

Police Amendment Bill (No 2)

Government Bill

Explanatory note

General policy statement

The Police Amendment Bill (No 2) amends the Police Act 1958 and the Police Regulations 1992.

The Bill seeks to achieve 2 things: first, to strengthen police governance and accountability arrangements; second, to improve police effectiveness in managing its human resources. These legislative amendments are part of a wider strategy to equip police to provide a more effective service.

The Bill clarifies the following key aspects of police's governance and accountability arrangements:

- the constitutional relationship between the Commissioner of Police and the Minister of Police; and
- what the Commissioner is responsible to the Minister for; and
- the appointment, tenure, and terms of engagement of the Commissioner and Deputy Commissioners; and
- the Commissioner's accountability and management of the performance of both the Commissioner and the police.

By clarifying the relative areas of authority of the Commissioner and the Minister, the Bill will provide more certainty about those police activities where independence is necessary and those activities where closer alignment and integration with state sector management and accountability systems is appropriate.

The Bill contains the following proposals to increase managerial flexibility in the police's human resources environment:

- mainstreaming police appointment and transfer procedures as much as possible with the state sector, and clarifying the Commissioner's ability to transfer staff to meet operational policing requirements; and
- modernising police disciplinary arrangements, including the development of a code of conduct for sworn officers; and
- providing an explicit power for the Commissioner to remove a sworn officer if, due to his or her competence, integrity, performance, or conduct, the Commissioner believes that the officer is not suitable to discharge the duties of constable; and
- modifying the environment for setting police pay and conditions, by adding the ability of the police to pay as a specific criterion to be considered during any arbitration process.

The Bill as a whole will offer a more certain and predictable environment for all police: it will simplify the procedures that allow staff to be appointed, transferred and deployed; reduce associated costs; offer more options for dealing with staff who perform poorly; and streamline and strengthen disciplinary processes for staff who fall short of required standards. Providing additional focus in the arbitration environment under the Police Act will also help to achieve greater alignment between Police wage bargaining and the pay-fixing arrangements that apply across the wider state sector.

Clause by clause analysis

Clause 1 is the Title clause.

Part 1

Preliminary provision

Clause 2 relates to commencement.

Part 2

Substantive amendments to principal Act

Clause 3 amends section 2 of the principal Act by updating the definition of **police** to make it consistent with current drafting style and usage and by inserting a definition of **Deputy Commissioner**.

Clause 4 amends the principal Act by repealing Part I (which relates to governance and personnel matters), and substituting a *new Part 1*. *New section 3* sets out the procedure for appointing a Commissioner of Police (the **Commissioner**). The main features are—

- the State Services Commissioner is responsible for managing the appointment process and must forward nominations to the Prime Minister and the Minister:
- the Minister must forward a recommendation to the Governor-General in Council:
- the Governor-General in Council may appoint a Commissioner:
- a Commissioner holds office during the pleasure of the Governor-General.

New section 4 sets out the responsibilities of the Commissioner and preserves his or her independence. The Commissioner is responsible to the Minister for—

- the carrying out of the functions, duties, and powers of the police:
- tendering advice to the Minister and other Ministers of the Crown:
- the general conduct of the police:
- the efficient, effective, and economical management of the police:
- giving effect to any directions of the Minister on matters of Government policy.

The Commissioner must act independently in relation to the enforcement of the criminal law in particular cases and classes of case, matters that relate to an individual or group of individuals, and decisions on individual members of the police.

New section 5 preserves the Minister's ability to give the Commissioner directions on matters of Government policy that relate to—

- the prevention of crime:
- the maintenance of public safety and public order:
- the delivery of police services:
- general areas of law enforcement.

However, no direction can have the effect of requiring the non-enforcement of a particular area of the law, and the Minister must not give directions in relation to—

- enforcement of the criminal law in any particular cases or classes of case;
- matters that relate to an individual or group of individuals;
- decisions on individual members of the police.

