SUPERANNUATION (SCHEME REVISION) AMENDMENT ACT 1992

No. 91 of 1992

SUMMARY OF PROVISIONS

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A.D. 1992

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No. 91 of 1992

An Act to amend the Superannuation Act 1988.

[*Assented to 10 December 1992*]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Superannuation (Scheme Revision) Amendment Act 1992*.

(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 be taken to have come into operation on 1 July 1992.

(2) Paragraphs *(b)* and *(c)* of section 8 will come into operation on the day on which the Governor assents to this Act.

Amendment of s. 4—Interpretation

3. Section 4 of the principal Act is amended—

(a) by inserting after the definition of "the Board" in subsection (1) the following definition:

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

(b) by inserting after the definition of "pension period" in subsection (1) the following definition:

"Public Sector Employees Superannuation Scheme" means the superannuation scheme of that name established pursuant to a deed of arrangement dated 27 September 1989 between the Treasurer and the secretary of the United Trades and Labor Council:;

(c) by striking out from subsection (4) "the contributor's actual or attributed salary as at a particular date will be calculated as if the salary in respect of which the contributor was notionally contributing at that date were the contributor's actual salary" and substituting "the contributor's contributions will be based on the salary of the position or office held

by the contributor immediately before the reduction occurred or, if that position or office ceases to exist or the classification of the position or office is changed, the contributions will be based on the salary of that position or office immediately before it ceased to exist or its classification was changed, adjusted to reflect changes in the Consumer Price Index from that time and the contributor's actual or attributed salary as at a particular date will be determined as if the notional salary in respect of which the contributor was contributing at that date were the contributor's actual salary.";

(d) by striking out paragraph (h) of subsection (6) and substituting the following paragraph:

(h) 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—

(i) if he or she makes an election under this subparagraph—at the expiration of the term;

or

(ii) if no election is made under subparagraph (i)—at the expiration of 12 months from the expiration of the term except where the person is re-employed in employment to which this Act applies (not being employment on a casual basis) before that time in which case any interruption of employment will be ignored.;

and

(e) by inserting after subsection (6) the following subsection:

(7) A person referred to in subsection (6)(h) cannot make contributions under this Act in respect of a period before he or she is taken to have resigned under that subsection and during which he or she is not employed in employment to which this Act applies.

Amendment of s. 5—Superannuation arrangements

4. Section 5 of the principal Act is amended—

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

(1a) An arrangement under subsection (1) may modify the provisions of this Act in their application to, or in relation to, employees to which the arrangement relates but not so as to put those employees in a more advantageous position than other contributors.;

and

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

(3) An instrumentality or agency of the Crown or an authority, body or person who has entered into an arrangement with the Board under this section (whether before or after the commencement of the *Superannuation (Scheme Revision) Amendment Act 1992*) may, by written notice to the Board of not less than one month, declare that benefits will cease accruing to contributors in respect of employment with the instrumentality, agency, authority, body or person and in that event the contributors concerned will be taken for the purposes of this Act to have

resigned from employment with the instrumentality, agency, authority, body or person.

Insertion of s. 10a

5. The following section is inserted in Part II Division I of the principal Act after section 10:

Delegation by the Board

10a. (1) The Board may delegate any of the Board's powers or functions under this Act (except this power of delegation) to any person or body.

(2) A delegation under this section—

(a) must be by instrument in writing;

(b) may be conditional or unconditional;

(c) does not derogate from the power of the Board to act in any matter;

and

(d) is revocable at will by the Board.

Amendment of s. 20a—Contributor's accounts

6. Section 20a of the principal Act is amended by inserting at the end of subsection (1) "and each account will state whether the contributor is an old scheme contributor or a new scheme contributor".

Insertion of s. 20ab

7. The following section is inserted in Part II Division IIIA of the principal Act after section 20a:

Other accounts to be kept by Board

20ab. (1) The Board must keep proper accounts of receipts and payments relating to the payment of benefits under this Act.

(2) The Auditor-General may at any time, and must at least once in each year, audit the accounts kept by the Board under subsection (1).

