



# NORTHERN TERRITORY OF AUSTRALIA

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No. 74 of 1983

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## AN ACT

To amend the *Police Administration Act*

[Assented to 28 November 1983]

**B**E 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. 4) 1983*.

2. COMMENCEMENT

This Act shall come into operation on a date to be 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. REPEAL AND SAVINGS

Section 3(2) of the Principal Act is amended by omitting "the provisions of Part VI" and substituting "Part VII".

5. INTERPRETATION

Section 4(1) of the Principal Act is amended by inserting after the definition of "Police Force" the following:

"'Registrar' means the Registrar appointed under section 66(2);

'Secretary' means the Secretary appointed under section 96(2);".

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6. REMUNERATION OF COMMISSIONER, &c.

Section 9(4) of the Principal Act is amended by omitting "death, resignation or retirement under section 10(3)" and substituting "death or resignation or his retirement under section 10".

7. COMMISSIONER MAY APPOINT OR PROMOTE MEMBERS

Section 16(3) of the Principal Act is amended by omitting "by examination and experience to be promoted to" and substituting "for promotion to, and who has the skill and efficiency suitable to discharge the duties of the position within,".

8. REPEAL AND SUBSTITUTION

Section 17 of the Principal Act is repealed and the following substituted:

"17. PREFERENCE FOR MEMBERS, &c.

"An appointment shall not be made under section 16(1)(aa) unless the appointment is to a prescribed position and -

- (a) the Commissioner has, not less than 42 days before the appointment, published or caused to be published in the *Police Gazette* a notice of the rank and duties of, and the qualifications required for, that position, together with a statement that -
  - (i) if, in the Commissioner's opinion, having received applications from members, there is not amongst those members a member who has the skill and efficiency suitable for promotion to that position; or
  - (ii) if, having received no applications from members for promotion to that position, the Commissioner shall appoint to that position a person from outside the Police Force;
- (b) where the Commissioner has -
  - (i) received applications from members for promotion to the position; or
  - (ii) received no applications from members for promotion to the position, and has, in accordance with the statement referred to in paragraph (a), decided to appoint to that position a person from outside the Police Force, he has published or caused to be

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published in the *Police Gazette*, not later than 28 days before he makes the appointment, a notice that -

- (iii) having received applications from members for promotion to that position, he is of the opinion that there is not amongst those members a member who has the skill and efficiency suitable for promotion to that position; or
- (iv) having received no applications from members for promotion to that position, he intends to appoint to that position a person from outside the Police Force,

as the case may be; and

- (c) each appeal, if any, under section 67(1)(f), in respect of a decision referred to in paragraph (b) made in relation to the position, has been heard and determined.

"17A. ALLOWANCE FOR MEMBER HAVING SPECIAL QUALIFICATIONS

"(1) Subject to this section, the Commissioner may, where he is of the opinion that a member has special skills and qualifications -

- (a) suitable for use in the Police Force; and
- (b) which are being used by the member in the performance of his duties as a member,

but that the remuneration and allowances applicable to the rank held by that member do not adequately compensate that member for those special skills and qualifications, determine, subject to such terms and conditions as he thinks fit, that that member shall be paid, on and from the date specified in the determination, in addition to that remuneration and those allowances, an allowance, not exceeding the prescribed amount, sufficient, in the opinion of the Commissioner, to adequately compensate that member for those special skills and qualifications, and that member shall, accordingly, be paid the allowance.

"(2) Without limiting the generality of the Commissioner's power under sub-section (1), the terms and conditions referred to in that sub-section may specify that the allowance payable in pursuance of a determination under that sub-section to a member shall cease to be paid to him where -

- (a) his special skills and qualifications which gave rise to the determination are no longer being used by him in the performance of his duties as a member; or
- (b) he is promoted within the Police Force.

