

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

(As read a first time)

AUSTRALIAN FEDERAL POLICE AMENDMENT BILL 1985

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1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 17 April 1985

(Special Minister of State)

A BILL

FOR

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

BE IT ENACTED by the Queen, and the Senate and the House of
Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Australian Federal Police Amendment Act 1985*.

Commencement

2. This Act shall come into operation on the day on which it receives the
Royal Assent.

**PART II—AMENDMENTS OF THE AUSTRALIAN FEDERAL
POLICE ACT 1979**

Principal Act

3. The *Australian Federal Police Act 1979*¹ is in this Part referred to as the Principal Act. 5

Delegation by Commissioner

4. Section 15 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section: 10
- “(1) The Commissioner may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Commissioner—
- (a) delegate to a member holding a position within a commissioned rank all or any of the powers, functions or duties of the Commissioner under section 38C, 38D or 38E;
- (b) delegate to a Deputy Commissioner all or any of the powers or duties of the Commissioner under section 38G or 38H; and 15
- (c) delegate to another member of the Australian Federal Police or a member of the staff referred to in sub-section 16 (1) all or any of the other powers of the Commissioner under this Act, other than the powers of the Commissioner under this section or under section 38A or 38B.”; 20
- (b) by inserting in sub-section (2) “, function or duty” after “power”;
- (c) by inserting in sub-section (2) “or performed” after “exercised” (wherever occurring);
- (d) by inserting in sub-section (3) “or performance” after “exercise”; and 25
- (e) by inserting in sub-section (3) “, function or duty” after “power”.

Public Service support staff

5. Section 16 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section: 30

 “(2) The Commissioner has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922* so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in sub-section (1) as if that branch were a separate Department of the Australian Public Service.”.

6. After section 16 of the Principal Act the following section is inserted in Part III: 35

Transfer of certain offices

- “16A. (1) Where— 40
- (a) immediately before the commencement of this section, an office existed in a branch of the Australian Public Service, being a branch of

the Australian Public Service in the Department of the Special Minister of State; and

- (b) by virtue of sub-section 16 (2) the Commissioner has all the powers of, or exercisable by, a Secretary under the *Public Service Act 1922* in relation to that branch of the Australian Public Service,

the office is, by virtue of this section, transferred from the Department of the Special Minister of State to the Department that, by virtue of paragraph (b) of the definition of 'Department' in sub-section 7 (1) of the *Public Service Act 1922*, is constituted by that branch of the Australian Public Service (in this section referred to as the 'relevant Department') and the *Public Service Act 1922* has effect as if the office had been duly created in the relevant Department.

“(2) A reference in any law of the Commonwealth or law of a Territory, or in any regulation or other instrument made or issued under such a law, to the holder for the time being, or to the person for the time being performing the duties, of an office, being an office that has been transferred from the Department of the Special Minister of State to the relevant Department by virtue of sub-section (1), shall, except in relation to matters that occurred before the commencement of this section, be construed as a reference to the holder for the time being, or to the person for the time being performing the duties, of the office as it exists in the relevant Department.”.

Absence, &c., of Commissioner or Deputy Commissioner

7. Section 19 of the Principal Act is amended by omitting from sub-section (1A) “the Deputy Commissioner” (wherever occurring) and substituting “a Deputy Commissioner”.

Determination of numbers by Minister

8. Section 24 of the Principal Act is amended by omitting “and of the Public Service Board”.

Commissioned police officers

9. Section 25 of the Principal Act is amended—

- (a) by inserting in paragraph (1) (b) “a position within” after “being”;
- (b) by inserting in paragraph (1) (c) “a position within” after “being”;
- and
- (c) by inserting in sub-section (3) “(not being a commissioned police officer in respect of whom a redeployment declaration under section 38B is in force)” after “commissioned police officer”.

Non-commissioned police officers

10. Section 26 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (a) “to a position within a non-commissioned rank, being a rank” and substituting “to be a non-commissioned police officer, being an appointment to a position within a non-commissioned rank”;

- (b) by inserting in paragraph (1) (b) “a position within” after “being”;
and
- (c) by inserting in sub-section (2) “(not being a non-commissioned police officer in respect of whom a redeployment declaration under section 38B is in force)” after “non-commissioned police officer”.

