

(Reprint No. 1)

SOUTH AUSTRALIA

SUPERANNUATION REGULATIONS, 1988

*These regulations are reprinted pursuant to the Subordinate Legislation Act 1978 and incorporate all amendments in force as at **10 April 1997**.*

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**APPENDIX
LEGISLATIVE HISTORY**

REGULATIONS UNDER THE SUPERANNUATION ACT, 1988

SUPERANNUATION REGULATIONS, 1988

being

No. 122 of 1988: *Gaz.* 30 June 1988, p. 2090¹

as varied by

- No. 60 of 1989: *Gaz.* 4 May 1989, p. 1201²
No. 155 of 1989: *Gaz.* 10 August 1989, p. 549
No. 203 of 1989: *Gaz.* 2 November 1989, p. 1420
No. 26 of 1990: *Gaz.* 22 February 1990, p. 517³
No. 164 of 1990: *Gaz.* 9 August 1990, p. 548⁴
No. 3 of 1991: *Gaz.* 17 January 1991, p. 193
No. 78 of 1991: *Gaz.* 20 June 1991, p. 1947
No. 92 of 1991: *Gaz.* 27 June 1991, p. 2100⁵
No. 264 of 1991: *Gaz.* 19 December 1991, p. 1971
No. 43 of 1993: *Gaz.* 25 March 1993, p. 1072⁶
No. 206 of 1993: *Gaz.* 9 September 1993, p. 1086⁷
No. 23 of 1994: *Gaz.* 14 April 1994, p. 1005⁸
No. 170 of 1994: *Gaz.* 20 October 1994, p. 1240⁹
No. 13 of 1996: *Gaz.* 25 January 1996, p. 841¹⁰
No. 44 of 1997: *Gaz.* 10 April 1997, p. 1491¹¹

- ¹ Came into operation 1 July 1988: reg. 2.
² Came into operation 4 May 1989: reg. 2.
³ Came into operation 22 February 1990: reg. 2.
⁴ Came into operation 1 September 1990: reg. 2.
⁵ Came into operation 1 July 1991: reg. 2.
⁶ Came into operation 25 March 1993: reg. 2.
⁷ Came into operation 9 September 1993: reg. 2.
⁸ Came into operation 14 April 1994: reg. 2.
⁹ Came into operation 20 October 1994: reg. 2.
¹⁰ Came into operation 25 January 1996: reg. 2.
¹¹ Came into operation 10 April 1997: reg. 2.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the regulations see Appendix.

Citation

1. These regulations may be cited as the *Superannuation Regulations, 1988*.

Commencement

2. These regulations will come into operation on 1 July, 1988.

**PART I
PRELIMINARY**

Interpretation

3. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Superannuation Act, 1988*;

"**the South Australian Superannuation Scheme**" or "**the Scheme**" means the scheme of superannuation established by the Act and (where the context admits) includes the scheme of superannuation established by a corresponding previous enactment.

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**PART II
ELECTION OF MEMBERS OF BOARD AND TRUST**

Interpretation

4. In this Part, unless the contrary intention appears—

"**contributor**" means a contributor who is, by virtue of regulation 7, eligible to vote at an election;

"**hour of nomination**" means the hour by which nominations must be received by the Electoral Commissioner.

Election of members

5. The election of members of the Board and the Trust by contributors must be conducted by the Electoral Commissioner in accordance with this Part.

Timetable for election

6. (1) The Electoral Commissioner must publish in a daily newspaper circulating throughout the State a notice setting out the timetable for each election held under this Part.

(2) The notice must—

- (a) fix the date (not being less than 14 days from publication of the notice) and the hour by which nominations must be received by the Electoral Commissioner;
- (b) fix the date on or before which the Commissioner will post ballot papers to contributors or give ballot papers to employers for distribution to contributors;
- (c) fix the date (not being less than 21 days nor more than 28 days after the date fixed under paragraph (b)) and the hour by which completed ballot papers must be returned to the Electoral Commissioner.

(3) The Electoral Commissioner must determine the timetable in consultation with the Board.

Contributors eligible to vote

7. (1) Persons who were contributors on the day preceding the day on which notice was published under regulation 6 are eligible to vote at the election.

(2) The Board must within 7 days after the notice was published give the Electoral Commissioner a list of the contributors who are eligible to vote at the election.

