

**SUPERANNUATION AND FAMILY
BENEFITS.**

11° and 12° GEO. VI., No. LXV.

No. 65 of 1947.

**AN ACT to amend the Superannuation and Family
Benefits Act, 1938-1945.**

[Assented to 10th January, 1948.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same as follows:—

Short title.
cf. No. 55 of
1945, s. 21.
Reprinted
1947.

1. (1) This Act may be cited as the *Superannuation and Family Benefits Act Amendment Act, 1947*, and shall be read as one with the Superannuation and Family Benefits Act, 1938-1945 (Act No. 34 of 1938 as reprinted pursuant to the Amendments Incorporation Act, 1938, as amended by Acts No. 43 of 1939 and No. 55 of 1945), hereinafter referred to as the principal Act, and shall come into operation on a day to be fixed by proclamation.

Citation.

(2) The principal Act as amended by this Act may be cited as the *Superannuation and Family Benefits Act, 1938-1947*.

2. Section three of the principal Act is amended as follows:— Amendment
of s. 3.

- (a) By inserting after the words “Division 3, ss. 40-42—Scale of Contributions by Employees” under Part IV—the words and figures “Division 3A, s. 42A—Reserve Units of Pension”; and
- (b) by inserting after the words “Endowment Fund” at the end of Division 5 under Part V, the words and figures “Division 6, ss. 83A-83B—The Provident Account.”

3. Section six of the principal Act is amended as follows:— Amendment
of s. 6.

- (a) By deleting from lines three and four of the definition of “Department” in subsection (1) the words “Agricultural Bank” and inserting in lieu thereof the words “The State Electricity Commission of Western Australia, the Rural and Industries Bank”;
- (b) by inserting after the word “forty-three” in each of lines twenty-three and thirty-two of paragraph (i) of the proviso to the second paragraph of the definition of “Department” the words “and section forty-four”;
- (c) by inserting after the word “Arbitration” in line eight of the definition of “Employee” the words “and does not include a person who is a contributor to, or is in receipt of a pension on the ground of invalidity or physical or mental incapacity from, any Superannuation Fund to which contributions are made by the Crown other than the Crown in right of Western Australia”;
- (d) by inserting in subsection (1) after the definition of “The maximum age for retirement” a definition as follows:—

“The Provident Account” means the Provident Account established under Part V. of this Act.

Amendment
of s. 30.

cf. C'wealth
No. 35 of
1947, s. 6
and 7.

4. Section thirty of the principal Act is amended as follows:—

- (a) By deleting from subsection (2) in line three the words “and approved by the State Government Actuary.”
- (b) By amending the numbers of subsections (3) and (4) to read (4) and (7) respectively, and
- (c) by inserting new subsections as follows:—

(3) For the purposes of the investigation, the rate of interest assumed to be earned by the assets of the fund shall be not less than three pounds fifteen shillings per centum per annum.

(5) Where in relation to any financial year the amount ascertained in accordance with the prescribed formula to be the amount earned by the fund is less than the amount required to provide the rate specified in subsection (3) of this section, the State shall pay to the fund an amount equal to the difference between those amounts.

(6) If any investigation made under this section discloses a surplus of assets over liabilities of the fund, the amount of the surplus shall be set off against the amount or amounts otherwise payable by the State to the fund under subsection (5) of this section.

Payment by
State to fund
in respect of
interest.

Amendment
of s. 33.

5. Subsection (1) of section thirty-three is repealed.

Amendment
of s. 34.

6. Section thirty-four of the principal Act is amended by deleting from paragraph (c) of subsection (4) the word “the” in line two and inserting in lieu thereof the word “any;” and by deleting the words “he would be required under this Act to” in lines three and four of that paragraph, and inserting in lieu thereof the words “under this Act he may.”

Amendment
of s. 35.

7. Section thirty-five of the principal Act is amended by deleting the proviso thereto.

8. Section thirty-seven of the principal Act is amended as follows:—

Amendment of s. 37.

