



Police Superannuation Legislation Amendment Bill 2007

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Extract from NSW Legislative Assembly Hansard and Papers Wednesday 20
June 2007.

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Parliamentary Secretary) [10.53 p.m.], on behalf
of Mr John Watkins: I move:

That this bill be now agreed to in principle.

The Police Superannuation Legislation Amendment Bill 2007 introduces miscellaneous amendments to the Police Regulation (Superannuation) Act 1906. This Act governs the Police Superannuation Scheme, which provides superannuation and workers compensation-style benefits to police officers recruited prior to the scheme's closure to new members in April 1988. The main purpose of the bill is to allow members of the Police Superannuation Scheme to salary sacrifice their compulsory member contributions to the scheme. The bill also contains other amendments to clarify the intention of certain legislative provisions. The proposed amendments do not affect the value of members' superannuation benefits or increase the Government's superannuation liabilities.

Members of the Police Superannuation Scheme are required to make member contributions at around 6 per cent of salary. Currently these compulsory member contributions can be paid only from after-tax salary. The amendments will allow Police Superannuation Scheme members to pay some or all of the compulsory member contributions from pre-tax salary under an effective salary sacrifice arrangement. Some members will recall that similar amendments were passed by Parliament in 2006 to allow members of the State Authorities Superannuation Scheme to pay their compulsory member contributions from pre-tax salary. The State Authorities Superannuation Scheme salary sacrifice arrangements came into effect from 1 April 2007 and potentially benefit around 60,000 State Authorities Superannuation Scheme members.

The Superannuation Legislation Amendment Bill 2007 extends similar salary sacrifice arrangements to another scheme that covers around 28,600 public sector employees: the State Superannuation Scheme. This bill extends the salary sacrifice arrangements to the Police Superannuation Scheme and employees covered by the Police Association Employees (Superannuation) Act 1969. Around 3,700 serving police officers may potentially benefit from these arrangements. It is anticipated that Pillar Administration and the New South Wales Police Force will be able to finalise implementation of the salary sacrifice arrangements by early 2008.

The passage of this bill will mean that all New South Wales public sector employees who are members of the defined benefit superannuation schemes will have the

capacity to salary sacrifice their compulsory member contributions to those schemes. These employees will continue to have the capacity to also make additional salary sacrifice contributions to an accumulation scheme such as First State Super. Given the Commonwealth changes to the taxation of superannuation benefits and the co-contribution measures, it will be important for employees to carefully consider their individual financial circumstances before making salary sacrifice decisions. Employees will be encouraged to seek independent financial advice.

Under the Police Regulation (Superannuation) Act 1906, benefits are payable to current and former police officers who have been certified by the SAS Trustee Corporation to be incapable, from infirmity of body or mind, of discharging the duties of the member's office. The amendments make clear that such a certificate is to be provided where a police officer or former police officer is incapable, from infirmity of body or mind, of exercising the functions—including powers, authorities and duties—of a police officer referred to in section 14 (1) of the Police Act 1990. The functions referred to in that section are those conferred or imposed on a constable by or under any law, including the common law, of the State.

The proposed amendments are intended to overcome the decision of the New South Wales Industrial Relations Commission in *Christopher Morley v SAS Trustee Corporation* (2007). The amendments make clear that a police officer who cannot personally perform the functions imposed on all police officers by section 14 (1) of the Police Act 1990 shall be entitled to a superannuation allowance on being discharged. Furthermore, the bill also makes clear that it is not relevant to consider an officer's actual rank or position at a particular point in time when determining whether he or she is capable of performing the duties of a constable.

The opportunity is taken in this bill to make minor amendments to the Police Regulation (Superannuation) Act 1906. Minor amendments are proposed to the provisions that require all the benefits to be paid by the SAS Trustee Corporation. In practice, one type of benefit, known as the section 12D medical expenses, have for many years been administered and paid directly by the New South Wales Police Commissioner instead of the trustee. Medical expenses are payable in respect of police officers who are hurt on duty and covers such things as ongoing visits to the doctor or physiotherapist. Recent changes to the method of paying the section 12D medical expenses have highlighted the need to clarify that these benefits do not necessarily need to be paid directly by the SAS Trustee Corporation from the superannuation fund. The amendments in the bill will make this clear.

The bill also contains minor amendments that clarify the meaning of provisions relating to the superannuation entitlements of executive officers who are members of the Police Superannuation Scheme. Similar amendments are contained in the another bill before Parliament, the Superannuation Legislation Amendment Bill, which applies to executive officers who are members of the State Superannuation Scheme and the State Authorities Superannuation Scheme. Since the Senior Executive Service was established in 1989, executive officers who are members of the defined benefit schemes have been entitled at any time to transfer their benefits in those schemes to an accumulation scheme.

Since the Public Sector Executive Superannuation Scheme was closed in 1999,

executive officers could transfer their benefits to First State Super or another complying accumulation fund. The transfer provisions are currently capable of being misinterpreted to mean that executive officers must first cease employment before the benefits can be transferred. This has caused confusion in the administration of the superannuation schemes. The bill clarifies that executive officers continue to have the right to transfer their benefits out of their scheme at any time. I commend the bill to the House.