

South Australia



ANNO QUINQUAGESIMO
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**SOUTHERN STATE SUPERANNUATION (INVALIDITY/DEATH
INSURANCE) AMENDMENT ACT 2001**

No. 39 of 2001

[Assented to 3 August 2001]

An Act to amend the Southern State Superannuation Act 1994.

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The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Southern State Superannuation (Invalidity/Death Insurance) Amendment Act 2001*.

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

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended—

(a) by inserting after the definition of "actuary" in subsection (1) the following definitions:

"**additional invalidity/death insurance**" means invalidity/death insurance granted by the Board under section 22 in addition to basic invalidity/death insurance;

"**additional invalidity/death insurance benefits**" means benefits payable in respect of additional invalidity/death insurance;;

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

"**basic invalidity/death insurance**" means invalidity/death insurance to which a member is entitled by virtue of his or her membership of the scheme;

"**basic invalidity/death insurance benefits**" means benefits payable in respect of basic invalidity/death insurance;;

(c) by inserting after the definition of "the Consumer Price Index" the following definition:

"**contributions**" means contributions made under section 25 or section 25A;;

(d) by striking out the definition of "future service benefit" from subsection (1);

(e) by inserting the following definition after the definition of "invalidity" in subsection (1):

"**invalidity/death insurance benefits**" means basic or additional invalidity/death insurance benefits;;

(f) by striking out the definitions of "supplementary future service benefit" and "supplementary future service benefit member" from subsection (1).

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

4. Section 9 of the principal Act is amended by striking out "future service benefits" from paragraph (a) of subsection (3) and substituting "invalidity/death insurance benefits".

Amendment of s. 10—Accounts and audit

5. Section 10 of the principal Act is amended by inserting the following subsection after subsection (1):

(1a) The financial statements must set out the aggregate of the amounts debited against employer contribution accounts under section 27(7)(b) in respect of premiums for invalidity/death insurance.

Amendment of s. 12—Payment of benefits

6. Section 12 of the principal Act is amended—

- (a) by striking out "a future service benefit" from subsection (3) and substituting "an invalidity/death insurance benefit";
- (b) by striking out "a future service benefit", first occurring, from subsection (4) and substituting "an invalidity/death insurance benefit";
- (c) by striking out "a future service benefit", second occurring, from subsection (4) and substituting "the invalidity/death insurance benefit".

Amendment of s. 13A—Report as to cost of invalidity/death insurance benefits

7. Section 13A of the principal Act is amended by striking out "basic and supplementary future service benefits" from subsection (2) and substituting "basic and additional invalidity/death insurance benefits".

Substitution of heading

8. The heading to Part 3 of the principal Act is struck out and the following heading is substituted:

**PART 3
MEMBERSHIP, INVALIDITY/DEATH INSURANCE AND CONTRIBUTIONS**

Substitution of heading

9. The heading to Division 2 of Part 3 of the principal Act is struck out and the following heading is substituted:

DIVISION 2—INVALIDITY/DEATH INSURANCE

Insertion of s. 21

10. The following section is inserted in Division 2 of Part 3 of the principal Act before section 22:

Basic Invalidity/Death Insurance

21. (1) Subject to this section, each member of the scheme is entitled to basic invalidity/death insurance regardless of the state of health of the member.

(2) A person who is a member of the scheme by virtue of section 14(4), (5) or (6) or section 15B is not entitled to basic invalidity/death insurance.

(3) A member who has received invalidity insurance benefits under this Act (or a benefit in the nature of invalidity insurance benefits 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 basic invalidity insurance in respect of his or her subsequent employment.

Amendment of s. 22—Application for additional invalidity/death insurance

11. Section 22 of the principal Act is amended—

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

(1) Subject to this section, a member may apply to the Board for additional invalidity/death insurance.;

(b) by striking out "be accepted as a supplementary future service benefit member" from subsection (1a) and substituting "apply for additional invalidity/death insurance";

(c) by striking out "cannot be accepted as a supplementary future service benefit member" from subsection (1b) and substituting "or section 15B cannot apply for additional invalidity/death insurance";

(d) by striking out "level of supplementary future service benefits" from subsection (2) and substituting "additional invalidity/death insurance";

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

(3) All members of the police force and all police cadets who are members of the scheme have such additional invalidity/death insurance as is prescribed by regulation and are liable for premiums in respect of that insurance fixed by or under the regulations.;

(f) by striking out "a supplementary future service benefit under this Act" from subsection (7) and substituting "additional invalidity/death insurance benefits that the applicant would otherwise have been entitled to";

(g) by striking out "acceptance as a supplementary future service benefit member" from subsection (8) and substituting "additional invalidity/death insurance that will entitle the applicant to benefits that will not, in the Board's opinion, exceed the benefits in the nature of invalidity and death insurance to which the applicant would have been entitled under the *Superannuation Act 1988*";

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

(9) Where the Board grants an application for additional invalidity/death insurance or for an increase or decrease in the level of additional insurance, the Board must fix the date for the commencement of the insurance or of the increase or decrease in the level of insurance.