(a) By deleting from subsection (1) the scale contained therein and substituting the following scale:—

Column One.		Column Two.			Scale of units.			
Where the Annual Salary of the Employee—		The Employee may contribute the amount necessary to provide units of pension as under—	Equivalent to an annual pension of—			Cwilt. No. 35 of 1947, s. 9.		
Exceeds—	Does not exceed—							
£	£		£	s.	d.			
....	130	Two	65	0	0			
130	156	Two and a half	81	5	0			
156	208	Three	97	10	0			
208	260	Four	130	0	0			
260	312	Five	162	10	0			
312	364	Six	195	0	0			
364	416	Seven	227	10	0			
416	468	Eight	260	0	0			
468	520	Nine	292	10	0			
520	572	Ten	325	0	0			
572	624	Eleven	357	10	0			
624	676	Twelve	390	0	0			
676	728	Thirteen	422	10	0			
728	780	Fourteen	455	0	0			
780	832	Fifteen	487	10	0			
832	884	Sixteen	520	0	0			
884	936	Seventeen	552	10	0			
936	988	Eighteen	585	0	0			
988	1,040	Nineteen	617	10	0			
1,040	Twenty	650	0	0			

(b) Subsection (2) is repealed.

(c) By deleting from line one of subsection (3) the words "Subject to subsection (2) of this section."

National Insurance provisions repealed.

(d) Paragraph (d) of subsection (6) is repealed.

(e) By adding at the end of the section a new subsection as follows:—

(10) Where a contributor or a qualified contributor who makes an election under subsection (9) of this section has completed

his contributions up to the anniversary of his initial contribution next preceding the attainment by him of the maximum age for retirement, the provisions of the proviso to subsection (5) of section thirty-six shall apply in respect of the additional units for which he elects under subsection (9) of this section.

New section
37A.

9. A section is inserted in the principal Act after section thirty-seven as follows:—

Provisions re
contributors
whose
salaries
exceed £676
per annum.
cf. Cwith.
1947, s. 30.

37A. (1) Where, immediately prior to the date of commencement of the Superannuation and Family Benefits Act Amendment Act, 1947, a contributor whose salary exceeded six hundred and seventy-six pounds per annum was contributing for the maximum number of units of pension for which he was eligible to contribute, he may, within twelve months after that date, elect to increase the amount of his contributions to a sum which will provide units of pension not exceeding the number specified in column two of the scale contained in subsection (1) of section thirty-seven of this Act opposite to the salary group within which his salary fell on that date.

(2) Where a contributor who has elected to increase his contributions in accordance with subsection (1) of this section is retired before the first day of July, one thousand nine hundred and fifty-two, on the ground of invalidity or physical or mental incapacity to perform his duties, or dies before that date, the State shall pay to the fund in respect of each year that a pension shall be payable, the amount by which that portion of the pension payable to or in respect of the contributor as the result of his election exceeds so much of that portion as is equivalent to the contributions made by him in respect of that portion and the Consolidated Revenue Fund is, to the necessary extent, hereby appropriated accordingly.

(3) Any increased contribution payable in pursuance of subsection (1) of this section shall be payable as from the date of the election.

(4) Where a contributor of the kind mentioned in subsection (1) of this section has not elected to take the full benefit available to him under this section within the time specified in subsection (1) of this section, the provisions of subsection (9) of section thirty-seven of this Act shall apply in respect of any later application made by him. Provided that for the purposes of this section the first anniversary date will be regarded as the day of expiration of one year from the date of the commencement of the Superannuation and Family Benefits Act Amendment Act, 1947.

10. Section forty of the principal Act is amended by inserting the words "compounded annually" after the word "annum" in line ten of the second proviso thereto. Amendment of s. 40.

11. Section forty-one of the principal Act is amended by inserting after subsection (3) a new subsection as follows:— Amendment of s. 41.

(3a) Where a contributor has made an election to contribute for a pension upon retirement at an age earlier than sixty-five years, the Board may, upon application by the contributor, permit him to elect to contribute for a full pension upon retirement at a later age up to sixty-five years and in such case his contributions shall be adjusted accordingly. Election to contribute for full pension at age 61 to 65 years.

12. After Division 3 of Part IV. of the principal Act the following Division is inserted:— New division 3A.

Division 3A—Reserve Units of Pension.

42A. (1) There shall be a Reserve Units of Pension Account (in this Division referred to as "the Account"), which shall form part of the fund and into which shall be paid all contributions made by contributors under this Division. Reserve units of pension. cf. Owlth. No 35 of 1947. s. 11.

(2) A contributor who is contributing for the number of units of pension corresponding to the salary group within which his salary falls may, from time to time, elect to contribute, in accordance with this Division for one or more reserve units of pension, with a maximum of four.