Nominations

8. A nomination for election must be—

(a) in a form approved by the Electoral Commissioner;

(b) signed by at least ten contributors;

and

(c) received by the Electoral Commissioner at or before the hour of nomination.

Election without ballot

9. (1) If the number of persons nominated is the same or less than the number of vacancies to be filled by election the Electoral Commissioner must by notice in a daily newspaper circulating throughout the State and in the *Gazette* declare that the vacancy or vacancies has or have been filled by the person or persons nominated.

(2) If the number of persons nominated is greater than the number of vacancies to be filled the following regulations apply.

Ballot papers

10. (1) The Electoral Commissioner must provide each contributor with a ballot paper and an envelope addressed to the Commissioner for the purpose of returning the ballot paper after completion.

(2) The names of the candidates must appear on the ballot papers in a vertical list in an order determined by the Electoral Commissioner by lot.

(3) If ballot papers are not printed on watermarked paper they must be initialled by the Electoral Commissioner or by a person authorized for that purpose by the Commissioner.

(4) The Electoral Commissioner may provide a contributor with a ballot paper and envelope—

(a) by posting the ballot paper and envelope to the contributor at his or her last known address;

or

(b) by giving the ballot paper and envelope to the contributor's employer to give to the contributor.

Electoral material to be provided with ballot papers

11. (1) Subject to this regulation, the Electoral Commissioner must, at the request of a candidate, include with ballot papers provided to contributors material provided by the candidate promoting the candidate's election.

(2) Promotional material must be provided to the Commissioner at or before the hour of nomination.

(3) The material must not include more than 200 words nor more than one photograph and may be printed by the Commissioner in such form as he or she thinks fit for the purpose of posting or distributing to contributors.

Voting

12. (1) A contributor who wishes to vote—

(a) must indicate on the ballot paper the candidate to whom the contributor gives his or her first preference and the contributor may indicate the order of his or her preference for the other candidates;

(b) must place the ballot paper in the envelope provided, seal the envelope and sign it;

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(c) must print his or her full name in block letters adjacent to the signature;

and

(d) must return the envelope to the Electoral Commissioner.

(2) A voter's preference for candidates must be indicated by consecutive numbers (commencing with the number 1) placed in the squares opposite the names of the candidates on the ballot paper.

Duplication and late return of ballot papers

13. (1) If more than one ballot paper is returned under the name of the same contributor all, except the first to be returned, will be rejected or if the Electoral Commissioner does not know which was returned first all, except the first to be recorded against the name of the contributor, will be rejected.

(2) If more than one ballot paper is returned in an envelope none of the ballot papers returned in that envelope will be counted.

(3) A ballot paper returned to the Electoral Commissioner after the close of the poll will not be counted.

Counting of votes

14. The following provisions apply to the counting of votes:

(a) after counting first preferences the candidate with the fewest first preferences must be excluded and if more candidates remain than the number of vacancies to be filled each ballot paper counted to the excluded candidate must be counted to the candidate (if any) next in order of the voter's preference;

(b) this process must be continued until the number of candidates remaining is equal to the number of vacancies to be filled;

(c) where two candidates have an equal number of votes and one of them must be excluded the Electoral Commissioner must determine the question by lot.

Scrutineers

15. (1) Subject to subregulation (2), the Electoral Commissioner may permit such scrutineers as he or she thinks fit to be present at the counting of votes.

(2) A candidate in the election cannot be a scrutineer.

Declaration of election

16. When the number of candidates remaining is equal to the number of vacancies to be filled the Electoral Commissioner must by notice in a daily newspaper circulating throughout the State and in the *Gazette* declare that the candidate or candidates has or have been elected to fill the vacancy or vacancies.

**PART III
COMMUTATION OF PENSIONS**

DIVISION I—PRELIMINARY

Interpretation

17. For the purposes of this Part a pensioner's annual pension is the pensioner's fortnightly pension multiplied by 313 and divided by 12.

DIVISION II—COMMUTATION OF PENSIONS

Right to apply for commutation

18. (1) A contributor referred to in the left column of the following table may apply to the Board for commutation of the whole or a part of his or her pension in accordance with this Division during the period set out in the right column of the table:

| Contributor who may commute | Period for application |
|---|--|
| A contributor who is entitled to a retirement pension | within 3 months after retirement |
| A contributor in receipt of an invalidity pension | within 3 months after reaching the age of retirement |
| A contributor in receipt of a retrenchment pension | within 3 months after reaching the age of 55 years. |

(2) The spouse of a deceased contributor who is entitled to a pension may apply to the Board for commutation of the whole or part of the pension in accordance with this regulation.

