

Western Australia

**Parliamentary Superannuation Legislation
Amendment Act 2000**

As at 10 Oct 2000

No. 37 of 2000

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Parliamentary Superannuation Legislation Amendment Act 2000

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Western Australia

Parliamentary Superannuation Legislation Amendment Act 2000

No. 37 of 2000

An Act to amend the —

- *Parliamentary Superannuation Act 1970;*
- *Salaries and Allowances Act 1975; and*
- *Financial Administration and Audit Act 1985,*

and for related purposes.

[Assented to 10 October 2000]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Parliamentary Superannuation Legislation Amendment Act 2000*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

**Part 2 — *Parliamentary Superannuation Act 1970*
amended**

3. The Act amended by this Part

The amendments in this Part are to the *Parliamentary Superannuation Act 1970**.

[* *Reprinted as at 25 September 1991.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 183.]

4. Long title replaced

The long title is repealed and the following long title is inserted instead —

“

An Act relating to superannuation for members of Parliament and for related purposes.

”.

5. Section 5 amended

(1) Section 5(1) is amended as follows:

(a) by inserting after the definition of “Board” the following definition —

“

“closing day” means the day on which the *Parliamentary Superannuation Legislation Amendment Act 2000* comes into operation;

”;

(b) in the definition of “scheme” by inserting after “this Act” —

“ other than section 29 ”;

(c) by deleting the full stop after the definition of “the repealed Act” and inserting a semicolon instead;

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- (d) by inserting after the definition of “the repealed Act” the following definition —

“

“**Tribunal**” means the Salaries and Allowances
Tribunal established by section 5 of the *Salaries
and Allowances Act 1975*.

”.

- (2) Section 5(4) is repealed and the following subsections are inserted instead —

“

- (4) Without limiting the application of section 19A, a reference in this Act to a widow of a member or former member includes a reference to a person of the opposite sex to the member or former member who, although not the legal spouse of the member or former member at the time of his death was at that time, in the opinion of the Board, the *de facto* spouse of the member.

- (5) For the purposes of this Act a relationship of the kind referred to in subsection (4) is to be regarded as a marriage that took place at the time when that person commenced to be the *de facto* spouse of the member or former member notwithstanding that either that person or the member or former member, or each of them, may during the subsistence of that relationship have been legally married to another person.

- (6) If under section 11 contributions have been made to the scheme in respect of a member then for the purposes of this Act the member is deemed to have made the contributions to the scheme.

”.

6. Section 8 replaced

Section 8 is repealed and the following section is inserted instead —

“

8. Administrative assistance for the Board

- (1) The Board may appoint and employ persons to assist it in administering the scheme.
- (2) The Board may engage under contract for services any professional, technical or other assistance that the Board considers necessary to assist it in administering the scheme.

”.

7. Section 9 repealed and Part IIA inserted

Section 9 is repealed and the following Part is inserted instead —

“

Part IIA — Scheme participants

9. Scheme closed to members elected after closing day

This Act, other than section 29, and the scheme do not apply to or in relation to a person who becomes a member on or after closing day unless immediately before closing day the person was a member.

10. Certain participants may withdraw from scheme

- (1) In this section —
“eligible person” means a person —
 - (a) who was elected as a member for the first time at the election held on 14 December 1996; or

(b) who was elected as a member after that date and before closing day;

“set period” means the period beginning on closing day and ending on a day determined by the Tribunal and notified to eligible persons at least one month prior to that day.

- (2) An eligible person may at any time in the set period elect to cease participating in the scheme by notice in writing served on the Board.
- (3) As soon as practicable after closing day the Tribunal shall inquire into and determine —
 - (a) a formula for calculating the benefits payable to or in respect of a person who has made an election under subsection (2) (**“termination benefits”**);
 - (b) when and in what circumstances termination benefits shall be paid;
 - (c) to whom termination benefits may be paid;
 - (d) the portability of termination benefits; and
 - (e) any other matter relevant to the calculation or payment of termination benefits that the Tribunal thinks fit.
- (4) A person who makes an election under subsection (2) shall not be entitled to personally receive the termination benefits while the person is a member.
- (5) The Tribunal may from time to time determine the rate of interest to be paid where termination benefits are not paid immediately on a person making an election under subsection (2).
- (6) Termination benefits shall be paid in accordance with the Tribunal’s determination under subsection (3).

