



ANNO TERTIO

## ELIZABETHAE II REGINAE

A.D. 1954

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## No. 21 of 1954.

An Act to make further and better provision for police pensions, and for that purpose to repeal the Police Pensions Act, 1929-1951, and enact other provisions in lieu thereof.

[Assented to 11th November, 1954.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

## Short title.

1. This Act may be cited as the " Police Pensions Act, 1954 ".

## Commencement.

2. (1) The provisions of this Act, other than sections 1 and 2 shall come into operation on a day to be fixed by the Governor by proclamation.

(2) Sections 1 and 2 of this Act shall come into operation on the day on which this Act is assented to by the Governor.

(3) In this Act " the commencement of this Act " shall mean the day fixed by proclamation under subsection (1) of this section.

## Repeals.

3. The following Acts are repealed :—

Police Pensions Act, 1929—No. 1917 of 1929.

Police Pensions Act, 1932—No. 2066 of 1932.

Police Pensions Act Amendment Act, 1936—No. 2288 of 1936.

- Police Pensions Act Amendment Act, 1942—No. 19 of 1942.
- Police Pensions Act Amendment Act, 1943—No. 16 of 1943.
- Police Pensions Act Amendment Act, 1945—No. 31 of 1945.
- Police Pensions Act Amendment Act, 1947—No. 23 of 1947.
- Police Pensions Act Amendment Act, 1949—No. 7 of 1949.
- Police Pensions Act Amendment Act, 1950—No. 46 of 1950.
- Police Pensions Act Amendment Act, 1951—No. 25 of 1951.

4. (1) In this Act, unless the context otherwise requires— Interpretation.

“ child ” means child under the age of sixteen years, but does not include a child—

(a) of the re-marriage of the widow of a member or pensioner ; or

(b) of a marriage of a pensioner contracted after retirement on pension ;

“ the force ” means the police force of the State ;

“ the fund ” means the police pensions fund continued in existence by this Act ;

“ member ” means the Commissioner of Police and every other member of the force ;

“ pension ” means pension granted under this Act or any previous Police Pensions Act ;

“ pensioner ” means a person in receipt of a pension ;

“ the Public Actuary ” means the person for the time being employed as Public Actuary by the Government of the State, or the person for the time being acting in the office of Public Actuary ;

“ the repealed Acts ” means the Acts mentioned in section 3 of this Act.

“ service ” means service as a member of the force ;

“ widow ” does not include a wife whom a pensioner married after his retirement on pension.

Adminis-  
tration.

5. This Act shall be administered by the Chief Secretary.

*Police Pensions Fund.*

Police  
Pensions  
Fund.

6. (1) The fund called the “ Police Pensions Fund ” which was established under the Police Pensions Act, 1929-1951, is hereby continued in existence under that name and shall consist of the money in the fund at the time of the commencement of this Act, and all money paid into the fund pursuant to this Act.

(2) There shall be paid into the fund—

(a) all contributions payable by members under this Act ;

(b) all income arising from the investment of the fund or any part thereof ;

(c) all money voted by Parliament for the purposes of this Act.

(3) The fund shall be held by the Treasurer.

Exemption of  
fund from  
taxation.

7. The fund and the income thereof shall be exempt from all taxation.

Investment  
of fund.

8. The fund shall be invested in any one or more of the following investments, namely :—

(a) on deposit with the Treasurer ;

(b) in securities in which a trustee may, pursuant to the Trustee Act, 1936-1952, invest trust funds :

(c) in bonds, debentures, or other securities of any local governing body in Australia.

Report as to  
annual  
subsidy.

9. The Public Actuary shall, as early as possible in each financial year, report to the Chief Secretary what sum of money, in the opinion of the Public Actuary, should be voted by Parliament during that year for the purposes of the fund in order to make proper provision for payment of the moneys payable out of the fund.

**10.** The Public Actuary shall investigate the state and sufficiency of the fund at intervals of not more than five years and shall report the result of each investigation to the Chief Secretary. Quinquennial reports.

**11.** Pensions and other benefits prescribed by this Act and the cost of the administration of this Act shall be paid out of the fund by virtue of this section and without other appropriation. Payments from fund.

*Contributions to the Fund.*

**12.** (1) Subject to this Act, every member who is a contributor to the fund at the time of the commencement of this Act, and every person who becomes a member after the said commencement shall, after the commencement of this Act, contribute to the fund in accordance with this Act. Liability to contribute.

(2) Contributions by a member shall be payable in respect of the period commencing on the first day of the month in which the member joins the force and ending on the day when he ceases to be a member : Provided that if a member remains in the force after the last day of June next after his sixtieth birthday, he shall not be liable to contribute to the fund in respect of any period after the said last day of June.

