

South Australia

POLICE SUPERANNUATION ACT 1990

An Act to provide superannuation benefits for members of the police force; to repeal the Police Pensions Act 1971; to make consequential amendments to the Police Act 1952; and for other purposes.

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **1 June 2000**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

POLICE SUPERANNUATION ACT 1990

being

Police Superannuation Act 1990 No. 39 of 1990
[Assented to 10 May 1990]¹

as amended by

- Police Superannuation (Miscellaneous) Amendment Act 1992 No. 52 of 1992 [Assented to 29 October 1992]²
Police (Police Aides) Amendment Act 1992 No. 60 of 1992 [Assented to 12 November 1992]³
Statutes Amendment (Public Actuary) Act 1992 No. 69 of 1992 [Assented to 19 November 1992]⁴
Police Superannuation (Superannuation Guarantee) Amendment Act 1993 No. 12 of 1993 [Assented to 25 March 1993]⁵
Statutes Amendment (Closure of Superannuation Schemes) Act 1994 No. 46 of 1994 [Assented by 9 June 1994]⁶ (as amended by Statutes Amendment (Closure of Superannuation Schemes) (Extension of Time) Amendment Act 1994 No. 53 of 1994 [Assented to 15 September 1994]⁷ and Statutes Amendment (Closure of Superannuation Schemes) Amendment Act 1994 No. 57 of 1994 [Assented to 20 October 1994]⁸)
Superannuation Funds Management Corporation of South Australia Act 1995 No. 38 of 1995 [Assented to 27 April 1995]⁹
Police Superannuation (Miscellaneous) Amendment Act 1997 No. 7 of 1997 [Assented to 20 March 1997]¹⁰
Statutes Amendment (Superannuation) Act 1997 No. 25 of 1997 [Assented to 10 April 1997]¹¹
Police Superannuation (Miscellaneous) Amendment Act 1998 No. 16 of 1998 [Assented to 2 April 1998]¹²
Statutes Amendment (Adjustment of Superannuation Pensions) Act 1998 No. 20 of 1998 [Assented to 2 April 1998]¹³
Police Act 1998 No. 55 of 1998 [Assented to 3 September 1998]¹⁴
Statutes Amendment (Commutation for Superannuation Surcharge) Act 1999 No. 23 of 1999 [Assented to 1 April 1999]
Police Superannuation (Increments in Salary) Amendment Act 1999 No. 54 of 1999 [Assented to 12 August 1999]¹⁵
District Court (Administrative and Disciplinary Division) Amendment Act 2000 No. 4 of 2000 [Assented to 20 April 2000]¹⁶

NOTE:

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

Police Superannuation Act 1990

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- ¹ Came into operation 1 June 1990: *Gaz.* 31 May 1990, p. 1478.
- ² Ss. 1-5 and 10 came into operation 1 June 1990: s. 2(1); remainder of Act came into operation on assent: s. 2(2).
- ³ Came into operation 18 March 1993: *Gaz.* 18 March 1993, p. 914.
- ⁴ Came into operation 10 December 1992: *Gaz.* 10 December 1992, p. 1752.
- ⁵ Came into operation 1 July 1992: s. 2(1).
- ⁶ Came into operation (except s. 9) 3 May 1994: s. 2(1); s. 9 came into operation 21 October 1994: s. 2(2).
- ⁷ Came into operation 30 September 1994: s. 2.
- ⁸ Came into operation 20 October 1994: s. 2.
- ⁹ Came into operation 1 July 1995: *Gaz.* 25 May 1995, p. 2199.
- ¹⁰ Came into operation (except ss. 1-5) 1 July 1996: s. 2(2); ss. 1-5 came into operation 3 April 1997: *Gaz.* 3 April 1997, p. 1386.
- ¹¹ Part 4 (ss. 7-11) came into operation 24 April 1997: *Gaz.* 24 April 1997, p. 1618.
- ¹² Came into operation 23 April 1998: *Gaz.* 23 April 1998, p. 1926.
- ¹³ Part 4 (s. 6) came into operation 1 October 1997: s. 2.
- ¹⁴ Sched. 3 (cl. 2) came into operation 1 July 1999: *Gaz.* 30 June 1999, p. 3310.
- ¹⁵ Came into operation 26 August 1999: *Gaz.* 26 August 1999, p. 954.
- ¹⁶ **Schedule 1 (cl. 33) came into operation 1 June 2000: *Gaz.* 18 May 2000, p. 2554.**

SUMMARY OF PROVISIONS

**PART 1
PRELIMINARY**

1. Short title
2. Commencement
3. Repeal of the Police Pensions Act 1971
4. Interpretation

**PART 2
ADMINISTRATION**

DIVISION 1—THE BOARD

5. The Board
6. Function of the Board
7. The Board's membership
8. Procedure at meetings of the Board
9. Staff of the Board

DIVISION 2—THE FUND

10. The Fund
11. Investment of the Fund

DIVISION 3—CONTRIBUTORS' ACCOUNTS

13. Contributors' accounts

DIVISION 4—PAYMENT OF BENEFITS

14. Payment of benefits

DIVISION 5—REPORTS

15. Reports

**PART 3
CONTRIBUTORS, CONTRIBUTION RATES AND CONTRIBUTION POINTS**

16. Contributors
17. Contribution rates
18. Contribution points
19. Attribution of contribution points and months

**PART 4
SUPERANNUATION BENEFITS—NEW SCHEME CONTRIBUTORS**

20. Application of this Part
21. Retirement
22. Resignation and preservation
23. Retrenchment
24. Disability pension
25. Termination of employment on invalidity
26. Death of contributor

**PART 5
SUPERANNUATION BENEFITS—OLD SCHEME CONTRIBUTORS**

DIVISION 1—PENSION BENEFITS

- 27. Application of this Part
- 28. Retirement
- 29. Retrenchment
- 30. Temporary disability pension
- 31. Invalidity pension
- 32. Pensions payable on contributor's death
- 33. Benefits payable to contributor's estate
- 34. Resignation and preservation of benefits

DIVISION 2—GENERAL

- 35. Commutation of proportion of pension
- 35A. Commutation to pay deferred superannuation contributions surcharge
- 36. Medical examination, etc., of invalid pensioner
- 37. Effect on pension of pensioner's re-employment
- 38. Notional extension of period of employment

**PART 6
MISCELLANEOUS**

- 39. Review of the Board's decisions
- 40. Effect of workers compensation, etc., on pensions
- 41. Division of benefit where deceased contributor is survived by lawful and putative spouses
- 42. Adjustment of pensions
- 43. Repayment of balance in contribution account
- 44. Special provision for payment in case of infancy or death
- 45. Pension not to be assignable
- 45A. Rounding off of contributions and benefits
- 46. Liabilities may be set off against benefits
- 47. Annuities
- 48. Power to obtain information
- 49. Confidentiality
- 50. Resolution of doubts or difficulties
- 51. Summary offences
- 52. Regulations

SCHEDULE 1
Transitional Provisions

SCHEDULE 2
Contribution Rates

SCHEDULE 3

SCHEDULE 4

**APPENDIX
LEGISLATIVE HISTORY**

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Police Superannuation Act 1990*.

Commencement

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

Repeal of the Police Pensions Act 1971

3. The *Police Pensions Act 1971* is repealed.

Interpretation

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

"**actual or attributed salary**"—see subsections (3), (4) and (5);

"**actuary**" means a Fellow or Accredited Member of the Institute of Actuaries of Australia;

"**adjusted salary**" in relation to a contributor as at a particular time means—

- (a) where the contributor has been employed on a full-time basis throughout his or her contribution period—the contributor's actual or attributed salary as at that time;
- (b) where the contributor has been employed on a part-time basis over the whole or any part of his or her contribution period—the contributor's actual or attributed salary as at that time reduced to reflect the extent of the contributor's employment over the contribution period expressed as a proportion of full-time employment;

"**the Board**" means the Police Superannuation Board;

"**the Commissioner**" means the Commissioner of Police;

"**the Commonwealth Act**" means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth;

"**the Consumer Price Index**" means the Consumer Price Index (All groups index for Adelaide);

"**contribution month**" means a month of a contribution period and includes a contribution month credited or attributed to a contributor under this Act;

"**contribution period**" in relation to a contributor means a period or periods during which the contributor has contributed to the Scheme and includes—

- (a) in the case of an old scheme contributor, a period falling wholly or partly before the commencement of this Act; and
- (b) contribution months credited or attributed to the contributor under this Act;

Police Superannuation Act 1990

"contributor" means a person who has made contributions pursuant to this Act or a corresponding previous enactment and includes a member, or former member, of the police force who has ceased making contributions unless his or her rights in relation to superannuation have been exhausted and no derivative rights exist in relation to that person under this Act;

"dependency" in relation to a child means any period for which the child is an eligible child;

"the Deputy Commissioner" means the Deputy Commissioner of Police;

"eligible child" in relation to a deceased contributor means a child—

(a) who is—

(i) a child of the contributor; or

(ii) a child in relation to whom the contributor had assumed parental responsibilities and who was cared for and maintained, wholly or in part, by the contributor up to the date of the contributor's death; and

(b) who is—

(i) under the age of 16 years; or

(ii) between the ages of 16 and 25 years and in full-time attendance at an educational institution recognised by the Board for the purposes of this definition;

"entitlement day" means—

(a) in relation to a contributor who becomes entitled to a pecuniary benefit under this Act—the day on which that entitlement arises;

(b) in relation to a contributor whose employment is terminated by his or her death—the date of the contributor's death;

"the Fund" means the Police Superannuation Fund;

"invalid pension" means a pension payable on account of invalidity;

"invalidity" means physical or mental incapacity to carry out the duties of employment;

"member of the police force" includes a community constable;

"month"—see subsection (2);

"new scheme contributor" means a person who becomes a contributor on or after the commencement of this Act (but excluding a cadet who is an old scheme contributor);

"notional salary" in relation to a contributor whose employment has ceased temporarily or permanently (including a contributor who has died) means the salary (including an allowance for shift work determined by the Board) that the contributor would be receiving if he or she had continued in employment in the same position and at the same grade as were applicable immediately before the cessation of employment and, if the contributor was not in full-time employment immediately before cessation of employment, notional salary will be calculated on the basis of the contributor's average hours of employment (excluding overtime) over the last three years of his or her contribution period;

"old scheme contributor" means a person who became a contributor to the Police Pensions Fund before the commencement of this Act and includes a person who was a cadet immediately before the commencement of this Act and who subsequently becomes a member of the police force;

"pensioner" means a person who is entitled to a pension under this Act (including a person who qualifies for a pension but whose pension is under suspension);

"pension period" means the period over which a pension is paid;

"police cadet" or **"cadet"** means a person appointed under the *Police Act 1952* to be a police cadet;

"the repealed Act" means the *Police Pensions Act 1971*;

"to retrench" in relation to a contributor means to terminate the contributor's employment on the ground that work of the kind for which the contributor is qualified and suited is no longer available for the contributor;

"retrenchment pension" means the pension payable to an old scheme contributor on account of retrenchment;

"salary" includes all forms of remuneration except—

- (a) remuneration related to overtime (other than such remuneration that is paid by way of an annual allowance);
- (b) a loading for shift work;
- (c) a leave loading;
- (d) a loading arising from the conditions under which work is performed;
- (e) allowances (unless declared by regulation to be a component of salary) for accommodation, travelling, subsistence or other expenses;
- (f) remuneration of a kind excluded by regulation from the ambit of this definition (and such a regulation may exclude remuneration of a particular kind for the purpose of calculating contributions but provide for its inclusion as a component of salary for the purpose of calculating benefits);

"the Scheme" means the scheme of superannuation established by this Act and (where the context admits) includes the scheme of superannuation established by a corresponding previous enactment;

Police Superannuation Act 1990

"**special deposit account**" means a special deposit account established under section 8 of the *Public Finance and Audit Act 1987*;

"**spouse**" includes a putative spouse;

"**the Superannuation Funds Management Corporation of South Australia**" or "**the Corporation**" means the Superannuation Funds Management Corporation of South Australia continued in existence by the *Superannuation Funds Management Corporation of South Australia Act 1995*.

(2) Where a period is to be expressed in months for the purpose of this Act, then, except where express provision is made to the contrary, only completed months will be taken into account and any remainder will be ignored.

