

South Australia

Southern State Superannuation (Additional Income Protection for Police Officers) Variation Regulations 2012

under the *Southern State Superannuation Act 2009*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Southern State Superannuation (Additional Income Protection for Police Officers) Variation Regulations 2012*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Southern State Superannuation Regulations 2009*

4—Variation of regulation 3—Interpretation

Regulation 3(1)—after the definition of *notional salary* insert:

police disability pension—see regulation 38A;

5—Variation of regulation 4—Police members

Regulation 4—delete "regulation 9(5)" and substitute:

regulation 9(5), (5b)

6—Variation of regulation 9—Membership

(1) Regulation 9—after subregulation (5a) insert:

(5b) If a contributor to the Police Superannuation Scheme who is not a member of the Triple S scheme applies for a police disability pension, the contributor becomes a member of the Triple S scheme if and when the application is accepted.

(2) Regulation 9(8)(g)—delete paragraph (g) and substitute:

(g) those persons whose names appear in Schedule 1 of the *Superannuation (Lyell McEwin Employees) Regulations 2009*;

(3) Regulation 9—after subregulation (8) insert:

(9) If a person who is a member of a scheme of superannuation other than the Triple S scheme becomes a member of the Triple S scheme by virtue of this regulation, the person's membership of the other scheme is not affected by his or her membership of the Triple S scheme (except to the extent (if any) prescribed pursuant to section 30(6) of the Act).

7—Variation of regulation 13—Salary sacrifice by members of Police Superannuation Scheme

Regulation 13(3)—after paragraph (b) insert:

and

(c) subject to regulation 38A, a police disability pension in the circumstances set out in that regulation.

8—Variation of regulation 15—Members to whom section 21 does not apply

Regulation 15—delete "regulation 9(5a)" and substitute:

regulation 9(5a), (5b)

9—Variation of regulation 17—Contributions (section 20 of Act)

Regulation 17(2)—after "(5a)," insert:

(5b),

10—Variation of regulation 28—Basic invalidity/death insurance

Regulation 28(2)(a)—after "(5a)," insert:

(5b),

11—Variation of regulation 30—Application for voluntary invalidity/death insurance

Regulation 30(4)—after "(3)," insert:

(5b),

12—Variation of regulation 38—Persons not entitled to disability pension

Regulation 38(b)—after "(5a)," insert:

(5b),

13—Insertion of Part 3 Division 2 Subdivision 4A

Part 3 Division 2—after Subdivision 4 insert:

Subdivision 4A—Special disability pension for police officers

38A—Police disability pension

- (1) Pursuant to section 22(1) of the Act, but subject to this regulation, a police officer is entitled to a pension under this regulation (a *police disability pension*) if—
 - (a) the officer is temporarily or permanently incapacitated for work as a result of a physical or psychological injury sustained when he or she was on duty or lawfully exercising the powers of a police officer; and
 - (b) the injury—
 - (i) resulted from conduct directed at the officer that constitutes a criminal offence; or
 - (ii) occurred as a direct and immediate result of conduct that constitutes a criminal offence in the course of the officer's involvement in police operations directed at the investigation of criminal conduct, or conduct that appears to be criminal; or
 - (iii) occurred as a direct and immediate result of conduct that constitutes a criminal offence by a person who has been apprehended or who the officer is attempting to apprehend.

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- (2) A police disability pension—
- (a) is payable to a member only in relation to any period during which the member is entitled to weekly payments of workers compensation under the *Workers Rehabilitation and Compensation Act 1986* of an amount that is less than the member's notional weekly earnings under that Act; and
 - (b) is not payable to a member if the member was, at the time of sustaining the injury, engaged in—
 - (i) conduct constituting a criminal offence; or
 - (ii) conduct constituting a breach of a provision of the Code of Conduct established under Part 6 of the *Police Act 1998* concerning corrupt, improper or discreditable behaviour,unless the Board is of the opinion that the conduct does not amount to serious misconduct; and
 - (c) cannot be paid for a continuous period of more than 24 months; and
 - (d) cannot be paid in respect of the same incapacity for an aggregate period of more than 24 months in any 1 period of 48 months.
- (3) For the purposes of subregulation (2)(b)—
- (a) a person will be regarded as having been engaged in conduct constituting a criminal offence only if he or she is found guilty of the offence under a law of this State, the Commonwealth or another State or a Territory of the Commonwealth; and
 - (b) a person will be regarded as having been engaged in conduct constituting a breach of the Code of Conduct only if he or she is charged with the breach and—
 - (i) admits the breach in accordance with the *Police Act 1998*; or
 - (ii) is found guilty of the breach in proceedings before the Police Disciplinary Tribunal.
- (4) The Board may authorise the payment of a police disability pension to a police officer despite the fact that no person has been prosecuted for, or found guilty of, any offence constituted by the conduct that resulted in the officer's injury.
- (5) The amount of the police disability pension payable to a member in a particular period will be the difference between the amount of the weekly payments of workers compensation to which the member is entitled for that period and the member's notional weekly earnings for that period under the *Workers Rehabilitation and Compensation Act 1986*.