**13.** Where a person joins the force after attaining the age of thirty-five years he may, by notice in writing given to the Public Actuary within two months after he so joins, elect not to contribute to the fund, in which case he shall not be a contributor. Elections not to contribute.

**14.** (1) The annual contribution payable by a member, other than a commissioned officer of the force, shall be in accordance with the following table :— Amount of contribution.

Age next birthday after commencing to contribute.	Amount of annual contributions.	
	Males.	Females.
	£	£
22 .....	41	34
23 .....	43	36
24 .....	45	38
25 .....	47	40
26 .....	49	42
27 and over .....	52	44

(2) The annual contribution payable by a commissioned officer of the force shall be six-fifths of the amount prescribed by subsection (1) of this section.

(3) Notwithstanding subsections (1) and (2) of this section a member who was in the force on the first day of January, nineteen hundred and thirty, shall not be obliged to contribute more than the following amount :—

- (a) in the case of a member other than a commissioned officer—forty-five pounds a year ;
- (b) in the case of a commissioned officer—fifty-four pounds a year.

Deduction of contributions from pay.

15. The Treasurer shall deduct the amount required to be contributed annually by every member from the pay of that member by two instalments in each calendar month. Each such instalment shall be one-twenty-fourth of the member's annual contribution.

Provision as to transfers to public service.

16. (1) Where a contributor to the fund is transferred to other employment under the Crown so as to become an employee within the meaning of the Superannuation Act, 1926-1953, he may elect to remain a contributor to the fund.

(2) If he so elects—

- (a) his contributions to the fund shall cease on his attaining the age of sixty ;
- (b) when he retires from or otherwise leaves the public service, or dies, pensions and benefits shall be payable to him and his widow and the children of himself or his widow as if his service in the public service had been service in the force ;
- (c) if he continues to be employed in the public service after attaining the age of sixty, half of the cash payment which would be payable to him on retirement from the force at the age of sixty, shall be payable to him on attaining the age of sixty, and half when he retires from the public service, and while he is employed in the public service after the age of sixty, he shall be entitled to pension at half the rate which would be payable to him if he had been in the force and retired therefrom at the age of sixty.

(3) A person who elects to remain a contributor to the fund pursuant to this section shall not contribute to The South Australian Superannuation Fund.

17. (1) If a contributor under the Superannuation Act, 1926-1951, is appointed as Commissioner of Police he may, upon giving to the South Australian Superannuation Fund Board written notice at any time within six months after his appointment, elect to continue to contribute for pension under that Act.

Provision as to  
Commissioner  
of Police.

(2) If such an election is made—

(a) the Commissioner shall not contribute or be entitled to benefits under this Act ; and

(b) his service and salary as Commissioner of Police shall be deemed to be service and salary within the meaning of the Superannuation Act, 1926-1951.

18. A person who has elected not to contribute to the fund shall not be entitled to any pension or other benefit under this Act ; and a person who has withdrawn from the fund shall not be entitled to any benefit under this Act other than a refund of contributions made by him under this Act or the repealed Acts.

Effect of  
withdrawal  
from fund.

#### *The Retiring Age.*

19. A member shall retire from the force on attaining the age of sixty or, at his option, at any time between his sixtieth birthday and the first day of July next after that birthday.

The retiring  
age.

#### *Pensions and Benefits.*

20. (1) Subject to this Act, every member who has served in the force for ten years or more and who retires after the commencement of this Act having attained the age of sixty years shall be entitled on retirement—

Pension and  
benefit on  
retirement  
after retiring  
age.

(a) to a cash payment of one thousand two hundred and fifty pounds ; and

(b) to a pension of three hundred and sixty-four pounds a year.

21. (1) Subject to this Act, every member who is incapacitated from performing his duties by infirmity of mind or body due to an injury received in the actual execution of his duties as a member shall be entitled to retire ; and where the retirement takes effect after the commencement of this Act, he shall be entitled to receive the following benefits upon retirement, namely—

Pension and  
benefit on  
retirement  
through injury  
in course of  
duty.

(a) a cash payment of the amount prescribed by subsection (2) of this section ;

(b) a pension of three hundred and sixty-four pounds a year

(2) The amount of the cash payment shall be—

- (a) where the member retires after having served in the force for less than ten years—twice the amount of the contributions paid by the member under this Act or the repealed Acts ;
- (b) where the member retires after having served in the force for ten years or more—four hundred pounds plus forty pounds for each complete year (if any) of the contributor's age at retirement in excess of forty years ;

Provided that no such cash payment shall exceed twelve hundred and fifty pounds.

