

## Legislative Council

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South Australia

# Southern State Superannuation (Insurance, Spouse Accounts and Other Measures) Amendment Bill 2006

A BILL FOR

An Act to amend the *Southern State Superannuation Act 1994*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Southern State Superannuation Act 1994*

- 4 Amendment of section 3—Interpretation
- 5 Amendment of section 4—The Fund
- 6 Amendment of section 7—Contribution, co-contribution and rollover accounts
- 7 Amendment of section 8—Other accounts to be kept by Board
- 8 Amendment of section 13—Reports
- 9 Amendment of section 13A—Report as to cost of invalidity/death insurance benefits
- 10 Insertion of section 15A
  - 15A Contributors to State Scheme
- 11 Amendment of section 15B—Salary sacrifice by members of certain schemes
- 12 Amendment of section 21—Basic invalidity/death insurance
- 13 Amendment of section 22—Application for voluntary invalidity/death insurance
- 14 Amendment of section 23—Variation of voluntary insurance
- 15 Amendment of section 24—Amount of invalidity/death insurance benefits and amount of premiums
- 16 Amendment of section 24A—Voluntary suspension of invalidity/death insurance
- 17 Amendment of section 25—Contributions
- 18 Insertion of Part 3A

#### Part 3A—Spouse members

##### Division 1—Preliminary

- 26A Interpretation

##### Division 2—Spouse members

- 26B Spouse contributions splitting
- 26C Other contributions for spouse members
- 26D Spouse members and spouse accounts
- 26E Accretions to spouse members' accounts

- 26F Amalgamation of accounts
- Division 3—Voluntary death insurance
  - 26G Voluntary death insurance
  - 26H Variation of voluntary death insurance
  - 26I Amount of death insurance benefits and amount of premiums
- Division 4—Payment of benefits
  - 26J Benefits for spouse members
- 19 Amendment of section 27—Employer contribution accounts
- 20 Amendment of section 33A—Disability pension
- 21 Amendment of section 34—Termination of employment on invalidity
- 22 Amendment of section 35—Death of member
- 23 Amendment of section 35AA—Commutation to pay deferred superannuation contributions surcharge—member
- 24 Amendment of section 35B—Interpretation
- 25 Amendment of section 36—Information to be given to certain members
- 26 Amendment of section 41—Power to obtain information
- 27 Amendment of section 43—Division of benefit where deceased member is survived by lawful and putative spouse
- 28 Amendment of section 45—Payments in foreign currency
- 29 Amendment of section 47—Liabilities may be set off against benefits
- 30 Amendment of section 47A—Confidentiality
- 31 Amendment of section 47B—Post retirement investment
- 32 Insertion of section 47BA
  - 47BA Post retirement invalidity/death insurance
- 33 Amendment of section 48—Resolution of difficulties
- 34 Amendment of Schedule 3—Transitional provisions

## Schedule 1—Transitional provision

- 1 Transitional provision

## Schedule 2—Statute law revision amendment of *Southern State Superannuation Act 1994*

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### **The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Southern State Superannuation (Insurance, Spouse Accounts and Other Measures) Amendment Act 2006*.

### **2—Commencement**

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

### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *Southern State Superannuation Act 1994*

### 4—Amendment of section 3—Interpretation

- (1) Section 3(1), definitions of *additional invalidity/death insurance* and *additional invalidity/death insurance benefits*—delete the definitions
- (2) Section 3(1), definition of *contributions*—delete "or section 25A" and substitute:  
    , section 25A or section 26C
- (3) Section 3(1), definition of *invalidity/death insurance benefits*—delete "additional" and substitute:  
    voluntary
- (4) Section 3(1), definition of *member*—after "means a member" insert:  
    (other than a spouse member)
- (5) Section 3(1), definitions of *non-monetary remuneration* and *non-monetary salary*—delete the definitions and substitute:  
    *non-monetary salary*, in relation to a member, means remuneration in any form resulting from the sacrifice by the member of part of his or her salary;
- (6) Section 3(1), definition of *salary*—after "forms of remuneration" insert:  
    (including non-monetary salary)
- (7) Section 3(1), definition of *salary*, (a)—delete paragraph (a)
- (8) Section 3(1)—after the definition of *spouse* insert:  
    *spouse account* means—
  - (a) a contribution account; or
  - (b) a rollover account; or
  - (c) a co-contribution account,    established and maintained by the Board for the benefit of a spouse member in accordance with the requirements of this Act;  
    *spouse member* means a spouse member of the Southern State Superannuation Scheme—see section 26D;
- (9) Section 3(1)—after the definition of *visiting medical officer* insert:  
    *voluntary invalidity/death insurance* means invalidity/death insurance granted by the Board under section 22;  
    *voluntary invalidity/death insurance benefits* means benefits payable in respect of voluntary invalidity/death insurance.

