



Key LS Personnel

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<i>Acting Chief, Administrative and Resource Management Division</i>	: PSUPT RUTHER CRIS A PARRILLA
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PANYERONG PULIS @ UR SERBIS 24/7



**Kailangan mo ba ng payo ukol sa pagpapatupad ng batas?
MAGTANONG KAY PANYERONG PULIS @ UR SERBIS 24/7**

Ano ang maaring itanong?

- Tamang pagpapatupad ng batas
- Batas administratibo ng PNP

Saan maaaring magtanong?

- **LANDLINE:**
Tumawag sa 470-1297
- **CELLPHONE**
Tumawag o magtext sa
GLOBE: 09178562801
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Mag tweet sa @PNPLegal



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PNP Retirement Laws



of retirement.

In this edition of the Panyerong Pulis Advisory, the PNP Legal Service would like to start the new year with an informational campaign intended for members of the organization who are about to face the inevitable... the prospect

Police officers are expected to know not only the basic rules of police operations, but the most relevant laws governing every facet of law enforcement. Acquired from long and dedicated service, such cache of information and knowledge will aid every policeman in wading through legal obstacles thereby presenting him to be no less than a loyal

Is there any other mode of retirement in the PNP?



An officer or non-officer who is permanently and totally disabled as a result of injuries suffered or sickness contracted in the performance of his duty as duly certified by the National Police

Commission, upon finding and certification by the appropriate medical officer, that the extent of the disability or sickness renders such member unfit or unable to further perform the duties of his position, shall be separated and considered as retired.

He shall be entitled to one year's salary and to lifetime pension equivalent to eighty percent (80%) of his last salary, in addition to other benefits as provided under existing laws.

Should such member who has been retired under permanent total disability under this section die within five (5) years from his retirement, his surviving legal spouse or if there be none, the surviving dependent legitimate children shall be entitled to the pension for the remainder of the five (5) years guaranteed period. **(Section 73, RA No 6975, as amended)**

Who are considered as surviving spouse?

For purposes of derivative pension, otherwise known as transfer of pension, a spouse may be considered as a survivor, and thus, entitled to the pension benefits if:

- a. he/she is legally married to the deceased PNP pensioner prior to the latter's retirement/separation;
- b. not legally separated by judicial decree issued on grounds attributable to the surviving spouse; and
- c. have not abandoned the deceased PNP pensioner without justifiable cause/s. **(NAPOLCOM Memorandum Resolution No 2007-376)**

Who else may qualify as survivor?

- a. The surviving legitimate, legitimated, legally adopted children, including the illegitimate children who are unmarried, not of majority age or is over the age of minority but incapacitated and incapable of self-support due to a mental or physical defect acquired prior to the age of majority.

- b. **IN DEFAULT** of a surviving spouse or children, the surviving parent or parents, or in their default, the surviving unmarried brothers and/or sisters not of majority age. **(NAPOLCOM Resolution No 2007-376)**

What if a survivor cannot establish with certainty her/his relationship with the deceased PNP pensioner or his/her being a legal beneficiary?

If the claimant who is not a declared legal beneficiary, shows proof of relationship such as marriage contract or birth certificate of children which is a “delayed registration” after the death of the deceased PNP personnel, he/she shall be required to submit an Order from the court declaring that he/she is a legal beneficiary.

The requirement for court order shall not apply if the claimant is able to show proof of recognition of illegitimate child, proof of marriage ceremony and other documents. All the documents must have been executed prior to the death of the pensioner. **(Para 5, PNP Memorandum Circular No 2014-044)**

Are those retiring and retired PNP personnel with pending case entitled to the payment of their retirement pension?



As a matter of policy, the pendency of a criminal and/or administrative case against a retiree is not a bar to the payment of his/her retirement benefits. **(PNP Memorandum Circular No 2016-073)**

In cases where the concerned agency failed to terminate and/or resolve the case within three months from the date of retirement without justifiable reason(s) and/or fault or delay attributable to the retiring personnel, the retirement benefits due to the retiree shall be immediately released to him/her without prejudice to the ultimate resolution of the case. An appeal of the case taken by the retiree constitutes a justifiable reason for the non-release of his/her retirement benefits. **(Sec 3, RA No 10154)**

Above-premises considered, how will the pension benefits be released?