* * * * *

(4) An application for commutation of a pension payable to a spouse must be made within six months after the death of the contributor.

(4a) Where—

(a) part only of a retrenchment pension is available to a contributor because the pension is reduced under section 45;

and

(b) the contributor has commuted the whole, or a part, of that part of the pension,

the contributor may, in accordance with this Division within 3 months after he or she reaches the age of retirement, commute the whole or a part of the part of the pension previously denied to him or her because of the reduction.

(4b) A contributor who is in receipt of a retrenchment pension when subregulation (1) comes into operation and who had reached the age of 55 years but had not reached the age of retirement may, within six months after subregulation (1) comes into operation, apply to the Board for commutation of the whole or part of the pension in accordance with this Division.

(5) The Board must commute the pension within one month after receiving the application and must pay the lump sum within 14 days after commutation.

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(6) The Board may extend the time within which a person may apply for commutation of a pension if, in the Board's opinion, the person was not at fault in failing to apply within the time prescribed by this regulation and the Minister has given his or her consent to the extension.

Proportion of pension that may be commuted

19. (a1) A contributor who is entitled to a retirement pension may, subject to this Part, commute the whole or a part of the pension.

(1) The following table sets out the maximum proportion of a pension that may be commuted by a contributor who is entitled to an invalidity pension or a retrenchment pension or by the spouse of a deceased contributor:

| Annual Pension | Maximum proportion that may be commuted Per cent |
|--------------------------------|--|
| Less than \$10 000 | 100 |
| \$10 000 to less than \$13 000 | 75 |
| \$13 000 and over | 50 |

(2) On each anniversary of 1 July 1991 each of the annual pension limits set out in the left column of the table in subregulation (1) will be increased by 20 per cent of the limit applying in the previous financial year.

(3) The maximum proportion of—

(a) the part of a retrenchment pension remaining after reduction under section 45;

or

(b) the part of a retrenchment pension previously denied to the contributor because of reduction under section 45,

that may be commuted is the same as the maximum proportion that could have been commuted if the pension had not been subject to reduction under section 45.

Commutation factors

20. (1) The following tables set out commutation factors:

(a) in the case of a contributor on retirement—

| Age at time of commutation | Amount of lump sum for each dollar of annual pension commuted |
|----------------------------|--|
| 55 - 56 | \$11.50 - \$11.30 |
| 56 - 57 | \$11.30 - \$11.10 |
| 57 - 58 | \$11.10 - \$10.90 |
| 58 - 59 | \$10.90 - \$10.70 |
| 59 - 60 | \$10.70 - \$10.50 |
| 60 - 61 | \$10.50 - \$10.30 |
| 61 - 62 | \$10.30 - \$10.10 |
| 62 - 63 | \$10.10 - \$9.90 |
| 63 - 64 | \$9.90 - \$9.70 |
| 64 - 65 | \$9.70 - \$9.50 |
| 65 - 66 | \$9.50 - \$9.30 |
| 66 - 67 | \$9.30 - \$9.10 |

(b) in the case of a contributor in receipt of an invalidity pension or retrenchment pension—

| Age at time of commutation | Amount of lump sum for each dollar of annual pension commuted |
|----------------------------|---|
| 55 - 56 | \$11.50 - \$11.30 |
| 56 - 57 | \$11.30 - \$11.10 |
| 60 - 61 | \$10.50 - \$10.30 |
| 61 - 62 | \$10.30 - \$10.10 |

(c) in the case of a spouse of a deceased contributor—

| Age of spouse at time of commutation | Amount of lump sum for each dollar of annual pension commuted |
|--------------------------------------|---|
| 50 or under | \$11.50 |
| 50 - 55 | \$11.50 - \$11.00 |
| 55 - 60 | \$11.00 - \$9.75 |
| 60 - 65 | \$9.75 - \$8.50 |
| 65 - 70 | \$8.50 - \$7.25 |
| 70 - 80 | \$7.25 - \$4.75 |
| 80 - 90 | \$4.75 - \$2.25 |
| 90 - 100 | \$2.25 - \$0.00 |

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DIVISION IV—GENERAL

Restriction on commutation

23. (1) The Board must not pay a lump sum to the spouse of a contributor unless it is satisfied that no other spouse of the contributor is entitled to part of the pension commuted by the Board.

