



New South Wales

# Police Regulation (Superannuation) Amendment Act 2010 No 113

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New South Wales

## **Police Regulation (Superannuation) Amendment Act 2010 No 113**

Act No 113, 2010

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An Act to amend the *Police Regulation (Superannuation) Act 1906* in relation to the discharge, and entitlement to superannuation, of members of the Police Force who are medically unfit. [Assented to 29 November 2010]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Police Regulation (Superannuation) Amendment Act 2010*.

**2 Commencement**

This Act commences on the date of assent to this Act.

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## **Schedule 1      Amendment of Police Regulation (Superannuation) Act 1906 No 28**

### **Section 15B**

Insert after section 15A:

#### **15B    Discharge of members medically unfit**

- (1) This section applies to a member of the police force:
  - (a) who is on sick leave, and
  - (b) who, during the previous 18 months, has been on sick leave for a total period of at least 12 months, and
  - (c) whose health, in the opinion of a medical practitioner, is not likely to improve sufficiently to enable the member to return to duty, and
  - (d) who is to be discharged if STC certifies that the member is incapable, from infirmity of body or mind, of personally exercising the functions of a police officer referred to in section 14 (1) of the *Police Act 1990*.
- (2) On application by the Commissioner of Police, STC is to determine whether to issue such a certificate in relation to any infirmity to which the application relates.
- (3) Before STC considers an application under this section, the Commissioner of Police is to provide a copy of the application (and of all supporting information included in the application by the Commissioner) to the member of the police force to whom the application relates.
- (4) If a member of the police force has been on sick leave for a total period of at least 8 months during the previous 18 months, the Commissioner of Police may provide the copy of the application in anticipation of the member remaining on sick leave for a further 4 months and the member's health not improving sufficiently to enable the member to return to duty.
- (5) When providing the copy of the application, the Commissioner of Police is to give the member 28 days in which to notify the Commissioner whether any other infirmities should be included in the application and whether a determination is sought that any infirmities of the member were caused by the member having been hurt on duty.
- (6) The Commissioner of Police is to include in the application under this section all relevant infirmities of which the Commissioner is

aware (including any infirmities that the member duly notifies the Commissioner should be included in the application).

- (7) If the application under this section is changed after a copy is provided to the member, the Commissioner of Police is to provide a copy of the revised application to the member. Subsection (5) does not apply to the provision of the revised application.
- (8) A certificate for which an application is made under this section is to be issued under and in accordance with:
  - (a) section 10B if the infirmity to which the certificate relates has been determined (by the Commissioner of Police under section 10B (3) or on appeal) to be an infirmity caused by the member having been hurt on duty, or
  - (b) section 8 in any other case.
- (9) The certificate is to be issued under and in accordance with section 8 (and without regard to whether the infirmity was or was not caused by the member of the police force having been hurt on duty) if:
  - (a) the member did not seek a determination that the infirmity was so caused within the period referred to in subsection (5), or
  - (b) the Commissioner determined that the infirmity was not caused by the member having been hurt on duty.

However, if the infirmity to which the certificate relates is subsequently determined (by the Commissioner of Police under section 10B (3) or on appeal) to be an infirmity caused by the member having been hurt on duty, the certificate is taken to be a certificate under section 10B.

- (10) If a certificate is issued under section 8 and the member of the police force to whom it relates is duly discharged and a superannuation allowance granted under section 7, STC may (despite anything to the contrary in this Act) consider any application by the member for a superannuation allowance payable because the member's infirmity was caused by having been hurt on duty. A determination to grant such a superannuation allowance is to have effect on and from the member's discharge.
- (11) An application may be made under this section by the Commissioner of Police, and a superannuation allowance granted, with or without the consent of the member of the police force to whom the application relates.

- (12) The Commissioner of Police may provide to STC, to any medical practitioner nominated by STC or to any medical practitioner asked to provide an opinion referred to in subsection (1) (c), for use in determining whether to issue a certificate or whether to provide an opinion, any medical certificate or other information in the possession of the Commissioner that is relevant to that determination.
- (13) Any such information may be so provided and used, with or without the consent of the member of the police force concerned and despite the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002*.
- (14) If any such information contains medical advice of a medical practitioner nominated by STC, a determination as to whether to issue a certificate may be made by STC having regard to that advice if STC considers that further medical advice is not required.
- (15) Nothing in this section prevents a member of the police force from making an application to STC for a benefit under this Act or for the issue of a certificate under this Act relating to any infirmity of the member.
- (16) In this section, ***sick leave*** means sick leave, with or without pay, and whether before or after the commencement of this section.

[Agreement in principle speech made in Legislative Assembly on 29 October 2010

Second reading speech made in Legislative Council on 23 November 2010]

BY AUTHORITY