



# Australian Federal Police Amendment Act 1984

No. 117 of 1984

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## An Act to amend the *Australian Federal Police Act 1979*, and for related purposes

[Assented to 18 October 1984]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### Short title, &c.

1. (1) This Act may be cited as the *Australian Federal Police Amendment Act 1984*.

(2) The *Australian Federal Police Act 1979*<sup>1</sup> is in this Act referred to as the Principal Act.

### Commencement

2. (1) Sections 1, 2 and 9 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on such day as is fixed by Proclamation.

### **Interpretation**

3. Section 4 of the Principal Act is amended by omitting from sub-section (1) the definition of “component”.

### **Establishment**

4. Section 6 of the Principal Act is amended—

- (a) by omitting from paragraph (c) “officers; and” and substituting “officers.”; and
- (b) by omitting paragraph (d).

### **Repeal of section 7**

5. Section 7 of the Principal Act is repealed.

### **Powers and duties of members**

6. Section 9 of the Principal Act is amended by omitting from sub-section (1) “the Commissioner, a Deputy Commissioner or a member referred to in paragraph 6 (c) (in this section, in each case, referred to as a member)” and substituting “a member”.

### **Repeal of section 10**

7. Section 10 of the Principal Act is repealed.

### **General Orders and General Instructions**

8. Section 14 of the Principal Act is amended by omitting from paragraph (a) “and determining the respective functions of the components referred to in sub-sections 7 (1) and (2)”.

### **Delegation by Commissioner**

9. Section 15 of the Principal Act is amended by omitting from sub-section (1) “a member” and substituting “another member of the Australian Federal Police or a member of the staff referred to in sub-section 16 (1)”.

### **Heading to Division 2 of Part IV**

10. The heading to Division 2 of Part IV is omitted and the following heading is substituted:

***“Division 2—Commissioned police officers, non-commissioned police officers and special members”.***

11. Sections 25 and 26 of the Principal Act are repealed and the following sections are substituted:

### **Commissioned police officers**

“25. (1) Subject to this Act, the Governor-General may, by Commission, on the recommendation of the Commissioner, or, if the Commissioner is

authorized by the Governor-General in writing to make appointments under this section, the Commissioner may, by Commission—

- (a) appoint a person to be a commissioned police officer, being an appointment to a position within a rank that the person is, in accordance with the regulations, competent and qualified to hold;
- (b) promote a person who is a non-commissioned police officer to a position within a commissioned rank, being a rank that the person is, in accordance with the regulations, competent and qualified to hold; or
- (c) promote a person who is a commissioned police officer to a position within a higher commissioned rank, being a rank that the person is, in accordance with the regulations, competent and qualified to hold.

“(2) The Commissioner may, by writing signed by him—

- (a) direct a person who is a non-commissioned police officer to act for a specified period in a position within a commissioned rank; or
- (b) direct a person who is a commissioned police officer to act for a specified period in a position within a higher commissioned rank.

“(3) The Commissioner may, at any time, by writing signed by him, transfer a commissioned police officer from one position in a rank to another position in the same rank.

#### **Non-commissioned police officers**

“26. (1) Subject to this Act, the Commissioner may, by writing signed by him—

- (a) appoint a person to a position within a non-commissioned rank, being a rank that the person is, in accordance with the regulations, competent and qualified to hold;
- (b) promote a person who is a non-commissioned police officer to a position within a higher non-commissioned rank, being a rank that the person is, in accordance with the regulations, competent and qualified to hold; or
- (c) direct a person who is a non-commissioned police officer to act for a specified period in a position within a higher non-commissioned rank.

“(2) The Commissioner may, at any time, by writing signed by him, transfer a non-commissioned police officer from one position in a rank to another position in the same rank.”.

#### **Appointment of former narcotics officers to be members**

**12.** Section 26A of the Principal Act is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

“(2) Notwithstanding anything in section 25, an officer to whom this section applies may be appointed, by Commission under section 25, to be a commissioned police officer and to hold a position within such rank as he is, in the opinion of the Commissioner, qualified to hold, having regard to his duties immediately before his appointment and to his qualifications and aptitude for

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the discharge of duties performed by members engaged in investigating narcotics offences.

“(3) Notwithstanding anything in section 26, an officer to whom this section applies may be appointed, by writing signed by the Commissioner under section 26, to be a non-commissioned police officer and to hold a position within such rank as he is, in the opinion of the Commissioner, qualified to hold, having regard to his duties immediately before his appointment and to his qualifications and aptitude for the discharge of duties performed by members engaged in investigating narcotics offences.”.

**Special members**

13. Section 27 of the Principal Act is amended—

- (a) by omitting from sub-section (1) “the functions of a component” and substituting “its functions”; and
- (b) by omitting from sub-section (2) “the persons comprising the component in connection with which he is appointed” and substituting “members”.

**Undertakings and oaths or affirmations**

14. Section 28 of the Principal Act is amended by omitting sub-sections (3), (4), (5), (6), (7) and (8) and substituting the following sub-sections:

“(3) A person appointed under paragraph 25 (1) (a) to be a commissioned police officer or under paragraph 26 (1) (a) to be a non-commissioned police officer shall, in accordance with the regulations, make and subscribe, before a person authorized by the Minister, such oath or affirmation as is prescribed.

“(4) A person appointed under section 27 to assist in the performance of the functions of the Australian Federal Police shall, in accordance with the regulations, make and subscribe, before a person authorized by the Commissioner, such oath or affirmation as is prescribed.

“(5) In this section, ‘appoint’ does not include promote or transfer.”.

15. Section 36 of the Principal Act is repealed and the following section is substituted:

**Promotion**

“36. (1) In the selection of members for promotion, consideration shall be given to the relative efficiency of the members who apply for promotion.