(2) The Board is not liable to any person in respect of a payment made by the Board in accordance with subregulation (1).

Adjustment of commutation factors

23a. When determining the amount of the lump sum payable on commutation the commutation factor must be adjusted proportionately, in accordance with the appropriate table, to the age of the applicant expressed in years and completed months.

Rounding off lump sums

23b. When determining the amount of a lump sum payable on commutation the Board may round the amount to the nearest dollar.

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**PART IV
GENERAL**

Exclusion of certain remuneration from salary

24. (1) Subject to this regulation, the following allowances and payments are excluded from the definition of salary in the Act:

- district and locality allowances;
- construction or industry allowances;
- travelling allowances;
- meal allowances;
- living away from home allowances;
- shift work allowances;
- allowances for work on public holidays or weekends not being those paid on an annual basis;
- special justices allowances;
- underground allowances;
- payments for overtime at penalty rates;
- allowances for rent, house allowed rent free, light and fuel.

(2) A higher duties allowance is excluded from the definition of salary in the Act for the purpose of calculating contributions and where such an allowance has been paid for a continuous period of less than 12 months it is excluded from the definition of salary for the purposes of calculating benefits as well but where such an allowance has been paid for a continuous period of 12 months or more, it will be included as a component of salary for the purpose of calculating benefits.

(2a) In subregulation (2)—

"**higher duties allowance**" does not include remuneration received by a contributor pursuant to a fixed term appointment within the meaning of regulation 24b.

(3) Allowances or payments in respect of membership of a statutory body are excluded from the definition of salary in the Act except—

* * * * *

(b) where the terms of employment as a member of the statutory body are such that the number of hours that the employee is required to work is, when averaged over the period of a year, more than 30 hours in each week;

- (c) in the case of an employee who is also employed in some other office or position that qualifies the employee as an employee within the meaning of the Act—where the terms of employment as a member of the statutory body and in the other office or position are such that the aggregate of the hours that the employee is required to work pursuant to employment as a member of the statutory body and in the other office or position is, when averaged over the period of a year, more than 30 hours in each week.

(3a) The following allowances and payments are excluded from the definition of salary in the Act:

- (a) an allowance to compensate an employee for being denied a right of private practice or for being unable to exercise a right of private practice because of the nature of his or her employment;
- (b) an allowance or payment to compensate an employee in respect of money that was earned by the employee in the exercise of a right of private practice but was paid to his or her employer.

(4) Expense allowances paid to the Agent-General are a component of the Agent-General's salary for the purposes of the definition of salary in the Act.

(5) This regulation does not exclude an allowance or payment from the definition of salary in the Act that was treated as salary at the commencement of the Act unless the employee has elected, by notice in writing to the Board, to exclude the allowance or payment for the purpose of determining his or her salary.

Exclusion of non-monetary remuneration

24a. (1) Remuneration that does not take the form of money paid to the employee (non-monetary remuneration) is excluded from the definition of salary unless the employer and employee have agreed that it forms a component of the employee's salary and have agreed its value for that purpose.

(2) Subject to subregulation (3), where non-monetary remuneration has been excluded from the definition of salary under subregulation (1), the value of that remuneration cannot be included as a component of salary for the purpose of calculating benefits:

- (a) by changing the agreed basis on which the employee is entitled to the remuneration so as to conform with subregulation (1);
- (b) by changing the remuneration to another kind of non-monetary remuneration that will be received on a basis that conforms with subregulation (1);

or

- (c) by the substitution of a monetary amount for the non-monetary remuneration,

unless at least five years has elapsed since the change occurred and the value of the non-monetary remuneration previously excluded (or an amount equivalent to it) has been included as a component of salary for the purpose of calculating contributions continuously since the change occurred.

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(3) If over a period of five years or less following the commencement of this regulation the agreement between an employee and employer is periodically modified so that the proportion of non-monetary remuneration which is included as a component of salary for the purposes of calculating contributions increases at an even rate to 100 per cent, the proportion of that remuneration that will be included as a component of salary for the purposes of calculating benefits will be the same as the proportion of that remuneration included as a component of salary for the purposes of calculating contributions immediately preceding the time at which the benefits first became payable.

Salary in relation to fixed term appointments

24b. (1) Subject to subregulations (3) and (4), where a contributor has, during his or her membership of the Scheme, been appointed to a higher position for a limited term of less than five years, the contributor's salary for the purpose of determining contributions and benefits will, during the term of the appointment, be taken to be the contributor's basic salary.

