



ANNO TRICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1983

No. 28 of 1983

An Act to amend the Superannuation Act, 1974-1981.

[Assented to 16 June 1983]

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

1. (1) This Act may be cited as the "Superannuation Act Amendment Act, 1983". Short titles.

(2) The Superannuation Act, 1974-1981, is in this Act referred to as "the principal Act".

(3) The principal Act, as amended by this Act, may be cited as the "Superannuation Act, 1974-1983".

2. (1) Subject to subsection (3), this Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation made for the purposes of subsection (1), suspend the operation of a specified provision of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by a subsequent proclamation.

(3) Section 3 (c) shall be deemed to have come into operation on the first day of December, 1982.

3. Section 5 of the principal Act is amended—

(a) by inserting in the definition of "final salary" after the passage "fortnightly salary", twice occurring, in each case, the passage "(including any remuneration of a class prescribed for the purposes of this definition)";

(b) by striking out from paragraph (c) of the definition of "prescribed deduction" the passage "section 45,";

and

(c) by striking out paragraph (b) of the definition of "spouse" and substituting the following paragraph:

Amendment of
s. 5—
Interpretation.

(b) in relation to a contributor pensioner means a person who—

(i) is lawfully married to that person;

and

(ii) either—

(A) was lawfully married to that person when that person was a contributor;

or

(B) has been lawfully married to that person for not less than the preceding period of five years.

Amendment of
s. 6—
Extended
meaning of
“employee”.

4. Section 6 of the principal Act is amended—

(a) by striking out subparagraph (i) of paragraph (a) of subsection (1);

(b) by striking out from paragraph (a) of subsection (1) the word “employed” and substituting the word “employment”;

(c) by striking out subparagraph (i) of paragraph (b) of subsection (1);

(d) by striking out subparagraph (iv) of paragraph (b) of subsection (1);

(e) by striking out subparagraph (iii) of paragraph (c) of subsection (1);

and

(f) by striking out from subparagraph (iv) of paragraph (c) of subsection (1) the passage “or an apprentice appointed under the South Australian Railways Commissioner’s Act, 1936-1971”.

Amendment of
s. 10—
Cost of
administration.

5. Section 10 of the principal Act is amended by striking out subsection (1a) and substituting the following subsection:

(1a) The cost of any services and facilities of a prescribed class employed by the Trust in performing its functions under this Act shall be paid out of the Fund.

Amendment of
s. 18—
The Board.

6. Section 18 of the principal Act is amended by striking out subsection (3).

Repeal of ss. 20
and 21 and
substitution of
new section.

7. Sections 20 and 21 of the principal Act are repealed and the following section is substituted:

Membership of
Board.

20. (1) The Board shall consist of five members of whom—

(a) two shall be persons appointed by the Governor;

(b) two shall be persons elected by contributors and contributor pensioners in the prescribed manner;

and

(c) one shall be the Public Actuary.

(2) The members of the Board in office immediately before the commencement of this section shall, subject to this Act, continue in office for the balance of their respective terms.

(3) Subject to this section, a member of the Board appointed or elected pursuant to subsection (1) shall be appointed or elected for a term of office of five years.

(4) The member of the Board first elected after the commencement of this section shall be elected for a term of office equal to the balance of the term of the other elected member of the Board then in office.

(5) A member of the Board appointed or elected pursuant to this Act (whether before or after the commencement of this section) shall, upon the expiration of his term of office, be eligible for re-appointment or re-election.

(6) Upon the office of an appointed or elected member of the Board becoming vacant, a person shall be appointed or elected in accordance with this Act to the vacant office, but where the office of any such member becomes vacant before the expiration of the term for which he was appointed or elected, the person appointed or elected in his place shall be appointed or elected only for the balance of the term of his predecessor.

(7) The Governor shall appoint one of the members of the Board to be President of the Board.

(8) The office of a member of the Board may be held in conjunction with any employment by the Government of the State.