If there is a dispute between the Minister and the Commissioner on any matter under this section, the Minister must provide the instruction to the Commissioner in writing, publish a copy in the Gazette, and present a copy to the House of Representatives.

New section 6 sets out the procedure for the appointment of Deputy Commissioners of Police (**Deputy Commissioners**).

New section 7 sets out the powers of Deputy Commissioners. It substantially carries over the existing powers contained in section 4 of the principal Act.

New section 8 sets out the procedure for determining the conditions of employment of a Commissioner or Deputy Commissioner. The conditions are to be determined by agreement between the State Services Commissioner and the appointee, but the State Services Commissioner must obtain the agreement of the Prime Minister and the Minister of State Services before finalising the conditions of employment.

These provisions do not affect the persons who hold those offices at the date of commencement of this Bill (see *clause 10*).

New section 9 sets out the State Services Commissioner's review and advisory functions in relation to the Commissioner and the police. The provisions of sections 6 to 10 and section 43 of the State Sector Act 1988 apply as if the Commissioner were a chief executive appointed under that Act and as if the police were a department of the Public Service.

New section 9A provides that it is the Commissioner's responsibility to review the performance of each Deputy Commissioner. The State Services Commissioner must be consulted if a dispute arises in the course of the performance review of a Deputy Commissioner.

New section 10 provides that Part V of the State Sector Act 1988 (which relates to personnel provisions) applies to the police. However, this does not limit or affect the powers and duties conferred or

imposed on the office of constable by any enactment or the common law.

The authority to appoint members is contained in *new section 10*, which applies Part V of the State Sector Act 1988. Section 59 of that Act empowers a chief executive to—

- appoint any employees (including acting or temporary or casual employees) that the chief executive thinks necessary for the efficient exercise of the functions, duties, and powers of the Department;
- subject to any conditions of employment included in the employment agreement that applies to the employee, at any time remove any employee from that employee's office or employment.

New section 11 provides that, in appointing an employee, the Commissioner may designate an employee as a sworn member of the police or a non-sworn member of the police. This includes the power to designate an employee as a sworn member generally, or for a temporary period or on a restricted basis determined by the Commissioner. In addition, the Commissioner may assign to any sworn member of the police any rank that the Commissioner considers appropriate.

New section 12 relates to the exercise of powers by non-sworn members of the police and substantially carries over the existing section 6 of the principal Act.

New section 13 enables the Commissioner to authorise transfers and deployments within the police. The power conferred by this section includes power to—

- initially deploy members upon graduation from The Royal New Zealand Police College;
- temporarily deploy members to meet police requirements associated with a particular event, occasion, or commitment in New Zealand or overseas;
- transfer members for welfare reasons at the member's request;
- transfer members if the Commissioner considers it necessary to do so to efficiently carry out police duties.

The usual appointment procedures in sections 60, 61, and 65 of the State Sector Act 1988 do not apply to transfers under this section. Section 64 of the State Sector Act 1988 does not apply to temporary deployments or transfers for welfare reasons.

New section 14 relates to the resignation of sworn members of the police and substantially carries over existing section 14 of the principal Act, except that the maximum level of the fine that may be imposed where a sworn member resigns otherwise than in conformity with the section is raised from \$100 to \$1,000.

New section 15 relates to the review of appointments and decisions under section 28D and substantially carries over existing section 11 of the principal Act.

New section 16 empowers the Commissioner to issue 1 or more codes of conduct in relation to different groups of members of the police. A code of conduct may include—

- minimum standards of conduct, performance, and integrity (including actions, omissions, behaviours, and classes of criminal offences that constitute different grades of unsatisfactory performance, misconduct, or neglect of duty):
- procedures for investigating and managing different grades of unsatisfactory performance, misconduct, or neglect of duty:
- criteria for taking any action referred to in *new section 16A* or *new section 16B*:
- procedural rules, in accordance with the principles of natural justice, that are to be complied with when taking any action referred to in *new section 16A* or *new section 16B*.

Every code of conduct issued under this section forms part of the general instructions under section 30 of the principal Act.

