

(Reprint No. 2)

SOUTH AUSTRALIA

PARLIAMENTARY SUPERANNUATION ACT, 1974

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 7 May 1992.

It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 1 September 1986.

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PARLIAMENTARY SUPERANNUATION ACT, 1974

being

Parliamentary Superannuation Act, 1974, No. 15 of 1974 [Assented to 4 April 1974]¹

as amended by

Parliamentary Superannuation Act Amendment Act, 1974, No. 79 of 1974 [Assented to 31 October 1974]
Parliamentary Superannuation Act Amendment Act, 1978, No. 7 of 1978 [Assented to 9 March 1978]²
Parliamentary Superannuation Act Amendment Act (No. 2), 1978, No. 112 of 1978 [Assented to 7 December 1978]³
Parliamentary Superannuation Act Amendment Act, 1981, No. 4 of 1981 [Assented to 26 February 1981]⁴
Parliamentary Superannuation Act Amendment Act, 1982, No. 18 of 1982 [Assented to 11 March 1982]⁵
Parliamentary Superannuation Act Amendment Act, 1985, No. 105 of 1985 [Assented to 7 November 1985]⁶
Statute Law Revision Act, 1986, No. 14 of 1986 [Assented to 20 March 1986]⁷
Parliamentary Superannuation Act Amendment Act, 1989, No. 21 of 1989 [Assented to 27 April 1989]⁸
Parliamentary Superannuation (Miscellaneous) Amendment Act 1992 No. 18 of 1992 [Assented to 7 May 1992]

An Act to provide for the payment of superannuation benefits to persons who have served as members or Parliament; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I PRELIMINARY

Short title

1. This Act may be cited as the *Parliamentary Superannuation Act, 1974*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

* * * * *

¹ Came into operation 4 April 1974: *Gaz.* 4 April 1974, p. 1132.

² Came into operation 1 June 1978: *Gaz.* 1 June 1978, p. 1878.

³ Came into operation 21 December 1978: *Gaz.* 21 December 1978, p. 2307.

⁴ S. 7 came into operation 21 December 1978: s. 2(2); remainder of Act came into operation 21 October 1982: *Gaz.* 21 October 1982, p. 1162.

⁵ Came into operation 21 October 1982: *Gaz.* 21 October 1982, p. 1160.

⁶ S. 10(c) and (d) came into operation 1 July 1979: s. 2(3); remainder of Act came into operation 21 November 1985: *Gaz.* 21 November 1985, p. 1542.

⁷ Came into operation (except Scheds. 3, 4 and 6) 31 July 1986: *Gaz.* 17 July 1986, p. 269; Sched. 6 came into operation 1 September 1986: *Gaz.* 7 August 1986, p. 474; Sched. 3 came into operation 24 July 1989: *Gaz.* 29 June 1989, p. 1756; Sched. 4 came into operation 1 January 1990: *Gaz.* 14 December 1989, p. 1768.

⁸ Came into operation 11 May 1989: *Gaz.* 11 May 1989, p. 1252.

Note: 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

Interpretation

5. (1) In this Act, unless the contrary intention appears—

“additional salary” means the amount by which the salary of a member who holds Ministerial or other Parliamentary office exceeds the basic salary of a member, and includes any remuneration declared by proclamation to be additional salary for the purposes of this Act:

“basic salary” of a member means—

(a) where the member holds no Ministerial or Parliamentary office—the salary to which the member is entitled under the *Remuneration Act, 1985*;

(b) where the member holds a Ministerial or Parliamentary office—the salary to which the member would be entitled under the *Remuneration Act, 1985*, if the member held no such office:

“the Board” means the South Australian Parliamentary Superannuation Board:

“child benefit” means child benefit payable pursuant to Division II of Part V:

“contribution” means any contribution paid by a member pursuant to the repealed Act or this Act:

“determination day”, in relation to a pension payable to—

(a) a former member, means the day on which that pension first became payable;

(b) the spouse of a deceased member, means the day on which that pension first became payable;

(c) the spouse of a member pensioner, means the day on which the pension of that member pensioner first became payable,

whether, in any case, that day occurred before, on or after the commencement of this Act:

“eligible child” means the child or adopted child—

(a) of a deceased member or deceased member pensioner;

or

(b) of the spouse of a deceased member or deceased member pensioner, not being a child—

(i) born of a pregnancy that commenced after the death of the member or pensioner;

or

(ii) adopted after the death of the member or pensioner;

who—

(c) has not attained the age of 16 years;

or

(d) having attained that age, has not attained the age of 25 years and is in full time attendance at an educational institution recognized by the Board for the purposes of this Act:

* * * * *

“member” means a member of either House of Parliament of the State, and includes a person who, having ceased to be such a member, is still in receipt of salary:

“member pensioner” means a former member who is entitled to a pension under this Act notwithstanding that, at the material time, payment of that pension may be suspended:

“notional pension”—

(a) in relation to a deceased member, means the amount of pension that would have been payable to that deceased member on the day in relation to which the expression is used if—

(i) on the day that he died, he had retired in the circumstances referred to in section 18;

and

(ii) he had been alive and in receipt of a pension on the day in relation to which the expression is used;

and

(b) in relation to a deceased member pensioner, means the amount of pension that would have been payable to that pensioner if he had been alive and in receipt of pension on the day in relation to which the expression is used:

“pension day”, in relation to a pension, means the day on which a periodical payment of that pension is usually made:

“prescribed office” means an office or position in respect of which additional salary is payable:

“the repealed Act” means the *Parliamentary Superannuation Act, 1948*:

“salary” means basic salary (expressed as an annual salary):

“service”, in relation to a member, means the member’s service as determined by the rules set out in section 7:

“spouse”—

(a) in relation to a member, means a person who is lawfully married to that member;

and

(b) in relation to a member pensioner, means a person who is lawfully married to that pensioner and was so married to that pensioner when that pensioner was a member:

“spouse pension” means—

(a) a pension payable to the widow or widower of a member or former member under the repealed Act that was so payable immediately before the commencement of this Act;

or

(b) a pension payable to the spouse of a deceased member or deceased member pensioner and first payable on or after the commencement of this Act.

