

Legislative Council—No 109A

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 10 April 2008

South Australia

**Statutes Amendment (Police Superannuation)
Bill 2007**

A BILL FOR

An Act to amend the *Police Superannuation Act 1990* and the *Southern State Superannuation Act 1994*.

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Schedule 1—Statute law revision amendment of *Police Superannuation Act 1990*

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Police Superannuation) Act 2007*.

2—Commencement

5 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 *Police Superannuation Act 1990*

10 **4—Amendment of section 4—Interpretation**

- (1) Section 4(1), definition of *contribution period*, (a)—delete "in the case of an old scheme contributor,"

- (2) Section 4(1), definition of *contributor*—delete the definition and substitute:

contributor means a person who has made contributions pursuant to this Act or a corresponding previous enactment and includes a police officer or former police officer 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, but does not include a police officer who is a police member or former police member of the Triple S scheme;

- (3) Section 4(1), definition of *new scheme contributor*—delete the definition

- (4) Section 4(1), definition of *old scheme contributor*—delete the definition

- (5) Section 4(1), definition of *retrenchment pension*—delete "an old scheme contributor" and substitute:

a contributor

- (6) Section 4(1), definition of *rollover account*—delete the definition

- (7) Section 4(1)—after the definition of *surcharge notice* insert:

Triple S scheme means the Southern State Superannuation Scheme established by the *Southern State Superannuation Act 1994*.

- (8) Section 4(6b)—after paragraph (d) insert:

(da) however, if—

- (i) paragraph (d) applies to and in relation to the calculation of benefits under subsection (3); but
- (ii) the contributor is not, on the date on which his or her benefits are to be calculated, employed in another police force,

Y in the formula in paragraph (d)(ii) is the salary payable to the contributor on the last day of his or her employment in another police force, indexed by reference to movements in the Consumer Price Index between the date on which the contributor ceased that employment and the date on which the benefits are payable to the contributor;

- (9) Section 4(7a)—delete "An old scheme contributor" and substitute:

A contributor

- (10) Section 4(8)—delete subsection (8)

- (11) Section 4(8a)—delete "an old scheme contributor" and substitute:

a contributor

5—Insertion of section 9A

After section 9 insert:

9A—Delegation by the Board

- (1) The Board may delegate any of the Board's powers or functions under this Act (except this power of delegation) to any person or body.

- (2) A delegation under this section—
- (a) must be by instrument in writing; and
 - (b) may be conditional or unconditional; and
 - (c) does not derogate from the power of the Board to act in any matter; and
 - (d) is revocable at will by the Board.

6—Amendment of section 10—The Fund

- (1) Section 10(6)—delete "three" and substitute:

2

- (2) Section 10(6)(a)—delete "old scheme" wherever occurring

- (3) Section 10(6)(b) and (c)—delete paragraphs (b) and (c) and substitute:

- (b) 1 proportioned to the aggregate balance of co-contribution accounts to the extent that they hold the amount of any co-contributions that have been paid to the Board.

7—Substitution of heading to Part 2 Division 3

Heading to Part 2 Division 3—delete the heading and substitute:

Division 3—Accounts and payments

Subdivision 1—Contributors' accounts

8—Amendment of section 13—Contributors' accounts

Section 13(3)—delete subsection (3) and substitute:

- (3) At the end of each financial year, each contributor's account that has a credit balance will be adjusted to reflect a rate of return determined by the Board in relation to contribution accounts for the relevant financial year.

9—Insertion of Part 2 Division 3 Subdivision 2

After section 13 insert:

Subdivision 2—Investment option, rollover payments and co-contributions

13A—Investment option

- (1) The Treasurer may, in accordance with this section, accept monetary payments from a contributor whose employment as a police officer has not terminated.
- (2) A monetary payment under subsection (1) must consist of an amount sacrificed by the contributor from his or her salary in accordance with a contract, an award or an enterprise agreement that entitles the person to sacrifice part of his or her salary.

(3) The following provisions apply in relation to a payment made to the Treasurer under this section:

(a) the Treasurer must pay into the Southern State Superannuation (Employers) Fund from the Consolidated Account (which is appropriated to the necessary extent), or from a special deposit account established for the purpose, an amount equivalent to the payment;

(b) if the contributor is not already a member of the Triple S scheme—the contributor will be taken to have elected to become a member of that scheme under section 15C of the *Southern State Superannuation Act 1994*.

Note—

Under section 27 of the *Southern State Superannuation Act 1994*, an employer contribution account maintained by the South Australian Superannuation Board in the name of a contributor who is taken under this subsection to have elected to become a member of the Triple S scheme will be credited with any amount sacrificed by the contributor from his or her salary.

13B—Rollover payments

(1) The Board may accept the payment of money for a contributor from another fund or scheme.

(2) Money that is rolled over to the Scheme from another fund or scheme must be paid to the Treasurer.

(3) The Treasurer must pay into the Southern State Superannuation Fund from the Consolidated Account (which is appropriated to the necessary extent), or from a special deposit account established for the purpose, an amount equivalent to the amount of any money rolled over from another fund or scheme.

