



NORTHERN TERRITORY OF AUSTRALIA

No. 47 of 1985

AN ACT

To amend the *Police Administration Act*

[Assented to 26 September 1985]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Police Administration Amendment Act (No. 2) 1985*.

2. PRINCIPAL ACT

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

3. PREFERENCE FOR MEMBERS, &c.

Section 17(c) of the Principal Act is amended by omitting "section 67(1)(f)" and substituting "section 67(1)(g)".

4. APPEALS

Section 67 of the Principal Act is amended -

- (a) by omitting subsection (1) and substituting the following:

"(1) Subject to this section, where the Commissioner -

- (a) promotes under section 16(1)(b) or (3) a member to a rank of or below the rank of Sergeant First Class;

- (b) makes a decision referred to in section 17(b);

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- (c) makes an appointment contrary to section 18(5);
- (d) takes action under section 23 against a member; or
- (e) refuses under section 166AA(3) to promote or transfer a member to a position and that refusal is the only ground on which the member was not promoted or transferred to that position,

an appeal may be made to the Board against the promotion, decision, appointment, action or refusal by -

- (f) in the case of a promotion referred to in paragraph (a) - subject to subsection (2), a member who is qualified, and who has applied, for promotion to the rank to which that promotion was made;
- (g) in the case of a decision referred to in paragraph (b) - subject to subsections (2) and (3), a member who is qualified, and who has applied, for promotion to the prescribed position;
- (h) in the case of an appointment referred to in paragraph (c) - a Police Cadet who was, at the time of the appointment, qualified for promotion to the rank of Constable and who is still so qualified;
- (j) in the case of an action referred to in paragraph (d) - the member or former member against whom the action was taken; and
- (k) in the case of a refusal referred to in paragraph (e) - the member the subject of that refusal.

"(1A) A member otherwise qualified to appeal against a promotion referred to in subsection (1)(a) or a decision referred to in subsection (1)(b) is not disqualified from making such an appeal where he is the subject of a refusal under section 166AA(3) in respect of the position to which the promotion or decision relates."; and

- (b) by omitting from subsection (2) "(1)(e) or a decision referred to in sub-section (1)(f)" and substituting "(1)(a) or a decision referred to in subsection (1)(b)".

5. TIME OF APPEAL

Section 67B of the Principal Act is amended -

- (a) by omitting from paragraph (b) "and" (last occurring);

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- (b) by omitting from paragraph (c) "the action." and substituting "the action; and"; and
- (c) by adding at the end the following:
- "(d) where the appeal is an appeal in relation to a refusal under section 166AA(3) - the date on which the appellant to which the refusal relates is notified of the refusal."

6. REPEAL AND SUBSTITUTION

Section 74 of the Principal Act is repealed and the following substituted:

"74. EFFECT OF DECISIONS, &c.

"(1) Where, on an appeal under this Part, the appellant proves to the satisfaction of the Board that the promotion, decision, appointment, action or refusal to which the appeal relates was wrong, it may -

- (a) in the case of a promotion, decision, appointment or action -

- (i) affirm;
 - (ii) set aside; or
 - (iii) vary,

that promotion, decision, appointment or action;
and

- (b) in the case of the refusal - set aside that refusal.

"(2) Where, under subsection (1)(a), the Board sets aside a promotion, decision, appointment or action, it may substitute its own promotion, decision, appointment or action for the promotion, decision, appointment or action to which the appeal relates.

"(3) Where, under subsection (1)(b), the Board sets aside a refusal, the Commissioner shall promote or transfer the appellant to the position to which he would have promoted or transferred him but for that refusal.

"(4) Subject to subsections (5) and (6), where, under this section, the Board varies or substitutes a promotion, decision, appointment or action, effect shall be given to the promotion, decision, appointment or action as so varied or substituted, as the case may be, as if it were the promotion, decision, appointment or action of the Commissioner.

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"(5) Where an appeal under this Part results in more than one successful appellant, the Board shall, in varying or substituting under this section the promotion, decision or appointment to which the appeal relates, specify, in its opinion, the order of priority of the successful appellants and effect shall be given to the promotion, decision or appointment as so varied or substituted in accordance with that order of priority and as if it were the promotion, decision or appointment of the Commissioner.

"(6) For the purposes of subsections (1)(a), (2), (4) and (5), where a successful appellant has failed to pass the medical examination for the position to which the promotion, decision or appointment varied or substituted under this section relates, the Board may, notwithstanding that failure, direct that effect be given to that promotion, decision or appointment, as so varied or substituted, in respect of that successful appellant and, where the Board so directs, effect shall be so given as if it were the promotion, decision or appointment of the Commissioner."