8. Section 24 of the principal Act is repealed.

Repeal of s. 24.

9. Section 26 of the principal Act is amended—

Amendment of
s. 26—
Quorum,
meetings, voting,
etc.

(a) by striking out from subsection (1) the word “Two” and substituting the word “Three”;

and

(b) by striking out from subsection (3) the word “three” and substituting the word “five”.

10. Section 43 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsection:

Amendment of
s. 43—
Acceptance of
employees as
contributors.

(3) Where a person—

(a) is required to undergo a medical examination for the purposes of subsection (2);

and

(b) commences to contribute to the Fund or the Provident Account,

the person shall be entitled to be reimbursed by the Board by a payment from the Fund for any amount paid by him as a fee for the medical examination.

11. Section 45 of the principal Act is amended by striking out subsections (1) and (2) and substituting the following subsections:

Amendment of
s. 45—
Purchase of
contribution
months.

(1) Subject to this Act, a new contributor may, in the prescribed manner and form, elect to purchase one or more contribution months by way of—

(a) the making of fortnightly contributions;

or

(b) the payment of a lump sum.

(2) An election to purchase one or more contribution months by way of the payment of a lump sum must be made—

(a) before the contributor's first contribution adjustment day;

or

(b) within the period of three months preceding his retirement, being retirement on or after attaining the age of retirement.

(2a) An election may be made under subsection (1) by a person who has applied to be accepted as a contributor, in which case, if the person is subsequently accepted as a contributor, the election shall be deemed to have been made upon such acceptance.

(2b) Where a person has made an election to purchase one or more contribution months by way of the making of fortnightly contributions, the Public Actuary shall determine a special percentage to apply in relation to the person in lieu of the standard percentage, being a percentage that will make the increase in contributions payable by the person over those that would otherwise have been payable by him actuarially equivalent to the pension benefit derived from the contribution month or months so purchased.

(2c) Where an election by a person to purchase one or more contribution months by way of the making of fortnightly contributions is deemed to have been made upon the person's acceptance as a contributor, on and from that acceptance this Act shall apply in relation to the person as if—

(a) a reference to his standard percentage were a reference to the special percentage determined under subsection (2b) in relation to the person;

and

(b) the person had purchased the contribution month or months, as the case may be.

(2d) Where an election by a person to purchase one or more contribution months by way of the making of fortnightly contributions is made after the person's acceptance as a contributor—

(a) on and from the person's contribution adjustment day next following his first salary determination day after the making of the election—this Act shall apply in relation to the person as if a reference to his standard percentage were a reference to the special percentage determined under subsection (2b) in relation to the person;

and

(b) on and from the sixteenth day of June next following the person's first salary determination day after the making of the election—this Act shall apply in relation to the person as if the person had purchased the contribution month or months, as the case may be.

12. The following section is inserted after section 57a of the principal Act:

Insertion of new s. 57b.

57b. (1) A lower benefit contributor may in the prescribed manner and form elect to obtain higher benefits under this section.

Election by lower benefit contributor to obtain higher benefits.

(2) Where a contributor makes an election under subsection (1)—

(a) on and from the contributor's contribution adjustment day next following his first salary determination day after the making of the election, contributions shall be payable by him to the Fund (in addition to the contributions otherwise payable by him) of the same amounts and in the same way as would have been payable by him if he had been accepted as a lower benefit contributor on the sixteenth day of June next following that salary determination day;

and

(b) any pension or other benefit that becomes payable to or in relation to the contributor on or after the sixteenth day of June next following his first salary determination day after the making of the election shall be of an amount equal to the sum of—

(i) the amount that would have been so payable if he had not made the election;

and

(ii) the amount that would have been so payable if he had been accepted as a lower benefit contributor on that sixteenth day of June.

(3) For the purposes of subsection (2), the amount of the contribution salary of the contributor on the sixteenth day of June referred to in that subsection shall be deemed to be the same as it was on his first salary determination day after the making of the election.