Note—

Under section 7(2) of the *Southern State Superannuation Act 1994*, a rollover account maintained by the South Australian Superannuation Board in the name of a contributor for whom money has been rolled over from another fund or scheme and paid to the Treasurer under this section will be credited with the amount of the money.

13C—Co-contribution accounts

The Board must—

(a) establish a co-contribution account in the name of a contributor for 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 contributor; and

- (c) immediately on a co-contribution account being credited with the amount of a co-contribution—transfer the amount to the South Australian Superannuation Board for the purpose of being credited to a co-contribution account maintained by that Board in the name of the contributor.

Note—

Under section 7(2c) of the *Southern State Superannuation Act 1994*, a co-contribution account maintained by the South Australian Superannuation Board in the name of a contributor in respect of whom a co-contribution has been paid to the Police Superannuation Board will be credited with the amount of the co-contribution.

10—Amendment of section 14—Payment of benefits

- (1) Section 14(2)—delete "Part 5A" and substitute:

Division 3 Subdivision 2

- (2) Section 14(3)—delete subsection (3) and substitute:

- (3) The proportion for the purposes of subsection (2) will be equivalent to the proportion of the benefits payable in the future under Part 5 that can, in the opinion of the Board, be met from the division of the Fund relating to contribution accounts.

- (3) Section 14(3b)—delete "an amount paid under Part 5A" and substitute:

the transfer of an amount to the South Australian Superannuation Board under section 13C

11—Amendment of section 16—Contributors

Section 16(1) and (1a)—delete subsections (1) and (1a) and substitute:

- (1) Subject to this Act, a police officer who became a contributor to the Police Pensions Fund before the commencement of this Act (including a person who was a cadet immediately before that commencement and who subsequently became a police officer) must contribute to the Scheme.

12—Amendment of section 17—Contribution rates

- (1) Section 17(1)—delete subsection (1) and substitute:

- (1) Subject to subsection (1a), a contributor must make contributions to the Treasurer at the rate at which he or she was contributing immediately before the commencement of this Act.

- (1a) A police officer who was a police cadet immediately before the commencement of this Act must make contributions to the Treasurer at 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 police officer at that time.

- (2) Section 17(5)—delete "An old scheme contributor" and substitute:

A contributor

- (3) Section 17(6)—delete subsection (6)

13—Repeal of Part 4

Part 4—delete the Part

14—Amendment of heading to Part 5

Heading to Part 5—delete "—old scheme contributors"

5 15—Amendment of section 27—Application of Part to police cadets

- (1) Section 27(1)—delete subsection (1)
- (2) Section 27(2)—delete "also"
- (3) Section 27(3)—delete subsection (3)

16—Amendment of section 31—Invalidity

10 Section 31(1)—after "ground of invalidity" insert:
before he or she reaches the age of 60 years

17—Amendment of section 34—Resignation and preservation of benefits

- (1) Section 34(1a)(a)—delete paragraph (a)
- (2) Section 34(1a)(b)—delete "if the amount of the payment is \$200 or more"
- 15 (3) Section 34(1a)(c)—delete paragraph (c) and substitute:
 - (c) if the contributor elects to preserve the payment—
 - 20 (i) the payment will be transferred to the credit of the contributor in an account in the name of the contributor in the Triple S scheme; and
 - (ii) the amount of the payment to be transferred under subparagraph (i) will be determined in accordance with the provisions of this section as if the payment were to be made to the contributor on the day that the transfer takes place; and
 - 25 (iii) the payment will be taken to be a preserved employer component under section 32 of the *Southern State Superannuation Act 1994*; and
 - (iv) the contributor will not be entitled to any other payment or benefit under this subsection;
 - 30 (d) if the contributor fails to inform the Board in writing of his or her election under paragraph (b) within 3 months after resignation, he or she will be taken to have elected to preserve the payment.
- (4) Section 34(1b)(a)—after "date of resignation" insert:

35 to the date on which the payment is, according to the contributor's election, carried over to another fund or scheme or transferred under subsection (1a)(c)(i)

(5) Section 34(1c) and (1d)—delete subsections (1c) and (1d) and substitute:

(1c) The rate of interest referred to in subsection (1b)(a) will be determined by the Board in respect of the relevant financial year in accordance with section 13.

5 **18—Repeal of Part 5A**

Part 5A—delete the Part

19—Repeal of heading to Part 5B Division 1

Heading to Part 5B Division 1—delete the heading

20—Amendment of section 38J—Reduction in contributor's entitlement

10 Section 38J(2)(a)—delete ", and any rollover account or co-contribution account,"

21—Repeal of Part 5B Division 2

Part 5B Division 2—delete Division 2

22—Repeal of heading to Part 5B Division 3

Heading to Part 5B Division 3—delete the heading

15 **23—Repeal of section 38O**

Section 38O—delete the section

24—Repeal of heading to Part 5B Division 4

Heading to Part 5B Division 4—delete the heading

25—Repeal of sections 47 and 47A

20 Sections 47 and 47A—delete the sections

26—Amendment of section 49—Confidentiality

Section 49(1)—after "must not divulge" insert:

information of a personal or private nature, or

27—Amendment of section 50—Resolution of difficulties

25 (1) Section 50—after "particular circumstances" insert:

or the provisions of this Act do not address particular circumstances that have arisen

(2) Section 50—delete "and this Act will apply subject to a direction given by the Board under this section" and substitute:

30 or to address the circumstances (but only insofar as the Board determines it to be fair and reasonable in the circumstances) and any such direction will have effect according to its terms

(3) Section 50—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.

