

South Australia



SOUTHERN STATE SUPERANNUATION (MERGER OF SCHEMES) AMENDMENT ACT 1998

No. 66 of 1998

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ELIZABETHAE II REGINAE

A.D. 1998

No. 66 of 1998

An Act to amend the Southern State Superannuation Act 1994; to make a related amendment to the Superannuation Funds Management Corporation of South Australia Act 1995; and to repeal the Superannuation (Benefit Scheme) Act 1992.

[Assented to 10 September 1998]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998*.

(2) The *Southern State Superannuation Act 1994* is referred to in this Act as "the principal Act".

Commencement

2. This Act will be taken to have come into operation on 1 July 1998.

Amendment of s. 3—Interpretation

3. (1) Section 3 of the principal Act is amended—

(a) by striking out the definition of "annual employer contribution" in subsection (1) and substituting the following definition:

"actuary" means a Fellow or Accredited Member of the Institute of Actuaries of Australia;;

(b) by striking out the definition of "basic future service benefit" in subsection (1) and substituting the following definition:

"basic future service benefit" in relation to a member means the basic future service benefit prescribed by regulation under section 34 or 35 in relation to the member;;

- (c) by inserting the following paragraph after paragraph (a) of the definition of "**charge percentage**" in subsection (1):
- (ab) in the case of a person referred to in subsection (4), (5) or (6) of section 14—the charge percentage fixed by or under subsection (4), (5) or (7) of that section;;
- (d) by inserting "or (ab)" after "paragraph (a)" in paragraph (b) of the definition of "**charge percentage**" in subsection (1);
- (e) by striking out paragraph (a) of the definition of "**employment to which this Act applies**" in subsection (1) and substituting the following paragraph:
- (a) is a member of the Triple S scheme;;
- (f) by striking out "the account" from the definition of "**member's contribution account**" in subsection (1) and substituting "the contribution account (if any)";
- (g) by inserting the following definition after the definition of "**member of the police force**" in subsection (1):
- "notional salary"** in relation to a member who is entitled to a disability pension means the salary that the member would be receiving if he or she had not become incapacitated and had continued in active employment in the same position and at the same grade as were applicable immediately before the commencement of his or her incapacity and, if the member was not then in full-time employment, the notional salary will be calculated on the basis of the member's average hours of employment (excluding overtime) over the period (not exceeding the last three years) of his or her employment;;
- (h) by inserting the following definition after the definition of "**police cadet**" in subsection (1):
- "the PSESS Scheme"** means the superannuation scheme known as the Public Sector Employees Superannuation Scheme established pursuant to a deed of arrangement dated 27 September 1989 between the Treasurer and the secretary of the United Trades and Labor Council;;
- (i) by inserting the following definition after the definition of "**retrenchment**" in subsection (1):
- "rollover account"** means an account maintained by the Board in the name of a member of money carried over to the Triple S scheme from another superannuation fund or scheme;;
- (j) by inserting the following definition after the definition of "**salary**" in subsection (1):
- "the SIS Act"** means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;;

- (k) by striking out the definition of "supplementary future service benefit" from subsection (1) and substituting the following definition:

"supplementary future service benefit" in relation to a member means the supplementary future service benefit prescribed by regulation under section 34 or 35 in relation to the member;;

- (l) by inserting the following definition after the definition of "supplementary future service benefit member" in subsection (1):

"the Triple S scheme" means the Southern State Superannuation Scheme established by this Act;;

- (m) by striking out subsection (3);

- (n) by inserting the following subsection after subsection (4):

(4a) Where a member is employed—

- (a) pursuant to a contract for a fixed term; or
- (b) pursuant to an arrangement of the kind referred to in subsection (6); or
- (c) on a temporary basis for a particular period or until the occurrence of a particular event,

and the employment is not renewed at the end of the term or period, the member's employment will be taken to have been terminated by retirement or resignation (depending on the member's age).;

- (o) by striking out "The following provisions" from subsection (5) and substituting "Subject to subsections (6) and (7), the following provisions";
- (p) by striking out "end of his or her last period of active employment" from paragraph (a) of subsection (5) and substituting "last time that he or she performed work for the employer";
- (q) by inserting the following subsections after subsection (5):

(6) Subsection (5) does not apply where the member is employed pursuant to an arrangement under which the member is to work for three or more separate periods during a designated period or a period determined by the occurrence of a particular event.

(7) A member may at any time reduce the period of 12 months referred to in subsection (5) by notice in writing to the Board specifying the reduced period.

Amendment of s. 4—The Fund

4. Section 4 of the principal Act is amended by inserting the following subsection after subsection (4):

(4a) Where money is rolled over from another superannuation fund or scheme to the Triple S scheme, the Treasurer must pay into the Fund from the Consolidated Account (which is appropriated to the necessary extent) or from a special deposit account established by the Treasurer for that purpose an amount or amounts equivalent to the amount or amounts rolled over.

Amendment of heading

5. The heading to Division 2 of Part 2 of the principal Act is amended by inserting "And Rollover Accounts" after "Accounts".