Pension and benefit on retirement due to invalidity, other than injury on duty.

**22.** (1) Subject to this Act, every member who is incapacitated from performing his duties by infirmity of mind or body, not due to an injury received in the actual execution of his duties as a member, shall be entitled to retire ; and where the retirement takes effect after the commencement of this Act he shall be entitled to receive the following benefits upon retirement, namely :—

- (a) If the member has served in the force continuously for less than ten years—a cash payment equal to twice the contributions paid by him to the fund under this Act or the repealed Acts :
- (b) If the member has served in the force continuously for not less than ten years and not more than fifteen years—a pension of one hundred and eighty-two pounds a year, and a cash payment of four hundred pounds, plus forty pounds for each complete year (if any) of the member's age at retirement in excess of forty years :
- (c) If the member has served in the force continuously for not less than fifteen years—a pension of one hundred and eighty-two pounds a year, plus nine pounds a year for each complete year (if any) of the member's age at retirement in excess of forty years, but in no case exceeding three hundred and sixty-four pounds a year, and a cash payment of four hundred pounds, plus forty pounds for each complete year (if any) of the member's age at retirement in excess of forty years.

(2) No cash payment under this section shall exceed twelve hundred and fifty pounds.

**23.** No pension or benefit under the two preceding sections shall be payable if the infirmity of mind or body is consequent on or attributable to misconduct on the part of the member.

No payment where infirmity due to misconduct.

**24.** If a pensioner under sixty years of age—

(a) becomes so restored to health that he is able to perform duties as a member of the force ; and

(b) is offered and refuses employment in the force suitable to his condition of health at a salary not less than that payable, at the time of the offer, to a member of the force holding the rank and seniority which the pensioner held at the time of his retirement on pension—

Abatement of pension on restoration to health, and offer of employment.

the amount of pension payable each month to the pensioner shall be reduced by one pound for every two pounds of the monthly rate of pay at which the employment was offered.

**25.** If a person who has been in receipt of a pension is re-employed in the force—

Re-employment of pensioner.

(a) he shall not be entitled to pension during his re-employment ;

(b) he shall, during his re-employment contribute to the fund at the rate at which he was contributing immediately prior to his retirement on pension ;

(c) the period of his service before his first retirement but not the period between his first retirement and re-employment, shall be taken into account in ascertaining to what pension or cash payment he is entitled on subsequently leaving the force for any reason.

**26.** (1) Subject to this Act, a member who, before reaching the retiring age leaves the force owing to retrenchment shall be entitled to receive twice the amount of the contributions paid by him to the fund under this Act or the repealed Acts.

Benefits on retrenchment.

(2) "Retrenchment" means termination by the Commissioner of Police or the Government of the service of a member who is not entitled to retire on pension, where such termination is not due to any default or misconduct on the part of the member.

(3) If a retrenchment of the force is at any time made, those members shall be retrenched who have served for the shortest time in the force.



Benefits on leaving force in cases not otherwise provided for.

**27.** (1) Subject to this Act, any member who leaves the force before attaining the age of sixty years and who is not entitled to pension or benefit under any other provision of this Act shall be entitled to receive the amount of the contributions paid by him to the fund under this Act, or the repealed Acts.

(2) A member whose resignation from the force has been accepted but who is entitled to long service leave of absence before ceasing to be a member of the force shall, if he so elects in writing, be entitled to be paid the amount due to him under this section, at the commencement of or during the period of that leave of absence.

If that amount is so paid to him, he and his dependants shall not be entitled to any pension or other benefit under this Act in respect of death or incapacity occurring after the payment.

Payment on death of member without wife or children.

**28.** Where a member dies leaving neither a wife nor any children there shall be payable to his personal representative the amount of the contributions paid by the member to the fund under this Act, or the repealed Acts.

Benefits for widows and children of members and pensioners.

**29.** (1) Subject to this Act, if a member dies after the commencement of this Act leaving a widow she shall be entitled to the following benefits :—

- (a) a pension at the rate of one hundred and eighty-two pounds a year ; and
- (b) a cash payment of four hundred pounds plus forty pounds for each complete year (if any) by which the member's age at the time of his death exceeded forty years ; and
- (c) an allowance of thirty-nine pounds a year for each child of the deceased member or of the widow.

(2) If a pensioner dies after the commencement of this Act leaving a widow, she shall be entitled to the following benefits :—

- (a) a pension at the rate of one hundred and eighty-two pounds a year ; and
- (b) an allowance of thirty-nine pounds a year for each child of the deceased pensioner or of the widow.