28—Amendment of Schedule 1—Transitional provisions

- (1) Schedule 1—before clause 1 insert:

A1—Interpretation

In this Schedule—

5 *old scheme contributor* means a person who was an old scheme contributor on the commencement of this Act.

- (2) Schedule 1, clause 10—delete the clause

29—Repeal of Schedule 2

Schedule 2—delete the Schedule

10 **Part 3—Amendment of *Southern State Superannuation Act 1994***

30—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *police cadet* insert:

police member means a police officer or police cadet who is a member of the scheme other than by virtue of section 14(10a) or 15C;

15 *Police Superannuation Scheme* means the scheme of superannuation established by the *Police Superannuation Act 1990*;

- (2) Section 3(1)—after the definition of *the PSESS Scheme* insert:

retirement age means—

- 20 (a) in the case of a member who is a police officer—the age of 50 years;
 and
 (b) in the case of any other member or a spouse member—the age of 55 years;

31—Amendment of section 4—The Fund

Section 4(4b)—after "paid" insert:

25 or transferred

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

- (1) Section 7(1) to (2b) (inclusive)—delete subsections (1) to (2b) and substitute:

(1) The Board must—

- 30 (a) maintain a contribution account in the name of a member of the Triple S scheme who is making or has made contributions to the scheme; and
 (b) credit the account with the amount of contributions made by the member; and
35 (c) debit the account with any payment that is to be charged against the account under this Act.

(2) The Board must—

(a) maintain a rollover account in the name of—

- 5
- (i) a member of the Triple S scheme for whom an amount of money has been rolled over from another fund or scheme to the Triple S scheme; and
- (ii) a member of the Police Superannuation Scheme in respect of whom an amount of money rolled over from another fund or scheme has been accepted by the Police Superannuation Board and paid to the Treasurer under section 13B of the *Police Superannuation Act 1990*; and
- 10

(b) credit the account with the money referred to in paragraph (a); and

(c) debit the account with any payment that is to be charged against the account under this Act.

15

(2) Section 7(2c)(a) and (b)—delete paragraphs (a) and (b) and substitute:

(a) maintain a co-contribution account in the name of—

- 20
- (i) a member of the Triple S scheme or a member of the State Scheme in respect of whom a co-contribution has been paid to the Board; and
- (ii) a member of the Police Superannuation Scheme in respect of whom the amount of a co-contribution has been transferred from that scheme to the Board; and

(b) credit the account with the amount of any co-contribution paid to the Board, or amount transferred to the Board, in respect of the member; and

25

32A—Amendment of section 7A—Accretions to members' accounts

Section 7A—after subsection (3) insert:

- 30
- (3a) If members are permitted by the Board to nominate a class or combination of classes of investments, the option of nominating a class of investments based on consideration of the impact of the investments on society and the environment must be made available to members (subject to terms and conditions determined by the Board).

33—Amendment of section 9—The Southern State Superannuation (Employers) Fund

(1) Section 9(2)(aaa)—after "section 15B" insert:

or 15C(2)

(2) Section 9(2)(ab)—delete paragraph (ab)

35

34—Amendment of section 14—Membership

(1) Section 14—after subsection (2) insert:

(2a) A person who was a new scheme contributor within the meaning of the *Police Superannuation Act 1990* immediately before the repeal of Part 4 of that Act by the *Statutes Amendment (Police Superannuation) Act 2007* is a member of the Triple S scheme.

(2) Section 14(9)—after "section 15B(1)" insert:

or 15C(1), or is taken to have made an election under section 15C(1),

(3) Section 14(10a)—delete subsection (10a) and substitute:

(10a) If a co-contribution or benefit rolled over from another superannuation fund or scheme is paid to the Board for a person who is a member of the State Scheme or the Police Superannuation Scheme but not, at the time of the payment, a member of the Triple S scheme, the person becomes a member of the Triple S scheme by virtue of this subsection when the payment is received by the Board.

35—Insertion of section 15C

After section 15B insert:

15C—Salary sacrifice and voluntary contributions by members of Police Superannuation Scheme

(1) A police officer who is a contributor to the Police Superannuation Scheme 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) If a person has elected, or is taken to have elected, to become a member of the Triple S scheme under this section, the employer must, within 7 days after salary is paid to the member, pay to the Treasurer an amount (or arrange for the payment within that period to the Treasurer of an amount) equivalent to the member's non-monetary salary that is allocated for the purposes of the employer component of benefits under Part 5 in accordance with the contract, award or enterprise agreement.

(3) The amount of the charge percentage in respect of a person who has elected, or is taken to have elected, to become a member of the Triple S scheme under subsection (1) is zero.

