



ANNO SEPTIMO

# GEORGII V REGIS.

A.D. 1916.

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## No. 1262.

An Act to make provision for paying Pensions and other Benefits to members of the Police Force, and for purposes incidental thereto or consequent thereon.

[*Assented to, November 16th, 1916.*]

**B**E it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Police Pensions Act, 1916." Short title.
2. This Act shall come into operation on the first day of July, nineteen hundred and seventeen. Commencement of Act.
3. In this Act, unless some other meaning is clearly intended— Interpretation.
  - "Force" means the Police Force of the State:
  - "Fund" means the Police Pension Fund established by this Act:
  - "Member" means member of the Force:
  - "Pensioner" means person in receipt of an annuity under this Act:
4. The Police Fund Distribution Act, 1904, except sections 15, 16, and 17 thereof, is repealed. Partial repeal of Act No. 862 of 1904.

### *Police Pension Fund.*

5. (1) A fund, to be called the "Police Pension Fund," is hereby established. Pension Fund established.  
(2) The

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How constituted.

(2) The following moneys shall be carried and credited to the Fund—

No. 862 of 1904.

(a) all sums of money at the commencement of this Act standing to the credit of the Police Fund established by the Police Fund Distribution Act, 1904;

(b) all sums of money returned to members from the Public Service Superannuation Fund, and paid by them into the Fund, under the provisions of this Act;

(c) all sums of money deducted from the salaries of the members, as hereinafter provided;

862, 1904, s. 8.

(d) all fines, forfeitures, penalties, and seizures, or proportions thereof, which, after the commencement of this Act, become payable to the Force or any member under any Act;

(e) all moneys voted by Parliament for the purposes of this Act; and

(f) all interest arising from the investment of the Fund or any part thereof.

To be free from taxation.  
Act 792, 1903, s. 12 (part).

Fund to be held by the Treasurer—  
Application thereof.

(3) The Fund shall be exempt from income tax and all other taxation whatsoever, whether direct or indirect.

(4) The Fund shall be held by the Treasurer and shall be dealt with and appropriated as provided by this Act.

Deductions from salaries of members of Police Force and from pensions.

Cf. *ibid.* s. 18.

**6.** (1) The Treasurer shall annually deduct in monthly instalments from the amount of any salary or wages due to any member such sum, not being less than Eight Pounds nor more than Ten Pounds Eight Shillings, as is prescribed.

(2) The several sums so deducted shall be carried and credited to the Fund.

Investment of Fund.

Cf. *ibid.*, s. 13.

**7.** The Fund shall be invested on deposit with the Treasurer, or upon Government securities of this State.

*Age of Retirement from the Force.*

Age of retirement.

Cf. N.S.W., 28, 1906, s. 9.

**8.** (1) The age of retirement from the Force shall, subject to subsection (2) hereof, be sixty years: Provided that—

i. a member who attains the age of sixty years during any financial year shall not be bound to retire from the force until the end of such financial year, and

ii. for the purposes of granting long leave of absence and of the enjoyment of such leave, a person may be regarded as still being a member of the Force.

(2) If the Commissioner of Police reports to the Minister that it is expedient in the public interest to retain the services of a member who has attained the age of sixty years, the Minister, after making

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making such inquiries as he thinks fit and upon being satisfied that such member consents to his services being retained, may authorise the retention of the services of such member for such term or terms, not exceeding in the aggregate five years, as he thinks fit: Provided that—

- i. every such term shall expire before the expiration of the period of five years next after the commencement of this Act;
- ii. any extension of service granted to any member shall not exceed one year at any one time.

*Right to Withdraw from Public Service Superannuation Fund.*

9. (1) Any member of the Force who, at the commencement of this Act, is a subscriber, within the meaning of the Public Service Superannuation Fund Act, 1902, to the Public Service Superannuation Fund shall, within six months after the commencement of this Act, be entitled to be repaid by the Public Service Superannuation Board, out of the last mentioned fund, the amount of all subscriptions paid by him to that fund and all sums paid for the purchase of status with respect to that fund, but without any interest thereon in either case.

Right of members of the Force to retire from Public Service Superannuation Fund and assign their subscriptions to the Police Pension Fund.

(2) Upon payment of such amount—

(a) such member shall cease to be a subscriber to the last-mentioned fund, but without prejudice to any right such member may have (subject to the Public Service Superannuation Act, 1902), again to become a subscriber to such last-mentioned fund, and to acquire rights as such subscriber:

(b) the last-mentioned fund and the said Board shall be relieved of all liabilities in respect of the said subscriptions and payments for status of such member, and of all liability to pay, or to continue the payment of, any annuity or other money to the widow or children of any subscriber who joined the Force subsequent to the twenty-fourth day of November, nineteen hundred and four (being the date of the passing of the Police Fund Distribution Act, 1904), and any such liability shall be transferred to the Fund.

