

**POLICE REGULATION (SUPERANNUATION) AMENDMENT
ACT, 1984, No. 73**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 73, 1984.

An Act to amend the Police Regulation (Superannuation) Act, 1906, to make further provision with respect to the superannuation allowances and gratuities payable to and in respect of members of the police force, and for other purposes. [Assented to, 27th June, 1984.]

See also Police Regulation (Rules) Amendment Act, 1984; Police Association Employees (Superannuation) Amendment Act, 1984.

Police Regulation (Superannuation) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Police Regulation (Superannuation) Amendment Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsections (1) and (3), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Schedule 1 (20) and (22) (a), and section 5 in its application to those provisions, shall be deemed to have commenced on 20th May, 1981.

Principal Act.

3. The Police Regulation (Superannuation) Act, 1906, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 28, 1906.

5. The Principal Act is amended in the manner set forth in Schedule 1.

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Savings, transitional and other provisions.

6. Schedule 2 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 1 (1), (1A)—

Omit section 1 (1), insert instead:—

(1) This Act may be cited as the “Police Regulation (Superannuation) Act, 1906”.

(1A) This Act shall commence on 1st February, 1907.

- (b) Section 1 (2), definitions of “member of the police force”, “Police Medical Board”, “remuneration”, “salary of office”—

After the definition of “hurt on duty”, insert:—

“member of the police force” has the meaning ascribed thereto in section 3 of the Police Regulation Act, 1899;

“Police Medical Board” means the Police Medical Board established under section 15A;

“remuneration” includes allowances and other benefits;

“salary of office”, in relation to a member of the police force, means remuneration ordinarily received in money by the member as the ordinary pay of the member’s rank and position, but does not include—

- (a) an amount paid for overtime or as a bonus;
- (b) a relieving allowance;
- (c) an allowance paid in lieu of the supply of a uniform;

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (d) an expense allowance or an allowance for travelling, subsistence or other similar expenses;
- (e) a climatic, disability or living allowance paid when stationed or residing in a particular place;
- (f) an allowance for equipment; or
- (g) remuneration of a kind prescribed as exempt for the purposes of this paragraph,

but, notwithstanding anything in the foregoing provisions, includes any remuneration declared by the regulations to be salary of office within the meaning of this Act;

(c) Section 1 (3), (4)—

After section 1 (2), insert:—

(3) Where—

- (a) the salary of office of a member of the police force is reduced by reason that the member ceases to be paid an allowance (otherwise than as a consequence of disciplinary proceedings);
- (b) the salary of office of the member at the date of the member's death, retirement, resignation or discharge is less than the salary of office of the member immediately before it was so reduced; and
- (c) the member died, retired, resigned or was discharged on or after the day appointed and notified under section 2 (2) of the Police Regulation (Superannuation) Amendment Act, 1984,

the salary of office of the member at the date of the member's death, retirement, resignation or discharge shall, for the purposes of this Act, be deemed to be the salary of office of the member immediately before it was so reduced.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (4) In this Act, a reference to—
- (a) a function includes a reference to a power, authority and duty; and
 - (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.
- (2) (a) Section 1A—
From the matter relating to Part III, omit “5”, insert instead “5A”.
- (b) Section 1A—
From the matter relating to Part V, omit “16–23”, insert instead “15A–24”.
- (3) Section 2—
Omit “Principal Act”, insert instead “Police Regulation Act, 1899”.
- (4) Sections 2A (3) (a), 2C (1)—
Omit “, 4C and 4D of the Principal Act” wherever occurring, insert instead “and 4D of the Police Regulation Act, 1899”.
- (5) Section 2A (7)—
Omit “powers, authorities, duties and”.
- (6) Section 2F—
Omit the section, insert instead:—
- Delegation.**
- 2F. (1) In this section, “prescribed function” means a function conferred or imposed on the Board by the operation of—
- (a) section 7, 7AA, 11A, 11B, 11C, 13, 13A, 14 or 17; or

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) section 12D, except so much of the provisions of that section as relates to section 16 of the Workers' Compensation Act, 1926.

(2) The Board may, by instrument in writing, delegate to the secretary or any other officer of the Police Department the exercise of such of the prescribed functions of the Board as are specified in the instrument.

(3) A prescribed function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.

(4) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any prescribed function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.

(5) Notwithstanding any delegation under this section, the Board may continue to exercise any prescribed function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the Board and shall be deemed to have been done or suffered by the Board.

(7) The Board may, by instrument in writing, revoke wholly or in part any delegation under this section.

