

AUSTRALIAN CAPITAL TERRITORY

POLICE (DISCIPLINARY PROVISIONS) ORDINANCE 1972

POLICE ORDINANCE (NO. 2) 1972

EXPLANATORY MEMORANDUM

No. 39 of 1972

No. 40 of 1972

The purpose of the Police (Disciplinary Provisions) Ordinance 1972 is to provide a more efficient and equitable system of enforcing discipline within the Australian Capital Territory Police Force. The existing disciplinary provisions which are set out in the Police Regulations were recently criticised by the Australian Capital Territory Supreme Court. The main criticism of the present provisions was that no appeal was available against a decision of the Commissioner of Police.

Pursuant to the provisions of the amending Ordinance a member of the Force charged with a disciplinary offence will be entitled to provide a written explanation setting out the facts that he desires the Commissioner to take into account. Further, he will be permitted, at his option, to appear before the Commissioner and submit any further mitigating evidence in support of his case.

Where the Commissioner determines that a member is guilty of a disciplinary offence he will be able to –

- reprimand the member;
- impose a fine not exceeding \$40;
- where a member is not an officer, dismiss the member, reduce the member to a lower rank, or reduce the rate of salary to a rate of salary within the limits of salary fixed for the rank held by the member; and
- where a member is an officer, recommend to the Minister that the officer be dismissed or be reduced to a lower rank.

A member penalised by the Commissioner will be able to appeal to the Appeal Board against the Commissioner's determination on the basis that the determination was wrong or on the ground that the punishment was unduly severe, or on both of these grounds.

The Appeal Board will consist of three members, all of whom will be appointed by the Minister –

- (i) a Chairman who will be a magistrate, a barrister or solicitor who has had at least five years experience;

- (ii) an officer of the Police Force nominated by the Commissioner of Police; and
- (iii) a person or a member of the Police Force elected by the members of the Police Association of the Australian Capital Territory.

A further appeal will lie to the Australian Capital Territory Supreme Court from the decision of the Appeal Board.

The Police Ordinance (No. 2) 1972 will make consequential amendments to the Police Ordinance 1927-1972 by repealing provisions which will be covered by the Police (Disciplinary Provisions) Ordinance 1972. An opportunity is also being taken to remedy an existing technical flaw.

R.J.H.

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(Minister's Initials)