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(3) Any member who joined the Force subsequent to the twenty-fourth day of November, nineteen hundred and four, shall be bound to exercise his right under subsection (1) hereof, and upon payment to him of any sum pursuant to this section shall pay into the Fund the full amount of such sum: Provided that in case such sum exceeds a sum calculated at the rate of Eight Pounds per annum from the date of his joining the Force up to the first day of July, nineteen hundred and seventeen, he shall only pay into the Fund such latter sum. Any sum paid into the Fund pursuant to this subsection shall be regarded as a subscription paid by the member to the Fund.

(4) Any

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(4) Any member who joined the Force prior to the twenty-fourth day of November, nineteen hundred and four, shall be a subscriber to the Fund, notwithstanding that he does not exercise his right under subsection (1) of this section.

*Pensions and other Benefits.*

Pension on retirement.

**10.** Any member of the Force shall, upon retirement at or after the age of sixty years, be entitled to be paid out of the Fund a pension, payable monthly, at the rate of One Hundred and Thirty Pounds per annum.

Payments on resignation or discharge.

**11.** (1) Any member of the Force who has served therein for a continuous period of not less than three years and resigns from the Force before attaining the age of sixty years shall be entitled to be paid out of the Fund a sum equal to—

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(a) the amount (if any) to which he may be entitled under the Police Fund Distribution Act, 1904, at the commencement of this Act, plus

(b) an amount equal to three-quarters of the total amount of the actual subscriptions paid by him to the Fund :

Provided that any member who proves to the satisfaction of the Minister that he is medically unfit to perform his duties as such member and resigns from the Force accordingly, shall be entitled to be paid out of the Fund a sum equal to the amount referred to in subdivision (a) hereof, plus an amount equal to the total amount of the actual subscriptions paid by him to the Fund.

(2) A member who is discharged from the Force, after having served therein for a continuous period of not less than three years, shall be paid out of the Fund such (if any) sum as is approved in writing by the Minister: Provided that such sum shall not exceed the amount which such member would have been entitled to be paid under subsection (1) hereof if he had resigned from the Force as therein mentioned.

Payments on death.

**12.** (1) Upon the death of a subscriber to the Fund, whether whilst he is still a member of the Force or after he has ceased to be a member, there shall be paid out of the Fund to his dependants, as hereinafter provided, a sum equal to—

No. 862 of 1904.

(a) the amount (if any) to which he may be entitled under the Police Fund Distribution Act, 1904, at the commencement of this Act, plus

(b) an amount equal to the total amount of the actual subscriptions paid by him to the Fund :

Provided that if such subscriber has before his death been in receipt of a pension under this Act, the total amount of the payments to him on account of such pension shall be deducted from the sum to be paid under this section, and only the balance (if any) shall be so paid.

(2) In

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(2) In this section—

“Dependants” means such members of the subscriber’s family as were wholly or in part dependent upon the subscriber at the time of his death, and Cf. 1053, 1911, s. 4.

“Member of a family” means wife or husband, father, mother, grandfather, grandmother, step-father, step-mother, son, daughter, grand-son, grand-daughter, step-son, step-daughter, brother, sister, half-brother, half-sister.

**13.** (1) The sum made payable by section 12 upon the death of a subscriber shall be paid into the Local Court nearest to the place of residence of the subscriber at the time of his death, and any sum so paid into Court shall, subject to the provisions of this section, be invested, applied, or otherwise dealt with by the Special Magistrate whose duty, for the time being, it is to preside over the Court in which the sum is, in such manner as he in his discretion thinks fit, for the benefit of the persons entitled thereto under this Act, and the receipt of the Clerk of the Court shall be a sufficient discharge in respect of the amount paid into Court; or the said Special Magistrate may pay the said sum, or direct the same to be paid, to the Public Trustee, whose receipt shall be a sufficient discharge in respect of the amount paid to him, and the Public Trustee may invest the same as he thinks proper: Provided that—

To whom, and in what manner, payments to be made.  
Cf. 1053, 1911, First Schedule.

- I. if the said Special Magistrate so directs, the payment in case of death shall, if the subscriber leaves no dependants, be made to his legal personal representative, or
- II. if he has no such representative, after payment thereof of the expenses of medical attendance and burial, the balance (if any) shall be paid into the Fund.

(2) Any question as to who is a dependant shall, in default of agreement, be settled by arbitration under the Workmen’s Compensation Act, 1911, or, if not so settled before payment into Court under subsection (1) hereof, shall be settled by the Special Magistrate whose duty, for the time being, it is to preside over the Local Court where the sum is; and the amount payable to each dependant shall be settled by arbitration under the said Act, or, if not so settled before payment into Court under subsection (1) hereof, by the Special Magistrate whose duty, for the time being, it is to preside over the Local Court where the sum is. Where there are both total and partial dependants, nothing in this section shall be construed as preventing the amount paid into Court under this section being allotted partly to the total and partly to the partial dependants. No. 1053 of 1911.

