

CHAPTER 6

CONSOLIDATED POLICE AND FIREMEN'S PENSION FUND

Authority

N.J.S.A. 43:16-7.

Source and Effective Date

R.2003 d.352, effective August 7, 2003.
See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Chapter Expiration Date

Chapter 6, Consolidated Police and Firemen's Pension Fund, expires on August 7, 2008.

Chapter Historical Note

Chapter 6, Consolidated Police and Firemen's Pension Fund, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 6, Consolidated Police and Firemen's Pension Fund, expired on December 6, 1984.

Chapter 6, Consolidated Police and Firemen's Pension Fund, was adopted as new rules by R.1985 d.37, effective February 19, 1985. See: 16 N.J.R. 2997(b), 17 N.J.R. 475(b).

Pursuant to Executive Order No. 66(1978), Chapter 6, Consolidated Police and Firemen's Pension Fund, was readopted as R.1988 d.579, effective November 22, 1988. See: 20 N.J.R. 2537(a), 20 N.J.R. 3142(a). Pursuant to Executive Order No. 66(1978), Chapter 6 expired on November 22, 1993.

Chapter 6, Consolidated Police and Firemen's Pension Fund, was adopted as new rules by R.1993 d.659, effective December 20, 1993. See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

Pursuant to Executive Order No. 66(1978), Chapter 6, Consolidated Police and Firemen's Pension Fund, was readopted as R.1998 d.583, effective November 23, 1998, and Subchapter 2, Membership, and Subchapter 4, Transfers, were repealed by R.1998 d.583, effective December 21, 1998. See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Chapter 6, Consolidated Police and Firemen's Pension Fund, was readopted as R.2003 d.352, effective August 7, 2003. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION

17:6-1.1 Commission meetings

(a) The Commission shall meet annually at the beginning of each year unless the Secretary determined that an additional meeting is required, pursuant to N.J.S.A. 43:16-6.2.

(b) The presence of three Commission members at the start of any meeting of the Commission will be necessary in order to constitute a quorum of the Commission. Such presence need not be actual physical presence but may, at the determination of the Secretary that the circumstances warrant it, include the participation of any of the three Commission members by telecommunications connection.

Amended by R.1993 d.659, effective December 20, 1993.
See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

Amended by R.1998 d.583, effective December 21, 1998.
See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

In (a), inserted "semiannually" following "meet", substituted "June and December" for "each month," and substituted "Secretary" for "chairman"; and in (b), substituted "Secretary" for "chairman" in the second sentence and substituted "three Commission" for "four commission" throughout.

Amended by R.2003 d.352, effective September 2, 2003.
See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Rewrote (a).

17:6-1.2 Fiscal year

The transaction of business and control of funds shall be conducted on a July 1 to June 30 fiscal year.

Amended by R.2003 d.352, effective September 2, 2003.
See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Rewrote the section.

17:6-1.3 Officers and committees

(a) The chairman of the Commission will be elected by a majority vote of the members in attendance at the annual meeting, not less than three members to be present at such a meeting. The chairman of the Commission shall preside at all meetings. In the absence of the chairman, another member selected by the majority of the members in attendance will preside for that single meeting.

(b) The Director of the Division of Pensions and Benefits will select from the staff of such Division a Secretary and Assistant Secretary, the latter to serve in the absence of the Secretary.

(c) The chairman will appoint such committees from the Commission members as he or she deems necessary to facilitate the Commission's operations. Such committee appointments will be for a one-year period, commencing each July 1.

Amended by R.1973 d.26, effective January 19, 1973.
See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

Amended by R.1993 d.659, effective December 20, 1993.
See: 25 N.J.R. 3946(a), 25 N.J.R. 5942(b).

Amended by R.1998 d.583, effective December 21, 1998.

See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

In (a), substituted "June meeting of each year." for "first meeting of each fiscal year" and "three members" for "four members" in the first sentence.

Amended by R.2003 d.352, effective September 2, 2003.

See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Rewrote the section.

17:6-1.4 Election of members—Commission

(a) The election of Commission members shall include the use of election notices and nominating petitions. Requirements for the election notice and petition shall include:

1. A notice prepared and forwarded to retired members advising them of the position to be voted upon. All present members of the Commission and the expiration of their terms will be shown.

