

South Australia

POLICE SUPERANNUATION REGULATIONS, 1990

REGULATIONS UNDER THE POLICE SUPERANNUATION ACT, 1990

Police Superannuation Regulations, 1990

being

No. 71 of 1990: *Gaz.* 31 May 1990, p. 1491¹

as varied by

No. 41 of 1993: *Gaz.* 18 March 1993, p. 938²

No. 194 of 1994: *Gaz.* 24 November 1994, p. 1618³

No. 45 of 1997: *Gaz.* 10 April 1997, p. 1492⁴

No. 188 of 2000: *Gaz.* 17 August 2000, p. 569⁵

¹ Came into operation 1 June 1990: reg. 2.

² Came into operation 18 March 1993: reg. 2.

³ Came into operation 24 November 1994: reg. 2.

⁴ Came into operation 10 April 1997: reg. 2.

⁵ **Came into operation 17 August 2000: reg. 2.**

NOTE:

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

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Citation

1. These regulations may be cited as the *Police Superannuation Regulations, 1990*.

Commencement

2. These regulations will come into operation on 1 June, 1990.

**PART I
PRELIMINARY**

Interpretation

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

"**the Act**" means the *Police Superannuation Act, 1990*:

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

**PART II
COMMUTATION OF PENSIONS**

DIVISION I—PRELIMINARY

Interpretation

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

DIVISION II—COMMUTATION OF PENSIONS

Right to apply for commutation

5. (1) A contributor who is entitled to a retirement pension or who is in receipt of an invalidity pension or a retrenchment pension and who has reached the age of 55 years may apply to the Board for commutation of part of the pension in accordance with this regulation.

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

(3) Subject to subregulation (3a), an application for commutation of a retirement pension must be made within three months after retirement and an application for commutation of an invalidity pension or a retrenchment pension must be made within three months after the pensioner reaches the age of 55 years.

(3a) Where a contributor is unable to apply for commutation of a pension in accordance with subregulation (3) because the pension is suspended, he or she may apply for commutation of the pension within three months after the pension ceases to be suspended.

(3b) Where—

(a) part only of an invalidity pension or a retrenchment pension is available to a contributor because the pension is reduced under section 40 of the Act; and

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

the contributor may, in accordance with this Division within three months after he or she reaches the age of 60 years, commute the whole or a part of the part of the pension previously denied to him or her because of the reduction.

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

(4a) Where a spouse of a contributor is unable to apply for commutation of his or her pension in accordance with subregulation (4) because the pension is suspended, he or she may apply for commutation of the pension within three months after the pension ceases to be suspended.

(4b) Where—

(a) part only of a pension is available to the spouse of a contributor because the pension is reduced under section 40 of the Act; and

5.

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

the spouse may within three months after he or she first becomes entitled to the other part of the pension commute the whole or a part of it in accordance with this Division.

(4c) The spouse of a contributor who before the commencement of subregulations (4a) and (4b) was unable to apply for commutation of the whole or part of his or her pension by reason only of the fact that those subregulations were not in force may, within six months after the commencement of those subregulations, apply for commutation of the whole or part of his or her pension in accordance with whichever of them is applicable.

(5) A contributor who is entitled to an invalidity pension may apply to the Board within three months after termination of the employment for commutation of ten per cent or less of the pension and an application under this subregulation does not prejudice the right of the contributor to apply for a further commutation under subregulation (1) upon reaching the age of 55 years.

(5a) The Board may extend the time within which a person may apply for commutation of a pension if, in the Board's opinion, the person was not at fault in failing to apply within the time prescribed by this regulation and the Minister has given his or her consent to the extension.

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

Proportion of pension that may be commuted

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

(2) A contributor, or the spouse of a contributor, who is entitled to any other kind of pension may commute 50 per cent or less of the pension.

Commutation factors

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

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

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

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

Age at time of commutation	Amount of lump sum for each dollar of annual pension commuted
54 or under	\$11.50
55-56	\$11.50-\$11.30

7.