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Interpretation of Part V

11. Section 29 of the Principal Act is amended—

- (a) by inserting after the definition of “agreement” in sub-section (1) the following definition:

“‘Appeals Board’ means the Appeals Board established in accordance with regulations made by virtue of paragraph 40 (1) (ca);”;

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- (b) by omitting from the definition of “association” in sub-section (1) “40 (a)” and substituting “40 (1) (a)”;

- (c) by inserting after the definition of “Commission” in sub-section (1) the following definition:

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“‘declared member’ means a member in respect of whom a redeployment declaration under sub-section 38B (1) has been made;”.

Re-appointment after secondment or special leave of absence

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12. Section 35 of the Principal Act is amended by inserting in sub-section (1) “position within a” after “appointment to a”.

Resignation

13. Section 37 of the Principal Act is amended by omitting from paragraph (1) (b) “40 (e)” and substituting “40 (1) (e)”.

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14. Sections 38 and 39 of the Principal Act are repealed and the following sections are substituted:

Efficient and economical use of staff

“38. (1) The Commissioner shall ensure to the greatest extent that is practicable—

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- (a) that the Australian Federal Police operates in such a manner as to make efficient and economical use of the services of its members; and
- (b) that each member whose services are not being made use of efficiently and economically—

- (i) for the reason that the member is included in a class of members that comprises a greater number of members than is necessary for the efficient and economical working of the Australian Federal Police;

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- (ii) for the reason that the member is, in consequence of physical or mental incapacity, incapable of performing his or her present duties; or

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(iii) for the reason that the member is inefficient or is not qualified to perform his or her present duties,

is redeployed in the Australian Federal Police on duties that the member can reasonably be required to perform.

5 “(2) For the purposes of this section, a member is inefficient if, and only if, the member fails, in the performance of the duties that he or she is required to perform, to attain or sustain a standard of efficiency that a member may reasonably be expected to attain or sustain in the performance of those duties.

10 “(3) Without limiting the generality of the matters to which regard may be had for the purpose of determining whether a member has failed, in the performance of the duties that he or she is required to perform, to attain or sustain a standard of efficiency referred to in sub-section (2), regard—

(a) shall be had to—

15 (i) any written selection criteria or job specifications applicable to those duties;

(ii) any duty statement describing those duties; and

(iii) any written work standard and instructions relating to the manner of performance of those duties; and

(b) may be had to—

20 (i) any written selection criteria or job specifications applicable to similar duties that other members are required to perform;

(ii) any duty statements describing similar duties that other members are required to perform; and

25 (iii) any written work standards and instructions relating to the manner of performance of similar duties that other members are required to perform.

“(4) For the purposes of this section, a member is not qualified to perform his or her present duties if, and only if, in relation to those duties—

30 (a) the member ceases to hold, or becomes unable or ineligible to hold or to use and enjoy, an essential qualification; or

(b) a court, person, authority or body that is competent to do so, suspends, cancels, revokes, rescinds or otherwise withdraws, an essential qualification.

35 “(5) A reference in sub-section (4) to an essential qualification, in relation to a member, is a reference to any statutory, professional, academic, commercial, technical, trade, health or other qualification the holding of which is a prerequisite to the practice of a profession, trade or occupation, the exercise of a right or the performance of a function or duty, being a profession, trade, occupation, right, function or duty that it is necessary for that member to practise, exercise or perform in the course of the member’s employment in the Australian Federal Police.

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Approved criteria and procedures, &c.

“38A. (1) The Commissioner may, from time to time, publish in the *Australian Federal Police Gazette*—

- (a) a notice setting out administrative procedures to be followed for the purpose of facilitating the fulfilment of the obligations of the Commissioner under section 38; and 5
- (b) a notice setting out principles in accordance with which the functions of the Commissioner under sub-section 38C (1) are to be performed with respect to declared members generally or with respect to members included in a specified class of declared members, being principles that, in the opinion of the Commissioner, will facilitate the fulfilment of the obligations of the Commissioner under section 38. 10

“(2) Without limiting the generality of paragraph (1) (a), the administrative procedures set out in a notice of a kind referred to in that paragraph— 15

- (a) may specify criteria by reference to which a member may be identified as a member whose services are not being made use of efficiently and economically for a reason referred to in sub-paragraph 38 (1) (b) (i), (ii) or (iii); and
- (b) may make provision for defining the occasions on which, or the circumstances in which, those procedures should be given effect to for the purpose of determining whether the services of a member are not being made use of efficiently and economically. 20

“(3) During the period when a notice of a kind referred to in paragraph (1) (a) is in force, the Commissioner shall give all such directions, and do all such things, as can be given or done by the Commissioner for ensuring that the procedures set out in the notice are given effect to in the administration of the Australian Federal Police. 25

“(4) The Commissioner may, from time to time, publish in the *Australian Federal Police Gazette* a notice revoking or varying a notice published under sub-section (1). 30

Members eligible for redeployment

“38B. (1) The Commissioner shall cause each member who, in accordance with procedures set out in a notice in force under sub-section 38A (1) (being a notice of the kind referred to in paragraph 38A (1) (a)), is identified as a member whose services are not being made use of efficiently and economically to be declared, in writing, to be eligible for redeployment. 35

“(2) Nothing in sub-section (1) requires or authorizes the making of a declaration to the effect that a member is eligible for redeployment if the member was identified, under a relevant notice under sub-section 38A (1), as a member whose services are not being made use of efficiently and economically for the reason that the member is inefficient or incompetent for reasons within the control of the member. 40

“(3) Where, in accordance with sub-section (1), a member is declared to be eligible for redeployment, the Commissioner shall, within 28 days after the making of the declaration, cause a copy of the declaration to be served on the member.

5 “(4) A declaration under sub-section (1) shall contain a statement of the reasons for the making of the declaration.

Redeployment of members

10 “38C. (1) Where, in accordance with sub-section 38B (1), a member is declared to be eligible for redeployment, the Commissioner shall, subject to sub-section (3), take such action as the Commissioner considers reasonable and practicable to be taken to redeploy the member in the Australian Federal Police on duties that the Commissioner considers the member is competent to perform and can reasonably be required to perform.

15 “(2) For the purpose of enabling the Commissioner to perform the functions conferred on the Commissioner by sub-section (1), the Commissioner may, in relation to a declared member who holds a position within a particular rank—

- (a) transfer the member to another position within the same rank; or
 - (b) if no such position is available for the member—transfer the member to a position within a lower rank.
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“(3) The Commissioner shall not take action under this section by way of redeployment of a member in respect of whom a redeployment declaration under sub-section 38B (1) has been made unless—

- 25 (a) the member has waived his or her right to appeal against the declaration or the time within which the member may appeal against the declaration has expired and no such appeal has been instituted; or
- (b) if an appeal against the declaration has been instituted within the time within which the member may appeal against the declaration—
 - 30 (i) the appeal has been heard and determined and the Commissioner has confirmed the declaration; or
 - (ii) the appeal has been withdrawn.

“(4) In determining what action to take under sub-section (1) in respect of a declared member, the Commissioner shall give effect to any principles set out in a notice published under sub-section 38A (1) (being a notice of the kind referred to in paragraph 38A (1) (b)) that are applicable in the case of the member.

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“(5) Subject to sub-section (4), the Commissioner shall, in determining what action to take under this section by way of redeployment of a declared member, have regard to—

- 40 (a) matters related to the efficient operation of the Australian Federal Police and to the efficient and economical use of the services of its members;

- (b) the feasibility, having regard to the obligation of the Commissioner under paragraph 38 (1) (a), of re-training the member with a view to the member's becoming employed in the Australian Federal Police on work for which the member has been re-trained; and
- (c) the educational standard attained by, and any professional, technical or other special qualifications possessed by the member concerned. 5

“(6) Where the Commissioner takes action under this section by way of redeployment of a member, the Commissioner shall, within 28 days after the taking of that action, cause a statement, in writing, setting out the nature of the action taken and the reasons for the taking of that action, to be provided to the member. 10

Members who cannot be redeployed

“38D. (1) If, in the opinion of the Commissioner, it is not reasonable or practicable to redeploy a declared member in accordance with section 38C, the Commissioner shall— 15

- (a) issue a certificate certifying that it has not been reasonable or practicable to redeploy the member in accordance with that section; and
- (b) within 28 days of the issue of the certificate, cause a copy of the certificate to be served on the member. 20

“(2) A certificate issued under sub-section (1) shall contain a statement of the reasons for the issue of the certificate.

Invalidity precluding redeployment

“38E. (1) Where—

- (a) a member has been declared under sub-section 38B (1) to be eligible for redeployment, for the reason that the member is, in consequence of physical or mental incapacity, incapable of performing his or her duties; 25
- (b) the member has not been redeployed in accordance with section 38C; and 30
- (c) the Commissioner is satisfied that the member should, by reason of his or her incapacity, be retired from the Australian Federal Police,

the Commissioner may issue a certificate certifying that the Commissioner is satisfied that the member should be retired from the Australian Federal Police.

“(2) Where the Commissioner issues a certificate under sub-section (1) in respect of a member, the Commissioner shall, within 28 days of the issue of the certificate, cause a copy of the certificate to be served on the member. 35

“(3) The Commissioner shall not issue a certificate under sub-section (1) in respect of a member in respect of whom a redeployment declaration under sub-section 38B (1) has been made unless— 40

- (a) the member has waived his or her right to appeal against the redeployment declaration or the time within which the member may

appeal against that declaration has expired and no such appeal has been instituted; or

5 (b) if an appeal against the redeployment declaration has been instituted within the time within which the member may appeal against the declaration—

(i) the appeal has been heard and determined and the Commissioner has confirmed the declaration; or

(ii) the appeal has been withdrawn.

10 “(4) A certificate issued under sub-section (1) shall contain a statement of the reasons for the issue of the certificate.

Appeals

“38F. (1) A member may appeal to the Appeals Board against—

(a) the making of a redeployment declaration under sub-section 38B (1) in respect of the member;

15 (b) the issue of a certificate under sub-section 38D (1) or 38E (1) in respect of the member; or

(c) action taken under section 38C by way of redeployment of the member.

20 “(2) Where a member appeals to the Appeals Board under sub-section (1), the Appeals Board shall hear and determine the appeal and shall—

(a) in the case of an appeal against the making of a redeployment declaration under sub-section 38B (1) subject to sub-section (7)—

(i) recommend that the Commissioner should confirm the declaration; or

25 (ii) recommend that the Commissioner should revoke the declaration;

(b) in the case of an appeal against the issue of a certificate under sub-section 38D (2) or 38E (1)—

30 (i) recommend that the Commissioner should confirm the certificate; or

(ii) recommend that the Commissioner should revoke the certificate; or

(c) in the case of an appeal against action taken under section 38C by way of redeployment of the member—

35 (i) recommend that the Commissioner should confirm the taking of the action; or

(ii) recommend that the Commissioner should set aside the taking of the action and take some other specified action by way of redeployment of the member, being action that could have been taken by the Commissioner under section 38C in respect of the member.

40 “(3) Where the Appeals Board hears an appeal against the making of a redeployment declaration under sub-section 38B (1) in respect of a member,

the Appeals Board shall, in determining the appeal, apply the criteria set out in a notice published under sub-section 38A (1) (being a notice of the kind referred to in paragraph 38A (1) (a)) that were applicable to the decision by the Commissioner to make the declaration.

“(4) Where the Appeals Board hears an appeal against the taking of action under section 38C by way of redeployment of a declared member, the Appeals Board shall determine the appeal in accordance with the principles, if any, set out in a notice published under sub-section 38A (1) (being a notice of the kind referred to in paragraph 38A (1) (b)) to which the Commissioner was required by sub-section 38C (4) to give effect and shall have regard to the matters to which the Commissioner was required by sub-section 38C (5) to have regard in relation to the taking of the action.

“(5) Where the Appeals Board hears an appeal against the issue of a certificate under section 38D in relation to a member in respect of whom a redeployment declaration under sub-section 38B (1) has been made, the Appeals Board shall, in determining the appeal, have regard to—

- (a) the principles (if any) set out in a notice published under sub-section 38A (1) (being a notice of the kind referred to in paragraph (b) of that sub-section) to which the Commissioner was required, by sub-section 38C (4), to give effect; and
- (b) the matters to which the Commissioner was required by sub-section 38C (5) to have regard,

in determining what action to take under section 38C by way of redeployment of the member.

