

Serial 113

Police Legislation Amendment (Powers, Appointments and Other Matters)

Bill 2023

Mr Potter

A Bill for an Act to amend the *Police Administration Act 1978* and the *Police Administration Regulations 1994*

NORTHERN TERRITORY OF AUSTRALIA

POLICE LEGISLATION AMENDMENT (POWERS, APPOINTMENTS AND OTHER MATTERS) ACT 2023

Act No. [] of 2023

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2023

An Act to amend the *Police Administration Act 1978* and the *Police Administration Regulations 1994*

[Assented to [] 2023]
[Introduced [] 2023]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Police Legislation Amendment (Powers, Appointments and Other Matters) Act 2023*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Police Administration Act 1978

3 Act amended

This Part amends the *Police Administration Act 1978*.

4 Section 4A amended (Application of Criminal Code)

Section 4A, before "147FG"

insert

134, 134A, 134B,

5 Section 15A amended (Merit for appointment or promotion)

Section 15A

omit

all words after "regard"

insert

to:

(a) the person's:

- (i) knowledge, skills, qualifications and experience; and
- (ii) aptitude, diligence, good conduct and quality of service;
and
- (iii) potential for future development in the Police Force; and

(b) any other matters the Commissioner reasonably considers relevant.

6 Section 16 amended (Commissioner may appoint or promote members)

(1) Section 16(1)

omit

may:

insert

may do any of the following:

(2) Section 16(1)(aa)

omit, insert

- (ab) appoint a person who previously retired from the Police Force under section 22, and who is eligible for appointment to the Police Force, to be a member with a rank that is not above the rank last held by the person before their retirement;
- (ac) in the circumstances mentioned in section 17, appoint a person who was previously a member, other than a member who retired under section 22, and who is eligible for appointment to the Police Force, to be a member with a rank that is above the rank of Constable;

7 Section 16A amended (Members on probation)

(1) Section 16A(1)(b)

omit, insert

(b) section 16(1)(ab); or

(ba) section 16(1)(ac); or

(2) Section 16A(2), (3) and (4)

omit, insert

- (2) The person is on probation from the day on which the person commences duties in accordance with the person's appointment to the day on which the person's appointment is confirmed or terminated under this section.
- (3) Subject to subsection (4A), the person's initial probation period is:
 - (a) if appointed under section 16(1)(a) – 2 years; or
 - (b) if appointed under section 16(1)(ab) or (ac) – 6 months; or
 - (c) if appointed under section 19 – 1 year.
- (4) The Commissioner may direct that the person's initial probation period be a shorter period than it would otherwise be under subsection (3) if satisfied that the shorter period is appropriate having regard to the person's qualifications and experience.
- (4A) If the Commissioner gives a direction under subsection (4), the person's initial probation period is the period specified in the direction.

(3) Section 16A(5)

omit

the period of the person's probation,

insert

the person's initial probation period or a further period specified under paragraph (c),

(4) After section 16A(5)

insert

- (5A) The person's probation may be extended under subsection (5)(c) more than once.

(5) Section 16A(6)

omit

period of

insert

person's

8 Section 17 replaced

Section 17

*repeal, insert***17 Circumstances in which person may be appointed at rank above Constable**

A person may be appointed to a position under section 16(1)(ac) if:

- (a) the Commissioner sought applications from members for transfer to the position and either:
- (i) no applications were received; or
 - (ii) no member was found suitable for transfer to the position by the Commissioner; and
- (b) the Commissioner sought applications from members for promotion to the position and either:
- (i) no applications were received; or

-
- (ii) no member was found to have merit for promotion to the position by the Commissioner; and
 - (c) the position is at a rank that:
 - (i) is prescribed by regulation for this section; and
 - (ii) is not above the rank held by the person when the person last served as a member.

9 Section 21 amended (Reappointment of person who resigned to contest elections)

Section 21(6)

omit

65

insert

67

10 Section 22 amended (Retirement)

Section 22(2)

omit

65

insert

67

11 Section 92 amended (Promotion appeals)

Section 92(1), (2) and (3)

omit, insert

- (1) Subject to this section, an appeal may be made by a person mentioned in subsection (1A) if the Commissioner:
 - (a) promotes, under section 16(1)(b) or (3), a member to the rank of Senior Sergeant or a rank below that rank; or
 - (b) makes an appointment contrary to section 18(5); or
 - (c) refuses, under section 166AA(3), to promote or transfer a member.

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- (1A) The appeal may be made by:
- (a) in the case of a promotion – a member who is qualified, and who applied, for promotion to the rank to which the promotion was made; or
 - (b) in the case of an appointment – 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; or
 - (c) in the case of a refusal – the member whose promotion or transfer was refused.
- (1B) The appeal must be made, in the manner and form prescribed by regulation, to a Promotions Appeal Board.
- (2) The appeal must be lodged within 14 days, or a longer period as the Commissioner in a particular case allows, after:
- (a) for an appeal against a promotion or appointment – notice is given in the *Police Gazette* of the promotion or appointment; or
 - (b) for an appeal against a refusal – written notice of the refusal is given to the member.
- (3) The only ground on which an appeal may be made under subsection (1)(a) is that the appellant has superior merit to the member promoted.

12 Section 133AA amended (Definition)

Section 133AA, definition ***infringement notice offence***, after "under"

insert

this Act or

13 Section 134 replaced

Section 134

repeal, insert

134 Identification of person to assist with inquiries

- (1) This section applies in relation to a person if a member believes on reasonable grounds that the person may be able to assist the member in the member's inquiries in connection with an offence that has been, may have been or may be committed.