Amendment of s. 22—Entry of contributors to the scheme

8. Section 22 of the principal Act is amended—

(a) by striking out subsection (5) and substituting the following subsection:

(5) If it appears to the Board—

(a) than an applicant's state of health is such as to create a risk of invalidity or premature death;

(b) that an applicant has in the past engaged in an activity of a prescribed kind that increases the risk of invalidity or premature death;

or

(c) that the applicant is likely in the future to engage in an activity of a kind referred to in paragraph *(b)*,

the Board may accept the application on conditions (being conditions authorized by the regulations) limiting the benefits payable under this Act in the event of the contributor's invalidity or death before the age of 55 years (and any such condition prevails to the extent of any inconsistency with any provision of this Act).;

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

(5a) Unless conditions referred to in subsection (5) provide otherwise, a contributor whose benefits in the event of invalidity or death are limited by conditions under that subsection or by conditions referred to in clause 7 of schedule 1 is not entitled to a disability pension under Part IV or V in respect of the illness, condition or disability to which the limitations relate during the period of five years from the commencement of this Act or the contributor's acceptance into the Scheme whichever is the later.;

(c) by striking out subsection (7) and substituting the following subsection:

(7) The Board cannot accept an application from a person who is employed on a casual basis.;

and

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

(9) The contribution period of an employee accepted as a contributor will commence on the date fixed for that purpose by the Board.

Amendment of s. 23—Contribution rates
9. Section 23 of the principal Act is amended—

(a) by striking out from subsection (3) "An election" and substituting "Subject to subsection (3a), an election";

and

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

(3a) Where the Board is satisfied that a contributor needs to reduce his or her contributions because of financial hardship, the Board may permit the contributor to make an election under subsection (2) that will operate before the commencement of the next financial year.

Amendment of s. 27—Retirement
10. Section 27 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) The employer component is the lesser of the following:

$$(a) \quad EC = \left(FS \times A \times 4.5 \right) + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

$$(b) \quad EC = \left[FS \times 4.5 \times \left(1 - \frac{X}{420} \right) \right] + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

EC   is the employer component

FS   is the contributor's actual or attributed salary immediately before retirement (expressed as an annual amount)

A   is the lesser of the following:

   (a) unity;

   (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 420

Pn   is—

   (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

   (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M   is the number of months of the contributor's contribution period occurring after 30 June 1992

X   is—

   (a) in relation to a contributor who is at retirement under the age of 60 years—the number of months by which the contributor's age falls short of 60 years;

   (b) in any other case—zero.

Amendment of s. 28—Resignation and preservation of benefits
11. Section 28 of the principal Act is amended—

   (a) by inserting after subsection (1b) the following subsections:

   (1c) Where a contributor resigns and elects to take the amount referred to in subsection (1)*(a)* the contributor is also entitled to a superannuation payment in accordance with the following provisions:

(a) if the amount of the superannuation payment, when added to the amount of the payment (if any) to which the contributor is entitled under section 32a, is less than $500, the contributor is entitled to the payment upon resignation;

(b) in any other case—

(i) the contributor may at any time after reaching the age of retirement require the Board to make the payment and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will make the payment;

(ii) if the contributor has reached the age of 55 years and is not employed by an employer within the meaning of the Commonwealth Act, the contributor may require the Board to make the payment to the contributor;

(iii) if the contributor satisfies the Board that he or she has become totally and permanently incapacitated for work, the Board will make the payment to the contributor;

(iv) if the contributor dies, the payment will be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above subparagraphs excludes further rights so that a claim cannot be subsequently made under some other subparagraph).

(1d) The amount of the superannuation payment referred to in subsection (1c) is the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act adjusted to reflect changes in the Consumer Price Index since the date of resignation.;

(b) by striking out subsection (4) and substituting the following subsection:

(4) The employer component will be the lesser of the following:

$$(a)\quad EC = \left(AFS \times A \times 4.5 \right) + Pn \left(\frac{AFS \times 0.85 \times M}{300} \right)$$

$$(b)\quad EC = \left[AFS \times 4.5 \times \left(1 - \frac{X}{420} \right) \right] + Pn \left(\frac{AFS \times 0.85 \times M}{300} \right)$$

Where—

EC is the employer component

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

A   is the lesser of the following—

(a)   unity;

(b)   the numerical value obtained by dividing the number of the contributor's accrued contribution points by 420

Pn   is—

(a)   in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

(b)   in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M   is the number of months of the contributor's contribution period occurring after 30 June 1992

X   is—

(a)   where the contributor is under the age of 60 years when the payment is made or where the contributor dies under the age of 60 years—the lesser of 60 and the number of months by which the contributor's age falls short of 60 years;

(b)   in any other case—zero.