Substitution of s. 23

12. Section 23 of the principal Act is repealed and the following section is substituted:

Variation of additional insurance

23. (1) Subject to subsection (2), a member who has additional invalidity/death insurance may apply to the Board to increase or decrease the level of the insurance.

(2) A member of the police force or a police cadet cannot apply to reduce his or her additional invalidity/death insurance below the level prescribed by regulation under section 22(3).

(3) An application must be made in a manner approved by the Board.

(4) This Division applies to an application to increase the level of insurance as though it were an initial application for additional insurance.

Substitution of s. 24

13. Section 24 of the principal Act is repealed and the following sections are substituted:

Amount of invalidity/death insurance benefits and amount of premiums

24. (1) The amount of basic and additional invalidity/death insurance benefits and the amount of the premiums in respect of those benefits will be fixed by or under regulation.

(2) The regulations may provide—

(a) for different amounts of basic and additional invalidity/death insurance 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; and

(b) for annual increases in the amount of basic and additional invalidity/death insurance for the benefit of members who wish to have annual increases in their insurance; and

(c) for the amount of premiums to be fixed by the Board.

(3) Premiums will be debited against each member's employer contribution account.

(4) If the debiting of a premium under subsection (3) would result in a debit balance in the account—

(a) the premium will be debited against the account to the extent of the credit balance in the account; and

(b) the member's basic and additional invalidity/death insurance is suspended from the expiration of the month following the month in which the premium was debited until the account is again sufficiently in credit to enable the debiting of premiums without resulting in a debit balance.

(5) In subsection (4)—

"month" means any one of the 12 named months of a calendar year.

Voluntary suspension of invalidity/death insurance

24A. (1) A person who is employed on a casual basis and who does not have additional invalidity/death insurance may, by notice in writing to the Board, suspend his or her basic invalidity/death insurance.

(2) Subject to subsection (3) an employee (not being an employee referred to in subsection (1)) may, by notice in writing to the Board, suspend his or her basic invalidity/death insurance and his or her additional invalidity/death insurance (if any).

(3) An employee can only suspend insurance under subsection (2) if the Board is satisfied that he or she will not be in receipt of any income from his or her employer during the period of suspension.

(4) An employee may at any time, by notice in writing to the Board, reinstate his or her suspended insurance.

(5) Basic and additional invalidity/death insurance benefits are only payable to or in respect of an employee whose employment terminates on account of invalidity or death within one year after his or her insurance is reinstated under subsection (4) if the invalidity or death was caused by accidental injury.

Amendment of s. 25A—Other Contributions

14. Section 25A of the principal Act is amended—

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

(1a) A member whose employment has not terminated but who is not making contributions under section 25 may make monetary contributions to the Treasurer under this section.;

(b) by striking out "additional contribution" from subsection (2) and substituting "contribution under this section".

Amendment of s. 26—Payments by employers

15. Section 26 of the principal Act is amended by striking out "seven days" from subsection (1) and substituting "a period (to be determined by the Board)".

Amendment of s. 27—Employer contribution accounts

16. Section 27 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (7) and substituting the following paragraph:

(b) the amount of the premium fixed by or under the regulations in respect of the basic invalidity/death insurance and the additional invalidity/death insurance (if any) for each member;;

(b) by striking out subsection (8) and substituting the following subsection:

(8) The Board must keep a record of the aggregate of the amounts debited against employer contribution accounts under subsection (7)(b) and must provide the Treasurer with that information for the purposes of section 10(1a).

Amendment of s. 30—Interpretation

17. Section 30 of the principal Act is amended by striking out the definition of "the future service benefit factor".

Amendment of s. 33A—Disability pension

18. Section 33A of the principal Act is amended—

(a) by striking out "a supplementary future service benefit member by virtue of having been accepted as such a member under section 22 or" from paragraph (b) of subsection (5) and substituting "entitled to additional invalidity/death insurance granted by the Board under section 22 or by virtue";

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

(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 reduced, additional invalidity/death insurance benefits (because of conditions placed by the Board when it granted the additional insurance).