* * * * *

(2) The Governor may, by proclamation, declare any remuneration payable to a member to be additional salary for the purposes of this Act and the Governor may, by proclamation, amend, vary or revoke any such declaration.

Voluntary and involuntary retirement

6. (1) For the purposes of this Act, a former member shall be deemed to have retired involuntarily if his term of office expires or he resigns and a judge is satisfied that, upon so ceasing to be a member—

(a) he genuinely sought to be elected at an election for the Parliament of this State (whether or not for the same electorate or the same House), another State, the Northern Territory or the Commonwealth (being an election not later than the next general election for that Parliament occurring after he ceased to be a member) but—

(i) having stood as a candidate, was defeated;

or

(ii) failed to be a candidate due to—

(A) his failure to secure the support of a political party from which he reasonably sought support;

(B) his expulsion from a political party;

(C) ill health;

or

(D) any other good and sufficient reason;

or

(b) he sought to be and was elected at an election for the Parliament of another State, the Northern Territory or the Commonwealth (being an election not later than the next general election for that Parliament occurring after he ceased to be a member).

* * * * *

(3) Where a member ceases to be a member otherwise than—

(a) by death;

(b) by retirement in circumstances specified in section 18;

or

(c) in circumstances referred to in subsection (1),

that member shall, for the purposes of this Act, be deemed to have retired voluntarily.

(4) In this section—

“judge” means a judge of the Supreme Court nominated by the Governor to deal with matters arising under this section.

Computation of service

7. In computing the length of a member's service the following rules shall be observed:

- (a) if a member is elected to Parliament between the 28th day of February and the 1st day of August in any year, except in the case of such a member elected to fill a casual vacancy, his service shall be reckoned from the 1st day of March of that year;
- (b) if a member ceases to be a member of Parliament by reason of a dissolution taking place within 2 months before the expiration of the House of Assembly by effluxion of time, his service shall be deemed to continue until the day on which the House of Assembly would have so expired;
- (c) service whether occurring before or after the commencement of this Act shall be taken into account;
- (d) where the continuity of a member's service has been broken, the former period of service (and any service by the member in a prescribed office during that former period) shall not be taken into account unless by virtue of section 20 or 36 that former period of service is to be counted as service for the purposes of this Act;

and

- (e) subject to this section and section 36, only the actual service of a member shall be regarded as service.

PART II

THE SOUTH AUSTRALIAN PARLIAMENTARY SUPERANNUATION BOARD

The Board

8. (1) The *South Australian Parliamentary Superannuation Board* is established.
- (2) The Board is a body corporate.
- (3) The Board has full juristic capacity to exercise any powers that are by their nature capable of being exercised by a body corporate.
- (4) Where a document appears to bear the common seal of the Board, it will be presumed, in the absence of proof to the contrary, that the document was duly executed by the Board.

The Board's membership

9. (1) The Board consists of the following members:
- (a) the President for the time being of the Legislative Council;
 - (b) the Speaker for the time being of the House of Assembly;
- and
- (c) a person appointed by the Governor on the nomination of the Treasurer.
- (2) Subject to subsection (3), a person, upon ceasing to hold the office of President of the Legislative Council or Speaker of the House of Assembly, will continue as a member of the Board until his or her successor is appointed to that office.
- (3) A member of the Board referred to in subsection (2) may resign from membership of the Board if he or she has ceased to be a member of Parliament.
- (4) The office of the member of the Board appointed by the Governor becomes vacant if the member—
- (a) dies;
 - (b) completes a term of office and is not reappointed;
 - (c) resigns by written notice to the Treasurer;
- or
- (d) is removed from office by the Governor on the ground of—
 - (i) mental or physical incapacity to carry out official duties satisfactorily;
 - (ii) neglect of duty;or
 - (iii) misconduct.
- (5) The Governor may appoint a person to fill a casual vacancy in the membership of the Board and a person so appointed will hold office as a member of the Board until the office is filled pursuant to subsection (1).

Procedure at meetings of the Board

10. (1) Subject to subsection (2), the Board may act notwithstanding vacancies in its membership.
- (2) Two members constitute a quorum for a meeting of the Board.

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(3) A decision in which a majority of the members of the Board present at a meeting concur is a decision of the Board.

(4) Subject to this Act, the Board may determine its own procedures.

Availability of Public Service employees

11. The Board may, with the approval of a Minister responsible for a particular administrative unit of the Public Service, make use of the staff or facilities of that administrative unit.

Report

12. (1) The Board must, on or before 30 September in each year, submit a report to the Treasurer on the operation of this Act during the financial year ending on 30 June in that year.

(2) The Treasurer must have copies of the report laid before both Houses of Parliament.

PART III
CONTRIBUTIONS

Contributions by members

14. (1) Every member is liable to make contributions to the Treasurer in accordance with this Act.

(2) Contributions will be 11.5 per cent of the salary and additional salary (if any) payable to each member and must be deducted by the Treasurer when paying salary to members.

PART IV

PENSION AND BENEFITS FOR FORMER MEMBERS

DIVISION I—ENTITLEMENT TO PENSION

Entitlement to a pension on retirement

16. A former member who—

(a) has retired involuntarily, having had not less than 6 years service;

(b) has retired voluntarily—

(i) having had not less than 15 years service;

or

(ii) having been a member of not less than four Parliaments and having had not less than 13 years service;

or

(c) having attained the age of 60 years, has retired voluntarily having had not less than 6 years service,

shall, on and from the day next succeeding the day on which he retired, be entitled to a pension for life in an amount calculated by reference to section 17.

Amount of pension on retirement

17. (1) Subject to this section, the amount of annual pension payable to a former member referred to in section 16 shall be an amount equal to 41.2 per cent of the salary payable to him immediately before he ceased to be a member plus 0.2 per cent of that salary for each whole month of the member's service after 6 years service but the annual pension shall not, in any case, exceed 75 per cent of that salary.

