



POLICE SUPERANNUATION (MISCELLANEOUS) AMENDMENT ACT 1992

No. 52 of 1992

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ELIZABETHAE II REGINAE

A.D. 1992

No. 52 of 1992

An Act to amend the Police Superannuation Act 1990.

[Assented to 29 October 1992]

The Parliament of South Australia enacts as follows:

Short Title

1. (1) This Act may be cited as the *Police Superannuation (Miscellaneous) Amendment Act 1992*.

(2) The *Police Superannuation Act 1990* is referred to in this Act as “the principal Act”.

Commencement

2. (1) Sections 1, 2, 3, 4, 5 and 10 will be taken to have come into operation at the commencement of the principal Act.

(2) The remaining provisions of this Act will come into operation on the day on which this Act receives the Governor’s assent.

Amendment of s. 4—Interpretation

3. Section 4 of the principal Act is amended—

(a) by striking out subsections (3), (4) and (5) and substituting the following subsections:

(3) Subject to this Act, contributions and benefits will be calculated in relation to a contributor as at a particular date on the basis of the highest level of salary received by the contributor in the highest grade achieved by the contributor in a permanent position in the police force and—

(a) for the purpose of calculating benefits—

(i) the contributor’s actual salary will be used if, at that date, it is at that level (or would be at that level except for a reduction for disciplinary reasons) and the contributor is in full time employment in that grade;

or

(ii) if, at that date, the contributor’s salary is at a lower level (except for a reduction for disciplinary reasons) or the

contributor is employed in a lower grade or on a part time basis, the salary that the contributor would have been receiving at that date if he or she had been employed on a full time basis in the highest grade achieved by the contributor and had been receiving salary at that level will be attributed to the contributor;

(b) for the purpose of calculating contributions—

(i) the contributor's actual salary will be used if, at that date, it is at that level (or would be at that level except for a reduction for disciplinary reasons) and the contributor is employed in that grade (whether on a full time or a part time basis);

or

(ii) if, at that date, the contributor's salary is at a lower level (except for a reduction for disciplinary reasons) or the contributor is employed in a lower grade, the salary that the contributor would have been receiving (for his or her hours of employment on that date) if he or she had been employed in the highest grade achieved by the contributor and had been receiving salary at that level will be attributed to the contributor.

(4) Salary will not be attributed under subsection (3) in respect of a reduction in salary for disciplinary reasons.

(5) Where a contributor's salary is reduced for disciplinary reasons and is not reinstated before termination of the contributor's employment a salary will be attributed to the contributor in accordance with the following formula for the purpose of calculating benefits:

$$FS = S_1 \left[\frac{CM - X}{CM} \right] + \frac{S_2 \times X}{CM}$$

Where

FS is the salary to be attributed to the contributor

S_1 is the salary that would have been the contributor's actual or attributed salary for the purpose of calculating benefits if the contributor's salary had not been reduced for disciplinary reasons

S_2 is the salary that would, but for this subsection, have been the contributor's actual or attributed salary for the purpose of calculating benefits

CM is the number of contribution months comprising the contributor's contribution period

X is the number of contribution months comprising that part, or those parts, of the contributor's contribution period during which the contributor's salary was reduced for disciplinary reasons.

(b) by striking out from subsection (6) “the salary (being the actual salary in the case of contributions or the actual or attributed salary in the case of benefits)” and substituting “the actual or attributed salary”.

and

(c) by inserting after subsection (6) the following subsection:

(6a) Subsection (6) does not apply in relation to a contributor who is employed on a permanent basis on special duties at a salary level greater than that payable to a senior sergeant.

Amendment of s. 17—Contribution rates

4. Section 17 of the principal Act is amended—

(a) by inserting after “the contributor’s” in subsection (2) (a) “actual or attributed”;

(b) by striking out subparagraph (ii) of subsection (2) (b) and substituting the following subparagraph:

(ii) if the contributor was then on leave without pay or at a reduced rate of pay, the contributor will be taken for the purposes of determining the contributor’s actual or attributed salary to be employed for the number of hours that the contributor would have been employed and to be receiving the salary that the contributor would have been receiving, if not on leave.

and

(c) by striking out subsection (3) and substituting the following subsections:

(3) If on the 31st day of March in any year a contributor is receiving weekly workers compensation payments those payments will be regarded as salary or a component of salary and contributions will be based on the aggregate of the contributor’s salary (if any) and the weekly workers compensation payments as at that date.

(3a) If, after a contributor’s contributions have been fixed in relation to a financial year, the contributor receives weekly workers compensation payments and the aggregate of the contributor’s salary (if any) and the weekly payments is less than the salary on which the contributions were based the Board must make a proportionate reduction in the amount of the contributions.