(2) Subject to subregulation (6), where a contributor has, during his or her membership of the Scheme, been appointed to a higher position for a limited term of five years or more, the contributor's salary for the purpose of determining contributions and benefits will thereafter be taken to be the highest level of salary achieved by the contributor during his or her membership of the Scheme.

(3) A contributor who has been appointed to a higher position for a limited term of less than five years will be taken, for the purposes of subregulation (2), to have been appointed for a term of five years or more if the term of that appointment when aggregated with the term of a previous appointment or appointments to higher positions during the contributor's membership of the scheme is five years or more.

(4) A contributor who has been appointed to a higher position for a limited term of less than five years will, if the term is extended to five years or more, be taken, for the purposes of subregulation (2) to have been appointed for a term of five years or more on the day on which the term is extended.

(5) The highest level of salary achieved by the contributor will be determined by comparing the salary levels for the time being of all positions held by the contributor during his or her membership of the Scheme and the following provisions will apply for the purpose of the comparison:

- (a) where the salary applicable to the position that the contributor holds or to a position previously held by the contributor has been reduced (except for disciplinary reasons) or the position has ceased to exist, the salary of the position will be taken to be—
 - (i) where the salary has been reduced—the salary of that position on the last day on which the contributor was employed in the position before the reduction;
 - (ii) where the position has ceased to exist—the salary of that position on the last day on which the contributor was employed in the position,

adjusted to reflect changes in the Consumer Price Index between that day and the day on which the comparison is made;

- (b) where the contributor holds, or held, a position pursuant to special conditions as to salary negotiated with his or her employer the salary of the position will be taken to be the salary for the time being of the position (or the notional salary of the position determined under paragraph (a) if applicable) increased in accordance with the special conditions.

(6) The contributor's salary for the purposes of determining contributions and benefits will be taken to be the contributor's basic salary if the contributor has, by notice in writing to the Board within two months of the commencement of the fixed term appointment referred to in subregulation (2), made an election to that effect.

(7) A contributor who is employed pursuant to a fixed term appointment when this regulation comes into force is entitled to make an election referred to in subregulation (6) within two months after this regulation comes into force.

(8) An election referred to in subregulation (6) cannot be revoked and, as well as applying in relation to the fixed term appointment in relation to which it was made, applies also in relation to all subsequent periods served by the contributor pursuant to fixed term appointments.

(9) An election made by an officer of the teaching service before this regulation came into force under the corresponding regulation in force at that time will be taken to be an election referred to in subregulation (6).

(10) A person who is employed pursuant to a fixed term appointment when he or she becomes a member of the Scheme will be taken, for the purposes of this regulation, to have been appointed to the higher position on the day on which he or she became a member of the Scheme.

(11) In this regulation, unless the contrary intention appear—

"**basic salary**" in relation to a contributor on a particular day means—

- (a) where the contributor was not employed pursuant to a fixed term appointment on that day—the contributor's salary on that day;
- (b) where the contributor was employed pursuant to a fixed term appointment on that day—the salary for the time being payable in respect of the position (or an equivalent position) held by the contributor immediately before the commencement of the fixed term appointment or, where the contributor has held two or more consecutive fixed term appointments, immediately before the commencement of the first of those appointments;

"**fixed term appointment**" in relation to a contributor means the appointment of the contributor to a higher position for a limited term;

"**higher position**" in relation to a contributor means a position in which the salary, or the aggregate of the various components of the salary, received by the contributor exceeds the salary, or the aggregate of the various components of the salary, received by the contributor in the same or some other position held by the contributor immediately before appointment to the higher position.

Prescribed authorities, etc.

25. The following are prescribed for the purposes of section 5(1)(b) of the Act:

Aboriginal Cultural Institute Incorporated

Aboriginal Lands Trust

A.I.D.S. Council of South Australia Incorporated

Australian Quarantine and Inspection Service

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Construction Industry Long Service Leave Board

Forwood Products Pty. Ltd.

Foundation for Multi-Disciplinary Education in Community Health

Innovation Management Pty. Limited

The Jam Factory Workshops Incorporated

Leader of the Opposition in the House of Assembly

Murray-Darling Basin Commission

South Australian Centre for Manufacturing Pty. Ltd.