(2) Where a former member was in receipt of additional salary at any time during his service, the amount of the annual pension payable to that former member shall be determined by reference to the following formula:

$$P = \frac{(BP - X) HS}{BS} + X$$

where—

P is the annual pension payable to the former member;

BP is the annual pension that would, apart from this subsection, be payable to the former member;

X is an amount arrived at by subtracting from BP the amount of the annual pension that would, apart from this subsection, be payable to the former member if the reference to 6 years service in subsection (1) were a reference to 8 years service;

HS is the sum of BS and the amount arrived at by calculating the total amount that would have been payable to the former member by way of additional salary—

(a) upon the assumption that the rates of additional salary applicable on the date of his retirement had applied during the whole of his period of service;

and

(b) where he held prescribed offices during his period of service for a total period of more than 6 years—by taking into account only periods of his service for which he held prescribed office that equal in aggregate 6 years, those periods that would have been the most remunerative for him in terms of additional salary at the rates referred to in paragraph (a) being first taken into account and (if necessary) those periods that would have been the next most remunerative for him in terms of additional salary at those rates being next taken into account and so on until the periods equal in aggregate 6 years;

BS is an amount equal to 6 times the salary applicable to the member on the date of his retirement.

(2a) For the purposes of subsection (2)—

(a) if a member did not elect to make contributions in respect of the additional salary paid for a period of service in a prescribed office commencing after the commencement of this Act and concluding on or before the commencement of the *Parliamentary Superannuation Act Amendment Act (No. 2), 1978*, that period of service shall not be regarded as a period of service in a prescribed office;

(b) if a member held a prescribed office during the member's period of service and the prescribed office does not exist on the date of the member's retirement, the rate of additional salary applicable to that office on that date shall be deemed to be a rate of salary determined by the Public Actuary having regard to the rate of additional salary last applicable to that office before the date of retirement of the member and the movements (if any) in salaries and additional salaries up to the date of retirement of the member;

(c) if—

(i) a member held a prescribed office during the member's period of service;

(ii) the additional salary payable in respect of that prescribed office is, in comparison with the additional salaries payable in respect of other prescribed offices, proportionately less on the date of the member's retirement than it was at any time at which the member actually held that office;

(iii) the Board is of the opinion that a determination under this paragraph is necessary in order to avoid substantial injustice,

the rate of additional salary applicable to that office on the date of the member's retirement shall be deemed to be the rate of salary determined by the Public Actuary on the assumption that the additional salary in question had not been reduced in comparison to additional salaries payable in respect of other prescribed offices.

* * * * *

(3) Where a member who is entitled to a pension on his voluntary retirement retires at any time after—

(a) the day on which he first becomes so entitled;

or

(b) the day on which a determination made pursuant to the *Parliamentary Salaries and Allowances Act, 1966*, in relation to his salary, last took effect,

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whichever is the later, and at any time after that day and before the day on which he actually retires the amount of pension under this Act is adjusted pursuant to section 35, the amount of pension that shall be payable to that member shall be the greater of—

(c) the amount of pension that would have been payable to him on the day he actually retired if he had retired on the day immediately following the later of the days mentioned in paragraphs (a) and (b);

or

(d) the amount of pension that would have been payable to him had this subsection not been enacted.

(4) Where a member who is entitled to a pension on his involuntary retirement retires involuntarily at any time after—

(a) the day on which he first became so entitled;

or

(b) the day on which a determination made pursuant to the *Parliamentary Salaries and Allowances Act, 1966*, in relation to his salary, last took effect,

whichever is the later and at any time after that day and before the day on which he actually retires the amount of pension under this Act is adjusted pursuant to section 35, the amount of pension that shall be payable to that member shall be the greater of—

(c) the amount of pension that would have been payable to him on the day he actually retired involuntarily if he had retired involuntarily on the day immediately following the later of the days mentioned in paragraphs (a) and (b);

or

(d) the amount of pension that would have been payable to him had this subsection not been enacted.

Invalidity retirement and amount of pension

18. (1) Where a member satisfies a judge that he is unable to continue as a member on the grounds of invalidity, that member shall, on and from the day next succeeding the day on which he so satisfies that judge, be entitled to an annual pension for life ascertained by reference to subsection (2).

(2) The amount of annual pension referred to in subsection (1) shall be—

(a) in the case of a member who had less than 6 years service, the amount of annual pension that he would have received ascertained by reference to section 17 if, on the day on which he so satisfied the judge, he had retired involuntarily having, on that day, attained 6 years service;

or

(b) in any other case, the amount of annual pension ascertained by reference to section 17 that he would have received if, on the day on which he so satisfied the judge, he had retired involuntarily.

(3) In this section—

“judge” means a judge of the Supreme Court nominated by the Governor to deal with matters arising under this section.

Reduction of pension in certain circumstances

19. (1) Where a member pensioner occupies a prescribed office or position, the pension payable to the member pensioner pursuant to this Act shall be reduced by the amount of the salary, or other remuneration, paid in respect of that office or position.

(2) Where a member pensioner, or the member pensioner's spouse or child or another person, becomes entitled to superannuation or a retirement allowance by virtue of the member pensioner having held or occupied a prescribed office or position, any pension or child benefit payable under this Act to the member pensioner, the member pensioner's spouse or child or that other person shall be reduced by the prescribed amount.

(3) For the purposes of subsection (2), the prescribed amount is—

- (a) where the whole of the superannuation or retirement allowance referred to in that subsection is paid to the member pensioner, the member pensioner's spouse or child or another person by way of a pension and no part of it has been paid by way of a lump sum—the pension so paid;
- (b) where, as the result of an election made by the member pensioner, the member pensioner's spouse or child or that other person, the whole or a part of that superannuation or retirement allowance is paid as a lump sum—the amount of the pension that would have been payable in respect of that superannuation or retirement allowance if that election had not been made;
- (c) where, without an election being made, the whole or a part of that superannuation or retirement allowance is paid as a lump sum—the amount determined in accordance with the following formula:

$$PA = P + \frac{LS}{10}$$

where—

PA is the prescribed amount expressed as an annual pension;

P is that part (if any) (expressed as an annual pension) of the superannuation or retirement allowance that is paid as a pension;

LS is the lump sum that was paid in total or partial satisfaction of the entitlement of the member pensioner (or of the member pensioner's spouse or child or another person) to the superannuation or retirement allowance.