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"(3) Where a member the subject of a determination under sub-section (1) is, after the determination is made, promoted within the Police Force and the Commissioner has not made that determination subject to the condition specified in sub-section (2)(b), the Commissioner shall review that determination and, after that review, having regard to -

- (a) whether the special skills and qualifications of the member which gave rise to that determination are still being used by him in the duties carried out by him as a member with the rank held by him after his promotion; and
- (b) the difference between the remuneration and allowances applicable to the rank held by him immediately before his promotion and the remuneration and allowances from time to time applicable to the rank held by him after his promotion,

may -

- (c) vary the allowance payable in pursuance of that determination; or
- (d) revoke that determination,

with effect on and from that promotion."

9. REPEAL AND SUBSTITUTION

Sections 23 and 24 of the Principal Act are repealed and the following substituted:

"23. COMMISSIONER MAY DEAL WITH MEMBERS

"Subject to section 24, where a member other than a Deputy Commissioner or an Assistant Commissioner appears to the Commissioner to be -

- (a) inefficient or incompetent in relation to;
- (b) unable to discharge or incapable of discharging;  
or
- (c) unfit, including medically unfit, to discharge,

the duties of his position, the Commissioner may -

- (d) transfer the member to another position (whether in the same or a different locality) to which the same salary, or range of salary, is applicable as the salary or range of salary applicable to his position;
- (e) reduce the member to a lower position and salary;

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- (f) reduce the rate of salary of the member to a rate of salary within the limits of salary fixed for the rank held by that member;
- (g) where action under this section arose because the member was medically unfit, and without limiting the generality of any other action that may be taken under this section against that member because of his medical unfitness, direct that member to take sick leave for such period as is specified in the direction; or
- (h) retire the member from the Police Force.

"24. COMMISSIONER TO GIVE NOTICE TO MEMBER WHERE HE TAKES ACTION UNDER SECTION 23

"Where the Commissioner takes action under section 23 against a member, the action shall not take effect until the Commissioner has in writing notified the member of the action taken and has in that notice set out his reasons for taking that action."

10. POLICE OFFICERS OF OTHER JURISDICTIONS

Section 29(2) of the Principal Act is amended by omitting "not be a member of the Police Force but shall comply with the provisions of Part V of this Act" and substituting "be deemed to be a member of the Police Force".

11. SECRETARY TO THE TRIBUNAL

Section 39 of the Principal Act is amended by omitting "Secretary" and substituting "secretary".

12. CERTIFICATION OF CONSENT AGREEMENTS BY TRIBUNAL

Section 53(3) of the Principal Act is amended by omitting "Secretary" and substituting "secretary".

13. DURATION OF CONSENT AGREEMENT

Section 56 of the Principal Act is amended by omitting "Secretary" and substituting "secretary".

14. PART IV - POLICE PROMOTIONS BOARD

The heading to Part IV of the Principal Act is amended by inserting after "PROMOTIONS" the word "APPEAL".

15. ESTABLISHMENT OF BOARD

Section 59(1) of the Principal Act is amended by inserting after "Promotions" the word "Appeal".

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16. CONSTITUTION OF BOARD

Section 60(1) of the Principal Act is amended by omitting "The Board" and substituting "Subject to section 69(5), the Board".

17. REPEAL AND SUBSTITUTION

Section 67 of the Principal Act is repealed and the following substituted:

"67. APPEALS

"(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);
  - (c) makes an appointment contrary to section 18(5); or
  - (d) takes action under section 23 against a member,
- an appeal may be made to the Board against the promotion, decision, appointment or action, as the case may be, by -
- (e) in the case of a promotion under section 16(1)(b) or (3) of a member to a rank of or below the rank of Sergeant First Class, subject to sub-section (2) - a member who is qualified, and who has applied, for promotion to the rank to which that promotion was made;
  - (f) in the case of a decision referred to in section 17(b), subject to sub-sections (2) and (3) - a member who is qualified, and who has applied, for promotion to the prescribed position;
  - (g) in the case of an appointment contrary to section 18(5) - 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; and
  - (h) in the case of an action taken under section 23 against a member - the member or former member against whom the action was taken.

