



New South Wales

Police Regulation (Superannuation) Amendment Bill 2010

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Police Regulation (Superannuation) Act 1906* in relation to the discharge of members of the Police Force (employed before 1 April 1988) who have been on long-term sick leave, whose health is unlikely to improve to enable a return to duty and who are determined by the trustees of the Police Superannuation Fund (on medical advice) to be incapable of continuing to exercise the functions of a police officer. The Bill enables the Commissioner of Police to apply for such a determination of the trustees, in which case the discharged member will be entitled to the relevant superannuation benefit depending on whether the infirmity was or was not caused by the member having been hurt on duty.

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 the date of assent to the proposed Act.

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

The Schedule inserts new section 15B into the Act to give effect to the object outlined in the above Overview. The proposed new section includes the following provisions:

- (a) The section applies to a member of the Police Force who continues to be a member of the closed Police Superannuation Fund, namely members employed before 1 April 1988.
- (b) The section applies to any such member who has been on sick leave for at least 12 months in the previous 18 months and whose health, in the opinion of a medical practitioner, is not likely to improve sufficiently to enable the member to return to duty.
- (c) The Commissioner of Police is authorised to apply to the trustees of the Police Superannuation Fund (*STC*) for a determination 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* (the certificate is a pre-requisite to the medical discharge and superannuation entitlement of a member who has not reached the retirement age).
- (d) Before making such an application, the Commissioner is to provide the member with a copy of the proposed application detailing the member's infirmities (and supporting information) and give the member 28 days to notify the Commissioner of any other infirmities and whether any of the infirmities were caused by the member having been hurt on duty. Discharge of a member hurt on duty entitles the member to a higher superannuation benefit.
- (e) The Commissioner may provide a copy of the proposed application after the member has been on sick leave for at least 8 months to enable an assessment by the Commissioner before the application is formally made to *STC* whether any further infirmities notified by the member were caused by the member having been hurt on duty.
- (f) The Commissioner may supply to *STC* medical information about the member without the need to obtain the consent of the member and despite any restrictions in applicable privacy legislation.
- (g) A certificate enabling the medical discharge of the member may be issued by *STC* on the basis that the infirmity concerned was caused by the member having been hurt on duty or on the basis it was not so caused. If the certificate is issued on the basis that the member was not hurt on duty, a superannuation benefit can later be paid at the higher rate backdated to the date of discharge if the infirmity concerned is later determined by the Commissioner or on appeal to have been caused by the member having been hurt on duty.
- (h) The period of sick leave referred to in the section will include periods of sick leave with or without pay and periods of sick leave before or after the commencement of the proposed section.

First print



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New South Wales

Police Regulation (Superannuation) Amendment Bill 2010

No. , 2010

A Bill for

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.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Police Regulation (Superannuation) Amendment Act 2010</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

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). 1
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- (7) If the application under this section is changed after a copy is 3
provided to the member, the Commissioner of Police is to 4
provide a copy of the revised application to the member. 5
Subsection (5) does not apply to the provision of the revised 6
application. 7
- (8) A certificate for which an application is made under this section 8
is to be issued under and in accordance with: 9
- (a) section 10B if the infirmity to which the certificate relates 10
has been determined (by the Commissioner of Police under 11
section 10B (3) or on appeal) to be an infirmity caused by 12
the member having been hurt on duty, or 13
- (b) section 8 in any other case. 14
- (9) The certificate is to be issued under and in accordance with 15
section 8 (and without regard to whether the infirmity was or was 16
not caused by the member of the police force having been hurt on 17
duty) if: 18
- (a) the member did not seek a determination that the infirmity 19
was so caused within the period referred to in 20
subsection (5), or 21
- (b) the Commissioner determined that the infirmity was not 22
caused by the member having been hurt on duty. 23
- However, if the infirmity to which the certificate relates is 24
subsequently determined (by the Commissioner of Police under 25
section 10B (3) or on appeal) to be an infirmity caused by the 26
member having been hurt on duty, the certificate is taken to be a 27
certificate under section 10B. 28
- (10) If a certificate is issued under section 8 and the member of the 29
police force to whom it relates is duly discharged and a 30
superannuation allowance granted under section 7, STC may 31
(despite anything to the contrary in this Act) consider any 32
application by the member for a superannuation allowance 33
payable because the member's infirmity was caused by having 34
been hurt on duty. A determination to grant such a 35
superannuation allowance is to have effect on and from the 36
member's discharge. 37
- (11) An application may be made under this section by the 38
Commissioner of Police, and a superannuation allowance 39
granted, with or without the consent of the member of the police 40
force to whom the application relates. 41

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- (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. 1
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- (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*. 8
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- (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. 13
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- (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. 18
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- (16) In this section, *sick leave* means sick leave, with or without pay, and whether before or after the commencement of this section. 22
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