(c)   by striking out subparagraph (ii) of paragraph (b) of subsection (5) and substituting the following subparagraph:

(ii)   an employer component which will be the aggregate of the following amounts:

(A)   an amount equal to the lesser of twice the amount of the employee component or twice the amount that would have constituted the employee component if the contributor had contributed to the Scheme at the standard contribution rate throughout the contributor's contribution period;

and

(B)   an amount calculated as follows:

$$A = Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

A   is the amount

Pn   is—

(a)   in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

(b)   in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS   is the contributor's actual or attributed salary immediately before resignation (expressed as an annual amount)

M   is the number of months of the contributor's contribution period occurring after 30 June 1992.;

and

(d)   by striking out subsection (6).

Amendment of s. 29—Retrenchment

12. Section 29 of the principal Act is amended—

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

(b)   an employer component which will be the aggregate of the following amounts:

(i)   an amount equal to the lesser of twice the amount of the employee component or twice the amount that would have constituted the employee component if the contributor had contributed to the Scheme at the standard contribution rate throughout the contributor's contribution period;

and

(ii)   an amount calculated as follows:

$$A = Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

A   is the amount

Pn   is—

(a)   in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

(b)   in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS   is the contributor's actual or attributed salary immediately before retrenchment (expressed as an annual amount)

M   is the number of months of the contributor's contribution period occurring after 30 June 1992.;

and

(b) by striking out subsection (3).

Amendment of s. 31—Termination of employment on invalidity
13. Section 31 of the principal Act is amended—

(a) by striking out the formula from subsection (2) and substituting the following formula:

$$EC = \left(A \times 3.86 \times FS \right) + X + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

(b) by inserting after the definition of "FS" in subsection (2) the following definition:

Pn is—

    (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

    (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period.;

and

(c) by inserting after the definition of "X" in subsection (2) the following definition:

M is—

    (a) where the contributor was an active contributor immediately before termination of employment—the aggregate of the number of months of the contributor's contribution period occurring after 30 June 1992 and the number of months difference between the contributor's age as at the entitlement day and the age of retirement;

    (b) in any other case—the number of months of the contributor's contribution period occurring after 30 June 1992.

Amendment of s. 32—Death of contributor
14. Section 32 of the principal Act is amended—

(a) by striking out the formula from subparagraph (ii) of paragraph *(b)* of subsection (2) and substituting the following formula:

$$EC = \left(A \times 3 \times FS \right) + X + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

(b) by inserting after the definition of "X" in subparagraph (ii) of paragraph *(h)* of subsection (2) the following definitions:

Pn   is—

    (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

    (h) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M   is—

    (a) where the contributor was an active contributor immediately before termination of employment—the aggregate of the number of months of the contributor's contribution period occurring after 30 June 1992 and the number of months difference between the contributor's age as at the entitlement day and the age of retirement;

    (h) in any other case—the number of months of the contributor's contribution period occurring after 30 June 1992;

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

(3a) The lump sum to be paid to the estate of a contributor who is not survived by a spouse but is survived by an eligible child or eligible children will be charged against the contributor's contribution account to the extent of the amount standing to the credit of the account and will be the aggregate of the following amounts:

(a)—

    (i) where the contributor was an active contributor immediately before his or her death—the greater of the following amounts:

        (A) an amount equivalent to the amount standing to the credit of the contributor's contribution account;

        (B) an amount equivalent to twice the amount of the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount);

    (ii) where the contributor was not an active contributor immediately before his or her death—an amount equivalent to the amount standing to the credit of the contributor's contribution account;

and

(b) an amount calculated as follows:

$$A = Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

A   is the amount

Pn   is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS   is the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount)

M   is—

(a) where the contributor was an active contributor immediately before termination of employment—the aggregate of the number of months of the contributor's contribution period occurring after 30 June 1992 and the number of months difference between the contributor's age as at the entitlement day and the age of retirement;

(b) in any other case—the number of months of the contributor's contribution period occurring after 30 June 1992.;

and

(d) by striking out paragraph *(b)* of subsection (5) and substituting the following paragraph:

(b) an employer component that is the lesser of the following:

(i) $$EC = \left(FS \times A \times 4.5 \right) + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

(ii) $$EC = \left[FS \times 4.5 \times \left(1 - \frac{X}{420} \right) \right] + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

EC   is the employer component

FS is the contributor's actual or attributed salary immediately before death (expressed as an annual amount)

A is the lesser of the following:

    (a) unity;

    (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 420

Pn is—

    (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;

    (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

X is—

    (a) in relation to a contributor who was at the date of death under the age of 60 years—the lesser of 60 and the number of months by which the contributor's age fell short of 60 years;

    (b) in any other case—zero

M is the number of months of the contributor's contribution period occurring after 30 June 1992.