(4) A person who has elected, or is taken to have elected, to become a member of the Triple S scheme under subsection (1) is entitled to—

(a) payment, in accordance with Part 5, of the balance of each account maintained for the person by the Board under section 7 or 27; and

- (b) voluntary invalidity/death insurance taken out under section 22 (if any),

but is not entitled to any other benefits under this Act in his or her capacity as a member under this section.

5 **36—Amendment of section 16—Duration of membership**

Section 16—after subsection (6) insert:

(7) If—

- (a) a person is a member of the scheme solely by virtue of being a member of the Police Superannuation Scheme—

10 (i) in respect of whom a co-contribution or a benefit rolled over from another fund or scheme has been paid to the Board; or

(ii) who has made an election, or is taken to have made an election, under section 15C; and

- 15 (b) the person becomes entitled to the payment of benefits under the *Police Superannuation Act 1990* and Part 5 of this Act,

then the person ceases to be a member of the Triple S scheme on the payment of the balance of each account maintained by the Board in his or her name.

20 **37—Insertion of section 20**

Part 3 Division 2—before section 21 insert:

20—Interpretation

In this Division—

prescribed member means—

- 25 (a) a police member; or
(b) a member prescribed, or of a class prescribed, by regulation for the purposes of this definition.

38—Amendment of section 21—Basic invalidity/death insurance

Section 21(2)(a)—delete "or section 15B" and substitute:

30 , section 15B or section 15C

39—Amendment of section 22—Application for voluntary invalidity/death insurance

- (1) Section 22(1)—after "member" insert:

(other than a prescribed member)

- 35 (2) Section 22(1)—after "insurance" insert:

under this section

- (3) Section 22(3)—delete subsection (3)

40—Amendment of section 23—Variation of voluntary insurance

(1) Section 23(1)—after "voluntary invalidity/death insurance" insert:
under section 22

(2) Section 23(2)—delete subsection (2)

41—Insertion of sections 23A and 23B

After section 23 insert:

23A—Voluntary invalidity/death insurance—prescribed members

- (1) All prescribed members have such voluntary invalidity/death insurance as is prescribed by regulation and are liable for premiums in respect of that insurance fixed by or under the regulations.
- (2) Subject to this section, a prescribed member may apply to the Board for additional voluntary invalidity/death insurance under this section.
- (3) An application must be made in a manner approved by the Board and must specify the voluntary invalidity/death insurance that the 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 invalidity or premature death; or
 - (b) that an applicant has in the past engaged in an activity of a prescribed kind that increases the risk of invalidity or 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 invalidity/death insurance benefits that the applicant would otherwise have been entitled to.
- (8) If the Board grants an application for voluntary invalidity/death insurance or for an increase or decrease in the level of voluntary insurance, the Board must fix the date for the commencement of the insurance or of the increase or decrease in the level of insurance.

- (9) Regulations made for the purposes of this section may make different provision according to the various classes of members, matters or circumstances to which they are expressed to apply.

23B—Variation of voluntary insurance—prescribed members

- (1) A prescribed member may apply to the Board, in a manner approved by the Board, to increase or decrease the level of his or her voluntary invalidity/death insurance.
- (2) However, a prescribed member cannot apply to reduce his or her voluntary invalidity/death insurance below the level applicable to the member prescribed by regulation under section 23A(1).

42—Amendment of section 25—Contributions

- (1) Section 25(3)—delete "police officer" and substitute:
police member

- (2) Section 25(3a)—delete subsection (3a) and substitute:

- (3a) Subsection (3) does not apply to—

- (a) a police cadet; or
(b) a police officer who is employed on a contract having a fixed term.

- (3) Section 25—after subsection (4) insert:

- (4a) The regulations may require that specified members, or members of a specified class, contribute at a prescribed rate (and the regulations may prescribe different rates in respect of different members or different classes of member).

- (4) Section 25(5)—delete "A member" and substitute:

Subject to this section, a member

43—Amendment of section 26A—Interpretation

Section 26A, definition of *eligible member*—after "section 15B" insert:

, 15C

43A—Amendment of section 26E—Accretions to spouse members' accounts

Section 26E—after subsection (3) insert:

- (3a) If spouse members are permitted by the Board to nominate a class or combination of classes of investments, the option of nominating a class of investments based on consideration of the impact of the investments on society and the environment must be made available to spouse members (subject to terms and conditions determined by the Board).

44—Amendment of section 26J—Benefits for spouse members

Section 26J—delete "55 years of age" wherever occurring and substitute in each case:
the retirement age

45—Amendment of section 27—Employer contribution accounts

- 5 (1) Section 27(2b)—after "section 15B" insert:
or section 15C, or is taken to have elected to become a member under
section 15C,
- (2) Section 27(2b)—after "section 15B(2)" insert:
or 15C(2)
- 10 (2a) Section 27—after subsection (4) insert:
(4a) If members are permitted by the Board to nominate a class or
combination of classes of investments, the option of nominating a
class of investments based on consideration of the impact of the
investments on society and the environment must be made available
15 to members (subject to terms and conditions determined by the
Board).
- (3) Section 27(7a)—after "section 15B" insert:
or 15C or are taken to have elected to become members under section 15C,
- (4) Section 27(11)—delete "by virtue of section 14(10)" and substitute:
20 by virtue only of section 14(10) or (10a) (or both)

45A—Amendment of section 30A—Transition to retirement

- (1) Section 30A(7)—delete "The investment" and substitute:
Subject to subsection (7a), the investment
- (2) Section 30A—after subsection (7) insert:
25 (7a) The investment of a draw down benefit under subsection (4)(b)(i)
must, if the member so requests, be based on consideration of the
impact of the investment on society and the environment (subject to
terms and conditions determined by the Board).