"(2) The Board may allow a member otherwise qualified to appeal against a promotion referred to in sub-section (1)(e) or a decision referred to in sub-section (1)(f) to appeal against the promotion or decision where he satisfies the Board that he was unable, due to special circumstances, including his absence from the

Territory or the remoteness of the locality in the Territory where he is required to perform his duties as a member, or to apply for promotion to the rank or prescribed position to which that promotion or decision relates, or that he did make such an application but the application went astray or arrived too late to be taken into consideration.

"(3) An appeal under this Part against a decision referred to in section 17(b) shall not be made other than on the grounds that the member making the appeal has the skill and efficiency suitable for promotion to the prescribed position in accordance with the writings.

"(4) The Commissioner shall be a party to a proceeding before the Board in respect of an appeal under this Part.

"(5) Subject to sub-section (6), a question arising in an appeal under this Part shall be determined in accordance with the opinion of a majority of the Board.

"(6) A question of law arising in an appeal under this Part (including the question whether a particular question is one of law) shall be determined in accordance with the opinion of the Chairman of the Board.

#### "67A. NOTICE OF APPEAL

"An appeal under this Part shall be instituted by posting or delivering a notice of appeal in the prescribed form to the office of the Registrar of the Board.

"67B. TIME OF APPEAL  
"A member shall not post or deliver a notice of appeal referred to in section 67A after the expiration of 28 days from -

(a) where the appeal is an appeal in relation to a promotion under section 16(1)(b) or (3) - the date on which notice of the promotion was published in the Police Gazette;

(b) where the appeal is an appeal in relation to a decision referred to in section 17(b) or an appointment contrary to section 18(5) - the date on which notice of the proposed appointment under section 16(1)(a) or appointment under section 18(5) was published in the Police Gazette; and

(c) where the appeal is an appeal in relation to an action taken under section 23 - the date on which the appellant received the notice under section 24 relating to the action."

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**18. NEW SECTIONS**

The Principal Act is amended by inserting after section 68 the following:

**"68A. WITNESSES**

"A person summoned to attend as a witness before the Board shall not

(a) without reasonable excuse, refuse or fail to attend, or to produce documents, books or writings, in accordance with the summons; or

(b) refuse to be sworn or to make an affirmation or to answer a question relevant to the proceedings before the Board.

Penalty: \$200.

**"68B. OBSTRUCTION OF MEMBERS**

"A person shall not obstruct the Chairman or a member of the Board in the exercise of the powers conferred under this Act on the Chairman or member.

Penalty: \$200.

**"68C. COMMUNICATION OF BOARD MATTERS**

"A member of the Police Force shall not communicate information which he has received in the performance of duties connected with the exercise of the powers or the performance of the functions of the Board to a person other than a member of the Board or to a person to whom the Board has authorized him to communicate the information.

Penalty: \$200."

**19. HEARINGS**

Section 69 of the Principal Act is amended by adding at the end the following:

"(3) Where, after the Registrar has, under this Act, fixed a date, time and place for the hearing of an appeal under this Part and, before that date, the parties to the appeal have agreed that at that hearing they intend only to seek an adjournment, the parties may give notice in the prescribed form to the Registrar of that agreement.

"(4) Where the Registrar receives a notice referred to in sub-section (3), he shall, as soon as practicable after that receipt but in any case not later than 7 days before the hearing, forward a copy of that notice to the members of the Board.



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"(5) For the purposes of a hearing referred to in sub-section (3) the subject of a notice referred to in that sub-section, the Board may be constituted by the Chairman only but, at the hearing, if the Board is so constituted, the only matter to be considered and decided upon by the Chairman shall be the date, time and place to which that hearing is to be adjourned."

20. 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 or action to which the appeal relates was wrong, it may -

(a) affirm;

(b) set aside; or

(c) vary,

that promotion, decision, appointment or action.

"(2) Where, under sub-section (1), 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) Subject to sub-sections (4), (5), (6) and (7), 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.