New section 16A sets out the Commissioner's powers in cases where there is unsatisfactory performance, misconduct, or neglect of duty in terms of the relevant code of conduct. The section empowers the Commissioner to—

- direct that the member undergo a specified assessment or remedial programme:
- issue a formal warning to the member:
- reduce the member's remuneration for a specified period:
- bar the member from consideration for promotion for a specified period.

If the Commissioner is satisfied, in accordance with the code of conduct, that a member is unsuited to continue in the member's present

role, having regard to the member's competence, integrity, performance, or conduct, the Commissioner may, in addition,—

- reduce the member's rank:
- transfer the member to an alternative position at the same or a different location.

The usual appointment procedures in sections 60, 61, 64, and 65 of the State Sector Act 1988 do not apply to reductions in rank and transfers under this section.

If the Commissioner is satisfied, in accordance with the code of conduct, that a member is unsuited to continue as a member of the police, having regard to the member's competence, integrity, performance, or conduct, the Commissioner may dismiss the member.

New section 16B empowers the Commissioner to suspend members on pay, or on reduced pay, or without pay, pending the outcome of an investigation under *section 16A*, and to vary or rescind any suspension.

Clause 5 amends section 87 of the principal Act, which relates to personal grievances by sworn members of the police, to ensure that Part 10 of the Employment Relations Act 2000 applies to those grievances as well as Part 9 of that Act. Part 10 establishes the Employment Relations Authority and the Employment Court, and contains appeal rights and important procedural measures.

Clause 6 effects consequential repeals, revocations, and amendments.

Clause 7 amends the compulsory arbitration procedure in clause 24 of Schedule 3 of the principal Act to require an arbitrating body to have regard to the Commissioner's ability to fund any resulting police expenditure, as determined by Vote: Police appropriations. Any compulsory arbitration commenced but not completed before the date of commencement of this clause must be completed as if the clause were in force when the arbitration commenced.

Clause 8 consequentially amends the Higher Salaries Commission Act 1977. The conditions of employment of any Commissioner and any Deputy Commissioners appointed after this Bill comes into force must be determined under *new section 8* of the principal Act.

Clause 9 effects consequential amendments to section 44 of the State Services Act 1988.

Clause 10 is a transitional provision that relates to the conditions of employment of the Commissioner and Deputy Commissioners in office when this Bill comes into force. Their conditions of employment will not be affected by section 8 of this Bill until the fifth anniversary of the date of their appointment. The principal Act and the Higher Salaries Commission Act 1977 will continue to apply in relation to those conditions of employment during that period.

Hon George Hawkins

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Police Amendment Act **(No 2) 2001**.
 (2) In this Act, the Police Act 1958¹ is called “the principal Act”.

Part 1
Preliminary provision

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2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

¹ 1958 No 109

Part 2

Substantive amendments to principal Act

3 Interpretation

- (1) Section 2 of the principal Act is amended by inserting, after the definition of **Commissioner**, the following definition: 5
 “**Deputy Commissioner** means a Deputy Commissioner of Police appointed under section 6 of this Act.”.
- (2) Section 2 of the principal Act is amended by repealing the definition of **the Police**, and substituting the following definition: 10
 “**police** means the New Zealand Police; and includes all members appointed to the police under this Act”.

4 New Part I substituted

The principal Act is amended by repealing Part I, and substituting the following Part:

“Part I 15

“Personnel provisions

“3 Appointment of Commissioner of Police

- “(1) The Governor-General in Council may appoint a Commissioner of Police.
- “(2) The State Services Commissioner is responsible for managing the appointment process, and must forward nominations for appointment to the Prime Minister and the Minister. 20
- “(3) The Minister must forward a recommendation to the Governor-General in Council.
- “(4) The Commissioner of Police holds office during the pleasure of the Governor-General. 25

“4 Responsibility and independence of Commissioner

- “(1) The Commissioner is responsible to the Minister for—
- “(a) the carrying out of the functions, duties, and powers of the police; and 30
- “(b) tendering advice to the Minister and other Ministers of the Crown; and
- “(c) the general conduct of the police; and
- “(d) the efficient, effective, and economical management of the police; and 35