45B—Amendment of section 30B—Early access to superannuation benefits

- 30 (1) Section 30B(8)—delete "An investment" and substitute:
Subject to subsection (8a), an investment
- (2) Section 30B—after subsection (8) insert:
(8a) An investment under subsection (7) must, if the member so requests,
35 be based on consideration of the impact of the investment on society
and the environment (subject to terms and conditions determined by
the Board).

46—Amendment of section 31—Retirement

Section 31(2)(a)—delete "the age of 55 years" and substitute:

the retirement age

47—Amendment of section 32—Resignation

5 Section 32—delete "the age of 55 years" wherever occurring and substitute in each case:

the retirement age

48—Amendment of section 33A—Disability pension

(1) Section 33A(5)(b)—delete "police officer or police cadet" and substitute:

10 police member

(2) Section 33A—after subsection (22) insert:

(23) The Board must consult with the Police Superannuation Board before authorising the payment of a disability pension to a police officer.

49—Amendment of section 34—Termination of employment on invalidity

(1) Section 34—after subsection (6a) insert:

(6b) Subsection (6) does not apply to a police officer who is a member of the scheme by virtue only of section 14(10a) or 15C (or both).

(2) Section 34—after subsection (9) insert:

20 (10) The Board must consult with the Police Superannuation Board before authorising the payment of a benefit to a police officer under this section.

50—Amendment of section 35—Death of member

Section 35—after subsection (7a) insert:

25 (7b) Subsection (7) does not apply to a police officer who is a member of the scheme by virtue only of section 14(10a) or 15C (or both).

51—Amendment of section 36—Information to be given to certain members

Section 36—after its present contents (now to be designated as subsection (1)) insert:

30 (2) When a person becomes a member of the Triple S scheme by virtue of section 14(10a) or 15C, the Board must advise the person in writing of his or her membership of the scheme and provide the person with information, including such information as may be prescribed, as to the management and investment of his or her payments and the benefits to which he or she is entitled under this Act.

35

51A—Amendment of section 47B—Post retirement investment

Section 47B—after subsection (4) insert:

- 5 (4a) Despite subsections (2) and (3)(a), the investment of money accepted by the Board under subsection (1) must, if the investor so requests, be based on consideration of the impact of the investment on society and the environment (subject to terms and conditions determined by the Board).

52—Amendment of Schedule 3—Transitional provisions

- (1) Schedule 3—before clause 2 insert:

10 **Part 1—General provisions**

- (2) Schedule 3—after clause 13 insert:

Part 2—Provisions relating to *Statutes Amendment (Police Superannuation) Act 2007*

14—Interpretation

15 In this Part—

amending Act means the *Statutes Amendment (Police Superannuation) Act 2007*;

investment account means an account established and maintained by the Police Superannuation Board in accordance with section 38D of the *Police Superannuation Act 1990*;

prescribed date means the date on which Part 4 of the *Police Superannuation Act 1990* is repealed by the amending Act.

15—Accounts for certain police officers

- 25 (1) This clause applies to a person who becomes a member of the Triple S scheme by virtue of section 14(2a).
- (2) The Board will establish a member's contribution account and an employer contribution account in the name of the member.
- 30 (3) The balance of the member's contribution account, on the establishment of the account under this clause, will be an amount equivalent to the amount standing to the credit of the account maintained in the name of the member by the Police Superannuation Board under section 13 of the *Police Superannuation Act 1990* immediately before the prescribed date.
- 35 (4) Subject to subclause (8), the balance of the member's employer contribution account, on the establishment of the account under this clause, will be an amount determined by—
- (a) in the case of a member who has not reached 60 years of age on the prescribed date—

(i) calculating the benefit to which the member would have been entitled under section 21 of the *Police Superannuation Act 1990* if—

(A) that section were in force; and

(B) the member had retired at the age of 60 years,

on the prescribed date; and

(ii) determining the present value of the benefit calculated under subparagraph (i) by applying to the period falling between the prescribed date and the date on which the member is to reach the age of 60 years a discount rate based on the actuarial assumptions underlying the most recent report prepared by an actuary under section 15(4) of the *Police Superannuation Act 1990*; and

(iii) deducting from the present value of the benefit (as determined under subparagraph (ii)) the amount that is to be the balance of the member's contribution account (as determined under subclause (3)); and

(b) in the case of a member who has reached 60 years of age on the prescribed date—

(i) calculating the benefit to which the member would have been entitled under section 21 of the *Police Superannuation Act 1990* if—

(A) that section were in force; and

(B) the member had retired,

on the prescribed date; and

(ii) deducting from the benefit calculated under subparagraph (i) the amount that is to be the balance of the member's contribution account (as determined under subclause (3)).