**Southern State Superannuation (Insurance, Spouse Accounts and Other Measures) Amendment Bill 2006**

Part 2—Amendment of *Southern State Superannuation Act 1994*

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- (10) Section 3(3) to (3c)—delete subsections (3) to (3c) (inclusive) and substitute:
- (3) For the purposes of determining the amount of salary received by a member who is in receipt of non-monetary salary, the value of the non-monetary salary will be taken to be the amount of salary sacrificed by the member in order to receive the non-monetary salary.
- (11) Section 3(5)—after "casual basis" insert:
- pursuant to an arrangement under which he or she is to work for 9 or more hours each week or for periods that average, over a 3 month period, 9 or more hours each week
- (12) Section 3(5)(a)(i)—delete subparagraph (i) and substitute:
- (i) if the member is incapacitated during that 12 month period, he or she may be entitled to benefits under section 34 on account of invalidity if the Board is satisfied that the member's incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, and for that purpose—
- (A) the member's employment will be taken to have been terminated on account of invalidity by the employer on the date of incapacity; and
- (B) subsections (7), (8) and (9) of section 34 will not apply; and
- (C) the member must, within 6 months after becoming incapacitated to the extent envisaged by this subparagraph, give written notice to the Board claiming that the member is entitled to benefits under section 34; and

**5—Amendment of section 4—The Fund**

- (1) Section 4(4)—after "members" insert:
- and spouse members
- (2) Section 4(4b)—delete "contributor" and substitute:
- member or spouse member

**6—Amendment of section 7—Contribution, co-contribution and rollover accounts**

Section 7(3)(a)—delete "established pursuant to Part 5A of this Act or established to accept money rolled over under the provisions of another Act that corresponds to Part 5A of this Act"

**7—Amendment of section 8—Other accounts to be kept by Board**

Section 8(1)—delete subsection (1) and substitute:

- (1) The Board must, in respect of each financial year—
- (a) maintain proper accounts of—
- (i) receipts of members' contributions and spouse members' contributions paid under this Act; and

- (ii) payments to, on behalf of, or in respect of, members and spouse members; and
  - (iii) payments made from members' contribution accounts to spouse accounts; and
  - (iv) amounts transferred from spouse accounts to other accounts under section 26F; and
- (b) prepare financial statements in relation to those receipts, payments and transfers.
- (1a) The financial statements must set out the aggregate of the amounts debited against spouse member accounts under section 26I in respect of premiums for death insurance.

### **8—Amendment of section 13—Reports**

Section 13(2)(a)—delete paragraph (a) and substitute:

- (a) a copy of the financial statements prepared by the Board in relation to receipts of members' contributions and spouse members' contributions, and relating to payments to, on behalf of, or in relation to, members and spouse members; and

### **9—Amendment of section 13A—Report as to cost of invalidity/death insurance benefits**

Section 13A(2)—delete "basic and additional invalidity/death insurance benefits" and substitute:

invalidity and death insurance benefits (including benefits under sections 26G and 47BA)

### **10—Insertion of section 15A**

After section 15 insert:

#### **15A—Contributors to State Scheme**

- (1) This section applies to a contributor within the meaning of the *Superannuation Act 1988* who is a member of the Triple S scheme by virtue of section 14(4) if—
  - (a) he or she elects to make contributions to the Treasurer under section 25; or
  - (b) his or her employer pays an amount in respect of him or her to the Treasurer under section 26(1a).
- (2) For the purposes of the *Superannuation Act 1988*, a contributor to whom this section applies will be taken—
  - (a) to have resigned from employment and to have preserved his or her accrued superannuation benefits (whether he or she has reached the age of 55 years or not); and

- (b) not to reach the age of 55 years until he or she reaches that age and ceases to be employed in employment to which this Act applies.

### **11—Amendment of section 15B—Salary sacrifice by members of certain schemes**

- (1) Section 15B(1)—delete subsection (1) and substitute:
  - (1) A prescribed person may elect, by notice in writing to the Board, to become a member of the Triple S scheme in order to establish an entitlement to the employer component of benefits under Part 5 by sacrificing part of his or her salary in accordance with a contract, an award or an enterprise agreement that entitles the person to sacrifice all or part of his or her salary.
- (2) Section 15B(5)(b)—after "under this section" insert:

other than any voluntary invalidity/death insurance taken out under section 22
- (3) Section 15B—after subsection (5) insert:
  - (6) In this section—

*prescribed person* means—

    - (a) a person who is an active contributor to the State Scheme; or
    - (b) a person prescribed, or of a class prescribed, by the regulations for the purposes of this definition.

### **12—Amendment of section 21—Basic invalidity/death insurance**

Section 21(2)—delete subsection (2) and substitute:

- (2) The following are not entitled to basic invalidity/death insurance:
  - (a) a person who is a member of the scheme by virtue only of section 14(5), (6), (10) or (10a) or section 15B (including any combination of these provisions);
  - (b) a spouse member of the scheme, unless the spouse member is also a member of the scheme (other than by virtue of a provision mentioned in paragraph (a));
  - (c) a person who is—
    - (i) employed or engaged for a specified period of time; and
    - (ii) remunerated solely by a fee, allowance or commission.