(3) Where a member or pensioner who is a widower dies leaving children of himself or his deceased wife, or where the widow of a member or pensioner dies leaving children of herself or her deceased husband, there shall be payable to the guardian of the children, or to such person as the Chief Secretary directs, an allowance of seventy-eight pounds a year for the maintenance of each such child.

(4) The allowance for a child shall be payable only in respect of the period before the child attains the age of sixteen years.

(5) The pension of a widow shall cease on her re-marriage, but the re-marriage shall not affect the allowance to children.

**30.** The amount of any cash payment (other than a refund of contributions or of twice the amount of contributions) and of any limit of a cash payment and the amount of any pension payable pursuant to this Act to a commissioned officer who retires from the force on or after the day of the commencement of this Act and the rate of pension and cash payment (if any) payable to the widow of a commissioned officer who on or after that day retires from the force or dies while still a member of the force, shall be six-fifths of the amounts or rates fixed by the other provisions of this Act.

Rates of pension and benefits for commissioned officers.

**31.** Where the total of the contributions paid by a member under this Act, or the repealed Acts, exceed the total of any amounts paid under this Act, or the repealed Acts as—

Refund of contributions in excess of pensions and allowances.

- (a) pension to the member ;
- (b) pension to the widow of the member ;
- (c) cash payment to the member or his widow ;
- (d) allowance for any children of the member or of his widow ;

a sum equal to the amount of the excess shall be paid—

- (a) to the personal representatives of the member ; or
- (b) if at least twelve months have elapsed since the death of the member, and probate of the will, or letters of administration in respect of the estate, of the member have not been granted, to all or any of the persons appearing to the Chief Secretary to be entitled to the estate of the deceased member.

**32.** (1) On and after the day of the commencement of this Act pensions payable to pensioners who retired from the force before the commencement of this Act and to widows of members or pensioners who died before the said commencement shall be at the following rates :—

Increase of pensions in force at commencement of this Act.

- (a) Where the pensioner retired having attained the age of sixty years or by reason of incapacity due to an injury received in the actual execution of his duties as member—three hundred and sixty-four pounds a year ;

- (b) Where the pensioner retired by reason of incapacity not due to an injury as aforesaid, and having served in the force for not less than ten years and not more than fifteen years—one hundred and eighty-two pounds a year ; and
- (c) where the pensioner retired by reason of incapacity not due to an injury received in the actual execution of his duties as a member and having served in the force for fifteen years—one hundred and eighty-two pounds a year, plus nine pounds for each complete year (if any) of the member's age at retirement in excess of forty years ;
- (d) where the pensioner is the widow of a member or pensioner—one hundred and eighty-two pounds a year in addition to the allowance for each child of the deceased member or pensioner, or of the widow ;
- (e) where the pensioner was, before death or retirement, a commissioned officer or is the widow of a commissioned officer, the pension payable to him or her shall be at the rate of six-fifths of the amounts specified in paragraphs (a) to (d) of this subsection.

(2) Every allowance in respect of a child in respect of whom an allowance was being paid immediately before the commencement of this Act shall, on and after the day of commencement of this Act be at the rate of thirty-nine pounds a year : Provided that, where the child is an orphan, the allowance shall be at the rate of seventy-eight pounds a year.

Provision  
against  
duplication  
of cash  
payments.

**33.** Where a person who has received a cash payment on leaving the force is re-employed in the force, the amount of any cash payment payable to him or to his widow or personal representatives when he subsequently leaves the force or dies shall be arrived at by deducting the amount of the first-mentioned cash payment from the amount of the cash payment to which he or his widow or personal representatives would be entitled on his leaving the force or death, under the provisions of this Act.

(2) In this section "leaving the force" includes retirement, resignation, retrenchment, or other termination of service ; and "cash payment" includes refund of contributions.

Determination  
of questions  
as to  
incapacity, etc.

**34.** (1) No member shall be entitled to retire on pension on account of incapacity unless the Public Actuary is satisfied that the incapacity is likely to be permanent.

(2) If any dispute arises on the question whether a member is entitled to retire under this Act, or whether a member is so

restored to health as to be able to perform duties, or on any other question affecting the right to receive, or the amount or continuance of any pension, or other benefit under this Act, it shall be determined in the first instance by the Public Actuary upon consideration of any reports, evidence, and other information submitted by the member and any reports and information obtained by the Public Actuary.

(3) There shall be right of appeal against any determination of the Public Actuary to the Local Court of Full Jurisdiction at Adelaide. All matters relating to such appeals shall be prescribed by rules under the Local Courts Act, 1926-1947.