- “(e) giving effect to any directions of the Minister on matters of Government policy.
- “(2) The Commissioner is not responsible to the Minister, but must act independently, in relation to the following:
- “(a) enforcement of the criminal law in particular cases and particular classes of case: 5
- “(b) matters that relate to an individual or group of individuals:
- “(c) decisions on individual members of the police.
- “5 Minister’s power to give directions 10**
- “(1) The Minister may give the Commissioner directions on matters of Government policy that relate to—
- “(a) the prevention of crime; and
- “(b) the maintenance of public safety and public order; and
- “(c) the delivery of police services; and 15
- “(d) general areas of law enforcement.
- “(2) No direction from the Minister to the Commissioner may have the effect of requiring the non-enforcement of a particular area of the law.
- “(3) The Minister must not give directions to the Commissioner in relation to the following: 20
- “(a) enforcement of the criminal law in particular cases and particular classes of case:
- “(b) matters that relate to an individual or group of individuals: 25
- “(c) decisions on individual members of the police.
- “(4) If there is a dispute between the Minister and the Commissioner in relation to any direction under this section, the Minister must, as soon as practicable after the dispute arises,—
- “(a) provide that direction to the Commissioner in writing; 30
- and
- “(b) publish a copy in the *Gazette*; and
- “(c) present a copy to the House of Representatives.
- “6 Appointment of Deputy Commissioners of Police**
- “(1) The Governor-General in Council may appoint 1 or more 35 Deputy Commissioners of Police.

“(2) A Deputy Commissioner holds office during the pleasure of the Governor-General.

“**7 Powers of Deputy Commissioners**

“(1) A Deputy Commissioner has and may exercise any of the powers, authorities, duties, and functions of the Commissioner that the Commissioner may delegate to that Deputy Commissioner either generally or in any particular case. 5

“(2) A delegation under **subsection (1)** is revocable at will, and no delegation under that subsection prevents the exercise of any powers by the Commissioner. 10

“(3) In the case of absence from duty of the Commissioner (from any cause) or on the occurrence of a vacancy in the office of Commissioner (whether because of death, resignation, or otherwise) and from time to time while the absence or vacancy continues, all or any of the powers, authorities, duties, and functions of the Commissioner may be exercised and performed by the Deputy Commissioner longest in that office. 15

“(4) The fact that a Deputy Commissioner exercises any power, authority, duty, or function under this section is, in the absence of proof to the contrary, sufficient evidence of his or her authority to do so. 20

“**8 Conditions of employment of Commissioner and Deputy Commissioners**

The conditions of employment, including remuneration, of a Commissioner or a Deputy Commissioner must be determined in each case by agreement between the State Services Commissioner and the appointee, but the State Services Commissioner must obtain the agreement of the Prime Minister and the Minister of State Services to the conditions of employment before finalising those conditions of employment with the appointee. 25 30

“**9 State Services Commissioner’s review and advisory functions**

“(1) The State Services Commissioner’s functions and powers under sections 6 to 10 and under section 43 of the State 35

Sector Act 1988 apply to the Commissioner as if he or she were a chief executive of a department and to the police as if the police were a department, and with any other necessary modifications.

- “(2) Despite **subsection (1)**, the State Services Commissioner’s power under section 6(c) of the State Sector Act 1988 does not apply to the police. 5
- “(3) Any review of the performance of the Commissioner under section 6(b) or section 43 of the State Sector Act 1988 must be limited to those matters on which the Minister may direct the Commissioner under **section 5**. 10
- “(4) Section 11 of the State Sector Act does not apply to the police.
- “**9A Review of performance of Deputy Commissioners**
- “(1) The Commissioner is responsible for reviewing the performance of a Deputy Commissioner. 15
- “(2) If a dispute arises in the course of a review of the performance of a Deputy Commissioner, the Commissioner must consult with the State Services Commissioner before finalising the review of the performance of that Deputy Commissioner.
- “**10 Application to police of Part V of State Sector Act 1988** 20
- “(1) Except as otherwise provided in this Part, Part V of the State Sector Act 1988 (which relates to personnel provisions) applies to the police as if—
- “(a) references to a department of the Public Service included the police; and 25
- “(b) references to a chief executive included the Commissioner; and
- “(c) references to employees included members of the police.
- “(2) **Subsection (1)** does not limit or affect the powers and duties conferred or imposed on the office of constable by any enactment or the common law. 30