(4) Where a pension or child benefit is reduced pursuant to this section, the person entitled (or who would have been entitled but for the reduction) or, where 2 or more persons are so entitled, all of those persons acting together, may by notice in writing to the Board require the Treasurer to pay to that person, or to those persons, an amount ascertained by reference to the following formula:

$$A = [TC(1 + .03[N - 1])] - P$$

where—

A is the amount expressed in dollars and cents;

TC is the total contributions expressed in dollars and cents made by the member pensioner under this Act or under the repealed Act other than any such contributions that have been refunded to the member pensioner and have not been repaid;

N is one or the number of whole years of service of the member pensioner whichever is the greater;

P is the total of all pensions and benefits (if any) received by the member pensioner, his spouse or an eligible child in respect of the member pensioner under this Act and under the repealed Act,

and upon payment of that amount no further pension or benefit shall be paid to, or in respect of, the member pensioner.

(5) A notice referred to in subsection (4) may be given on behalf of a child who is under the age of 18 years by the child's parent or guardian.

(6) A payment under subsection (4) shall—

(a) if made to a spouse and a child or children—be divided between them as to $\frac{3}{4}$ to the spouse and as to $\frac{1}{4}$ to the child or children;

(b) if made only to children—be divided equally between them.

(7) In this section—

“prescribed office or position” means an office or position established under the law of this State, the Commonwealth, another State of the Commonwealth or a Territory of the Commonwealth which has been declared by regulation to be a prescribed office or position for the purposes of this section.

Cessation of pension

20. (1) If a member pensioner again becomes a member of either House of Parliament, the pension payable to that pensioner shall cease and determine.

(2) The previous service of a member whose pension has ceased and determined pursuant to subsection (1) shall be counted as service for the purposes of this Act.

DIVISION II—COMMUTATION OF PENSION

Commutation of pension

21. (1) Subject to this Division, a former member who is entitled to a pension under this Act may, by notice in writing to the Board, elect to commute a percentage of that pension, not exceeding the maximum percentage of that pension ascertained by reference to the second schedule.

(1a) A member pensioner who is deemed by this Act to have retired involuntarily by virtue of seeking and obtaining election to the Parliament of another State, the Northern Territory or the Commonwealth may not commute a pension under subsection (1) unless, on ceasing to be a member of that Parliament, the member pensioner is not entitled to superannuation or a retirement allowance by virtue of having been a member of that Parliament.

(1b) A member pensioner who—

(a) is deemed by this Act to have retired involuntarily by virtue of seeking and obtaining election to the Parliament of another State, the Northern Territory or the Commonwealth;

and

(b) has, on ceasing to be a member of that Parliament, become entitled to superannuation or a retirement allowance no part of which is attributable to his or her years of service as a member of the Parliament of this State,

is entitled to payment of an amount equal to the amount that the member pensioner would have been entitled to receive by way of commutation if the member pensioner had been entitled to commute a pension under subsection (1a).

(1c) A member pensioner who wishes to commute a percentage of the pension or to apply to the Board for a payment under subsection (1b) must do so within 3 months after first becoming so entitled.

(2) Where a member pensioner elects to commute a percentage of his pension pursuant to this section, the Treasurer must pay to the member pensioner an amount equal to \$10 for each \$1 of annual pension so commuted.

(3) On payment of an amount pursuant to subsection (1b), any pension payable under this Act to the member pensioner shall be reduced as though the amount paid under subsection (1b) had been made by way of commutation of the pension.

Application of section 21 to certain member pensioners

21a. In the application of section 21 to a member pensioner who has had not less than 20 years service, the second schedule shall apply and have effect as if for the expressions "30%", "34%" and "38%" there were substituted, in each case, the expression "40%".

DIVISION III—OTHER BENEFITS

Other benefits

22. (1) Where a member ceases to be a member and no pension or other benefit under this Act is payable to, or in relation to, the member, there is payable to the member a lump sum equivalent to the balance standing to the credit of the member's notional contribution account.

(2) The balance standing to the credit of a member's notional contribution account is an amount determined on the assumption that—

- (a) the member's contributions were paid into a separate account;
- (b) interest was calculated at the SAFA 10 year bond rate on the lowest monthly balance of the account and credited to the account at the end of each financial year;

and

- (c) where the member ceased to be a member during a financial year—interest was calculated in accordance with paragraph (b) in respect of that year and was credited to the account when the member's membership ceased.

(3) In this section—

"the SAFA 10 year bond rate" means the 10 year bond rate declared by the South Australian Government Financing Authority in respect of investments made on the first day of the financial year in respect of which interest is calculated under this section.

Provision where contributions exceed benefits

23. Where a member or former member is dead and the Board is satisfied that no pension or benefit is payable, or no further pension or benefit is payable, to any spouse or person who is, or may become, an eligible child in relation to that member or former member and the total contributions paid by that member or former member under this Act and under the repealed Act exceed the total benefits paid in relation to that member or former member, then there shall be payable to the legal personal representative of that deceased member or former member the amount by which those contributions exceed those benefits.

PART V

PENSION FOR SPOUSE AND CHILD BENEFIT

DIVISION I—PENSION FOR SPOUSE

Pension for spouse of deceased pensioner

24. (1) Where a member pensioner dies, there shall be payable to the spouse of that former member pensioner—

(a) an annual pension equal to 75 per cent of the notional pension of that pensioner on the day that he died;

or

(b) an annual pension equal to the prescribed amount,

whichever is the greater.

(2) In this section—

“prescribed amount” means—

(a) where the member pensioner had commuted a percentage of his pension, an amount ascertained by reference to the following formula:

$$A = \frac{(100 - P) \times S}{100}$$

where—

A is the amount expressed in dollars and cents;

P is the percentage of the pension so commuted;

S is 40 per cent of the relevant amount multiplied by the appropriate factor;

(b) where the member pensioner had not commuted a percentage of his pension, an amount equal to 40 per cent of the relevant amount multiplied by the appropriate factor;

or

(c) where the amount determined under paragraph (a) or (b) exceeds the notional pension of the member pensioner on the day that he died, the amount of that notional pension.