"(4) Where an appeal under this Part results in only one successful appellant and he fails the medical examination for the position to which the promotion, decision or appointment varied or substituted under this section relates, that promotion, decision or appointment, as so varied or substituted, shall, subject to sub-section (7), be deemed to have never been made and the promotion, decision or appointment against which the appeal was made shall be deemed to have been affirmed under sub-section (1)(a) by the Board.

"(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

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appellants and, subject to sub-section (6), 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) Where a successful appellant specified under sub-section (5) as having the highest order of priority fails the medical examination for the position to which the promotion, decision or appointment varied or substituted under this section relates, that promotion, decision or appointment as so varied or substituted shall, subject to sub-section (7), be given effect to under sub-section (5) in respect of the successful appellant named under that sub-section -

- (a) who has the highest order of priority under sub-section (5); and
- (b) who passes the medical examination for that position,

or, where there is no such successful appellant, that promotion, decision or appointment as so varied or substituted shall, subject to sub-section (7), be deemed to have never been made and the promotion, decision or appointment against which the appeal was made shall be deemed to have been affirmed under sub-section (1)(a) by the Board.

"(7) For the purposes of sub-sections (4), (5) and (6), where a successful appellant fails 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."

**21. LAWFUL INSTRUCTIONS**

Section 78 of the Principal Act is amended by inserting after "rank" the words "or a member of the same rank under whose control, direction or supervision he is performing his duties".

**22. DISCIPLINARY OFFENCES**

Section 85 of the Principal Act is amended by omitting paragraphs (g), (h) and (i) and substituting the following:

- "(g) acts in a manner that brings discredit to the reputation of the Police Force; or

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(h) is, while on duty, under the influence of intoxicating liquor or drugs,".

23. REPEAL AND SUBSTITUTION

Sections 86 and 87 of the Principal Act are repealed and the following substituted:

"86. NOTICE OF ALLEGED OFFENCE

"(1) Where it appears to the Commissioner that a member may have committed a disciplinary offence in respect of which the member would, if found guilty, be subject to a penalty specified in section 88(a) or (b), the Commissioner may cause to be served personally on that member copies of the documents giving rise to the alleged disciplinary offence and a written notice -

- (a) stating briefly the particulars of the disciplinary offence;
- (b) stating that the member may, not less than 14 days after the service of the notice, deliver to the Commissioner a written statement in connection with the disciplinary offence;
- (c) stating that the member is entitled to appear before the Commissioner at the hearing of the matter or, if the member consents in writing thereto, that the Commissioner may determine the matter without a hearing; and
- (d) informing the member of the time, being not less than 14 days after the service of the notice, at which the Commissioner will -
  - (i) hear and determine the matter; or
  - (ii) where the member has so consented in writing thereto and the Commissioner is of the opinion, after receiving that member's written statement, if any, referred to in paragraph (b), that it is proper to do so - determine the matter without a hearing.

"(2) Where it appears to the Commissioner that a member may have committed a disciplinary offence in respect of which the member would, if found guilty, be subject to a penalty specified in section 88(c), (d), (e) or (f), the Commissioner may cause to be served personally on that member a written notice -

- (a) stating briefly the particulars of the disciplinary offence;
- (b) stating that the member may, not less than 14 days after the service of the notice, deliver to the Commissioner a written statement in connection with the disciplinary offence;

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- (c) informing the member of the time, being not less than 14 days after the service of the notice, at which the Commissioner will make a decision under section 87(2) in respect of the matter; and
- (d) stating that the member is, if the matter is referred under section 87(2)(b) to the Police Appeal Board, entitled to appear before the Board at the hearing of that matter.

"87. COMMISSIONER'S DETERMINATION

"(1) After the expiration of the time specified in a notice given under section 86(1) the Commissioner shall, where he is satisfied that the member to whom the notice is given has not, in a written statement provided in accordance with section 86(1)(b), rebutted the alleged disciplinary offence the subject of that notice -

- (a) where that member has consented, in accordance with section 86(1)(c), to the Commissioner determining the matter without a hearing and the Commissioner is, in accordance with section 86(1)(d), of the opinion that it is proper to do so - proceed to determine whether that member has committed that disciplinary offence; and
- (b) in any other case - proceed to hear and determine whether that member has committed that disciplinary offence.