“11 Designation of members of police

“(1) The Commissioner may designate an employee as a sworn member of the police or a non-sworn member of the police for any period that the Commissioner and the employee agree.

“(2) A member of the police must serve in the capacity determined by the Commissioner. 5

“(3) The Commissioner may designate any position within the police as a position to be filled by either—

“(a) a sworn member of the police; or

“(b) a non-sworn member of the police. 10

“(4) The Commissioner may assign to any sworn member of the police any rank that the Commissioner considers appropriate.

“(5) The Commissioner has all of the rights, duties, and powers of an employer in respect of all members of the police, but this does not limit or affect the powers and duties conferred or imposed on the office of constable by any enactment or the common law. 15

“12 Exercise of powers by non-sworn members of police

“(1) Except as otherwise expressly provided in this Act or any other enactment,— 20

“(a) a non-sworn member of the police must not exercise in relation to members of the public any of the powers, functions, or duties of a sworn member of the police under this Act or any other enactment or at common law; and 25

“(b) references in this Act or any other enactment to a member of the police must not be read as including a reference to a non-sworn member of the police.

“(2) A non-sworn member of the police may, on being authorised to do so by a warrant signed by the Commissioner, exercise a particular power, function, or duty of a member of the police under any other enactment, except a power to arrest or search a person. 30

“(3) It is the duty of every person exercising a power, function, or duty under a warrant issued under **subsection (2)**— 35

“(a) to have the warrant with him or her; and

- “(b) to produce the warrant during the exercise of the power, function, or duty, if requested.
- “(4) References to any members of the police in the following enactments must be read as including a reference to non-sworn members of the police (subject to any modifications made for the purpose by those enactments), namely,—
- “(a) in **sections 9, 10, 12, 15 to 16A**, 30, 39 to 44, 50 to 52, 54(1), 55, 55A, 57 to 59, 61A, 64, 76 to 79, and 96 of this Act; and
- “(b) in section 24 of the Summary Offences Act 1981; and
- “(c) in the Police Complaints Authority Act 1988.
- “**13 Transfers and deployments of members of police**
- “(1) In this section, **transfer** means a transfer of sworn or non-sworn members of the police under **subsection (2)(c) or (d)** that is within the same remuneration band and is either to another position or to fill a vacancy.
- “(2) The Commissioner may authorise transfers and deployments of members of the police to—
- “(a) initially deploy members upon graduation from The Royal New Zealand Police College; and
- “(b) temporarily deploy members to meet police requirements associated with a particular event, occasion, or commitment in New Zealand or overseas; and
- “(c) transfer members for welfare reasons at the member’s request; and
- “(d) transfer members if the Commissioner considers it necessary to do so to efficiently carry out police duties.
- “(3) Nothing in section 60 or section 61 or section 65 of the State Sector Act 1988 applies to any transfer or deployment under this section.
- “(4) Nothing in section 64 of the State Sector Act 1988 applies to any temporary deployment under **subsection (2)(b)** or transfer for welfare reasons under **subsection (2)(c)** of this section.

“14 Resignation of sworn members of police

“(1) A sworn member of the police may resign his or her office only—

“(a) by giving the Commissioner not less than 14 days’ notice in writing of his or her intention to resign; or 5

“(b) with the Commissioner’s prior written approval.

“(2) A sworn member of the police may withdraw his or her notice of intention to resign only with the Commissioner’s approval.

