



New South Wales

# Police Amendment (Death and Disability) Bill 2011

## Explanatory note

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

## Overview of Bill

The objects of this Bill are:

- (a) to terminate the existing industrial award-based scheme for death and disability payments to police officers injured at work or off-duty, and
- (b) to replace that scheme with entitlements to death and disability payments in accordance with an approved insurance policy, and
- (c) to amend the *Industrial Relations Act 1996* to remove the jurisdiction of the Industrial Relations Commission to make or vary industrial instruments that provide for death and disability payments in respect of police officers, and
- (d) to make other consequential or ancillary amendments.

## 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.

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\* Amended in committee—see table at end of volume.

## Schedule 1 Amendment of Police Act 1990 No 47

**Schedule 1 [1]** inserts a new Part 9B into the *Police Act 1990* which provides for death and disability payments to police officers in accordance with an approved insurance policy. The new Part 9B contains the following provisions:

**Proposed section 199A** sets out the definitions for the purposes of the proposed Part. ***Death and disability payments*** is defined to include lump sum payments or income support in relation to death or incapacity for work arising from a work-related injury or an off-duty injury (and includes workers compensation top-up weekly payments).

**Proposed section 199B** excludes from the operation of the proposed Part police officers who are contributors to the Police Superannuation Fund or the State Superannuation Fund and (with an exception) police officers who are contributors to the State Authorities Superannuation Fund and are covered by the additional benefit for incapacity under the *State Authorities Superannuation Act 1987*.

**Proposed section 199C** requires the NSW Police Force or FSS Trustee Corporation to take out an approved death and disability insurance policy on behalf of police officers.

**Proposed section 199D** provides that an ***approved death and disability insurance policy*** is an insurance policy approved by the Minister, with the concurrence of the Treasurer, that provides death and disability payments for police officers. An approved death and disability insurance policy must provide for payments for police officers who die, or who are incapacitated for work as police officers, as a result of being injured at work. An approved death and disability insurance policy may also include provision for payments in respect of injuries that did not occur at work. It may also provide for payments in the form of income protection to a police officer who is a contributor to the State Authorities Superannuation Fund and is covered by the additional benefit for incapacity under the *State Authorities Superannuation Act 1987*.

**Proposed section 199E** requires the Minister, in approving an insurance policy under the proposed Part, to be satisfied that the cost to the State of the policy (after deducting the contribution made by police officers under proposed section 199F) will be approximately 4.6% of the remuneration of police officers covered by the policy. The regulations may vary that cost to the State.

**Proposed section 199F** requires police officers to make the contribution prescribed by the regulations to the costs of the approved death and disability insurance policy. Until a contribution rate is prescribed, the rate will be the same as the contribution required to be made by police officers under the *Crown Employees (Police Officers Death and Disability) Award 2005* before its rescission by the proposed Act (namely 1.8% of their remuneration).

**Proposed section 199G** sets out the matters that may be dealt with by the regulations, including the provisions that must or may be included in an approved death and disability insurance policy, savings and transitional provisions and injury management.

**Proposed section 199H** provides that the proposed Part does not affect workers compensation or superannuation entitlements.

**Proposed section 199I** rescinds the *Crown Employees (Police Officers Death and Disability) Award 2005*.

**Proposed section 199J** rescinds clause 9 of the *Crown Employees (Police Officers - 2009) Award* (relating to top-up of weekly workers compensation).

**Proposed section 199K** provides for savings and transitional arrangements in respect of death and disability payments to police officers. Under the proposed section, the provisions of the *Crown Employees (Police Officers Death and Disability) Award 2005 (the former award)* relating to temporary or partial incapacity will continue to apply to a police officer who has been assessed by an independent medical practitioner as suffering a disability resulting in the police officer being incapacitated for work as a police officer, but who has not yet been discharged from the NSW Police Force. A police officer who is injured before being covered by an approved death and disability insurance policy (but who would have been entitled to a payment under the former award in respect of death or incapacity arising from that injury) is entitled to payments equivalent to those that the police officer would have been paid under the approved policy if it had covered the police officer. The proposed section preserves entitlements under an insurance policy taken out on behalf of police officers before the commencement of the proposed Part in relation to death or total and permanent incapacity. Police officers will also continue to be entitled to workers compensation top-up payments under clause 9 of the *Crown Employees (Police Officers - 2009) Award* for a period of 6 months after the commencement of the proposed Part, despite the rescission of that provision.

**Proposed section 199L** provides for the cost of death and disability payments for police officers to be kept under review and for the Minister and Treasurer to be advised of that cost.

**Proposed section 199M** provides for a review by the Auditor-General after the enactment of the proposed Act of whether the proposed Part and the injury management practices for police officers have improved the performance of the NSW Police Force in securing the return of injured police officers to duty.

**Schedule 1 [2]** enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

**Schedule 1 [3]** makes a consequential amendment to the savings and transitional provisions relating to the former special risk benefits to ensure that those provisions are not affected by the replacement of the existing death and disability scheme under the proposed Act.

## **Schedule 2      Amendment of Police Regulation 2008**

**Schedule 2 [2]** provides for a top-up of weekly workers compensation payments to injured police officers to ensure that, during the first 6 months of incapacity, the officers are paid their full ordinary rate of pay (that will include loadings and allowances in the nature of salary).

**Schedule 2 [1] and [3]** make consequential amendments.

## **Schedule 3      Amendment of State Authorities Superannuation Act 1987 No 211**

The Schedule inserts a new Part 5D into the *State Authorities Superannuation Act 1987* which provides for the making of regulations to enable police officers to elect to be covered for lump sum payments by an approved death and disability insurance policy under the *Police Act 1990* instead of the additional superannuation benefit.

## **Schedule 4      Amendment of Industrial Relations Act 1996 No 17**

**Schedule 4 [2]** removes the jurisdiction of the Industrial Relations Commission to make or vary industrial instruments that provide for death and disability payments in respect of police officers. It also provides that the Commission cannot treat any savings attributable to the operation of the proposed Act as employee-related cost savings that may offset increased employee-related costs arising from proposed salary increases.

**Schedule 4 [1]** makes an ancillary amendment to the jurisdiction of the Industrial Relations Commission in relation to unfair contracts.