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

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

DIVISION III—GENERAL

Restriction on commutation

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

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

Adjustment of commutation factors

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

Rounding of lump sum

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

**PART III
GENERAL**

Salary

11. (1) Allowances for work on public holidays or weekends are excluded from the definition of salary in the Act.

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

Fund's share of administrative costs

12. For the purposes of section 10(7)(b) of the Act the prescribed percentage is 30.

Proportion of pensions and lump sums charged against contributor's account

13. (1) For the purposes of section 14(2) of the Act the proportion of a pension payable under Part IV of the Act that is chargeable against a contributor's contribution account is 30 per cent.

(2) For the purposes of section 14(3) of the Act the proportion of a lump sum (whether arising from commutation or not) or pension payable under Part V of the Act that is chargeable against a contributor's contribution account is the proportion prescribed by Part V of the Act or if not prescribed by that Part is 22.6 per cent.

Restriction on retirees under 50

14. The number of contributors who may retire below the age of 55 years in any financial year pursuant to section 21(2) or 28(3) of the Act is 50 or such larger number as the Minister approves in respect of a particular year.

Time for election to preserve benefits

15. An election to preserve superannuation benefits under section 22 or 34 must be made within three months of resignation.

Criteria for approval of other funds and schemes

16. The criteria on which the Board may approve a superannuation fund or scheme for the purposes of section 22(1)(c) of the Act are as follows:

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

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

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

or

(iii) in accordance with provisions that correspond to section 22(1)(c) of the Act and this regulation;

and

- (b) the provisions governing the superannuation fund or scheme must include provisions corresponding to section 22(1)(c) of the Act that would enable a contributor to the fund or scheme to carry over his or her accrued superannuation benefits in the fund or scheme to the South Australian Police Superannuation Scheme.

Notice to the Board on retrenchment

17. A notice given to the Board by the Commissioner under section 23(4) of the Act must inform the Board of any inquiries made by the Commissioner as to other suitable employment available to the contributor.

Period of notice

18. The period of notice of resignation pursuant to sections 25(4)(b)(iv) and 31(5)(b)(iv) of the Act is one month.

Notice to the Board on invalidity

19. A notice given to the Board by the Commissioner under section 25(7) or 31(8) of the Act must—

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

and

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

Minimum pension payable to eligible children

20. For the purposes of section 32(3) of the Act the prescribed amount of the fortnightly pension is—

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

Payment in case of pensioner who is incompetent

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

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

or

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

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

- (3) In this regulation—

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

Employment of medical practitioner

22. The Board may employ a medical practitioner to advise it on matters relating to the state of health of contributors.

SCHEDULE

Transitional—Police Aides

1. Where a special constable employed as an Aboriginal police aide during a period between 1 July 1992 and the commencement of the *Police (Police Aides) Amendment Act 1992* is, pursuant to clause 9 of schedule 1 of the *Police Superannuation Act 1990*, deemed to have been a member of the police force and to have contributed as a new scheme contributor for that period—

- (a) he or she is not required to make contributions to the scheme for that period; and
- (b) no contribution is to be credited to his or her contribution account for that period.

2. For the purposes of fixing contributions under section 17 of the *Police Superannuation Act 1990*, a person referred to in clause 1 of this schedule who becomes a police aide on the commencement of the *Police (Police Aides) Amendment Act 1992* under schedule 1 of that Act will be taken to have commenced his or her employment at that time.

APPENDIX

LEGISLATIVE HISTORY

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

Regulation 5(3):	varied by 188, 2000, reg. 3(a)
Regulation 5(3a) and (3b):	inserted by 188, 2000, reg. 3(b)
Regulation 5(4):	varied by 188, 2000, reg. 3(c)
Regulation 5(4a) - (4c):	inserted by 188, 2000, reg. 3(d)
Regulation 5(5a):	inserted by 188, 2000, reg. 3(e)
Regulation 6:	substituted by 45, 1997, reg. 3
Regulation 13(2):	varied by 194, 1994, reg. 3
Schedule:	inserted by 41, 1993, reg. 3