



ANNO TRICESIMO OCTAVO

ELIZABETHAE II REGINAE

A.D. 1989

No. 9 of 1989

An Act to amend the Superannuation Act, 1988.

[Assented to 30 March 1989]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Superannuation Act Amendment Act, 1989*.
- (2) The *Superannuation Act, 1988*, is referred to in this Act as “the principal Act”.

Commencement

2. (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.
- (2) Paragraph (b) of section 9 and section 14 will be taken to have come into operation when the principal Act came into operation.

Interpretation

3. Section 4 of the principal Act is amended—

- (a) by inserting in the definition of “notional salary” at the end of that definition “and, if the contributor was not in full-time employment immediately before cessation of employment, notional salary will be calculated on the basis of the contributor’s average hours of employment (excluding overtime) over the last three years of his or her contribution period”;
- (b) by striking out paragraph (d) of the definition of “salary” and substituting:
 - (d) allowances (unless declared by regulation to be a component of salary) for accommodation, travelling, subsistence or other expenses;
- (c) by inserting in the definition of “salary” at the end of paragraph (e) “(and such a regulation may exclude remuneration of a particular kind for the purpose of calculating contributions but provide for its inclusion as a component of salary for the purpose of calculating benefits);

and

- (d) by inserting after subsection (4) the following subsections:

(5) Where it is necessary to calculate what would have been the amount standing to the credit of a contributor's contribution account, as at a particular time, if the contributor had contributed at the standard contribution rate throughout his or her contribution period, the calculation may be made as follows:

$$A = B \times \frac{C}{D}$$

Where—

- A is the amount
- B is the actual credit of the contribution account at the relevant time
- C is the number of months in the contribution period
- D is the number of the contributor's contribution points.

(6) References in this Act to resignation from, or termination of, employment will be read subject to the following qualifications—

- (a) resignation from a particular position in order to take up some other position in employment to which this Act applies, or to take up employment in the same position but on a different basis, will be ignored unless there is an interval of more than one month between the time the resignation takes effect and the commencement of the new employment;
- (b) where a person is employed in employment to which this Act applies for a particular term, and the term expires, the person will be taken to have resigned at the end of the term unless the person is re-employed in employment to which this Act applies within three months after the expiration of the term (and in that case any interruption of employment will be ignored).

Contributors' accounts in the Fund

4. Section 18 of the principal Act is amended by striking out subparagraph (ii) of paragraph (b) of subsection (3).

Contribution rates

5. Section 23 of the principal Act is amended by striking out paragraph (b) of subsection (7) and substituting the following paragraph:

(b) the contributor has—

- (i) an aggregate of 360 contribution points;

or

- (ii) an aggregate number of contribution points equal to the number of months between the date on which he or she became a contributor and the date on which he or she reached the age of retirement,

whichever is the greater number.

Disability pension

6. Section 30 of the principal Act is amended by striking out "or" from between paragraphs (a) and (b) of subsection (3) and inserting after paragraph (b) the following paragraph:

or

- (c) a period for which the contributor is on recreation leave or long service leave.

Retirement

7. Section 34 of the principal Act is amended by striking out the formula in paragraph (c) of subsection (2) and substituting the following formula:

$$P = \left[\left[\frac{A}{540} \times \frac{60 - B}{60} \right] + \left[\frac{C \times B}{60} \right] \right] \times FS \times Z$$

Temporary disability pension

8. Section 36 of the principal Act is amended—

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

(1) Subject to this section, a contributor—

(a) who is temporarily or permanently incapacitated for work but whose employment has not been terminated on that ground;

and

(b) who has not reached the age of retirement,

is entitled to a disability pension.;

(b) by striking out “or” from between paragraphs (a) and (b) of subsection (3) and inserting after paragraph (b) the following paragraph:

or

(c) a period for which the contributor is on recreation leave or long service leave.

Resignation and preservation of benefits

9. Section 39 of the principal Act is amended—

(a) by striking out from paragraph (b) of subsection (6) “indexed to the date on which the pension first became payable” and substituting “adjusted to reflect changes in the Consumer Price Index between the date of resignation and the date on which the pension first became payable”;

and

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

(9) The right to preserve accrued superannuation benefits under this section does not apply for the benefit of a contributor who was, when he or she resigned, an employee—

(a) of the Australian National Railways Commission;

or

(b) of a prescribed employer.