(4) Where a contributor makes an election under this section, the Board may require the contributor to produce evidence as to the state of his health.

(5) If a contributor in respect of whom a requirement is made under subsection (4)—

(a) fails to produce the evidence required;

or

(b) upon the evidence produced, fails to satisfy the Board as to the soundness of his health,

the Board may reject the election made by the contributor under this section, in which case the election shall, for the purposes of this Act, be deemed not to have been made.

(6) This section applies to a lower benefit contributor whether or not the person had been entitled to make an election under section 57a, but does not apply to a person who has made an election under that section or this section.

13. Section 64 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

Amendment of s. 64—
Election to make increased contributions.

(2) Subsection (1) does not apply to a reduction of salary of a prescribed class.

Amendment of
s. 65—
Limited benefit
employees.

14. Section 65 of the principal Act is amended by inserting in subsection (2) after the passage “under this Act” the passage “in respect of contributions made under this section”.

Amendment of
s. 75—
Commutation of
pension of
contributor
pensioner.

15. Section 75 of the principal Act is amended by striking out subsection (2) and substituting the following subsections:

(2) The amount payable from the Fund by way of commutation upon an election under subsection (1) shall be the amount obtained by applying the commutation rate that applies in relation to the person making the election to the number of whole dollars of pension that the person has elected to commute.

(2a) The Public Actuary—

(a) may on any thirtieth day of September determine mortality rates for the purposes of this section;

and

(b) shall on each thirty-first day of March determine commutation rates for the purposes of this section based upon the mortality rates last determined under paragraph (a) and the relevant rate of interest.

(2b) For the purposes of this section—

(a) a reference to the commutation rate in relation to an election made by a person under subsection (1) is a reference to the commutation rate determined by the Public Actuary (whether under subsection (2a) or for the purposes of this section as in force before the commencement of that subsection) on the thirty-first day of March last preceding the commencement of the financial year during which the person's pension vesting day occurred;

and

(b) a reference to the relevant rate of interest in relation to the determination of a commutation rate under subsection (2a) is a reference to the rate of interest applicable to loans of a prescribed class as at the twenty-fourth day of March last preceding the date of the determination.

Amendment of
s. 76—
Recall of invalid
pensioner.

16. Section 76 of the principal Act is amended by inserting after subsection (2) the following subsection:

(2aa) The cost of a medical examination carried out for the purposes of subsection (2) shall be met by the Board by a payment from the Fund.

Amendment of
s. 84—
Commutation of
spouse's pension.

17. Section 84 of the principal Act is amended by striking out subsection (2) and substituting the following subsections:

(2) The amount payable from the Fund by way of commutation upon an election under subsection (1) shall be the amount obtained by applying the commutation rate that applies in relation to the person making the election to the number of whole dollars of pension that the person has commuted.

(2a) The Public Actuary—

(a) may on any thirtieth day of September determine mortality rates for the purposes of this section;

and

(b) shall on each thirty-first day of March determine commutation rates for the purposes of this section based upon the mortality rates last determined under paragraph *(a)* and the relevant rate of interest.

(2b) For the purposes of this section—

(a) a reference to the commutation rate in relation to an election made by a person under subsection (1) is a reference to the commutation rate determined by the Public Actuary (whether under subsection (2a) or for the purposes of this section as in force before the commencement of that subsection) on the thirty-first day of March last preceding the commencement of the financial year during which the person's pension vesting day occurred;

and

(b) a reference to the relevant rate of interest in relation to the determination of a commutation rate under subsection (2a) is a reference to the rate of interest applicable to loans of a prescribed class as at the twenty-fourth day of March last preceding the date of the determination.

18. Sections 100, 101 and 102 of the principal Act are repealed and the following sections are substituted:

Repeal of ss. 100, 101 and 102 and substitution of new sections.