Insertion of s. 32a

15. The following section is inserted into Part IV of the principal Act after section 32:

PSESS benefit

32a. (1) Subject to this section, a person who is entitled to a benefit under this Part is entitled also to payment of the amount standing to the credit of the contributor's account under subsection (6) being an amount equivalent to the amount accrued under the Public Sector Employees Superannuation Scheme in respect of the contributor.

(2) Where a contributor who has resigned from employment elects to take the amount standing to the credit of his or her contribution account, the amount referred to in subsection (1) will—

    (a) if the aggregate of that amount and the amount (if any) to which the contributor is entitled under section 28(1c) is less than $500—be paid upon resignation;

or

    (b) in any other case—be paid to or in relation to the contributor at the time at which, and in the circumstances under which, payment of benefits would be made to or in relation to the contributor if he or she had preserved his or her accrued superannuation benefits.

(3) Where a contributor who has resigned from employment elects to carry over his or her accrued superannuation benefits to an approved superannuation fund or scheme and the Board is satisfied that the contributor has been admitted to membership of the fund or scheme, the amount referred to in subsection (1) will be paid on behalf of the contributor to the fund or scheme.

(4) If at the time payment is to be made under subsection (1) the contributor has died, the payment will be made to the contributor's spouse or if the contributor is not survived by a spouse, to the contributor's estate.

(5) If the amount referred to in subsection (1) has not been determined when it would otherwise be payable under this section, the amount is not payable until the expiration of seven days after it has been determined.

(6) The Board will maintain an account in the name of each contributor and the Board must—

(a) credit to each account (when the amount has been determined) an amount equivalent to the amount accrued under the Public Sector Employees Superannuation Scheme as at 30 June 1992 in respect of the contributor;

and

(b) credit to each account at the end of the 1992/1993 financial year and at the end of each succeeding financial year—an amount that reflects the rate of return determined by the Board in relation to the contribution accounts of new scheme contributors for the relevant financial year.

(7) Where there is a delay in crediting the amount referred to in subsection (6)(a), the amount referred to in subsection (6)(b) will be determined on the assumption that the amount referred to in subsection (6)(a) had been credited on 1 July 1992.

(8) Where it is necessary to determine the balance of an account referred to in subsection (6) at some time other than the end of a financial year, the balance will be extrapolated by applying a percentage rate of return estimated by the Board.

Substitution of s. 34

16. Section 34 of the principal Act is repealed and the following section is substituted:

Retirement

34. (1) A contributor who retires on or after reaching the age of retirement, and whose contribution period as at the age of retirement was 300 months or more or whose membership of the Scheme antedated the commencement of the repealed Act is entitled to a pension calculated as follows:

$$P = FS\left[\left(A \times \frac{2}{3}\right)\left(1 + \frac{X}{E}\right)\right] + \frac{FS}{100} + FS\left(\frac{7.4}{100} \times \frac{n}{420}\right)$$

Where—

P   is the amount of the pension (expressed as an amount per fortnight)

FS   is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before retirement

A   is the lesser of the following:

(a)   unity;

(b)   the numerical value obtained by dividing the number of the contributor's accrued contribution points by—

(i)   in the case of a contributor who was accepted as a contributor under the repealed Act before reaching the age of 30 years—the number of months between the date of acceptance and the age of retirement;

(ii)   in any other case—360

E   is—

(a)   in relation to a contributor whose contribution period at the age of retirement was 360 months or more—600;

(b)   in relation to a contributor whose contribution period at the age of retirement was 300 months or more but less than 360 months—1 200

X   is the number of months by which the contributor's age at retirement exceeds the age of retirement

n   is 420 or the aggregate number of contribution points that accrued to the contributor between 1 July 1992 and the date of retirement whichever is the lesser.