(8) An instrument purporting to have been signed by a person in his or her capacity as a delegate of the Board shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Board and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Board.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(7) Section 3 (2) (b1)—

After section 3 (2) (b), insert:—

(b1) the payments or deductions made under section 5A;

(8) Section 5 (1)—

Omit “pay and salary” wherever occurring, insert instead “salary of office”.

(9) Section 5A—

After section 5, insert:—

Leave without pay.

5A. (1) In this section—

“initial period”, in relation to a period of leave, means such period commencing with the first day of that leave as is prescribed as the initial period for the purposes of this section;

“leave without pay” means a period of leave requested by a member of the police force during which the member is not entitled to payment of the member’s salary of office, being a period of leave which commences on or after the day appointed and notified under section 2 (2) of the Police Regulation (Superannuation) Amendment Act, 1984;

“special leave without pay” means any leave without pay which is—

(a) sick leave;

(b) maternity leave or leave in respect of the adoption of a child;

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (c) leave to undertake union duties for the Police Association of New South Wales or the Public Service Association of New South Wales; or
- (d) leave declared by the regulations to be special leave without pay within the meaning of this section.

(2) A member of the police force who takes leave without pay (not being special leave without pay) shall, in accordance with directions given by the Board, pay to the Board for credit to the Fund such amounts as would have been deducted from the salary of office of the member in accordance with section 5 if the member had continued to receive salary of office during the initial period of any such single period of leave at the rate payable to the member immediately before that initial period.

(3) So much of any single period of leave without pay taken by a member of the police force (not being special leave without pay) as exceeds the initial period is not a period of service for the purposes of this Act.

(4) A member of the police force who takes special leave without pay shall, in accordance with directions given by the Board, pay to the Board for credit to the Fund such amounts as would have been deducted from the salary of office of the member in accordance with section 5 if the member had continued to receive salary of office during the period of that leave at the rate payable to the member immediately before that period.

(5) If a member of the police force fails to make any payment required by subsection (2) or (4)—

- (a) the amount unpaid shall be deducted from—
 - (i) the member's salary of office; or
 - (ii) any gratuity or allowance payable to the member under this Act,in such instalments and at such times as the Board may determine; and

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) the period of leave to which the payment relates is not, while it remains unpaid, a period of service for the purposes of this Act.

(6) Any amount paid by a member of the police force pursuant to subsection (2) or (4) shall, for the purposes of this or any other Act, be deemed to have been deducted from the member's salary of office.

(10) Section 7 (1)—

Omit "being a percentage equal to that specified in the Second Column of the Table to this subsection opposite the number of years of service specified in the First Column of that Table that has been completed by that member.", insert instead:—

being a percentage equal to the aggregate of—

- (a) the percentage specified in the Second Column of the Table to this subsection opposite the number of years of service specified in the First Column of that Table that has been completed by the member; and
- (b) one-twelfth of 2.425 per cent for each month of service that has been completed by the member after the last completed year of service referred to in paragraph (a).

(11) Section 7AA (1), definition of "salary of office"—

From paragraph (b), omit "Principal Act", insert instead "Police Regulation Act, 1899,".

(12) Section 7A (1), definition of "Commonwealth pension"—

From paragraph (d), omit "by rules made under the Principal Act".

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(13) Section 8 (1)—

Omit “two medical practitioners appointed by the Governor for the purpose”, insert instead “2 members of the Police Medical Board”.

(14) Section 10 (6) (b1)—

Omit “by rules made under the Police Regulation Act, 1899,”.

(15) (a) Section 10B (1), (2) (b)—

Omit “2 medical practitioners appointed by the Governor for the purpose” wherever occurring, insert instead “2 members of the Police Medical Board”.

(b) Section 10B (2) (a)—

Omit “the nature of that injury; and”, insert instead “that injury;”.

(c) Section 10B (2) (a1)—

After section 10B (2) (a), insert:—

(a1) where the regulations so require, the notification was in or to the effect of the prescribed form; and

(16) Section 11A (1) (a)—

Before “member”, insert “male”.

(17) Section 11B (1) (a)—

Before “member”, insert “male”.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(18) Section 11C—

After section 11B, insert:—

Grant of allowance to dependent widower.

11C. (1) Subject to subsections (3), (4) and (7), where—

- (a) a female member of the police force to whom a superannuation allowance has been granted dies on or after the day appointed and notified under section 2 (2) of the Police Regulation (Superannuation) Amendment Act, 1984;
- (b) that member was married at the date of her death; and
- (c) her widower was her husband at the date of her retirement (whether by disablement or otherwise),

there shall be paid to her widower such sum by way of superannuation allowance as is equivalent to 62.5 per cent of the superannuation allowance received by, or payable to, that member.