“15 Review of appointments and decisions under section 28D

“(1) The procedure put in place under section 65 of the State Sector Act 1988 for reviewing appointments must include a procedure for reviewing complaints about refusals to permit members to leave the police under section 28D of this Act. 10

“(2) Neither section 65 nor **subsection (1)** applies to—

“(a) any temporary or casual appointment; or 15

“(b) any appointment to any designated senior position under section 76.

“16 Code of conduct

“(1) The Commissioner may, after consultation with the service organisations and the State Services Commissioner, issue 1 or 20 more codes of conduct for all members of the police, or for different groups of members of the police.

“(2) A code of conduct may (without limitation) include—

“(a) minimum standards of conduct, performance, and integrity (including actions, omissions, behaviours, and 25 classes of criminal offences that constitute different grades of unsatisfactory performance, misconduct, or neglect of duty); and

“(b) procedures for investigating and managing different grades of unsatisfactory performance, misconduct, or 30 neglect of duty; and

“(c) criteria for taking any action referred to in **section 16A or section 16B** in relation to a member of the police; and

“(d) procedural rules to be complied with before any action 35 referred to in **section 16A or section 16B** is taken in relation to a member of the police.

- “(3) The procedural rules referred to in **subsection (2)(d)** must comply with the principles of natural justice.
- “(4) While a code of conduct under **subsection (1)** is in force, any code of conduct for the time being in force under section 57 of the State Sector Act 1988 does not apply to the members of the police who are covered by a code issued under **subsection (1)** unless the code issued under that subsection otherwise provides. 5
- “(5) A code of conduct issued under this section forms part of the general instructions under section 30. 10
- “16A Commissioner’s powers relating to unsatisfactory performance, misconduct, or neglect of duty**
- “(1) If the Commissioner is satisfied, in accordance with the provisions of the relevant code of conduct, that a member of the police has demonstrated unsatisfactory performance, misconduct, or neglect of duty, he or she may take 1 or more of the following actions: 15
- “(a) direct that the member undergo a specified assessment or remedial programme:
- “(b) issue a formal warning to the member: 20
- “(c) reduce the member’s remuneration for a specified period:
- “(d) bar the member from consideration for promotion for a specified period.
- “(2) If the Commissioner is satisfied, in accordance with the provisions of the relevant code of conduct, that a member of the police is unsuited to continue in that member’s present role, having regard to the member’s competence, integrity, performance, or conduct, the Commissioner may, in addition, take 1 or both of the following actions: 25 30
- “(a) reduce the member’s rank or remuneration band:
- “(b) transfer the member to an alternative position at the same or a different location.
- “(3) If the Commissioner is satisfied, in accordance with the provisions of the relevant code of conduct, that a member of the police is unsuited to continue as a member of the police, having regard to the member’s competence, integrity, performance, or conduct, the Commissioner may dismiss the member. 35

- “(4) The Commissioner’s power in **subsection (3)** must be exercised in accordance with—
- “(a) any applicable provisions of this Act, any general instructions issued under section 30 of this Act, and any regulations made under section 64 of this Act; and 5
 - “(b) the conditions of employment set out in any agreement under section 67 or section 75 of this Act; and
 - “(c) the conditions of employment set out in any individual contract of service under this Act.
- “(5) Nothing in section 60 or section 61 or section 64 or section 65 10 of the State Sector Act 1988 applies in relation to a reduction in rank or a transfer under **subsection (2)**.
- “(6) A member who wishes to challenge action by the Commissioner under **subsection (1) or subsection (2) or subsection (3)** has a personal grievance for the purposes of section 15 87 of this Act and Parts 9 and 10 of the Employment Relations Act 2000, and those provisions apply to the action accordingly.
- “**16B Suspension from duty if unsatisfactory performance, misconduct, or neglect of duty is alleged**
- “(1) If an investigation has commenced into possible unsatisfactory 20 performance, misconduct, or neglect of duty, as defined in the relevant code of conduct, by a member, the Commissioner may suspend the member on pay, or on reduced pay, or without pay, until a decision has been made whether to exercise any of the powers under **section 16A**. 25
- “(2) The Commissioner may, at any time while a suspension under **subsection (1)** remains in force, vary or rescind the decision to suspend the member, or determine that the suspension ends on a date earlier than the date on which it would otherwise end.” 30
- 5 Personal grievances**
- Section 87 of the principal Act is amended by adding the following subsection:
- “(3) Part 10 of the Employment Relations Act 2000 applies to personal grievances by sworn members of the police.” 35