(2) If the person's name or address is unknown to the member, the member may require the person to do either or both of the following:

- (a) state the person's name and the address of the person's usual place of residence or work;
- (b) produce evidence of the person's identity.

(3) When giving a requirement under subsection (2), the member must warn the person that it is an offence to contravene the requirement unless the person has a reasonable excuse.

(4) A person commits an offence if the person contravenes a requirement given under subsection (2).

Maximum penalty: 4 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

(7) Subsection (4) does not apply to a person who has been given a requirement under subsection (2) if the member who gave the requirement did not, at the time the requirement was given, warn the person in accordance with subsection (3).

(8) A person commits an offence if:

- (a) the person gives a member information or produces evidence required under subsection (2); and
- (b) the information or evidence is false or misleading in a material particular.

Maximum penalty: 4 penalty units.

(9) An offence against subsection (8) is an offence of strict liability.

134A Identification of person on suspicion of contravention

(1) This section applies in relation to a person if a member suspects on reasonable grounds that the person has contravened, is contravening, or is about to contravene section 171(1) of the *Liquor Act 2019*.

(2) If the person's name or address is unknown to the member, the member may require the person to do either or both of the following:

- (a) state the person's name and the address of the person's usual place of residence or work;
- (b) produce evidence of the person's identity.

(3) When giving a requirement under subsection (2), the member must warn the person that it is an offence to contravene the requirement unless the person has a reasonable excuse.

(4) A person commits an offence if the person contravenes a requirement given under subsection (2).

Maximum penalty: 4 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) It is a defence to a prosecution for an offence against subsection (4) if the defendant has a reasonable excuse.

(7) Subsection (4) does not apply to a person who has been given a requirement under subsection (2) if the member who gave the requirement did not, at the time the requirement was given, warn the person in accordance with subsection (3).

(8) A person commits an offence if:

- (a) the person gives a member information or produces evidence required under subsection (2); and
- (b) the information or evidence is false or misleading in a material particular.

Maximum penalty: 4 penalty units.

(9) An offence against subsection (8) is an offence of strict liability.

134B Identification of member

(1) A person may require a member who gives the person a requirement under section 134 or 134A to do either or both of the following:

- (a) inform the person of the member's name, rank and place of duty;
- (b) give the information mentioned in paragraph (a) to the person in writing.

-
- (2) A member who has been given a requirement under subsection (1) commits an offence if:
- (a) the member contravenes the requirement; or
 - (b) the member gives the person information that is false or misleading in a material particular.
- Maximum penalty: 4 penalty units.
- (3) An offence against subsection (2) is an offence of strict liability.

14 Section 147FA amended (Interpretation)

Section 147FA(1), definition *qualified person*

omit

all words from "within" to "(Cth)."

insert

(as defined in section 3 of the *National Vocational Education and Training Regulator Act 2011* (Cth)).

15 Section 166 replaced

Section 166

repeal, insert

166 Sale or other disposal of items

- (1) This section applies in relation to an item that has lawfully come into the possession of a member in the course of the member's duties.
- (2) Subject to section 112 of the *Classification of Publications, Films and Computer Games Act 1985*, the item may be sold by public auction, or otherwise disposed of as directed by the Commissioner, if:
- (a) the item is not claimed by a person who has a legal right to the item within 3 months; and
 - (b) a notice of intention to sell or otherwise dispose of the item has been published on the Agency's website or in another manner as directed by the Commissioner.

-
- (3) Despite subsection (2), if, in the opinion of a member, the item is of a perishable nature, the Commissioner may authorise the sale or other disposal of the item at any time and without notice.
 - (4) A sale or other disposal under this section is valid against all persons.

16 Part X, Division 7 inserted

After section 173

insert

Division 7 Police Legislation Amendment (Powers, Appointments and Other Matters) Act 2023

174 Application of section 166 to items in possession before commencement

- (1) This section applies in relation to an item if, before the commencement, the item:
 - (a) lawfully came into the possession of a member in the course of the member's duties; and
 - (b) was not claimed, sold or otherwise disposed of under section 166.
- (2) The item may be dealt with in accordance with section 166 as in force after the commencement.
- (3) In this section:

commencement means the commencement of section 15 of the *Police Legislation Amendment (Powers, Appointments and Other Matters) Act 2023*.

Part 3 Amendment of Police Administration Regulations 1994

17 Regulations amended

This Part amends the *Police Administration Regulations 1994*.

18 Regulation 11 replaced

Regulation 11

repeal, insert

11 Prescribed ranks for section 17 of Act

For section 17(c)(i) of the Act, the following ranks are prescribed:

- (a) Senior Constable;
- (b) Sergeant;
- (c) Senior Sergeant.

19 Regulation 13 amended (Promotions appeals)

Regulation 13(1)

omit, insert

- (1) For section 92(1B) of the Act:
 - (a) the prescribed form is Form 1 in Schedule 2; and
 - (b) an appeal must be made by giving the details of the appeal in Form 1 to the Registrar within the time specified in or allowed under section 92(2) of the Act.

20 Regulation 19A amended (Infringement notice offence)

Before regulation 19A(a)

insert

- (aa) an offence against section 134A of the Act;

21 Regulation 22A amended (Infringement offence and prescribed amount payable)

Regulation 22A, after "116KI"

insert

or 134A

22 Schedule 1 repealed (Prescribed positions)

Schedule 1

repeal

23 Schedule 2 amended (Forms)

(1) Schedule 2, Form 1

omit

DECISION,

(2) Schedule 2, Form 1

omit

* Decision under section 17(b) of the Act:

Nature of decision:

Date on which decision appealed against was notified in the *Police Gazette*:

Part 4 Repeal

24 Repeal of Act

This Act is repealed on the day after it commences.