Amendment of s. 7—Members' contribution accounts and rollover accounts

6. Section 7 of the principal Act is amended—

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

(1) The Board must maintain contribution accounts in the names of all members who are making or have made contributions to the scheme.;

(b) by inserting the following subsections after subsection (2):

(2a) The Board must maintain a rollover account in the name of a member for whom an amount of money has been carried over from another superannuation fund or scheme to the Triple S scheme.

(2b) A member's rollover account must be credited with the money referred to in subsection (2a) and must be debited with any payment that is, in pursuance of this Act, to be charged against the account.;

(c) by striking out subsection (3);

(d) by striking out subsections (4), (5), (6) and (7).

Insertion of ss. 7A and 7B

7. The following sections are inserted after section 7 of the principal Act:

Accretions to members' accounts

7A. (1) At the end of each financial year, each member's contribution account and rollover account (if any) that has a credit balance will be adjusted to reflect a rate of return determined by the Board in relation to 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 Fund over the financial year or, where a 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 member; and

(b) the desirability of reducing undue fluctuations in the rate of return on members' accounts.

(3) Where 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 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) A member cannot nominate a class of investments, or a combination of classes of investments, under subsection (3) if he or she does not at the same time nominate the same class or combination of classes of investments under section 27(4).

(5) Where, in pursuance of 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.

(6) Where it is necessary to determine the balance of a 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.

(7) A balance determined under subsection (6) will not be adjusted when a rate of return is subsequently determined under subsection (1).

(8) A reference in this section to "rate of return" is a reference to a positive or a negative rate of return.

Rollover of money from other funds or schemes

7B. Money that is rolled over to the Triple S scheme from another superannuation fund or scheme must be paid to the Treasurer.

Amendment of s. 9—The Southern State Superannuation (Employers) Fund

8. Section 9 of the principal Act is amended by inserting the following paragraph after paragraph (a) of subsection (2):

(ab) the amount transferred by the Treasurer pursuant to clause 4 of schedule 3.

Amendment of s. 11—Determination of rate of return

9. Section 11 of the principal Act is amended—

(a) by inserting after "that financial year" in subsection (1) "and, where a member or members have nominated a class of investments, or combination of classes of investments, under section 27(4), a rate of return on investments of that class or combination of classes";

(b) by inserting after "the financial year" in paragraph (a) of subsection (2) "and, where a member or members have nominated a class of investments, or combination of classes of investments, the net rate of return achieved by the class of investments, or combination of classes of investments, nominated by the member".

Amendment of s. 12—Payment of benefits

10. Section 12 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) If the payment includes an employee component or a rollover component, an amount equivalent to the amount standing to the credit of the member's contribution account or rollover account is to be charged against the appropriate account and the Treasurer must reimburse the Consolidated Account or special deposit account by charging the Fund with that amount.

Insertion of s. 13A

11. The following section is inserted in Division 5 of Part 2 after section 13 of the principal Act:

Report as to cost of future service benefit

13A. (1) The Minister must obtain a report within 12 months after 30 June 2001 and thereafter within 12 months after the end of each triennium following that date.

(2) Each report must report on the cost of basic and supplementary future service benefits at the time of the report and in the foreseeable future and must be prepared by an actuary (not being a member of the Board) appointed by the Minister.

(3) The Minister must, within six sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

Substitution of Division 1 of Part 3

12. Division 1 of Part 3 of the principal Act is repealed and the following Division is substituted:

DIVISION 1—MEMBERSHIP OF THE SCHEME**Membership**

14. (1) Subject to this section, a person in relation to whom the Crown, or an agency or instrumentality of the Crown, is liable to pay a superannuation guarantee charge under the Commonwealth Act is a member of the Southern State Superannuation Scheme.

(2) Subject to this section, a person who was a member of the Benefit Scheme immediately before the repeal of the *Superannuation (Benefit Scheme) Act 1992* is a member of the Triple S scheme.

(3) Subject to subsections (4), (5) and (6) the following persons are not members of the scheme:

- (a) a person who is a member of a scheme of superannuation established by or under some other Act;
- (b) a person who is a member of a scheme of superannuation established for the benefit of the employees of an agency or instrumentality of the Crown (not being a scheme referred to in paragraph (a));

- (c) a person employed pursuant to a fixed term contract that—
 - (i) requires the employer to provide for or contribute towards benefits for the employee in a scheme of superannuation other than the Triple S scheme; and
 - (ii) does not expressly state that the provision or contribution by the employer referred to in subparagraph (i) is in addition to the employee's membership of the Triple S Scheme;
- (d) a person whose earnings from employment to which this Act applies are less than the amount prescribed by regulation during the period prescribed by regulation for that purpose;
- (e) the employees of an agency or instrumentality of the Crown that has been excluded from the operation of this section by regulation;
- (f) a person employed in employment prescribed by regulation for the purposes of this paragraph.

(4) A member of—

- (a) the State Scheme or of any other scheme established by or under an Act; or
- (b) a scheme of superannuation established for the benefit of employees of an agency or instrumentality of the Crown,

becomes a member of the Triple S scheme whenever an entitlement to benefits needs to accrue to the member under the Triple S scheme to satisfy the requirements of the Commonwealth Act and, in that event, the amount of the charge percentage in respect of the member for the purposes of this Act will be—

- (c) the amount declared by regulation for that purpose; or
- (d) if no amount has been declared under paragraph (c)—the amount required to reduce the charge percentage under the Commonwealth Act in respect of the member to zero.

(5) Where the employer contributions pursuant to a contract referred to in subsection (3)(c) are not sufficient to reduce the charge percentage under the Commonwealth Act to zero—

- (a) the employee is a member of the Triple S scheme; and
- (b) the amount of the charge percentage in respect of that employee for the purposes of this Act is the amount required to reduce the charge percentage under the Commonwealth Act to zero.

(6) The Governor may, by regulation, declare the members of a scheme of superannuation established by or under some other Act or established for the benefit of employees of an agency or instrumentality of the Crown to be members of the Triple S scheme in order to provide them with superannuation benefits in place of benefits that would have accrued to them under the PSESS scheme if that scheme had continued for their benefit after 30 June 1992.

(7) The amount of the charge percentage in respect of members referred to in subsection (6) will be fixed by regulation.

(8) A regulation for the purposes of subsection (4) or (7) may be retrospective to 1 July 1998.

Election by contributor to the State Scheme

15. (1) A contributor within the meaning of the *Superannuation Act 1988* may elect to become a member of the Southern State Superannuation Scheme if the employment on which his or her status as such a contributor is based has not terminated.

(2) An election takes effect on a date fixed by the Board being a date occurring within two months after the election was made.

(3) For the purposes of the *Superannuation Act 1988*, a contributor who has made an election under subsection (1) 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 that Act applies.

(4) An election under this section—

- (a) must be made in writing to the Board; and
- (b) may specify the rate (if any) at which the member elects to contribute to the scheme.

Duration of membership

16. (1) A person who fulfils the requirements for membership of the scheme under this Division remains a member of the scheme until benefits payable under this Act to, on behalf of, or in respect of, the member have been paid even though the member may have subsequently ceased to fulfil the requirements for membership under this Division.

(2) Subject to section 37, during a period in which a member does not fulfil the requirements for membership of the scheme under this Division an annual employer contribution does not accrue under this Act to the member in respect of that period.

(3) Where a member becomes a member of a scheme of superannuation established for the benefit of the employees of an agency or instrumentality of the Crown, his or her membership of the Triple S scheme that is attributable to his or her employment by the agency or instrumentality is terminated and the member's employee and employer components and rollover component (if any) (as defined in section 30) attributable to that membership are carried over to the other superannuation scheme.

(4) Where an annual employer contribution has not accrued to a member under this Act or the repealed *Superannuation (Benefit Scheme) Act 1992* for a period of three years or more because the member has been an active contributor during that period under the *Superannuation Act 1988*, an amount equivalent to the balance standing to the credit of the member's employer contribution account and the member's rollover account (if any) may be paid by the Treasurer to the credit of the member's rollover account under the *Superannuation Act 1988* and in that event the member ceases to be a member of the Triple S scheme.

Amendment of s. 22—Acceptance as a supplementary future service benefit member

13. Section 22 of the principal Act is amended—

(a) by inserting the following subsections after subsection (1):

(1a) A person who is employed on a casual basis can only be accepted as a supplementary future service benefit member if he or she is employed pursuant to an arrangement under which he or she is to work for nine or more hours each week or for periods that average, over a three month period, nine or more hours each week.;

(1b) A person who is a member of the scheme by virtue of section 14 (4), (5) or (6) cannot be accepted as a supplementary future service benefit member.

(b) by striking out from subsection (4) "The applicant" and substituting "Subject to subsection (8), the applicant";

(c) by inserting the following subsection after subsection (7):

(8) If within three months after electing to become a member of the Triple S scheme, a contributor under the *Superannuation Act 1988* applies to the Board under this section for acceptance as a supplementary future service benefit member—

(a) subsection (4) does not apply to the applicant; and

(b) the Board must accept the application and the only conditions that it can impose on its acceptance are the conditions (if any) to which the applicant's membership of the State Scheme is subject or conditions to which the applicant agrees.

Amendment of s. 23—Variation of benefits

14. Section 23 of the principal Act is amended by inserting the following subsection after subsection (3):

(4) The variation of the level of supplementary future service benefits under this section operates from the commencement of the financial year following the Board's granting of the application for variation.

Amendment of s. 25—Contributions

15. Section 25 of the principal Act is amended—

(a) by striking out "must" from subsection (1) and substituting "may elect to";

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

(2) A person who is a member of the scheme by virtue of section 14(4), (5) or (6) is not entitled to make contributions.;

(c) by striking out subsections (5), (6) and (7) and substituting the following subsections:

(5) A member who has elected to contribute may subsequently elect to contribute at a different rate or to cease contributing.

(6) An election under this section must be made to the Board in writing and, subject to subsection (7), will operate from a date to be fixed by the Board.

(7) Subject to subsection (7a), an election by a member under subsection (5) cannot operate until at least one year has passed since the member's previous election came into operation.

(7a) Where the Board is satisfied that a member needs to reduce his or her contributions because of financial hardship, the Board may permit an election to operate from an earlier date.;

(d) by inserting the following subparagraph after subparagraph (iv) of paragraph (b) of subsection (8):

(iva) if the reason for the reduction in hours of work is an illness or injury suffered by the member, an election under subparagraph (iv) may, with the Board's approval, operate during subsequent years despite paragraph (a);;

(e) by inserting the following subsection after subsection (8):

(8a) When determining a member's salary for the purposes of subsection (8)(a), an amount that does not usually form part of the member's salary will be disregarded.

Insertion of new section

16. The following section is inserted in Part 3 Division 3 after section 25 of the principal Act:

Additional contributions

25A. (1) A member who is making contributions to the Treasurer under section 25 may make additional contributions to the Treasurer under this section.

(2) The amount of each additional contribution must be equal to or exceed the amount prescribed by regulations for the purposes of this section.

Substitution of s. 27

17. Section 27 of the principal Act is repealed and the following section is substituted:

Employer contribution accounts

27. (1) The Board must maintain employer contribution accounts in the names of all members.

(2) Subject to subsection (7), a member's employer contribution account must be credited with amounts that are equivalent to the amounts paid or payable by the member's employer to the Treasurer under section 26 in respect of salary paid to the member.

(3) At the end of each financial year, each member's employer contribution account will be adjusted to reflect a rate of return equivalent to the rate of return on investments of the Southern State Superannuation (Employers) Fund determined by the Board under section 11 in respect of the relevant financial year or, where the member has made a nomination under subsection (4), equivalent to the rate of return on the nominated class of investments, or combination of classes of investments, determined by the Board.

(4) Where the Southern State Superannuation (Employers) Fund is invested in different classes of investments, the Board may, with the agreement of the Treasurer, permit members, on such terms and conditions as it thinks fit, to nominate the class of investments, or combination of classes of investments, for the purpose of determining the rate of return under subsection (3).

(5) A member cannot nominate a class of investments, or a combination of classes of investments, under subsection (4) if he or she does not at the same time nominate the same class or combination of classes of investments under section 7A(3).

(6) If, when the employer component is to be paid under Part 5 or an amount is to be paid under section 16(4), the rate of return for the relevant financial year has not been determined under section 11, the rate of return will be equivalent to the rate of return on investments of the Southern State Superannuation (Employers) Fund estimated by the Board for that year (there will be no adjustment when the rate of return is subsequently determined under section 11).

(7) The amounts to be credited under subsection (2) must be reduced by—

- (a) an administrative charge to be prescribed by regulation (different charges may be prescribed depending on the balance of members' accounts or any other relevant factor); and
- (b) the future service benefit factor which, subject to subsection (8), has the value prescribed by regulation; and
- (c) the disability pension factor which, subject to subsection (9), has the value prescribed by regulation.

(8) The value of the future service benefit factor is zero in relation to a member referred to in section 34(5) or (5a) or section 35 (6) or (6a).

(9) The value of the disability pension factor is zero in relation to a member who is not entitled to a disability pension under section 33A under any circumstances.

(10) A reference in this section to "rate of return" is a reference to a positive or a negative rate of return.

Repeal of s. 28

18. Section 28 of the principal Act is repealed.

Substitution of s. 30

19. Section 30 of the principal Act is repealed and the following section is substituted:

Interpretation

30. In this Part—

"the employee component" in relation to a member means the amount standing to the credit of the member's contribution account;

"the employer component" in relation to a member means the amount standing to the credit of the member's employer contribution account;

"the future service benefit factor" means the future service benefit factor referred to in section 27(7)(b);

"the rollover component" in relation to a member means the amount standing to the credit of the member's rollover account.

Amendment of s. 31—Retirement

20. Section 31 of the principal Act is amended—

(a) by inserting after "employer component" in subsection (1) "and to payment of the rollover component (if any) to the extent that that payment can be made in accordance with the SIS Act";

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

(1a) A rollover component, or the part of a rollover component, that cannot be paid in accordance with the SIS Act must be preserved and subsections (6) and (6a) of section 32 apply to and in relation to it.