“(6) Where a member, being a member in respect of whom a redeployment declaration has been made under sub-section 38B (1) by reason that the member is included in a class of members that comprises a greater number of members than is necessary for the efficient and economical working of the Australian Federal Police, appeals to the Appeals Board against the making of that declaration, the Appeals Board may, at the request of that member, join all or any of the members included in that class of members as parties to that appeal.

“(7) Where—

- (a) the Appeals Board hears an appeal by a member in respect of whom a redeployment declaration has been made under sub-section 38B (1) against the making of the declaration; and
- (b) the Appeals Board is satisfied that a redeployment declaration should have been made under that sub-section in respect of another member (being a member who has been joined as a party to the appeal under sub-section (6)) instead of in respect of that first-mentioned member,

the Appeals Board shall—

- (c) uphold the appeal of the first-mentioned member; and

- (d) recommend to the Commissioner that the Commissioner should—
 - (i) revoke the redeployment declaration that is the subject of the appeal; and
 - (ii) make a redeployment declaration under sub-section 38B (1) in respect of that other member.

“(8) The Appeals Board shall give reasons, in writing, for its decision on an appeal under this section and shall, within 28 days after the making of that decision, cause a copy of those reasons to be provided to each party to the appeal.

Powers of Commissioner on determination of appeals

“38G. (1) Where the Appeals Board, after determining an appeal, has, in accordance with sub-section 38F (2) or (7), made a recommendation to the Commissioner in respect of a redeployment declaration made under sub-section 38B (1) in respect of a member, the Commissioner shall, after considering the recommendation and the reasons given by the Appeals Board for its decision on the appeal—

- (a) if the recommendation is that the declaration should be confirmed—confirm or revoke the declaration;
- (b) if the recommendation is that the declaration should be revoked—confirm or revoke the declaration; or
- (c) if the recommendation is that the declaration should be revoked and a redeployment declaration should be made under sub-section 38B (1) in respect of another particular member—
 - (i) confirm or revoke the declaration; or
 - (ii) revoke the declaration and make a redeployment declaration under that sub-section in respect of that other member.

“(2) Where the Appeals Board, after determining an appeal, has, in accordance with sub-section 38F (2), made a recommendation to the Commissioner in respect of the issue of a certificate under sub-section 38D (1) or 38E (1), the Commissioner shall, after considering the recommendation and the reasons given by the Appeals Board for its decision on the appeal, confirm or revoke the certificate.

“(3) Where the Appeals Board, after determining an appeal, has, in accordance with sub-section 38F (2), made a recommendation to the Commissioner in respect of action taken under section 38C by way of redeployment of a member, the Commissioner shall, after considering the recommendation and the reasons given by the Appeals Board for its decision on the appeal—

- (a) if the recommendation is that the taking of the action should be confirmed—
 - (i) confirm or set aside the taking of the action; or

- (ii) set aside the taking of the action and take such other action under section 38C by way of redeployment of the member as the Commissioner thinks appropriate; or
- (b) if the recommendation is that the taking of the action should be set aside and that some other specified action should be taken under section 38C by way of redeployment of the member—
 - (i) confirm or set aside the taking of the action; or
 - (ii) set aside the taking of the action and take such other action under that section by way of redeployment of the member as is specified in the recommendation or as the Commissioner thinks appropriate.

“(4) Where, pursuant to sub-section (2), the Commissioner revokes a certificate issued under sub-section 38D (1) or 38E (1) in relation to a member, sections 38C, 38D and 38E apply to and in relation to the member as if the certificate had not been issued.

“(5) Where, pursuant to sub-section (3), the Commissioner sets aside action taken by way of the redeployment of a member and does not take some other action under section 38C by way of redeployment of the member, sections 38C, 38D and 38E apply to and in relation to the member as if that action had not been taken.

“(6) Where the Commissioner takes action in accordance with sub-section (1), (2) or (3) in relation to a recommendation made to the Commissioner by the Appeals Board pursuant to sub-section 38F (2) or (7), the Commissioner shall cause a notice, in writing, to be published in the *Australian Federal Police Gazette* setting out—

- (a) the recommendation of the Appeals Board; and
- (b) the action taken by the Commissioner in relation to that recommendation.