“(2) For the purposes of sub-section (1), the efficiency of a member, in relation to an application for promotion to a position, shall be determined by a consideration of the experience, qualifications and training of the member and of any other factors that are relevant to the discharge by the member of the duties of the position.”.

**Retrenchment**

16. Section 39 of the Principal Act is amended by omitting paragraphs (a), (b) and (c) and substituting the following paragraphs:

- “(a) transferred by the Commissioner to a position within a lower rank; or
- (b) if no position within a lower rank is available for the member—retired by the Commissioner from the Australian Federal Police.”.

**Regulations may provide for certain other terms and conditions**

17. Section 40 of the Principal Act is amended by inserting in paragraph (c) “to positions in such ranks as are prescribed” after “other members”.

**Proof of appointment, &c.**

18. Section 68 of the Principal Act is amended by omitting paragraphs (1) (e), (f), (g) and (h) and substituting the following paragraphs:

- “(e) that he holds a specified rank;
- (f) that he held a specified rank on a specified date or during a specified period;
- (g) that he is acting in a specified rank;
- (h) that he was acting in a specified rank on a specified date or during a specified period.”.

**Transitional and consequential**

19. (1) Where, immediately before the commencement day, a person held a commissioned rank in the prescribed component by virtue of an appointment, promotion or transfer to that rank under sub-section 25 (1) of the Principal Act, the person holds, on and after the commencement day, such position within that commissioned rank as is specified in writing by the Commissioner as if the person had been appointed, promoted or transferred, as the case may be, to that position within that rank under sub-section 25 (1) of the amended Act.

(2) Where, immediately before the commencement day, a person held a non-commissioned rank in the prescribed component by virtue of an appointment, promotion or transfer to that rank under sub-section 26 (1) of the Principal Act, the person holds, on and after the commencement day, such position within that non-commissioned rank as is specified in writing by the Commissioner as if the person had been appointed, promoted or transferred, as the case may be, to that position within that rank under sub-section 26 (1) of the amended Act.

(3) Where, immediately before the commencement day, a direction by the Commissioner under sub-section 25 (2) or 26 (1) of the Principal Act to a person to act in a commissioned rank, or in a non-commissioned rank, within the prescribed component was in force, the direction has effect, on and after the commencement day, as if it were a direction given by the Commissioner under sub-section 25 (2) or 26 (1), as the case requires, of the amended Act to the person to act in such position within that rank as is specified in writing by the Commissioner.

**(4)** Where, immediately before the commencement day, an appointment under section 27 of the Principal Act of a person as a special member of the Australian Federal Police to assist in the performance of the functions of the prescribed component was in force, the appointment has effect, on and after the commencement day, as if the person had been appointed as a special member of the Australian Federal Police under section 27 of the amended Act with such powers and duties as were specified in the instrument of appointment of the person.

**(5)** An oath or affirmation made and subscribed before the commencement day in pursuance of a provision of the Principal Act by a person to whom sub-section (1), (2) or (4) of this section applies has effect on and after that day, while the person continues to be a member or a special member of the Australian Federal Police, as if it had been made and subscribed in pursuance of the corresponding provision of the amended Act.

**(6)** Where, immediately before the commencement day, a person held a rank in the prescribed component by virtue of a transfer to that rank under section 39 of the Principal Act, the person holds, on and after the commencement day, such position within that rank as is specified by the Commissioner as if the person had been transferred to that position within that rank under section 39 of the amended Act.

**(7)** Where notification of a selection for promotion was published under regulation 17 of the Australian Federal Police Regulations before the commencement day, any appeal arising out of that selection shall be dealt with, or continue to be dealt with, as the case requires, as if the amendments of the Principal Act made by the provisions of this Act that come into operation on that day had not been made, but any promotion following the disposal of any such appeal shall be made in accordance with the amended Act.

**(8)** Notwithstanding the amendment of section 68 of the Principal Act made by section 18 of this Act, paragraphs (1) (f) and (h) of that section of the Principal Act as in force before that amendment continue to apply, on and after the commencement day, in relation to any matter or thing that occurred before the commencement day.

**(9)** Where, immediately before the commencement day, there was in force with respect to a member of the component of the Australian Federal Police referred to in sub-section 7 (2) of the Principal Act an instrument signed by the Commissioner, or a delegate of the Commissioner, retiring the member from the Australian Federal Police under section 38 of the Principal Act with effect on and from a day (in this sub-section referred to as the "retirement day") after the commencement day, the member shall, until the retirement day, continue to be a member of the Australian Federal Police on the same terms and conditions of service that were, immediately before the commencement day, applicable to the member.

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(10) The *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*<sup>2</sup> is amended—

- (a) by omitting sub-section 2 (2); and
- (b) by omitting from Schedule 1 the amendments of section 36 of the *Australian Federal Police Act 1979*.

(11) The *Statute Law (Miscellaneous Provisions) Act (No. 2) 1983*<sup>3</sup> is amended—

- (a) by omitting from sub-section 6 (2) “and by the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*”; and
- (b) by omitting from Schedule 1 the amendments of sections 25, 26, 26A, 36 and 39 of the *Australian Federal Police Act 1979*.

(12) In this section—

“amended Act” means the Principal Act as in force on and after the commencement day;

“commencement day” means the day fixed under sub-section 2 (2);

“prescribed component” means the component of the Australian Federal Police referred to in sub-section 7 (1) of the Principal Act as in force before the commencement day.

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**NOTES**

- 1. No. 58, 1979. For previous amendments, see No. 155, 1979; No. 69, 1980; No. 22, 1981; No. 80, 1982; and No. 91, 1983.
- 2. No. 39, 1983.
- 3. No. 91, 1983.