Amendment of s. 32—Resignation

21. Section 32 of the principal Act is amended—

(a) by striking out from paragraph (c) of subsection (1) "in accordance with criteria prescribed by the regulations for the purposes of this paragraph";

(b) by striking out from paragraph (c) of subsection (2) "in accordance with criteria prescribed by the regulations for the purposes of this paragraph";

(c) by inserting the following subsection after subsection (2):

(2a) Where a member resigns from employment before reaching the age of 55 years the member may elect—

(a) to take immediately the rollover component (if any) to the extent that payment of that component can be made in accordance with the SIS Act; or

- (b) to preserve the rollover component; or
- (c) to carry the rollover component over to some other superannuation fund or scheme approved by the Board.;
- (d) by striking out "\$500" from paragraph (a) of subsection (3) and substituting "\$200";
- (e) by striking out subsection (4) and substituting the following subsection:

 - (4) A member who fails to inform the Board in writing of his or her election under subsection (1), (2) or (2a) within three months after resignation will be taken to have elected to preserve the employee, employer or rollover component as the case requires.;
- (f) by striking out subsection (6) and substituting the following subsections:

 - (6) Where the member elects to preserve the employee, employer or rollover component, the following provisions apply subject to subsection (6a):

 - (a) the member may at any time after reaching 55 years of age require the Board to authorise payment of the component and, if no such requirement has been made on or before the date on which the member reaches 65 years of age, the Board will authorise payment of the component to the member;
 - (b) if the member has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board will authorise payment of the component to the member;
 - (c) if the member dies, the component will be paid to the spouse of the deceased member or, if he or she left no surviving spouse, to the member's estate,

(and a payment under any of the above paragraphs excludes further rights so that a claim cannot be subsequently made under some other paragraph).
 - (6a) Subsection (6) applies to a rollover component subject to restrictions imposed by the SIS Act.;
- (g) by striking out from subsection (7) "employee component or employer component (or both)" and substituting "employee component, employer component or rollover component";
- (h) by striking out from subsection (7) "in accordance with criteria prescribed by the regulations for the purposes of this subsection";
- (i) by striking out subsection (8) and substituting the following subsection:

 - (8) If two or three components have been preserved, a member cannot make an election under subsection (7) to carry one or two but not both or all of them over.;
- (j) by striking out "the employee or employer component (or both)" from subsection (9) and substituting "the employee, employer or rollover component";

- (k) by striking out "will pay the component" from paragraph (b) of subsection (9) and substituting "will authorise payment of the component";
- (l) by striking out subsection (10) and substituting the following subsection:

(10) Where a member has resigned from employment and has elected to preserve the employee, employer or rollover component but has subsequently been re-employed in employment by virtue of which he or she becomes a member of the scheme, the Board may maintain separate member's contribution accounts or employer contribution accounts or rollover accounts or a combined member's contribution account or employer contribution account or rollover account in the name of the member.;

- (m) by striking out subsection (11) and substituting the following subsection:

(11) For the purposes of this section and subject to any other provision of this Act a member who has not reached the age of 55 years will be taken to resign if the member's employment terminates or is terminated for any reason except invalidity (in circumstances entitling the member to benefits under this Act), retrenchment or death.

Amendment of s. 33—Retrenchment

22. Section 33 of the principal Act is amended—

- (a) by inserting after "employer component" in subsection (1) "and to payment of the rollover component (if any) to the extent that that payment can be made in accordance with the SIS Act";
- (b) by striking out subsection (2) and substituting the following subsection:

(2) The member may elect to preserve his or her employee, employer or rollover component or to carry it over to some other superannuation fund or scheme and in the event of such an election the provisions of section 32 will apply as if the member had resigned from employment.

Insertion of s. 33A

23. The following section is inserted after section 33 of the principal Act:

Disability pension

33A. (1) Subject to this section, a member who is temporarily or permanently incapacitated for work, and has not reached the age of 55 years, is entitled to a disability pension.

(2) The amount of a disability pension will be two-thirds of the member's notional salary.

(3) A member who becomes incapacitated for work in a particular position will not be regarded as incapacitated for work for the purposes of this section if some other position, carrying a salary of at least 80 per cent of the salary applicable to the former position, is available to the member and the member could reasonably be expected to take that other position.

(4) Subject to subsection (5), a member is only entitled to a pension if he or she has made contributions under this Act for a period of at least 12 months before the commencement of the incapacity.

(5) Subsection (4) does not apply to a member if—

- (a) the incapacity was caused by accidental injury; or
- (b) the member is a supplementary future service benefit member.

(6) However, a member will not be entitled to a pension by reason of subsection (5)(b) if he or she would not have been entitled to, or would have been entitled to a reduced, supplementary future service benefit (because of conditions placed by the Board on its acceptance of the member as a supplementary future service benefit member) on termination of his or her employment on account of invalidity.

(7) A disability pension is not payable in respect of—

- (a) a period in respect of which the member is entitled to sick leave; or
- (b) a period in respect of which the member is entitled to weekly payments of workers compensation; or
- (c) a period for which the member is on recreation leave or long service leave.

(8) The Board will not authorise the payment of a disability pension in respect of a period of incapacity of less than one week and may decline to authorise a disability pension if it appears that the duration of the incapacity is likely to be less than six months.

(9) A disability pension cannot be paid for a continuous period of more than 12 months unless the Board thinks that there are special reasons for extending that limit, in which case it may extend the pension period by not more than a further 6 months.

(10) A disability pension cannot be paid, in respect of the same incapacity, for an aggregate period of more than 18 months in any one period of 36 months.