### **13—Amendment of section 22—Application for voluntary invalidity/death insurance**

- (1) Section 22—delete "additional" wherever occurring and substitute in each case:

voluntary

(2) Section 22—after subsection (1a) insert:

(1ab) A person who is not entitled to basic invalidity/death insurance under section 21(2)(c) cannot apply for voluntary invalidity/death insurance.

(3) Section 22(1b)—delete "section 14(4), (5), (6), (10) or (10a) or section 15B" and substitute:

section 14(5), (10) or (10a)

#### **14—Amendment of section 23—Variation of voluntary insurance**

Section 23—delete "additional" wherever occurring and substitute in each case:

voluntary

#### **15—Amendment of section 24—Amount of invalidity/death insurance benefits and amount of premiums**

Section 24—delete "additional" wherever occurring and substitute in each case:

voluntary

#### **16—Amendment of section 24A—Voluntary suspension of invalidity/death insurance**

Section 24A—delete "additional" wherever occurring and substitute in each case:

voluntary

#### **17—Amendment of section 25—Contributions**

(1) Section 25(1)—delete subsection (1) and substitute:

(1) Subject to this section, a member may elect to make contributions to the Treasurer as a deduction from salary at a whole number percentage, or at 4.5%, of the combined value of the monetary and non-monetary salary (if any) to which the member is entitled in each period in respect of which salary is paid to the member.

(2) Section 25(2)—delete "section 14(4), (5)" and substitute:

section 14(5)

#### **18—Insertion of Part 3A**

After Part 3 insert:

### **Part 3A—Spouse members**

#### **Division 1—Preliminary**

##### **26A—Interpretation**

In this Part—

*eligible member* means a member in respect of whom payments are being made to the Treasurer under section 15B or 26;

**prescribed payment** means payment of an amount that is a spouse contributions-splitting amount for the purpose of the definition of **contributions-splitting ETP** in section 27A(1) of the *Income Tax Assessment Act 1936* of the Commonwealth;

**voluntary death insurance** means death insurance granted by the Board under section 26G;

**voluntary death insurance benefits** means benefits payable in respect of voluntary death insurance.

## **Division 2—Spouse members**

### **26B—Spouse contributions splitting**

- (1) Subject to this section, an eligible member may apply to the Board, in a manner approved by the Board, to make a prescribed payment from the member's contribution account or employer contribution account into a rollover account established in the name, and for the benefit, of the member's spouse.
- (2) An application under subsection (1), and the making of a prescribed payment following the acceptance of an application, are subject to, and must comply with—
  - (a) Division 6.7 of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth (as if the provisions of that Division apply to, and in relation to, the scheme); and
  - (b) such terms and conditions as may be specified by the Board.
- (3) The Board may fix fees payable in respect of applications under this section.
- (4) Any fee payable under subsection (3) may be deducted by the Board from—
  - (a) the applicant's employer contribution account; or
  - (b) if there are insufficient funds in that account—a spouse account established in the name of the applicant's spouse.

### **26C—Other contributions for spouse members**

- (1) An eligible member may make monetary contributions to the Treasurer under this section for crediting to a contribution account in the name of the member's spouse.
- (2) A spouse member may, while the spouse member is the spouse of a member, make monetary contributions to the Treasurer under this section.
- (3) The amount of each contribution under this section must be equal to or exceed the amount prescribed by regulation for the purposes of section 25A.



## 26D—Spouse members and spouse accounts

- (1) If a prescribed payment, or a monetary contribution under section 26C(1), is made by a member for the benefit of a spouse in respect of whom neither a prescribed payment nor a contribution under section 26C(1) has previously been made, the spouse becomes a *spouse member* of the Triple S scheme by virtue of this subsection.
- (2) The Board must—
  - (a) maintain a contribution account in the name of a spouse member who is making or has made contributions to the scheme under section 26C, or in relation to whom contributions are being or have been made by a member under that section; and
  - (b) credit the account with the amount of contributions made by the member; and
  - (c) debit the account with any payment that is to be charged against the account under this Act.
- (3) The Board must—
  - (a) maintain a rollover account in the name of a spouse member—
    - (i) for the benefit of whom a prescribed payment has been made; or
    - (ii) for whom an amount of money has been carried over from another superannuation fund or scheme to the Triple S scheme; and
  - (b) credit the account with the amount of the prescribed payment made, or money carried over, for the spouse member; and
  - (c) debit the account with any payment that is to be charged against the account under this Act.
- (4) The Board must—
  - (a) maintain a co-contribution account in the name of a spouse member in respect of whom a co-contribution has been paid to the Board; and
  - (b) credit the account with the amount of any co-contribution paid to the Board in respect of the spouse member; and
  - (c) debit the account with any payment that is to be charged against the account under this Act.
- (5) The Board may, in an appropriate case, debit against a spouse account an administrative charge fixed by the Board.

- (6) However, an administrative charge may not be debited against a spouse member's co-contribution account if the Board is maintaining a contribution account or rollover account in the name of the spouse member and the credit balance (if any) of either or both of those accounts is sufficient to pay the administrative charge.
- (7) The Board may, for the purposes of subsection (5), fix different charges depending on the balance of spouse members' accounts or any other relevant factor.
- (8) The Governor may, by regulation, make any provision in connection with the operation of subsection (1), including by providing that a specified provision of this Act does not apply to a spouse member or applies to a spouse member subject to any modification prescribed by the regulations.