(2) Where, but for her death, the superannuation allowance received by, or payable to, a member referred to in subsection (1) would have been increased or reduced, the superannuation allowance payable to her widower pursuant to subsection (1) shall be increased or reduced, as the case may be, to an amount equivalent to 62.5 per cent of the superannuation allowance that would have been received by, or payable to, that member had she not died.

(3) A superannuation allowance under subsection (1)—

- (a) shall not be payable to a widower to whom a superannuation allowance is payable under section 12 or to whom a gratuity is payable under section 12 (1A);
- (b) is subject to section 23; and
- (c) shall not be payable to a widower unless, as prescribed, he satisfies and continues (except during any period he is married) to satisfy the prescribed dependency test, and shall not become again payable after he ceases to satisfy that test.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Only so much of a superannuation allowance under subsection (1) is, at any time or during any period, payable to a widower as results in the rate at which it is so payable not exceeding the maximum rate referred to in subsection (5) applicable to him at that time or during that period.

(5) For the purposes of subsection (4), the maximum rate applicable to a widower is such rate as, when added to the rate of his other income, being income of a prescribed class or description, does not exceed the prescribed rate.

(6) The regulations may make provision for or with respect to the manner of—

- (a) ascertaining the maximum rate referred to in subsection (5);
- (b) determining the rate of other income referred to in that subsection; and
- (c) determining the time or period to which either such rate relates.

(7) A superannuation allowance under subsection (1) is not payable to a widower unless the Board is furnished with such evidence or information, verified (if the Board so requires) by statutory declaration, as it requires for the purpose of establishing whether the superannuation allowance is payable and at what rate it is payable.

(19) (a) Section 12 (1)—

Omit “not exceeding 55 per cent of the salary of office of the deceased member or former member at the time of his death or earlier discharge, resignation or retirement”, insert instead “not exceeding the rate prescribed by subsection (1AA)”.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 12 (1AA)—

After section 12 (1), insert:—

(1AA) The prescribed rate for the purposes of subsection (1) is—

(a) in the case of the death of a member of the police force—

(i) 55 per cent of the salary of office of the deceased member at the time of death; and

(ii) where, in the opinion of the Board, the member was hurt on duty because the member was required to be exposed to risks to which members of the general workforce would normally not be required to be exposed in the course of their employment, an additional rate that is not more than 7.5 per cent of that salary of office and that is, in the opinion of the Board, commensurate with the risks to which the member was so required to be exposed; or

(b) in the case of the death of a former member of the police force, the greater of the following rates:—

(i) 55 per cent of the salary of office of the deceased former member at the time of the former member's discharge, resignation or retirement, as increased or reduced pursuant to subsection (3A);

(ii) 62.5 per cent of the annual superannuation allowance received by, or payable to, the former member at the date of death.

(c) Section 12 (1B)—

After "salary" wherever occurring, insert "of office".

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) Section 12 (3A)—

Omit “Where”, insert instead “For the purposes of subsection (1AA) (b) (i), where”.

(e) Section 12 (6)—

After “widow”, insert “or widower”.

(20) Section 13 (2)—

Omit the subsection, insert instead:—

(2) The prescribed gratuity for the purposes of subsection (1) is—

- (a) a gratuity of 24 months’ pay at the rate of the member’s salary of office at the date of death; and
- (b) where the member served for a period of more than 17 years—an additional gratuity not exceeding one-twelfth of 2 months’ pay at that rate for each completed month of service after the seventeenth year and up to and including the completion of the thirty-fifth year.

(21) Section 13A—

After section 13, insert:—

Member dying without dependants, etc.

13A. Where a member of the police force dies on or after the day appointed and notified under section 2 (2) of the Police Regulation (Superannuation) Amendment Act, 1984, and there is no person to whom a superannuation allowance or gratuity may be paid under this Act in respect of the death of the member, the member shall be deemed to have resigned immediately before the member’s death and

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

the amount payable under section 17 (1) shall be paid by the Board to the member's personal representatives or, where the member has no personal representatives, to such persons as the Board may determine.

(22) (a) Section 14 (1)—

Omit "may pay to the member a gratuity not exceeding", insert instead "shall pay to the member a gratuity of".

(b) Section 14 (1)—

After "salary", insert "of office".

(23) Section 15A—

Before section 16, insert:—

Police Medical Board.

15A. (1) There shall be a Police Medical Board.

(2) The Police Medical Board shall consist of such medical practitioners as are from time to time appointed by the Governor.

(3) The regulations may make provision for or with respect to the Police Medical Board and, in particular, for or with respect to—

(a) the procedure of that Board; and

(b) the examination of members or former members of the police force for the purposes of this Act.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(24) Section 16—

Omit “two medical practitioners appointed under section 8; and upon the certificate of such medical practitioners”, insert instead “2 members of the Police Medical Board, and upon the certificate of those 2 members of the Police Medical Board”.