(11) A member is not required to make any contribution over a period for which the member receives a disability pension.

(12) A right to a disability pension under this section cannot be assigned.

(13) Subsection (12) does not prevent the making of a garnishee order in relation to a pension.

Amendment of s. 34—Termination of employment on invalidity

24. Section 34 of the principal Act is amended—

- (a) by striking out "two components" from subsection (1) and substituting "the following components:";
- (b) by striking out paragraph (b) of subsection (1) and substituting the following paragraphs:
 - (b) the employer component; and
 - (c) the rollover component (if any); and

(d) subject to this section, the basic future service benefit and, where the member is a supplementary future service benefit member, a supplementary future service benefit.;

(c) by striking out subsections (2) and (3) and substituting the following subsections:

(2) The basic and supplementary future service benefits are not payable—

(a) unless 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;

(b) to a member whose employment terminated on account of invalidity within one year after the commencement of his or her membership of the scheme unless—

(i) he or she was a member of the Benefit Scheme, the State Scheme or any other scheme of superannuation established for the benefit of the employees of an agency or instrumentality of the Crown immediately before becoming a member of the Triple S scheme and the termination of his or her employment occurred on or after the first anniversary of the commencement of his or her membership of the Benefit Scheme, the State Scheme or other scheme; or

(ii) the invalidity was caused by accidental injury; or

(iii) the member is a supplementary future service benefit member (but, in that case, payment of both the basic future service benefit and the supplementary future service benefit is subject to the conditions (if any) imposed by the Board when granting the member's application to be accepted as a supplementary future service benefit member).

(3) The value of the basic and supplementary future service benefits and the value of the future service benefit factor will be fixed by, or the method for determining the value set out in, regulations (the regulations may provide for different values depending on the member's age or whether the member was employed on a full time, part time or casual basis or on any other relevant factor.)

(3a) The basic future service benefit is payable to a member who is on leave without pay when his or her employment is terminated on account of invalidity if termination occurs on or before the first anniversary of the commencement of the leave but not if it occurs after that date.

(3b) The supplementary future service benefit is not payable to a member who is on leave without pay when his or her employment is terminated on account of invalidity—

(a) unless a direction had been made by the Minister under section 37 in relation to the member; or

(b) except where the member's employment was terminated on or before the first anniversary of the commencement of the leave and the member had paid to the Treasurer, or had made arrangements for payment approved by the Board of, an amount determined by the Board equivalent to the future service benefit factor in respect of the supplementary future service benefit for the first year of the leave.;

(d) by striking out subsection (5) and substituting the following subsections:

(5) A person who is a member of the scheme by virtue of section 14 (4), (5) or (6) is not entitled to a future service benefit under this section.

(5a) A member who has received a future service benefit under this section (or a future service benefit, or a benefit in the nature of a future service benefit, under any other Act that provides for the payment of benefits by the Treasurer) and is subsequently employed in employment to which this Act applies is not entitled to a future service benefit under this section in respect of his or her subsequent employment.;

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

(6a) When determining for the purposes of subsection (6) whether a member is entitled to benefits under subsection (1) or to a payment under subsection (6), the rollover component (if any) will be disregarded (the member is entitled to payment of the rollover component in addition to a payment under subsection (6)).

Amendment of s. 35—Death of member

25. Section 35 of the principal Act is amended—

(a) by striking out paragraph (c) of subsection (2) and substituting the following paragraphs:

(c) the rollover component (if any); and

(d) subject to this section, in the case of a member who had not reached the age of 60 years, the basic future service benefit and, where the member was a supplementary future service benefit member, a supplementary future service benefit.;

(b) by striking out subsections (3) and (4) and substituting the following subsections:

(3) The basic and supplementary future service benefits are not payable in respect of a member who died within one year after the commencement of his or her membership of the scheme unless—

(a) he or she was a member of the Benefit Scheme, the State Scheme or any other scheme of superannuation established for the benefit of the employees of an agency or instrumentality of the Crown immediately before becoming a member of the Triple S scheme and his or her death occurred on or after the first anniversary of the commencement of his or her membership of the Benefit Scheme, the State Scheme or other scheme; or

(b) death was caused by accidental injury; or

- (c) the member was a supplementary future service benefit member (but, in that case, payment of both the basic future service benefit and the supplementary future service benefit is subject to the conditions (if any) imposed by the Board when granting the member's application to be accepted as a supplementary future service benefit member).

(4) The value of the basic and supplementary future service benefits and the value of the future service benefit factor will be fixed by, or the method of determining the value set out in, regulations (the regulations may provide for different values depending on the member's age or whether the member was employed on a full time, part time or casual basis or on any other relevant factor).

(4a) The basic future service benefit is payable in respect of a member who was on leave without pay when he or she died if death occurred on or before the first anniversary of the commencement of the leave but not if it occurred after that date.

