

1995—No. 513

**POLICE REGULATION (SUPERANNUATION) ACT 1906—  
REGULATION**

(Police Superannuation Regulation 1995)

NEW SOUTH WALES



*[Published in Gazette No. 105 of 1 September 1995]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Police Regulation (Superannuation) Act 1906, has been pleased to make the Regulation set forth hereunder.

BOB CARR,  
Premier.

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**PART I—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Police Superannuation Regulation 1995.

**Commencement**

2. This Regulation commences on 1 September 1995.

**Definition**

3. In this Regulation, “the Act” means the Police Regulation (Superannuation) Act 1906.

**Additional members of the police force to whom Act applies**

4. (1) For the purposes of section 1A (1) (c) of the Act, the class of members of the police force consisting of the persons listed below is prescribed as a class to which the Act applies:

Robert Allan SHANKLETON—Registered No 24929

Shaun Patrick MOLONEY—Registered No 25077

Jennifer Louise CULLANE—Registered No 25777.

(2) For the purposes of section 1A (2) of the Act, the date 23 October 1992 is prescribed.

## **PART 2—SALARY AND LEAVE**

### **Salary of office**

5. (1) For the purposes of paragraph (a) of the definition of “salary of office” in section 1 (2) of the Act, remuneration received by a member of the police service to whom the definition relates by way of any of the following allowances is prescribed as exempt:

- (a) a soiled clothing allowance;
- (b) a shift allowance;
- (c) a stocking allowance.

(2) The definition of “salary of office” in section 1 (2) of the Act includes any remuneration received by the member of the police service concerned by way of a bonus for the member’s having attained any of the following qualifications:

- (a) Associate Diploma in Justice Administration;
- (b) Diploma in Criminology;
- (c) the degree of Bachelor of Laws;
- (d) any other degree approved by the State Authorities Superannuation Board for the purposes of this paragraph.

### **Initial period of leave**

6. For the purposes of section 5A of the Act, 3 months is prescribed as the “initial period”. However, if the period of leave in relation to which the expression “initial period” is used is less than 3 months, that period of leave is prescribed.

## **PART 3—WIDOWERS’ SUPERANNUATION ALLOWANCE**

### **Dependency test**

7. (1) For the purposes of section 11C (3) (c) of the Act, a widower:

- (a) satisfies the prescribed dependency test if, at the time of his wife’s death, he satisfies the dependency test prescribed by subclause (2); and
- (b) continues to satisfy the prescribed dependency test for so long as he continues to satisfy the dependency test prescribed by subclause (2).

(2) For the purposes of section 11C (3) (c) of the Act, the prescribed dependency test is that:

- (a) the rate of the widower's other income is less than the prescribed rate under clause 10 (2); and
- (b) the widower:
  - (i) is 65 years of age or older; or
  - (ii) receives a disability support pension under Part 2.3 of Chapter 2 of the Social Security Act 1991 of the Commonwealth (or would be entitled to receive such a pension but for a matter not connected with the widower's incapacity for work or blindness); or
  - (iii) receives a sole parent pension under Part 2.6 of Chapter 2 of that Act; or
  - (iv) in the opinion of the State Authorities Superannuation Board, is, because of age, physical or mental disability or domestic circumstances, or for any other reason, unable to undertake employment so as to earn a sufficient livelihood for himself and any dependants.

#### **Classes and descriptions of other income**

8. For the purposes of section 11C (5) of the Act, the prescribed classes and descriptions of other income are the following:

- (a) ordinary income, within the meaning of section 1072A of the Social Security Act 1991 of the Commonwealth;
- (b) pensions, benefits and allowances payable under that Act;
- (c) service pensions under Part III of the Veterans' Entitlements Act 1986 of the Commonwealth and any other payment, as determined by the State Authorities Superannuation Board from time to time, payable under that Act;
- (d) payments in respect of a child that are, in the opinion of the Board, not intended for the maintenance of the child.

#### **Rate of other income**

9. For the purposes of section 11C (5) of the Act, the rate of other income of a widower at any time is the average weekly rate of such other income received by the widower over the period of 8 consecutive weeks immediately before the time concerned.

**Determination of rate of other income and prescribed rate**

10. (1) For the purposes of section 11C (5) of the Act, the rate of other income of a widower at any time is to be determined as if any change in the maximum rate of any relevant payment that occurred after the immediately preceding adjustment date had not occurred.

(2) For the purposes of section 11C (5) of the Act, the prescribed rate at any time is the minimum salary applicable to a Probationary Constable Level 1 of or above the age of 21 referred to in the Police Service of New South Wales Non Commissioned Officers' Enterprise Agreement entered into on and with effect from 2 December 1994 payable at the immediately preceding adjustment date.

(3) In this clause:

**“adjustment date”**, in relation to any year, means the first day of the superannuation allowance pay period that ends on the first superannuation allowance pay day in October of that year;

**“relevant payment”** means a payment payable under an Act of the Commonwealth referred to in this Part.

**Determination of maximum rate of superannuation allowance**

11. (1) For the purposes of section 11C (5) of the Act, the maximum rate applicable to a widower is the rate of superannuation allowance payable per week.

(2) The maximum rate applicable to a widower is to be ascertained at a rate that would not preclude the widower from receiving any payment to which he would otherwise be entitled under a Commonwealth Act referred to in this Part.

**Notification of variation in other income**

12. A widower must notify the State Authorities Superannuation Board of any variation in the rate of his other income within 14 days after the variation takes effect.

