

No. 16 of 1974

AN ORDINANCE

To amend the *Police Ordinance 1927-1972*.

I, THE GOVERNOR-GENERAL of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this tenth day of April, 1974.

PAUL HASLUCK

Governor-General.

By His Excellency's Command,

LIONEL MURPHY

Attorney-General.

POLICE ORDINANCE 1974

1. (1) This Ordinance may be cited as the *Police Ordinance 1974*.^{*} Short title and citation.

(2) The *Police Ordinance 1927-1972*[†] is in this Ordinance referred to as the Principal Ordinance.

(3) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Police Ordinance 1927-1974*.

2. Section 4 of the Principal Ordinance is amended— Definitions.

(a) by inserting, after the definition of "Commissioner", the following definition:—

" 'Determination No. 1' means the Determination No. 1 of 1947 of the Tribunal as in force for the time being;"; and

(b) by inserting, after the definition of "Police Force", the following definition:—

" 'Police Gazette' means the Australian Capital Territory Police Gazette published by the Commissioner;".

3. After section 5AB of the Principal Ordinance the following sections are inserted:—

" 5AC. The Minister may promote to a rank of Constable 1st Class, Senior Constable, Sergeant 2nd Class or Inspector 1st Class a member of the Police Force selected in accordance with Determination No. 1. Promotions without gazettal of vacancies.

^{*} Notified in the *Australian Government Gazette* on 17 April 1974.

[†] Ordinance No. 19, 1927, as amended by No. 14, 1930; No. 18, 1932; No. 23, 1934; Nos. 25 and 35, 1938; No. 14, 1943; Nos. 5 and 9, 1947; No. 8, 1950; No. 5, 1954; No. 5, 1955; No. 19, 1956; No. 2, 1958; No. 21, 1959; No. 3, 1960; No. 2, 1964; No. 6, 1966; No. 4, 1967; No. 17, 1970; and Nos. 22 and 40, 1972.

Promotions
where
gazetted of
vacancies
required.

“5AD. (1) Where a vacancy occurs in a rank, not being a rank of constable or a rank referred to in section 5AC, the Minister shall cause to be published in the Police Gazette a notice inviting members of the Police Force to apply for promotion to the vacancy.

“ (2) An application for promotion to a vacancy under this section shall—

- (a) be made in writing delivered to the Commissioner; and
- (b) be made within twenty-one days after the date on which a notice in relation to the vacancy was published in accordance with sub-section (1).

“ (3) After the expiration of twenty-one days after a notice was published in accordance with sub-section (1) in relation to a vacancy, the Attorney-General may promote to the vacancy a member of the Police Force who has made application in accordance with this section.

“ (4) The selection of a person for promotion under this section shall be made in accordance with Determination No. 1.

Promotions
to be
notified.

“5AE. (1) A promotion under section 5AC or 5AD is provisional until confirmed or cancelled.

“ (2) The Minister shall cause notification of the promotion of a person under section 5AC or 5AD to be published in the Police Gazette.

Appeals
against
promotions.

“5AF. (1) A member of the Police Force may, within twenty-one days after the date on which the promotion of a person under section 5AC or 5AD is notified in the Police Gazette, appeal to the Tribunal against the promotion.

“ (2) An appeal under this section shall be instituted by lodging with the Secretary to the Tribunal a notice in writing signed by the appellant and stating the grounds upon which the appellant contends that he should have been selected for promotion.

“ (3) The Secretary to the Tribunal shall cause a copy of a notice lodged under sub-section (2) to be delivered to the Commissioner.

“ (4) For the purposes of hearing and determining an appeal under this section, the Tribunal shall be constituted in accordance with section 5A as if the appeal were a matter relating to the remuneration of members of the Police Force.

“ (5) The Tribunal shall hear an appeal under this section and make a recommendation in accordance with this section.

“ (6) The procedure of the Tribunal in an appeal under this section shall be in the discretion of the Tribunal.