(4) No member shall be entitled to any pension or instalment of pension or cash payment if, on request by the Public Actuary, he neglects or refuses to undergo at any reasonable time fixed by the Public Actuary, examination by a medical officer nominated by the Public Actuary.

**35.** (1) No pension, cash payment, or allowance for children under this Act, and no part thereof, shall—

Pensions to be inalienable.

- (a) be anticipated, assigned, transferred, charged, encumbered, or otherwise parted with before the actual receipt thereof by the person entitled or prospectively entitled thereto; or
- (b) be attached or taken in execution under the process of any court before the receipt thereof as aforesaid;

but every such pension or allowance and every part thereof shall, until the actual receipt thereof, be an inalienable personal provision for every person entitled or prospectively entitled thereto.

(2) The Chief Secretary may, at any time, and in any amounts or instalments which he thinks proper, deduct from any money (other than an allowance for children) due to any person under this Act—

- (a) any money owing by that person to the Crown;
- (b) the amount of any damages to which the Crown is entitled by reason of any wrongful act or default of that person.

**36.** On the death of any person to whom a sum not exceeding one hundred pounds is due under this Act the Chief Secretary may, notwithstanding that neither probate nor letters of administration have been granted, pay or distribute that sum to or among the persons appearing to him to be

Power to pay moneys to persons apparently entitled.

beneficially entitled to the personal estate of the deceased. The receipt of any person to whom any money is paid under this section shall be a good discharge to the Chief Secretary as against the claim of any other person.

Desertion by pensioner of wife or child.

**37.** (1) If a pensioner deserts his wife the Chief Secretary may in his discretion and for such period as he thinks fit—

(a) pay pension to the wife in accordance with this Act as if the pensioner were dead ; and

(b) discontinue payment of pension to the pensioner.

(2) If a pensioner whose wife is dead or divorced deserts any of his children the Chief Secretary may, in his discretion and for such period as he thinks fit—

(a) pay to the children or the guardian of the children on their behalf an allowance for each deserted child in accordance with this Act as if the pensioner were dead ; and

(b) discontinue payment of pension to the pensioner.

Imprisonment of pensioner.

**38.** If a pensioner is sentenced to imprisonment for any period exceeding one month, payment of his pension under this Act shall be discontinued during the period of his imprisonment ; and

(a) if his wife is alive, she shall during that period be entitled to pension for herself and her or the pensioner's children, as if the pensioner were dead, unless the Chief Secretary is satisfied, after making such inquiry as he thinks fit, that payment to the wife is undesirable ; or

(b) if the wife is dead or divorced, allowances for her or the pensioner's children shall, during that period, be payable in accordance with this Act as if the pensioner were dead.

Insanity of pensioner.

**39.** If a pensioner becomes a patient in a hospital for the insane, the Chief Secretary may cause his pension or any part thereof to be paid, while he is such a patient, to his wife, if alive, or if his wife is dead or divorced, to some person for the use of the children of himself or of his late wife in such proportions as the Chief Secretary thinks fit.

**40.** Where any allowance in respect of a child is payable under this Act to a widow, and the widow dies, the allowance shall be payable to the guardian of the child, or if the Chief Secretary so directs, to some other person, upon trust to be used for the benefit of the child. Payment  
of child  
allowance.

**41.** Except where otherwise provided in this Act, a pension shall be payable during the life of the person entitled thereto. Pensions  
payable for  
life.

**42.** Pensions and allowances in respect of children shall be payable by two equal instalments in each calendar month. Each such instalment shall be one twenty-fourth of the annual rate of the pension or child allowance. Pensions  
payable at  
intervals.

#### *Offences and Regulations.*

**43.** If any person obtains or attempts to obtain for himself or for any other person any pension, benefit, or allowance under this Act, or any payment on account thereof by means of any false declaration, false certificate, false misrepresentation, false evidence, malingering, or feigning disease or infirmity, or by maiming or injuring himself, or causing himself to be maimed or injured, or by otherwise producing disease or infirmity, or by any other fraudulent conduct, he shall be guilty of an offence punishable summarily and liable to imprisonment for a term not exceeding six months or a fine not exceeding one hundred pounds, and in either case to forfeit any rights which he has under this Act. Fraud.

**44.** The Governor may make any regulations which are necessary or convenient for the administration of this Act, and may by any such regulation provide what is to be done in circumstances arising in connection with matters dealt with in this Act and not expressly provided for by this Act; and may, by any regulation create offences punishable summarily and impose penalties not exceeding fifty pounds. Regulations.

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

R. A. GEORGE, Governor.