2. The election notice will indicate to the member that petition forms will be provided by the Commission and forwarded upon request.

3. The election notice will also indicate that at least two eligible retired members must sign the petition in order for a candidate's name to be placed on the ballot.

4. Petitioners shall indicate their Social Security or retirement number, and sign the petition.

5. A retired member may sign a petition for only one candidate.

6. The candidate named on the petition must sign the petition in a designated space indicating that he or she is willing to be a candidate.

7. The instructions will indicate the closing date for the filing of such petitions and also indicate that a ballot bearing the names of such candidates will be forwarded to each eligible voter.

8. The qualified candidates will be invited to a drawing to determine the order in which the candidates' names will appear on the ballot.

9. If only one candidate is nominated for a position, the candidate shall be deemed elected to the position without balloting.

(b) The requirements for the ballot shall include the following:

1. Ballots bearing the name and retirement number of retired members shall be forwarded directly to retired members.

2. The ballots and return envelopes will identify the ballot as being either for the police or fireman's election.

3. The closing date of the election will be indicated.

4. The name of each candidate nominated by proper petition filed within the prescribed time will appear on the ballot.

5. Instructions for the proper casting of the ballot (marking of the ballot, returning of such ballot through the return envelope and notice to sign such envelopes) will be given to each eligible voter.

6. The instructions will also indicate that the candidate receiving the highest number of votes will be declared elected to position.

7. The returned ballot-bearing envelope is to be examined for proper signature. A record will be maintained to identify the Social Security or retirement number of the members who have voted.

(c) The Commission will appoint the Secretary and one assistant to examine the returned ballots and to tabulate the votes cast:

1. The Secretary will have the power to eliminate any ballot which is not properly cast.

2. The Secretary will report on the results of the election to the Commission.

(d) The candidates whose names are printed on the ballots will be informed as to the method and date of counting the ballots, and will be invited to be present or to be represented at the counting of the ballots.

(e) In the event there is but one qualified candidate who has indicated his or her willingness to be such a candidate, the Secretary will call for a vote cast in favor of the candidate by the members of the Commission. In the event that the candidate is so elected, a statement as to the ineligibility of any other candidate will be filed with the Secretary of State, together with notice that the candidate has been so elected.

Amended by R.1984 d.36, effective February 19, 1985.

See: 16 N.J.R. 2999(a), 17 N.J.R. 476(a).

(b)3: "20" eligible was "50".

Amended by R.1985 d.36, effective February 19, 1985.

See: 16 N.J.R. 2999(a), 17 N.J.R. 476(a).

Amended by R.1989 d.320, effective June 19, 1989.

See: 21 N.J.R. 438(a), 21 N.J.R. 1744(a).

Petition signatures changed from 20 to five, at (b)3.

Amended by R.1998 d.583, effective December 21, 1998.

See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Rewrote the section.

Amended by R.2000 d.412, effective October 16, 2000.

See: 32 N.J.R. 2660(b), 32 N.J.R. 3863(a).

Rewrote the section.

17:6-1.5 Certifying officer (employer)

The chief fiscal officer of each county or municipality participating in the pension fund or any official properly designated by the governing body will serve as the certifying officer.

Amended by R.1998 d.583, effective December 21, 1998.

See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Deleted former (a) designation and substituted a reference to certifying officers for a reference to certifying agents at the end; and deleted former (b).

17:6-1.6 Records

(a) The minutes of the Commission are a matter of public record and may be inspected during regular business hours in the office of the secretary of the Commission.

(b) The mailing addresses of all retired members are considered to be a part of the member's confidential files and shall not be released for any purpose.

(c) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the Commission.

As amended, R.1973 d.26, effective January 19, 1973.
 Sec: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
 Amended by R.1998 d.583, effective December 21, 1998.
 See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
 In (b), deleted "active and" preceding "retired".

17:6-1.7 Appeal from Commission decisions

(a) The following statement shall be incorporated in every written notice setting forth the Commission's determination in a matter where such determination is contrary to the claim made by the claimant or his legal representative:

"If you disagree with the determination of the commission in this matter, you may appeal by sending a written statement to the commission within 45 days from the date of this letter informing the commission of your disagreement and all of the reasons therefor. If no such written statement is received within the 45-day period, this determination shall be considered final."