- (6) A person in receipt of a police disability pension whose employment terminates ceases to be entitled to the pension from the day immediately following the day on which the employment terminates or is taken to have been terminated.
- (7) If the Board is satisfied that a member in receipt of a police disability pension—
 - (a) is not making a reasonable effort to return to work that the member has the capacity to perform; or
 - (b) has unreasonably failed to cooperate with the Board; or
 - (c) has acted dishonestly or otherwise in bad faith in his or her dealings with the Board,the Board may discontinue the pension (but the Board must first give the member written notice, at least 21 days before the discontinuance takes effect, of its decision to discontinue the pension).
- (8) A person is not entitled to receive a police disability pension while the person is in receipt of a disability pension under regulation 36 or section 30 of the *Police Superannuation Act 1990*.
- (9) If a person who is receiving or has received a police disability pension is paid compensation or damages from another source for the loss of income to which the pension relates (other than under the *Workers Rehabilitation and Compensation Act 1986*)—
 - (a) the Board may, if payment of the pension has not already ceased, discontinue the pension; and
 - (b) the Treasurer may recover from the person, as a debt, the amount of the pension paid to the person (but may not recover more than the amount of compensation or damages paid to the person from the other source).
- (10) A police disability pension may not be paid in relation to an injury sustained on or after the day falling 5 years after the commencement of this regulation.

38B—Members of Police Superannuation Scheme

A person who is a member of the scheme solely by virtue of being entitled to a police disability pension is not entitled to make contributions under section 20(1)(a) of the Act and is not entitled to any other benefits under the Act or these regulations in his or her capacity as a member under regulation 9(5b).

38C—Administrative charges and reimbursement of Fund

- (1) The Board may fix administrative charges payable by South Australia Police in respect of the administration by the Board of this Subdivision.
- (2) An amount equivalent to any payment made to a police officer in accordance with this Subdivision is to be paid by South Australia Police to the Treasurer.

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- (3) The Treasurer is to pay an amount equivalent to any amount—
- (a) received from South Australia Police under subregulation (1) or (2); or
 - (b) recovered from a person under regulation 38A(9),
- into the Fund.

14—Insertion of regulation 56A

After regulation 56 insert:

56A—Rollover of certain components

If contributions are no longer being paid into an account maintained by the Board in the name of a person—

- (a) who is a member of the scheme solely by virtue of being—
 - (i) a member of a Board or Committee that is an agency or instrumentality of the Crown; or
 - (ii) employed under a contract under which he or she is entitled to determine where the superannuation contributions payable by the employer in relation to him or her under the Commonwealth Act are to be made; or
- (b) who—
 - (i) is employed by an employer with which the Board has entered into an arrangement under section 6 of the Act; and
 - (ii) was a member of the Triple S scheme before commencing that employment,

the person may elect to carry the amount standing to the credit of the account over to some other superannuation fund or scheme approved by the Board.

15—Variation of regulation 78—Information to be given to certain members

Regulation 78(2)—after "regulation 9(5)" insert:

, (5a), (5b)

Note—

As required by section 30(8)(f) of the *Southern State Superannuation Act 2009*, the Minister has certified that the Minister is satisfied that it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the approval of the Treasurer and following consultation by the Minister for Finance with the South Australian Superannuation Board and with the advice and consent of the Executive Council

on 12 July 2012

No 175 of 2012

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