(3) In this section—

“the appropriate factor” means a factor arrived at by dividing the amount of the notional pension of the member pensioner on the day of his death by the amount of the pension to which he was entitled when he became a member pensioner, or, where he commuted a percentage of his pension, by the amount of the pension to which he was entitled immediately after he commuted that percentage:

“the relevant amount” means—

(a) in relation to a member pensioner who was not in receipt of additional salary at any time during his service—the annual salary of the member pensioner immediately before he became a member pensioner;

or

(b) in relation to a member pensioner who was in receipt of additional salary at any time during his service—the sum of the annual salary of the member pensioner immediately before he became a member pensioner and $\frac{1}{6}$ of the amount arrived at by calculating the total amount that would have been payable to the member pensioner by way of additional salary—

(i) upon the assumption that the rates of additional salary applicable immediately before he became a member pensioner had applied during the whole of his period of service;

and

(ii) where he held prescribed offices during his period of service for a total period of more than 6 years—by taking into account only periods of his service for which he held prescribed office that equal in aggregate 6 years, those periods that would have been the most remunerative for him in terms of additional salary at the rates referred to in subparagraph (i) being first taken into account and (if necessary) those periods that would have been the next most remunerative for him in terms of additional salary at those rates being next taken into account and so on until the periods equal in aggregate 6 years.

(4) For the purposes of subsection (3)—

(a) if a member pensioner had not elected to make contributions in respect of the additional salary paid for a period of service in a prescribed office commencing after the commencement of this Act and concluding on or before the commencement of the *Parliamentary Superannuation Act Amendment Act (No. 2)*, 1978, that period of service shall not be regarded as a period of service in a prescribed office;

(b) if a member pensioner held a prescribed office during the member pensioner's period of service and the prescribed office did not exist immediately before the member pensioner became a member pensioner, the rate of additional salary applicable to that office immediately before the member pensioner became a member pensioner shall be deemed to be a rate of salary determined by the Public Actuary having regard to the rate of additional salary last applicable to that office before the member pensioner became a member pensioner and the movements (if any) in salaries and additional salaries up to the date on which the member pensioner became a member pensioner;

(c) if—

(i) a member pensioner held a prescribed office during the member pensioner's period of service;

(ii) the additional salary payable in respect of that prescribed office was, in comparison with the additional salaries payable in respect of other prescribed offices, proportionately less, immediately before the member pensioner became a member pensioner, than it was at any time at which the member pensioner actually held that office;

and

(iii) the Board is of the opinion that a determination under this paragraph is necessary in order to avoid substantial injustice,

the rate of additional salary applicable to that office immediately before the member pensioner became a member pensioner shall be deemed to be the rate of salary determined by the Public Actuary on the assumption that the additional salary in question had not been reduced in comparison to additional salaries payable in respect of other prescribed offices.

* * * * *

Pension for spouse of deceased member

25. (1) Where a member dies, there shall be payable to the spouse of that member—

(a) an annual pension equal to 75 per cent of the pension that would have been payable to the former member if, on the day that he died, he had retired in the circumstances referred to in section 18;

or

(b) an annual pension equal to 40 per cent of the relevant amount,

whichever is the greater.

(2) In this section—

“the relevant amount” has the same meaning as in section 24.

(3) For the purposes of this section, a former member shall be deemed to have been a member at death if a judge is satisfied that, upon the expiration of the member's term of office or upon the member's resignation, the member genuinely sought to be elected at an election for the Parliament of this State (whether or not for the same electorate or the same House), another State, the Northern Territory or the Commonwealth (being an election not later than the next general election for that Parliament occurring after the former member ceased to be a member) but that the member died before the election took place.

Spouse pension

26. A spouse pension payable under this Division shall be payable for the life of the spouse.

DIVISION II—CHILD BENEFIT

Certain former members deemed members at time of death

26a. For the purposes of this Division, a former member shall be deemed to have been a member at death if a judge is satisfied that, upon the expiration of the member's term of office or upon the member's resignation, the member genuinely sought to be elected at an election for the Parliament of this State (whether or not for the same electorate or the same House), another State, the Northern Territory or the Commonwealth (being an election not later than the next general election for that Parliament occurring after the former member ceased to be a member) but that the member died before the election took place.

Determination of child benefit

27. For the purposes of sections 28 and 29, the amount of child benefit for each eligible child deriving his entitlement for a child benefit from a member or member pensioner shall be determined—

(a) on each occasion on which a person becomes entitled to a child benefit derived from that member or pensioner;

(b) on the number of persons entitled to a child benefit derived from that member or pensioner diminishing;

and

(c) on each occasion on which pensions are adjusted pursuant to section 35.

Child benefit, general

28. (1) Except as is provided in section 29, there shall be payable in respect of each person who becomes an eligible child in relation to a deceased member or deceased member pensioner a child benefit ascertained in the manner provided by subsection (2).

(2) The child benefit referred to in subsection (1) shall, subject to subsection (3), be a payment in respect of each eligible child of an amount—

(a) in the case of 1 or 2 eligible children, equal to $\frac{1}{3}$ of the prescribed amount;

and

(b) in the case of 3 or more such eligible children, equal to the prescribed amount divided by the number of eligible children.

(3) In this section—

“prescribed amount” is an amount equal to the difference between the amount of the notional pension of the deceased member or member pensioner from whom the entitlement to a child benefit is derived and the amount of the spouse pension payable to the spouse of the deceased member or deceased member pensioner.

Child benefit where no spouse's pension payable

29. (1) There shall be payable in respect of each person who becomes an eligible child in relation to a deceased member or deceased member pensioner, where a pension deriving from that deceased member or deceased pensioner is not payable to a spouse of that member or pensioner, a child benefit ascertained in the manner provided by subsection (2).

(2) The child benefit referred to in subsection (1) shall, subject to subsection (3) be a payment in respect of each such eligible child of an amount—

(a) in the case of 1 eligible child, equal to 45 per cent of the notional pension for the time being of the member or member pensioner from whom the entitlement to a child benefit is derived;

(b) in the case of 2 such eligible children, equal to 40 per cent of the notional pension for the time being of the member or member pensioner from whom the entitlement to a child benefit is derived;

(c) in the case of 3 such eligible children, equal to 30 per cent of the notional pension for the time being of the member or member pensioner from whom the entitlement to a child benefit is derived;

and

(d) in the case of 4 or more such eligible children, equal to the notional pension for the time being of the member or member pensioner from whom the entitlement to a child benefit is derived divided by the number of such children.