South Australian Office of Financial Supervision

South Australian Oil and Gas Corporation Pty. Ltd.

South Australian Superannuation Fund Investment Trust.

Liability of Trust to Land Tax and Stamp Duty

26. (1) Section 16 of the Act does not apply in relation to tax imposed by the *Land Tax Act, 1936*.

(2) Section 16 of the Act does not apply in relation to duty imposed by the *Stamp Duties Act, 1923*, on documents relating to the acquisition of real property by the Trust in the course of investing the Fund.

Fund's share of administration costs

27. For the purposes of section 17(7)(b) of the Act the prescribed percentage is 30.

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Limitation of benefits under new scheme

29. (1) Benefits payable under the new scheme to a contributor (including a contributor accepted before the commencement of the Act) whose state of health at the time of application for acceptance as a contributor appeared to the Board to create a risk of invalidity or premature death may be limited—

- (a) by a condition that benefits based on extrapolated contribution points are not payable;
- (b) by a condition (in the case of invalidity or death) that the benefits cannot include an amount being the difference between the employee component and twice the contributor's adjusted final salary;

or

- (c) by both those conditions.

(2) Where the Board proposes to impose a condition pursuant to subregulation (1) it must advise the applicant in writing of the nature of the condition and the circumstances in which it will apply.

(3) An applicant has 28 days after receiving written advice from the Board under subregulation (2) to withdraw the application.

(4) If the Board is satisfied that the risk that gave rise to the imposition of a condition or conditions under subregulation (1) in relation to a contributor no longer exists, the Board may revoke the condition or conditions.

Classification of contributors as old scheme contributors

30. A person who applies for acceptance as a contributor after 31 May, 1986, cannot be classified by the Board as an old scheme contributor unless—

(a) immediately before becoming an employee within the meaning of the Act, the applicant was an employee of an instrumentality or agency of the Crown and was a contributor to a superannuation fund or scheme that provided pension benefits to employees of that instrumentality or agency;

(b) the applicant had been a contributor to that superannuation fund or scheme since 31 May, 1986;

and

(c) the application was made immediately after the applicant became an employee within the meaning of the Act.

Contributions by employee on leave without pay

31. A contributor who is on leave without pay for a period of more than 12 months may, with the Board's approval, elect to make contributions during the period of leave after the first 12 months of leave in the following circumstances:

(a) the contributor is employed under the *Education Act, 1972*, and is taking the leave instead of undertaking country service;

(b) the contributor is participating in an overseas aid programme and the Minister has given approval to the contributor making the contributions;

or

(c) the contributor is on secondment to another employer and the Minister has given approval to the contributor making the contributions.

Criteria for approval of other funds and schemes

32. The criteria on which the Board may approve a superannuation fund or scheme for the purposes of section 28(1)(c) of the Act are as follows:

(a) the provisions governing the superannuation fund or scheme must include provisions precluding payment of the employer component carried over from the South Australian Superannuation Scheme except—

(i) on retirement of the contributor on or after the age of 55;

(ii) on the death or invalidity of the contributor; or

(iii) in accordance with provisions that correspond to section 28(1)(c) of the Act and this regulation;

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and

- (b) the provisions governing the superannuation fund or scheme must include provisions corresponding to section 28(1)(c) of the Act that would enable a contributor to the fund or scheme to carry over his or her accrued superannuation benefits in the fund or scheme to the South Australian Superannuation Scheme.

Notice to the Board on retrenchment

33. A notice given to the Board by an employing authority under section 29(5) of the Act must inform the Board of any inquiries made by the employing authority or by the Department of Personnel and Industrial Relations as to other suitable employment available to the contributor with that or any other employing authority and the result of those inquiries.

Period of notice

34. The period of notice of resignation pursuant to sections 31(3)(b)(iii) and 37(4)(b)(iii) of the Act is one month.

Notice to the Board on invalidity

35. A notice given to the Board by an employer under section 31(4) or 37(5) of the Act must—

- (a) be accompanied by a certificate in a form approved by the Board from a medical practitioner stating the nature of the invalidity;
- (b) inform the Board of any inquiries made by the employer or by the Department of Personnel and Industrial Relations as to other suitable employment, carrying a salary of at least 80 per cent of the salary applicable to the contributor's present position, available to the contributor with that or any other employer and the result of those inquiries;

and

- (c) inform the Board of the contributor's existing or future entitlement (if any) to weekly payments of workers compensation.