(5) In calculating a member's entitlement under section 21 of the *Police Superannuation Act 1990* for the purposes of subclause (4)(a) or (b) of this clause, any salary increase applicable to police officers generally, or to a class of police officers to which the member belongs, that is to commence within 1 month of the prescribed date, is to be taken into account when determining the member's actual or attributed salary.

(6) If the Police Superannuation Board is maintaining an investment account, a rollover account or a co-contribution account in the name of the member, the following provisions apply:

(a) the Board will establish a rollover account in the name of the member;

- 5 (b) the balance of the rollover account, on the establishment of the account under this clause, will be an amount equivalent to the aggregate balance of the amount standing to the credit of the member's investment account (if any), rollover account (if any) and co-contribution account (if any) immediately before the prescribed date;
- (c) however—
- 10 (i) if the balance of an investment account maintained by the Police Superannuation Board in the name of the member immediately before the prescribed date includes an amount attributable to salary sacrificed contributions and investment earnings on those contributions (a *salary sacrifice amount*), the salary sacrifice amount will be credited to the employer contribution account established by the Board in the name of the member pursuant to subclause (2) (and will not be included in any aggregation for the purpose of determining a balance under paragraph (b)); and
- 15 (ii) if the Police Superannuation Board is not maintaining a rollover account or a co-contribution account in the name of the member, and the balance of the member's investment account consists only of a salary sacrifice amount, paragraphs (a) and (b) do not apply.
- 20 (7) If the member's accrued superannuation benefits, or a superannuation payment to which the member is entitled, have been preserved under a provision of Part 4 of the *Police Superannuation Act 1990*, the following provisions apply:
- 25 (a) the Board will establish a rollover account in the name of the member;
- 30 (b) subject to subclause (8), the balance of the rollover account, on the establishment of the account under this clause, will be an amount determined by—
- 35 (i) calculating the total benefit (having regard to both preserved superannuation benefits and any preserved superannuation payment) to which the member would be entitled, in accordance with the provision of the *Police Superannuation Act 1990* pursuant to which the benefits or payment were preserved, if payment of the benefit were to be made to the member immediately before the prescribed date; and
- 40

(ii) determining the present value of the benefit calculated under subparagraph (i) by applying to the period falling between the prescribed date and the date on which the member is to reach the age of 55 years a discount rate based on the actuarial assumptions underlying the most recent report prepared by an actuary under section 15(4) of the *Police Superannuation Act 1990*;

(c) the provisions of section 32(6) will apply in relation to the amount (subject to section 32(6a)) as if the amount were a component preserved by the member under section 32.

(8) If the balance of an account established for the member under this clause is to be determined under subclause (4) or (7)(b), and the balance of the account on its establishment, as determined in accordance with the relevant provision, would, but for this subclause, have the effect of creating a liability for the Treasurer under the Commonwealth Act, that balance is to be increased by the minimum amount necessary to avoid creating the liability.

(9) If the member has, before he or she becomes a member of the Triple S scheme, made application for a disability pension under section 24 of the *Police Superannuation Act 1990*, the application will be taken to be an application for a disability pension under section 33A of this Act.

(10) The member will be taken for the purposes of section 25 to have made an election under subsection (1) of that section to make contributions to the Treasurer as a deduction from salary at the prescribed percentage (but he or she may subsequently elect under section 25(5), subject to that section, to contribute at a different rate).

(11) If the member makes contributions to the Treasurer as a deduction from salary under section 25 at the prescribed percentage until his or her retirement from employment (within the meaning of section 31), he or she is entitled, on that retirement, to—

(a) the benefits to which he or she would, but for this subclause, be entitled under section 31; or

(b) benefits determined in accordance with the method prescribed by regulation,

whichever is the greater.

(12) For the purposes of subclauses (10) and (11), the ***prescribed percentage*** is a percentage equal to the rate at which the member was required to contribute under the *Police Superannuation Act 1990* immediately before the prescribed date.

- 5 (13) If benefits are to be paid to the member under subclause (11)(b), the Treasurer must pay into the Southern State Superannuation (Employers) Fund from the Consolidated Account (which is appropriated to the necessary extent) the amount by which the amount of benefits payable to the member under that subclause exceed the amount of benefits to which he or she would have been entitled under section 31 if subclause (11) did not apply.

16—Police officers in receipt of disability pension

- 10 (1) If a member to whom clause 15 applies is, immediately before the prescribed date, temporarily or permanently incapacitated for work and in receipt of a disability pension under section 24 of the *Police Superannuation Act 1990*—

- 15 (a) that section (other than subsection (8)) will be taken to continue in force in relation to the pension as if the member were a contributor within the meaning of the section (but the member will not be required to make contributions under the *Police Superannuation Act 1990*); and
- (b) the member will not be entitled to a disability pension under section 33A of this Act in respect of the incapacity.