As amended, R.1973 d.26, effective January 19, 1973.
 See: 4 N.J.R. 283(a), 5 N.J.R. 60(b).
 Amended by R.1998 d.583, effective December 21, 1998.
 See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

17:6-1.8 Suspension of pension checks

(a) Monthly pensions will be suspended under the following circumstances and the suspension will continue during the period of default:

1. If a disability retirant fails to appear for a medical examination;
2. If a widow, widower, parent or guardian of a minor child(ren) fails to file a certificate of eligibility which is normally mailed to such beneficiaries on an annual basis;
3. If a retirant or beneficiary becomes mentally or physically incompetent. The disbursement of pension checks in this event shall be suspended until a proper legal representative has been appointed.

As amended, R.1979 d.476, effective December 6, 1979.
 See: 11 N.J.R. 524(e), 12 N.J.R. 57(a).

17:6-1.9 (Reserved)

As amended, R.1983 d.35, effective February 7, 1983.
 See: 14 N.J.R. 1293(a), 15 N.J.R. 163(d).
 Repealed rule.

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. RETIREMENT

17:6-3.1 (Reserved)

As amended, R.1973 d.26, effective January 19, 1973.
 See: 5 N.J.R. 283(b), 5 N.J.R. 60(b).
 Correction: "deficiency" substituted for "deficiencies" and the last subsection cite corrected to (d).
 See: 18 N.J.R. 1624(a).
 Repealed by R.1998 d.583, effective December 21, 1998.
 See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
 Section was "Applications".

17:6-3.2 (Reserved)

As amended, R.1973 d.26, effective January 19, 1973.
 See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
 As amended, R.1977 d.461, effective December 7, 1977.
 See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).
 As amended, R.1981 d.201, effective July 9, 1981.
 See: 13 N.J.R. 245(a), 13 N.J.R. 462(a).
 (d) added.
 Repealed by R.1998 d.583, effective December 21, 1998.
 See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
 Section was "Effective dates; changes".

17:6-3.3 Survivor benefits

(a) Payment of benefits to eligible survivors shall become effective on the first of the month of the member's death and shall terminate as of the month in which the survivor no longer qualifies for such benefits.

(b) A pension allowance shall be payable for the entire month in which the retirant or beneficiary dies.

As amended, R.1973 d.26, effective January 19, 1973.
 See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).
 As amended, R.1976 d.103, effective April 5, 1976.
 See: 8 N.J.R. 50(c), 8 N.J.R. 262(b).
 Amended by R.1998 d.583, effective December 21, 1998.
 See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).
 Rewrote the section.

Case Notes

Evidence sustained finding that police chief's death was not caused by traumatic event to be compensable under death benefits statute; preexisting symptomatic coronary artery disease. *Estate of Terminelli v. Police & Firemen's Retirement System, Div. of Pensions, 290 N.J.Super. 231, 675 A.2d 673 (A.D. 1996).*

Divorced spouse of deceased police officer not an eligible widow under police and firemen's retirement system. *Estate of Lyons v. Board of Trustees of the Police and Firemen's Retirement System, 93 N.J.A.R.2d (TYP) 85.*

Widow's benefits not restored when subsequent marriage ends in divorce or death. *Colavito v. Board of Trustees, Police and Firemen's Retirement System. 92 N.J.A.R.2d (TYP) 158.*

17:6-3.4 Accrued allowance

In the event of death of a retired member, the accrued allowance will be paid to the estate of the member if no eligible widow or dependent survives him.

17:6-3.5 Ineligibility of adopted children

Children of a deceased member, in the event of their adoption by another person, are not eligible for benefits.

17:6-3.6 (Reserved)

As amended, R.1973 d.26, effective January 19, 1973.

See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

As amended, R.1981 d.201, effective July 9, 1981.

See: 13 N.J.R. 245(a), 13 N.J.R. 462(a).

(b) added.

Repealed by R.1998 d.583, effective December 21, 1998.

See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Section was "Retirement credit".

17:6-3.7 (Reserved)

As amended, R.1973 d.26, effective January 19, 1973.

See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

Amended by R.1998 d.583, effective December 21, 1998.

See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Repealed by R.2003 d.352, effective September 2, 2003.