Minimum pension payable to eligible children

36. For the purposes of section 38(3) the prescribed amount of the fortnightly pension is—

- (a) \$8 where a benefit is payable or has been paid to a spouse of the contributor;
- (b) \$12 where no such benefit is or was payable.

Prescription of employer under s. 39 of Act

36aa. SAGASCO Resources Ltd. is prescribed for the purposes of section 39(9) of the Act.

Proportion of pension or lump sum to be charged against contributors' accounts

36a. For the purposes of section 43A of the Act the prescribed proportion is—

- (a) in the case of a pension under section 35 of the Act (a retrenchment pension)—17.5 per cent in respect of the period commencing on the date on which the contributor reaches the age of 60 years and ending at the contributor's death;
- (b) in the case of all other pensions—17.5 per cent throughout the period during which the pension is paid;

- (c) in the case of all lump sums (except for those under section 35 of the Act)—17.5 per cent.

Acceptance of contributor without medical examination

37. (1) The Board may accept an applicant as a contributor without inquiring into the applicant's state of health in the following circumstances:

- (a) the applicant must have been a member of a superannuation fund or scheme immediately before becoming an employee;
- (b) the applicant must have preserved his or her benefits in that fund or scheme if preservation was an option available to the applicant under the fund or scheme;
- (c) if preservation was not an option the applicant must have paid to the Treasurer any amount that the applicant had received from that superannuation fund or scheme on resignation.

(2) Any amount received from the superannuation fund or scheme by a contributor after acceptance by the Board pursuant to subregulation (1) must be paid by the contributor to the Treasurer within 14 days after receipt.

(3) The Board cannot impose conditions limiting the benefits payable under the Act to a contributor accepted under this regulation except in relation to an illness or condition that had been diagnosed or was apparent at or before the time at which the contributor became a member of the previous superannuation fund or scheme.

(4) An amount received from a superannuation fund or scheme and paid to the Treasurer by a contributor accepted by the Board pursuant to subregulation (1) will not be taken into account when determining benefits to be financed from the General Revenue of the State.

(5) The Board may, by notice in writing given to a contributor who has failed to comply with subregulation (2), invite the contributor to reapply for acceptance as a contributor pursuant to section 22 of the Act within 14 days after service of the notice.

(6) If a contributor does not re-apply for acceptance as a contributor in accordance with subregulation (5) the contributor's membership of the Scheme will cease and, in that event the amount standing to the credit of the former contributor's contribution account will be repaid to the contributor.

(7) A contributor who does re-apply for acceptance as a contributor in accordance with subregulation (5) will remain a contributor on such conditions (if any) as are subsequently imposed by the Board when determining the new application.

Deduction of contributions from salary

38. The contributions for which a contributor is liable under the Act must be deducted from the contributor's salary and be paid to the Treasurer.

Payment in case of pensioner who is incompetent

39. (1) If the Board is satisfied that a person who is entitled to a pension under the Act is not mentally or physically competent to give the Board directions as to payment of the pension the Board may—

- (a) continue to make payments in a manner authorized by the pensioner when competent;
- (b) pay the pension into an account with a financial institution in the name of the pensioner;

or

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- (c) pay the pension to a person who is caring for the pensioner on condition that it is applied for the maintenance and benefit of the pensioner.

(2) Subregulation (1) is subject to the right of a manager appointed under the *Aged and Infirm Persons' Property Act, 1940*, or an administrator appointed under the *Mental Health Act, 1977*, to payment of the pension.

- (3) In this regulation—

"**financial institution**" has the meaning given to it by the *Financial Institution Duty Act, 1983*.

Employment of medical practitioner

40. The Board must employ a medical practitioner to advise it on matters relating to the state of health of contributors and employees applying for acceptance as contributors.

Minimum pension

41. A pension paid to a contributor affected by conditions referred to in clause 7 of schedule 1 of the Act must not be less than \$30 per fortnight and a pension paid to the spouse of such a contributor must not be less than \$20 per fortnight.

Reduction of the amount of arrears from contributor's salary

42. The Board may require the employer of a contributor who was in arrears in payment of contributions at 1 July, 1988, to deduct the amount of those arrears from the contributor's salary over a period of 12 months and pay the amount deducted to the Board.