Payment to, or on behalf of, child

30. An amount payable under this Act to a person who is, or was, an eligible child may, if that person is under the age of 18 years, be paid—

(a) to that person;

or

(b) to that person's parent or guardian on that person's behalf,

as the Board directs.

Cessation of child benefit

31. A child benefit under this Division shall cease to be payable in respect of a person who is an eligible child on that person ceasing to be an eligible child.

PART VA

BENEFIT PAYABLE TO MEMBER'S ESTATE

Benefit payable to estate

31a. (1) Where a member dies and a pension or other benefit is not payable under this Act to the spouse or a child of the member, a lump sum is payable to the member's estate that is equivalent to three times the balance standing to the credit of the member's notional contribution account.

(2) The balance standing to the credit of a member's notional contribution account is an amount determined on the assumption that—

- (a) the member's contributions were paid into a separate account;
- (b) interest was calculated at the SAFA 10 year bond rate on the lowest monthly balance of the account and credited to the account at the end of each financial year;

and

- (c) where the member ceased to be a member during a financial year—interest was calculated in accordance with paragraph (b) in respect of that year and was credited to the account when the member's membership ceased.

(3) In this section—

“the SAFA 10 year bond rate” means the 10 year bond rate declared by the South Australian Government Financing Authority in respect of investments made on the first day of the financial year in respect of which interest is calculated under this section.

PART VI

ADJUSTMENT OF PENSIONS

DIVISION I—PENSIONERS UNDER REPEALED ACT

Pensions to continue

32. Subject to this Act, every pension that was payable under the repealed Act immediately before the commencement of this Act shall continue to be payable under this Act.

Spouse pension continued

33. A spouse pension continued under section 32 shall be payable for the life of the spouse.

Suspension of certain pensions

34. Where a former member became entitled to a pension under the repealed Act and, by reason of section 14(2) of that Act, that former member was not entitled to receive that pension until he attained the age of 50 years and, immediately before the commencement of this Act—

(a) that former member has not attained the age of 50 years;

and

(b) that former member has not elected to receive a refund of his contributions,

that former member shall be entitled to receive a pension for life at a rate equal to the rate that would have been payable if, on the day on which he had been entitled to that pension, he had received that pension.

DIVISION II—FUTURE ADJUSTMENT

Adjustment of pensions

35. (1) In this section—

“adjustment percentage”, in relation to a prescribed pension day, means the adjustment percentage, if any, declared for that prescribed pension day:

“the Index” means the Consumer Price Index (All groups index for Adelaide) published by the Commonwealth Statistician under the *Census and Statistics Act 1905 of the Commonwealth*:

“June quarter”, in relation to a year, means the period commencing on and including the 1st day of April of that year and concluding on and including the 30th day of June in that year:

“prescribed pension day” means the first pension day in the month of October in each year.

(2) As soon as practicable after the end of the June quarter in each year, the Public Actuary shall, by certificate in writing to the Minister, state the percentage calculated to 2 decimal places by which the Index for that June quarter is greater or less than the Index for the June quarter of the year immediately preceding the year in respect of which the certificate is given.

(3) On receipt of a certificate under subsection (2) in which it is stated that the percentage is equal to or greater than 1 per cent, the Minister shall, by notice published in the *Gazette*, declare the adjustment percentage, for the prescribed pension day next

following the June quarter in respect of which the certificate was given, to be the percentage stated in that certificate, and the Minister shall state whether the adjustment percentage shall be applied so as to reduce or increase pensions.

(4) Where the percentage stated in the certificate under subsection (2) is less than 1 per cent, no adjustment percentage shall be declared by the Minister for the prescribed pension day next following the June quarter in respect of which the certificate was given.

(5) In any year that next follows a year in respect of which no adjustment percentage was declared, the certificate of the Public Actuary shall state the percentage by which the Index for the June quarter is greater or less than the Index for the June quarter of the year in relation to which an adjustment percentage was last declared and, for the purposes of this section, such a certificate shall be deemed to be a certificate under subsection (2).

(6) On and from each prescribed pension day, the amount of each pension—

- (a) that had a determination day that occurred on or before the 30th day of September of the year last preceding the year in which the prescribed pension day occurs shall be increased, or, as the case may be, decreased, by the adjustment percentage declared for that prescribed pension day;
- (b) that had a determination day that occurred on or after the 1st day of October of the year last preceding the year in which the prescribed pension day occurs and on or before the 31st day of December in that year shall be increased, or, as the case may be, decreased, by $\frac{3}{4}$ of the adjustment percentage declared for that prescribed pension day;
- (c) that had a determination day that occurred on or after the 1st day of January in the year in which the prescribed pension day occurs and on or before the 31st day of March in that year shall be increased, or, as the case may be, decreased, by $\frac{1}{2}$ of the adjustment percentage declared for that prescribed pension day;

and

- (d) that had a determination day that occurred on or after the 1st day of April in the year in which the prescribed pension day occurs and on or before the 30th day of June of that year shall be increased, or, as the case may be, decreased, by $\frac{1}{4}$ of the adjustment percentage declared for that prescribed pension day.

* * * * *

PART VII
MISCELLANEOUS

Provisions as to previous service

36. (1) Where a former member has received a payment under section 22 of this Act or a refund under section 18 of the repealed Act and that former member again becomes a member, then—

(a) that former member shall, within 3 months after again becoming such a member or within such further period as the Board allows, repay to the Treasurer the amount so paid or refunded;

and

(b) upon such payment being made, the previous service of that former member in respect of which that payment was made shall be counted as service for the purposes of this Act.

(2) Where a former member, not being a former member referred to in subsection (1) or a member pensioner, again becomes a member, the previous service of that former member shall be counted as service for the purposes of this Act.

(3) Where a member pensioner again becomes a member, that member pensioner—

(a) shall, within 3 months after again becoming such a member or within such further period as the Board allows, repay to the Treasurer an amount equal to the prescribed amount;

and

(b) upon such payment being made, the previous service of that member pensioner in respect of which that payment was made shall be counted as service for the purposes of this Act.

