



# **Australian Federal Police Amendment Act 1986**

**No. 35 of 1986**

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

*[Assented to 24 June 1986]*

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 1986*.

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

### **Commencement**

2. (1) Subject to sub-sections (2), (3) and (4), the provisions of this Act shall come into operation on the day on which this Act receives the Royal Assent.

(2) Section 3 shall come into operation on a day to be fixed by Proclamation.

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(3) Section 5, sub-section 9 (1) and sections 10, 11 and 12 shall come into operation on a day to be fixed by Proclamation.

(4) Sub-section 9 (2) shall be deemed to have come into operation immediately after the commencement of the *Australian Federal Police Amendment Act 1985*.

**Powers and duties of members**

3. Section 9 of the Principal Act is amended—

- (a) by omitting from sub-paragraph (1) (c) (ii) “and”; and
- (b) by inserting after sub-paragraph (1) (c) (iii) the following word and sub-paragraph:  
“; and (iv) the safeguarding of Commonwealth interests,”.

4. After section 12 of the Principal Act the following section is inserted in Part II:

**Immunity from State and Territory laws in relation to entry, &c., of police dogs on premises, &c.**

“12A. (1) In this section—

‘police dog’ means a police dog that is used by the Australian Federal Police;

‘police dog handler’ means a member whose duties as a member include the duties of a police dog handler.

“(2) Where a police dog handler is entitled to enter, or to be on or in, particular premises or a particular place in the performance of the police dog handler’s duties as a member, the police dog handler is entitled, in entering, or being on or in, the premises or place, to be accompanied by a police dog under the control of the police dog handler.

“(3) Neither the Commonwealth nor a member is subject to any penalty, liability or forfeiture by reason only of a police dog having entered, or having been on or in, particular premises or a particular place if—

- (a) the police dog is under the control of a police dog handler;
- (b) the police dog handler is performing the police dog handler’s duties as a member; and
- (c) the police dog handler is entitled to enter, or to be on or in, the premises or place.

“(4) In any proceeding, a certificate in writing signed by the Commissioner certifying that—

- (a) a specified member is, or was at a specified time, a police dog handler within the meaning of this section; or
- (b) a specified dog is, or was at a specified time, a police dog within the meaning of this section,

is *prima facie* evidence of the fact or facts certified.”.

**Interpretation of Part V**

**5. Section 29 of the Principal Act is amended—**

- (a) by omitting from sub-section (1) the definition of “Appeals Board”; and
- (b) by inserting after the definition of “member” in sub-section (1) the following definition:

“‘Review Committee’ means a Redeployment and Retirement Appeal Committee established in accordance with Subdivision D of Division 2 of Part II of the *Merit Protection (Australian Government Employees) Act 1984*, being that Subdivision as modified in its application to and in relation to members by regulations made under section 85 of that Act;”.

**Secondment to other services, &c.**

**6. (1) Section 33 of the Principal Act is amended—**

- (a) by inserting after sub-section (1) the following sub-section:

“(1A) The Minister may at any time, after consultation with the Police Force, body or organisation concerned, terminate a secondment under sub-section (1).”;

- (b) by inserting in sub-section (2) “or terminate” after “make”; and
- (c) by omitting sub-sections (4) and (5) and substituting the following sub-sections:

“(4) The Commissioner may at any time—

- (a) after consultation with the Public Service Board, terminate a secondment under paragraph (3) (a); and
- (b) after consultation with the body concerned, terminate a secondment under paragraph (3) (b).

“(5) A member who is seconded under this section shall be seconded on such terms and conditions of service as are determined by the Minister, being terms and conditions of service that are no less favourable to the member than the terms and conditions of service that would, but for the secondment, be applicable to the member as a member.

“(6) During a period of secondment of a member under this section, the member—

- (a) retains the same rights, powers and immunities as the member would, but for the secondment, have as such a member; and
- (b) remains subject to the same obligations and liabilities in relation to discipline as those to which the member would, but for the secondment, have been subject as such a member.

“(7) Nothing in sub-section (6) affects—

- (a) any rights, powers or immunities that a member who is seconded under this section has by virtue of holding the office or position to which the member has been seconded; or

- (b) the extent to which the member is subject to obligations or liabilities in relation to discipline by virtue of holding the office or position to which the member has been seconded.”.

(2) Sub-sections 33 (1A), (2), (4) and (5) of the Principal Act as amended by this Act do not apply, and sub-sections 33 (1) to (5) (inclusive) of the Principal Act continue to apply, in relation to a secondment of a member under section 33 of the Principal Act that took place before the commencement of this section.

