

**POLICE SERVICE (VOLUNTEER POLICE) AMENDMENT
ACT 1992 No. 54**

NEW SOUTH WALES



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**POLICE SERVICE (VOLUNTEER POLICE) AMENDMENT
ACT 1992 No. 54 .**

NEW SOUTH WALES



Act No. 54, 1992

An Act to amend the Police Service Act 1990 to provide for the undertaking, on a trial basis, of certain aspects of police work by community volunteers. [Assented to 7 October 1992]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Police Service (Volunteer Police) Amendment Act 1992.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Police Service Act 1990 No. 47

3. The Police Service Act 1990 is amended as set out in Schedule 1.

Consequential amendment of other Acts

4. Each Act specified in Schedule 2 is amended in the manner set out in that Schedule.

**SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990**

(Sec. 3)

(1) Section 3 (Definitions):

In section 3 (1), insert in alphabetical order:

“**police volunteer**” means a person appointed to the volunteer police under Part 7A;

(2) Section 5 (Composition of Police Service):

After section 5 (d), insert:

(e) the volunteer police.

(3) Section 10 (Positions in Police Service):

In section 10 (5), after “employees”, insert “and police volunteers”.

(4) Section 11 (Designation of police officers):

In section 11 (5), after “employee”, insert “or police volunteer”.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(5) Section 13 (**Oath to be taken by persons exercising police functions**):

Omit section 13 (1), insert instead:

(1) Before a person (including any police volunteer) exercises any of the functions of a police officer, the person must take the appropriate oath or make the appropriate affirmation prescribed by the regulations.

(6) Section 62 (**Officers to whom Part applies**):

From section 62, omit “and temporary employees”, insert instead “, temporary employees and the volunteer police”.

(7) Part 7A:

After Part 7, insert:

PART 7A—THE VOLUNTEER POLICE

Appointment of volunteers

91A. (1) The Commissioner may appoint such persons as the Commissioner considers suitable to the volunteer police.

(2) The appointment confers on the person all the powers, authorities and privileges of a special constable appointed under Part 4 of the Police Offences Act 1901 while the person is a police volunteer.

Terms of service

91B. (1) A person appointed to the volunteer police has and may exercise the functions of a police volunteer (except for any period of suspension from duty) for the term specified in the instrument of the person’s appointment as such, unless the person’s appointment is sooner revoked.

(2) The Commissioner may, for any reason that appears to the Commissioner to be sufficient, revoke a person’s appointment as a police volunteer.

Functions

91C. (1) A police volunteer has such functions as may be determined from time to time by the Commissioner, subject to the regulations.

(2) The functions of the Commissioner under this section may be delegated under section 31.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(3) The functions of a police volunteer are to be exercised under the supervision of a police officer at all times.

Non-employee status

91D. (1) For the purposes of the Industrial Relations Act 1991, the Workers Compensation Act 1987 or any other Act, a person appointed as a police volunteer does not, by virtue of the appointment, become an employee or servant of the Crown or of the Commissioner or any person.

(2) This section has effect subject to section 91E.

Liability of police volunteers

91E. The Law Reform (Vicarious Liability) Act 1983 applies to and in respect of a police volunteer in the same way as it applies to and in respect of a police officer.

Complaints against volunteers

91F. A complaint by any person against a police volunteer may be made and dealt with under the Police Regulation (Allegations of Misconduct) Act 1978 in the same way as a complaint against a police officer, and the provisions of that Act (Part 7 excepted) apply, with any necessary modifications, to any such complaint.

Volunteers not to carry arms

91G. A police volunteer is to be issued with such equipment (including weapons) as the Commissioner may determine, but is not to be issued with firearms.

Repeal of this Part

91H. This Part ceases to have effect on 31 December 1994, and is taken to be repealed from that date, unless this section is sooner repealed by an Act or by proclamation of the Governor published in the Gazette.

(8) Section 92 (**Member contesting State election**):

After section 92 (3), insert:

(4) Nothing in this section applies to a police Volunteer in his or her capacity as such.