(3) Subject to this Act, contributions and benefits will be calculated in relation to a contributor as at a particular date on the basis of the highest level of salary received by the contributor in the highest grade achieved by the contributor in a permanent position in the police force and—

(a) for the purpose of calculating benefits—

- (i) the contributor's actual salary will be used if, at that date, it is at that level (or would be at that level except for a reduction for disciplinary reasons) and the contributor is in full time employment in that grade; or
- (ii) if, at that date, the contributor's salary is at a lower level (except for a reduction for disciplinary reasons) or the contributor is employed in a lower grade or on a part time basis, the salary that the contributor would have been receiving at that date if he or she had been employed on a full time basis in the highest grade achieved by the contributor and had been receiving salary at that level will be attributed to the contributor;

(b) for the purpose of calculating contributions—

- (i) the contributor's actual salary will be used if, at that date, it is at that level (or would be at that level except for a reduction for disciplinary reasons) and the contributor is employed in that grade (whether on a full time or a part time basis); or
- (ii) if, at that date, the contributor's salary is at a lower level (except for a reduction for disciplinary reasons) or the contributor is employed in a lower grade, the salary that the contributor would have been receiving (for his or her hours of employment on that date) if he or she had been employed in the highest grade achieved by the contributor and had been receiving salary at that level will be attributed to the contributor.

(3aa) In the application of subsection (3)(a)(ii) and (3)(b)(ii) an automatic increment in the relevant salary that occurs after the contributor moves to a lower level of salary will be ignored.

(3a) In subsections (3) and (3aa)—

"**automatic increment**" in relation to salary means an increase in the salary that occurs automatically at the end of a specified period.

"**permanent position in the police force**" includes a position to which the contributor is appointed for a fixed term that is specified in the contract or instrument of appointment as being of one year or more.

(4) Salary will not be attributed under subsection (3) in respect of a reduction in salary for disciplinary reasons.

(5) Where a contributor's salary is reduced for disciplinary reasons and is not reinstated before termination of the contributor's employment a salary will be attributed to the contributor in accordance with the following formula for the purpose of calculating benefits:

$$FS = S_1 \left[\frac{CM - X}{CM} \right] + \frac{S_2 \times X}{CM}$$

Where

FS is the salary to be attributed to the contributor

S₁ is the salary that would have been the contributor's actual or attributed salary for the purpose of calculating benefits if the contributor's salary had not been reduced for disciplinary reasons

S₂ is the salary that would, but for this subsection, have been the contributor's actual or attributed salary for the purpose of calculating benefits

CM is the number of contribution months comprising the contributor's contribution period

X is the number of contribution months comprising that part, or those parts, of the contributor's contribution period during which the contributor's salary was reduced for disciplinary reasons.

(6) For the purposes of determining contributions and benefits the actual or attributed salary of a contributor who holds the rank of senior sergeant or a lower rank in the police force will be increased by ten per cent if at any time during the contribution period the contributor was rostered to work on day, afternoon and night shifts, or on any two of those shifts, on a rotating basis.

(6a) Subsection (6) does not apply in relation to a contributor who is employed on a permanent basis on special duties at a salary level greater than that payable to a senior sergeant.

(6b) The following provisions apply to the application of subsection (3) in relation to a contributor who has been seconded to another police force or police forces in Australia or in any other country:

(a) if the contract under which the contributor is serving in the other police force is for a period of five years or more, the seconded position will be taken to be a permanent position in the South Australian police force for the purpose of calculating contributions;

(b) if the contributor has served under two or more contracts in the same or in two or more interstate or overseas police forces and the aggregate of the periods of those contracts is five years or more, the seconded positions will be taken to be permanent positions in the South Australian police force for the purpose of calculating contributions (but contributions will only be calculated on that basis from the commencement of the contract that results in an aggregate period of five years or more);

Police Superannuation Act 1990

- (c) if the contract under which the contributor served in the other police force was for a period of five years or more or if the contributor served under two or more contracts in the same or in two or more interstate or overseas police forces and the aggregate of the periods of those contracts was five years or more, the seconded position or positions will be taken to be a permanent position or positions in the South Australian police force for the purpose of calculating benefits;
- (d) if paragraph (c) applies the following provisions apply to and in relation to the calculation of benefits under subsection (3):
- (i) separate salaries will be determined under subsection (3) in respect of the contributor's period of employment in the South Australian police force and his or her period of employment in the other police force or police forces;
 - (ii) the salary for the purpose of calculating benefits will be the average of those salaries determined in accordance with the following formula:

$$A = \frac{(X \times P_1) + (Y \times P_2)}{T}$$

Where

- A is the average salary
- X is the salary determined under subsection (3) in respect of the contributor's period of employment in the South Australian police force
- P₁ is the period of the contributor's employment in the South Australian police force
- Y is the salary determined under subsection (3) in respect of the contributor's period of employment in the other police force or police forces
- P₂ is the period of the contributor's employment in the other police force or police forces
- T is the aggregate of the periods of the contributor's employment in the South Australian police force and the other police force or forces;
- (e) if paragraphs (a) and (c) or (b) and (c) are not applicable because the period or periods of secondment are less than five years, the contributor will be taken, for the purpose of calculating contributions and benefits, to be employed during the period of secondment in the position in which he or she was employed in the South Australian police force immediately before the commencement of the relevant period of secondment;
- (f) a reference in this subsection to another police force in Australia or in any other country includes—
- (i) all law enforcement agencies; and
 - (ii) a body established by the Australian Police Ministers Council; and

- (iii) a body established by the Council of Police Commissioners of Australia; and
- (iv) a body prescribed for the purposes of this paragraph by regulation.

(7) Where a contributor's employment terminates or is terminated for any reason except the contributor's death and the contributor has reached the age of 55 years, the contributor will be taken for the purposes of this Act to have retired from employment.

(8) Where a new scheme contributor who has not reached the age of 55 years terminates his or her employment (except on the ground of invalidity in circumstances that entitle the contributor to a benefit under section 25)—

- (a) the contributor will be taken to have retired if he or she had reached the age of 50 years but not the age of 55 years and was entitled to retire under section 21(2) and (3);
- (b) in every other case the contributor will be taken to have resigned.

(8a) Where an old scheme contributor who has not reached the age of 55 years terminates his or her employment (except on the ground of invalidity in circumstances that entitle the contributor to a benefit under section 31)—

- (a) the contributor will be taken to have retired if he or she—
 - (i) had reached the age of 50 years but not the age of 55 years; and
 - (ii) was entitled to retire under section 28(3) and (4); and
 - (iii) had, within three months after termination of the employment, informed the Board in writing that he or she had retired from employment;
- (b) in every other case the contributor will be taken to have resigned.

(9) A position in the police force or the Public Service of the State will be taken to be available to a contributor if the position has been offered to the contributor or the contributor has refused to make a genuine application for appointment to the position after being requested to do so by the Commissioner or the Board.

Police Superannuation Act 1990

**PART 2
ADMINISTRATION**

DIVISION 1—THE BOARD

The Board

5. (1) The Police 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.

Function of the Board

6. The Board is responsible to the Minister for all aspects of the administration of this Act except the management and investment of the Fund.

The Board's membership

7. (1) The Board consists of the following members:

(a) a presiding member (who must not be a member of the police force) appointed by the Governor; and

(b) two members (who must be members of the police force) appointed by the Governor on the nomination of the Police Association of South Australia; and

(c) two members appointed by the Governor on the Minister's nomination.

* * * * *

(3) The Governor may appoint a deputy to a member of the Board and the deputy may, in the absence or during a temporary vacancy in the office of that member, act as a member of the Board.

(4) Subject to subsection (5), a member of the Board will be appointed for a term of three years.

(5) A member appointed to fill a casual vacancy will be appointed for the balance of the term of his or her predecessor.

(6) The office of a member of the Board becomes vacant if the member—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Minister; or

(d) is removed from office by the Governor on the ground of—

(i) mental or physical incapacity to carry out official duties satisfactorily; or

- (ii) neglect of duty; or
- (iii) misconduct.

Procedure at meetings of the Board

8. (1) A meeting will be chaired by the presiding member or, in his or her absence, by a member chosen by those present.

(2) Subject to subsection (3), the Board may act notwithstanding vacancies in its membership.

(3) Three members constitute a quorum for a meeting of the Board.

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

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

(6) The Board must keep minutes of its proceedings.

Staff of the Board

9. (1) The Board may, with the Minister's approval, appoint staff to assist it in carrying out its responsibilities under this Act.

(2) A person appointed under subsection (1) is not a Public Service employee.

(3) 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.

DIVISION 2—THE FUND

The Fund

10. (1) The Police Superannuation Fund is established.

(2) The assets of the Fund belong (both at law and in equity) to the Crown.

(3) The Fund is subject to the management and control of the Superannuation Funds Management Corporation of South Australia.

(4) The Treasurer must pay into the Fund from the Consolidated Account (which is appropriated to the necessary extent) or from a special deposit account established by the Treasurer for that purpose periodic contributions reflecting the contributions paid to the Treasurer by contributors with respect to the relevant period.

(5) All interest and accretions arising from investment of the Fund must be paid into the Fund.

(6) The Fund will be treated as made up of two major divisions—

(a) one proportioned to—

(i) the aggregate balance, as at a date determined by the Board, of contribution accounts maintained in the names of old scheme contributors;

(ii) the amount, as at the date referred to in subparagraph (i), that represents income of the Fund referable to old scheme contributors that is not reflected in contribution accounts;

Police Superannuation Act 1990

- (iii) the amount, as at the date referred to in subparagraph (i), that is referable to contributions of old scheme contributors whose contribution accounts have been closed;
 - (iv) subsequent contributions and payments referable to old scheme contributors;
 - (v) subsequent income of the Fund attributable to investment of this division of the Fund;
- (b) the other proportioned to—
- (i) the aggregate balance, as at the date referred to in paragraph (a)(i), of contribution accounts maintained in the names of new scheme contributors; and
 - (ii) subsequent contributions and payments referable to new scheme contributors; and
 - (iii) subsequent income of the Fund attributable to investment of this division of the Fund.
- (7) The following amounts will be paid from the Fund:
- (a) administrative costs and other expenses related to the management and investment of the Fund;
 - (b) the prescribed percentage of the other costs of administering this Act;
 - (c) any reimbursement of the Consolidated Account or a special deposit account that the Treasurer charges against the Fund in pursuance of this Act.

(8) The Superannuation Funds Management Corporation of South Australia must determine the value of each division of the Fund as at the end of each financial year.

Investment of the Fund

11. (1) The Fund will be invested in a manner determined by the Superannuation Funds Management Corporation of South Australia.

- (2) The Corporation may enter into transactions affecting the Fund—
 - (a) for the purpose of investment; or
 - (b) for purposes incidental, ancillary or otherwise related to investment.

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DIVISION 3—CONTRIBUTORS' ACCOUNTS

Contributors' accounts

13. (1) The Board must maintain accounts in the names of all contributors.

(2) A contributor's account must be debited with any payment that is, in pursuance of this Act, to be charged against that account.

(3) At the end of each financial year, each contributor's account that has a credit balance will be increased—

- (a) if the account is in the name of an old scheme contributor—to reflect a rate of return determined by the Board in relation to the contribution accounts of old scheme contributors for the relevant financial year;
- (b) if the account is in the name of a new scheme contributor—to reflect a rate of return determined by the Board in relation to the contribution accounts of new scheme contributors for the relevant financial year.

(4) In determining a rate of return for the purposes of subsection (3), the Board should have regard to—

- (a) the net rate of return achieved by investment of the relevant division of the Fund over the financial year; and
- (b) the desirability of reducing undue fluctuations in the rate of return on contributors' accounts.

(5) Where, in pursuance of subsection (4)(b), the Board determines a rate of return that is at variance with the net rate of return achieved by investment of the relevant division of the Fund, the Board must include its reasons for the determination in its report for the relevant financial year.

(6) Where it is necessary to determine the balance of a contributor's account and the Board has not yet determined a rate of return in relation to the relevant financial year, the balance will be determined by applying a percentage rate of return on accounts estimated by the Board.

(6a) A balance determined under subsection (6) will not be adjusted when a rate of return is subsequently determined under subsection (3).

(7) The Board must, within six months after the end of each financial year, provide each contributor with a written statement of the amount standing to the credit of the contributor's contribution account at the end of the financial year and the amount by which the balance of the account has been increased pursuant to subsection (3) in respect of that financial year.