(4b) The supplementary future service benefit is not payable in respect of a member who was on leave without pay when he or she died—

- (a) unless a direction had been made by the Minister under section 37 in relation to the member; or
- (b) except where the member died on or before the first anniversary of the commencement of the leave and the member had paid to the Treasurer, or had made arrangements for payment approved by the Board of, an amount determined by the Board equivalent to the future service benefit factor in respect of the supplementary future service benefit for the first year of the leave.;

(c) by striking out subsection (6) and substituting the following subsections:

(6) A future service benefit is not payable under this section in respect of a person who was a member of the scheme by virtue of section 14 (4), (5) or (6).

(6a) A future service benefit is not payable in respect of a member who has died if—

- (a) the member was previously employed in employment to which this Act applies or any other employment; and
- (b) the employment was terminated on account of invalidity; and
- (c) the member had received a future service benefit under section 34 or a future service benefit, or a benefit in the nature of future service benefit, under any other Act that provides for the payment of benefits by the Treasurer.;

(d) by inserting the following subsection after subsection (7):

(7a) When determining for the purposes of subsection (7) whether a member's spouse or estate is entitled to benefits under subsection (2) or to a payment under subsection (7), the rollover component (if any) will be disregarded (the spouse or estate is entitled to payment of the rollover component in addition to a payment under subsection (7)).

Substitution of s. 36

26. Section 36 of the principal Act is repealed and the following section is substituted:

Information to be given to certain members

36. The Board must provide members of the scheme who do not contribute or who are not supplementary future service benefit members with information as to the benefits of contributing or applying for supplementary future service benefit membership.

Amendment of s. 38—Exclusion of benefits under awards, etc.

27. Section 38 of the principal Act is amended by striking out the definition of "the PSESS Scheme" from subsection (3).

Amendment of s. 40—Review of the Board's decision

28. Section 40 of the principal Act is amended by striking out "the Supreme Court" from subsection (1) and substituting "the District Court".

Amendment of s. 41—Power to obtain information

29. Section 41 of the principal Act is amended by striking out "Penalty: Division 4 fine" from subsection (3) and substituting "Maximum penalty: \$20 000".

Insertion of ss. 47A, 47B and 47C

30. The following sections are inserted after section 47 of the principal Act:

Confidentiality

47A. (1) A member or former member of the Board or the board of directors of the Superannuation Funds Management Corporation of South Australia, or a person employed or formerly employed in the administration of this Act, must not divulge information as to the entitlements or benefits of any person under this Act except—

- (a) as required by or under any Act of the State or the Commonwealth; or
- (b) to, or with the consent of, that person; or
- (c) to that person's employing authority; or
- (d) to any other person for purposes related to the administration of this Act; or
- (e) as may be required by a court.

Maximum penalty: \$10 000.

(2) This section does not prevent the disclosure of statistical or other information related to members generally or to a class of members rather than to an individual member.

Post retirement investment

47B. (1) The Board may offer to accept money from public sector superannuation beneficiaries for investment with the Superannuation Funds Management Corporation of South Australia.

(2) An offer will be on terms and conditions determined by the Board and the Corporation.

(3) Money accepted by the Board under subsection (1) 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.

(4) The Corporation may enter into transactions affecting that money—

(a) for the purposes of investment; or

(b) for purposes incidental, ancillary or otherwise related to investment.

(5) Money that may be invested by public sector superannuation beneficiaries under this section is not limited to money received by the investor from a public sector superannuation scheme.

(6) The Board must, in respect of each financial year—

(a) keep proper accounts of receipts and payments in relation to money accepted by it under this section; and

(b) prepare financial statements in relation to those receipts and payments.

(7) The Auditor-General may at any time, and must at least once in each year, audit the accounts and financial statements referred to in subsection (6).

(8) In this section—

"public sector superannuation beneficiary" means a person who has received a benefit—

(a) under this Act or under any other Act that establishes a scheme of superannuation; or

(b) under any other scheme of superannuation established for the benefit of employees of any agency or instrumentality of the Crown.

Annuities

47C. (1) The Board may, with the Minister's approval, provide annuities on terms and conditions fixed by the Board.

(2) The Board can only undertake to provide an annuity to a person who is, or has been—

- (a) a member of the Triple S scheme or some other scheme of superannuation established by an Act; or
- (b) a member of some other scheme of superannuation established for the benefit of employees of an agency or instrumentality of the Crown.

Amendment of s. 49—Regulations

31. Section 49 of the principal Act is amended by striking out "a division 7 penalty" from subsection (2) and substituting "a fine of \$2 500".