"(2) After the expiration of the time specified in a notice given under section 86(2) the Commissioner shall, where he is satisfied that the member to whom the notice is given has not, in a written statement provided in accordance with section 86(2)(b), rebutted the alleged disciplinary offence the subject of that notice but is satisfied that, if the member were found guilty, the member would be subject to a penalty specified in -

- (a) section 88(a) or (b) - cause to be served personally on that member a written notice -
  - (i) stating that that member is entitled to appear before the Commissioner at the hearing of the matter or, if that member consents in writing thereto, that the Commissioner may determine the matter without a hearing; and
  - (ii) informing that member of the time, being not less than 14 days after the service of the notice, at which the Commissioner will -
    - (A) hear and determine the matter; or

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- (B) where the member has so consented in writing thereto and the Commissioner is of the opinion that it is proper to do so - determine the matter without a hearing; or
  - (b) section 88(c), (d), (e) or (f) - refer the matter to the Police Appeal Board for hearing and determination by lodging with the Secretary a notice in the prescribed form.
- "(3) After the expiration of the time specified in a notice given under sub-section (2)(a), the Commissioner shall -
- (a) where the member upon whom the notice was served has consented, under sub-section (2)(a)(i), to the Commissioner determining the matter without a hearing and the Commissioner is, in accordance with sub-section (2)(a)(ii)(B), of the opinion that it is proper to do so - proceed to determine whether that member has committed the disciplinary offence the subject of that notice; and
  - (b) in any other case - proceed to hear and determine whether the member upon whom the notice was served has committed the disciplinary offence the subject of that notice.
- "(4) The procedure to be adopted at a hearing under sub-section (1)(b) or (3)(b) shall be at the discretion of the Commissioner.
- "(5) For the purpose of a hearing under sub-section (1)(b) or (3)(b), the Commissioner shall take into account the contents of the member's written statement provided in accordance with section 86(1)(b) or 86(2)(b) respectively and, if that member appears before the Commissioner at the hearing, the oral statement, if any, made before him by that member.
- "(6) For the purposes of a hearing under sub-section (1)(b) or (3)(b), the Commissioner may -
- (a) summon a person to appear before him to give evidence and to produce such documents, if any, as are referred to in the summons; and
  - (b) take evidence on oath or affirmation.
- "(7) At a hearing under sub-section (1)(b) or (3)(b), a member may appear in person but shall not be represented by another person.
- "(8) At a hearing under sub-section (1)(b) or (3)(b), a member shall answer a question put to him which is within his knowledge.

"(9) An answer given by a member pursuant to sub-section (8) shall be used only for the purpose of determining whether the disciplinary offence the subject of the hearing has been committed by the member.

"(10) Where, during the course of a hearing under sub-section (1)(b) or (3)(b), the Commissioner forms the opinion that the matter should be referred to the Police Appeal Board for hearing and determination he shall discontinue the hearing and refer the matter to that Board for that purpose by lodging with the Secretary a notice in the prescribed form.

"(11) The Commissioner shall cause to be served personally on the member to whom a determination under sub-section (1) or (3) relates, notice of the determination and of the punishment, if any, imposed.

"(12) Where the Commissioner has determined that a member has not committed the alleged disciplinary offence with which he was charged, the Commissioner shall dismiss the charge and notify the member in writing accordingly.

"(13) A determination made under sub-section (1) or (3) by the Commissioner has full force and effect immediately after the appeal period under section 106(2) has, without an appeal under Part VII, having been instituted in respect of the determination, expired.

#### "87A. WITNESSES

"(1) A person summoned to attend as a witness before the Commissioner shall not -

(a) without reasonable excuse, refuse or fail to attend, or to produce documents, books, or writings, in accordance with the summons; or  
(b) refuse to be sworn or to make an affirmation or to answer a question relevant to the proceedings before the Commissioner.