(3) Contributions in respect of a reserve unit of pension shall, subject to subsection (2) of section forty-two of this Act, be in accordance with the rate prescribed in the appropriate Schedule to this Act, and shall be payable as from the date on which the contributor elects to contribute for that reserve unit of pension.

(4) Where a contributor who is contributing for one or more reserve units of pension becomes eligible to contribute for one or more additional units of pension in pursuance of the provisions of this Act, he may elect to transfer to the Fund the contributions paid by him to the Account in respect of a number of reserve units of pension not exceeding the number of those additional units of pension.

(5) Where a contributor so elects, no further contributions shall be paid into the Account in respect of the reserve units of pension to which the election applies and the contributions payable by the contributor in respect of the additional units of pension equal to the number of those reserve units of pension shall be at the same rate as the contributions paid into the Account in respect of those reserve units of pension.

(6) Where a contributor is contributing for one or more reserve units of pension, he may, subject to subsection seven of this section, elect to discontinue his contributions in respect of any number or all of those units. In that event or if he ceases to be an employee, there shall be paid to him or to his personal representatives, from the Account, the amount of the contributions made by him in respect of those reserve units of pension, together with interest, compounded annually, on those contributions, at the rate determined by the Board in respect of the period or periods concerned.

(7) A contributor who has made an election to reduce the number of reserve units under subsection six of this section shall not again be eligible to elect to contribute for reserve units of pension.

13. Section forty-three of the principal Act is amended as follows:— Amendment of s. 43.

(a) By deleting from lines five and six the word “one-half” and inserting in lieu thereof the word “three-fifths.”

(b) By adding to the section the following new proviso:— cf. Cwilt. No. 35 of 1947, s. 12.

Provided that, where a contributor, under section thirty-six or section sixty of this Act, elects or is called upon to retire at age sixty years or later age and elects to continue to pay contributions at the lower rate until he attains the age of sixty-five years, the employing Department shall continue to pay the “employer” contributions for the corresponding period to the Board on behalf of the State.

14. A section is inserted in the principal Act after section forty-six as follows:— New section 46A.

46A. (1) Notwithstanding anything to the contrary in this Act, where, at the date of commencement of the Superannuation and Family Benefits Act Amendment Act, 1947, or subsequently a person is in receipt of a pension under this Act, not being a pension payable in respect of a child, the amount of the pension shall be increased by one-quarter. Rate of pensions to be increased. Cf. Cwilt. Superannuation Act, 1947, s. 31.

(2) The State shall pay to the Superannuation Fund the amount of the increase and the Consolidated Revenue Fund is, to the extent necessary, hereby permanently appropriated accordingly.

(3) The provisions of this section shall apply in respect of the first fortnightly payment of pension made after the date of commencement of the Superannuation and Family Benefits Act Amendment Act, 1947, and in respect of all subsequent payments.

15. Section fifty-six of the principal Act is amended by inserting “(1)” after the section number and adding to the section a new subsection as follows:— Amendment of s. 56.

(2) A female employee who marries shall, for the purposes of this Act, be deemed to have resigned on the date of her marriage. cf. Cwilt. 1945, s. 5.

Amendment
of s. 58.
cf. Cwilt. No.
35 of 1947,
s. 14.

16. Section fifty-eight of the principal Act is amended by deleting from subsection (1) the words "twenty-six pounds" and substituting the words "thirty-two pounds ten shillings."

Amendment
of s. 61.

17. Section sixty-one of the principal Act is amended as follows:—

S.A. No. 29 of
1942, s. 8.

(a) By inserting in subsection (1) in line one after the word "Contributor" the words "who has been a contributor for at least three years."

cf. Cwilt.
Superannua-
tion Act,
1943, s. 11.

(b) By inserting in subsection (1) in line three of subparagraph (ii) of the proviso to paragraph (c) after the word "shall" the words "provided she married before the commencement of the Superannuation and Family Benefits Act Amendment Act, 1947."

S.A. 50 of
1946, s. 9.

(c) By inserting after subsection (3) a new subsection as follows:—

(4) Where a contributor who has been a contributor for less than three years is retired on the ground of invalidity or physical or mental incapacity to perform his duties, he shall be entitled to a refund of the actual amount of the contributions made by him.

Amendment
of s. 63.
cf. Cwilt.
1947, s. 16.
(Orig. 32.)