### **26E—Accretions to spouse members' accounts**

- (1) At the end of each financial year, each spouse account that has a credit balance will be adjusted to reflect a rate of return determined by the Board in relation to spouse members' accounts for the relevant financial year.
- (2) In determining a rate of return for the purposes of subsection (1), the Board should have regard to—
  - (a) the net rate of return achieved by investment of the Southern State Superannuation Fund over the financial year or, where a spouse member has made a nomination under subsection (3), the net rate of return achieved by the class of investments, or the combination of classes of investments, nominated by the spouse member; and
  - (b) the desirability of reducing undue fluctuations in the rate of return on spouse members' accounts.
- (3) If the Fund is invested in different classes of investments, the Board may, with the agreement of the Superannuation Funds Management Corporation of South Australia, permit spouse members, on such terms and conditions as it thinks fit, to nominate the class of investments, or the combination of classes of investments, for the purpose of determining the rate of return under this section.
- (4) If, under subsection (2)(b), the Board determines a rate of return that is at variance with the net rate of return achieved by investment of the Fund, the Board must include its reasons for the determination in its report for the relevant financial year.
- (5) If it is necessary to determine the balance of a spouse member'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.
- (6) A balance determined under subsection (5) will not be adjusted when a rate of return is subsequently determined under subsection (1).

- (7) A reference in this section to *rate of return* is a reference to a positive or a negative rate of return.

### **26F—Amalgamation of accounts**

- (1) If a person who is a spouse member is, or becomes, a member of the scheme, the Board may transfer the amounts standing to the credit of the person's spouse accounts to a member's contribution account, rollover account or co-contribution account, as appropriate, maintained by the Board in the name of the person (and the Board may, if necessary for the purposes of this subsection, establish such an account in the name of the person).
- (2) If all amounts standing to the credit of the person's spouse accounts are transferred from those accounts under this section—
- (a) the person ceases to be a spouse member of the scheme; and
  - (b) the person's voluntary death insurance under Division 3 (if any) is taken to be voluntary invalidity/death insurance under section 22.

## **Division 3—Voluntary death insurance**

### **26G—Voluntary death insurance**

- (1) A spouse member may, if the spouse member is the spouse of a member, apply to the Board for voluntary death insurance.
- (2) A spouse member who is not the spouse of a member is not entitled to death insurance cover and any such cover enjoyed by a spouse member will cease if the spouse member ceases to be the spouse of a member.
- (3) An application must be made in a manner approved by the Board and must specify the voluntary death insurance that the spouse member is applying for.
- (4) The applicant must provide the Board with prescribed information as to the applicant's state of health and the Board may require an applicant to provide satisfactory evidence of the state of the applicant's health.
- (5) The cost of any medical examination to which an applicant is required to submit for the purposes of subsection (4) must be paid by the applicant.
- (6) If it appears to the Board—
- (a) that an applicant's state of health is such as to create a risk of premature death; or
  - (b) that an applicant has in the past engaged in an activity of a prescribed kind that increases the risk of premature death; or
  - (c) that an applicant is likely in the future to engage in an activity of a kind referred to in paragraph (b),

the Board may refuse the application or may grant it on conditions (being conditions authorised by the regulations).

- (7) If it appears to the Board that an applicant withheld information required in relation to his or her application under this section, the Board may withhold or reduce voluntary death insurance benefits that the applicant would otherwise have been entitled to.
- (8) If the Board grants an application for voluntary death insurance or for an increase or decrease in the level of voluntary death insurance, the Board must fix the date for the commencement of the insurance or of the increase or decrease in the level of insurance.

#### **26H—Variation of voluntary death insurance**

- (1) A spouse member who has voluntary death insurance may apply to the Board to increase or decrease the level of the insurance.
- (2) An application must be made in a manner approved by the Board.
- (3) This Division applies to an application to increase the level of insurance as though it were an initial application for voluntary insurance.

#### **26I—Amount of death insurance benefits and amount of premiums**

- (1) The amount of voluntary death insurance benefits for spouse members and the amount of the premiums in respect of those benefits will be fixed by or under regulation.
- (2) The regulations may provide—
  - (a) for different amounts of voluntary death insurance depending on the spouse member's age or on any other relevant factor; and
  - (b) for annual increases in the amount of voluntary death insurance for the benefit of spouse members who wish to have annual increases in their insurance; and
  - (c) for the amount of premiums to be fixed by the Board.
- (3) Premiums may be debited against any of a spouse member's spouse accounts.
- (4) If the debiting of a premium against a particular spouse account under subsection (3) would result in a debit balance in the account—
  - (a) the premium may be debited against the account to the extent of the credit balance in the account; and
  - (b) if there is another spouse account in the name of the spouse member, the premium will be debited against that account to the extent of the credit balance in the account; and

- (c) the spouse member's voluntary death insurance is suspended from the expiration of the month following the month in which the last premium was debited until a spouse account in the name of the spouse member is again sufficiently in credit to enable the debiting of premiums without resulting in a debit balance.
- (5) In subsection (4)—  
*month* means any 1 of the 12 months of a calendar year.

