



# **POLICE SUPERANNUATION (SUPERANNUATION GUARANTEE) AMENDMENT ACT 1993**

**No. 12 of 1993**

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**ELIZABETHAE II REGINAE**

A.D. 1993

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No. 12 of 1993

An Act to amend the Police Superannuation Act 1990 and to make a related amendment to the Superannuation Act 1988.

[Assented to 25 March 1993]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Police Superannuation (Superannuation Guarantee) Amendment Act 1993*.

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

**Commencement**

2. (1) Subject to subsection (2), this Act will be taken to have come into operation on 1 July 1992.

(2) Section 9 will be taken to have come into operation on 19 December 1991.

**Amendment of s. 4—Interpretation**

3. Section 4 of the principal Act is amended by inserting after the definition of “the Commissioner” in subsection (1) the following definition:

“the Commonwealth Act” means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

**Amendment of s. 22—Resignation and preservation**

4. Section 22 of the principal Act is amended by inserting the following subsections after subsection (1):

(1a) Where a contributor resigns and elects to take the amount referred to in subsection (1)(a) the contributor is also entitled to a superannuation payment in accordance with the following provisions:

(a) if the amount of the superannuation payment is less than \$500, the contributor is entitled to the payment upon resignation;

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- (b) if the amount of the payment is \$500 or more—
- (i) the contributor may at any time after reaching 60 years of age require the Board to make the payment and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will make the payment;
  - (ii) if the contributor has reached the age of 55 years and is not employed by an employer within the meaning of the Commonwealth Act, the contributor may require the Board to make the payment to the contributor;
  - (iii) if the contributor satisfies the Board that he or she has become totally and permanently incapacitated for work, the Board will make the payment to the contributor;
  - (iv) if the contributor dies, the payment will be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above subparagraphs excludes further rights so that a claim cannot be subsequently made under some other subparagraph).

(1b) The amount of the superannuation payment referred to in subsection (1a) is the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act adjusted to reflect changes in the Consumer Price Index since the date of resignation.

#### **Amendment of s. 26—Death of contributor**

5. Section 26 of the principal Act is amended—

(a) by inserting after “if the contributor is survived by” in paragraph (b) of subsection (1) “a spouse and”;

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

(ba) if the contributor is not survived by a spouse but is survived by an eligible child or eligible children—a lump sum will be paid to the contributor's estate and a pension will be paid to each eligible child throughout any period of dependency;;

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

(5) The lump sum to be paid to the estate of a contributor who is not survived by a spouse but is survived by an eligible child or eligible children will be the greater of the following amounts:

(a) an amount equivalent to the amount standing to the credit of the

contributor's contribution account;

- (b) an amount equivalent to twice the amount of the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount).

(6) The estate of a contributor who is not survived by a spouse or an eligible child is entitled to a lump sum payment in accordance with the following provisions:

- (a) if the contributor died in the course of duty the lump sum is the greater of the following:

(i)  $LS = 7 \times A \times FS$ ;

(ii)  $LS = 3 \times FS$ ;

- (b) if the contributor did not die in the course of duty the lump sum is calculated as follows:

$$LS = 7 \times A \times FS$$

In both paragraphs (a) and (b)—

LS is the lump sum payment

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 420;

FS is the contributor's actual or attributed salary (expressed as an annual amount);

### Substitution of s. 33

6. Section 33 of the principal Act is repealed and the following section is substituted:

#### Benefits payable to contributor's estate

33. (1) The estate of a contributor who dies and is not survived by a spouse but is survived by an eligible child or eligible children is entitled to a lump sum that is—

- (a) where the contributor's employment was terminated by the contributor's death—the greater of the following amounts:

- (i) an amount equivalent to the amount standing to the credit of the contributor's contribution account;

- (ii) an amount equivalent to twice the amount of the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount);
- (b) in any other case—an amount equivalent to the amount standing to the credit of the contributor's contribution account.

(2) The estate of a contributor whose employment was terminated by his or her death and who is not survived by a spouse or an eligible child is entitled to a lump sum payment in accordance with the following provisions:

- (a) if the contributor died in the course of duty the lump sum is the greater of the following:
- (i)  $LS = 7 \times A \times FS$ ;
- (ii)  $LS = 3 \times FS$ ;
- (b) if the contributor did not die in the course of duty the lump sum is calculated as follows:

$$LS = 7 \times A \times FS$$

In both paragraphs (a) and (b)—

LS is the lump sum payment

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360;

FS is the contributor's actual or attributed salary (expressed as an annual amount);

#### Amendment of s. 34—Resignation and preservation of benefits

7. Section 34 of the principal Act is amended by inserting after subsection (1) the following subsections:

(1a) Where a contributor resigns and elects to take the amount referred to in subsection (1)(a) the contributor is also entitled to a superannuation payment in accordance with the following provisions:

- (a) if the amount of the superannuation payment is less than \$500, the contributor is entitled to the payment upon resignation;

- (b) if the amount of the payment is \$500 or more—
- (i) the contributor may at any time after reaching 60 years of age require the Board to make the superannuation payment and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will make the payment;
  - (ii) if the contributor has reached the age of 55 years and is not employed by an employer within the meaning of the Commonwealth Act the contributor may require the Board to make the payment to the contributor;
  - (iii) if the contributor satisfies the Board that he or she has become totally and permanently incapacitated for work, the Board will make the payment to the contributor;
  - (iv) if the contributor dies, the payment will be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above subparagraphs excludes further rights so that a claim cannot be subsequently made under some other subparagraph).

(1b) The amount of the superannuation payment referred to in subsection (1a) is the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act adjusted to reflect changes in the Consumer Price Index since the date of resignation.

#### **Substitution of s. 50**

8. Section 50 of the principal Act is repealed and the following section is substituted:

##### **Resolution of doubts or difficulties**

50. If, in the opinion of the Board, any doubt or difficulty arises in the application of this Act to particular circumstances, the Board may give such directions as are reasonably necessary to resolve the doubt or difficulty and this Act will apply subject to a direction given by the Board under this section.

#### **Amendment of Superannuation Act 1988**

9. Section 38 of the *Superannuation Act 1988* is amended—

- (a) by striking out from paragraph (d) of subsection (1) “if the contributor” and substituting “if the contributor’s employment is terminated by the contributor’s death and the contributor”;

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- (b) by striking out from subsection (7) "Where a contributor dies and" and substituting "Where a contributor's employment is terminated by the contributor's death and the contributor".

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

R. MITCHELL, Governor