- (7) This Act, other than section 29, and the scheme do not apply to or in relation to a person who makes an election under subsection (2).

”.

8. Part III replaced and transitional provision

- (1) Part III is repealed and the following Part is inserted instead —

“

Part III — Contributions

11. Contributions in respect of members

- (1) While a person is a member, contributions shall be made to the scheme in respect of the person of an amount calculated on such basis as is determined from time to time by the Tribunal.
- (2) If the contributions in respect of a member are not paid by the State as part of the member’s remuneration they are to be deducted from the member’s salary.
- (3) The contributions in respect of a member shall be credited to the Consolidated Fund.

”.

- (2) If immediately before the commencement of this section, section 11(1a) of the *Parliamentary Superannuation Act 1970* applied in respect of a member, then on and after the commencement section 11(1a) continues to apply in respect of the member despite the repeal of section 11(1a) by this section.

9. Section 14 amended

Section 14(3) is amended by deleting “Board” and inserting instead —

“ Tribunal ”.

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10. Sections 15 and 15A repealed

Sections 15 and 15A repealed.

11. Section 15B amended

- (1) Section 15B(1) is repealed.
- (2) Section 15B(2) is amended as follows:
 - (a) by deleting “to whom this section applies”;
 - (b) by deleting “in the period of 6 months ending on 31 December 1986, and thereafter”;
 - (c) by deleting “such percentage as is determined by the Treasurer to be”.
- (3) Section 15B(5) is amended by deleting “, for the purposes of this section, the Treasurer determines that”.
- (4) Section 15B(6) is amended by deleting “and of section 15A”.

12. Section 16 amended

Section 16(1) is amended by inserting after “ceasing to be a member” —

“ or such longer period as the Tribunal determines ”.

13. Section 20 amended

Section 20(1)(b) is amended by deleting “Board” and inserting instead —

“ Tribunal ”.

14. Section 23 amended

Section 23(3) is amended by deleting “Treasurer” in both places where it occurs and in each place inserting instead —

“ Board ”.

15. Section 24 replaced

Section 24 is repealed and the following section is inserted instead —

“

24. Minimum benefits

The Tribunal shall from time to time inquire into and determine a basis for calculating the amount of the minimum benefit payable under the scheme having regard to the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

”.

16. Section 27 amended

Section 27(2)(a) is amended by inserting after “Fellow” —

“ or accredited member ”.

17. Section 28 inserted

After section 27 the following section is inserted —

“

28. Tribunal may change the scheme

(1) In this section —

“**benefits**” means pensions or other benefits payable under the scheme, whether provided for under Part IV or under a determination made under this section.

(2) Notwithstanding Parts III and IV and section 25 the Tribunal may inquire into and determine any matter in connection with contributions to and the benefits payable under the scheme.

- (3) Without limiting subsection (2), the Tribunal may inquire into and determine any of the following matters —
- (a) reductions (including to zero) in the amount of contributions to be made to the scheme in respect of members;
 - (b) when and in what circumstances benefits are to be payable, including for example that benefits shall not be payable until a former member attains an age specified by the Tribunal in its determination;
 - (c) in the case of the death of persons entitled to benefits —
 - (i) the entitlements of the estates of those persons;
 - (ii) the entitlements of other persons;
 - (d) to whom benefits may be paid;
 - (e) how the amount of benefits and increases in them are to be calculated;
 - (f) when payments of benefits are to be made, including for example how frequently pensions are to be paid;
 - (g) how benefits may be paid, for example, as lump sums or pensions or a combination of both;
 - (h) the portability of benefits;
 - (i) when and in what circumstances pensions may be wholly or partly commuted and how commutations are to be calculated;
 - (j) any matter connected with any of the matters in paragraphs (a) to (i).

