

1980-81

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

(Presented pursuant to leave granted and read 1°, 26 February 1981)

(ATTORNEY-GENERAL, SENATOR DURACK)

No. 29

A BILL

FOR

An Act to amend the *Australian Federal Police Act 1979*

5 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 1981*.

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

Commencement

2. This Act shall come into operation on the day on which the *Complaints (Australian Federal Police) Act 1981* comes into operation.

Regulations may provide for certain other terms and conditions

15 3. (1) Section 40 of the Principal Act is amended by omitting paragraph (f) and substituting the following paragraph:

“(f) disciplinary offences and penalties for such offences (including dismissal).”.

20 (2) All regulations in force under the Principal Act immediately before the date of commencement of this Act continue in force on and after that date except in so far as they are inconsistent with the Principal Act as amended by this Act, but any such regulations may be amended or repealed by regulations made under the Principal Act as amended by this Act.

4. After section 64 of the Principal Act, the following sections are inserted:

Members of certain ranks to wear identification numbers

“64A. (1) A member who holds a rank declared by the regulations to be a rank to which this section applies shall, at all times when he is wearing his police uniform, wear his identification number on, or attached to, the front of his uniform. 5

Penalty: \$500.

“(2) It is a defence to a prosecution for an offence against sub-section (1) if the defendant proves that his identification number was not worn on, or attached to, the front of his uniform in consequence of— 10

- (a) the act of another person (not being a member) done without the consent of the defendant; or
- (b) an unintentional omission on the part of the defendant.

“(3) The Commissioner shall take such steps as are necessary to enable members to whom sub-section (1) applies to comply with that sub-section. 15

Liability for wrongful acts of members

“64B. (1) The Commonwealth is liable in respect of a tort committed by a member in the performance or purported performance of his duties as such a member in like manner as a person is liable in respect of a tort committed by his employee in the course of his employment, and shall, in respect of such a tort, be treated for all purposes as a joint tortfeasor with the member. 20

“(2) In a claim by the Commonwealth for damages in respect of a tort, an act or omission of a member in the performance or purported performance of his duties as a member may be relied on as constituting contributory negligence by the Commonwealth if the act or omission could have been so relied on if it had been done by an employee of the Commonwealth in the course of his employment. 25

“(3) The liability of the Commonwealth under sub-section (1) does not extend to a liability to pay damages in the nature of punitive damages.

“(4) Without limiting the application of sub-section (1), the Commonwealth may— 30

- (a) where proceedings have been instituted against a member with respect to a tort committed by the member in the performance or purported performance of his duties as a member—as joint tortfeasor with the member (whether or not the Commonwealth is a party to the proceedings)— 35

- (i) pay to the plaintiff, on behalf of the member, the whole or a part of any damages or costs (not being damages in the nature of punitive damages) that the member has been ordered by the Court in the proceedings to pay to the plaintiff; and 40

- (ii) pay to the member any costs incurred by him in the proceedings and not recovered from the plaintiff; or

5 (b) where a member has entered into a settlement of a claim by another person that has, or might have, given rise to proceedings of a kind referred to in paragraph (a)—as joint tortfeasor with the member (whether or not the Commonwealth is a party to the settlement), pay to that other person the whole or a part of the amount that, under the terms of the settlement, the member is liable to pay to that other person.

“(5) For the purposes of this section—

- 10 (a) an act or omission of a member in the capacity of a constable, under whatever authority he was appointed as such, shall be deemed to have been done in the performance of his duties as a member;
- (b) a reference to a plaintiff includes a reference to a defendant counter-claiming; and
- (c) a reference to a member includes a reference to a special member.”.

NOTE

1. No. 58, 1979 as amended. For previous amendments, see No. 155, 1979 and No. 69, 1980.