(3) From the commencement of this section, sub-sections 33 (6) and (7) of the Principal Act as amended by this Act apply in relation to a member seconded under section 33 of the Principal Act before the commencement of this section, but nothing in those sub-sections affects—

- (a) the member’s rights, powers or immunities as such a member before the commencement of this section; or
- (b) the extent to which the member was subject to obligations or liabilities in relation to discipline as such a member before the commencement of this section.

### **Special leave of absence**

7. (1) Section 34 of the Principal Act is amended by adding at the end the following sub-sections:

“(3) Where leave is granted under sub-section (1), the Commissioner may at any time—

- (a) where the leave is granted for a purpose of a kind referred to in paragraph (1) (a) or (b)—terminate the leave after consultation with the government, institution, organisation or body concerned; or
- (b) where the leave is granted for a purpose of the kind referred to in paragraph (1) (c)—terminate the leave.

“(4) Subject to sub-section (5), during a period of leave granted to a member under sub-section (1), the member remains subject to the same liabilities and obligations in relation to discipline as those to which the member would, but for the granting of the leave, have been subject as such a member.

“(5) During a period of leave granted to a member under sub-section (1) for the purpose of enabling the member to engage in service with an association formed in accordance with regulations made under paragraph 40 (1) (a), the member is not, in respect of any action taken by the member that is reasonably required for the proper performance of the functions of an officer of that association, subject to any liability or obligation in relation to discipline to which a member who is not granted such leave would be subject, other than such a liability or obligation arising—

- (a) in respect of action by the member that is the subject of a complaint under the *Complaints (Australian Federal Police) Act 1981*; or
- (b) under the *Complaints (Australian Federal Police) Act 1981*.”.

(2) Sub-section 34 (3) of the Principal Act does not apply in relation to leave granted to a member under section 34 of the Principal Act before the commencement of this section.

(3) From the commencement of this section, sub-sections 34 (4) and (5) of the Principal Act as amended by this Act apply in relation to a member who was granted leave under section 34 of the Principal Act before the commencement of this section, but nothing in those sub-sections affects the extent to which the member was subject to obligations or liabilities in relation to discipline as such a member before the commencement of this section.

### **Re-appointment after secondment or special leave of absence**

8. Section 35 of the Principal Act is amended by omitting from sub-section (1) "termination of a period of secondment of a member under section 33 or a period of leave of absence" and substituting "end of a period of secondment, or the termination of a secondment, of a member under section 33, or the end of a period of leave of absence, or the termination of leave of absence,".

### **Appeals**

9. (1) Section 38F of the Principal Act is amended—

- (a) by omitting from sub-sections (1) to (7) (inclusive) "the Appeals Board" (first occurring) and substituting "a Review Committee";
- (b) by omitting from sub-sections (2) to (7) (inclusive) "the Appeals Board" (second occurring) and substituting "the Review Committee";
- (c) by omitting from sub-section (7) "the Appeals Board" (last occurring) and substituting "the Review Committee"; and
- (d) by omitting from sub-section (8) "The Appeals Board" and substituting "A Review Committee".

(2) Section 38F of the Principal Act is amended by omitting from paragraph (2) (b) "38D (2)" and substituting "38D (1)".

### **Powers of Commissioner on determination of appeals**

10. Section 38G of the Principal Act is amended by omitting from sub-sections (1), (2), (3) and (6) "the Appeals Board" (first occurring) and "the Appeals Board" (second occurring) and substituting "a Review Committee" and "the Review Committee", respectively.

### **Certain information not to be included in statements of reasons, &c.**

11. Section 39A of the Principal Act is amended—

- (a) by omitting from sub-paragraph (1) (a) (ii) "the Appeals Board" and substituting "a Review Committee"; and
- (b) by omitting from paragraph (1) (b) "Appeals Board" and substituting "Review Committee".

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

**12.** Section 40 of the Principal Act is amended by omitting paragraph (1) (ca).

**Regulations**

**13.** Section 70 of the Principal Act is amended—

- (a) by omitting from paragraph (a) “and” (last occurring); and
- (b) by inserting after paragraph (a) the following paragraph:

“(aa) the disposal of unclaimed property that has lawfully come into the possession of a member; and”.

**Appointment of members of existing Police Forces**

**14.** Section 72 of the Principal Act is amended by omitting from subsection (2) “40 (b)” and substituting “40 (1) (b)”.

**Promotion appeals**

**15.** Section 78 of the Principal Act is amended by omitting from subsection (2) “40 (c)” and substituting “40 (1) (c)”.

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**NOTE**

1. No. 58, 1979, as amended. For previous amendments, see No. 155, 1979; No. 69, 1980; No. 22, 1981; No. 80, 1982; No. 39, 1983 (as amended by No. 117, 1984); No. 91, 1983 (as amended by No. 117, 1984); No. 117, 1984; and No. 121, 1985.

[*Minister's second reading speech made in—  
House of Representatives on 19 February 1986  
Senate on 14 March 1986*]