## **Division 4—Payment of benefits**

### **26J—Benefits for spouse members**

- (1) Subject to this section, the following provisions apply in respect of an amount standing to the credit of a spouse member's spouse account:
  - (a) if—
    - (i) the spouse member—
      - (A) has reached 55 years of age; and
      - (B) is the spouse of the relevant member; and
    - (ii) the employment of the relevant member has terminated,  
payment of the amount may be made to the spouse member subject to restrictions (if any) imposed by the SIS Act;
  - (b) if—
    - (i) the spouse member—
      - (A) has not reached 55 years of age; and
      - (B) is the spouse of the relevant member; and
    - (ii) the employment of the relevant member has terminated,  
the amount must be preserved;
  - (c) if the spouse member—
    - (i) is not the spouse of the relevant member; and
    - (ii) has not reached 55 years of age,  
the amount must be preserved;
  - (d) if the spouse member—
    - (i) is not the spouse of the relevant member; and
    - (ii) has reached 55 years of age,  
payment of the amount may be made to the spouse member subject to restrictions (if any) imposed by the SIS Act.

- (2) If an amount standing to the credit of a spouse member's spouse account is preserved under subsection (1)—
- (a) the spouse member may elect to carry the amount over to some other fund or scheme approved by the Board; or
  - (b) subject to restrictions (if any) imposed by the SIS Act, the spouse member may at any time after reaching 55 years of age require the Board to authorise payment of the amount and, if no such requirement has been made on or before the date on which the spouse member reaches 65 years of age, the Board will authorise payment of the amount to the spouse member.
- (3) If—
- (a) a spouse member suffers physical or mental incapacity; and
  - (b) the Board is satisfied that the spouse member's incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent,
- the spouse member is entitled to benefits made up of the amount (if any) standing to the credit of each of the spouse member's spouse accounts.
- (4) If a spouse member dies, the amount (if any) standing to the credit of each of the spouse member's spouse accounts, and the voluntary death insurance benefit (if any), will be paid to—
- (a) if the deceased spouse member is survived by a spouse—the spouse; and
  - (b) if the deceased spouse member is not survived by a spouse—the spouse member's estate.
- (5) However, a surviving spouse will not be entitled to a benefit under subsection (4) if section 35F applies to the spouse.
- (6) A payment under subsection (2), (3) or (4) excludes further rights so that a claim cannot subsequently be made under another of those subsections.
- (7) In this section—
- relevant member***, in relation to a spouse member, means the member who, by making a prescribed payment, or a contribution under section 26C(1), for the benefit of the spouse member, caused the spouse member to become a spouse member of the scheme.

### **19—Amendment of section 27—Employer contribution accounts**

- (1) Section 27(7)(b)—delete "additional" and substitute:
- voluntary
- (2) Section 27(7)(c)—delete paragraph (c) and substitute:
- (c) a disability pension premium which, subject to subsection (9), will be an amount fixed by the Board.

- (3) Section 27(7a)—delete subsection (7a) and substitute:
- (7a) The following amounts must be debited against the employer contribution accounts of persons who have elected to become members of the Triple S scheme under section 15B:
    - (a) an administrative charge to be fixed by the Board (different charges may be fixed depending on the balance of members' accounts or any other relevant factor);
    - (b) the amount of the premium fixed by or under the regulations in respect of the voluntary invalidity/death insurance (if any) for each member.
- (4) Section 27(9)—delete subsection (9) and substitute:
- (9) A disability pension premium is not payable under subsection (7)(c) in relation to—
    - (a) a member who is not entitled to a disability pension under section 33A under any circumstances; and
    - (b) a member who is exempted under section 33A(15) from the ambit of section 33A.

## **20—Amendment of section 33A—Disability pension**

- (1) Section 33A(1)—delete subsection (1) and substitute:
- (1) Subject to this section, a member who—
    - (a) is temporarily or permanently incapacitated for work; and
    - (b) is no longer engaged in work in respect of employment to which this Act applies on account of the incapacity; and
    - (c) has not reached the age of 60 years,is entitled to a disability pension.
  - (1a) An application for a disability pension must be made within 6 months of the day on which the member ceases to be engaged in work in respect of employment to which this Act applies.
- (2) Section 33A(2)—delete "two-thirds" and substitute:
- 75 per cent
- (3) Section 33A(4)—delete subsection (4) and substitute:
- (4) Subject to subsection (5), a member is only entitled to a pension if—
    - (a) for a period of at least 12 months immediately before the commencement of the incapacity—
      - (i) the member made contributions from his or her salary under section 25; or

