

**FIRE BRIGADES  
SUPERANNUATION AMENDMENT  
ACT 1994**

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**No. 26 of 1994**

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**AN ACT to amend the *Fire Brigades Superannuation Act 1985*, to make a consequential amendment to the *Financial Administration and Audit Act 1985*, and for related purposes.**

[Assented to 23 June 1994.]

The Parliament of Western Australia enacts as follows:

**PART 1 — PRELIMINARY**

**Short title**

1. This Act may be cited as the *Fire Brigades Superannuation Amendment Act 1994*.

**Commencement**

2. The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

**Principal Act**

3. In this Act the *Fire Brigades Superannuation Act 1985\** is referred to as the principal Act.

[\* *Act No. 87 of 1985.*

*For subsequent amendments see 1993 Index to  
Legislation of Western Australia, Table 1, p. 78.]*

**PART 2 — FIRE BRIGADES SUPERANNUATION ACT 1985**

**Long title repealed and substituted**

4. The long title to the principal Act is repealed and the following long title is substituted —

“

**AN ACT to provide superannuation and other benefits for the employees, and certain former employees, of the Western Australian Fire Brigades Board and other bodies, to establish a board and fund for the purpose of providing those benefits, and for incidental and other purposes.**

”.

**Section 3 amended**

5. Section 3 (1) of the principal Act is amended —

- (a) in the definition of “associated employee” by deleting “but does not include a person employed on a casual basis”;
- (b) in the definition of “Commonwealth Act” by inserting after “of the Commonwealth” the following —

“

or any Act that repeals and replaces that Act

”;

- (c) in the definition of “Fire Brigades Board employee” by deleting “but does not include a person employed on a casual basis”;

- (d) in the definition of “the actuary” by deleting “section 16;” and substituting the following —

“ section 16. ”; and

- (e) by deleting the definitions of “beneficiary”, “Disablement Benefits Board”, “Disablement Benefits Fund” and “this Act”.

#### **Section 4 amended**

6. Section 4 (6) of the principal Act is repealed and the following subsection is substituted —

“

(6) The members of the Superannuation Fund may elect not more than 3 persons to be alternate members of the Superannuation Board.

”.

#### **Section 5 amended**

7. Section 5 (1) of the principal Act is repealed and the following subsection is substituted —

“

(1) For the purpose of providing superannuation and other benefits to and in respect of Fire Brigades Board employees, associated employees, former Fire Brigades Board employees and former associated employees in accordance with this Act there shall be a fund to be known as the Western Australian Fire Brigades Superannuation Fund.

”.

**Section 9 amended**

8. Section 9 (2) of the principal Act is amended by deleting “7 and 8” and substituting the following —

“ 6 and 7 ”.

**Sections 21 and 21A inserted**

9. After section 20 of the principal Act the following sections are inserted —

“

**Minister to have access to information**

21. (1) For parliamentary purposes or for the proper conduct of the Minister’s public business, the Minister is entitled —

- (a) to have information in the possession of the Superannuation Board; and
- (b) where the information is in or on a document, to have, and make and retain copies of, that document.

(2) For the purposes of subsection (1) the Minister may —

- (a) request the Superannuation Board to furnish information to the Minister;
- (b) request the Superannuation Board to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of the staff of the Superannuation Board to obtain the information and furnish it to the Minister.

(3) The Superannuation Board shall comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

**“document”** includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

**“information”** means information specified, or of a description specified, by the Minister that relates to the functions or powers of the Board;

**“parliamentary purposes”** means the purpose of —

- (a) answering a question asked in a House of Parliament; or
- (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

### **Confidential information**

**21A.** (1) Nothing in this Act entitles the Minister to have information in the possession of the Superannuation Board in a form that —

- (a) discloses information about a member or a beneficiary; or

(b) might enable information about a member or a beneficiary to be ascertained.

(2) Subsection (1) does not apply where disclosure of the information —

(a) is authorized or required by some other written law; or

(b) is authorized by the member or beneficiary.

(3) In this section —

**“beneficiary”** means a person to whom a benefit is payable or has been paid under this Act;

**“member”** means a person who is or has been a member of the Superannuation Fund.

”.

### **Part III repealed**

10. Part III of the principal Act is repealed.

### **Section 27 amended**

11. Section 27 of the principal Act is amended —

(a) in subsection (1) by deleting “or the Disablement Benefits Fund and the fact of being a member of either of those funds” and substituting the following —

“ and the fact of being a member of that fund ”;  
and

(b) in subsection (2) by deleting “or the Disablement Benefits Fund”.