Amendment of s. 34—Termination of employment on invalidity

19. Section 34 of the principal Act is amended—

(a) by striking out "55 years" from subsection (1) and substituting "60 years";

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

(d) subject to this section, the basic invalidity insurance benefit and the additional invalidity insurance benefit (if any).;

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

(2) The basic and additional invalidity insurance benefits are not payable 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.

(3) The basic invalidity insurance benefit is not payable 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—

(a) he or she was a member of 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 State Scheme or other scheme; or

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

(c) the member has applied for and been granted additional invalidity/death insurance.;

(d) by striking out subsections (3a), (3b), (4), (5) and (5a).

Amendment of s. 35—Death of member

20. Section 35 of the principal Act is amended—

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

(d) subject to this section, the basic death insurance benefit and the additional death insurance benefit (if any).;

(b) by striking out "The basic and supplementary future service benefits are" from subsection (3) and substituting "Subject to subsection (4), the basic death insurance benefit is";

(c) by striking out "the Benefit Scheme," twice occurring, in paragraph (a) of subsection (3);

(d) by striking out paragraph (c) of subsection (3) and substituting the following paragraph:

(c) the member has applied for and been granted additional invalidity/death insurance.;

(e) by striking out subsection (4) and substituting the following subsections:

(4) Subject to subsection (4aa), where a member takes his or her life—

(a) within one year after the commencement of his or her membership of the scheme; or

(b) within one year after the commencement of, or increase in the level of, additional invalidity/death insurance,

the following provisions apply:

(c) where death occurs within one year after the commencement of membership of the scheme or commencement of additional invalidity/death insurance—neither basic nor additional death insurance benefits are payable;

(d) where death occurs within one year after an increase in the level of additional invalidity/death insurance—additional death insurance benefits are not payable in respect of the increased insurance.

(4aa) Subsection (4)(c) does not apply in relation to a member who was a member of 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 if his or her death occurred on or after the first anniversary of the commencement of his or her membership of the State Scheme or other scheme.;

(f) by striking out subsections (4a), (4b), (5), (6) and (6a);

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

(9) Where—

- (a) a member's employment terminates or is terminated for any reason (except the member's death); and
- (b) the member dies within one month after the termination of his or her employment,

the member's spouse or estate is entitled to the basic death insurance benefit and the additional death insurance benefit (if any) that the spouse or estate would have been entitled to if the member's employment had been terminated by the member's death.

Amendment of s. 36—Information to be given to certain members

21. Section 36 of the principal Act is amended—

- (a) by striking out "supplementary future service benefit members" and substituting "entitled to additional invalidity/death insurance";
- (b) by striking out "supplementary future service benefit membership" and substituting "additional invalidity/death insurance".

Amendment of Schedule 3—Repeal and Transitional Provisions

22. Schedule 3 of the principal Act is amended by inserting the following clause after clause 10:

11. (1) A member of the scheme who was, immediately before the commencement of the *Southern State Superannuation (Invalidity/Death Insurance) Amendment Act 2001* (the "amending Act") a member—

- (a) who would have been entitled to a basic future service benefit in the circumstances referred to in section 34; or
- (b) in respect of whom a basic future service benefit would have been payable in the circumstances referred to in section 35,

but who was not a supplementary future service benefit member is entitled to a level of basic invalidity/death insurance that, in the opinion of the Board, will give the member invalidity and death insurance equivalent to or greater than the level of basic insurance that he or she was entitled to immediately before the commencement of the amending Act.

(2) A person who was immediately before the commencement of the amending Act a supplementary future service benefit member of the scheme is entitled to a level of basic and additional invalidity/death insurance the combined value of which will, in the opinion of the Board, give the member invalidity and death insurance equivalent to or greater than the combined level of basic and supplementary insurance that he or she was entitled to immediately before the commencement of the amending Act.

(3) A member referred to in subclause (1) may reduce the level of basic invalidity/death insurance to which he or she is entitled under that subclause to the level permitted by regulation.

(4) Section 23 applies to, and in relation to, a member when reducing the level of insurance under subclause (3) as though the basic invalidity/death insurance were additional invalidity/death insurance referred to in that section.

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(5) The entitlement of a person to additional invalidity/death insurance under subclause (2) is subject to the same conditions (if any) that his or her entitlement to supplementary future service benefits was subject immediately before the commencement of the amending Act.