**Southern State Superannuation (Insurance, Spouse Accounts and Other Measures) Amendment  
Bill 2006**

Part 2—Amendment of *Southern State Superannuation Act 1994*

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- (ii) in the case of a member whose charge percentage is determined in a contract of employment negotiated between the member and his or her employer—the charge percentage was greater than the charge percentage or percentages fixed by Schedule 1 for that period; or
    - (iii) the member's employer was required to pay, or arrange for the payment of, amounts to the Treasurer under section 26(1a) in respect of the member; or
    - (iv) the circumstances referred to in 2 or all of subparagraphs (i), (ii) and (iii) applied at the same time or at different times throughout that period; or
  - (b) the member is entitled to a pension under subsection (4a).
- (4a) A member is entitled to a pension under this subsection in respect of an incapacity for work if—
- (a) the member does not qualify under 1 of the circumstances referred to in subsection (4)(a)(i), (ii) or (iii); but
  - (b) the member is, at the time of the occurrence of the incapacity, paying premiums to the Board for the purposes of obtaining a benefit under this section in the event of an incapacity for work.
- (4b) The following provisions apply in connection with subsection (4a):
- (a) a member within the ambit of subsection (4a)(a) may apply to the Board, in a form approved by the Board, to pay premiums for the purposes of this section;
  - (b) the Board must, in order to assess the application, require the member to provide information about his or her health and the status of any medical condition or disability;
  - (c) if it appears to the Board that a member's state of health is such as to create a risk of incapacity for work, the Board may refuse the application or may grant it on conditions (including conditions that reduce the amount of a pension that would otherwise be payable in the event of an incapacity for work);
  - (d) the amount of any premium will be fixed by the Board;
  - (e) a member who is paying premiums may, by notice in writing to the Board, elect to cease paying those premiums for the purposes of subsection (4a)(b) (and thus to cease to come within the ambit of this section).
- (4c) An election under subsection (4b)(e) will take effect from a date determined by the Board.
- (4) Section 33A(5)(b)—delete "additional" and substitute:  
voluntary



- (5) Section 33A(6)—delete "additional" wherever occurring and substitute in each case:  
voluntary
- (6) Section 33A(7)(a)—delete paragraph (a) and substitute:  
(a) the period of 30 days following the day on which the member ceases work on account of the disability; or
- (7) Section 33A(9)—delete "12 months" and substitute:  
18 months
- (8) Section 33A(10)—delete "18 months in any one period of 36 months" and substitute:  
24 months in any 1 period of 48 months
- (9) Section 33A—after subsection (13) insert:
- (14) The following are not entitled to a disability pension under this section under any circumstances:
- (a) a spouse member, unless the spouse member is also a member of the scheme;
- (b) a person prescribed, or of a class prescribed, by the regulations for the purposes of this subsection.
- (15) If a member who—
- (a) is employed on a casual basis; or
- (b) satisfies the Board—
- (i) that the majority of his or her income is derived from employment to which this Act does not apply; or
- (ii) that he or she is covered by an insurance policy that provides income protection entitlements superior to the entitlements provided under this section,
- applies successfully to the Board to be exempted from the ambit of this section, the member is not entitled to a disability pension under this section.
- (16) If a member previously exempted from the ambit of this section under subsection (15) applies successfully to the Board to be brought within the ambit of this section, the member is entitled, subject to this section, to a disability pension under this section.
- (17) Subsection (4b)(b) and (c) apply in relation to an application under subsection (16).
- (18) The Board must specify the date on which an exemption under subsection (15), or the cessation of an exemption under subsection (16), will take effect.
- (19) An application under subsection (15) or (16) must be made in a manner approved by the Board.

- (20) If a person who is a member of the scheme by virtue of section 14(4) becomes entitled to a benefit under this section, the person is not entitled to a benefit under section 30 or 36 of the *Superannuation Act 1988*.
- (21) Despite subsection (1), a member may receive a disability pension under this section while engaged in remunerative activities if the Board is satisfied that the member is engaged in the activities for the purposes of a rehabilitation or return to work arrangement.
- (22) However, if at any time during a financial year a member who is receiving or would, but for this subsection, be entitled to receive, a pension under this section is also receiving income from remunerative activities, the pension will be reduced by the amount by which the pension and income exceed, when aggregated, the amount that the member would be entitled to receive if he or she were in receipt of his or her notional salary and if those payments equal or exceed that amount, the pension will be suspended.

### **21—Amendment of section 34—Termination of employment on invalidity**

- (1) Section 34(1)—delete "60 years" and substitute:  
65 years
- (2) Section 34(1)(d)—delete "additional" and substitute:  
voluntary
- (3) Section 34(2)—delete "additional" and substitute:  
voluntary
- (4) Section 34(3)(c)—delete "additional" and substitute:  
voluntary

### **22—Amendment of section 35—Death of member**

Section 35—delete "additional" wherever occurring and substitute in each case:  
voluntary

### **23—Amendment of section 35AA—Commutation to pay deferred superannuation contributions surcharge—member**

Section 35AA—after subsection (3) insert:

- (3a) If a member who has become entitled to a benefit but has not yet received a surcharge notice provides the Board with satisfactory evidence of the amount of the surcharge he or she will become liable to pay (the *surcharge amount*) and requests the Board, in the approved form, to apply, or facilitate the application of, an amount of the member's benefit in payment of the surcharge, the Board must, within 7 days of the request—
  - (a) convert into a pension an amount of the member's benefit that is equal to the surcharge amount; and

- (b) immediately after converting the amount into a pension under paragraph (a)—commute the pension; and
- (c) pay the lump sum resulting from the commutation to the member or the Commissioner of Taxation (at the option of the member); and
- (d) following payment under paragraph (c)—reduce the member's remaining benefits by an amount equal to the surcharge amount.