100. (1) Where an employee—

(a) has—

(i) made an application to be accepted as a contributor to the Fund and that application has been refused by the Board;

or

(ii) made an election under section 57b and that election has been rejected by the Board;

and

(b) is not permitted by the Board to make contributions to the Fund under section 65,

the employee may, with the approval of the Board, contribute to the Provident Account established under section 99.

Contribution to the Provident Account.

(2) Where an employee referred to in subsection (1) *(a)* *(i)* obtains the approval of the Board to contribute to the Provident Account pursuant to subsection (1), contributions shall be payable by the employee to the Account of the same amounts and in the same way as would have been payable by him by way of contributions to the Fund if, instead of obtaining approval to contribute to that Account, he had been accepted as a contributor to the Fund.

(3) Where an employee referred to in subsection (1) (a) (ii) obtains the approval of the Board to contribute to the Provident Account pursuant to subsection (1), contributions shall be payable by the employee to the Account of the same amounts and in the same way as would have been payable by him by way of additional contributions to the Fund if, instead of obtaining approval to contribute to that Account, he had made an election under section 57b and the election had not been rejected by the Board.

Contributions to Provident Account treated as contributions to the Fund in certain circumstances.

101. (1) Where—

(a) an employee referred to in section 100 (1) (a) (i) is contributing to the Provident Account;

and

(b) this section applies in relation to the employee,

this Act shall apply and be deemed always to have applied in relation to the employee as if—

(c) instead of obtaining approval to contribute to the Provident Account, he had been accepted as a contributor to the Fund;

and

(d) his contributions to the Provident Account had been contributions made upon acceptance as a contributor to the Fund.

(2) Where—

(a) an employee referred to in section 100 (1) (a) (ii) is contributing to the Provident Account;

and

(b) this section applies in relation to the employee,

this Act shall apply and be deemed always to have applied in relation to the employee as if—

(c) instead of obtaining approval to contribute to the Provident Account, he had made an election under section 57b and that election had not been rejected by the Board;

and

(d) his contributions to the Provident Account had been contributions made pursuant to the election.

(3) This section applies in relation to an employee—

(a) if he satisfies the Board as to the soundness of his health;

or

(b) if, after attaining the age of fifty-five years—

(i) he retires from his employment;

and

(ii) before receiving a payment under section 103, he elects in the prescribed manner and form to take the benefit of this section.

Insertion of new s. 130a.

19. The following section is inserted after section 130 of the principal Act:

130a. (1) Where—

Effect of failure to reveal material matter relating to health.

(a) the Board has made a decision under this Act upon the basis of evidence furnished by a person as to the soundness of his health;

and

(b) the Board is satisfied—

(i) that the person failed to reveal to the Board a material matter within his knowledge relating to his state of health;

and

(ii) that, had the Board known of that matter, the Board would not have made the decision referred to in paragraph (a),

the Board may, by notice published in the *Gazette*, rescind the decision.

(2) Where under subsection (1) the Board rescinds a decision made in relation to a person—

(a) this Act shall apply and be deemed always to have applied as if the Board had not made the decision;

(b) any amount paid by the person to the Board in consequence of the decision shall be refunded by the Board;

and

(c) the Board shall be entitled to recover as a debt due to the Board, by action in a court of competent jurisdiction, any pension or other benefit paid to or in relation to the person in consequence of the decision.

20. Section 139 of the principal Act is amended by inserting after paragraph (e) the following paragraph:

Amendment of s. 139— Regulations.

(ea) providing for the refund by a payment out of the Fund of a prescribed part of contributions paid into the Fund and prescribing the circumstances in which such refunds are payable;

21. The thirteenth schedule to the principal Act is amended—

Amendment of thirteenth schedule.

(a) by inserting before the numerals:

1 0.1404
the numerals:

0 0.1378;

and

(b) by striking out the numeral “0.8171” and substituting the numeral “0.7178”.

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

D. B. DUNSTAN, Governor