For cases punishable by suspension, demotion and/or lower than *prision mayor*, the release of retirement benefits shall be either in lump sum or outright/direct pension, the choice of which shall be left at the discretion of the retiree.

For cases punishable by dismissal and/or where the imposable penalty is *prision mayor* or higher, the release of retirement benefits shall be through outright or direct pension.

The retiree is likewise given the choice of availing his/her retirement benefits after the resolution of the pending case. In such cases, the retiree shall be required to execute an affidavit waiving his rights under RA No 10154 and its implementing rules and regulations. **(Para 6, PNP Memorandum Circular No 2016-073)**

Are personnel separated for cause entitled to pension benefits?

The rule states that the benefits defined therein shall not accrue to uniformed personnel separated for cause except when entitlement of such benefits is expressly adjudged by the court or any competent authority. **(Section 29, BOR No 8)**

From the foregoing, it appears that the general rule is that personnel separated for cause are not entitled to retirement benefits.

For cause shall mean an action, such as the termination of a contract or a relationship of employment, that it is based

on a breach, misfeasance, or other inappropriate action of the other party. (Underlining supplied)

What is the general rule insofar as settlement agreements in consideration of pension benefits partition between a pensioner and his/her legal dependents is concerned?

As a general rule, the benefits authorized under existing resolution, except as provided therein, shall not be subject to attachment, garnishment, levy, execution or any act whatsoever, neither shall they be assigned, ceded or conveyed to any other person. **(Sec. 28, BOR No. 8).**

However, claims by retiree's spouse supported by a court order or settlement agreement in relation to a case for non-support under RA No. 9262 directing the PNP to share a certain percentage of pension in favor of a complaining spouse shall be processed by the PNP. **(PNP MC No. 2015-031).**

If a PNP member, who is eligible to avail of optional retirement, is to participate as a candidate in a partisan election, what should he do to receive pension benefits?

Qualified PNP personnel who plans to run for an elective position, may be optionally retired provided such personnel file his/her application for irrevocable optional retirement at any time before filing his/her certificate of candidacy. Should

he/she fail to do so, he/she is considered automatically resigned or “*ipso facto resigned*” in accordance with Batas Pambansa Bilang 881. **(Para 5, PNP MC No 20114-055)**

Which unit of the PNP is mandated to adjudicate concerns of retired personnel and their beneficiaries?

The PNP Retirement and Benefits Administration Service (PRBS), as a National Support Unit is mandated to adjudicate and administer the retirement, separation, and death benefits of PNP retirees and their dependents/legal beneficiaries. **(NAPOLCOM Resolution No 2010-202)**

What would be the liability of any person who shall cause the unjustified delay in the release of pension benefits?

The unjustified failure and/or refusal to release the pension, gratuities and other retirement benefits due to a retiring government employee within the periods prescribed above or to comply with any provision of this Act shall be a ground for the filing of administrative disciplinary action against the erring officer(s) and/or employee(s). Such erring officer(s) and/or employee(s) shall, after hearing and due proceedings, be penalized with suspension from the service without pay from six (6) months to one (1) year, at the discretion of the disciplining authority.

This penalty shall not apply if the release of the retirement benefits could not be accomplished due to *force majeure* and other insuperable causes. In such cases, the thirty (30)-day period shall be counted from the time such cause(s) cease(s) to exist. **(Section 5, RA No 10154)**

Reminder:

Please be informed that the Directorate for Comptrollership is currently consolidating all relevant data in the formulation of the FY 2019 PNP Budget Proposal.

In this regard, all personnel who intend to optionally retire in 2019 must inform their respective heads of unit NLT March 9, 2018, for their names to be included in the list to be submitted for computation and budget allocation. **(Memo Directive from TDC dated 14 Feb 2018)**

NOTE: Please visit our website: “www.legalservice.org.ph” for more informative articles about police works.