Penalty: \$200." (2) For the purpose of section (1)(b) or (3)(b), the Commissioner may -

#### 24. PUNISHMENT

Section 88 of the Principal Act is amended by omitting paragraph (b) and substituting the following:

"(b) in the case of the Commissioner, impose on the member a fine not exceeding \$200;  
(1) At a hearing under sub-section (1) or (3) in the case of the Board, impose on the member a fine not exceeding \$1,000;"

(3) A member shall answer a question put to him which is within his knowledge.

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25. ESTABLISHMENT OF BOARD

Section 89(1) of the Principal Act is amended by inserting after "this Act" the words "and matters referred to it under section 87(2)(b) or (10)".

26. CONSTITUTION OF BOARD

Section 90(1) of the Principal Act is amended by omitting "The Board" and substituting "Subject to section 107(3), the Board".

27. FEES AND ALLOWANCES

Section 92(3) of the Principal Act is amended by omitting "an available nominated member" and substituting "a member of the Board".

28. REPEAL

Section 94 of the Principal Act is repealed.

29. PROCEEDINGS

Section 104 of the Principal Act is amended by omitting sub-section (1) and substituting the following:

"(1) In a proceeding before the Board -

- (a) the procedure of the Board is, subject to this Act and to the Regulations, within the discretion of the Board;
- (b) the proceeding shall be conducted with as little formality and technicality and with as much expedition as the requirements of this Act and a proper consideration of the matter before the Board permit; and
- (c) the Board is not bound by the rules of evidence, but may inform itself on a matter in such manner as it thinks fit."

30. NOTICE OF APPEAL

Section 106 of the Principal Act is amended -

- (a) by omitting from sub-section (1) "to the Board a notice of appeal" and substituting "a notice of appeal in the prescribed form"; and
- (b) by omitting from sub-section (2)(c) "to the Board before the expiration of 14 days after the date on which a copy of the determination is delivered to the appellant under section 87(8)" and substituting "before the expiration of 14 days after the date on which a copy of the determination is served under section 87(11) to the appellant".

31. REPEAL AND SUBSTITUTION

Section 107 of the Principal Act is repealed and the following substituted:

"107. FIXING OF HEARING DATE

"(1) Where, after the Secretary has, under this Act, fixed the date, time and place for the hearing of an appeal under this Part or of a matter referred under section 87(2)(b) or (10) and, before that date, the parties to the appeal or that matter have agreed that on that date and at that time and place they intend only to seek an adjournment of the hearing, the parties may give notice in the prescribed form to the Secretary of that agreement.

"(2) Where the Secretary receives a notice referred to in sub-section (1) he shall, as soon as practicable after that receipt, forward a copy of the notice to the members of the Board.

"(3) For the purposes of a hearing the subject of a notice referred to in sub-section (1), the Board may be constituted by the Chairman only but, at the hearing, if the Board is so constituted, the only matter to be considered and decided upon by the Chairman shall be the date, time and place to which that hearing is to be adjourned."

32. REPEAL AND SUBSTITUTION

Section 108 of the Principal Act is repealed and the following substituted:

"108. APPEAL TO BE BY WAY OF REHEARING OR IN STRICT SENSE, &c.

"(1) An appeal under this Part shall be by way of rehearing except that, where a ground of the appeal is that -

(a) the punishment specified in the determination to which the appeal relates is too severe; or

(b) the Commissioner, in making the determination to which the appeal relates, was wrong in law,

and the Board is of the opinion that the justice of the appeal would not be compromised thereby, that appeal shall be an appeal in the strict sense.

"(2) Where a matter is referred under section 87(2)(b) or (10) to the Board, the Board shall hear and determine the matter."



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33. TRANSCRIPTS

Section 109 of the Principal Act is amended by inserting after "Part" the words "or of a matter referred under section 87(2)(b) or (10) to it".

