

South Australia



ANNO QUADRAGESIMO NONO  
ELIZABETHAE II REGINAE  
A.D. 2000

**POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS)  
(MISCELLANEOUS) AMENDMENT ACT 2000**

No. 17 of 2000

[Assented to 1 June 2000]

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An Act to amend the Police (Complaints and Disciplinary Proceedings) Act 1985.

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**SUMMARY OF PROVISIONS**

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**The Parliament of South Australia enacts as follows:****Short title**

1. (1) This Act may be cited as the *Police (Complaints and Disciplinary Proceedings) (Miscellaneous) Amendment Act 2000*.

(2) The *Police (Complaints and Disciplinary Proceedings) Act 1985* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Amendment of s. 11A—Delegation by Authority**

3. Section 11A of the principal Act is amended by inserting in subsection (1) "or any other Act" after "under this Act".

**Amendment of s. 23—Determination that matter be investigated by Authority**

4. Section 23 of the principal Act is amended—

(a) by striking out from subsection (2)(a) "after consultation with the Commissioner,";

(b) by inserting after subsection (4) the following subsection:

(4a) Where the Authority makes a determination under this section in relation to a matter referred to in subsection (2)(a), the Authority may—

(a) with the Commissioner's agreement; or

(b) after allowing the Commissioner a period of five working days to comment on the determination and taking into account any comments received from the Commissioner within that period,

commence an investigation into the matter.;

(c) by striking out from subsection (5) "of the results".

**Amendment of s. 25—Investigations by internal investigation branch**

5. Section 25 of the principal Act is amended—

(a) by striking out subsection (3) and substituting the following subsection:

(3) Subject to any directions of the Authority or the Commissioner, a member of the internal investigation branch may, for the purposes of the investigation, make inquiries and obtain information, property, documents or other records relevant to the investigation, as he or she thinks fit.;

(b) by inserting in subsection (3a) ", property, documents or other records" after "information" (twice occurring);

(c) by striking out from subsection (3b)(a) "has" and substituting ", property, documents or other records have";

- (d) by inserting in subsection (5) "property," after "produce";
- (e) by inserting in subsection (5) "property," after "being information,";
- (f) by inserting in subsection (8)(a) "property," after "produce";
- (g) by inserting in subsection (9) "property," after "produce";
- (h) by inserting in subsection (9)(a) "the property," after "the production of";
- (i) by inserting in subsection (9)(b) "the property," after "the information,";
- (j) by inserting in subsection (10) "property," after "produce";
- (k) by inserting in subsection (10) "the property," after "the information,";
- (l) by inserting in subsection (12) "property," after "produces";
- (m) by inserting after subsection (13) the following subsection:

(13a) This section does not limit or affect the powers or duties that a member of the police force would have apart from this Act in connection with the investigation of an offence.

**Amendment of s. 28—Investigation of matters by Authority**

**6. Section 28 of the principal Act is amended—**

- (a) by striking out subsection (3) and substituting the following subsection:

(3) Subject to this section, the Authority may, for the purposes of an investigation under this section make inquiries and obtain information, property, documents or other records relevant to the investigation, as he or she thinks fit.;

- (b) by inserting in subsection (3a) ", property, documents or other records" after "information" (twice occurring);
- (c) by striking out from subsection (3b)(a) "has" and substituting ", property, documents or other records have";
- (d) by striking out from subsection (4) "Subject to subsection (5), it" and substituting "It";
- (e) by striking out subsection (5);
- (f) by inserting in subsection (6) "property," after "produce to him or her such";
- (g) by inserting in subsection (6) "property," after "being information,";
- (h) by striking out subsection (8) and inserting the following subsection:

(8) The Authority must, before directing questions to the member of the police force whose conduct is under investigation (whether or not that member has been required to attend under subsection (7)), inform the member of the particulars of the matter under investigation.;

- (i) by inserting in subsection (10)(a) "property," after "produce";
- (j) by inserting in subsection (12) "property," after "producing";
- (k) by inserting in subsection (12)(a) "the property," after "the production of";
- (l) by inserting in subsection (12)(b) "the property," after "the information,";
- (m) by inserting in subsection (13) "property," after "produce";
- (n) by inserting in subsection (13) "the property," after "the information,";
- (o) by inserting in subsection (15) "property," after "produces";
- (p) by inserting after subsection (20) the following subsection:

(20a) This section does not limit or affect the powers or duties that a member of the police force would have apart from this Act in connection with the investigation of an offence.

**Amendment of s. 31—Reports of investigations by internal investigation branch to be furnished to Authority**

7. Section 31 of the principal Act is amended by striking out from subsection (1) "of the results".

**Amendment of s. 32—Authority to make assessment and recommendations in relation to investigations by internal investigation branch**

8. Section 32 of the principal Act is amended by striking out from subsection (1) "of the results".

**Amendment of s. 33—Authority to report on and make assessment and recommendations in relation to investigations carried out by Authority**

9. Section 33 of the principal Act is amended by striking out "of the results".

**Amendment of s. 36—Particulars in relation to matter under investigation to be entered in register and furnished to complainant and member of police force concerned**

10. Section 36 of the principal Act is amended—

- (a) by striking out from subsection (1) "The" and substituting "Subject to subsection (4), the";
- (b) by striking out from subsection (3) "The" and substituting "Subject to subsections (4) and (5), the";
- (c) by inserting after subsection (3) the following subsections:

(4) If a recommendation or determination in relation to a matter under investigation is that a member of the police force be charged with an offence or breach of discipline, the member and the complainant are to be furnished with particulars of the recommendation or determination only and without comments in relation to the matter.

(5) If there is no recommendation or determination in relation to a matter under investigation that a member of the police force be charged with an offence or breach of discipline, the Authority may not make a comment that is critical of any person without giving that person an opportunity to respond in writing within seven days of being notified in writing of the proposed comment and taking into account any such response.

**Amendment of s. 48—Secrecy**

11. Section 48 of the principal Act is amended by striking out paragraph (c) of subsection (7) and substituting the following paragraph:

- (c) as required by order of a court, the court being satisfied that there are special reasons requiring the making of such an order and that the interests of justice cannot adequately be served except by the making of such an order.