



# **ELECTRICITY TRUST OF SOUTH AUSTRALIA (SUPERANNUATION) AMENDMENT ACT 1993**

**No. 28 of 1993**

## **SUMMARY OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of s. 43f—Interpretation
4. Amendment of s. 43l—Establishment of the contributory scheme
5. Amendment of s. 43n—Payment of benefits
6. Amendment of s. 43o—The Fund
7. Amendment of s. 43r—Contributors' accounts
8. Amendment of s. 43s—Reports
9. Insertion of Divisions VIII and IX into Part IVB

### **DIVISION VIII—ELECTRICITY TRUST OF SOUTH AUSTRALIA NON-CONTRIBUTORY SUPERANNUATION SCHEME**

- 43t. Interpretation
- 43u. Establishment of the non-contributory scheme
- 43v. Payment of benefits
- 43w. Accounts and audit
- 43x. Report

### **DIVISION IX—GENERAL**

10. 43y. Exclusion of benefits under awards, etc.  
Substitution of schedule

### **SCHEDULE**

*Transitional Provision*



ANNO QUADRAGESIMO SECUNDO

**ELIZABETHAE II REGINAE**

A.D. 1993

\*\*\*\*\*

No. 28 of 1993

**An Act to amend the Electricity Trust of South Australia Act 1946.**

[Assented to 6 May 1993]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Electricity Trust of South Australia (Superannuation) Amendment Act 1993*.

(2) The *Electricity Trust of South Australia Act 1946* 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. 43f—Interpretation**

3. Section 43f of the principal Act is amended—

(a) by striking out from the definition of “contributor” “the Scheme” and substituting “the contributory scheme”;

(b) by inserting after the definition of “contributor” the following definition:

“the contributory scheme” means the Electricity Trust of South Australia Contributory Superannuation Scheme;;

(c) by inserting after the definition of “the Fund” the following definition:

“the non-contributory scheme” means the Electricity Trust of South Australia Non-Contributory Superannuation Scheme;;

(d) by striking out the definition of “the Rules” and substituting the following definition:

“the Rules” means the rules made under Division III or Division VIII as the context requires.;

and

(e) by striking out the definition of “the Scheme”.

**Amendment of s. 43l—Establishment of the contributory scheme**

4. Section 43l of the principal Act is amended—

(a) by inserting after “*South Australia*” in subsection (1) “*Contributory*”;

(b) by striking out from subsection (2) “Scheme” wherever occurring and substituting, in each case, “contributory scheme”;

(c) by striking out paragraphs (a) and (b) of subsection (3) and substituting the following paragraphs:

(a) must conform to the provisions of this Part (except Division VIII);

(b) must be approved by the Treasurer;;

(d) by inserting after subsection (3) the following subsection:

(3a) The Rules may provide—

(a) that contributors, or a class of contributors, have the option of transferring to another division of the contributory scheme or of terminating their membership of the scheme;

(b) that the exercise of an option referred to in paragraph (a) operates retrospectively.;

(e) by inserting after subsection (4) the following subsection:

(4a) A variation or replacement of the Rules will be taken to have come into operation on the date specified in the instrument varying or replacing them whether that date occurred before or after the date on which the instrument was made or the date on which the Treasurer gave his or her approval.;

and

(f) by inserting after subsection (5) the following subsection:

(6) A right to a pension under the contributory scheme cannot be assigned but this subsection does not prevent the making of a garnishee order in relation to a pension.

**Amendment of s. 43n—Payment of benefits**

5. Section 43n of the principal Act is amended by inserting after subsection (3) the following subsection:

(3a) Where a payment or payments have been made under the Rules to, or in relation to, a contributor and no further payments (other than payment of the balance (if any) of the contributor’s account remaining after the amount referred to in paragraph (b) has been charged

against the account) are payable (either immediately or prospectively) to, or in relation to, the contributor under the Rules the following provisions apply:

- (a) the Treasurer must pay to the Trust from the Consolidated Account (which is appropriated to the necessary extent) the amount charged against the Trust under this section in relation to the contributor or the balance standing to the credit of the contributor's account, whichever is the lesser;
- (b) an amount equivalent to the amount payable to the Trust under paragraph (a) will be charged against the contributor's account.

**Amendment of s. 43o—The Fund**

6. Section 43o of the principal Act is amended—

(a) by striking out paragraph (c) of subsection (6) and substituting the following paragraph:

(c) contributors—

(i) whose contributions commenced on or after 1 February 1991;

or

(ii) who have pursuant to the Rules become contributors to the division of the contributory scheme established for the benefit of contributors referred to in subparagraph (i).;

(b) by striking out "Scheme" from paragraph (b) of subsection (8) and substituting "contributory scheme";

and

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

(8a) Different percentages may be prescribed under subsection (8)(b) in respect of the different divisions of the contributory scheme and in that event the prescribed percentage will be paid from the appropriate division of the Fund.

