

# LEGISLATIVE ASSEMBLY

Read 1<sup>o</sup> 9 September 1980

(Brought in by Mr Thompson and Mr Ramsay)

## A BILL

To amend the *Police Regulation Act 1958*.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. (1) This Act may be cited as the *Police Regulation (Charges and Appeals) Act 1980*.

Short title.

(2) The *Police Regulation Act 1958* is in this Act referred to as the Principal Act.

Principal Act No. 6338.

Reprinted to No. 8722.

Subsequently amended by Nos. 8745, 8759, 8959, 9019 and 9066.

10 (3) The several provisions of this Act shall come into operation on the day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the *Government Gazette*.

Commencement.

15 2. After section 69 (3) of the Principal Act there shall be inserted the following sub-sections:

“(4) The jurisdiction, powers and duties conferred or imposed upon the Board constituted in accordance with section 70 (1) may be exercised or performed in relation to appeals by members of the

Board may sit in divisions for certain purposes.

force against the failure of the Chief Commissioner to select them for promotion or transfer or against their transfer to positions for which they have not applied by a division of the Board consisting of the deputy chairman referred to in section 70 (5) and the deputy members referred to in section 77.

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(5) The divisions of the Board may sit concurrently.”.

Amendment of No. 6338 s. 70.

3. Section 70 of the Principal Act shall be amended as follows:

(a) In sub-section (1) for the expression “The Board” there shall be substituted the expression “Subject to sub-section (2A) the Board”;

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(b) In sub-section (2) after the expression “The chairman (who shall be a judge of the county court)” there shall be inserted the expression “, the member of the public nominated by the Minister”;

(c) After sub-section (2) there shall be inserted the following sub-section:

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“(2A) Where the Board hears an appeal against a decision of the Police Discipline Board with respect to a charge arising out of a complaint made by a person who is not a member of the force, a member of the public, nominated by the Minister, who is not and never has been—

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(a) a member of a police force;

(b) an officer or employé in the public service of the Commonwealth or any State or Territory of the Commonwealth or of any public authority; or

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(c) a barrister and solicitor or a barrister or solicitor—

shall act as a member of the Board in lieu of the member representing the Government of Victoria and notwithstanding the provisions of section 78 (2), the Board when hearing such an appeal shall be constituted by the three members thereof.”.

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Amendment of No. 6338 s. 87.

4. For section 87 (2) of the Principal Act there shall be substituted the following sub-sections:

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Constitution of Police Discipline Board.

“(2) The Police Discipline Board shall consist of—

(a) a stipendiary magistrate, nominated by the Minister who shall preside and have a casting as well as a deliberative vote; and

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(b) an Assistant Commissioner nominated by the Chief Commissioner.

(2A) Where

(2A) Where the Board hears a charge arising out of a complaint made by a person who is not a member of the force, the Board shall also include a member of the public, nominated by the Minister, who is not and never has been—

- 5 (a) a member of a police force;  
 (b) an officer or employé in the public service of the Commonwealth or any State or Territory of the Commonwealth or of any public authority; or  
 (c) a barrister and solicitor or a barrister or solicitor.

10 (2B) Where the Police Discipline Board is constituted to consist of three members the stipendiary magistrate shall not have a casting vote.”.

5. Section 87A (6) of the Principal Act shall be amended as follows:

Amendment of  
No. 6338 s. 87A  
(6).

- 15 (a) For the words “member of the force” (where second occurring) there shall be substituted the expression “Assistant Commissioner”;  
 (b) For the words “member not below the rank of superintendent” there shall be substituted the expression “Assistant Commissioner”.
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6. After section 88 (7) of the Principal Act there shall be inserted the following sub-sections:

Amendment of  
No. 6338 s. 88.

25 “(8) Notwithstanding the provisions of sub-section (2), where a member of the force is charged with an offence arising out of a complaint made by a person who is not a member of the force the Chief Commissioner shall refer the charge to the Police Discipline Board.

Charge arising from complaint by members of the public to be referred to Police Discipline Board.

30 (9) Where a member of the force is charged with more than one offence and one or more of those charges arose out of a complaint made by a person who is not a member of the force all of the charges shall be heard by the Police Discipline Board constituted as provided by sub-sections (2) and (2A) of section 87.”.

Hearing of related charges.

7. After section 90 of the Principal Act there shall be inserted the following section:

New sections inserted.

35 “90A. (1) When the Police Discipline Board or the Police Service Board hears any matter arising out of a complaint made by a person who is not a member of the force the proceedings shall be open to the public unless the relevant Board otherwise orders.

Proceedings on complaints by public to be open to public.

40 (2) A person making a complaint in relation to which a charge is laid under this Act against a member of the force shall not by virtue only of having made the complaint be deemed or taken to be a party to the proceedings before the Police Discipline Board or the Police Service Board.”.

8. After

New section inserted.

Appeals to Police Service Board.

8. After section 91 of the Principal Act there shall be inserted the following section:

“91A. (1) Where a charge against a member of the force disposed of under section 88 (5) arises out of a complaint made by a person who is not a member of the force and the Chief Commissioner considers that a different order should have been made by the Board the Chief Commissioner may, if he is satisfied that an appeal should be brought in the interests of the discipline of the force, appeal in accordance with this section to the Police Service Board constituted in accordance with section 70 (2A). 5 10

(2) Where any such appeal is made the appeal shall operate to stay the execution of the order appealed from.

(3) Notice in writing of such appeal shall be lodged with the secretary to the Police Service Board within ten days after the Chief Commissioner has been notified of the order which is the subject of the appeal and such notice shall state the grounds of the appeal. 15

(4) A copy of the notice of appeal shall be delivered to the member of the force who is the subject of the order within the same period of ten days. 20

(5) The time and place for the hearing of the appeal shall be fixed by the Chairman of the Police Service Board and notice thereof shall be given to the Chief Commissioner and the member.

(6) The Police Service Board shall hear and determine the matter and for that purpose may exercise any of the powers of a judge of the county court. 25

(7) On any appeal under this section the Police Service Board shall if it thinks that a different order should have been made imposing a different punishment (whether more or less severe) may make an order imposing any punishment which the Police Discipline Board may impose pursuant to section 88 (5) in substitution therefor as it thinks ought to have been made. 30

(8) The decision of the Police Service Board shall be final and shall be given effect to accordingly.”.