(25) (a) Section 17 (1) (a)—

Omit the paragraph, insert instead:—

- (a) the total of all amounts deducted under this Act from his salary of office—
 - (i) except as provided by subparagraph (ii)—without any addition by way of interest; or
 - (ii) in the case of any such member who has served for a period of 5 years or more and was not dismissed—with the addition of interest on those amounts at the rate of 4.5 per cent compounded on 30th June in each year of service and on the date of resignation or discharge; and

(b) Section 17 (1A)—

After section 17 (1), insert:—

- (1A) For the purposes of subsection (1) (a) (ii)—
 - (a) interest shall not be paid in respect of any period before the day appointed and notified under section 2 (2) of the Police Regulation (Superannuation) Amendment Act, 1984, and any amounts deducted from the salary of office of a member of the police force before that day shall be deemed to have been so deducted on that day; and
 - (b) interest on amounts deducted at different times during the period in respect of which the interest is to be calculated shall, subject to subsection (1) (a) (ii), be calculated in a manner determined by the Board.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 17 (2)—

Omit “pay and salary”, insert instead “salary of office”.

(d) Section 17 (3)—

Omit “before his re-appointment.”, insert instead:—

before the expiration of the period of 6 months immediately after—

(a) the day appointed and notified under section 2 (2) of the Police Regulation (Superannuation) Amendment Act, 1984; or

(b) the date of that re-appointment,
whichever is the later.

(26) Section 18A—

After section 18, insert:—

Payment to person other than beneficiary.

18A. (1) Where the Board is of the opinion that payment of a superannuation allowance or gratuity under this Act should be made to a person other than the beneficiary and is satisfied that the payment will be used for the maintenance, care and support of the beneficiary, the Board may authorise payment of the superannuation allowance or gratuity to that person.

(2) Any payment made under subsection (1) shall be deemed to have been made to the person entitled to the superannuation allowance or gratuity.

(27) Section 20 (5)—

Omit “widow in her”, insert instead “widow or widower in her or his”.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(28) (a) Section 21 (1)—

After “may”, insert “, within the period of 90 days after the person is notified of that decision,”.

(b) Section 21 (2)—

Omit the subsection.

(29) (a) Section 23 (1)—

Omit the subsection, insert instead:—

(1) A superannuation allowance payable under section 11A, 11B, 11C or 12 to the widow or widower of a member or former member of the police force is suspended during any period she or he is married.

(b) Section 23 (4)—

Omit the subsection, insert instead:—

(4) Where, but for this subsection, a widow or widower would be entitled—

(a) to more than 1 superannuation allowance under section 11A, 11B, 11C or 12; or

(b) to a superannuation allowance, in relation to the death of a person, under section 11A, 11B or 11C, as the case may be, and a superannuation allowance, in relation to the death of some other person, under section 12,

the widow or widower shall be entitled to only 1 of those superannuation allowances, being (where they are not equal) the greater or greatest of them.

Police Regulation (Superannuation) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(30) Section 24—

After section 23, insert:—

Regulations.

24. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may impose a penalty not exceeding \$500 for any contravention thereof.

(3) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
- or may do any combination of those things.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

SCHEDULE 2.

(Sec. 6.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. (1) In this Schedule, "appointed day" means the day appointed and notified under section 2 (2).

Police Regulation (Superannuation) Amendment.

SCHEDULE 2—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(2) Expressions used in this Schedule have the meanings respectively ascribed to those expressions in the Principal Act.

Police Medical Board—existing members.

2. A person who was, immediately before the appointed day, a medical practitioner appointed for the purposes of section 8 (1), 10B (1) or 10B (2) (b) of the Principal Act, shall, on that day, be deemed to have been appointed as a member of the Police Medical Board pursuant to section 15A (2) of the Principal Act, as amended by this Act.

Existing delegations.

3. A delegation in force under section 2F of the Principal Act immediately before the appointed day shall, on that day, be deemed to have been made under section 2F of that Act, as amended by this Act.

Amendments to sections 7 (1) and 12 of Principal Act.

4. The amendments made to sections 7 (1) and 12 of the Principal Act by this Act do not apply to or in respect of—

- (a) a member of the police force who retired or was discharged before the appointed day; or
- (b) a member or former member of the police force who died before the appointed day,

as the case may be.

Validation—definition of “pay” or “salary”.

5. Any payment made to or from the Fund before the appointed day, being a payment which would have been validly made had references in the Principal Act to pay or salary been references to salary of office within the meaning of the Principal Act, as amended by this Act, shall be deemed to have been validly made.