- 20 (2) However, if the member is, immediately before the prescribed date—

- (a) temporarily or permanently incapacitated for work; and
- (b) entitled to a disability pension under section 24 of the *Police Superannuation Act 1990* that is suspended under section 24(3) because the member is in receipt of paid leave or weekly payments of workers compensation,

25 the following provisions apply in relation to the member:

- (c) clause 15(2) to (13) will operate in relation to the member on and from (but not before) the commencement day as if the prescribed date were the commencement day;
- 30 (d) the *Police Superannuation Act 1990* will be taken to continue in force in relation to the member until the commencement day as if—
- (i) the member continued to be a contributor within the meaning of that Act; and
- 35 (ii) that Act had not been amended by the amending Act.

- (3) In subclause (2)—

commencement day, in relation to a member, means the day on which the member ceases to be entitled to—

- 40 (a) paid leave or weekly payments of workers compensation; or
- (b) a disability pension,

whichever occurs first.

17—Children in receipt of pension

- 5
- (1) If a person is, immediately before the prescribed date, an eligible child in receipt of a pension payable under section 26 of the *Police Superannuation Act 1990* (the *repealed section*), the pension will continue to be paid to the child throughout any period of dependency as if that Act had not been amended by the amending Act.
- (2) Despite section 14 of the *Police Superannuation Act 1990*, a pension to be paid under the repealed section pursuant to this clause is not to be charged against the Police Superannuation Fund.

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18—Accounts for certain contributors to Police Superannuation Scheme

- 15
- (1) If, immediately before the repeal of Part 5A of the *Police Superannuation Act 1990*, the Police Superannuation Board is maintaining an investment account, a rollover account or a co-contribution account in the name of a person who is a Police Superannuation Scheme contributor, the following provisions apply:
- (a) the Board will establish a rollover account in the name of the person;
- 20
- (b) the balance of the rollover account, on the establishment of the account under this clause, will be an amount equivalent to the aggregate balance of the amount standing to the credit of the person's investment account (if any), rollover account (if any) and co-contribution account (if any) immediately before the prescribed date;
- 25
- (c) however—
- (i) if the balance of an investment account maintained by the Police Superannuation Board in the name of the person immediately before the prescribed date includes an amount attributable to salary sacrificed contributions and investment earnings on those contributions (a *salary sacrifice amount*), the salary sacrifice amount will be credited to an employer contribution account established by the Board in the name of the person (and will not be included in any aggregation for the purpose of determining a balance under paragraph (b)); and
- 30
- (ii) if the Police Superannuation Board is not maintaining a rollover account or a co-contribution account in the name of the person, and the balance of the person's investment account consists only of a salary sacrifice amount, paragraphs (a) and (b) do not apply;
- 35
- 40

(d) if the Police Superannuation Board is maintaining a rollover account or a co-contribution account in the name of the person, the person will be taken to be a member of the Triple S Scheme by virtue of section 14(10a);

(e) if the Police Superannuation Board is maintaining an investment account in the name of the person, the person will be taken to have elected to become a member of the Triple S Scheme under section 15C(1).

(2) In this clause—

Police Superannuation Scheme contributor means a member of the Police Superannuation Scheme who was an old scheme contributor within the meaning of the *Police Superannuation Act 1990* immediately before the repeal of Part 4 of that Act by the amending Act.

19—Amounts preserved for certain contributors to Police Superannuation Scheme

(1) The following provisions apply in relation to a payment preserved by a person under section 34(1a) of the *Police Superannuation Act 1990* immediately before the prescribed date:

- (a) the Board will establish a rollover account in the name of the person;
- (b) the balance of the rollover account, on the establishment of the account under this clause, will be an amount equivalent to the amount of the superannuation payment to which the person would be entitled under section 34(1a) of the *Police Superannuation Act 1990* if the payment were to be made to the person on the prescribed date;
- (c) the provisions of section 32(6) will apply in relation to the amount (subject to section 32(6a)) as if the amount were a component preserved by the person under section 32;
- (d) the person will be taken to be a member of the Triple S Scheme by virtue of section 14(10a).

(2) The following provisions apply to accrued superannuation benefits preserved by a person under section 34(1)(b) of the *Police Superannuation Act 1990* immediately before the prescribed date if the person resigned after a contribution period of less than 120 months:

- (a) the Board will establish a rollover account in the name of the person;

- 5
- (b) the balance of the rollover account, on the establishment of the account under this clause, will be an amount equivalent to the amount of the superannuation payment to which the person would be entitled under section 34(2) of the *Police Superannuation Act 1990* if the payment were to be made to the person on the prescribed date;
- 10
- (c) the provisions of section 32(6) will apply (in lieu of section 34(2) of the *Police Superannuation Act 1990*) in relation to the amount (subject to section 32(6a)) as if the amount were a component preserved by the person under section 32;
- (d) the person will be taken to be a member of the Triple S Scheme by virtue of section 14(10a).

20—Balances of accounts

- 15
- (1) If the Board is required under this Part to establish a member's contribution account or a rollover account in the name of a person—
- 20
- (a) the amount that is to be the balance of the account on the establishment of the account is to be paid to the Southern State Superannuation Fund 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 the purpose of making payments required under the *Police Superannuation Act 1990*; and
- 25
- (b) if the amount that is to be the balance of the account includes an amount equivalent to—
- 30
- (i) the balance of a contribution account, investment account, rollover account or co-contribution account maintained by the Police Superannuation Board (a *police superannuation account*); or
- (ii) the aggregate balance of a number of police superannuation accounts,
- (the *equivalent amount*), then,
- 35
- (iii) the Treasurer will reimburse the Consolidated Account or special deposit account by charging the equivalent amount against the relevant division of the Police Superannuation Fund; and
- 40
- (iv) the balance of each police superannuation account referred to in subparagraphs (i) and (ii) will, on the establishment of the person's contribution account or rollover account in the Triple S scheme, be taken to be zero.