(8) A reference in this section to "rate of return" is a reference to a positive or a negative rate of return.

DIVISION 4—PAYMENT OF BENEFITS

Payment of benefits

14. (1) Any payment to be made under this Act to a contributor, a deceased contributor's estate, a spouse or child of a deceased contributor or to another fund or scheme on behalf of a contributor must be made by the Treasurer out of the Consolidated Account (which is appropriated to the necessary extent) or out of a special deposit account established by the Treasurer for that purpose.

(2) A lump sum payment made under Part 4 and the prescribed proportion of a pension paid under that Part to or in relation to a contributor will be charged against the contributor's contribution account to the extent of the amount standing to the credit of that account.

(3) The prescribed proportion of a pension or lump sum paid under Part 5 to or in relation to a contributor will be charged against the contributor's contribution account to the extent of the amount standing to the credit of that account.

Police Superannuation Act 1990

(4) The Treasurer may reimburse the Consolidated Account or special deposit account by charging the relevant division of the Fund with the amount of any payment or proportion of any payment that is, in pursuance of this Act, to be charged against a contributor's contribution account.

DIVISION 5—REPORTS

Reports

15. (1) The Board must, on or before 31 October in each year, submit a report to the Minister on the operation of this Act during the financial year ending on 30 June in that year.

* * * * *

(4) The Minister must, in relation to the triennium ending 30 June 1993, and thereafter in relation to each succeeding triennium, obtain a report within 12 months after the end of the relevant triennium on—

- (a) the cost of the Scheme to the Government at the time of the report and in the foreseeable future; and
- (b) the ability of the Fund to meet its current and future liabilities.

(4a) A report under subsection (4) must be prepared by an actuary, not being a member of the Board, appointed by the Minister.

(5) The Minister must, within six sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

PART 3
CONTRIBUTORS, CONTRIBUTION RATES AND CONTRIBUTION POINTS

Contributors

16. (1) Subject to this Act the following members of the police force must contribute to the Scheme:

- (a) a person who was appointed as a member of the police force on or before 3 May 1994;
- (b) a person appointed as a member of the police force pursuant to a written offer of appointment made before 4 May 1994;
- (c) a person appointed as a member of the police force following a period of cadetship that commenced on or before 31 May 1994;
- (d) a person appointed as a member of the police force on or before 31 March 1995 and who was previously employed by the State Transport Authority as a transit officer.

(1a) A person who is appointed as a member of the police force on or after 4 May 1994 but before 1 July 1995 (not being a person referred to in subsection (1)) must contribute to the Scheme but will—

- (a) be a member of the Southern State Superannuation Scheme established by the *Southern State Superannuation Act 1994* on and from 1 July 1995 and will be taken to have elected to contribute to that scheme at the rate of 4.5 per cent of salary; and
- (b) be taken to be under the age of 55 years and to resign from employment for the purposes of this Act on 30 June 1995 and to carry over the employee component of his or her accrued superannuation benefits on 1 July 1995 to his or her member's contribution account under the Southern State Superannuation Scheme and to carry over the employer component of those benefits on 1 July 1995 to his or her employer contribution account under that scheme.

* * * * *

(2) A member's contributions may be deducted from his or her salary.

Contribution rates

17. (1) A contributor must make contributions to the Treasurer at the rate prescribed in schedule 2.

(2) A contributor's contributions will be fixed in relation to each financial year, as from a day in that financial year determined by the Board—

- (a) on the basis of the contributor's actual or attributed salary as at 31 March last preceding the commencement of the financial year or, if the contributor's hours of employment have increased or decreased between that date and the commencement of the financial year, on the basis of the contributor's salary following the last such increase or decrease in the hours of employment;
- (b) —
 - (i) if the contributor had not then commenced his or her employment, the contributions will be fixed on the basis of the contributor's commencing salary;

Police Superannuation Act 1990

- (ii) if the contributor was then on leave without pay or at a reduced rate of pay, the contributor will be taken for the purposes of determining the contributor's actual or attributed salary to be employed for the number of hours that the contributor would have been employed and to be receiving the salary that the contributor would have been receiving, if not on leave;
- (iii) if after the date on which contributions for a particular financial year are fixed there is a reduction in the contributor's salary resulting from a reduction in hours of work (other than a temporary reduction of less than two weeks' duration), there will be a proportionate reduction in the contributor's contributions (but such a contributor may, with the Board's approval, elect to contribute as if there had been no reduction in salary and in that event benefits payable under this Act will be calculated as if there had been no reduction of salary);
- (iv) if the reason for the reduction in hours of work is an illness or injury suffered by the contributor, an election under subparagraph (iii) may, with the Board's approval, operate during subsequent years despite paragraph (a).

(3) If on the 31st day of March in any year a contributor is receiving weekly workers compensation payments those payments will be regarded as salary or a component of salary and contributions will be based on the aggregate of the contributor's salary (if any) and the weekly workers compensation payments as at that date.

(3a) If, after a contributor's contributions have been fixed in relation to a financial year, the contributor receives weekly workers compensation payments and the aggregate of the contributor's salary (if any) and the weekly payments is less than the salary on which the contributions were based the Board must make a proportionate reduction in the amount of the contributions.

(4) The following provisions apply to leave without pay:

- (a) any period of leave without pay of two weeks or less will be treated as a period of employment in respect of which contributions are payable;
- (b) if leave without pay is taken for a continuous period exceeding two weeks, no contribution is payable in respect of that period unless the contributor elects to contribute and the election is approved by the Board;
- (c) the Board must only approve an election in respect of a period of leave without pay that exceeds 12 months if satisfactory arrangements have been made for reimbursement of the costs of benefits attributable to that period.

(5) An old scheme contributor will cease to contribute to the Scheme if before termination of the contributor's employment the following conditions are satisfied:

- (a) the contributor is of or above the age of 60 years; and
- (b) the contributor has not less than—
 - (i) an aggregate of 360 contribution points; or
 - (ii) an aggregate number of contribution points equal to the number of months between the date on which he or she became a contributor and the date on which he or she reached the age of 60 years,

whichever is the greater number.

(6) A new scheme contributor will cease to contribute to the Scheme if before termination of the contributor's employment the following conditions are satisfied:

- (a) the contributor is of or above the age of 60 years; and
- (b) the contributor has an aggregate of at least 420 contribution points.

Contribution points

18. (1) Contribution points accrue to a contributor who is employed on a full-time basis at the rate of one point for each contribution month.

(2) Where a contributor is employed on a part-time basis a proportion of one contribution point accrues to the contributor in respect of a contribution month equal to the proportion that the amount actually contributed in respect of that month bears to the amount that would have been contributed if the contributor had been employed on a full-time basis.

(3) A contributor will not be credited with contribution points in respect of a period—

- (a) during which the contributor is on leave without pay and is not contributing to the Scheme;
- (b) during which the contributor is suspended from the police force without pay.

(4) Where a formula in this Act requires the extrapolation of a contributor's contribution points to a particular age the following provisions apply:

- (a) if the contributor has then reached the age to which the points are to be extrapolated, the number of points to be used in the formula is the aggregate of the accrued contribution points;
- (b) in any other case—
 - (i) if the contributor has been in full-time employment throughout the contribution period—the number of points to be used in the formula is the aggregate of the accrued contribution points plus a number equal to the number of months' difference between the contributor's age as at the entitlement day and the age to which the points are to be extrapolated (an incomplete month occurring in that period being taken to be a whole month);
 - (ii) if the contributor has not been in full-time employment throughout the contribution period—the number of points to be used in the formula is the aggregate of the accrued contribution points plus the relevant proportion of the number of months' difference between the contributor's age as at the entitlement day and the age to which the points are to be extrapolated (an incomplete month occurring in that period being taken to be a whole month).

(5) The reference in subsection (4) to "the relevant proportion" is a reference to a proportion arrived at by expressing the contributor's employment as a proportion of full-time employment.

Attribution of contribution points and months

19. The Minister may, in appropriate cases—

- (a) attribute additional contribution points to a contributor;
- (b) attribute additional contribution months to a contributor.

Police Superannuation Act 1990**PART 4
SUPERANNUATION BENEFITS—NEW SCHEME CONTRIBUTORS****Application of this Part**

20. (1) Subject to subsection (2), this Part applies only to new scheme contributors.

(2) Sections 24, 25 and 26 (excluding benefits payable to a contributor's estate on death) also apply to a person who becomes a police cadet on or after the commencement of this Act but before 1 June 1994 as though he or she were a contributor.

(3) A cadet referred to in subsection (2) is not required to contribute to the Scheme but will be credited with contribution points and contribution months as if he or she were contributing.

Retirement

21. (1) A contributor who retires from employment after reaching the age of 55 years is entitled to a lump sum payment calculated as follows:

$$LS = 6 \times A \times FS \times \left(1 + \frac{0.2778 \times X}{100} \right)$$

Where—

LS is the lump sum payment

A is the lesser of the following:

- (a) unity;
- (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 420 or, where the contributor has not reached the age of 60 years, by the addition of 360 and X

FS is the contributor's actual or attributed salary (expressed as an annual amount)

X is the number of months (if any) by which the contributor's age, at retirement, exceeds 55 years.

(2) A contributor may, subject to subsection (3), retire after reaching the age of 50 years and if the contributor retires before reaching the age of 55 years he or she is entitled to a lump sum payment calculated as follows:

$$LS = 5.4545 \times A \times FS \times \left(1 + \frac{0.1667 \times X}{100} \right)$$

Where—

LS is the lump sum

A is the lesser of the following:

- (a) unity;
- (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary (expressed as an annual amount)

X is the number of months (if any) by which the contributor's age, at retirement, exceeds 50 years.

(3) The number of contributors who may retire pursuant to subsection (2) is subject to restriction by regulation.

Resignation and preservation

22. (1) A contributor who resigns from employment may elect—

- (a) to take immediately an amount (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account; or
- (b) to preserve his or her accrued superannuation benefits; or
- (c) to carry over his or her accrued superannuation benefits to some other superannuation fund or scheme approved by the Board.

(1aa) A contributor who fails to inform the Board in writing of his or her election under subsection (1) within three months after resignation will be taken to have elected to preserve his or her accrued superannuation benefits.

(1ab) If the Board is of the opinion that the limitation period referred to in subsection (1aa) would unfairly prejudice a contributor, the Board may extend the period as it applies to the contributor.

(1a) Where a contributor resigns and elects to take the amount referred to in subsection (1)(a) the contributor is also entitled to a superannuation payment in accordance with the following provisions:

- (a) if the amount of the superannuation payment is less than \$200, the contributor is entitled to the payment on resignation;
- (b) if the amount of the payment is \$200 or more the contributor may elect to preserve the payment or to carry it over to some other superannuation fund or scheme approved by the Board;
- (c) if the contributor elects to preserve the payment—
 - (i) the contributor may at any time after reaching 60 years of age require the Board to make the payment and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will make the payment;
 - (ii) if the contributor has reached the age of 55 years and is not employed by an employer within the meaning of the Commonwealth Act, the contributor may require the Board to make the payment to the contributor;
 - (iii) if the contributor has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board will make the payment to the contributor;

Police Superannuation Act 1990

- (iv) if the contributor dies, the payment will be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above subparagraphs excludes further rights so that a claim cannot be subsequently made under some other subparagraph).

(1b) The amount of the superannuation payment referred to in subsection (1a) is the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act together with interest from the date of resignation.

(1c) The amount of interest will be calculated and credited to the contributor at the end of each financial year and will be calculated on the amount referred to in subsection (1b) at the end of the first financial year and on the aggregate of that amount and the interest previously credited at the end of each subsequent financial year.

(1d) The rate of interest will be determined by the Board in respect of each financial year in accordance with section 13.

(2) Where the contributor elects to preserve his or her accrued superannuation benefits, the following provisions apply:

- (a) the contributor may at any time after reaching 55 years of age require the Board to make a superannuation payment and, if no such requirement has been made on or before the date on which the contributor reaches 60 years of age, the Board must make such a payment;
- (b) if the contributor has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board must make a superannuation payment to the contributor;
- (c) if the contributor dies, a payment must be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above paragraphs excludes further rights so that a claim cannot be subsequently made under some other paragraph).