“ (7) Subject to sub-section (8), after hearing an appeal against a promotion, the Tribunal shall—

- (a) recommend to the Minister that the promotion be confirmed; or
- (b) recommend to the Minister that the promotion be cancelled and the appellant promoted to the vacancy.

“(8) Where there are two or more appeals against a promotion, the Tribunal shall hear the appeals together and shall—

- (a) recommend to the Minister that the promotion be confirmed; or
- (b) recommend to the Minister that the promotion be cancelled and that a specified appellant be promoted to the vacancy.

“5AG. (1) Where—

- (a) a member of the Police Force has been promoted under section 5AC or 5AD;
- (b) a period of twenty-one days has elapsed since notification of the promotion was published in the Police Gazette; and
- (c) either—
 - (i) no member of the Police Force has appealed against the promotion; or
 - (ii) the Tribunal, on an appeal under section 5AF, has recommended that the promotion be confirmed,

Confirmation
and
cancellation
of
promotions.

the Minister shall confirm the promotion.

“(2) Where the promotion of a member of the Police Force is confirmed, the promotion shall be deemed to have had effect on and from the date on which notification of the promotion was published in the Police Gazette.

“(3) Where—

- (a) a member of the Police Force has been promoted under section 5AC or 5AD; and
- (b) the Tribunal, on an appeal under section 5AF, has recommended that the promotion be cancelled and that another member of the Police Force be promoted,

the Minister shall cancel the promotion of the member referred to in paragraph (a) and shall promote the member referred to in paragraph (b).

“(4) Where a provisional promotion is cancelled in accordance with sub-section (3), this Ordinance and Determination No. 1 apply as if the promotion had not been made.

“(5) Where a member of the Police Force is promoted in accordance with sub-section (3), the promotion shall be deemed to have had effect on and from the date on which notification of the cancelled promotion was published in the Police Gazette.”.

4. Section 6 of the Principal Ordinance is amended by omitting from sub-section (2) the words “Secretary to the Department of the Interior” and substituting the words “Secretary, Attorney-General’s Department.”.

Oath of
office to be
taken.

5. After section 26 of the Principal Ordinance the following section is inserted:—

Delegation.

“26A. (1) The Minister may, by writing under his hand, delegate to an officer of the First Division of the Australian Public Service or to the Commissioner, either generally or otherwise as provided by the instrument of delegation, all or any of his powers and functions under this Ordinance (except this power of delegation and the power to make regulations).

“(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation and, when so exercised or performed, shall, for the purposes of this Ordinance, be deemed to have been exercised or performed by the Minister.

“(3) A delegation under this section is revocable at will and does not prevent the exercise of a power or the performance of a function by the Minister.”.

Transitional provisions.

6. (1) Where, on a date earlier than the date of commencement of this Ordinance, a vacancy has been notified in the Police Gazette in accordance with sub-clause 21 (q) of Determination No. 1, the Principal Ordinance as amended by this Ordinance applies as if this Ordinance had been in operation on the first-mentioned date and the vacancy had been notified in the Police Gazette in accordance with section 5AD of the Principal Ordinance as amended by this Ordinance.

(2) A promotion of a member of the Police Force, or the cancellation of such a promotion, before the date of commencement of this Ordinance has effect, and shall be deemed always to have had effect, as if this Ordinance had been in operation at the date of the promotion or cancellation and the promotion or cancellation had been made in accordance with the Principal Ordinance as amended by this Ordinance.

(3) A promotion that was made before the date of commencement of this Ordinance but had not, on that date, been confirmed or cancelled shall be deemed to have been made in accordance with the Principal Ordinance as amended by this Ordinance.

(4) Where an application to the Tribunal was made before the date of commencement of this Ordinance in pursuance of sub-clause 21 (p) of Determination No. 1 and the application had not been determined on that date, the Principal Ordinance as amended by this Ordinance applies as if the application were an appeal under section 5AF of the Principal Ordinance as amended by this Ordinance.

(5) The expressions “Police Gazette” and “Determination No. 1”, when used in this section, have the same meanings respectively as in the Principal Ordinance as amended by this Ordinance.