**Section 28 amended**

12. Section 28 of the principal Act is amended —

- (a) in subsection (1) by deleting “or the Disablement Benefits Fund”; and
- (b) in subsection (2) by deleting “or the Disablement Benefits Fund”.

**Section 30 repealed**

13. Section 30 of the principal Act is repealed.

**Section 31 amended**

14. Section 31 of the principal Act is amended by deleting “and the Disablement Benefits Board”.

**Section 32 amended**

15. Section 32 of the principal Act is amended —

- (a) by deleting paragraph (a) and substituting the following paragraph —

“

- (a) providing for Fire Brigades Board employees, associated employees, prescribed former Fire Brigades Board employees and prescribed former associated employees to be members of the Superannuation Fund, and for continuity and cessation of membership;

”;



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- (b) in paragraph (c) by deleting “related” and substituting the following —

“ other ”;

- (c) by inserting after paragraph (c) the following paragraph —

“

(ca) specifying what, if any, pension benefits may be paid from the Fund, the conditions under which a pension benefit may be paid from the Fund, and to whom a pension benefit may be paid;

”;

- (d) by deleting paragraphs (f), (g) and (h);

- (e) in paragraph (i) by deleting “and Disablement Benefits Fund”;

- (f) in paragraph (k) by deleting “sections 29 and 30” and substituting the following —

“ section 29 ”; and

- (g) by deleting paragraph (l) and substituting the following paragraph —

“

(l) requiring the Superannuation Board to furnish reports to the members of the Superannuation Fund and prescribing the matters to be dealt with in such reports;

”.

**Sections 33, 34 and 35 repealed**

16. Sections 33, 34 and 35 of the principal Act are repealed.

**Schedule 1 amended**

17. Schedule 1 to the principal Act is amended —

- (a) by deleting “West Australian Fire Brigade Employees’ Industrial Union of Workers.” and substituting the following —

“  
United Fire Fighters Union of Western  
Australia.  
”;  
and

- (b) by deleting “Western Australian Fire Brigades Disablement Benefit Board.”.

**Schedule 2 amended**

18. Schedule 2 to the principal Act is amended in the manner set out in Schedule 1.

**PART 3 — TRANSITIONAL AND CONSEQUENTIAL PROVISIONS**

**Interpretation**

19. In this Part, unless the contrary intention appears —

**“commencement day”** means the day on which this Act comes into operation;

**“former Board”** means the Western Australian Fire Brigades Disablement Benefits Board established under the repealed Part;

**“former Fund”** means the Western Australian Fire Brigades Disablement Benefits Fund established under the repealed Part;

**“repealed Part”** means the Part repealed by section 10;

**“Superannuation Board”** means the Western Australian Fire Brigades Superannuation Board established under section 4 of the principal Act;

**“Superannuation Fund”** means the Western Australian Fire Brigades Superannuation Fund established under section 5 of the principal Act.

**Transfer of assets and liabilities**

20. On the commencement day, by virtue of this section —

- (a) all assets standing to the credit of or forming part of the former Fund stand to the credit of or form part of the Superannuation Fund without the need for any conveyance, transfer, assignment or assurance;

- (b) all rights and liabilities of the former Board, including contingent liabilities, become rights and liabilities of the Superannuation Board;
- (c) a claim for any benefits from the former Fund that had not been finally dealt with immediately before the commencement day may be dealt with as if it were a claim for benefits from the Superannuation Fund under the principal Act;
- (d) the rights, obligations and entitlements of persons who were members of the former Fund are taken to be rights, obligations and entitlements of those persons as members of the Superannuation Fund;
- (e) any policy of insurance, agreement or instrument to which the former Board is a party and which relates to the administration of the former Fund has effect, by force of this section, as if the Superannuation Board were substituted for the former Board as a party to the policy, instrument or agreement;
- (f) all proceedings commenced before the commencement day by or against the former Board and pending immediately before the commencement day are to be taken to be proceedings pending by or against the Superannuation Board; and
- (g) anything done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (a), (b), (c) and (d) before the commencement day by, to or in respect of the former Board (to the extent that that thing has any force or effect) is to be taken to have been done or omitted by, to or in respect of the Superannuation Board.

## **Records**

21. The Superannuation Board becomes, on the commencement day, the owner of all registers, documents, books and other records (however compiled, recorded or stored) relating to the former Fund, and of any tape, disc or other device or medium relating to such records.

## **Exemption from *Stamp Act 1921***

22. Notwithstanding anything in the *Stamp Act 1921*, no duty is payable under that Act in respect of the passing of any assets under this Part.