See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Section was "Disability determination".

Case Notes

Police officer's injury to back while trying to open automobile door was not traumatic event for purposes of determining accidental disability benefits. *Kauffman v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 31.

Police officer's subjective claims of pain insufficient evidence of disability to award permanent disability benefits. *Suarez v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 6.

Disability benefits denied: application was filed while member was not "in service." *Schott v. Police and Firemen's Retirement System*, 94 N.J.A.R.2d (TYP) 227.

Traumatic event giving rise to accidental disability retirement resulted from police officer's three-foot fall during work. *Zakian v. Retirement System*, 93 N.J.A.R.2d (TYP) 291.

Alleged injury to back and neck while putting away files was not traumatic event entitling police officer to accidental disability retirement. *Elston v. Retirement System*, 93 N.J.A.R.2d (TYP) 275.

Alleged harassment of wounded police officer on job did not constitute traumatic event requiring readjustment of accidental disability retirement. *Sordo v. Retirement System*, 93 N.J.A.R.2d (TYP) 271.

Reinstatement was not justified when bi-polar disorder afflicting disabled fireman had neither vanished nor diminished. *Arnao v. Retirement System*, 93 N.J.A.R.2d (TYP) 235.

Major fire not traumatic event entitling firefighter to accidental disability retirement benefits. *Leone v. Board of Trustees of the Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 126.

Police officer with psychic trauma after incidents leading to public humiliation, demotion and harassment by fellow officers not eligible for accidental disability retirement. *Redfield v. Board of Trustees, Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 91.

Jump from collapsing retaining wall constituted traumatic event qualifying park ranger for accidental disability retirement benefits. *Nelson v. Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 87.

Twisting injury suffered when horse reared up not traumatic event qualifying police officer for accidental disability retirement benefits. *Mazza v. Police and Firemen's Retirement system*, 93 N.J.A.R.2d (TYP) 59.

Injuries sustained by patrolman in car accident on way to work not result of performance of regular and assigned duties within meaning of accidental disability retirement pension statute. *Osborne v. Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 1.

Smoke inhalation not traumatic event qualifying police officer for accidental disability retirement benefits. *Lawrence v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 151.

Hearsay medical reports not sufficient to show police officer permanently and totally disabled for accidental disability retirement purposes. *Mercier v. Board of Trustees, Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 94.

Police officer's back condition not direct result of multiple work accidents so as to entitle him to accidental disability retirement pension. *Breure v. Board of Trustees of the Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 73.

Police officer with preexisting back condition entitled to accidental disability retirement compensation after car accident in which he injured his back. *Philson v. Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 52.

Patrolman who drove vehicle into pothole was not injured by traumatic event so as to be eligible for accidental disability retirement benefits. *Sprowl v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 32.

Police officer who injured his arm while directing traffic was unable to use required weapons, entitling him to accidental disability retirement benefits. *Thomason v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 25.

17:6-3.8 (Reserved)

As amended, R.1973 d.26, effective January 19, 1973.

See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

Amended by R.1998 d.583, effective December 21, 1998.

See: 30 N.J.R. 3761(b), 30 N.J.R. 4388(a).

Repealed by R.2003 d.352, effective September 2, 2003.

See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Section was "Employer application; employee notice".

17:6-3.9 (Reserved)

As amended, R.1973 d.26, effective January 19, 1973.

See: 4 N.J.R. 283(b), 5 N.J.R. 60(b).

As amended, R.1976 d.103, effective April 5, 1976.

See: 8 N.J.R. 50(c), 8 N.J.R. 262(b).

As amended, R.1977, d.461, effective December 7, 1977.

See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).

As amended, R.1982, d.349, effective October 18, 1982.

See: 13 N.J.R. 749(b), 14 N.J.R. 1164(d).

Clarification of treatment in "imminent death" cases.

Repealed by R.2003 d.352, effective September 2, 2003.

See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Section was "Medical examinations; physicians".

17:6-3.10 (Reserved)

R.1977 d.461, effective December 7, 1977.

See: 9 N.J.R. 385(d), 10 N.J.R. 44(b).

Repealed by R.2003 d.352, effective September 2, 2003.

See: 35 N.J.R. 2409(a), 35 N.J.R. 4124(b).

Section was "Effective date; death prior thereto".