5 (2) If the Board is required under this Part to establish an employer contribution account in the name of a person, the amount that is to be the balance of the account on the establishment of the account is to be paid to the Southern State Superannuation (Employers) Fund 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 the purpose of making payments required under the *Police Superannuation Act 1990*.

10 (3) If—

15 (a) the Board is required under this Part to establish a rollover account in the name of a person for whom a superannuation benefit or payment has been preserved in the Police Superannuation Scheme; and

20 (b) the balance of the account, on the establishment of the account, is to be an amount equivalent to the amount of a superannuation payment to which the person would be entitled under the *Police Superannuation Act 1990* if the superannuation payment were to be made to the person, in accordance with the provision of that Act pursuant to which the benefit or payment was preserved, on or immediately before the prescribed date,

25 the preserved benefit or payment will be taken, on the establishment of the rollover account in the Triple S Scheme, to have been transferred from the Police Superannuation Scheme to the Triple S Scheme (and the person will have no further entitlement to a benefit or payment under the provision of the *Police Superannuation Act 1990* pursuant to which the benefit or payment was preserved).

30 (4) The Police Superannuation Board may, at a time determined by the Board to be appropriate in the circumstances, close an account that is no longer required for the purposes of the *Police Superannuation Act 1990*.

35 (5) For the avoidance of doubt, section 13(6) of the *Police Superannuation Act 1990* applies where it is necessary for the Police Superannuation Board to determine, for the purposes of this Part, the balance of any account maintained by the Board under that Act.

21—Investment of transferred money

40 For the purposes of determining a rate of return under section 7A or 27 in respect of an account established by the Board as required under this Part, the Board and the Corporation must, on the establishment of the account, determine the relevant class of investments, or combination of classes of investments, on the basis that the member for whom the account has been established has not made a nomination under the relevant section (although the member may, subject to the Act, subsequently nominate a different class of investments, or combination of classes of investments, for the purpose of determining a rate of return).

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22—Administration costs associated with transition

The costs associated with—

- (a) determining the balances of accounts under the *Police Superannuation Act 1990*; and
- (b) establishing, and determining the balances of, new accounts under this Act; and
- (c) transferring Police Superannuation Scheme contributors to the Triple S scheme; and
- (d) any other administrative act required under, or necessary or expedient for the purposes of, this Part,

will be recoverable from the Police Superannuation Fund.

23—Other provisions

- (1) The Governor may, by regulation, make provisions of a saving or transitional nature consequent on the enactment of the amending Act.
- (2) A provision of a regulation made under subclause (1) may, if the regulation so provides, take effect from the commencement of the amending Act or from a later day.
- (3) To the extent to which a provision takes effect under subclause (2) from a day earlier than the day of the regulation's publication in the Gazette, the provision does not operate to the disadvantage of a person by—
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The *Acts Interpretation Act 1915* will, except to the extent of any inconsistency with the provisions of this Schedule (or regulations made under this Schedule), apply to any amendment or repeal effected by the amending Act.

Schedule 1—Statute law revision amendment of *Police Superannuation Act 1990*

Provision amended	How amended
Long title	Delete "members of the police force" and substitute: police officers
Section 4(1), definition of <i>member of the police force</i>	Delete the definition
Section 4(3)	Delete "the police force" and substitute: South Australia Police
Section 4(3a), definition of <i>permanent position in the police force</i>	Delete " <i>the police force</i> " and substitute: <i>South Australia Police</i>

Provision amended	How amended
Section 4(6)	Delete "the police force" and substitute: South Australia Police
Section 4(6b)	Delete "the South Australian police force" wherever occurring and substitute in each case: South Australia Police
Section 4(9)	Delete "the police force" and substitute: South Australia Police
Section 7(1)(a)	Delete "member of the police force" and substitute: police officer
Section 7(1)(b)	Delete "members of the police force" and substitute: police officers
Section 8(2)	Delete "notwithstanding" and substitute: despite
Section 16(2)	Delete "A member's" and substitute: An officer's
Section 18(3)(b)	Delete "the police force" and substitute: South Australia Police
Section 27(2)	Delete "member of the police force" and substitute: police officer
Section 29(1)(c)	Delete "the police force" and substitute: South Australia Police
Section 30(2)	Delete "the police force" and substitute: South Australia Police
Section 31	Delete "the police force" wherever occurring and substitute in each case: South Australia Police
Section 34(1b)(b)	Delete "member of the police force" and substitute: police officer
Section 37	Delete "the police force" wherever occurring and substitute in each case: South Australia Police
Schedule 1, clause 4	Delete "the police force" wherever occurring and substitute in each case: South Australia Police
Schedule 1, clause 9	Delete "member of the police force" and substitute: police officer