6 Repeals, revocations, and consequential amendments

- (1) The principal Act is amended by repealing section 32 (which relates to suspension pending the hearing of a charge).
- (2) The following enactments are consequentially repealed:
- (a) section 3 of the Police Amendment Act 1989: 5
 - (b) section 2 of the Police Amendment Act (No 2) 1992:
 - (c) so much of the Second Schedule of the Human Rights Act 1993 as relates to section 5A of the principal Act:
 - (d) the Police Amendment Act 1994.
- (3) The Police Regulations 1992 (SR 1992/14) are consequentially amended by revoking regulation 3 (which relates to the responsibilities and duties of the Commissioner), regulations 4 and 6 (which relate to positions filled in special circumstances and transfers), Part II (which relates to disciplinary proceedings against sworn members), and Part IV (which relates to a code of conduct for non-sworn members). 10 15
- (4) Regulation 2 of the Police Regulations 1992 is consequentially amended by revoking the definition of **District Commander** and **Region Commander**.
- (5) Regulation 2 of the Police Regulations 1992 is consequentially amended by revoking the definition of **inquiry**, and substituting the following definition: 20
- “**inquiry**, when used in Part III of these regulations, means an inquiry under section 56 of the Act”.

7 Schedule 3 amended 25

- (1) Clause 24 of Schedule 3 of the principal Act is amended by inserting, after paragraph (f), the following paragraph: 30
- “(fa) the Commissioner’s ability to fund any resulting police expenditure, as determined by Vote: Police appropriations; and”.
- (2) Any conciliation or arbitration commenced but not completed before the date of commencement of this section must be completed as if **subsection (1)** were in force when the arbitration was commenced.

8 Consequential amendment to Higher Salaries Commission Act 1977

The Fourth Schedule of the Higher Salaries Commission Act 1977 is consequentially amended by omitting the item “The Commissioner of Police and the Deputy Commissioner of Police.” 5

9 Consequential amendments to State Sector Act 1988

(1) Section 44(1) of the State Sector Act 1988 is amended by repealing paragraph (c).

(2) Section 44 of the State Sector Act 1988 is amended by inserting, after subsection (1), the following subsection: 10

“(1A) Nothing in sections 35, 36, 38, 39, and 91 of this Act applies in respect of the Commissioner of Police.”

(3) Section 44(2) of the State Sector Act 1988 is amended by inserting, after the words “subsection (1)”, the words “and subsection (1A)”. 15

(4) Section 44(2) of the State Sector Act 1988 is amended by omitting from paragraph (d) the words “Police Department (civilian staff)”, and substituting the words “New Zealand Police”.

10 Transitional provision relating to conditions of employment of Commissioner and Deputy Commissioners 20

(1) For the period described in **subsection (2)** (the **applicable period**), section 8 of the principal Act, as substituted by **section 4** of this Act, does not affect the conditions of employment of the persons who, immediately before the commencement of this Act, held office as Commissioner or Deputy Commissioner. 25

(2) The applicable period, in relation to each person referred to in **subsection (1)**, is the period that begins on the commencement of this Act and ends on the earlier of— 30

(a) the date on which the person ceases to hold office as Commissioner or Deputy Commissioner, as the case requires; and

(b) the fifth anniversary of the date on which the person was appointed to the office concerned. 35

- (3) During the applicable period, the principal Act (as in force immediately before the commencement of this Act) and the Higher Salaries Commission Act 1977 continue to apply to the persons referred to in **subsection (1)** as if section 8 of the principal Act had not been substituted by **section 4** of this Act. 5