(3) A payment under subsection (2) (except where the contributor dies before reaching 55 years of age) will be calculated as follows:

$$LS = 6 \times A \times AFS.$$

(4) A payment under subsection (2) where the contributor dies before reaching 55 years of age will be calculated as follows:

$$LS = 4 \times A \times AFS.$$

(5) In subsections (3) and (4)—

LS is the superannuation payment

A is the numerical value obtained by dividing the number of the contributor's accrued contribution points by—

- (a) in the case of a contributor whose contribution period commenced before reaching the age of 25 years—the number of months between the contributor's age as at the date of commencement of the contribution period and the age of 55 years;
- (b) in any other case—360

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation.

(6) Where the contributor elects to carry over his or her accrued superannuation benefits to an approved superannuation fund or scheme, the following provisions apply:

- (a) the contributor must satisfy the Board by such evidence as it may require that he or she has been admitted to membership of the fund or scheme; and
- (b) the Treasurer must make a payment on behalf of the contributor to the fund or scheme made up of two components:
 - (i) an employee component (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account; and
 - (ii) an employer component which will, subject to subsection (7), be equal to twice the amount of the employee component.

(7) The employer component cannot exceed 3.86 times the contributor's adjusted salary immediately before resignation (expressed as an annual amount).

(8) For the purposes of this section, a contributor who has not reached the age of 55 years will be taken to resign if the contributor is not to be taken to have retired from employment pursuant to section 4(8) and the contributor's employment terminates or is terminated for any reason except invalidity (in circumstances entitling the contributor to benefits under this Act), retrenchment or death.

Retrenchment

23. (1) Where a contributor's employment is terminated by retrenchment the contributor may elect—

- (a) to take a lump sum payment; or
- (b) to preserve his or her superannuation benefits.

(2) A lump sum payment under this section will be calculated as follows:

$$LS = 5.4545 \times A \times FS \times \left(1 + \frac{0.1667 \times X}{100} \right)$$

Police Superannuation Act 1990

Where—

LS is the lump sum

A is the lesser of the following:

- (a) unity;
- (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary (expressed as an annual amount)

X is the number of months (if any) by which the contributor's age, at termination of the employment, exceeds 50 years.

(3) Where a contributor elects to preserve his or her superannuation benefits, this Act applies in the same way as if the contributor had made that election on resignation.

(4) Where a contributor's employment is to be terminated by retrenchment, the Commissioner must give the Board notice of that fact in accordance with the regulations at least one month before the termination takes effect.

Disability pension

24. (1) Subject to this section, a contributor who is temporarily or permanently incapacitated for work, and has not reached the age of 55 years, is entitled to a disability pension.

(2) A contributor who becomes incapacitated for work in a particular position will not be regarded as incapacitated for work for the purposes of this section if some other position in the police force, carrying a salary of at least 80 per cent of the salary applicable to the former position, is available to the contributor and the contributor could reasonably be expected to take that other position.

(3) A disability pension is not payable in respect of—

- (a) a period in respect of which the contributor is entitled to sick leave; or
- (b) a period in respect of which the contributor is entitled to weekly payments of workers compensation; or
- (c) a period for which the contributor is on recreation leave or long service leave.

(4) The Board will not pay a disability pension in respect of a period of incapacity of less than one week and may decline to pay a disability pension if it appears that the duration of the incapacity is likely to be less than six months.

(5) The amount of a disability pension will be two-thirds of the contributor's notional salary.

(6) A disability pension cannot be paid for a continuous period of more than 12 months unless the Board thinks that there are special reasons for extending that limit, in which case it may extend the pension period by not more than a further six months.

(7) A disability pension cannot be paid, in respect of the same incapacity, for an aggregate period of more than 18 months in any one period of 36 months.

(8) A contributor is not required to make any contributions over a period for which the contributor receives a disability pension but will be credited with contribution points and contribution months in respect of any such period as if the contributor were contributing in respect of that period.

Termination of employment on invalidity

25. (1) A contributor whose employment terminates on the ground of invalidity is entitled to a benefit under this section.

(2) If the Board is satisfied that the contributor's incapacity for all kinds of work (both inside and outside the police force) is 60 per cent or more and is likely to be permanent the contributor is entitled to a lump sum payment calculated as follows:

$$LS = 6 \times A \times FS$$

Where—

LS is the lump sum

A is the lesser of the following:

- (a) unity;
- (b) whichever of the following is applicable in the circumstances of the case:
 - (i) if the contributor is not receiving, and is not entitled to receive, weekly workers compensation payments in relation to the invalidity—the numerical value obtained by dividing the number of the contributor's contribution points extrapolated to the age of 55 years by 360;
 - (ii) if the contributor is receiving, or is entitled to receive, weekly workers compensation payments in relation to the invalidity based on total incapacity for work—the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360;
 - (iii) if the contributor is receiving, or is entitled to receive, weekly workers compensation payments based on partial incapacity for work, the numerical value obtained from the following formula:

$$n = \frac{acp + (1 - x)(ecp - acp)}{360}$$

Where—

n is the numerical value

acp is the number of the contributor's accrued contribution points

ecp is the number of the contributor's contribution points extrapolated to the age of 55 years

x is the extent of the contributor's incapacity for work expressed as a proportion of total incapacity

Police Superannuation Act 1990

FS is the contributor's actual or attributed salary immediately before termination of employment (expressed as an annual amount).

(3) If the Board is not satisfied as to one or both of the matters referred to in subsection (2) the contributor is entitled to a lump sum payment that is the greater of the following:

(a) twice the contributor's actual or attributed salary (expressed as an annual amount); or

(b) $LS = 5.4545 \times A \times FS \times \left(1 + \frac{0.1667 \times X}{100} \right)$

Where—

LS is the lump sum

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary immediately before termination of employment (expressed as an annual amount)

X is the number of months (if any) by which the contributor's age, at termination of the employment, exceeds 50 years.

(4) Subject to subsection (5), a contributor's employment will be taken to have terminated on account of invalidity if and only if—

(a) the Governor or the Commissioner terminates the employment on the ground of the contributor's invalidity; or

(b) —

(i) the contributor satisfies the Board (before termination of employment) that he or she is incapacitated for work in the contributor's present position; and

(ii) the Board is satisfied that there is no other position in the police force or in the Public Service of the State, carrying a salary of at least 80 per cent of the salary applicable to the contributor's present position, which the contributor could reasonably be expected to take, available to the contributor; and

(iii) the contributor has been on sick leave, weekly payments of workers compensation or disability pension for at least 12 months or periods aggregating at least 12 months on account of the invalidity; and

(iv) the contributor, after giving notice to the Board as required by the regulations, resigns from employment.

(5) If—

- (a) the contributor refuses employment in some other position in the police force or the Public Service of the State that carries a salary of at least 80 per cent of the salary applicable to the contributor's present position which the contributor could reasonably be expected to have taken; and
- (b) the Governor or the Commissioner subsequently terminates the contributor's employment,

the contributor will be taken to have retired or resigned from employment.

(6) For the purposes of subsection (5)(a) a contributor will be taken to have refused employment in a position in the police force or the Public Service of the State if he or she refuses an offer of employment in that position or refuses to make a genuine application for appointment to the position after being requested to do so by the Commissioner or the Board.

(7) Where the Commissioner proposes to terminate a contributor's employment on the ground of invalidity, the Commissioner must, at least one month before doing so, give the Board notice of the proposal in accordance with the regulations.

Death of contributor

26. (1) Where a contributor's employment is terminated by the contributor's death—

- (a) if the contributor is survived by a spouse—a lump sum payment will be made to the spouse;
- (b) if the contributor is survived by a spouse and an eligible child or eligible children—a pension will be paid to each eligible child throughout any period of dependency;
- (ba) if the contributor is not survived by a spouse but is survived by an eligible child or eligible children—a lump sum will be paid to the contributor's estate and a pension will be paid to each eligible child throughout any period of dependency;
- (c) if the contributor is not survived by a spouse or an eligible child—a lump sum payment will be made to the contributor's estate.

(2) The lump sum to be paid to a surviving spouse, will be calculated as follows:

$$LS = 5 \times A \times FS$$

Where—

LS is the lump sum payment

A is the lesser of the following:

- (a) unity;
- (b) whichever of the following is applicable in the circumstances of the case:
 - (i) if the spouse is not receiving, and is not entitled to receive, weekly workers compensation payments in relation to the contributor's death—the numerical value obtained by dividing the number of the contributor's contribution points extrapolated to the age of 60 years by 420;

Police Superannuation Act 1990

- (ii) if the spouse is receiving, or is entitled to receive, weekly workers compensation payments in relation to the contributor's death based on full dependency—the numerical value obtained by dividing the number of the contributor's accrued contribution points by 420;
- (iii) if the spouse is receiving, or is entitled to receive, weekly workers compensation payments in relation to the contributor's death based on partial dependency—the numerical value obtained from the following formula:

$$n = \frac{acp + (1 - x)(ecp - acp)}{420}$$

Where—

n is the numerical value

acp is the number of the contributor's accrued contribution points

ecp is the number of the contributor's contribution points extrapolated to the age of 60 years

x is the extent of the spouse's dependency expressed as a proportion of full dependency

FS is the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount).

(3) The pension for an eligible child is calculated as follows:

(a) where the contributor is survived by a spouse, then—

(i) if there are no more than three eligible children—

$$P = A \times .05 \times FS; \text{ or}$$

(ii) if there are more than three eligible children—

$$P = \frac{A \times .15 \times FS}{n}$$

(b) where the contributor is not survived by a spouse, then—

(i) if there are no more than three eligible children—

$$P = A \times .15 \times FS;$$

(ii) if there are more than three eligible children—

$$P = \frac{A \times .45 \times FS}{n}$$

Where—

P is the amount of the pension (expressed as an amount per fortnight)

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's contribution points extrapolated to the age of 60 years by 420

FS is the contributor's actual or attributed salary immediately before the contributor's death (expressed as an amount per fortnight)

n is the number of eligible children.

(4) The pension for an eligible child will be indexed.

(5) The lump sum to be paid to the estate of a contributor who is not survived by a spouse but is survived by an eligible child or eligible children will be the greater of the following amounts:

(a) an amount equivalent to the amount standing to the credit of the contributor's contribution account;

(b) an amount equivalent to twice the amount of the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount).

(6) The estate of a contributor who is not survived by a spouse or an eligible child is entitled to a lump sum payment in accordance with the following provisions:

(a) if the contributor died in the course of duty the lump sum is the greater of the following:

(i) $LS = 7 \times A \times FS$;

(ii) $LS = 3 \times FS$;

(b) if the contributor did not die in the course of duty the lump sum is calculated as follows:

$LS = 7 \times A \times FS$.

In both paragraphs (a) and (b)—

LS is the lump sum payment

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 420;

FS is the contributor's actual or attributed salary (expressed as an annual amount).

Police Superannuation Act 1990

PART 5
SUPERANNUATION BENEFITS—OLD SCHEME CONTRIBUTORS

DIVISION 1—PENSION BENEFITS

Application of this Part

27. (1) Subject to subsection (2), this Part applies only to old scheme contributors.

(2) Sections 30, 31 and 32 also apply to a person who was a police cadet immediately before the commencement of this Act as though he or she were a contributor and if that person subsequently becomes a member of the police force all the provisions of this Part will then apply to that person.

(3) A cadet is not required to contribute to the Scheme but will be credited with contribution points and contribution months as if he or she were contributing.

Retirement

28. (1) A contributor who retires from employment after reaching the age of 55 years is entitled to a pension calculated as follows:

$$P = A \times \frac{2}{3} \times K \times FS \times \left(1 + \frac{X}{600} \right)$$

Where—

P is the amount of the pension (expressed as an amount per fortnight)

A is the lesser of the following:

- (a) unity;
- (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360 or, where the contributor has not reached the age of 60 years, by the addition of 300 and the number of months (if any) by which the contributor's age, at retirement, exceeds 55 years

K is a reduction factor that varies with the contributor's age expressed in years and completed months (for the value of K see schedule 3)

FS is the contributor's actual or attributed salary (expressed as an amount per fortnight)

X is the number of months (if any) by which the contributor's age, at retirement, exceeds 60 years.

(2) A retirement pension will be indexed.

(3) A contributor may, subject to subsection (4), retire after reaching the age of 50 years and if the contributor retires before reaching the age of 55 years he or she is entitled to a lump sum payment calculated as follows:

$$LS = 5.4545 \times A \times FS \times \left(1 + \frac{0.1667 \times X}{100} \right)$$

Where—

LS is the lump sum

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary (expressed as an annual amount)

X is the number of months (if any) by which the contributor's age, at retirement, exceeds 50 years.