18. Section sixty-three of the principal Act is amended as follows:—

(a) By deleting from paragraph (a) of subsection (1) the words "twenty-six pounds" and substituting the words "thirty-two pounds ten shillings"; and

(b) by deleting subsection (3) and inserting in lieu thereof a subsection as follows:—

(3) Notwithstanding anything contained in this section, where a contributor or a pensioner marries after he has attained the maximum age for retirement, or after his retirement from the service (including retirement under section sixty-one of this Act), pension shall not, upon his death, be payable to the widow or in respect of her children, or the children of that marriage.

19. Section sixty-four of the principal Act is amended by inserting “(1)” after the section number at the beginning of the section; and by adding to the section a new subsection as follows:—

Amendment
of s. 64.
S.A. 1942,
s. 4

(2) Where a male contributor or a male pensioner whose wife is dead or divorced has died leaving children of himself or of his wife who were under the age of sixteen years at the time of his death, and all such children have attained the age of sixteen years; and the total amount of any pensions paid to the contributor or pensioner and in respect of the children is less than the total amount of the contributions paid to the fund by the contributor or pensioner, the Board shall pay a sum, equal to the amount by which the said pensions are less than the said contributions, to the guardian of the children or to some other person approved by the Board, to be used for the support and education of the children.

20. Section sixty-eight of the principal Act is amended as follows:—

Amendment
of s. 68.

(a) By inserting after the word “sixty” in line four the words “and subsection (4) of section sixty-one”; and

(b) by adding to the section a further proviso as follows:—

Provided also that any such refund or payment shall exclude the amount, if any, credited by the State to the fund in respect of contributions for the period or periods during which the contributor served in the naval, military or air force.

21. Section seventy-eight of the principal Act is amended by adding thereto a new subsection as follows:—

Amendment
of s. 78

(6) Where a pension is cancelled by the Board under this section, the pensioner shall be regarded as a contributor and notwithstanding the provisions of subsection (1) of this section he shall be required to pay his contributions in accordance with section forty-seven of this Act.

Amendment
of s. 80.

22. Section eighty of the principal Act is amended as follows:—

- (a) By inserting in subsection (1) after the word “Service” in line three the words “or in any public department under the Crown”; and
- (b) by inserting in subsection (1) after the word “re-employment” in line seven of the proviso thereto the words “but such exemption shall be limited to one term of twenty-eight days where the period of employment or re-employment is continuous for more than twelve months.”
- (c) By inserting in subsection (3) after the word “greater” in line seven the words “or, if the payments from the State are equal, of only one of those pensions.”

Owlt. 1942,
s. 50A (4).

New division
5 of Part V.

23. After Division 5 of Part V. of the principal Act the following Division is inserted:—

Division 6—The Provident Account.

Provident
(Voluntary
Savings)
Account.

83A. (1) There shall be a Provident Account which shall form part of the fund and into which shall be paid all moneys paid to the fund by, or by authorisation of, any person under this Division.

(2) No payment whatever shall be required from or be payable by the State in respect of subscribers to the Provident Account.

(3) Subject to such conditions as are prescribed any person (referred to in this Division as a “subscriber”) employed in a department may authorise the deduction from his salary and payment to the fund or may pay directly to the fund any sum of money, subject to subsection (6) of this section. A subscriber may at any time increase the rate of his subscription.

(4) Such moneys shall be credited to such subscriber and shall accumulate with interest at a rate per centum per annum compounded annually, which rate shall be fixed by the Board from time to time.

(5) A subscriber by whom or on whose behalf moneys are paid to the fund under this Division shall not be regarded as a contributor for the pur-

poses of this Act, nor shall he be entitled to any benefits, other than as specified in this Division, in respect of moneys credited to the Provident Account.

(6) Subject to subsection (2) of section eighty-three B of this Act, amounts credited to the Provident Account shall be in multiples of one shilling per fortnight.

(7) Subject to subsection (4) of section eighty-three B of this Act, a subscriber, after giving written notice to the Board and provided that he has made regular fortnightly subscriptions to the Provident Account for a period not less than five years, may withdraw from the Account the whole or portion of the moneys standing to his credit under this section.

(8) When a subscriber ceases to be employed in the Service, the amount standing to his credit in the Provident Account shall be paid to him or to his personal representatives, or failing them, to such persons, if any, as the Board may determine.

(9) The provisions of section forty-nine and the proviso to section fifty of this Act in regard to unpaid amounts shall not apply in respect of subscriptions to the Provident Account, except in the cases referred to in subsection (2) of section eighty-three B of this Act.