“(7) Where—

- (a) a member is affected by a decision of the Commissioner to take action in accordance with sub-section (1), (2) or (3); and
- (b) the member makes a request, in writing, to the Commissioner for a statement of the reasons for that decision,

the Commissioner shall, within 28 days after the receipt of that request, cause a statement, in writing, setting out the reasons for that decision, to be provided to the member.

Retirement of members who cannot be redeployed

“38H. (1) Subject to sub-section (3), where a certificate has been issued under sub-section 38D (1) or 38E (1) in respect of a member, the Commissioner may retire the member from the Australian Federal Police on a day to be specified by the Commissioner.

“(2) In determining whether to retire a member under sub-section (1), the Commissioner shall have regard to—

- (a) the nature and duration of the member’s past service with the Australian Federal Police;
- 5 (b) the age of the member and the period within which the member may reasonably be expected to retire; and
- (c) any other matter that the Commissioner considers relevant.

“(3) The Commissioner shall not take action under sub-section (1) to retire a member from the Australian Federal Police consequent upon the issue of a certificate under sub-section 38D (1) or 38E (1) in respect of the member unless—

- 15 (a) the member has waived his or her right to appeal against the issue of the certificate or the time within which the member may appeal against the issue of the certificate has expired and no such appeal has been instituted; or
- (b) if an appeal against the issue of the certificate has been instituted within the time within which the member may appeal against the issue of the certificate—
 - 20 (i) the appeal has been heard and determined and the Commissioner has confirmed the issue of the certificate; or
 - (ii) the appeal has been withdrawn.

“(4) Where a member is retired under sub-section (1) on the ground of invalidity, the day as from which the member is retired may, with the consent of the member, be a day earlier than the day on which the action to retire the member was taken.

Retirement on ground of age

“39. A member shall, by force of this section, be retired from the Australian Federal Police upon attaining 60 years of age.

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

30 “39A. (1) Notwithstanding section 25D of the *Acts Interpretation Act 1901*, where—

- (a) a provision of this Part requires a statement, or a copy of a statement, of the reasons for—
 - 35 (i) a decision of the Commissioner—
 - (A) to make a redeployment declaration under section 38B in relation to a member;
 - (B) to take certain action under section 38C by way of redeployment of a member;
 - (C) to issue a certificate under section 38D or 38E in relation to a member; or
 - 40 (D) to take certain action in accordance with sub-section 38G (1), (2) or (3) that affects a member; or

(ii) a decision of the Appeals Board for its decision on an appeal instituted under section 38F by a member,

to be provided to the member; and

(b) the Commissioner, or the Appeals Board, as the case may be, is of the opinion that certain information of a medical or psychiatric nature that would otherwise be included in the statement of reasons, or the copy of the statement of reasons, to be provided to the member should not be so included because its disclosure might be prejudicial to the physical or mental health or well-being of the member,

that information shall be excluded from the statement of reasons, or the copy of the statement of reasons, that is provided to the member and, if the member nominates a medical practitioner to receive that information, shall be provided instead to that medical practitioner.

“(2) Where information is, in accordance with sub-section (1), excluded from a statement, or a copy of a statement, provided to a member, the statement, or the copy of the statement so provided, shall be accompanied by a document—

(a) stating that information has been excluded from the statement, or the copy of the statement; and

(b) setting out the terms of the provisions of sub-section (1).”.

Regulations may provide for certain other terms and conditions

15. Section 40 of the Principal Act is amended—

(a) by omitting from paragraph (c) all the words after “prescribed”;

(b) by inserting after paragraph (c) the following paragraph:

“(ca) the establishment of an Appeals Board to hear and determine appeals provided for by regulations permitted by paragraph (c) and appeals under section 38F;”;

(c) by omitting from paragraph (e) “and” (last occurring);

(d) by inserting after paragraph (e) the following paragraph:

“(ea) the re-appointment to the Australian Federal Police of a person who has, whether before or after the commencement of the *Australian Federal Police Amendment Act 1985*, been retired from the Australian Federal Police on the ground of invalidity; and”;

(e) by adding at the end the following sub-section:

“(2) The power to make regulations under sub-section (1) for and in relation to the matters specified in paragraph (1) (c) extends to the making of regulations providing for the interviewing of a member who is about to leave Australia in the course of his or her duties as a member and the subsequent consideration of a record or report of that interview in the course of—

(a) an appeal by another member against the promotion of the member; or

- (b) an appeal by the member against the promotion of another member.”.