**Maximum rate rafter notification of variation in other income**

13. Any new maximum rate applicable to a widower because of a variation in the rate of the widower's other income notified to the State Authorities Superannuation Board in accordance with clause 12 is to apply on and from the first day of the first superannuation allowance pay period beginning after the Board has received the notification.

**Effect of failure to notify variation in other income**

14. If a widower fails to notify the State Authorities Superannuation Board in accordance with clause 12 of a variation in the rate of his other income and, because of that variation, the maximum rate of superannuation allowance applicable to the widower would be:

- (a) increased—the increased maximum rate is to apply on and from a date determined by the Board, being a date no later than the first day of the first superannuation allowance pay period beginning after the date on which the Board became aware of the variation; or
- (b) reduced—the reduced maximum rate is to apply on and from a date determined by the Board, being a date no earlier than the first day of the first superannuation allowance pay period beginning after the date by which the widower was required to notify the Board of the variation.

**PART 4—POLICE MEDICAL BOARD AND MEDICAL EXAMINATIONS****Definitions**

15. In this Part:

**“former member of the police force”** means a person whose service as a member of the police force did not extend beyond 31 March 1988;

**“medically unfit for duty”** means incapable, from a specified infirmity of body or mind, of discharging the duties of office;

**“Police Medical Officer”** means a person appointed to the position of Medical Officer in the Employee Assistance Branch of the Police Service.

**Application of Part**

16. This Part applies only in respect of former members of the police force.

**Member of Police Medical Board not to act in certain circumstances**

17. A member of the Police Medical Board is not to act as a member of that Board when it is considering a possible infirmity of mind or body of a former member of the police force whom the member of the Police Medical Board has treated or seen professionally in connection with the infirmity.

**Police Medical Board to consider fitness only**

18. The Police Medical Board is to deal only with the medical condition and medical fitness for duty of the former member of the police force being examined.

**Medical examination procedure**

19. (1) The examination of a former member of the police force by the Police Medical Board is to be carried out by any 2 members of that Board in consultation.

(2) A Police Medical Officer is to be present at the consultation if the members carrying out the examination so desire.

**Application for examination by Police Medical Board**

20. (1) A former member of the police force who has resigned or retired may apply to the State Authorities Superannuation Board for the grant of an annual superannuation allowance under section 10 of the Act.

(2) Such a former member must furnish the following to that Board:

- (a) particulars of the infirmity that rendered the former member medically unfit for duty and of the injury received while the former member was a member of the police force that caused that infirmity;
- (b) a list of the names of the medical practitioners the former member has consulted or by whom he or she has been treated in connection with the infirmity;
- (c) any relevant medical certificates or reports;
- (d) particulars of any illness or injury that the former member has suffered since leaving the police force;
- (e) particulars of any employment (whether paid or unpaid) in which the former member has been engaged since leaving the police force.

(3) The former member must submit to a medical examination by a Police Medical Officer, the Police Medical Board, or any one or more medical practitioners, as required by the State Authorities Superannuation Board or the person appointed as the Commissioner of Police under the Police Service Act 1990.

**PART 5—INFORMATION ABOUT BENEFICIARIES****Definition**

21. In this Part, “beneficiary” means a person who is entitled to receive a superannuation allowance or gratuity from the Fund.

**Board may require evidence**

22. The State Authorities Superannuation Board, when considering any case involving payment to a beneficiary, may require the production of such certificates and other documentary evidence as it considers necessary.

**Beneficiaries to provide information**

23. A beneficiary must promptly notify the State Authorities Superannuation Board, in writing, of any change of address.

**PART 6—MISCELLANEOUS****Offences and penalties**

24. A person must not, in purported compliance with a requirement of clause 20 (2) or a requirement made under clause 22:

- (a) supply information that is false or misleading in a material particular; or
- (b) fail to disclose relevant information.

Maximum penalty: 5 penalty units.

**Repeal**

25. (1) The Police Superannuation Regulation 1984 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the Police Superannuation Regulation 1984 had effect under that Regulation, is taken to have effect under this Regulation.

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**EXPLANATORY NOTE**

The object of this Regulation is to repeal the Police Superannuation Regulation 1984 and to remake certain provisions of that Regulation in substantially the same form.

The new Regulation makes provision for or with respect to the following:

- (a) certain remuneration of police officers that is, or is not, to be counted as part of their “salary of office” (clause 5);
- (b) leave without pay in relation to superannuation contributions (clause 6);
- (c) the dependency test that, under section 11C of the Police Regulation (Superannuation) Act 1906, a widower whose wife died before 20 March 1989 must satisfy in order to be entitled to receive a proportion of the superannuation allowance that would have been payable to the wife under the Act had she not died (clauses 7–14);
- (d) the Police Medical Board and medical examinations relating to fitness for duty (clauses 15–20);
- (e) information to be provided by and about beneficiaries under the Act (clauses 21–23);
- (f) offences and penalties (clause 24);
- (g) matters of a technical nature (clauses 1–4 and 25).

The Regulation is made under the Police Regulation (Superannuation) Act 1906, including sections 1 (Short title, commencement and definitions), 1A (Closure of Fund to police employed on or after 1 April 1988), 5A (Leave without pay), 11C (Grant of superannuation allowance to dependent widower whose spouse died before the commencement of Schedule 1 (7) to the Police Regulation (Superannuation) Amendment Act 1988), 15A (Police Medical Board) and 24 (the general regulation-making power).

The Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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