- (4) A determination under subsection (2) —
- (a) shall not have the effect of changing the scheme from being one under which former members are entitled to be paid a pension that is calculated as set out in section 14;
 - (b) shall not have the effect of reducing the amount of any benefits that —
 - (i) had accrued or become payable to a person before the determination;
 - (ii) had accrued before the determination and to which a member who has contributed to the scheme for not less than 7 years but less than 12 years may become entitled under section 14(1)(b);
or
 - (iii) are, or may become, payable in relation to a period before the determination;
 - (c) shall not have the effect of changing the circumstances under which a member may qualify for a pension under section 14(1)(b);
 - (d) shall be in accordance with any law of the Commonwealth that is applicable to the scheme; and
 - (e) may make the same provision for all cases or different provisions for different cases or classes of case.

”.

18. Section 29 replaced

Section 29 is repealed and the following section is inserted instead —

“

29. State contributions for MPs who are not participants in the scheme

- (1) In this section —
- “**complying superannuation fund**” has the meaning it has in the SG(A) Act;
 - “**individual superannuation guarantee shortfall**” has the meaning it has in the SG(A) Act;
 - “**non-participant**” means a member in respect of whom contributions have never been made to the scheme or a member who has made an election under section 10(2);
 - “**SG(A) Act**” means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.
- (2) The State shall make contributions towards superannuation for every person who is a non-participant.
- (3) The State’s contributions in respect of a non-participant —
- (a) shall be made in accordance with a determination made from time to time by the Tribunal but in any event shall not be less than the minimum amount that the State must contribute in respect of the non-participant in order to avoid incurring an individual superannuation guarantee shortfall in respect of the non-participant;
 - (b) shall be paid at such time or times as the Minister determines but in any event in such a

manner that the State does not incur an individual superannuation guarantee shortfall in respect of the non-participant; and

- (c) shall be paid to a complying superannuation fund in accordance with the Minister's determination under subsection (4).
- (4) The Minister, by a written instrument, shall from time to time determine to which complying superannuation fund or funds the State's contributions shall be paid.
- (5) The State's contributions shall be charged to the Consolidated Fund which is appropriated accordingly.

”.

Part 3 — *Salaries and Allowances Act 1975* amended

19. The Act amended by this Part

The amendments in this Part are to the *Salaries and Allowances Act 1975**.

[* *Reprinted as at 26 April 1994.*

For subsequent amendments see 1998 Index to Legislation of Western Australia, Table 1, p. 224.]

20. Section 6A replaced by sections 6A and 6AA

Section 6A is repealed and the following sections are inserted instead —

“

6A. Tribunal’s functions under the *Parliamentary Superannuation Act 1970*

- (1) The Tribunal shall from time to time, as it sees fit, inquire into and determine, for the purposes of the *Parliamentary Superannuation Act 1970*, any matter that under that Act is to be determined by the Tribunal.
- (2) Section 6(2) and (3) apply to a determination under this section.

6AA. Redundancy benefits for MPs

- (1) The Tribunal may inquire into and determine the entitlements and benefits to be paid or provided to a member of Parliament if the member ceases to be a member.
- (2) The Tribunal shall make such an inquiry and determination if the Tribunal makes a determination under section 28 of the *Parliamentary Superannuation Act 1970* that benefits shall not be payable until a former member attains an age specified by the Tribunal in its determination.

- (3) Section 6(2) and (3) apply to a determination under this section.
- (4) Any amount payable in accordance with a determination under this section shall be charged to the Consolidated Fund which is appropriated accordingly.

”.

21. Section 8 replaced

Section 8 is repealed and the following section is inserted instead —

“

8. Tribunal to report and make a determination annually

The Tribunal shall ensure that —

- (a) not more than a year elapses between one determination under section 6(1) in respect of an office or other position referred to in that subsection and another; and
- (b) not more than a year elapses between one report under section 7(1) and another.

”.

22. Part II repealed

Part II is repealed.

Part 4 — *Financial Administration and Audit Act 1985*
amended

23. Schedule 1 amended

Schedule 1 to the *Financial Administration and Audit Act 1985** is amended by deleting “Parliamentary Superannuation Board”.

[* *Reprinted as at 9 July 1999.*

For subsequent amendments see Acts Nos. 5 and 8 of 1999.]