Proof of appointment, &c.

16. Section 68 of the Principal Act is amended—

5 (a) by omitting paragraph (1) (d);

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

“(1A) The Commissioner may, by writing signed by the Commissioner, certify that a specified person—

(a) is, or is not, a member; or

10 (b) was, or was not, on a specified day, or during a specified period, a member.”; and

(c) by inserting in sub-section (2) “or (1A)” after “sub-section (1)”.

Repeal of section 68A

17. Section 68A of the Principal Act is repealed.

15 **Accrued leave**

18. Section 77 of the Principal Act is amended by omitting “Subject to section 68A, a person” and substituting “A person”.

Saving

20 19. A delegation under sub-section 15 (1) of the Principal Act that was in force immediately before the commencement of this Act shall, after the commencement of this Act, have effect as if it had been made immediately after the commencement of this Act under sub-section 15 (1) of the Principal Act as amended and in force after the commencement of this Act.

Transitional

25 20. (1) In this section—

“relevant day” means the day on which regulations made by virtue of paragraph 40 (1) (ca) of the Principal Act as amended and in force after the commencement of this Act take effect;

30 “relevant Division” means Division 2 of Part 3 of the Australian Federal Police Regulations as in force immediately before the commencement of this Act.

(2) Notwithstanding the amendment of paragraph 40 (c) of the Principal Act made by section 15, the relevant Division continues in force after the commencement of this Act until the relevant day or such time as all appeals instituted under the relevant Division before the relevant day have been heard and determined in accordance with that Division, whichever occurs last.

(3) An appeal shall not be instituted under the relevant Division on or after the relevant day.

40 (4) Where, at a time after the commencement of this Act but before the relevant day, the Commissioner makes a redeployment declaration under

section 38B of the Principal Act as amended and in force after the commencement of this Act in respect of a member, the time within which the member may appeal under section 38F of the Principal Act as so amended and in force against the making of the declaration does not commence to run until the relevant day. 5

(5) Where—

- (a) at a time after the commencement of this Act but before the relevant day, the Commissioner makes a redeployment declaration under section 38B of the Principal Act as amended and in force after the commencement of this Act in respect of a member; 10
- (b) the member, before that day, waives his or her right to appeal against the making of the declaration; and
- (c) the Commissioner, before that day—
 - (i) issues a certificate under sub-section 38D (1) or 38E (1) of the Principal Act as so amended and in force in respect of the member; or 15
 - (ii) takes action under section 38C of that Act as so in force in respect of the member,

the time within which the member may appeal under section 38F of the Principal Act as so amended and in force against the issue of that certificate, or the taking of that action, does not commence to run until the relevant day. 20

PART III—AMENDMENT OF THE COMMONWEALTH EMPLOYEES (REDEPLOYMENT AND RETIREMENT) ACT 1979

Principal Act

21. The *Commonwealth Employees (Redeployment and Retirement) Act 1979*² is in this Part referred to as the Principal Act. 25

Regulations

22. Section 29 of the Principal Act is amended by omitting sub-paragraph 29 (1) (d) (i).

PART IV—AMENDMENTS OF THE STATUTE LAW (MISCELLANEOUS PROVISIONS) ACT (No. 2) 1983 30

Principal Act

23. The *Statute Law (Miscellaneous Provisions) Act (No. 2) 1983*³ is in this Part referred to as the Principal Act.

Commencement 35

24. Section 2 of the Principal Act is amended by omitting sub-section (5).

Amendment of Schedule 1

25. Schedule 1 to the Principal Act is amended by omitting the amendments of sections 19 and 38 of the *Australian Federal Police Act 1979*.

NOTES

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); and No. 117, 1984.
2. No. 52, 1979 as amended. For previous amendments see No. 155, 1979; Nos. 26, 61 and 92, 1981; No. 111, 1982; Nos. 39 and 93, 1983; and Nos. 63 and 165, 1984.
3. No. 91, 1983 as amended. For previous amendments see No. 117, 1984.