(4) The number of contributors who may retire pursuant to subsection (3) is subject to restriction by regulation.

Retrenchment

29. (1) Where—

(a) a contributor's employment is terminated by retrenchment;

(b) the contributor has been a contributor for not less than 5 years;

(c) the Board is satisfied that there is no other position in the police force, carrying a salary of at least 80 per cent of the salary applicable to the former employment, which the contributor could reasonably be expected to take, available to the contributor,

the contributor is entitled to a pension under this section.

(2) The amount of the pension is calculated as follows:

$$P = A \times \frac{2}{3} \times FS$$

Where—

P is the amount of the pension (expressed as an amount per fortnight)

A is the numerical value obtained by dividing the number of the contributor's accrued contribution points by—

(a) in the case of a contributor whose contribution period commenced before reaching the age of 30 years—the number of months between the contributor's age as at the date of commencement of the contribution period and the age of 60 years;

(b) in any other case—360

FS is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before retrenchment.

Police Superannuation Act 1990

(3) A retrenchment pension will be indexed.

Temporary disability pension

30. (1) Subject to this section, a contributor—

- (a) who is temporarily or permanently incapacitated for work but whose employment has not been terminated on that ground; and
- (b) who has not reached 55 years of age,

is entitled to a disability pension.

(2) A contributor who becomes incapacitated for work in a particular position will not be regarded as incapacitated for work for the purposes of this section if some other position, in the police force carrying a salary of at least 80 per cent of the salary applicable to the former position, is available to the contributor and the contributor could reasonably be expected to take that other position.

(3) A disability pension is not payable in respect of—

- (a) a period in respect of which the contributor is entitled to sick leave; or
- (b) a period in respect of which the contributor is entitled to weekly payments of workers compensation; or
- (c) a period for which the contributor is on recreation leave or long service leave.

(4) The Board will not pay a disability pension in respect of a period of incapacity of less than one week and may decline to pay a disability pension if it appears that the duration of the incapacity is likely to be less than six months.

(5) The amount of the pension is calculated as follows:

$$P = A \times \frac{2}{3} \times FS$$

Where—

P is the amount of the pension (expressed as an amount per fortnight)

A is the numerical value obtained by dividing the number of the contributor's contribution points extrapolated to the age of 60 years by—

- (a) in the case of a contributor whose contribution period commenced before reaching the age of 30 years—the number of months between the contributor's age as at the date of commencement of the contribution period and the age of 60 years;
- (b) in any other case—360

FS is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before the pension becomes payable.

(6) A disability pension cannot be paid for a continuous period of more than 12 months unless the Board thinks that there are special reasons for extending that limit, in which case it may extend the pension period by not more than a further six months.

(7) A disability pension cannot be paid, in respect of the same incapacity, for an aggregate period of more than 18 months in any one period of 36 months.

(8) A contributor is not required to make any contribution over a period for which the contributor receives a disability pension but will be credited with contribution points and contribution months in respect of any such period as if the contributor were contributing in respect of that period.

Invalidity pension

31. (1) A contributor whose employment terminates on the ground of invalidity is entitled to a benefit under this section.

(2) If the Board is satisfied that the contributor's incapacity for all kinds of work (both inside and outside the police force) is 60 per cent or more and is likely to be permanent, the contributor is entitled to a pension calculated as follows:

$$P = A \times \frac{2}{3} \times FS$$

Where—

P is the amount of the pension (expressed as an amount per fortnight)

A is the numerical value obtained by dividing the number of the contributor's contribution points extrapolated to the age of 60 years by—

(a) in the case of a contributor whose contribution period commenced before reaching the age of 30 years—the number of months between the contributor's age as at the date of commencement of the contribution period and the age of 60 years;

(b) in any other case—360

FS is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before termination of employment.

(3) The pension will be indexed.

(4) If the Board is not satisfied as to one or both of the matters referred to in subsection (2), the contributor is entitled to a lump sum payment that is the greater of the following:

(a) twice the contributor's actual or attributed salary (expressed as an annual amount); or

(b) $LS = 5.4545 \times A \times FS \times \left(1 + \frac{0.1667 \times X}{100} \right)$

Police Superannuation Act 1990

Where—

LS is the lump sum

A is the lesser of the following:

(i) unity;

(ii) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary (expressed as an annual amount)

X is the number of months (if any) by which the contributor's age at termination of the employment, exceeds 50 years.

(5) Subject to subsection (6), a contributor's employment will be taken to have terminated on account of invalidity if and only if—

(a) the Governor or the Commissioner terminates the employment on the ground of the contributor's invalidity; or

(b) —

(i) the contributor satisfies the Board (before termination of employment) that he or she is incapacitated for work in the contributor's present position; and

(ii) the Board is satisfied that there is no other position in the police force or in the Public Service of the State, carrying a salary of at least 80 per cent of the salary applicable to the contributor's present position, which the contributor could reasonably be expected to take, available to the contributor; and

(iii) the contributor has been on sick leave, weekly payments of workers compensation or disability pension for at least 12 months or periods aggregating at least 12 months on account of the invalidity; and

(iv) the contributor, after giving notice to the Board as required by the regulations, resigns from employment.

(6) If—

(a) the contributor refuses employment in some other position in the police force or the Public Service of the State that carries a salary of at least 80 per cent of the salary applicable to the contributor's present position which the contributor could reasonably be expected to have taken; and

(b) the Governor or the Commissioner subsequently terminates the contributor's employment,

the contributor will be taken to have retired or resigned from employment.

(7) For the purposes of subsection (6)(a) a contributor will be taken to have refused employment in a position in the police force or the Public Service of the State if he or she refuses an offer of employment in that position or refuses to make a genuine application for appointment to the position after being requested to do so by the Commissioner or the Board.

(8) Where the Commissioner proposes to terminate a contributor's employment on the ground of invalidity, the Commissioner must, at least one month before doing so, give the Board notice of the proposal in accordance with the regulations.

Pensions payable on contributor's death

32. (1) Where a contributor dies—

(a) a person referred to in subsection (1aa) is entitled to—

- (i) a pension equal to two-thirds of the deceased contributor's notional pension; and
- (ii) where the contributor retired from employment after the commencement of the repealed Act but before the commencement of this Act—a lump sum equal to two-thirds of the lump sum paid to the contributor upon retirement; and

(b) an eligible child is entitled to a pension in accordance with subsection (2).

(1aa) The following persons are entitled to a benefit under subsection (1)(a):

(a) the deceased contributor's lawful spouse if—

- (i) he or she became the contributor's lawful spouse before termination of the contributor's employment; or
- (ii) he or she was the contributor's lawful spouse for a period of five years immediately preceding the contributor's death; or
- (iii) he or she is entitled to a benefit under paragraph (b);

(b) a person who was cohabiting with the contributor at the time of his or her death as the lawful spouse or the husband or wife *de facto* of the contributor—

- (i) if he or she had cohabited with the contributor either as the lawful spouse or the husband or wife *de facto* of the contributor (or in both of those capacities at different times)—
 - (A) continuously for the period of five years immediately preceding the contributor's death; or
 - (B) during the period of six years immediately preceding the contributor's death for periods aggregating not less than five years; or
- (ii) if he or she is the natural parent of a child of whom the contributor was the other natural parent.

(1a) Where a surviving spouse would, but for an election under this subsection, be entitled to a lump sum under subsection (1)(a)(ii), the spouse may instead, by written notice given to the Board before the lump sum is paid, elect to receive a pension equal to one-third of the deceased contributor's notional pension in addition to the pension referred to in subsection (1)(a)(i).

Police Superannuation Act 1990

- (2) Subject to subsection (3) the amount of the pension for each eligible child is as follows:
- (a) if a pension is being paid to a surviving spouse—
 - (i) where there are no more than two eligible children—a pension equal to one-ninth of the deceased contributor's notional pension;
 - (ii) where there are three or more eligible children—a pension calculated by dividing one-third of the deceased contributor's notional pension by the number of eligible children;
 - (b) if no pension is being paid to a surviving spouse—
 - (i) where there is one eligible child—a pension equal to 45 per cent of the deceased contributor's notional pension;
 - (ii) where there are two eligible children—a pension equal to 40 per cent of the deceased contributor's notional pension;
 - (iii) where there are three eligible children—a pension equal to 30 per cent of the deceased contributor's notional pension;
 - (iv) where there are four or more eligible children—a pension calculated by dividing the deceased contributor's notional pension by the number of eligible children.
- (3) If the amount of a pension for an eligible child would, but for this subsection, be less than the prescribed amount, the pension will be increased to the prescribed amount.
- (4) A reference in this section to a deceased contributor's notional pension is—
- (a) where the contributor's employment had terminated before the date of death—a reference to the amount of the contributor's pension immediately before his or her death except where the contributor's employment terminated before the commencement of this Act and the contributor had made an election under section 37(2) of the repealed Act or under a corresponding provision of a previous enactment in which case the notional pension will be the pension that the contributor would have been receiving immediately before his or her death if he or she had not made that election;
 - (b) where the contributor's employment terminated on his or her death and the contributor reached the age of 60 years on or before the date of death—a reference to the amount of the retirement pension to which the contributor would have been entitled if he or she had retired on the date of death;
 - (c) where the contributor's employment terminated on his or her death and the contributor had not reached the age of 60 years on the date of death—a reference to the amount of the retirement pension to which the contributor would have been entitled if he or she had not died and—
 - (i) had continued in employment until reaching the age of 60 years (but without change to the contributor's actual or attributed salary as at the date of death); and

- (ii) had been credited with a number of contribution points in respect of the period from the date of death to the age of 60 years equivalent to—
 - (A) in the case of a contributor who had been in full-time employment throughout the contribution period—the number of months between the end of the last complete month of the contribution period and the age of 60 years (an incomplete month being counted as a whole month);
 - (B) in the case of a contributor who had not been in full-time employment throughout the contribution period—the number that bears the same proportion to the number of months referred to in subparagraph (A) as the contributor's employment bears to full-time employment; and
- (iii) had retired on reaching the age of 60 years.

(5) Subject to subsection (6), a deceased contributor's notional pension will be indexed as if it were (or remained) an actual pension and consequential adjustments will be made to pensions calculated by reference to the notional pension.

(6) A deceased contributor's notional pension will not be indexed for the purpose of determining the amount of a pension payable to a surviving spouse under subsection (1a).

Benefits payable to contributor's estate

33. (1) The estate of a contributor who dies and is not survived by a spouse but is survived by an eligible child or eligible children is entitled to a lump sum that is—

- (a) where the contributor's employment was terminated by the contributor's death—the greater of the following amounts:
 - (i) an amount equivalent to the amount standing to the credit of the contributor's contribution account;
 - (ii) an amount equivalent to twice the amount of the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount);
- (b) in any other case—an amount equivalent to the amount standing to the credit of the contributor's contribution account.

(2) The estate of a contributor whose employment was terminated by his or her death and who is not survived by a spouse or an eligible child is entitled to a lump sum payment in accordance with the following provisions:

- (a) if the contributor died in the course of duty the lump sum is the greater of the following:
 - (i) $LS = 7 \times A \times FS$;
 - (ii) $LS = 3 \times FS$;
- (b) if the contributor did not die in the course of duty the lump sum is calculated as follows:

$$LS = 7 \times A \times FS.$$

Police Superannuation Act 1990

In both paragraphs (a) and (b)—

LS is the lump sum payment

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360;

FS is the contributor's actual or attributed salary (expressed as an annual amount).

Resignation and preservation of benefits

34. (1) A contributor who resigns from employment may elect—

(a) to take immediately an amount (to be charged against the contributor's contribution account) equivalent to the total balance of the account; or

(b) to preserve his or her accrued superannuation benefits in the Scheme.

(1aa) A contributor who fails to inform the Board in writing of his or her election under subsection (1) within three months after resignation will be taken to have elected to preserve his or her accrued superannuation benefits.

(1ab) If the Board is of the opinion that the limitation period referred to in subsection (1aa) would unfairly prejudice a contributor, the Board may extend the period as it applies to the contributor.

(1a) Where a contributor resigns and elects to take the amount referred to in subsection (1)(a) the contributor is also entitled to a superannuation payment in accordance with the following provisions:

(a) if the amount of the superannuation payment is less than \$200, the contributor is entitled to the payment on resignation;

(b) if the amount of the payment is \$200 or more the contributor may elect to preserve the payment or to carry it over to some other superannuation fund or scheme approved by the Board;

(c) if the contributor elects to preserve the payment—

(i) the contributor may at any time after reaching 60 years of age require the Board to make the payment and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will make the payment;

(ii) if the contributor has reached the age of 55 years and is not employed by an employer within the meaning of the Commonwealth Act, the contributor may require the Board to make the payment to the contributor;

(iii) if the contributor has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board will make the payment to the contributor;

- (iv) if the contributor dies, the payment will be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above subparagraphs excludes further rights so that a claim cannot be subsequently made under some other subparagraph).

(1b) The amount of the superannuation payment referred to in subsection (1a) is the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act together with interest from the date of resignation.

(1c) The amount of interest will be calculated and credited to the contributor at the end of each financial year and will be calculated on the amount referred to in subsection (1b) at the end of the first financial year and on the aggregate of that amount and the interest previously credited at the end of each subsequent financial year.

(1d) The rate of interest will be determined by the Board in respect of each financial year in accordance with section 13.

(2) Where a contributor resigns after a contribution period of less than 120 months and elects to preserve his or her accrued superannuation benefits, the following provisions apply:

- (a) the contributor may at any time after reaching 55 years of age require the Board to make a superannuation payment and, if no such requirement has been made on or before the date on which the contributor reaches 60 years of age, the Board must make such a payment;
- (b) if the contributor has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board must make a superannuation payment to the contributor;
- (c) if the contributor dies, a payment must be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above paragraphs excludes further rights so that a claim cannot be subsequently made under some other paragraph).

(3) A payment under subsection (2) will be made up of two components—

- (a) an employee component (to be charged against the contributor's contribution account) equivalent to the total balance of the account; and
- (b) an employer component which will be equal to $2\frac{1}{3}$ times the amount of the employee component.

(4) Where a contributor resigns after a contribution period of 120 months or more and elects to preserve his or her accrued superannuation benefits, the following provisions apply:

- (a) the contributor may, at any time after reaching 55 years of age require the Board to commence paying a retirement pension and, if no such requirement has been made on or before the date on which the contributor reaches 60 years of age, the Board must commence paying a retirement pension as from that date;

Police Superannuation Act 1990

- (b) if the contributor has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board must pay an invalid pension to the contributor;
- (c) if the contributor dies and is survived by a spouse, a pension must be paid to the spouse of the deceased contributor;
- (d) if the contributor dies and is survived by an eligible child, or two or more eligible children, a pension must be paid to each eligible child.

(5) A pension payable to the contributor under subsection (4) will be calculated as follows:

$$P = 0.5181 \times A \times AFS$$

Where—

- P is the amount of the pension (expressed as an amount per fortnight)
- A is the numerical value obtained by dividing the number of the contributor's accrued contribution points by—
 - (a) in the case of a contributor whose contribution period commenced before reaching the age of 30 years—the number of months between the contributor's age as at the commencement of the contribution period and the age of 55 years;
 - (b) in any other case—300

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an amount per fortnight) adjusted to reflect changes in the Consumer Price Index since the date of resignation.

(6) The amount of the pension payable to the spouse of a deceased contributor will be two-thirds of the deceased contributor's notional pension.

(7) Subject to subsection (8) the amount of the pension for each eligible child is as follows:

- (a) if a pension is being paid to a surviving spouse—
 - (i) where there are no more than two eligible children—a pension equal to one-ninth of the deceased contributor's notional pension;
 - (ii) where there are three or more eligible children—a pension calculated by dividing one-third of the deceased contributor's notional pension by the number of eligible children;
- (b) if no pension is being paid to a surviving spouse—
 - (i) where there is one eligible child—a pension equal to 45 per cent of the deceased contributor's notional pension;
 - (ii) where there are two eligible children—a pension equal to 40 per cent of the deceased contributor's notional pension;
 - (iii) where there are three eligible children—a pension equal to 30 per cent of the deceased contributor's notional pension;

- (iv) where there are four or more eligible children—a pension calculated by dividing the deceased contributor's notional pension by the number of eligible children.

(8) If the amount of a pension for an eligible child would, but for this subsection, be less than the prescribed amount, the pension will be increased to the prescribed amount.

(9) Pensions payable under this section will be indexed.

(10) A reference in this section to a deceased contributor's notional pension is a reference to a pension calculated in accordance with subsection (5).

(11) For the purposes of this section, a contributor who has not reached the age of 55 years will be taken to resign if the contributor is not to be taken to have retired from employment pursuant to section 4(8a) and the contributor's employment terminates or is terminated for any reason except invalidity (in circumstances entitling the contributor to benefits under this Act), retrenchment or death.

DIVISION 2—GENERAL

Commutation of proportion of pension

35. (1) The Board will, on the application of a person who is entitled to a pension (other than a temporary disability pension or an eligible child's pension), commute a pension, or a proportion of a pension, to a lump sum payment.

(2) The right of commutation is subject to the qualifications prescribed by regulation.

(3) In the commutation of a pension, commutation factors promulgated by regulation will be applied.

Commutation to pay deferred superannuation contributions surcharge

35A. (1) The Board will, on the application of a contributor who is entitled to a pension (other than a temporary disability pension) and who is liable for a deferred superannuation contributions surcharge, commute so much of the pension as is required to provide a lump sum equivalent to the amount of the surcharge.

(2) An application under subsection (1) must be made in writing to the Board before the expiration of the period of three months immediately following the date on which the notice given to the contributor by the Commissioner of Taxation under section 15(7) of the Commonwealth Act was issued.

(3) Where—

(a) —

- (i) a contributor who is liable for a deferred superannuation contributions surcharge dies before notice by the Commissioner of Taxation under section 15(7) of the Commonwealth Act is issued; or
- (ii) a contributor who is liable for a deferred superannuation contributions surcharge dies within three months after the issue of such a notice without having commuted his or her pension under subsection (1); and

Police Superannuation Act 1990

- (b) the contributor is survived by a spouse who is entitled to a pension as the contributor's spouse under this Act,

the Board will, subject to subsection (5) on the application of the spouse, commute so much of the spouse's pension as is required to provide a lump sum equivalent to the amount of the surcharge.

(4) An application under subsection (3) must be made in writing to the Board before the expiration of the period of six months immediately following the contributor's death or the issue of the notice under section 15(7) of the Commonwealth Act, whichever is the later.

(5) The Board must not commute a pension under subsection (3) unless it is satisfied that the resulting lump sum will be applied in payment of the surcharge or be used to reimburse the deceased contributor's estate or the spouse or other person who has paid the surcharge on behalf of the estate.

(6) The commutation factors to be applied in the commutation of a pension under this section will be determined by the Treasurer on the recommendation of an actuary.

(7) If the Board is satisfied that—

- (a) a contributor, or the spouse of a contributor, is entitled to commute the whole of his or her pension under section 35 and has done so except for a part that the contributor or spouse wishes to retain for the purpose of commutation under this section in order to pay the contributor's deferred superannuation contributions surcharge; and
- (b) after commutation under this section for that purpose there will still be a part of the pension remaining uncommuted; and
- (c) the part of the pension originally retained for commutation under this section was a reasonable estimate of the amount of the pension that would be required for that purpose,

the Board will, on the application of the contributor or spouse made at the same time as his or her application under subsection (1) or (3), commute the remaining uncommuted part of the pension using the factors applicable under section 35.

(8) In this section—

"the Commonwealth Act" means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*;

"deferred superannuation contributions surcharge" in relation to a contributor means the amount that the member is liable to pay to the Commissioner under section 15(6) of the Commonwealth Act.

Medical examination, etc., of invalid pensioner

36. (1) The Board may from time to time require an invalid pensioner who has not reached the age of 60 years—

- (a) to submit to a medical examination by a specified medical practitioner; or
- (b) to undergo specified medical treatment; or
- (c) to avail himself or herself of specified assistance.

(2) The cost of a medical examination under this section will be met by the Board.

(3) A pensioner will not be required to submit to a particular form of medical treatment if there is a conflict of opinion between recognised medical experts as to the desirability of the treatment.

(4) If a pensioner fails to comply with a requirement under this section, the Board may suspend the pension until the requirement is complied with.

Effect on pension of pensioner's re-employment

37. (1) If, at the request of the Board, an invalid or retrenchment pensioner accepts an offer of appropriate employment in the police force or the Public Service of the State or, at the request of the Board, applies for such employment and is successful the following provisions apply:

- (a) if the pensioner returns to permanent employment in the police force, whether immediately or after a period of temporary employment—see subsection (1a);
- (b) if the pensioner is employed on a permanent basis in the Public Service (whether immediately or after a period of temporary employment) the pension will be suspended but—
 - (i) if—
 - (A) after reaching the age of 55 years the contributor's employment is terminated for any reason; or
 - (B) before reaching that age the contributor is retrenched or his or her employment is terminated on the ground of invalidity,the pension will be reinstated;
 - (ii) if the contributor dies a surviving spouse and any eligible children will be entitled to a pension as if the contributor's pension had not been suspended under this paragraph;
- (c) if the pensioner is employed in the police force or the Public Service on a temporary basis—
 - (i) the pension will be reduced or suspended under section 40;
 - (ii) in the case of a pensioner employed on a temporary basis in the police force, the pensioner is not liable to contribute to the Scheme during the period of temporary employment.

(1a) If the pensioner is employed on a permanent basis in the police force the pension will terminate but the former pensioner will be credited with contribution points and contribution months as if he or she had continued in employment and contributed over the period that he or she was not employed on a permanent basis in the police force and if the pensioner had received a lump sum payment on the original termination of his or her employment under the repealed Act or had commuted part of the original pension to a lump sum the following provisions apply:

- (a) upon termination of the contributor's subsequent period of employment the contributor or other person entitled to a benefit may pay to the Treasurer the amount of the lump sum;
- (b) if a payment is not made under paragraph (a) and a pension is payable to or in respect of the contributor—the pension must be reduced by an amount calculated by dividing the amount of the lump sum by 11.5;

Police Superannuation Act 1990

- (c) if a payment is not made under paragraph (a) and a pension is not payable to or in respect of the contributor—any lump sum that is payable to or in respect of the contributor must be reduced by the amount of the lump sum received on the original termination of the contributor's employment or on commutation.

(2) If a pensioner who has not reached the age of 60 years and has received a request from the Board under subsection (1), refuses the offer of employment or refuses to make a genuine application for employment in pursuance of the request, the Board may suspend the pension until the pensioner reaches the age of 60 years.

(3) In determining whether a particular form of employment is appropriate to a particular pensioner, the following factors will be taken into account:

- (a) the pensioner's qualifications;
- (b) the pensioner's previous employment;
- (c) the pensioner's state of health;
- (d) the place at which the employment is available.

(4) Employment will not be regarded as appropriate to a particular pensioner if the rate of salary applicable to the employment (expressed as an hourly rate) is less than 80 per cent of the rate of the pensioner's notional salary (expressed as an hourly rate).

Notional extension of period of employment

38. Where—

- (a) a contributor becomes entitled, on termination of his or her employment, to a pension; and
- (b) the contributor was, immediately before termination of employment, entitled to a period of recreation leave and is paid, or entitled to, a lump sum in lieu of that leave,

the contributor's employment will be taken to have been extended for a period equivalent to the period of recreation leave and the contributor is liable for contributions in respect of that period and is entitled to benefits at the end of that period as though he or she had remained in employment and had received the lump sum as salary during that period.

**PART 6
MISCELLANEOUS**

Review of the Board's decisions

39. (1) Any person who is dissatisfied with a decision of the Board under this Act may appeal to the Administrative and Disciplinary Division of the District Court or to the Board against the decision.

* * * * *

(4) On an appeal to the Board, the Board may substitute another decision for its original decision or confirm its original decision.

Effect of workers compensation, etc., on pensions

40. (1) Where in relation to a particular period—

- (a) a contributor, who has not reached the age of 60 years, is receiving, or would but for this subsection be entitled to receive a pension (not being a pension granted on the basis of the contributor's age) under this Act;
- (b) the pensioner is also receiving or entitled to receive, income ("other income") of one or both of the following kinds:
 - (i) weekly workers compensation payments;
 - (ii) income from remunerative activities engaged in by the contributor,

the following provisions apply:

- (c) the pension will be reduced by the amount of the workers compensation payments and, if those payments equal or exceed the amount of the pension, the pension will be suspended;
- (d) if the aggregate of the pension and the other income exceeds the contributor's notional salary, the pension will be reduced by the amount of the excess and, if that amount equals or exceeds the amount of the pension, the pension will be suspended.

(2) Where in relation to a particular period—

- (a) the spouse of a deceased contributor is receiving or would, but for this subsection, be entitled to receive a pension under this Act;
- (b) the spouse is also receiving, or entitled to receive, weekly workers compensation payments in consequence of the contributor's death,

the following provisions apply:

- (c) if the weekly workers compensation payments equal or exceed the amount of the pension, the pension will be suspended;
- (d) in any other case, the pension will be reduced so that the aggregate equals the pension that the spouse would have received if there had been no entitlement to workers compensation.

Police Superannuation Act 1990

(3) Where an eligible child of a deceased contributor is receiving or entitled to receive weekly workers compensation payments in consequence of the contributor's death, the following provisions apply:

- (a) if the weekly workers compensation payments equal or exceed the amount of the pension, the pension will be suspended;
- (b) in any other case, the pension will be reduced so that the aggregate equals the pension that the child would have received if there had been no entitlement to workers compensation.

(4) Where a right to weekly workers compensation payments has been surrendered in whole or in part by commutation or by agreement, the person who would have been entitled to those payments if the right to them had not been surrendered will be taken, for the purposes of this section, to be receiving them.

(5) Where a contributor whose pension is subject to suspension or reduction under this section dies, the suspension or reduction will be ignored in calculating any pension that becomes payable on the contributor's death to a spouse or eligible child of the contributor.

Division of benefit where deceased contributor is survived by lawful and putative spouses

41. (1) If a deceased contributor is survived by a lawful spouse and a putative spouse, any benefit to which a surviving spouse is entitled under this Act will be divided between them in a ratio determined by reference to the relative length of the periods for which each of them cohabited with the deceased as his or her spouse.

(2) Where a number of periods of cohabitation are to be aggregated for the purpose of determining an aggregate period of cohabitation for the purpose of subsection (1), any separate period of cohabitation of less than three months will be disregarded.

(3) A surviving spouse must, at the request of the Board, supply it with any information that it requires for the purpose of making a division under subsection (1).

(4) A putative spouse is not entitled to any benefit under this section, unless the deceased contributor and that spouse were putative spouses as at the date of the contributor's death.

(5) Where—

- (a) a deceased contributor is survived by a lawful and a putative spouse; and
- (b) a benefit is paid to one of them on the assumption that he or she is the sole surviving spouse of the deceased,

the other spouse has no claim on the benefit insofar as it has been already paid unless that spouse gave the Board notice of his or her claim before the date of the payment.

Adjustment of pensions

42. (1) Where a pension is expressed to be indexed, the Board will adjust the amount of the pension from the first payment of pension in each adjustment year to reflect the percentage variation (rounded to two decimal places) between the Consumer Price Index for the June quarter immediately preceding the present adjustment year and the Consumer Price Index for the June quarter immediately preceding the previous adjustment year.

(2) If on the first day of the relevant adjustment year, the pension has been payable for less than a year, the extent of the adjustment will be reduced to reflect the proportion which that period bears to one year.

(3) To avoid a reduction in pensions the Treasurer may direct that subsection (1) does not apply in relation to a particular adjustment year.

(4) In that event an adjustment in the next adjustment year in relation to which subsection (1) applies will be based on the variation between the Consumer Price Index for the June quarter immediately preceding that year and the Consumer Price Index for the June quarter immediately preceding the adjustment year in relation to which subsection (1) last applied.

(5) In this section—

"**adjustment year**" means a period of 12 months commencing at the commencement of 1 October in each year.

Repayment of balance in contribution account

43. (1) Where—

- (a) a contributor's employment has terminated or has been terminated; and
- (b) no pension has been paid under this Act to or in relation to the contributor following termination of the employment; and
- (c) no benefit is payable (either immediately or prospectively) under any other provision of this Act,

an amount equivalent to the balance standing to the credit of the contributor's contribution account will be paid to the contributor or the contributor's estate and will be charged against that account.

(2) Where—

- (a) a contributor's employment terminates or is terminated;
- (b) a pension is paid under this Act to or in relation to the contributor;
- (c) the pension ceases to be payable and no actual or prospective right to a pension exists;
- (d) no benefit is payable under any other provision of this Act,

the balance (if any) remaining to the credit of the contributor's contribution account will be dealt with as follows:

- (e) the account will be charged with the amount of any pension or lump sum paid to or in relation to the contributor (insofar as that amount has not already been charged to the contribution account); and
- (f) if a credit balance remains in the account, an amount equivalent to the balance will be paid to the contributor or the contributor's estate (and charged against that account).

Special provision for payment in case of infancy or death

44. (1) Where a pension or monetary sum is payable under this Act to a child, the Board may, in its discretion, pay it—

Police Superannuation Act 1990

- (a) to the child; or
- (b) to a parent, guardian or trustee on behalf of the child.

(2) Where a person to whom money is payable under this Act dies, the Board may, in its discretion, pay the money to—

- (a) the personal representative of the deceased; or
- (b) the spouse of the deceased; or
- (c) the children of the deceased.

Pension not to be assignable

45. (1) A right to a pension under this Act cannot be assigned.

(2) This section does not prevent the making of a garnishee order in relation to a pension.

Rounding off of contributions and benefits

45A. The amount of contributions and benefits under this Act must be rounded off to the nearest multiple of five cents.

Liabilities may be set off against benefits

46. Any liability of a contributor arising under this Act or the repealed Act may be set off against any payment that is to be made to or in relation to the contributor under this Act.

Annuities

47. (1) The Board may, with the Minister's approval, provide annuities on terms and conditions fixed by the Board.

(2) The Board can only undertake to provide an annuity—

- (a) to, or in relation to, a contributor; or
- (b) to, or in relation to, a person who is, or has been, a member of some other public sector superannuation scheme.

Power to obtain information

48. (1) The Board may, from time to time, require the Commissioner, a contributor or pensioner to supply the Board with any information that it reasonably requires for the purposes of this Act.

(2) The Board may require a contributor or pensioner to verify information supplied under this section by statutory declaration or by the production of income tax assessments or such other evidence as the Board specifies.

(3) The board may require the spouse of a deceased contributor to verify information supplied under section 41(3) by statutory declaration or by such other evidence as the Board specifies.

(4) If a pensioner fails to comply with a requirement under this section, the Board may suspend payment of the pension until the requirement is complied with.

(5) A person who—

- (a) fails to comply with a requirement under subsection (1) or section 41(3); or

- (b) supplies information in response to such a requirement that is false or misleading in a material particular,

is guilty of an offence.

Penalty: \$10 000.

(6) Where a contributor commits an offence against subsection (5), the Board may expel the contributor from membership of the Scheme and, in that event—

- (a) an amount equivalent to the amount standing to the credit of the former contributor's contribution account will be paid to the contributor and will be charged against that account; and
- (b) no further benefit will be payable under this Act to or in relation to the former contributor.

Confidentiality

49. (1) A member or former member of the Board or the board of directors of Superannuation Funds Management Corporation of South Australia, or a person employed or formerly employed in the administration of this Act, must not divulge information as to the entitlements or benefits of any person under this Act except—

- (a) to, or with the consent of, that person; or
- (b) to the Commissioner; or
- (c) to any other person for purposes related to the administration of this Act; or
- (d) as may be required by a court; or
- (e) as may be required or authorised by another State Act or an Act of the Commonwealth.

Penalty: \$10 000.

(2) This section does not prevent the disclosure of statistical or other information related to contributors generally or to a class of contributors rather than to an individual contributor.

Resolution of doubts or difficulties

50. If, in the opinion of the Board, any doubt or difficulty arises in the application of this Act to particular circumstances, the Board may give such directions as are reasonably necessary to resolve the doubt or difficulty and this Act will apply subject to a direction given by the Board under this section.

Summary offences

51. An offence against this Act is a summary offence.

Regulations

52. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Any such regulation may impose a penalty, not exceeding \$2 000, for breach of or non-compliance with a provision of the regulations.

Police Superannuation Act 1990

SCHEDULE 1

Transitional Provisions

Starting balance of contribution account of old scheme contributors

1. (1) The Board will establish a contribution account in the name of every old scheme contributor—

- (a) who continues as a contributor under this Act; or
- (b) to, or in relation to, whom a pension is being paid at the commencement of this Act.

(2) The balance of the account, as at the commencement of this Act, of a contributor who was still in employment at the commencement of this Act will be an amount calculated in accordance with section 43 of the repealed Act as if the contributor had become entitled to a payment under that section on the commencement of this Act.

(3) The balance of the account, as at the commencement of this Act, of a contributor whose employment had ceased before the commencement of this Act will be an amount calculated in accordance with section 47 of the repealed Act as if an entitlement to a payment under that section had arisen at the commencement of this Act.

Pensions that commenced under previous enactments

2. (1) A pension that commenced under the repealed Act, or under a corresponding previous enactment, is, subject to this Act, payable as if this Act had been in force when the pension commenced.

(2) This Act, apart from provisions relating to indexation, commutation and reduction or suspension of pensions, does not affect the amount of any such pension.

(3) A pension referred to in subclause (1) will, subject to subclause (4), be indexed by the Board in accordance with the repealed Act unless part of the pension has been commuted under this Act in which case the remaining pension will be indexed under this Act.

(4) Pensions will be indexed as from the first payment of pension in July, 1990, for the year from 1 April, 1989, to 31 March, 1990, by reference to the Consumer Price Index for the March quarters of 1989 and 1990 and pensions will again be indexed as from the first payment of pension in October, 1990, for the period from 1 April, 1990, to 30 June, 1990, by reference to movements in the Consumer Price Index over that period and thereafter pensions will be indexed as from the first payment of pension in October in each year by reference to movements in the Consumer Price Index from one June quarter to the next.

(5) Where a contributor had made an election under section 37(2) of the repealed Act, section 37(2) and (3) of the repealed Act will continue to apply to the pension payable to, or in relation to, the contributor except where part of the pension has been commuted under this Act in which case the remaining pension will be indexed under this Act.

Eligible child's pension

2A. Where—

- (a) a contributor who was in receipt of a pension under the repealed Act at the commencement of this Act dies after the commencement of this Act; and
- (b) a pension is being paid to the contributor's spouse,

and there are—

- (c) no more than two eligible children—each of those children is entitled to a pension equal to four twenty sevenths of the deceased contributor's notional pension; or
- (d) three or more eligible children—each of those children is entitled to a pension calculated by dividing four-ninths of the deceased contributor's notional pension by the number of eligible children.

Contribution points carried over by old scheme contributors

3. (1) Subject to subclause (2), the number of contribution points to be credited to an old scheme contributor at the commencement of this Act will be equal to the number of months during which the contributor contributed to the Police Pensions Fund.

(2) The number of contribution points to be credited to an old scheme contributor whose contribution period commenced—

- (a) after he or she reached the age of 30 years; but
- (b) before the commencement of the repealed Act, will be equal to the number of months from the contributor's thirtieth birthday to the commencement of this Act.

(3) For the purposes of this clause part of a month will be treated as a whole month.

Preservation of benefits

4. (1) A contributor to the Police Pension Fund under the repealed Act who resigned from the police force on or after 20 November, 1989, but before the commencement of this Act may elect to preserve his or her accrued superannuation benefits in accordance with this Act as though he or she had been an old scheme contributor under this Act.

(2) For the purposes of subclause (1), this Act will be taken to have come into operation immediately before the contributor resigned from the police force.

Rights of contributors denied benefits under repealed Act

5. (1) The Governor may direct that a contributor who has been denied payment of a pension and lump sum under the repealed Act on technical grounds be paid benefits under this clause.

(2) If the Governor gives a direction under subclause (1) in relation to a contributor the following provisions apply:

- (a) this Act applies to, and in relation to, the contributor as though he or she had been entitled to the pension and lump sum under the repealed Act;
- (b) the contributor is entitled to a payment equivalent to the aggregate of the pension payments denied to the contributor reduced by any *ex gratia* payment made before the commencement of this Act on account of those payments;
- (c) the contributor is entitled to a payment equivalent to the lump sum denied to the contributor adjusted to reflect changes in the Consumer Price Index since the date on which the lump sum would have become payable under the repealed Act but reduced by any *ex gratia* payment made before the commencement of this Act on account of the lump sum;
- (d) any *ex gratia* payment made before the commencement of this Act on account of the pension or lump sum must be taken into account when establishing the contributor's contribution account under clause 1;
- (e) the prescribed proportion of a payment made under paragraph (b) or (c) must be debited against the contributor's contribution account.