## **Registration of documents**

23. (1) The Registrar of Titles, the Registrar of Deeds, the Minister administering the *Land Act 1933*, and any other person authorized by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or other property, are to take notice of the provisions of this Part and are empowered to record and register in the appropriate manner such of those documents as are necessary to give effect to this Part.

(2) Without limiting subsection (1) a statement in an instrument executed by the Superannuation Board that any estate or interest in land or other property stands to the credit of or is part of the Superannuation Fund under section 20 is evidence of that fact.

## **Report**

24. (1) Notwithstanding section 10, the former Board is to report in respect of the former Fund under section 66 of the *Financial Administration and Audit Act 1985* in respect of the period between 1 July 1993 and the commencement day as soon

as practicable after the commencement day, and the former Board is continued in existence for that purpose.

(2) A report prepared under subsection (1) is deemed to be an annual report for the purposes of section 69 of the *Financial Administration and Audit Act 1985*.

***Financial Administration and Audit Act 1985 amended***

25. The *Financial Administration and Audit Act 1985*\* is amended in Schedule 1 by deleting "Western Australian Fire Brigades Disablement Benefits Board".

[\* Reprinted as at 1 July 1991.

*For subsequent amendments see 1993 Index to Legislation of Western Australia, Table 1, pp. 75-6 and Acts Nos. 53 of 1993 and 6 of 1994.]*

**SCHEDULE 1**

[Section 18]

**AMENDMENTS TO SCHEDULE 2**

<i>Provision amended</i>	<i>Amendment</i>
Heading	Delete "(Sections 4 and 22.)" and substitute the following —  " [Section 4] "  Delete "AND DISABLEMENT BENEFITS BOARD".
cl. 1	Delete the definition of "Board".  In the definition of "elected member" delete "or the Disablement Benefits Fund, as the case may be".
cl. 1 (definitions of "appointed member" and "elected member"), cl. 4, cl. 5 (a), (b), (c), cl. 6 (1), cl. 7 (1), (2), (3), (6), cl. 8 (1), (3), (4), (5), (8), cl. 9 (1), (2), (3), cl. 10 (1), (2), cl. 11 (1), (2), (3), cl. 12 (1), (2), (3), cl. 13, cl. 14	Delete "a Board" and "the Board" wherever they occur and substitute in each case the following —  " the Superannuation Board "
cl. 2 (1)	Repeal the subclause.
cl. 2 (2)	Delete "or the Disablement Benefits Fund, as the case may require,".
cl. 3 (2)	Repeal the subclause and substitute the following subclause —  " (2) A member elected to fill an office as an alternate member on the coming into operation of the <i>Fire Brigades Superannuation Amendment Act 1994</i> shall, subject to the

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other provisions of this Schedule, hold office for a period ending one year after the election. ”.

- cl. 4, Delete “A Board” and substitute the following —  
cl. 5,  
cl. 8 (2),  
cl. 8 (7) “ The Superannuation Board ”.
- cl. 6 (1) (c) Delete “subclause (2), (3) or (4)” and substitute the following —  
“ subclause (2) or (3) ”.
- cl. 6 (1) (g) Delete “that fund; or” and substitute the following —  
“ that fund. ”.
- cl. 6 (1) (h) Delete the paragraph.
- cl. 6 (3) Delete the subclause and substitute the following subclause —  
“ (3) An elected member of the Superannuation Board may be removed from office in accordance with the regulations. ”.
- cl. 6 (4) Delete the subclause.
- cl. 7 (4) and (5) Delete the subclauses and substitute the following subclauses —  
“ (4) An elected member who proposes to be absent from a meeting of the Superannuation Board may, in writing, nominate an elected alternate member to attend that meeting in his or her place and the alternate member so nominated is entitled to attend that meeting.  
  
(5) If an elected member is absent from a meeting of the Superannuation Board and does not make a nomination under



subclause (4) the other elected members of the Superannuation Board may nominate an elected alternate member to attend that meeting and the alternate member so nominated is entitled to attend that meeting.

(5a) If for any reason an elected member vacates office before the expiry of the period for which the member was appointed, the other elected members may nominate an elected alternate member to attend meetings of the Board and the alternate member so nominated is, until the vacancy is filled, entitled to receive notice of and attend every meeting of the Superannuation Board. ”.

- cl. 8 (5) Delete “present and voting”.
- cl. 9 (3) (a), (b) Delete “or Disablement Benefit Fund, as the case may be”.
- cl. 11 (1) Delete “or the Disablement Benefits Fund, as the case may be”.
- cl. 11 (3) Delete “and (3)” and substitute “and (4)”.