

Industrial Relations Act 1979

Industrial Relations Commission Amendment Regulations (No. 2) 2019

Made by the Chief Commissioner of The Western Australian Industrial Relations Commission.

1. Citation

These regulations are the *Industrial Relations Commission Amendment Regulations (No. 2) 2019*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Police Amendment (Medical Retirement) Act 2019* Part 3 comes into operation.

3. Regulations amended

These regulations amend the *Industrial Relations Commission Regulations 2005*.

4. Part 9C inserted

After regulation 94 insert:

Part 9C — Appeals under the *Police Act 1892* section 33ZI

94A. Terms used

In this Part —

appeal against retirement on medical grounds means an appeal under the *Police Act 1892* section 33ZI;

appellant means a police officer who institutes an appeal against retirement on medical grounds;

Commissioner of Police means the person holding or acting in the office of Commissioner of Police under the *Police Act 1892*;

police officer has the meaning given to ***member*** in the *Police Act 1892* section 33ZB.

94B. Notice of appeal against retirement on medical grounds

An appeal by a police officer against retirement on medical grounds is instituted under the *Police Act 1892* section 33ZI(3) if the police officer completes and files in the office of the Registrar 3 copies of a notice of appeal to the Commissioner of Police in the approved form.

94C. Service of notice of appeal against retirement on medical grounds

Within 7 days after an appeal against retirement on medical grounds is instituted, the Registrar must serve a copy of the notice instituting the appeal on the Commissioner of Police.

94D. Response by Commissioner of Police

- (1) Except as otherwise directed by the Commission, the Commissioner of Police must respond to the notice of appeal within 28 days after the service of the notice of appeal by completing and filing in the office of the Registrar 3 copies of —
 - (a) a response stating the Commissioner of Police's reasons for deciding that the appellant should be retired on medical grounds; and

- (b) a list of all documents, as defined in regulation 20(1), that the Commissioner of Police considered before making the decision; and
 - (c) a summary of facts or issues of law relied upon by the Commissioner of Police, including any relevant matters set out in the *Police Act 1892* section 33ZJ(4); and
 - (d) a reply containing any matters the Commissioner of Police wishes to raise in relation to the appellant's case.
- (2) The response, the list of documents, the summary of facts and the reply must be in an approved form.
- (3) The Registrar must serve a copy of the response, the list of documents, the summary of facts and the reply on the appellant.

94E. Documents relied on to be filed and served

- (1) Except as otherwise directed by the Commission, within 28 days after the service on the appellant of the documents referred to in regulation 94D —
 - (a) both the Commissioner of Police and the appellant must file in the office of the Registrar 3 copies of every document relied upon by that party in its case; and
 - (b) the Registrar must serve a copy of those documents on the other party.
- (2) If, under an agreement between the Commissioner of Police and the appellant, one party files a document on behalf of both parties, the requirements of subregulation (1) in relation to that document are taken to have been satisfied.

94F. Notice of reformulated reasons under *Police Act 1892* s. 33ZK(11)

- (1) The notice of the reformulated reasons required under the *Police Act 1892* section 33ZK(11)(a) to be given to the Commission by the Commissioner of Police is to be given by completing and filing in the office of the Registrar 3 copies of —
 - (a) a statement of the Commissioner of Police’s reformulated reasons; and
 - (b) a summary of facts or issues of law relied upon by the Commissioner of Police in reformulating the reasons, including any relevant matters set out in the *Police Act 1892* section 33ZJ(4); and
 - (c) a reply containing any matters the Commissioner of Police wishes to raise in relation to the appellant’s case.
- (2) The statement, the summary of facts and the reply must be in an approved form.
- (3) The Registrar must serve a copy of the statement, the summary of facts and the reply on the appellant.
- (4) If the notice is not given at least 7 days before the resumption of the appeal, the Commission may adjourn the hearing of the appeal to a further date to allow the Commission or the appellant sufficient time to consider the contents of the notice.

94G. Withdrawal or discontinuance of appeal against retirement on medical grounds

- (1) An appellant may withdraw or wholly discontinue an appeal against retirement on medical grounds, or withdraw any part of the appeal, by completing and filing in the office of the Registrar 3 copies of a notice of withdrawal or discontinuance in the approved form.
- (2) The Registrar must serve a copy of the notice on the Commissioner of Police.

Chief Commissioner

The Western Australian Industrial Relations Commission.