**24—Amendment of section 35B—Interpretation**

Section 35B—after the definition of *flag-lifting agreement* insert:

*member* includes a spouse member;

**25—Amendment of section 36—Information to be given to certain members**

Section 36—delete "additional" wherever occurring and substitute in each case:

voluntary

**26—Amendment of section 41—Power to obtain information**

- (1) Section 41(1)—delete "or a member" and substitute:

, a member or a spouse member

- (2) Section 41(2)—after "member" insert:

or spouse member

**27—Amendment of section 43—Division of benefit where deceased member is survived by lawful and putative spouse**

Section 43—after "member" wherever occurring insert:

or spouse member

**28—Amendment of section 45—Payments in foreign currency**

Section 45—after "member" wherever occurring insert:

or spouse member

**29—Amendment of section 47—Liabilities may be set off against benefits**

Section 47—after "member" wherever occurring insert:

or spouse member

**30—Amendment of section 47A—Confidentiality**

- (1) Section 47A(1)—after "must not divulge" insert:

information of a personal or private nature, or

- (2) Section 47A(2)—after "members" wherever occurring insert:

or spouse members

- (3) Section 47A(2)—after "member" insert:  
or spouse member

**31—Amendment of section 47B—Post retirement investment**

- (1) Section 47B(1)—after "public sector superannuation beneficiaries" insert:  
or the spouses of public sector superannuation beneficiaries
- (2) Section 47B—after subsection (1) insert:
- (1a) The Board may, in relation to a particular type of investment, offer to accept money only from public sector superannuation beneficiaries, or the spouses of public sector superannuation beneficiaries, who have received a benefit under a public sector superannuation scheme.
- (3) Section 47B(2)—delete "and the Corporation" and substitute:  
following consultation with the Corporation about matters relevant to the terms and conditions for which the Corporation is responsible under the *Superannuation Funds Management Corporation of South Australia Act 1995*
- (4) Section 47B(3)—delete subsection (3) and substitute:
- (3) Money accepted by the Board under subsection (1)—
- (a) will, subject to the terms and conditions of the offer referred to in subsection (2), be invested by the Corporation in a manner determined by it; and
- (b) may, if a public sector superannuation beneficiary so requests, be invested for the benefit of the spouse of the beneficiary.
- (5) Section 47B(5)—after "public sector superannuation beneficiaries" insert:  
or their spouses
- (6) Section 47B(8), definition of *public sector superannuation beneficiary*—delete the definition and substitute:
- public sector superannuation beneficiary* means a person who is a member of, or has received a benefit under, a public sector superannuation scheme (but does not include a person who has received a benefit under a public sector superannuation scheme solely by virtue of being the spouse of a member of such a scheme);
- public sector superannuation scheme* means a scheme of superannuation—
- (a) established under this Act or under any other Act; or
- (b) established for the benefit of employees of an agency or instrumentality of the Crown.

### 32—Insertion of section 47BA

After section 47B insert:

#### 47BA—Post retirement invalidity/death insurance

- (1) Subject to this section—
  - (a) a public sector superannuation beneficiary may apply to the Board for invalidity/death insurance; and
  - (b) the spouse of a public sector superannuation beneficiary may apply to the Board for death insurance,and the Board may provide such insurance, subject to the terms and conditions (if any) prescribed by regulation.
- (2) A person who is aged 65 years or over cannot apply for, and is not entitled to, invalidity or death insurance.
- (3) The amount of invalidity and death insurance benefits under this section and the amount of the premiums in respect of those benefits will be fixed by or under regulation.
- (4) The regulations may provide—
  - (a) for different amounts of invalidity or death insurance depending on a person's age or whether a person is employed on a full time, part time or casual basis, or is not employed, or on any other relevant factor; and
  - (b) for annual increases in the amount of invalidity or death insurance for the benefit of persons who wish to have annual increases in their insurance; and
  - (c) for the amount of premiums to be fixed by the Board.
- (5) In this section—

*public sector superannuation beneficiary* has the same meaning as in section 47B.