**Amendment of s. 43r—Contributors' accounts**

7. Section 43r of the principal Act is amended—

(a) by inserting after "contributor" in subsection (7) "referred to in subsection (8)";

(b) by inserting after subsection (7) the following subsection:

(8) Subsection (7) applies to—

(a) contributors who are employees of the Trust;

(b) contributors who have resigned from employment with the Trust but have elected to preserve their accrued superannuation benefits.

**Amendment of s. 43s—Reports**

8. Section 43s of the principal Act is amended by striking out from paragraph (a) of subsection (3) "Scheme" wherever occurring and substituting, in each case, "contributory scheme".

**Insertion of Divisions VIII and IX into Part IVB**

9. The following Divisions are inserted into Part IVB of the principal Act after section 43s:

**DIVISION VIII—ELECTRICITY TRUST OF SOUTH AUSTRALIA  
NON-CONTRIBUTORY SUPERANNUATION SCHEME****Interpretation**

43t. In this Division, unless the contrary intention appears—

"the Commonwealth Act" means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth;

"employee" means a person in relation to whom the Trust is liable to pay a superannuation guarantee charge under the Commonwealth Act.

**Establishment of the non-contributory scheme**

43u. (1) The Trust must establish a non-contributory superannuation scheme for the benefit of—

- (a) its employees who are not members of the contributory scheme;
- (b) those members of the contributory scheme in relation to whom the benefits accruing under that scheme are not sufficient to reduce the charge percentage under the Commonwealth Act to zero;
- (c) those members of the contributory scheme to whom a benefit is not for the time being accruing under that scheme.

(2) The scheme will be known as the *Electricity Trust of South Australia Non-Contributory Superannuation Scheme*.

(3) The Trust must make rules that provide for membership of the non-contributory scheme, contributions by the Trust and benefits and other matters relating to the establishment and operation of the scheme.

(4) The Rules—

- (a) must conform to the provisions of this Division;
- (b) must be approved by the Treasurer;

and

(c) may be varied or replaced by the Trust with the approval of the Treasurer.

(5) On approval by the Treasurer, the Rules will be taken to have come into operation on 1 July 1992 or such later date as is specified in the Rules and a variation or replacement of the Rules will be taken to have come into operation on the date specified in the instrument varying or replacing them whether that date occurred before or after the date on which the instrument was made or the date on which the Treasurer gave his or her approval.

(6) The benefits provided by the Rules to, or in relation to, an employee must not exceed the minimum amount required to avoid payment of the superannuation guarantee charge in respect of the employee under the Commonwealth Act.

(7) Section 10(3) and (4) of the *Subordinate Legislation Act 1978* does not apply to rules made under this section.

#### **Payment of benefits**

43v. Benefits under the non-contributory scheme must be paid by the Trust.

#### **Accounts and audit**

43w. (1) The Board must, in respect of each financial year, keep proper accounts of payments to, or in relation to, employees to whom benefits have accrued under the non-contributory scheme and the Board must prepare financial statements in relation to those payments in a form approved by the Treasurer.

(2) The Auditor-General may at any time, and must at least once in each year, audit the accounts and financial statements referred to in subsection (1).

#### **Report**

43x. (1) The Board must, on or before 31 October in each year, submit a report to the Treasurer on the operation of this Division and the Rules during the financial year ending on 30 June in that year.

(2) The report must include a copy of the financial statements prepared by the Board in relation to payments to, or in respect of, employees of the Trust.

(3) The Treasurer must, within six sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

### **DIVISION IX—GENERAL**

#### **Exclusion of benefits under awards, etc.**

43y. The Trust cannot be required by or under the *Industrial Relations Act (S.A.) 1972* or by an award, industrial agreement or contract of employment to make a payment or payments—

(a) in the nature of superannuation;

or

(b) to a superannuation fund,

for the benefit of a member of the contributory scheme or of a person to whom benefits accrue under the non-contributory scheme.

#### Substitution of schedule

10. The schedule of the principal Act is repealed and the following schedule is substituted:

#### SCHEDULE *Transitional Provision*

##### Assignment of pensions to be void

A person who was, immediately before the commencement of the Electricity Trust of South Australia (Superannuation) Amendment Act 1993, in receipt of a pension under the Electricity Trust of South Australia Superannuation Scheme established under Part IVB Division III by virtue of—

- (a) the assignment of the pension to that person;
- (b) the assignment of a pension under The Electricity Trust of South Australia Retiring Gratuities for Wages Employees Scheme (1962) or under the *ETSA Superannuation Scheme Regulations 1975* to that person before 1 February 1991,

will cease to be entitled to the pension on the commencement of the Electricity Trust of South Australia (Superannuation) Amendment Act 1993, and the pension will be payable to the person who would have been entitled to it if the assignment had not occurred.

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

ROMA MITCHELL Governor