

# Superannuation Act 1973

No. 46 of 1973

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## AN ACT

To provide for Annual Increases in certain  
Superannuation Pensions.

[Assented to 8 June 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

1. (1) This Act may be cited as the *Superannuation Act 1973*. Short  
title and  
citation.
- (2) The *Superannuation Act 1922–1971\** 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 1922–1973*.
2. This Act shall come into operation on the day on which it receives the Royal Assent. Commence-  
ment.
3. Section 3 of the Principal Act is amended by inserting before the words— Parts.  
“ Part XI—The Superannuation Board (Sections 120–134).”  
the words—  
“ Part XB—Pension Increases (Sections 119ZF–119ZO).”.

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\* Act No. 33, 1922, as amended by No. 45, 1924; No. 22, 1930; No. 10, 1931; No. 45, 1934; No. 28, 1937; No. 53, 1942; No. 18, 1943; Nos. 15 and 30, 1945; No. 2, 1946; Nos. 1 and 35, 1947; No. 19, 1948; No. 76, 1950; Nos. 49 and 62, 1951; No. 92, 1952; No. 11, 1954; No. 27, 1955; Nos. 19 and 112, 1956; No. 94, 1957; No. 43, 1958; No. 102, 1959; No. 102, 1963; Nos. 97 and 154, 1968; Nos. 69 and 86, 1966; No. 52, 1967; Nos. 49 and 57, 1968; Nos. 14 and 26, 1969; and No. 46, 1971.

4. After Part XA of the Principal Act the following Part is inserted:—

“ PART XB—PENSION INCREASES

Inter-  
pretation.

“ 119ZF. (1) In this Part, unless the contrary intention appears—

‘ pension ’ includes a pension payable by virtue of section 9 or section 14 of the *Superannuation Act (No. 2) 1956* or section 10 of the *Superannuation (Pension Increases) Act 1971*, but does not include a pension payable in respect of a child, and ‘ pensioner ’ has a corresponding meaning;

‘ prescribed year ’ means the year commencing on 1st July, 1974, or a subsequent year;

‘ retirement ’ includes retrenchment.

“ (2) Subject to sub-section (3), if at any time, whether before or after the commencement of this Part, the Commonwealth Statistician has published in respect of a particular March quarter or June quarter an all groups consumer price index number for the weighted average of the six State capital cities or an estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia in substitution for an index number or estimate previously published by him in respect of that quarter, the publication of the later index number or estimate shall be disregarded for the purposes of this Part.

“ (3) Notwithstanding sub-section (2), if at any time after the commencement of this Part the Commonwealth Statistician changes the reference base for the Consumer Price Index, then, for the purposes of the application of this Part after the change takes place, regard shall be had only to index numbers published in terms of the new reference base.

“ (4) If the prescribed percentage for the purposes of section 119ZG or 119ZH is or includes a fraction of one-tenth of one per centum—

- (a) if that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and
- (b) if that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.

“ 119ZG. (1) Subject to this Part, if—

- (a) the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the March quarter of the year 1973 exceeds the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the June quarter of the year 1971; and
- (b) the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the March quarter of the year 1973 exceeds the estimate of the seasonally adjusted

Increase  
in certain  
pensions  
for 1973–74.

average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the June quarter of the year 1971,

a person who was in receipt of a pension immediately before 1st July, 1973, is entitled to an increase, as ascertained in accordance with this section, in the amount of the annual pension that was payable to him immediately before that date.

“(2) The increase provided for by sub-section (1) in the amount of the annual pension payable to a person immediately before 1st July, 1973, is the prescribed percentage of the non-contributory portion of the amount of the annual pension.

“(3) For the purposes of this section, the prescribed percentage is—

(a) 1.4 times the percentage ascertained in accordance with the

$$\text{formula } \frac{100(A-B)}{B}; \text{ or}$$

(b) the percentage ascertained in accordance with the formula

$$\frac{100(C-D)}{D},$$

whichever is the lower percentage, where—

- A is the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the March quarter of the year 1973;
- B is the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the June quarter of the year 1971;
- C is the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the March quarter of the year 1973; and
- D is the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the June quarter of the year 1971.

“119ZH. (1) Subject to this Part, if—

- (a) the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the March quarter of the year immediately preceding a prescribed year exceeds the highest all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth

Increases  
in certain  
pensions  
for 1974-75  
and later  
years.

Statistician in respect of the March quarter of any earlier year not being a year earlier than the year that commenced on 1st July, 1972; and

- (b) the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the March quarter of the year immediately preceding that prescribed year exceeds the highest estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the March quarter of any earlier year not being a year earlier than the year that commenced on 1st July, 1972,

a person who was in receipt of a pension immediately before the commencement of that prescribed year is entitled to an increase, as ascertained in accordance with this section, in the amount of the annual pension that was payable to him immediately before the commencement of that prescribed year.