### 33—Amendment of section 48—Resolution of difficulties

- (1) Section 48—after "particular circumstances" insert:

or the provisions of this Act do not address particular circumstances that have arisen
- (2) Section 48—after "the doubt or difficulty" insert:

or to address the circumstances (but only insofar as the Board determines it to be fair and reasonable in the circumstances)
- (3) Section 48—delete "this Act will apply subject to a direction given by the Board under this section" and substitute:

any such direction will have effect according to its terms

**Southern State Superannuation (Insurance, Spouse Accounts and Other Measures) Amendment Bill 2006**

Part 2—Amendment of *Southern State Superannuation Act 1994*

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- (4) Section 48—after its present contents as amended by this section (now to be designated as subsection (1)) insert:
- (2) If, in the opinion of the Board—
    - (a) a time limit under this Act should be extended in particular circumstances; or
    - (b) a procedural step under this Act should be waived in particular circumstances,the Board may extend the time limit (even if it has already expired) or waive compliance with the procedural step.
  - (3) In determining whether to take action under subsection (2), the Board should have regard to—
    - (a) in a case under subsection (2)(a)—
      - (i) the length of delay that has occurred; and
      - (ii) the explanation for the delay; and
      - (iii) any hardship that will occur if the time limit is not extended; and
      - (iv) the extent to which it will cause any unfairness if the time limit is not extended; and
      - (v) any other relevant factor;
    - (b) in a case under subsection (2)(b)—
      - (i) the conduct of the person who would benefit from the action; and
      - (ii) any hardship that will occur if the procedural step is not waived; and
      - (iii) the extent to which it will cause any unfairness if the procedural step is not waived; and
      - (iv) any other relevant factor.
  - (4) Subsections (2) and (3) do not derogate from any other provision of this Act or the regulations that makes specific provision for the extension of time.
  - (5) If the Board gives a direction under subsection (1), or extends a time limit or waives compliance with a procedural step under subsection (2), the Board's report to the Minister in respect of the financial year in which the Board takes that action must include details of the action.

**34—Amendment of Schedule 3—Transitional provisions**

Schedule 3, clause 11—delete "additional" wherever occurring and substitute in each case:

voluntary

## Schedule 1—Transitional provision

### 1—Transitional provision

- (1) The amendments made by this Act to the principal Act apply as follows:
  - (a) the amendment made by section 10 of this Act (so as to insert a new section 15A) only applies in relation to an election to make a contribution to the Treasurer, or a payment by an employer to the Treasurer, as the case may be, made after the commencement of this Act;
  - (b) the amendments—
    - (i) made by section 20(1), (3) and (6) of this Act apply with respect to an incapacity for work that commences after the commencement of this Act;
    - (ii) made by section 20(2), (7) and (8) of this Act extend to a person who, immediately before the commencement of this Act, is being paid a disability pension under section 33A of the principal Act (but otherwise do not have any effect with respect to an incapacity for work that commenced before the commencement of this Act);
  - (c) the amendment made by section 21 of this Act applies with respect to a termination of employment that occurs after the commencement of this Act.
- (2) A person under the age of 65 years whose basic or voluntary invalidity/death insurance cover (within the meaning of the principal Act) ceased before the commencement of this Act only because the person had reached a particular age will be covered by the basic or voluntary invalidity/death insurance that applied in relation to the person before he or she reached that age, subject to the same terms, conditions and restrictions, as if the relevant provisions of the principal Act, as amended by this Act, had been in operation before the person's cover ceased.
- (3) Subsections (2) and (3) of section 48 of the principal Act (as enacted by this Act) do not apply with respect to a matter where the relevant time limit expired, or the procedural step was required to be taken, before the commencement of this subclause unless the South Australian Superannuation Board is satisfied, on application by a person seeking to obtain the benefit of this subclause, that the failure to comply with the time limit or procedural step was attributable to a person's physical or mental disability at the relevant time.
- (4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with subclause (1), (2) or (3), apply to any amendment made by this Act.
- (5) In this clause—

***principal Act*** means the *Southern State Superannuation Act 1994*.

## Schedule 2—Statute law revision amendment of *Southern State Superannuation Act 1994*

| Provision amended   | How amended  |
|---|--|
| Section 3(1), definition of <i>member of the police force</i> | Delete the definition  |
| Section 3(1), definition of <i>police cadet</i>               | Delete " <i>Police Act 1952</i> " and substitute:<br><i>Police Act 1998</i>                                  |
| Section 12(4)   | Delete "upon" and substitute:<br>on<br>Delete "member of the police force" and substitute:<br>police officer |
| Section 22(3)   | Delete "members of the police force" and substitute:<br>police officers                                      |
| Section 23(2)   | Delete "member of the police force" and substitute:<br>police officer  |
| Section 25(3)   | Delete "member of the police force" and substitute:<br>police officer  |
| Section 25(3a)  | Delete "member of the police force" and substitute:<br>police officer  |
| Section 33A(5)(b)   | Delete "member of the police force" and substitute:<br>police officer  |
| Section 34(6)(a)  | Delete "member of the police force" and substitute:<br>police officer  |
| Section 34(6), definition of <i>S</i> , (a)(ii)               | Delete "the police force" and substitute:<br>South Australia Police  |
| Section 35(7)   | Delete "member of the police force" and substitute:<br>police officer  |
| Section 35(7), definition of <i>S</i> , (a)(ii)               | Delete "the police force" and substitute:<br>South Australia Police  |
| Section 38(1)   | Delete " <i>Industrial and Employee Relations Act 1994</i> " and substitute:<br><i>Fair Work Act 1994</i>    |
| Section 38(2)   | Delete " <i>Industrial and Employee Relations Act 1994</i> " and substitute:<br><i>Fair Work Act 1994</i>    |
| Section 39  | Delete "member of the police force" and substitute:<br>police officer  |