(9) Section 93 (**Re-appointment of member resigning to 'contest Commonwealth election**):

After section 93 (3), insert:

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(4) Nothing in this section applies to a police volunteer in his or her capacity as such.

(10) Section 96 (**Attachment of wages or salary of members of Police Service**):

After section 96 (2), insert:

(3) Nothing in this section applies to a police volunteer in his or her capacity as such.

(11) Section 98A:

After section 98, insert:

Discipline of volunteer police

98A. (1) The regulations may make provision for or with respect to the discipline of the volunteer police, including the definition of conduct constituting a breach of discipline and the imposition by the Commissioner of any one or more of the following measures on any police volunteer guilty of a breach of discipline:

- (a) the giving of a caution or reprimand;
- (b) requiring the volunteer to undergo counselling;
- (c) suspending the volunteer from service;
- (d) revoking the volunteer's appointment as a police volunteer.

(2) The functions of the Commissioner under this section are exercisable by a delegate only to the extent provided by the regulations.

(3) The decision, given in accordance with this section and the regulations, of the Commissioner or a delegate of the Commissioner in a matter of discipline of a police volunteer is final and is not subject to appeal or to review by any court or tribunal, except where the regulations otherwise provide.

(4) Regulations made for the purposes of this section may provide for the adoption, with specified modifications, of regulations made for the purposes of section 97.

(5) Nothing in this section affects the powers of the Commissioner under section 91B.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(12) Section 100 (**Neglect of duty etc.**):

At the end of section 100, insert:

(2) A police volunteer who neglects or refuses to obey any lawful order or carry out any lawful duty as a police volunteer is guilty of an offence.

Maximum penalty: 20 penalty units.

(13) Section 102 (**Wearing of police uniform by others**):

After section 102 (2) (a), insert:

(a1) the person was a police volunteer on duty and was wearing a uniform approved by the Commissioner for wearing by police volunteers; or

(14) Section 103 (**Impersonation of police officers**):

At the end of section 103, insert:

(2) A person is not regarded, for the purposes of this section, as impersonating a police officer merely because the person, being a police volunteer, is acting in the execution of his or her duty as such.

(15) Section 114 (**Protection of police acting in execution of warrant**):

After section 114 (2), insert:

(3) This section extends to apply to a police volunteer to any extent acting or assisting in the execution of a warrant referred to in subsection (1).

(16) Schedule 4 (**Savings, transitional and other provisions**):

(a) At the end of clause 2 (1), insert:

the Police Service (Volunteer Police) Amendment Act 1992.

(b) At the end of the Schedule, insert:

**PART 5—PROVISIONS CONSEQUENT ON
ENACTMENT OF POLICE SERVICE (VOLUNTEER
POLICE) AMENDMENT ACT 1992**

Definition

18. In this Part, “the 1992 Act” means the Police Service (Volunteer Police) Amendment Act 1992.

**SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued***

Oath of service

19. (1) An oath or affirmation that, immediately before the commencement of the 1992 Act, was prescribed for the purposes of section 13 is taken to be the oath or affirmation prescribed to be taken by police officers under that section, as amended by that Act.

(2) The amendment by the 1992 Act of section 13 does not require a police officer to take an oath or make an affirmation a second time for the purposes of that section.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS**

(Sec. 4)

Police Regulation (Appeals) Act 1923 No. 33

In subsection (1) of section 7 (**Appeals in respect of administrative officers**), after “police officer”, insert “, a police volunteer”.

State Authorities Non-contributory Superannuation Act 1987 No. 212

In subsection (1) of section 6 (**Provisions respecting certain employees**), after “Service” where firstly occurring, insert “(other than police volunteers)”.

Superannuation Act 1916 No. 28

In subsection (3) of section 3B (**Certain persons to be regarded as employers for the purposes of this Act**), after “Service” where firstly occurring, insert “(other than police volunteers)”.

*[Minister’s second reading speech made in—
Legislative Council on 7 May 1992
Legislative Assembly on 17 September 1992]*