(10) Except in regard to paragraph (a) of the proviso to section sixty-eight of this Act, that section shall not be applied to refunds or payments from the Provident Account.

(11) Subject to this Act, a subscriber may elect to become a contributor at any time and thereupon the provisions of section thirty-two of this Act shall apply. Where such an election is made, the employee shall have the option of contributing—

- (a) at the rate of contribution prescribed for his age at the date of commencing to contribute to the Provident Account, and payable from that date, the amount standing to his credit in the Provident Account without interest (which shall not be pay-

able or chargeable to such subscriber or contributor) to be utilised to the extent necessary to meet the arrears of contributions; or

- (b) at the rate for his age at the date of making the election, in which case the interest credited as per subsection (4) of this section shall stand to his credit.

(12) Nothing in this Division of this Act shall operate or be deemed to operate so as to preclude a subscriber from becoming or continuing to be a contributor under this Act.

Provident
Account.
Female
subscribers.

83B. (1) A female contributor under this Act may at any time elect to transfer to the Provident Account the whole of the contributions paid by her to the Fund or the portion in respect of units in excess of two.

(2) A female employee who is not a contributor for a pension under this Act and who elects to become a subscriber, or a female contributor who elects to transfer the whole of the contributions paid by her for a pension under this Act to the Provident Account, as provided for in the last preceding subsection, shall—

- (a) contribute to the Provident Account at a rate not less than would be required for contributions for two units of pension under this Act, at the rate for her age at the date of such election, or, if higher (subject to the next succeeding subsection) at the rate of one shilling for each complete pound of her gross fortnightly salary; and
- (b) continue to contribute to the Provident Account while she continues to be an employee.

(3) Where a subscriber under subsection (2) of this section satisfies the Board that adequate provision has been made for herself, the Board may

exempt her from subscribing at a rate higher than that for two units referred to in paragraph (a) of that subsection.

(4) Where a female subscriber is not a contributor for a pension under this Act, subsection (7) of section eighty-three A shall apply only in respect of subscriptions made in excess of the fortnightly contribution specified in paragraph (a) of subsection (2) of this section.

(5) The provisions of subsection (3) of section thirty-three of this Act and section eighty-one of this Act shall apply to a female subscriber under subsection (2) of this section while she continues to be a subscriber.

24. (1) The First, Second, Third and Fourth Schedules to the principal Act are repealed and there shall be deemed to be inserted by this Act in lieu thereof—

Amendments
to Schedules.
of Cwlth. No.
35 of 1947,
s. 28.

(a) as the First Schedule to the principal Act the Appendix A to the proclamation under subsection (2) of section forty-one of the Superannuation and Family Benefits Act, 1938-1939, dated the twelfth day of December, 1945, and published in the *Gazette* on the fourteenth day of December, 1945;

(b) as the Second Schedule to the principal Act, the first and second columns of Appendix C to the proclamation aforesaid;

(c) as the Third Schedule to the principal Act, the Appendix B to the proclamation aforesaid; and

(d) as the Fourth Schedule to the principal Act the third and fourth columns of Appendix C to the proclamation aforesaid.

Provided that the headings of the said Appendices A, B and C shall be deemed amended by the deletion of the amounts “£52” and “£26” (wherever occurring) and the insertion in lieu thereof of the amounts “£65” and “£32 10s.” respectively.

(2) Unless and until any other tables of contributions are prescribed under subsection (2) of section forty-two

of the principal Act, any reprint of the principal Act shall contain the said Schedules as deemed to be amended by this Act.

Validation.

25. (1) Insofar as any matter or thing has been done in purported pursuance of the provisions of the principal Act prior to the commencement of this, the Superannuation and Family Benefits Act Amendment Act, 1947, which at the time of the doing thereof was not or may not have been authorised by the principal Act as then in force, but which if done after the relevant provisions of this, the Superannuation and Family Benefits Act Amendment Act, 1947, shall have come into operation, would be authorised by the principal Act as amended by this, the Superannuation and Family Benefits Act Amendment Act, 1947, the doing of such matter or thing is confirmed and validated.

(2) Any adjustments and other arrangements in relation to any matter or thing, which by subsection (1) of this section is confirmed and validated, may be made or effected after the relevant provisions of this, the Superannuation and Family Benefits Act Amendment Act, 1947, shall have come into operation wherever necessary in order to give effect retrospectively to the provisions of the principal Act as amended by this, the Superannuation and Family Benefits Act Amendment Act, 1947.