Effect of workers compensation, etc., on pensions

10. Section 45 of the principal Act is amended by striking out paragraphs (c) and (d) of subsection (1) and substituting the following paragraphs:

(c) the pension will be reduced by the amount of the workers compensation payments and if those payments equal or exceed the amount of the pension, the pension will be suspended;

(d) if the aggregate of the pension and the other income exceeds the contributor's notional salary, the pension will be reduced by the amount of the excess and, if that amount equals or exceeds the amount of the pension, the pension will be suspended.

Division of benefit where deceased contributor is survived by lawful and putative spouses

11. Section 46 of the principal Act is amended by inserting after subsection (3) the following subsections:

(4) A putative spouse is not entitled to any benefit under this section, unless the deceased contributor and that spouse were putative spouses as at the date of the contributor's death.

(5) Where—

(a) a deceased contributor is survived by a lawful and a putative spouse;

(b) a benefit is paid to one of them on the assumption that he or she is the sole surviving spouse of the deceased,

the other spouse has no claim on the benefit insofar as it has been already paid unless that spouse gave the Board notice of his or her claim before the date of the payment.

Repayment of balance in contribution account

12. Section 48 of the principal Act is amended—

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

(1) Where—

(a) a contributor's employment has terminated or has been terminated;

(b) no pension has been paid under this Act to or in relation to the contributor following termination of the employment;

and

(c) no benefit is payable (either immediately or prospectively) under any other provision of this Act,

the balance standing to the credit of the contributor's contribution account will be paid to the contributor or to the contributor's estate.;

(b) by striking out paragraph (e) of subsection (2) and substituting the following paragraph:

(e) the account will be charged with the amount of any pension or lump sum paid to or in relation to the contributor (insofar as that amount has not already been charged to the contribution account);;

and

(c) by inserting after subsection (2) the following subsection:

(3) Where—

(a) a contributor's employment terminates or is terminated;

(b) a pension becomes payable under this Act to or in relation to the contributor;

and

(c) the amount standing to the credit of the contributor's contribution account exceeds what would have been the balance of the account if the contributor had contributed throughout his or her contribution period at the standard contribution rate,

the amount of the excess will be paid to the contributor or the contributor's estate (as the case requires).

Insertion of s. 60

13. The following section is inserted after section 59 of the principal Act:

Appropriation

60. Any money required for the purposes of this Act (except money payable from contribution accounts or payable by bodies with which the Board has entered into superannuation arrangements) is payable from the Consolidated Account, which is appropriated to the necessary extent.

Continuity of contributor status

14. Clause 1 of schedule 1 is amended by inserting after subclause (2) the following subclause:

(2a) A person who, immediately before the commencement of this Act, was an employee of the Australian National Railways Commission and was also a contributor to the Fund or the Provident Account will be taken to be an employee for the purposes of this Act until he or she ceases to be an employee of the Australian National Railways Commission.

Special provisions for contributors to the Provident Account

15. (1) Clause 6 of schedule 1 is amended—

(a) by striking out “11.5” from the formula in subclause (1) and substituting “Z”;
and

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

Z is—

(a) in relation to a contributor who is 55 years of age or less—11.5;

(b) in relation to a contributor who is over the age of 55 years—11.5 less 0.0167 for every month by which the contributor’s age exceeds 55 years.

Neglected unit and fund share reduction

16. Clause 9 of schedule 1 is amended—

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

(1a) Where—

(a) an old scheme contributor resigns from employment and elects to preserve his or her accrued superannuation benefits in the Fund;

and

(b) the contributor was, before resignation, making pension maintenance payments or neglected unit maintenance payments, or purchasing contribution months by fortnightly contributions,

a pension that subsequently becomes payable to or in relation to the contributor will be reduced to an extent determined by the Public Actuary.;

and

(b) by inserting after subclause (2) the following subclause:

(3) A contributor who desires to reduce or eliminate a reduction of pension under this clause must, within one month after cessation of employment inform the Public Actuary in writing of his or her intention to do so, and must pay the appropriate lump sum within one month after receiving notification from the Public Actuary of the relevant amount.

Substitution of clause 10

17. Clause 10 of schedule 1 is repealed and the following clause is substituted:

Pensions that commenced under previous enactments

10. (1) A pension that commenced under the repealed Act, or under a corresponding previous enactment, is, subject to this Act, payable as if this Act had been in force when the pension commenced.

(2) This Act, apart from provisions relating to indexation, commutation and reduction or suspension of pensions, does not affect the amount of any such pension.

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

D. B. DUNSTAN, Governor