(2) A contributor (other than a contributor whose membership of the Scheme antedates the commencement of the repealed Act) who retires on or after reaching the age of retirement but whose contribution period as at the age of retirement was less than 300 months is entitled to a pension calculated as follows:

$$P = FS \times Z \left[\left(\frac{A}{540} \times \frac{60 - B}{60}\right) + \left(\frac{C \times B}{60}\right)\right] + \frac{FS}{100} + FS \left(\frac{7.4}{100} \times \frac{n}{420}\right)$$

Where—

P   is the amount of the pension (expressed as an amount per fortnight)

FS   is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before retirement

Z   is the numerical value obtained by dividing the number of the contributor's accrued contribution points by the number of months in the contribution period

A   is the number of months in the contribution period on the date on which the contributor reached the age of retirement

B   is the number of months between the day on which the contributor reached the age of retirement and the day on which he or she retired

C   is the number obtained from Schedule 2 by reference to the value of A applicable to the contributor

n   is 420 or the aggregate number of contribution points that accrued to the contributor between 1 July 1992 and the date of retirement whichever is the lesser.

(3) A contributor who retires after reaching the age of 55 years but before the age of retirement is entitled to a pension calculated as follows:

$$
P = \left[FS \times A \left(\frac{50}{100} + \frac{17.6 \times n_2}{100 \times 60} \right) \right] + \left[FS \times \frac{n_1}{420} \left(\frac{6}{100} + \frac{1.4 \times n_2}{100 \times 60} \right) \right]
$$

Where—

P   is the amount of the pension (expressed as an amount per fortnight)

FS   is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before retirement

A   is the lesser of the following:

   (a) unity;

   (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by—

      (i)   in the case of a contributor who was accepted as a contributor under the repealed Act before reaching the age of 30 years—the number of months between the date of acceptance and the date of retirement;

      (ii) in any other case—300 + n_2

n_1 is 420 or the aggregate number of contribution points that accrued to the contributor between 1 July 1992 and the date of retirement whichever is the lesser

n_2 is the number of months between the day on which the contributor reached the age of 55 years and the day on which he or she retired.

(4) A retirement pension will be indexed.

Amendment of s. 35—Retrenchment

17. Section 35 of the principal Act is amended—

(a) by striking out from subsection (1) "is entitled to a pension" and substituting "is entitled to a pension and a lump sum";

(b) by inserting after subsection (2a) the following subsection:

(2b) The amount of the lump sum under subsection (1) is calculated as follows:

$$LS = Pn \left(FS \times \frac{0.85}{450} \times M \right)$$

Where—

LS   is the lump sum

Pn   is—

    (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

    (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS   is the contributor's actual or attributed salary (expressed as an annual amount) immediately before retrenchment

M   is the number of months of the contributor's contribution period occurring after 31 December 1987;

(c) by striking out from paragraph *(h)* of subsection (4) "a pension" and substituting "a pension and a lump sum";

(d) by striking out the formula from subsection (5)*(b)* and substituting the following formula:

$$EC = \left[2\frac{1}{3} A - P \right] + Pn \left(FS \times \frac{0.85}{450} \times M \right);$$

and

(e) by inserting after the definition of "P" in subsection (5)*(b)* the following definitions:

Pn   is—

    (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

    (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS   is the contributor's actual or attributed salary (expressed as an annual amount) immediately before retrenchment

M   is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 37—Invalidity pension

18. Section 37 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) The amount of the pension is calculated as follows:

$$P = FS \left(A \times \frac{2}{3} \right) + \frac{FS}{100} + FS \left(\frac{7.4}{100} \times \frac{n}{420} \right)$$

Where—

P   is the amount of the pension (expressed as an amount per fortnight)

FS   is the contributor's actual or attributed salary (expressed as an amount per fortnight) immediately before termination of employment

A   is the lesser of the following:

  (a) unity;

  (b) the numerical value obtained by dividing the number of the contributor's contribution points by—

    (i) in the case of a contributor who was accepted as a contributor under the repealed Act before reaching the age of 30 years—the number of months between the date of acceptance and the age of retirement;

    (ii) in any other case—360

n   is—

  (a) 420

  or

  (b) the sum of the aggregate of the contributor's contribution points that accrue after 30 June 1992 and the number of months difference between the contributor's age as at the entitlement day and the age of retirement,

whichever is the lesser.