(4) In subsection (3)—

“member pensioner” means a member pensioner who has been paid an amount pursuant to section 21(2):

“prescribed amount”, in relation to a member pensioner, means an amount determined by reference to the following formula:

$$A = C - (P - LP)$$

where—

A is the amount expressed in dollars and cents;

C is the amount received by the member pensioner pursuant to Division II of Part IV;

P is the total amount of pension that the member pensioner would have received in respect of the prescribed period if he had not received an amount pursuant to Division II of Part IV in relation to that period:

LP is the total amount of pension that the member pensioner received in respect of the prescribed period:

“prescribed period” means the period commencing on and including the day on which the member pensioner last became a member pensioner and concluding on and including the day on which the member pensioner again became a member.

* * * * *

(5) In this section, a reference to a former member or member pensioner who again becomes a member shall be read as including a reference to a former member who again becomes a member before the commencement of this Act.

(6) Where—

(a) a member has been a member of the Parliament of the Commonwealth or another State or the Northern Territory;

(b) the member became a member within the period of 4 years after ceasing or last ceasing to be a member of such other Parliament;

and

(c) within 3 months after becoming a member or within such further period as the Board allows, he or she makes a contribution of an amount equal to the prescribed amount,

the period, or aggregate of the periods, of service of that member as a member of such other Parliament or Parliaments shall be counted as service for the purposes of this Act.

(7) In subsection (6)—

“prescribed amount” means an amount equal to 11.5 per cent of the total salary that he would have been paid if, for a period equal to the period to be counted as service under subsection (6), he had been in receipt of the salary first payable to him after he became a member.

(7a) Where—

(a) a member stands for re-election but is not returned as having been re-elected;

(b) the Court of Disputed Returns subsequently declares the member to have been duly elected at that election or it declares the election void and the member is elected at the subsequent by-election;

and

(c) the member complies with the requirements of subsection (7b),

the member's period of service for the purposes of this Act shall include—

(d) previous service that the member was, at the termination of the member's immediately preceding period of service, entitled to have counted as service under this Act;

and

(e) the period during which the member was unable to take his or her seat in Parliament by reason of not being returned as elected in the first instance.

(7b) The member shall, within 3 months—

(a) after a declaration by the Court of Disputed Returns that the member has been duly elected;

or

(b) after the member's re-election following a declaration by the Court that the original election was void,

or within such further period as the Board allows—

(c) make a contribution of an amount equal to 11.5 per cent of the salary that was lost by reason of the fact that the member was not returned as elected in the first instance;

and

- (d) repay an amount equal to the amount (if any) paid to the member pursuant to this Act (whether by way of a pension or a lump sum, or both, or by way of a payment pursuant to Division III of Part IV) following the return made at the election.

(8) Where the Board allows a member a further period to pay an amount under subsection (1), (3), (6) or (7b), it may impose such conditions (including a condition requiring payment of interest on that amount) as it thinks fit, and a member shall not be regarded as having paid that amount within the further period allowed unless he complies with those conditions.

- (9) The Board may vary or revoke a condition under subsection (8).

Payment of pensions

37. (1) Payment of annual pensions and child benefit under this Act shall be by means of equal periodical payments determined by the Board.

- (2) Pensions under this Act shall be apportionable in point of time.

Pensions not assignable

38. Pensions and other rights under this Act shall not be assigned or charged or pass by operation of law.

Financial provision

39. (1) Contributions made pursuant to this Act must be paid into the Consolidated Account.

(2) Any money required for the purposes of this Act is payable from the Consolidated Account, which is appropriated to the necessary extent.

* * * * *

Regulations

40. The Governor may make regulations prescribing any matters necessary or convenient to be prescribed for the administration of this Act or for giving effect to the objects of this Act.

FIRST SCHEDULE

Transitional Provisions

1. Subject to clause 2, the property, rights and liabilities vested in or attached to The Trustees of the Parliamentary Superannuation Fund immediately before the commencement of the *Parliamentary Superannuation Act Amendment Act, 1989*, vest in or attach to the Board upon the commencement of that Act.

2. The property comprising the Parliamentary Superannuation Fund immediately before the commencement of the *Parliamentary Superannuation Act Amendment Act, 1989*, vests in the Treasurer and the value of that property must be credited to the Consolidated Account.

SECOND SCHEDULE

TABLE SHOWING MAXIMUM PERCENTAGE OF PENSION THAT MAY BE COMMUTED

Age of member pensioner on birthday next following day on which he first becomes entitled to elect to commute a percentage of pension	Maximum Percentage
45 years or less	75%
46 years	72 ¹ / ₂ %
47 years	70%
48 years	67 ¹ / ₂ %
49 years	65%
50 years	62 ¹ / ₂ %
51 years	60%
52 years	57 ¹ / ₂ %
53 years	55%
54 years	52 ¹ / ₂ %
55 years	50%
56 years	46%
57 years	42%
58 years	38%
59 years	34%
60 years or more	30%

APPENDIX

Legislative History

Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 7 of The Public General Acts of South Australia 1837- 1975 at page 785.

Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 1 September 1986. A schedule of these alterations was laid before Parliament on 16 September 1986.

Legislative history since 3 February 1976 (entries in bold type indicate amendments incorporated since the last reprint):