(3) Where, on application being made in accordance with rules of Court, it appears to a Special Magistrate that, on account of neglect of children on the part of a widow, or on account of the variation of the circumstances of the various dependants, or for any other sufficient cause, an order of a Special Magistrate or an award as to the

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the apportionment amongst the several dependants of any sum paid into Court under this section or as to the manner in which any sum payable to any such dependant is to be invested, applied, or otherwise dealt with, ought to be varied, the Special Magistrate hearing the application may make such order for the variation of the former order or the award as in the circumstances of the case he may think just.

(4) Any sum which under this section is ordered to be invested may be invested in the purchase of an annuity from any life insurance society approved by the Special Magistrate or the Public Trustee investing such sum.

(5) Any sum to be so invested may be accepted by the Savings Bank of South Australia or the Savings Bank department of the Commonwealth Bank of Australia as a deposit in the name of the Clerk of the Local Court.

(6) The provisions of any Act or regulations as to the limits of deposits in the said Savings Bank shall not apply in respect of sums which under this section are ordered to be invested. And the whole amount of the said sum deposited in the said Bank under this section shall, notwithstanding the provisions of any Act or regulations limiting the interest-bearing amount of deposits or otherwise, bear interest at the rate allowed to ordinary depositors in the same Bank.

(7) No part of any money deposited in the name of the Clerk of a Local Court in the said Savings Bank under this Act shall be paid out, except upon an order drawn on the Savings Bank and signed by a Special Magistrate or the Clerk of the Local Court. Such order shall be a sufficient discharge to the Bank in respect of the money paid out pursuant thereto.

(8) Any reference in this section to Rules of Court shall be read as a reference, *mutatis mutandis*, to Rules of Court under the Workmen's Compensation Act, 1911, for the time being in force.

Payment on  
disablement.

**14.** (1) When any member of the Force has been disabled by any injury or disease, received or contracted in the actual execution of his duties as such member, to such an extent that he is totally incapacitated from remaining in the Force and from earning the means necessary for his maintenance, he may elect to—

(a) receive a pension, as provided by this section, or

(b) claim any compensation to which he may be entitled under sections 15 and 16 of the Police Fund Distribution Act, 1904.

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(2) If such member chooses the former alternative, and applies for a pension within the prescribed time, such member shall be entitled to be paid out of the Fund such pension, payable monthly, not exceeding One Hundred and Thirty Pounds per annum, as in the opinion of the Minister, expressed in writing signed by him, is commensurate with his disablement.

(3) If

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(3) If such member chooses the latter alternative, he shall thereby forfeit all claims to any benefits under this Act and to any benefits preserved by this Act.

**15.** Notwithstanding anything contained in this Act, no person shall be entitled to claim a pension or other payment under this Act and also a retiring allowance or other payment under the Civil Service Acts, but shall be entitled to be paid whichever amount is the greater.

Alternative claims under this Act and the Civil Service Acts. 862, 1904, s. 5 (3).

**16.** No pension or other benefit 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; or
- (c) in the event of such person becoming insolvent or compounding with his creditors before the receipt thereof as aforesaid, vest in the trustee or assignee of his estate;

Ibid., s. 12.

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

**17.** If any pensioner or any member of the Force is convicted of any felony or of any misdemeanour punishable by imprisonment for a term of two years or longer, or is, under the Convicted Inebriates Act, 1913, declared to be an inebriate, the Minister shall have power, by writing signed by him, either to forfeit altogether or to reduce to such extent as he thinks proper, any pension or other benefit to which such pensioner or member is, or might become, entitled under this Act.

Forfeiture or reduction of pension on conviction for felony or certain misdemeanours. No. 1120 of 1913.

*Miscellaneous.*

**18.** In addition to any power by any other section of this Act conferred on the Governor to make regulations as to any matter (which power shall in every case be implied for the purposes of any section in which regulations are referred to, or in which the word "prescribed" is used), the Governor may make any regulations which may be necessary or convenient for carrying out any of the provisions of this Act, or for better effecting the objects of this Act.

Governor may make regulations.

**19.** The moneys voted by Parliament for the purposes of this Act shall be voted in each financial year and shall be calculated on the following basis:— For each person, who is a member of the Force (excluding members who are pensioners under this Act) on the thirtieth day of June immediately preceding the time when the calculation is made, such sum, not being less than Eight Pounds nor more than Twelve Pounds, as is recommended by the Public Actuary.

Basis of computation of Government subsidy.

**20.** The

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All payments to be  
out of the Fund.

**20.** The expenses of administering this Act, as well as all the benefits provided for by this Act, shall be paid out of the Fund.

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

H. L. GALWAY, Governor.