Insertion of schedule

32. The following schedule is inserted after schedule 2 of the principal Act:

SCHEDULE 3

Repeal and Transitional Provisions

1. The *Superannuation (Benefit Scheme) Act 1992* is repealed.
2. Subject to clause 3, on the commencement of the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998*, the employer contribution account under this Act of a member who was a member of the Benefit Scheme immediately before the repeal of the *Superannuation (Benefit Scheme) Act 1992* will be credited with the amount of the balance of the member's superannuation account under that Act.
3. That part (if any) of the balance of a member's superannuation account under the repealed *Superannuation (Benefit Scheme) Act 1992* comprising an amount credited from another superannuation fund or scheme under section 18 of the *Superannuation (Benefit Scheme) Act 1992* and all accretions attributable to that amount will, on the commencement of the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998*, be credited to the member's rollover account under this Act.
4. On the commencement of the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998* the Treasurer must transfer from the Consolidated Account (which is appropriated to the necessary extent) or from a special deposit account to the Southern State Superannuation (Employers) Fund an amount equivalent to the aggregate of the amounts credited to members' employer contribution accounts under clause 2.
5. (1) The Board will continue to maintain accounts maintained by it under section 28 of the repealed *Superannuation (Benefit Scheme) Act 1992*.

(2) The balance standing to the credit of an account referred to in subclause (1) will attract interest at the end of each financial year at a rate equivalent to the rate of return on investments of the Southern State Superannuation (Employers) Fund determined by the Board under Part 2 Division 3 in respect of the relevant financial year.

(3) An administration fee prescribed by regulation may be deducted by the Board from an account referred to in subclause (1) at the end of each financial year.
6. Section 15(3) does not apply to, or in relation to, a contributor who made an election under section 17(1) of this Act before the commencement of the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998* and, despite its repeal, section 17(2) continues to apply to, and in relation to, such a contributor.

7. (1) Where the employment of a member who was a member of the Benefit Scheme on 30 June 1998 terminates on account of invalidity or death on or before 30 June 1999, the basic future service benefit paid or payable to or in respect of the member under section 34 or 35 must not be less than the future service benefit that would have been payable to or in respect of the member under section 15 or 16 of the *Superannuation (Benefit Scheme) Act 1992* if that Act had remained in force and the member had remained a member of the Benefit Scheme.

(2) Where the employment of a member who was a member of the Triple S scheme on 30 June 1998 terminates on account of invalidity or death on or before 30 June 1999, the basic future service benefit paid or payable to or in respect of the member under section 34 or 35 must not be less than the future service benefit (calculated on the assumption that the member was not a supplementary future service benefit member) that would have been payable to or in respect of the member under the relevant section if the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998* had not come into operation.

8. (1) A calculation will be made in respect of each Benefit Scheme member to determine the amount of the future service benefit to which he or she would have been entitled if—

- (a) the member's employment had been terminated on account of invalidity on 1 January 1999; and
- (b) this Act had not been amended by the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998* and the *Superannuation (Benefit Scheme) Act 1992* had not been repealed.

(2) If the amount determined under clause (1) in respect of a member is greater than the amount of the basic future service benefit to which the member would have been entitled under this Act (as amended by the *Southern State Superannuation (Merger of Schemes) Amendment Act 1998*) if his or her employment had been terminated on account of invalidity on 1 January 1999, the following provisions apply:

- (a) the member will be taken to be a supplementary future service benefit member and, subject to this subclause, will be entitled to a supplementary future service benefit equivalent to the difference in the two amounts;
- (b) the member will be entitled to the supplementary future service benefit on and after 1 July 1999 and the member's future service benefit factor will be adjusted to reflect the member's entitlement under this clause from that date;
- (c) the Board may increase a member's benefit and benefit factor referred to in paragraphs (a) and (b) in order to match a level of supplementary future service benefit and future service benefit factor prescribed by regulation;
- (d) a member may, on giving at least two months written notice to the Board, elect to—
 - (i) reduce the level of the benefit to which he or she is entitled under this subclause and the benefit factor applicable to it to a lower level prescribed by regulation; or
 - (ii) discontinue the benefit;
- (e) a notice under paragraph (d) may operate from 1 July 1999 or from the commencement of a subsequent financial year;
- (f) a member referred to in this clause may apply to the Board under section 23 for an increase in the level of his or her supplementary future service benefit, but the Board may refuse the application or may grant it subject to conditions in accordance with section 22;
- (g) the Board must inform each member in writing of his or her entitlement to a supplementary future service benefit under this clause.

(3) In this clause—

"Benefit Scheme member" means a person who was a member of the Benefit Scheme immediately before the repeal of the *Superannuation (Benefit Scheme) Act 1992* and who is a member of the Triple S scheme by virtue of section 14(2).

9. Regulations made under section 27(7)(c) prescribing the disability pension factor may provide for their retrospective operation from 1 July 1998.

10. Regulations made under section 34(3) or 35(4) may—

- (a) provide for their retrospective operation from 1 July 1998;
- (b) include provisions of a transitional nature that may modify the provisions of this Act.

Amendment of Superannuation Funds Management Corporation of South Australia Act 1995

33. The *Superannuation Funds Management Corporation of South Australia Act 1995* is amended by inserting the following paragraph after paragraph (e) of the definition of "public sector superannuation funds" in section 3(1):

- (f) the money belonging to public sector superannuation beneficiaries invested with the Corporation by the South Australian Superannuation Board under section 47B of the *Southern State Superannuation Act 1994*;

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

E. J. NEAL Governor