Notification to Board on change in working hours

43. Where there is a reduction in the time worked by a contributor in full-time employment or a reduction or increase in the time worked by a contributor in part-time employment the employer must, by notice in writing given to the Board within 14 days of the change, inform the Board of—

- (a) the date of the change;
 - (b) the contributor's salary after the change and the salary that the contributor would receive if in full-time employment;
 - (c) the period during which the changed time is likely to apply;
- and
- (d) any illness or disability known to the employer that has caused or contributed to the change.

APPENDIX

LEGISLATIVE HISTORY

| | |
|----------------------------------|---|
| Regulation 3: | definition of "the South Australian Superannuation Scheme" inserted by 203, 1989, reg. 2 |
| Heading preceding regulation 17: | inserted by 60, 1989, reg. 3 |
| Heading preceding regulation 18: | inserted by 60, 1989, reg. 4 |
| Regulation 18(1): | substituted by 23, 1994, reg. 3(a) |
| Regulation 18(3): | revoked by 23, 1994, reg. 3(b) |
| Regulation 18(4a) and (4b): | inserted by 23, 1994, reg. 3(c) |
| Regulation 18(6): | inserted by 264, 1991, reg. 2 |
| Regulation 19: | substituted by 92, 1991, reg. 3 |
| Regulation 19(a1): | inserted by 44, 1997, reg. 3(a) |
| Regulation 19(1): | varied by 44, 1997, reg. 3(b) |
| Regulation 19(3): | inserted by 23, 1994, reg. 4 |
| Regulation 20(1): | varied by 23, 1994, reg. 5 |
| Regulation 20(2): | revoked by 60, 1989, reg. 5 |
| Regulations 21 and 22: | revoked by 60, 1989, reg. 6 |
| | Division III of Part III comprising regs. 21 - 22d and heading inserted by 60, 1989, reg. 7; substituted by 26, 1990, reg. 3; revoked by 92, 1991, reg. 4 |
| Heading preceding regulation 23: | inserted by 60, 1989, reg. 8 |
| Regulation 23a: | inserted by 60, 1989, reg. 9 |
| Regulation 23b: | inserted by 26, 1990, reg. 4 |
| Regulation 24(1): | varied by 203, 1989, reg. 3(a) |
| Regulation 24(2): | substituted by 203, 1989, reg. 3(b) |
| Regulation 24(2a): | inserted by 155, 1989, reg. 2; revoked by 203, 1989, reg. 3(b); inserted by 43, 1993, reg. 3(a) |
| Regulation 24(3): | substituted by 203, 1989, reg. 3(b) |
| Regulation 24(3)(a): | revoked by 43, 1993, reg. 3(b) |
| Regulation 24(3a): | inserted by 264, 1991, reg. 3 |
| Regulation 24(4) and (5): | substituted by 203, 1989, reg. 3(b) |
| Regulation 24a: | inserted by 164, 1990, reg. 3 |
| Regulation 24a(2): | substituted by 78, 1991, reg. 2 |
| Regulation 24b: | inserted by 3, 1990, reg. 2; varied by 92, 1991, reg. 5; substituted by 43, 1993, reg. 4 |
| Regulation 25: | varied by 203, 1989, reg. 4; 164, 1990, reg. 4; 43, 1993, reg. 5; 206, 1993, reg. 3; 170, 1994, reg. 3; 13, 1996, reg. 3 |
| Regulation 27: | varied by 203, 1989, reg. 5 |
| Regulation 28: | revoked by 203, 1989, reg. 6 |
| Regulation 29(1): | varied by 203, 1989, reg. 7(a) |
| Regulation 29(4): | inserted by 203, 1989, reg. 7(b) |
| Regulation 30: | varied by 203, 1989, reg. 8 |
| Regulation 32: | varied by 203, 1989, reg. 9 |
| Regulation 36aa: | inserted by 206, 1993, reg. 4 |
| Regulation 36a: | inserted by 203, 1989, reg. 10; substituted by 170, 1994, reg. 4 |
| Regulation 37(1): | varied by 203, 1989, reg. 11(a), (b) |
| Regulation 37(2): | varied by 203, 1989, reg. 11(c) |
| Regulation 37(4): | varied by 203, 1989, reg. 11(d) |
| Regulation 37(6): | varied by 203, 1989, reg. 11(e) |
| Regulation 37(7): | varied by 203, 1989, reg. 11(f) |
| Regulation 38: | varied by 203, 1989, reg. 12 |
| Regulation 40: | varied by 203, 1989, reg. 13 |