



Australian Protective Service Amendment Act 2002

No. 55, 2002

**An Act to amend the *Australian Protective Service
Act 1987*, and for related purposes**

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No. 55, 2002



An Act to amend the *Australian Protective Service Act 1987*, and for related purposes

[Assented to 29 June 2002]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Protective Service Amendment Act 2002*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Australian Protective Service Act 1987

1 Subsection 3(1)

Insert:

APS employee has the same meaning as in the *Public Service Act 1999*.

2 Subsection 3(1)

Insert:

Commissioner means the Commissioner of Police referred to in section 6 of the *Australian Federal Police Act 1979*.

3 Subsection 3(1) (definition of *Director*)

Omit “such office in the Department as is designated”, substitute “the position in the Protective Service created”.

4 Subsection 3(1) (definition of *protective service officer*)

Omit “such office in the Department as is designated”, substitute “a position in the Protective Service created”.

5 Subsection 3(1) (definition of *Secretary*)

Repeal the definition.

6 Subsection 3(2)

Omit “subsection 5(2),”.

7 Section 5

Repeal the section, substitute:

5 Establishment of Protective Service

- (1) The Australian Protective Service is established.
- (2) For the purposes of the *Public Service Act 1999*, the Protective Service is a Statutory Agency constituted by:
 - (a) the Commissioner as Head of the Agency; and

(b) the APS employees assisting the Commissioner under this Act.

(3) The reference to APS employees in paragraph (2)(b) does not include a reference to special protective service officers who are APS employees in another Agency.

(4) In this section:

Agency has the same meaning as in the *Public Service Act 1999*.

8 Section 7

Repeal the section, substitute:

7 Director of Protective Service

The Commissioner may, by notice in writing published in the *Gazette*, create a position in the Protective Service the occupant of which is the Director of the Protective Service.

9 Section 8

Repeal the section, substitute:

8 Protective service officers other than Director

The Commissioner may, by notice in writing published in the *Gazette*, create positions in the Protective Service the occupants of which are protective service officers.

10 Section 10

Omit “his or her office unless the protective service officer”, substitute “a protective service officer unless he or she”.

11 Section 10

Omit “Secretary”, substitute “Commissioner”.

12 Section 11

Omit “Secretary”, substitute “Commissioner”.

13 Subsection 12(1)

Omit “Secretary”, substitute “Commissioner”.

14 Subsection 12(3)

Repeal the subsection, substitute:

- (3) Where a provision of the General Orders is inconsistent with:
- (a) a provision of this Act or any other Act; or
 - (b) a provision of regulations made under this Act or any other Act; or
 - (c) a determination made under section 24 of the *Public Service Act 1999*; or
 - (d) a direction issued by the Public Service Commissioner under section 11, 15 or 36 of the *Public Service Act 1999*; or
 - (e) a direction issued by the Prime Minister under section 21 of the *Public Service Act 1999*; or
 - (f) the Classification Rules made under section 23 of the *Public Service Act 1999*;

the latter prevails and the former, to the extent of the inconsistency, is invalid.

15 Subsection 19(6)

Omit “a person occupying such office in the Department as”, substitute “the APS employee in the Protective Service who”.

16 Subsection 20(4)

Omit “a person occupying such office in the Department as”, substitute “the APS employee in the Protective Service who”.

17 Section 23

Omit “Secretary”, substitute “Commissioner”.

18 Section 23

Omit “the person occupying a specified office in the Department”, substitute “an APS employee in the Protective Service”.

19 Subsection 24(1)

Omit “protective service officer”, substitute “APS employee in the Protective Service”.

20 Subsection 24(1)

Omit all the words after “Director under this”, substitute:

Act, other than:

- (a) this power of delegation; or
- (b) the power to issue General Orders; or
- (c) the powers the Director has because he or she is a protective service officer.

21 Subsection 25(1)

Omit “Secretary” (wherever occurring), substitute “Commissioner”.

Note: The heading to section 25 is altered by omitting “**Secretary**” and substituting “**Commissioner**”.

22 Subsection 25(1)

Omit “protective service officer”, substitute “APS employee in the Protective Service”.

23 Subsection 25(2)

Omit “Secretary”, substitute “Commissioner”.

24 Subsection 25(3)

Omit “Secretary” (wherever occurring), substitute “Commissioner”.

25 At the end of Part IV

Add:

27 Annual report

- (1) As soon as practicable after each 30 June, the Commissioner must prepare and give to the Minister a report on the administration and operations of the Protective Service during the year that ended on that date.
- (2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sittings days of that House after the Minister receives the report.
- (3) The report may be combined with the report prepared by the Commissioner for that year under section 67 of the *Australian Federal Police Act 1979*.

26 Transitional—positions

- (1) An office designated by the Secretary under section 7 or 8 of the *Australian Protective Service Act 1987* as in force immediately before the commencement of this Act continues in existence under the *Australian Protective Service Act 1987* as amended by this Act as if it were a position created by the Commissioner under that section as amended.
- (2) To avoid doubt:
 - (a) the person who was the Director of the Protective Service immediately before the commencement of this Act continues to be the Director of the Protective Service under the *Australian Protective Service Act 1987* as amended by this Act; and
 - (b) a person who was a protective service officer or a special protective service officer immediately before the commencement of this Act continues to be a protective service officer or a special protective service officer, as the case may be, under the *Australian Protective Service Act 1987* as amended by this Act; and
 - (c) identity cards issued under section 20 of the *Australian Protective Service Act 1987* that were valid immediately before the commencement of this Act continue to be valid under the *Australian Protective Service Act 1987* as amended by this Act; and
 - (d) delegations under section 24 of the *Australian Protective Service Act 1987* that were in force immediately before the commencement of this Act continue to be in force under the *Australian Protective Service Act 1987* as amended by this Act.

27 Transitional—oaths and affirmations

An oath or affirmation made and subscribed under section 10 of the *Australian Protective Service Act 1987* as in force immediately before the commencement of this Act is also taken to be an oath or affirmation made and subscribed under that section as amended by this Act.

28 Transitional—general orders

General orders in force under section 12 of the *Australian Protective Service Act 1987* immediately before the commencement of this Act continue to be in force under that section as amended by this Act as if they were issued with the written approval of the Commissioner.

29 Transitional—section 23 certificates

A certificate signed by the Secretary for the purposes of section 23 of the *Australian Protective Service Act 1987* as in force immediately before the commencement of this Act, has effect on and after the commencement of this Act as if it were signed by the Commissioner.

*[Minister's second reading speech made in—
House of Representatives on 16 May 2002
Senate on 19 June 2002]*

(107/02)
