



New South Wales

# Police Amendment (Death and Disability) Bill 2005

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to facilitate the introduction of a new death or incapacity benefits scheme for police officers. The Bill:

- (a) amends the *Police Act 1990* to remove the special risk benefits that are currently payable to police officers as a consequence of the introduction of the new death or incapacity benefits under a police officers award, and
- (b) amends the *State Authorities Superannuation Act 1987* to enable regulations to be made to provide for the relinquishment of coverage for the additional benefit under the State Authorities Superannuation Scheme in relation to police officers who are covered for death or incapacity benefits under that award.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Police Act 1990* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *State Authorities Superannuation Act 1987* set out in Schedule 2.

**Clause 5** amends the *Police Regulation 2000* as a consequence of the amendments set out in Schedule 1.

## **Schedule 1      Amendment of Police Act 1990**

**Schedule 1 [1]** repeals section 216 (Special risk benefit where certain police officers hurt on duty) of the *Police Act 1990* which currently gives the Commissioner of Police a discretion to make a payment in respect of a police officer who is retired from NSW Police, or dies, because of physical or mental incapacity caused by the officer being hurt on duty. This benefit is to be replaced by new death or incapacity benefits that will be available to police officers under a scheme to be established by a specified industrial award relating to police officers. The scheme will be available to police officers other than officers who are contributors to the Police Superannuation Scheme, that is, officers employed on or after 1 April 1988.

The special risk benefit provisions in section 216AA of the *Police Act 1990*, which relate to students of policing, will remain effective. Therefore, **Schedule 1 [2]–[4]** make consequential amendments to sections 216AA and 216A (Determination by District Court) of that Act to remove references to section 216.

**Schedule 1 [5]** enables savings and transitional regulations to be made as a consequence of the proposed amendments.

**Schedule 1 [6]** inserts savings and transitional provisions as a consequence of the proposed amendments. The Commissioner may still make a payment under section 216 as if that section had not been repealed if the police officer was hurt on duty before the repeal of that section, but only if he or she is not subsequently entitled to a death or incapacity benefit under the specified industrial award. If an amount is paid under section 216 or 216A in relation to a physical or mental injury for which a death or incapacity benefit is also paid, the person to whom the amount is paid is liable to repay the amount to the Commissioner. The amount may be recovered by the Commissioner in a court of competent jurisdiction.

## **Schedule 2      Amendment of State Authorities Superannuation Act 1987**

**Schedule 2 [1]** inserts proposed Part 5D (proposed sections 46AI–46AK) into the *State Authorities Superannuation Act 1987* which provides for the making of regulations to give effect to the provisions of a specified industrial award under which police officers are entitled to death or incapacity benefits. Regulations may be made as to the effect on existing coverage under that Act for a death or incapacity benefit, and liability to pay the additional benefit levy, if a contributor or former

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contributor is covered for a death or incapacity benefit under the specified industrial award. Regulations may also be made in relation to preventing the repayment of any additional benefit levy paid by a contributor or former contributor who is or was a police officer.

**Schedule 2 [2]** enables savings and transitional regulations to be made as a consequence of the proposed amendments.

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First print



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## **Police Amendment (Death and Disability) Bill 2005**

No. , 2005

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### **A Bill for**

An Act to amend the *Police Act 1990* and the *State Authorities Superannuation Act 1987* with respect to death and incapacity benefits for police officers; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Police Amendment (Death and Disability) Act 2005</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5
<b>3 Amendment of Police Act 1990 No 47</b>	6
The <i>Police Act 1990</i> is amended as set out in Schedule 1.	7
<b>4 Amendment of State Authorities Superannuation Act 1987 No 211</b>	8
The <i>State Authorities Superannuation Act 1987</i> is amended as set out in Schedule 2.	9 10
<b>5 Amendment of Police Regulation 2000</b>	11
The <i>Police Regulation 2000</i> is amended by omitting “section 216” from clause 105 and by inserting instead “section 216AA”.	12 13



<b>Schedule 1</b>	<b>Amendment of Police Act 1990</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 216 Special risk benefit where certain police officers hurt on duty</b>	3 4
	Omit the section.	5
<b>[2]</b>	<b>Section 216AA Special risk benefit where student of policing hurt while undergoing police education</b>	6 7
	Omit the definition of <i>CF</i> from section 216AA (3). Insert instead:	8
	<i>CF</i> is the capitalisation factor, prescribed for the purposes of this section by the regulations, for the sex of the student and for the age of the student on the day on which the student was injured while undergoing a police education course.	9 10 11 12
<b>[3]</b>	<b>Section 216A Determination by District Court</b>	13
	Omit section 216A (1) and (2). Insert instead:	14
	(1) An application to the District Court for a determination in relation to a decision of the Commissioner under section 216AA may be made by:	15 16 17
	(a) a student of policing referred to in section 216AA (1), or	18
	(b) the spouse or personal representative of a student of policing referred to in section 216AA (2),	19 20
	within 6 months after the decision is notified in writing to the student, spouse or personal representative.	21 22
	(2) If within 6 months after a student of policing to whom section 216AA applies suffers an injury that renders the student totally and permanently incapacitated for work, or dies, the Commissioner fails or refuses to make a decision under that section in relation to the student, the Commissioner is taken, for the purposes of this section, to have made a decision under that section to refuse to pay any amount in relation to the student.	23 24 25 26 27 28 29
<b>[4]</b>	<b>Section 216A (5)</b>	30
	Omit “216 or”.	31
<b>[5]</b>	<b>Schedule 4 Savings, transitional and other provisions</b>	32
	Insert at the end of clause 2 (1):	33
	<i>Police Amendment (Death and Disability) Act 2005</i>	34