Amendment of s. 38—Death of contributor

19. Section 38 of the principal Act is amended—

(a) by striking out both formulas from paragraph *(b)* of subsection (7) and substituting the following formulas:

$$(i) \qquad EC = \left(A \times 4.5 \times FS \right) + Pn \left(FS \times \frac{0.85}{450} \times M \right)$$

$$(ii) \qquad EC = \left[FS \times 4.5 \times \left(1 - \frac{X}{360} \right) \right] + Pn \left[FS \times \frac{0.85}{450} \times M \right]$$

and

(b) by striking out the definition of "X" from subsection (7)*(b)* and substituting the following definition:

X   is—

    (a) in relation to a contributor who was at the date of death under the age of 60 years—the lesser of 60 and the number of months by which the contributor's age fell short of 60 years;

    (b) in any other case—zero

Pn   is—

    (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

    (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M   is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 39—Resignation and preservation of benefits
20. Section 39 of the principal act is amended—

(a) by inserting after subsection (1b) the following subsections:

(1c) Where a contributor resigns and elects to take the amount referred to in subsection (1)*(a)* the contributor is also entitled to a superannuation payment in accordance with the following provisions:

    (a) the contributor may at any time after reaching the age of retirement require the Board to make the superannuation payment and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will make the payment;

(b)   if the contributor has reached the age of 55 years and is not employed by an employer within the meaning of the Commonwealth Act the contributor may require the Board to make the payment to the contributor;

(c)   if the contributor satisfies the Board that he or she has become totally and permanently incapacitated for work, the Board will make the payment to the contributor;

(d)   if the contributor dies, the payment will be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate,

(and a payment under any of the above paragraphs excludes further rights so that a claim cannot be subsequently made under some other paragraph).

(1d) The amount of the superannuation payment referred to in subsection (1c) is the aggregate of—

(a)   an amount calculated as follows:

$$A = Pn \left(AFS \times \frac{0.85}{450} \times M \right)$$

Where

A   is the amount

Pn   is—

(a)   in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b)   in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

AFS   is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

M   is the number of months of the contributor's contribution period occurring after 31 December 1987;

and

(b)   the amount (if any) of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act adjusted to reflect changes in the Consumer Price Index since the date of resignation.

(1e) Notwithstanding subsection (1c) a contributor who is entitled to the amount referred to in subsection (1d) is entitled to take that amount immediately if it is less than $500.;

(b) by striking out paragraph *(b)* of subsection (3) and substituting the following paragraph:

    (b) an employer component that is the aggregate of—

        (i) an amount that is, subject to subsection (4), equal to 2⅓ times the amount of the employee component;

    and

        (ii) an amount calculated as follows:

$$A = Pn \left(AFS \times \frac{0.85}{450} \times M \right)$$

Where

A   is the amount

Pn is—

    (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

    (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

M   is the number of months of the contributor's contribution period occurring after 31 December 1987;

(c) by striking out "360" from the formula in subsection (7) and substituting "M";

(d) by inserting after the definition of "NP" in subsection (7) the following definition:

M is—

    (a) in the case of a contributor whose age of retirement is 55 years—300;

    and

    (b) in all other cases—360;

(e) by striking out the formulas from paragraph *(b)* of subsection (8b) and substituting the following formulas:

$$(i) \quad EC = \left(A \times 4.5 \times AFS \right) + Pn \left(AFS \times \frac{0.85}{450} \times M \right)$$

$$(ii) \quad EC = \left[AFS \times 4.5 \times \left(1 - \frac{X}{360} \right) \right] + Pn \left(AFS \times \frac{0.85}{450} \times M \right);$$

(f) by striking out the definition of "X" from paragraph *(b)* of subsection (8b) and substituting the following definitions:

X   is—

> *(a)* in relation to a contributor who was at the date of death under the age of 60 years—the lesser of 60 and the number of months by which the contributor's age fell short of 60 years;
>
> *(b)* in any other case—zero

Pn   is—

> *(a)* in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;
>
> *(b)* in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M   is the number of months of the contributor's contribution period occurring after 31 December 1987;

and

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

> (8c) Benefits under this section will be calculated by using the appropriate formula in force under this Part on the day on which the contributor resigned or is taken to have resigned by virtue of some other provision of this Act.

Insertion of s. 43b

21. The following section is inserted into Part VI of the principal Act before section 44:

Exclusion of benefits under awards, etc.