34. REPEAL AND SUBSTITUTION

Sections 110 and 111 of the Principal Act are repealed and the following substituted:

"110. DETERMINATION OF QUESTIONS

"(1) Subject to sub-section (2), a question arising in an appeal under this Part or to or in relation to a matter referred under section 87(2)(b) or (10) to the Board shall be determined by a majority of the Board.

"(2) A question of law arising in an appeal under this Part or in a matter referred under section 87(2)(b) or (10) to the Board (including the question whether a particular question is one of law) shall be determined by the Chairman of the Board.

"111. POWERS OF BOARD

"(1) On an appeal under this Part, the Board may, where it is of the opinion that -

- (a) the determination the subject of the appeal was wrong, whether in law or otherwise - set aside that determination; or
- (b) the punishment specified in the determination the subject of the appeal was too severe for the disciplinary offence the subject of that determination - set aside that punishment and impose on the appellant what in its opinion is a lesser punishment referred to in section 88,

and, in any other case, affirm the determination.

"(2) Where a matter referred under section 87(2)(b) or (10) to the Board is heard and determined by the Board and it finds the member the subject of the disciplinary offence to which the matter relates guilty of the offence, it may impose on that member a punishment referred to in section 88.

"(3) The Commissioner shall give effect to a decision under sub-section (1) or (2) of the Board."

35. REPEAL AND SUBSTITUTION

Section 153 of the Principal Act is repealed and the following substituted:

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"153. ASSAULT ON MEMBER

"A member shall not assault another member -

- (a) who holds or who is performing or exercising the functions or duties of a rank superior to the first-mentioned member; or
- (b) of the same rank under whose control, direction or supervision the first-mentioned member is performing his duties.

Penalty: \$1,000 or imprisonment for 6 months or both".

36. SALE OF GOODS

Section 166(1) of the Principal Act is amended by omitting "unclaimed by any person" and substituting "unclaimed, for a period of not less than 12 months, by a person".

37. NEW SECTION

The Principal Act is amended by inserting after section 166 the following:

"166A. MEDICAL EXAMINATIONS

"(1) Where the Commissioner proposes to -

- (a) promote or transfer under this Act a member; or
- (b) take action under section 23 against a member,

he -

(c) in the case of -

(i) a proposed promotion - shall; or

(ii) a proposed transfer - may,

by notice in writing served on the member, request that member to undergo a medical examination, at a time and place specified in the notice, for the purpose of ascertaining the medical fitness of that member to discharge the duties attaching to the position to which it is proposed to promote or transfer that member; and

- (d) in the case of a proposed action under section 23 - may, by notice in writing served on the member, request that member to undergo a medical examination, at a time and place specified in the notice, for the purpose of ascertaining whether the proposed action has

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arisen because of the state of the medical fitness of that member.

"(2) A member the subject of a request under sub-section (1) shall, at the time and place specified in the request, undergo the medical examination specified in that request.

"(3) Where a medical examination referred to in sub-section (1)(c) of a member shows that he does not have the medical fitness to discharge the duties attaching to the position to which it is proposed to promote or transfer him, the Commissioner may, for that reason, refuse to so promote or transfer that member.

"(4) For the purposes of this section, medical fitness, in relation to a member, includes the mental health of the member."

38. REGULATIONS

Section 167(2) of the Principal Act is amended by omitting paragraphs (g) and (h) and substituting the following:

"(g) prescribing the manner in which and the grounds on which appeals may be made to the Police Appeal Board;

(h) the general government, management and discipline of the Police Force; and

(j) prescribing the ranks of the Police Force."

39. TRANSITIONAL

(1) An action, appeal, prosecution or other proceeding begun before the commencement of this Act, to or in relation to which the Principal Act as amended by this Act would, if that action, appeal, prosecution or other proceeding had been commenced or taken after that commencement, apply, may, on and from that commencement, be continued as if this Act had never commenced.

(2) The Principal Act as amended by this Act does not, in respect of an appointment made under the Principal Act, as in force at any time before the commencement of this Act, confer on a person other than the appointee a right, in relation to that appointment, not in existence at the time of that appointment.

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