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<b>[6] Schedule 4, Part 22</b>	1
Insert after Part 21:	2
<b>Part 22 Provisions consequent on enactment of Police Amendment (Death and Disability) Act 2005</b>	3 4 5
<b>68 Definitions</b>	6
In this Part:	7
<i>amending Act</i> means the <i>Police Amendment (Death and Disability) Act 2005</i> .	8 9
<i>death or incapacity benefit</i> means a benefit payable to or in respect of a police officer under a police officers award (whether provided for in that award or by or under any Act, law or instrument) if:	10 11 12 13
(a) the police officer dies, or	14
(b) the police officer suffers total and permanent incapacity or partial and permanent incapacity.	15 16
<i>hurt on duty</i> has the same meaning as in section 216 (6) (as in force immediately before its repeal by the amending Act).	17 18
<i>police officers award</i> means a State industrial instrument applying to police officers and prescribed by the regulations for the purposes of this definition.	19 20 21
<b>69 Savings in relation to special risk benefits</b>	22
(1) Sections 216 and 216A (as in force immediately before the commencement of Schedule 1 [1] to the amending Act) continue to apply to and in respect of a police officer as if those sections had not been repealed and amended, respectively, if:	23 24 25 26
(a) the police officer was hurt on duty before the repeal of section 216, and	27 28
(b) he or she is not subsequently entitled to a death or incapacity benefit in respect of that injury.	29 30
(2) If an amount is paid under section 216 or 216A (as in force immediately before the commencement of Schedule 1 [1] to the amending Act) in relation to a physical or mental injury for which a death or incapacity benefit is also paid, the person to whom the amount is paid is liable to repay the amount to the Commissioner.	31 32 33 34 35
(3) Any amount due to the Commissioner under this clause may be recovered as a debt in a court of competent jurisdiction.	36 37

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- (4) Subclauses (2) and (3) apply whether or not the amount was received before or after the commencement of this clause.

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<b>Schedule 2</b>	<b>Amendment of State Authorities Superannuation Act 1987</b>	1
		2
	(Section 4)	3
<b>[1] Part 5D</b>		4
	Insert after Part 5C:	5
	<b>Part 5D Death or incapacity benefits for police officers</b>	6
		7
<b>46AI</b>	<b>Definitions</b>	8
	In this Part:	9
	<i>amending Act</i> means the <i>Police Amendment (Death and Disability) Act 2005</i> .	10
	<i>death or incapacity benefit</i> means a benefit payable to or in respect of a police officer under a police officers award (whether provided for in that award or by or under any Act, law or instrument) if:	11
	(a) the police officer dies, or	12
	(b) the police officer suffers total and permanent incapacity or partial and permanent incapacity.	13
	<i>police officers award</i> means a State industrial instrument applying to police officers and prescribed by the regulations for the purposes of this definition.	14
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<b>46AJ</b>	<b>Application of Part</b>	22
	This Part has effect despite any other provision of this Act or the regulations.	23
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<b>46AK</b>	<b>Provision to be made with respect to death or incapacity benefits for police officers</b>	25
	(1) The regulations may make provision for or with respect to the following:	26
	(a) the effect on coverage under this Act for an additional benefit, and liability to pay the additional benefit levy, of a contributor or former contributor who is or was a police officer and who is covered for a death or incapacity benefit,	27
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(b)	preventing the repayment of any additional benefit levy paid by a contributor or former contributor who is or was a police officer,	1 2 3
(c)	any other matter that is necessary or convenient for the purposes of complying with or giving effect to a police officers award or this Part.	4 5 6
(2)	Any such regulations may take effect from the date of commencement of this Part, as inserted by the amending Act, or the date on which a police officers award first applies to a police officer (whichever is earlier).	7 8 9 10
(3)	Without limiting section 46AJ, regulations may be made under this Part that are inconsistent with Part 3, 4, 5 or 6 of this Act, or any regulations made under those Parts, but only to the extent that the inconsistency with any of those provisions is necessary for the purpose of compliance with or giving effect to a police officers award.	11 12 13 14 15 16
<b>[2]</b>	<b>Schedule 6 Savings and transitional provisions</b>	17
	Insert at the end of clause 1 (1):	18
	<i>Police Amendment (Death and Disability) Act 2005</i>	19