



New South Wales

Police Superannuation Amendment Regulation 1997

under the

Police Regulation (Superannuation) Act 1906

His Excellency the Governor has made the following Regulation under the *Police Regulation Superannuation Act 1906*.

BOB CARR,

Premier

Explanatory note

The object of this Regulation is to amend the *Police Superannuation Regulation 1995* under the *Police Regulation (Superannuation) Act 1906* to prescribe a method of calculating a reduction in benefits payable under the Act in order to offset a liability for income tax under Commonwealth law in respect of those benefits. The Regulation also prescribes those benefits under the Act to which the reduction is to apply.

This Regulation is made under the *Police Regulation (Superannuation) Act 1906*, in particular sections 14AA (Power of STC to reduce benefits to offset certain tax liabilities of the Fund) and 24 (the general regulation making power).

1997 No 241

Clause 1 Police Superannuation Amendment Regulation 1997

**Police Superannuation Amendment Regulation
1997**

1 Name of Regulation

This Regulation is the *Police Superannuation Amendment Regulation 1997*.

2 Commencement

This Regulation commences on 1 July 1997.

3 Amendment of Police Superannuation Regulation 1995

The *Police Superannuation Regulation 1995* is amended as set out in Schedule 1.

4 Explanatory note

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3A

Insert after clause 3:

3A Notes

Notes included in this Regulation are explanatory notes and do not form part of this Regulation.

[2] Part 3

Insert after clause 6:

Part 3 Benefit reduction provisions

7 Benefits to which Part applies

This Part applies to the benefits provided under the following provisions of the Act:

- (a) section 5B (Benefit payable on election by contributor eligible for membership of PSESS),
- (b) section 7 (Superannuation allowance except where member hurt on duty),
- (c) section 7AA (Superannuation allowance on early retirement),
- (d) section 8A (Disengagement benefit for members aged between 50–55),
- (e) section 9B (Preserved benefit),
- (f) section 10 (Superannuation allowance where member hurt on duty),
- (g) section 12 (Superannuation allowance where a member or former member dies as a result of being hurt on duty), except the benefit payable as a result of an election under subsection (1A) (to take a gratuity prescribed by section 13), or the benefit payable under section 12 (1AA) (b) (ii),

- (h) section 13A (Gratuity where deceased member hurt on duty but left no dependants etc),
- (i) section 14 (Gratuity for discharged members not hurt on duty),
- (j) section 14J (Commutation on normal or early retirement of member).

8 Formula for calculation of reduction in benefits

- (1) For the purposes of section 14AA of the Act, the reduction in a benefit to which this Part applies is the amount calculated in accordance with the following formula:

$$R = M \times \frac{A}{B} \times Q$$

where:

R represents the amount of the reduction.

M represents the amount of the benefit being reduced.

A is calculated in accordance with clause 9 and represents the portion of the benefit attributable to employer contributions.

B represents the value of the benefit, which is calculated as:

- (a) in a case in which a gratuity benefit or preserved benefit or a lump sum benefit for which an election has been made or is deemed to have been made under section 14J of the Act is to be paid to or in respect of the member or former member—the amount of that benefit, or
- (b) in a case in which an allowance is to be paid to or in respect of the member or former member—the amount calculated by the Board as the capitalised value of the benefits payable to or in respect of the member or former member.

Q represents the sum of such number of terms as is determined in accordance with the formula prescribed by clause 10 to reflect the number of times the rate of tax (being the tax referred to in section 14AA of the Act) has changed.

(2) No benefit reduction applies in any case where the value of *A* in the formula in this clause is equal to or less than 0.

9 Calculation of portion of benefit attributable to employer contributions

(1) In the formula in clause 8, the amount represented by the symbol *A* is calculated by subtracting the sum of the following amounts from the amount represented by the symbol *B* in that formula:

- (a) the total of all amounts deducted under the Act from the member's or former member's salary of office from the date when the member or former member last became a member to the date of cessation or death,
- (b) the amount, if any, repaid by the member or former member to the Fund under section 17 (3) of the Act,
- (c) interest:
 - (i) compounded on 30 June in each year in respect of the period beginning with the later of the day on which the member or former member last became liable to make contributions under the Act and 23 November 1984 and also compounded on the date on which the member or former member ceased to be a member or died, and
 - (ii) calculated at the prescribed rate provided for by subclause (2) on the amount ascertained by adding the amounts referred to in paragraphs (a) and (b).

(2) For the purposes of subclause (1) (c) (ii), the prescribed rate is:

- (a) in respect of any relevant period beginning with 23 November 1984 and ending with 30 June 1990—4.5% per year, or
- (b) in respect of any relevant period beginning on or after 1 July 1990—the rate fixed from time to time under section 16 of the *State Authorities Superannuation Act 1987*.

10 Calculation of aggregate rate of tax

For the purposes of the symbol Q in clause 8, the formula prescribed by this clause is:

$$\frac{C}{D} \times L$$

where:

C represents the number of days of continuous service that the person to or in respect of whom the benefit is payable has had as a member of the police force in each period during which the rate of tax payable on employer contributions (as referred to in section 14AA of the Act) is L.

D represents:

- (a) in the case of benefits arising under section 10 or 12 of the Act—the number of days of continuous service that the person to or in respect of whom the benefit is payable has had as a member of the police force during the period beginning with the date when the person last became liable to make contributions under the Act and ending with the later of the date the person ceased to be a member of the Fund and the date on which the person would have been eligible to retire under section 7 of the Act if the person's employment as a member of the police force had continued to that date, or

(b) in all other cases—the number of days of continuous service that the person to or in respect of whom the benefit is payable has had as a member of the police force during the period beginning with the date on which the person last became liable to make contributions under the Act and ending when the person ceased to be a member of the Fund.

L represents the rate of tax payable on employer contributions set out in the relevant Commonwealth taxation law or such lesser rate as may be determined by the Board having regard to the most recent actuarial valuation of the scheme.

Note. The benefit that emerges on the death of a former member of the police force under section 11 or 12 (1AA) (b) (ii) of the Act is not to be reduced because it is calculated as a proportion of the benefit payable to the former member and that benefit will already have been reduced in accordance with section 14AA of the Act.