Repeal and substitution

Section 40 of the Principal Act is repealed and the following substituted:

"40. Meetings may be requested

"(1) The Secretary must, at the written request of the Commissioner or the Police Association, call a meeting of the Chairperson, the Commissioner and the Police Association about matters relating to the remuneration or terms and conditions of service of members of the Police Force, or both.

"(2) The Secretary must call a meeting under subsection (1) within 14 days after receiving the request or, if it is not practicable to do so within 14 days, as soon as practicable after receiving the request.

"40A. Attempts at conciliation to be made

"(1) At a meeting called under section 40(1), the Chairperson must –

- (a) require the Commissioner and the Police Association, or their representatives, to attempt to conciliate the matters at issue between the parties; and
- (b) for that purpose – appoint a person from the panel appointed under section 40D to be a conciliator in relation to the matters.

"(2) The Chairperson may only appoint a conciliator under subsection (1)(b) after taking into account submissions made by the Commissioner and the Police Association as to the matters at issue between the parties to which the request under section 40 relates.

"(3) Despite subsection (1), the Chairperson may decide that a matter is to be determined by the Tribunal without requiring the Commissioner and the Police Association to attempt to conciliate the matter if the Chairperson is satisfied that the attempt is unlikely to be successful.

"(4) If the Chairperson decides that the matter is to be determined by the Tribunal, the Tribunal must conduct a hearing and make a decision in relation to the matter.

"40B. Conciliation

"(1) A conciliator must do everything that appears to him or her to be right and proper to assist the parties to reach agreement in relation to the matters at issue between the parties.

"(2) The action that may be taken by a conciliator under subsection (1) includes any of the following:

- (a) arranging conferences by the parties or their representatives presided over by the conciliator;
- (b) arranging for the parties or their representatives to confer amongst themselves at conferences that the conciliator does not attend;
- (c) facilitating agreement between the parties as to matters referred to conciliation;
- (d) mediation;
- (e) advising the Tribunal that the parties have requested the Tribunal to make a determination or to vary or revoke a determination of the Tribunal;
- (f) concluding the matter by both parties agreeing not to continue with the matter.

"(3) The procedures to be adopted in relation to conciliation of a matter are to be as determined by the conciliator.

"(4) A conciliator must not, except with the agreement of the Commissioner and the Police Association, disclose anything said or done for the purposes of conciliating a matter under this Part.

"(5) A conciliator is not personally liable for any action taken, or not taken, in good faith for the purposes of conciliating a matter under this Part.

"(6) If an agreement under this section is inconsistent with a determination of the Tribunal, the determination prevails to the extent of the inconsistency.

"40C. Referral of matters to Tribunal

"(1) The Commissioner and the Police Association may together request the Tribunal to conduct a hearing and make a decision in relation to all or any aspects of a matter to which a request under section 40(1) relates.

"(2) If a request is received under subsection (1) and the Chairperson is satisfied that the parties have made a genuine attempt to agree about those aspects

of the matter in the course of conciliation under this Part, the Tribunal must conduct a hearing and make a decision in relation to those aspects of the matter about which agreement has not been reached.

"(3) A conciliator must notify the Tribunal as to the results of conciliation between the parties within 14 days after conciliation has concluded.

"(4) If a conciliator notifies the Tribunal that the parties have agreed to request a decision of the Tribunal as to whether to make a determination or to vary or revoke a determination of the Tribunal, the Tribunal must conduct a hearing and decide the matter.

"40D. Panel of conciliators

"(1) The Minister may appoint a suitably qualified and experienced person, who is not a member of the Tribunal, a deputy of a member of the Tribunal or a member of the Police Force, to be a member of a panel of conciliators.

"(2) The Minister may only appoint a person under subsection (1) after taking into account submissions made by the Commissioner and the Police Association as to the persons suitable to be members of the panel of conciliators."

8. Repeal and substitution

Section 50 of the Principal Act is repealed and the following substituted:

"50. Protection of members of Tribunal

"(1) The Chairperson is not personally liable for an action taken, or not taken, in good faith in administering this Part.

"(2) A member of the Tribunal or a deputy of a member of the Tribunal is not personally liable for any action taken, or not taken, in good faith by the Tribunal in administering this Part.

"50A. Appeals to Supreme Court

"The Commissioner or the Police Association may, with the leave of the Supreme Court, appeal to the Supreme Court against a determination made under Part III, Division 1, but only on a question of law."

9. Schedule

The Schedule to the *Police Administration Act* is amended by adding at the end the following:

"FORM 3

Section 37A

FORM OF OATH TO BE TAKEN BY MEMBER OF, OR DEPUTY OF
MEMBER OF, POLICE ARBITRAL TRIBUNAL

I,....., do swear that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her while acting as a member of the Police Arbitral Tribunal and that I will faithfully and impartially perform the duties of a member of the Police Arbitral Tribunal. So help me God!

FORM OF AFFIRMATION TO BE TAKEN BY MEMBER OF, OR DEPUTY
OF MEMBER OF, POLICE ARBITRAL TRIBUNAL

I,....., do solemnly and sincerely promise and declare that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her while acting as a member of the Police Arbitral Tribunal and that I will faithfully and impartially perform the duties of a member of the Police Arbitral Tribunal."