43b. A person who employs a contributor in employment to which this Act applies 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 the contributor or for the benefit of some other person in respect of the contributor.

Insertion of s. 58a
22. The following section is inserted after section 58 of the principal Act:

Rounding off of contributions and benefits
58a. The Board may round off the amount of contributions and benefits under this Act to the nearest multiple of five cents.

Amendment of schedule 1
23. Schedule 1 is amended—

(a) by inserting after subclause (2) of clause 7 the following subclause:

(3) Where a contributor is entitled to the payment of a lump sum but is not entitled to a pension under this Act by virtue of conditions referred to in subclause (1), the lump sum will be the aggregate of three and one-half times the balance standing to the credit of the contributor's contribution account and an amount calculated as follows:

$$ A = Pn \left(FS \times \frac{0.85}{450} \times M \right) $$

Where—

A   is the amount

Pn   is—

(a)   in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b)   in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS   is the contributor's actual or attributed salary (expressed as an annual amount) immediately before termination of employment

M   is the number of months of the contributor's contribution period occurring after 31 December 1987;

(b) by striking out from subclause (3) of clause 9 "within one month after cessation of employment" and substituting "within one month after first becoming entitled to receive the pension";

(c) by inserting the following clauses after clause 14:

Benefits under Parts IV and V

15. (1) Parts IV and V as in force immediately before the commencement of the *Superannuation (Scheme Revision) Amendment Act 1992* continue to apply to and in relation to the following contributors:

(a) a contributor who was a contributor immediately before 1 July 1992 and in relation to whom benefits did not accrue under the Public Sector Employees Superannuation Scheme;

(b) a contributor who has received or is entitled to receive benefits under the Public Sector Employees Superannuation Scheme or in relation to whom such benefits have been paid or are payable;

(c) a contributor who would receive a higher benefit, or in relation to whom a higher benefit would be payable, under those provisions immediately before amendment by the *Superannuation (Scheme Revision) Amendment Act 1992.*

(2) A contributor whose employment terminates or is terminated on or after 1 July 1992 and who is entitled to a benefit under the Public Sector Employees Superannuation Scheme or a person who is entitled to such a benefit in relation to a contributor whose employment was terminated by death on or after 1 July 1992 may renounce the entitlement by instrument in writing to the Board within three months after becoming entitled or within three months after the Governor assents to the *Superannuation (Scheme Revision) Amendment Act 1992*, whichever is later and upon renunciation the contributor or other person will be taken for the purposes of subclause (1)*(b)* never to have been entitled.

Transference from old scheme to new scheme

16. (1) Subject to subclause (8), an old scheme contributor may, by notice in writing given to the Board on or before 31 December 1993, elect to become a contributor to the new scheme.

(2) A contributor who makes an election under subclause (1) will be taken to have become a new scheme contributor on 1 July 1992.

(3) Where conditions limiting the payment of benefits applied in relation to the contributor under the old scheme the same conditions will, if they can be applied without modification, apply in relation to the contributor under the new scheme, but if not the Board will apply conditions that are, in its opinion, appropriate limiting the payment of benefits to or in relation to, the contributor under the new scheme.

(4) For the purpose of determining the benefits payable to, or in relation to, the contributor under the old scheme and the time at which they are payable, the contributor will be taken to have resigned from employment on 30 June 1992 and to have elected to preserve his or her accrued superannuation benefits under section 39.

(5) Benefits that are preserved by virtue of subclause (4) are not payable to the contributor while the contributor is employed in employment to which this Act applies.

(6) For the purpose of calculating the contributor's benefits under the new scheme—

(a) contribution points accrued before 1 July 1992 and contribution months occurring before that date will be disregarded;

and

(b) the Board will establish a new account in the name of the contributor as at 1 July 1992.

(7) The standard contribution rate that applied in relation to the contributor before 1 July 1992 will continue to apply in relation to the contributor from 1 July 1992 until 30 June following the election made by the contributor under subclause (1).

(8) This clause does not apply for the benefit of—

(a) an employee of the Australian National Railways Commission;

(b) a contributor who has reached the age of retirement.

(9) In this clause—

"the new scheme" means the scheme of superannuation established by Part IV of this Act;

"the old scheme" means the scheme of superannuation established by Part V of this Act.

Repeal of schedule 3
24. Schedule 3 of the principal Act is repealed.

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

ROMA MITCHELL Governor