“(2) The increase provided for by sub-section (1) in the amount of the annual pension payable to a person immediately before the commencement of a prescribed year is the prescribed percentage of the non-contributory portion of the amount of the annual pension.

“(3) For the purposes of this section, the prescribed percentage is—

- (a) 1.4 times the percentage ascertained in accordance with the

$$\text{formula } \frac{100 (A-B)}{B}; \text{ or}$$

- (b) the percentage ascertained in accordance with the formula

$$\frac{100 (C-D)}{D},$$

whichever is the lower percentage, where—

- A is the all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the March quarter of the year immediately preceding the prescribed year;
- B is the highest all groups consumer price index number for the weighted average of the six State capital cities published by the Commonwealth Statistician in respect of the March quarter of any year earlier than the year immediately preceding the prescribed year but not being earlier than the year that commenced on 1st July, 1972;
- C is the estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the

Commonwealth Statistician in respect of the March quarter of the year immediately preceding the prescribed year; and

- D is the highest estimate of the seasonally adjusted average weekly earnings per employed male unit throughout Australia published by the Commonwealth Statistician in respect of the March quarter of any year earlier than the year immediately preceding the prescribed year but not being earlier than the year that commenced on 1st July, 1972.

“ 119zi. (1) For the purposes of this Part, the non-contributory portion of the amount of the annual pension payable to a person at a particular time (in this sub-section referred to as the ‘ relevant time ’) is— Non-contributory portion of pension.

- (a) in a case to which neither paragraph (b) nor paragraph (c) applies, the amount remaining after deducting from the amount of the annual pension—
- (i) the amount (if any) by which the amount of the annual pension has been increased by virtue of section 44; and
  - (ii) the amount ascertained by multiplying Twenty-six dollars by the number of units of pension (including a fraction of a unit of pension) for which the person, or the husband or wife of the person, as the case may be, was a contributor at the date of his or her retirement;
- (b) in the case of—
- (i) a pension payable in accordance with the proviso to section 43, paragraph (b) of section 43A or section 50, 72 or 119w;
  - (ii) a pension payable by virtue of section 9 or section 14 of the *Superannuation Act (No. 2) 1956*;
  - (iii) a pension payable to a person to whom section 18 of the *Mint Employees Act 1964* applies; or
  - (iv) a pension payable by virtue of section 10 of the *Superannuation (Pension Increases) Act 1971*,

so much of the amount of the annual pension as the Board determines having regard to the provisions of paragraph (a); and

- (c) in the case of a pension payable to a person (otherwise than under section 70) by virtue of that person being a widow or widower—
- (i) in the case of a widow whose husband elected that section 26 should not apply to him and did not revoke that election—so much of the amount of the annual pension as is equal to one-half of the non-contributory portion, as ascertained under paragraph (a) or paragraph (b), of the amount of the annual pension that would have been payable to her husband at the relevant time if he had not died; or

- (ii) in any other case—so much of the amount of the annual pension as is equal to five-eighths of the non-contributory portion, as ascertained under paragraph (a) or paragraph (b), of the amount of the annual pension that would have been payable to the husband of the widow or the wife of the widower at the relevant time if the husband or wife had not died.

“(2) Where the Board is satisfied that an error or mistake has occurred in, or in connexion with, a determination made by the Board under this section, the Board may vary the determination for the purpose of correcting the error or mistake and, where a determination is so varied, the determination has effect, and shall be deemed to have had effect at all times, as so varied.

Adjustment  
of first  
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annuation  
(Pension  
Increases)  
Act 1971*.

“ 119ZJ. (1) Where a person would, but for this section, be entitled to an increase in the amount of the annual pension that was payable to the person immediately before 1st July, 1973, and—

- (a) that pension became payable by reason of the retirement of the person during the period that commenced on 1st October, 1971, and ended on 30th June, 1973;
- (b) if the pension was payable to the person as a widow or widower—
- (i) that pension became payable by reason of the death before retirement of the husband or wife of the person during the period referred to in paragraph (a); or
- (ii) the pension that was payable to the husband or wife of the person became payable by reason of the retirement of that husband or wife during the period referred to in paragraph (a); or
- (c) in the case of a pension payable in accordance with section 119w—
- (i) if the pension was payable to the person otherwise than as a widow or widower—the pension became payable during the period referred to in paragraph (a); or
- (ii) if the pension was payable to the person as a widow or widower—
- (A) if a pension in accordance with that section was not payable to the husband or wife of the person immediately before his or her death—the pension became payable during the period referred to in paragraph (a); or
- (B) if a pension in accordance with that section was payable to the husband or wife of the person immediately before his or her death—the pension that was payable to that husband or wife became payable during the period referred to in paragraph (a),

the following provisions of this section have effect.

“(2) If the retirement or death took place, or the pension in accordance with section 119w became payable, after 15th June, 1973, the person is not entitled to the increase.

