

# AUSTRALIAN CAPITAL TERRITORY

No. 19 of 1979

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An Ordinance to amend the *Police Ordinance 1927*

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

Dated this twenty-eighth day of June 1979.

ZELMAN COWEN  
Governor-General

By His Excellency's Command,

R. ELLICOTT  
Minister of State for the Capital Territory

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## POLICE (AMENDMENT) ORDINANCE 1979

- Short title** 1. This Ordinance may be cited as the *Police (Amendment) Ordinance 1979*.<sup>1</sup>
- Principal Ordinance** 2. In this Ordinance, "Principal Ordinance" means the *Police Ordinance 1927*.<sup>2</sup>
- Promotions to be notified in Police Gazette** 3. Section 5AE of the Principal Ordinance is amended by adding at the end thereof the following sub-sections:
- "(3) The Minister shall cause the date on and from which a promotion of a member of the Police Force is to have effect to be specified in the notification of the promotion published in the Police Gazette for the purpose of sub-section (2).
- "(4) The date to be specified, for the purpose of sub-section (3), in the notification of a promotion under section 5AC is the date determined by the Minister in accordance with Determination No. 1.
- "(5) The date specified, for the purpose of sub-section (3), in the notification of a promotion under section 5AD shall be such date as is determined by the Minister, being a date not earlier than the date on which the notice in relation to the vacancy filled by that promotion was published in the Police Gazette in accordance with sub-section 5AD(1)."

4. After section 5AF of the Principal Ordinance the following section is inserted:

“5AFA. (1) If, after provisional promotion under section 5AD of a member of the Police Force to a vacancy in a rank, but before confirmation of the promotion, the Minister is satisfied that— Cancellation of provisional promotion

(a) the vacancy can be filled by the transfer under sub-section 7D (1) of a member found to be in excess within the meaning of that sub-section; or

(b) further notification of the vacancy is desirable,

the Minister may cancel the provisional promotion.

“(2) The Minister may, in pursuance of sub-section (1), cancel a provisional promotion under section 5AD notwithstanding that an appeal to the Tribunal against the promotion has been instituted and, where the Minister so cancels a provisional promotion, any proceedings in respect of such an appeal are, by virtue of this sub-section, discontinued.”

5. Section 5AG of the Principal Ordinance is amended—

(a) by omitting sub-sections (1) and (2) and substituting the following sub-sections: Confirmation and cancellation of provisional promotion

“(1) Where—

(a) a member of the Police Force has been promoted under section 5AC or 5AD;

(b) a period of 21 days has elapsed since notification of the promotion was published in the Police Gazette;

(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; and

(d) the promotion has not been cancelled under section 5AFA,

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 specified, for the purpose of sub-section 5AE (3), in the notification of the promotion published in the Police Gazette in accordance with sub-section 5AE (2).”;

- (b) by omitting sub-section (5) and substituting the following sub-section:

“(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 the cancelled promotion would have had effect in accordance with sub-section (2) if the promotion had not been cancelled.”.

- 6.** Section 5E of the Principal Ordinance is amended by omitting sub-section (3).

- 7.** After section 5E of the Principal Ordinance the following section is inserted:

“5EA. (1) Subject to sub-section (2), a determination made by the Tribunal shall come into operation, or shall be deemed to have come into operation, as the case may be, on such date, whether before or after the date on which the determination is made, as is specified in the determination.

“(2) The date specified in a determination for the purpose of sub-section (1) shall not, unless the Minister and the Association consent or the Tribunal otherwise directs, be a date before the date on which the determination is notified in the *Gazette*.”.

- 8.** Section 8 of the Principal Ordinance is amended by omitting from sub-section (2) “prescribed person” and substituting “Commissioner or a person authorized by the Commissioner for the purpose of this sub-section”.

- 9.** (1) Where, before the commencement of this Ordinance—

- (a) notification of a promotion of a person has been published in accordance with sub-section 5AE (2) of the Principal Ordinance; and  
 (b) the notification specified a date as the date on and from which the promotion of the person was to take effect,

the promotion, and any confirmation of the promotion, have effect, and shall be deemed always to have had effect, as if this Ordinance had been in operation on the date on which the promotion was made.

(2) A determination made by the Tribunal before the commencement of this Ordinance and specifying a date earlier than the date on which the determination was made as the date on and from which the determination was to have effect shall have effect, and shall be deemed always to have had effect, as if—

- (a) sections 6 and 7 of this Ordinance had been in operation on the date on which the determination was made; and

(b) the Minister and the Association had consented to the making of determination.

(3) Expressions used in this section have the meanings that they would have had if they had been used in the Principal Ordinance as amended by this Ordinance.

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#### NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 5 July 1979.
2. 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; Nos. 22 and 40, 1972; No. 16, 1974; and Nos. 6, 7 and 46, 1975.