Sections 3 and 4:	repealed by 14, 1986, s. 3(1) (6th Sched.)
Section 5(1):	definition of "additional salary" substituted by 18, 1982, s. 3(a); 14, 1986, s. 3(1) (6th Sched.)
	definition of "basic salary" inserted by 14, 1986, s. 3(1) (6th Sched.)
	definition of "the Board" inserted by 21, 1989, s. 3(a)
	definition of "contribution" amended by 21, 1989, s. 3(b)
	definition of "eligible child" amended by 21, 1989, s. 3(c)
	definition of "the Fund" repealed by 21, 1989, s. 3(d)
	definition of "prescribed office" inserted by 112, 1978, s. 3
	definition of "the repealed Act" amended by 14, 1986, s. 3(1) (6th Sched.)
	definition of "salary" amended by 18, 1982, s. 3(b); substituted by 14, 1986, s. 3(1) (6th Sched.)
	definition of "the Trustees" repealed by 21, 1989, s. 3(e)
Section 6(1):	substituted by 4, 1981, s. 3(a)
Section 6(2):	repealed by 4, 1981, s. 3(a)
Section 6(3):	amended by 4, 1981, s. 3(b)
Section 6(4):	amended by 14, 1986, s. 3(1) (6th Sched.)
Section 7:	amended by 112, 1978, s. 4
	Part II comprising ss. 8 - 13 and headings amended by 105, 1985, ss. 3 and 4; 14, 1986, s. 3(1) (6th Sched.); repealed and ss. 8-12 and heading inserted in its place by 21, 1989, s. 4
	Part III comprising ss. 14 - 15 and heading amended by 7, 1978, s. 3; 112, 1978, ss. 5, 6; 14, 1986, s. 3(1) (6th Sched.); repealed and s. 14 and heading inserted in its place by 21, 1989, s. 5
Section 16:	amended by 18, 1992, s. 2
Section 17(1):	amended by 112, 1978, s. 7(a); 14, 1986, s. 3(1) (6th Sched.)
Section 17(2):	substituted by 112, 1978, s. 7(b); amended by 18, 1982, s. 4(a)
Section 17(2a):	inserted by 112, 1978, s. 7(b); substituted by 105, 1985, s. 5; amended by 21, 1989, s. 6
Section 17(2b):	inserted by 18, 1982, s. 4(b); repealed by 105, 1985, s. 5
Section 18(2):	amended by 112, 1978, s. 8
Section 18(3):	amended by 14, 1986, s. 3(1) (6th Sched.)
Section 19:	amended by 7, 1978, s. 4; 4, 1981, s. 4; substituted by 105, 1985, s. 6
Section 19(4):	amended by 21, 1989, s. 7
Section 21(1):	amended by 105, 1985, s. 7(a); 21, 1989, s. 8(a)
Section 21(1a):	inserted by 105, 1985, s. 7(b)
Section 21(1b):	inserted by 105, 1985, s. 7(b); amended by 21, 1989, s. 8(b)
Section 21(1c):	inserted by 105, 1985, s. 7(b); amended by 21, 1989, s. 8(c)
Section 21(2):	amended by 105, 1985, s. 7(c); 21, 1989, s. 8(d)
Section 21(3):	substituted by 105, 1985, s. 7(d)
Section 21a:	amended by 4, 1981, s. 5
Section 22:	amended by 4, 1981, s. 6; 21, 1989, s. 9; substituted by 18, 1992, s. 3
Section 23:	amended by 14, 1986, s. 3(1) (6th Sched.); 21, 1989, s. 10
Section 24(1):	amended by 14, 1986, s. 3(1) (6th Sched.)
Section 24(2):	amended by 112, 1978, s. 9(a), (b); 4, 1981, s. 7
Section 24(3):	inserted by 112, 1978, s. 9(c); amended by 18, 1982, s. 5(a), (b); 105, 1985, s. 8(a), (b)
Section 24(4):	inserted by 112, 1978, s. 9(c); substituted by 105, 1985, s. 8(c); amended by 21, 1989, s. 11
Section 24(5):	inserted by 18, 1982, s. 5(c); repealed by 105, 1985, s. 8(c)
Section 25:	amended and redesignated as s. 25(1) by 112, 1978, s. 10; 4, 1981, s. 8(a); amended by 14, 1986, s. 3(1) (6th Sched.)
Section 25(2):	inserted by 112, 1978, s. 10(b)
Section 25(3):	inserted by 4, 1981, s. 8(b); substituted by 14, 1986, s. 3(1) (6th Sched.)
Section 26a:	inserted by 4, 1981, s. 9; substituted by 14, 1986, s. 3(1) (6th Sched.)
Section 27:	amended by 4, 1981, s. 10
Section 29(1):	amended by 4, 1981, s. 11
Section 30:	substituted by 105, 1985, s. 9; amended by 21, 1989, s. 12
	Part VA comprising s. 31a and heading inserted by 18, 1992, s. 4
Section 34:	amended by 14, 1986, s. 3(1) (6th Sched.); 21, 1989, s. 13
Section 35(1):	definition of "prescribed pension day" amended by 14, 1986, s. 3(1) (6th Sched.)
	definition of "the Index" amended by 14, 1986, s. 3(1) (6th Sched.)
Section 35(2):	amended by 14, 1986, s. 3(1) (6th Sched.)
Section 35(6):	amended by 14, 1986, s. 3(1) (6th Sched.)
Section 35(7):	repealed by 14, 1986, s. 3(1) (6th Sched.)
Section 36(1):	amended by 21, 1989, s. 14(a)
Section 36(3):	amended by 21, 1989, s. 14(b)
Section 36(4):	definition of "prescribed amount" amended by 105, 1985, s. 10(a), (b)
Section 36(4a) - (4c):	inserted by 4, 1981, s. 12(a); repealed by 18, 1982, s. 6(a)

Section 36(6):	inserted by 112, 1978, s. 11; substituted by 4, 1981, s. 12(b); amended by 4, 1982, s. 6(b); 21, 1989, s. 14(c)
Section 36(7):	inserted by 4, 1981, s. 12(b)
Section 36(7a):	inserted by 105, 1985, s. 10(c); amended by 14, 1986, s. 3(1) (6th Sched.)
Section 36(7b):	inserted by 105, 1985, s. 10(c); amended by 14, 1986, s. 3(1) (6th Sched.); 21, 1989, s. 14(d), (e)
Section 36(8):	inserted by 4, 1982, s. 6(c); amended by 105, 1985, s. 10(d); 21, 1989, s. 14(f)-(h)
Section 36(9):	inserted by 4, 1982, s. 6(c); amended by 21, 1989, s. 14(i)
Section 37(1):	amended by 18, 1992, s. 5
Section 39:	substituted by 21, 1989, s. 15
Section 39a:	inserted by 112, 1978, s. 12; repealed by 14, 1986, s. 3(1) (6th Sched.)
First schedule:	repealed by 14, 1986, s. 3(1) (6th Sched.); inserted by 21, 1989, s. 16
Second schedule:	amended by 105, 1985, s. 11