“(3) If the retirement or death took place, or the pension in accordance with section 119w became payable, on or before 15th June, 1973, the amount of the increase is so much only of the amount that, but for this section, would have been the amount of the increase as bears to that last-mentioned amount the same proportion as the number of months in the period that commenced on the day after the day on which the retirement or death took place, or the pension in accordance with section 119w became payable, and ended on 30th June, 1973, bears to twenty-one.

“(4) If the period referred to in sub-section (3) is less than one month, that period shall be treated as one month.

“(5) If the period referred to in sub-section (3) consists of a number of whole months and a part of a month—

- (a) where the number of days in that part of a month is less than one-half of the number of days in that month—that part of a month shall be disregarded; and
- (b) where the number of days in that part of a month is not less than one-half of the number of days in that month—that part of a month shall be treated as a whole month.

“119zk. (1) Where a person would, but for this section, be entitled to an increase in the amount of the annual pension that was payable to the person immediately before the commencement of a prescribed year and—

- (a) that pension became payable by reason of the retirement of the person during the immediately preceding year;
- (b) if the pension was payable to the person as a widow or widower—
  - (i) that pension became payable by reason of the death before retirement of the husband or wife of the person during the immediately preceding year; or
  - (ii) the pension that was payable to the husband or wife of the person became payable by reason of the retirement of that husband or wife during the immediately preceding year; or
- (c) in the case of a pension payable in accordance with section 119w—
  - (i) if the pension was payable to the person otherwise than as a widow or widower—the pension became payable during the period referred to in paragraph (a); or
  - (ii) if the pension was payable to the person as a widow or widower—
    - (A) if a pension in accordance with that section was not payable to the husband or wife of the person immediately before his or her death—the pension became payable during the period referred to in paragraph (a); or

Adjustment of increase in case of persons who retired after previous increase granted under this Part.

- (B) if a pension in accordance with that section was payable to the husband or wife of the person immediately before his or her death—the pension that was payable to that husband or wife became payable during the period referred to in paragraph (a),

the following provisions of this section have effect.

“(2) If the retirement or death took place, or the pension under section 119w became payable, after the fifteenth day of June in the immediately preceding year, the person is not entitled to the increase.

“(3) If the retirement or death took place, or the pension under section 119w became payable, on or before the fifteenth day of June in the immediately preceding year, the amount of the increase is so much only of the amount that, but for this section, would have been the amount of the increase as bears to that last-mentioned amount the same proportion as the number of months in the period that commenced on the day after the day on which the retirement or death took place, or the pension under section 119w became payable, and ended on the thirtieth day of June in the immediately preceding year bears to twelve.

“(4) If the period referred to in sub-section (3) is less than one month, that period shall be treated as one month.

“(5) If the period referred to in sub-section (3) consists of a number of whole months and a part of a month—

- (a) where the number of days in that part of a month is less than one-half of the number of days in that month—that part of a month shall be disregarded; and
- (b) where the number of days in that part of a month is not less than one-half of the number of days in that month—that part of a month shall be treated as a whole month.

Certain  
pensions  
not to be  
increased.

“119ZL. The increases in pensions provided for by the preceding provisions of this Part do not apply to or in relation to a pension that became payable under section 71, not being a pension for which contributions were made to a State Fund as defined by section 101.

Modification  
of ss. 46,  
47 and 48.

“119ZM. (1) In calculating for the purposes of sub-section (5) of section 46 the amount of the annual rate of the pension that, but for the death of a widow or widower, would, by virtue of sub-section (1) of that section, have been payable to the widow or widower or have been so payable but for sub-section (2) of that section, any amount by which that amount would have been increased by virtue of the operation of this Part shall be taken into account.

“(2) In calculating for the purposes of sub-section (5) of section 47 the amount of the annual rate of pension that, but for the death of a widow or widower, would, by virtue of sub-section (1) of that section, have been payable to the widow or widower or have been so payable but for sub-section (2) of that section, any amount by which that amount would have been increased by virtue of the operation of this Part shall be taken into account.



“(3) In calculating for the purposes of sub-section (2) of section 48 the amount of the annual rate of the pension that, but for the death or divorce of the wife or husband of a contributor or pensioner would, by virtue of sub-section (1) of section 46, or sub-section (1) of section 47, have been payable to the wife or husband or would have been so payable but for sub-section (2) of section 46, or sub-section (2) of section 47, any amount by which that amount would have been increased by virtue of the operation of this Part shall be taken into account.

“119ZN. The Commonwealth shall pay to the Fund amounts equal to the amounts by which payments of pensions are increased by virtue of this Part, and the Consolidated Revenue Fund is, to the necessary extent, appropriated accordingly. Pension increases to be paid by Commonwealth.

“119ZO. An increase payable by virtue of this Part in the amount of the annual pension that was payable to a person on 30th June in a year applies in relation to the instalment of pension falling due on the first pension pay-day occurring after that day and in relation to all subsequent instalments.”. Dates of effect of increases.