



New South Wales

Police Superannuation Amendment (Release of Benefits) Regulation 2001

under the

Police Regulation (Superannuation) Act 1906

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Regulation (Superannuation) Act 1906*.

JOHN DELLA BOSCA, M.L.C.,

Special Minister of State

Explanatory note

The objects of this Regulation are:

- (a) to provide for the reduction and calculation of benefits payable under the Police Superannuation Scheme to or in respect of a contributor or former contributor to the Scheme who has received early release of a benefit on the ground of severe financial hardship or on compassionate grounds, and
- (b) to provide for consent to be obtained to the reduction before the early release of benefits, and
- (c) to enable pension benefits to be partly commuted to meet the amount by which the benefits are reduced, and
- (d) to make provision with respect to the early release of benefits during a transitional period.

This Regulation is made under the *Police Regulation (Superannuation) Act 1906*, including section 12H, section 24 (the general regulation-making power) and clause 1 of Schedule 6.

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Clause 1 Police Superannuation Amendment (Release of Benefits) Regulation 2001

Police Superannuation Amendment (Release of Benefits) Regulation 2001

1 Name of Regulation

This Regulation is the *Police Superannuation Amendment (Release of Benefits) Regulation 2001*.

2 Amendment of Police Superannuation Regulation 2000

The *Police Superannuation Regulation 2000* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment

(Clause 3)

Part 3, Division 3

Insert after Division 2:

Division 3 Benefit reductions relating to early release of benefits on ground of severe financial hardship or on compassionate grounds

13A Application of Division

The benefits under the following provisions of the Act may be the subject of a reduction under this Division:

- (a) section 5B (Contributor who is executive officer),
- (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 9C (Preservation of minimum benefits under superannuation guarantee legislation),
- (g) section 10 (Superannuation allowance where member hurt on duty),
- (h) section 12 (Superannuation allowance where a member or former member dies as a result of being hurt on duty), but limited to benefits payable under section 12 (1AA) (a) and section 12 (1AA) (b) (i), or where as a result of an election under subsection (1A) to take a gratuity prescribed by section 13, a benefit is payable under that section,
- (i) section 13 (Gratuity where deceased member not hurt on duty),

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Schedule 1

Amendment

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

13B Reduction of benefits

- (1) This clause applies to the reduction of benefits payable to or in respect of a contributor or former contributor (other than a benefit payable under section 12F or 12G of the Act) to whom a benefit has been released on the ground of the contributor's or former contributor's severe financial hardship or on compassionate grounds.
- (2) If a benefit is released to a former contributor who provided for a benefit under section 9B of the Act, or had a benefit preserved under section 9C of the Act, STC must, on and from the date of release, calculate the amount of any benefit provided for or preserved and reduce that amount by the amount of benefit released. The amount of benefit payable when the benefit provided for or preserved is payable is to be reduced accordingly.
- (3) In any other case, STC must create a debt account in the Fund in respect of the contributor and must when a benefit is payable reduce the benefit that is payable by the amount debited to the debt account at the time the benefit is payable.
- (4) Despite subclause (3), if a benefit is provided for or preserved under section 9B or 9C of the Act after the release to the contributor concerned of a benefit and before a benefit is otherwise payable, STC must, on and from the date the benefit is provided for or preserved, calculate the amount of benefit provided for or preserved and reduce that amount by the amount debited to the debt account at the time the benefit is provided for or preserved. The amount of benefit payable when the benefit provided for or preserved is payable is to be reduced accordingly.
- (5) The amount debited to the debt account is to be the amount of benefit released together with interest on that amount at a rate determined by STC.

- (6) STC may obtain actuarial advice for the purpose of determining the amount of a reduced benefit.

13C Consent to benefit reduction

Before releasing a benefit on the ground of severe financial hardship or on compassionate grounds, STC must obtain the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.

13D Commutation of superannuation allowances for reduction of benefits

- (1) If a benefit that may be taken in the form of a superannuation allowance is to be reduced under this Division, STC may, at its discretion and with the consent of the person to whom the allowance is payable, commute part of the unreduced allowance to a lump sum for the purposes of the payment to STC of the amount of the reduction.
- (2) Commutation of part of the superannuation allowance:
- (a) does not affect any other right that the person has to commute the allowance under the Act, and
 - (b) is not to be taken into account for the purpose of determining whether, and to what extent, any such other right may be exercised, and
 - (c) is to be done on a basis determined by STC.
- (3) STC may obtain actuarial advice for the purpose of determining the basis on which part of a superannuation allowance is to be commuted under this section.

13E Release of benefits during transitional period

- (1) This clause applies to the release of a benefit to a contributor or former contributor on the ground of severe financial hardship or on compassionate grounds during the transitional period if:
- (a) the release was not inconsistent with section 12F or 12G of the Act, as inserted by the *Superannuation Legislation Amendment Act 2000*, and
 - (b) STC obtained the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.
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Schedule 1 Amendment

- (2) Clauses 13A, 13B and 13D apply in respect of a release of benefit to which this clause applies in the same way as they apply to a release of benefit after the commencement of those clauses.
- (3) In this clause:
transitional period means the period commencing on the date of assent to the *Superannuation Legislation Amendment Act 2000* and ending on the commencement of sections 12F and 12G of the Act, as inserted by that Act.

BY AUTHORITY