Election to retire under repealed Act

6. (1) An old scheme contributor who retires from employment within five years after the commencement of this Act may elect to retire pursuant to the provisions of the repealed Act and in that case benefits payable to, or in relation to, the contributor will be determined in accordance with the repealed Act and all the relevant provisions of the repealed Act will apply to and in relation to the contributor to the exclusion of the provisions of this Act.

(2) The benefits payable to, or in relation to, the contributor will be paid by the Treasurer out of the Consolidated Account (which is appropriated to the necessary extent) or out of a special deposit account established by the Treasurer for that purpose and the prescribed proportion of benefits will be charged against the contributor's contribution account to the extent of the amount standing to the credit of that account.

Police Superannuation Act 1990

Assets and liabilities of Police Pensions Fund

7. The assets and liabilities of the Police Pensions Fund are transferred to the Police Superannuation Fund.

Contributions in first year

8. (1) For the purpose of calculating contributions in respect of the period from 1 July 1990 to 30 June 1991 the following provisions apply in place of subsections (1), (2) and (3) of section 17:

(1) A contributor must make contributions to the Treasurer at the rate prescribed in schedule 2.

(2) A contributor's contributions will be fixed in relation to the 1990/1991 financial year, as from a day in that financial year determined by the Board—

(a) on the basis of the contributor's actual salary as at 31 March 1990; but

(b) —

(i) if the contributor had not then commenced his or her employment, the contributions will be fixed on the basis of the contributor's commencing salary;

(ii) if the contributor was then on leave without pay or at a reduced rate of pay, the contributions will be fixed on the basis of the salary that the contributor would then have been receiving if not on leave.

(3) If over a particular period a contributor receives (while remaining in employment) weekly workers compensation payments for total or partial incapacity for work, contributions will be payable as if the weekly payments were salary or a component of salary (as the case requires) but if the aggregate of the weekly payments and the salary (if any) of the contributor is less than the salary that the contributor would have received if not incapacitated, the Board may allow a proportionate reduction in the amount of the contributions for that period.

(2) Section 4(6) does not apply for the purpose of calculating contributions in respect of the period from 1 July 1990 to 30 June 1991.

Special provision relating to police aides

9. Subject to the regulations, this Act applies to a person who was a special constable employed as an Aboriginal police aide during the period from 1 July 1992 until the commencement of the *Police (Police Aides) Amendment Act 1992* as if that person had been a member of the police force and had contributed as a contributor under the new scheme for the time during that period for which the person was so employed.

Operation of sections 22(1b), (1c) and (1d) and 34 (1b), (1c) and (1d)

10. (1) Sections 22(1b), (1c) and (1d) and 34(1b), (1c) and (1d) inserted by the *Police Superannuation (Miscellaneous) Amendment Act 1998* operate in relation to the 1997/1998 and subsequent financial years.

(2) Where section 22(1b) or 34(1b) repealed by the *Police Superannuation (Miscellaneous) Amendment Act 1998* applied in relation to a contributor who resigned before 1 July 1997, the amount of the superannuation payment adjusted to reflect changes in the Consumer Price Index will be determined under the appropriate subsection up to 1 July 1997 and section 22(1c) and (1d) or section 34(1c) and (1d) inserted by that Act will be applied in relation to that amount in respect of the 1997/1998 and subsequent financial years.

SCHEDULE 2
Contribution Rates

Old Scheme

An old scheme contributor must contribute at the rate at which he or she was contributing immediately before the commencement of this Act.

New Scheme

A new scheme contributor must contribute at the appropriate rate set out below—

<i>Age (next birthday) at commencement of contribution period</i>	<i>Rate (percentage of salary)</i>
20 or less	5.0
21	5.2
22	5.4
23	5.6
24	5.8
25	6.0

Cadets

The contribution rate for a member of the police force who was a police cadet immediately before the commencement of this Act will be the rate at which he or she would have been contributing to the Police Pensions Fund immediately before the commencement of this Act if he or she had been a member of the police force at that time.

SCHEDULE 3

<i>Contributor's Age</i>	<i>Value of K</i>
60	1.0000
59	0.9553
58	0.9108
57	0.8663
56	0.8218
55	0.7773

Note: Where the age of the contributor is a number of years and a number of completed months, the value of K shown in the table must be proportionately adjusted to reflect the number of months.

Police Superannuation Act 1990

SCHEDULE 4

The *Police Act 1952* is amended—

- (a) by striking out subsection (2) of section 7; and
- (b) by striking out subsection (2) of section 9A; and
- (c) by inserting after section 11 the following section:

Retiring age for members of the police force

11AA. All members of the police force, excluding the Commissioner and Deputy Commissioner, must retire on the thirtieth day of June next after attaining the age of 60 years.; and

- (d) by inserting after subsection (1) of section 19A the following subsection:

(1a) The Commissioner must not make a recommendation under subsection (1) without first complying with the requirements of the *Police Superannuation Act 1990*.

APPENDIX

LEGISLATIVE HISTORY

(entries in bold type indicate amendments incorporated since the last reprint)

Section 4(1):	definition of "actuary" inserted by 69, 1992, s. 22 definition of "the Commonwealth Act" inserted by 12, 1993, s. 3 definition of "member of the police force" inserted by 60, 1992, Sched. 2; amended by 55, 1998, Sched. 3 (cl. 2) definition of "special deposit account" inserted by 25, 1997, s. 7 definition of "the Superannuation Funds Management Corporation of South Australia" or "the Corporation" inserted by 38, 1995, Sched. 2
Section 4(3):	definition "the Trust" repealed by 38, 1995, Sched. 2
Section 4(3aa):	substituted by 52, 1992, s. 3(a)
Section 4(3a):	inserted by 54, 1999, s. 3(a) inserted by 16, 1998, s. 3(a); amended by 54, 1999, s. 3(b) definition of "automatic increment" inserted by 54, 1999, s. 3(c) definition of "permanent position in the police force" amended by 55, 1998, Sched. 3 (cl. 2)
Section 4(4) and (5):	substituted by 52, 1992, s. 3(a)
Section 4(6):	amended by 52, 1992, s. 3(b)
Section 4(6a):	inserted by 52, 1992, s. 3(c)
Section 4(6b):	inserted by 16, 1998, s. 3(b)
Section 4(7):	amended by 16, 1998, s. 3(c)
Section 4(8):	substituted by 7, 1997, s. 3; amended by 16, 1998, s. 3(d), (e)
Section 4(8a):	inserted by 7, 1997, s. 3; amended by 16, 1998, s. 3(f), (g)
Section 7(2):	repealed by 69, 1992, s. 23
Section 10(3):	amended by 38, 1995, Sched. 2
Section 10(4):	amended by 25, 1997, s. 8(a)
Section 10(7):	amended by 25, 1997, s. 8(b)
Section 10(8):	amended by 38, 1995, Sched. 2
Section 11(1) and (2):	amended by 38, 1995, Sched. 2
Section 11(3) and (4):	repealed by 38, 1995, Sched. 2
Section 12:	repealed by 38, 1995, Sched. 2
Section 13(6):	substituted by 16, 1998, s. 4(a)
Section 13(6a):	inserted by 16, 1998, s. 4(a)
Section 13(8):	inserted by 16, 1998, s. 4(b)
Section 14(1):	amended by 25, 1997, s. 9(a)
Section 14(4):	amended by 25, 1997, s. 9(b)
Section 15(2) and (3):	repealed by 38, 1995, Sched. 2
Section 15(4):	substituted by 69, 1992, s. 24
Section 15(4a):	inserted by 69, 1992, s. 24
Section 16(1):	substituted by 46, 1994, s. 9
Section 16(1a):	inserted by 46, 1994, s. 6; substituted by 46, 1994, s. 9
Section 16(1b):	inserted by 46, 1994, s. 6; repealed by 46, 1994, s. 9
Section 17(2):	amended by 52, 1992, s. 4(a), (b); 16, 1998, s. 5
Section 17(3):	substituted by 52, 1992, s. 4(c)
Section 17(3a):	inserted by 52, 1992, s. 4(c)
Section 20(2):	amended by 46, 1994, s. 7(a)
Section 20(3):	amended by 46, 1994, s. 7(b)
Section 22(1):	amended by 16, 1998, s. 6(a)
Section 22(1aa) and (1ab):	inserted by 16, 1998, s. 6(b)
Section 22(1a):	inserted by 12, 1993, s. 4; amended by 16, 1998, s. 6(c)
Section 22(1b):	inserted by 12, 1993, s. 4; substituted by 16, 1998, s. 6(d)
Section 22(1c) and (1d):	inserted by 16, 1998, s. 6(d)
Section 22(2):	amended by 16, 1998, s. 6(e)
Section 22(6):	amended by 25, 1997, s. 10
Section 22(8):	substituted by 16, 1998, s. 6(f)

Police Superannuation Act 1990

Section 25(4) and (5):	amended by 55, 1998, Sched. 3 (cl. 2)
Section 25(7):	substituted by 55, 1998, Sched. 3 (cl. 2)
Section 25(5):	amended by 7, 1997, s. 4
Section 26(1):	amended by 12, 1993, s. 5(a), (b)
Section 26(5) and (6):	substituted by 12, 1993, s. 5(c)
Section 31(5) and (6):	amended by 55, 1998, Sched. 3 (cl. 2)
Section 31(6):	amended by 7, 1997, s. 5
Section 31(8):	substituted by 55, 1998, Sched. 3 (cl. 2)
Section 32(1):	amended by 52, 1992, s. 5; 16, 1998, s. 7(a)
Section 32(1aa):	inserted by 16, 1998, s. 7(b)
Section 32(1a):	inserted by 7, 1997, s. 6(a)
Section 32(4):	amended by 16, 1998, s. 7(c)
Section 32(5):	amended by 7, 1997, s. 6(b)
Section 32(6):	inserted by 7, 1997, s. 6(c)
Section 33:	substituted by 12, 1993, s. 6
Section 34(1aa) and (1ab):	inserted by 16, 1998, s. 8(a)
Section 34(1a):	inserted by 12, 1993, s. 7; amended by 16, 1998, s. 8(b)
Section 34(1b):	inserted by 12, 1993, s. 7; substituted by 16, 1998, s. 8(c)
Section 34(1c) and (1d):	inserted by 16, 1998, s. 8(c)
Section 34(2):	amended by 16, 1998, s. 8(d)
Section 34(4):	amended by 16, 1998, s. 8(e)
Section 34(11):	inserted by 52, 1992, s. 6; substituted by 16, 1998, s. 8(f)
Section 35A:	inserted by 23, 1999, s. 5
Section 37(1):	amended by 52, 1992, s. 7(a)-(c)
Section 37(1a):	inserted by 52, 1992, s. 7(d)
Section 38:	substituted by 52, 1992, s. 8
Section 39(1):	amended by 16, 1998, s. 9(a); 4, 2000, s. 9(1) (Sched. 1 cl. 33(a))
Section 39(2):	amended by 16, 1998, s. 9(b); repealed by 4, 2000, s. 9(1) (Sched. 1 cl. 33(b))
Section 39(3):	repealed by 4, 2000, s. 9(1) (Sched. 1 cl. 33(c))
Section 39(4):	inserted by 16, 1998, s. 9(c); amended by 4, 2000, s. 9(1) (Sched. 1 cl. 33(d))
Section 40(4):	substituted by 16, 1998, s. 10
Section 42(1):	substituted by 20, 1998, s. 6(a)
Section 42(2):	amended by 20, 1998, s. 6(b)
Section 42(3) - (5):	inserted by 20, 1998, s. 6(c)
Section 45A:	inserted by 52, 1992, s. 9
Section 49(1):	amended by 38, 1995, Sched. 2; 16, 1998, s. 11
Section 50:	substituted by 12, 1993, s. 8
Schedule 1	
Clause 2A:	inserted by 7, 1997, s. 7
Clause 6(2):	amended by 25, 1997, s. 11
Clause 8:	inserted by 52, 1992, s. 10
Clause 9:	inserted by 60, 1992, Sched. 2
Clause 10:	inserted by 16, 1998, s. 12