Amendment of s. 32—Pensions payable on contributor’s death

5. Section 32 of the principal Act is amended by inserting in subsection (1) (a) (ii) after “retired from employment” “after the commencement of the repealed Act but”.

Amendment of s. 34—Resignation and preservation of benefits

6. Section 34 of the principal Act is amended by inserting after subsection (10) the following subsection:

(11) For the purposes of this section a contributor will be taken to resign if the contributor is not to be taken to have retired from employment pursuant to section 4 (8) and the contributor’s employment terminates or is terminated for any reason except invalidity, retrenchment or death.

Amendment of s. 37—Effect on pension of pensioner's re-employment**7. Section 37 of the principal Act is amended—**

(a) by striking out paragraph (a) of subsection (1) and substituting the following paragraph:

(a) if the pensioner returns to permanent employment in the police force, whether immediately or after a period of temporary employment—see subsection (1a);;

(b) by striking out “if the pensioner is employed in the Public Service” from paragraph (b) of subsection (1) and substituting “if the pensioner is employed on a permanent basis in the Public Service (whether immediately or after a period of temporary employment)”;

(c) by inserting after paragraph (b) of subsection (1) the following paragraph:

(c) if the pensioner is employed in the police force or the Public Service on a temporary basis—

(i) the pension will be reduced or suspended under section 40;

(ii) in the case of a pensioner employed on a temporary basis in the police force, the pensioner is not liable to contribute to the Scheme during the period of temporary employment.;

and

(d) by inserting after subsection (1) the following subsection:

(1a) If the pensioner is employed on a permanent basis in the police force the pension will terminate but the former pensioner will be credited with contribution points and contribution months as if he or she had continued in employment and contributed over the period that he or she was not employed on a permanent basis in the police force and if the pensioner had received a lump sum payment on the original termination of his or her employment under the repealed Act or had commuted part of the original pension to a lump sum the following provisions apply:

(a) upon termination of the contributor's subsequent period of employment the contributor or other person entitled to a benefit may pay to the Treasurer the amount of the lump sum;

(b) if a payment is not made under paragraph (a) and a pension is payable to or in respect of the contributor—the pension must be reduced by an amount calculated by dividing the amount of the lump sum by 11.5;

(c) if a payment is not made under paragraph (a) and a pension is not payable to or in respect of the contributor—any lump sum that is payable to or in respect of the contributor must be reduced by the amount of the lump sum received on the original termination of the contributor's employment or on commutation.

Substitution of s. 38

8. Section 38 of the principal Act is repealed and the following section is substituted:

Notional extension of period of employment

38. Where—

(a) a contributor becomes entitled, on termination of his or her employment, to a pension;

and

(b) the contributor was, immediately before termination of employment, entitled to a period of recreation leave and is paid, or entitled to, a lump sum in lieu of that leave,

the contributor's employment will be taken to have been extended for a period equivalent to the period of recreation leave and the contributor is liable for contributions in respect of that period and is entitled to benefits at the end of that period as though he or she had remained in employment and had received the lump sum as salary during that period.

Insertion of s. 45a

9. The following section is inserted after section 45 of the principal Act:

Rounding off of contributions and benefits

45a. The amount of contributions and benefits under this Act must be rounded off to the nearest multiple of five cents.

Amendment of schedule 1

10. Schedule 1 of the principal Act is amended by inserting after clause 7 the following clause:

Contributions in first year

8. (1) For the purpose of calculating contributions in respect of the period from 1 July 1990 to 30 June 1991 the following provisions apply in place of subsections (1), (2) and (3) of section 17:

(1) A contributor must make contributions to the Treasurer at the rate prescribed in schedule 2.

(2) A contributor's contributions will be fixed in relation to the 1990/1991 financial year, as from a day in that financial year determined by the Board—

(a) on the basis of the contributor's actual salary as at 31 March 1990;

but

(b) —

(i) if the contributor had not then commenced his or her employment, the contributions will be fixed on the basis of the contributor's commencing salary;

(ii) if the contributor was then on leave without pay or at a reduced rate of pay, the contributions will be fixed on the basis of the salary that the contributor would then have been receiving if not on leave.

(3) If over a particular period a contributor receives (while remaining in employment) weekly workers compensation payments for total or partial incapacity for work, contributions will be payable as if the weekly payments were salary or a component of salary (as the case requires) but if the aggregate of the weekly payments and the salary (if any) of the contributor is less than the salary that the contributor would have received if not incapacitated, the Board may allow a proportionate reduction in the amount of the contributions for that period.

(2) Section 4 (6) does not apply for the purpose of calculating contributions in respect of the period from 1 July 1990 to 30 June 1991.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor