

WESTERN AUSTRALIA

**ACTS AMENDMENT
(PARLIAMENTARY
SUPERANNUATION) ACT**

No. 58 of 1986

**AN ACT to amend the *Parliamentary Superannuation Act 1970*
and the *Salaries and Allowances Act 1975*.**

[Assented to 26 November 1986.]

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

Short title

1. This Act may be cited as the *Acts Amendment (Parliamentary Superannuation) Act 1986*.

PART I—*PARLIAMENTARY SUPERANNUATION ACT 1970*

Principal Act

2. In this Part the *Parliamentary Superannuation Act 1970** is referred to as the principal Act.

[*Reprinted as approved on 15 January 1981 and amended by Act No. 98 of 1985.]

Section 3 repealed

3. Section 3 of the principal Act is repealed.

Section 5 amended

4. (1) Section 5 of the principal Act is amended by inserting after subsection (3) the following subsection—

“(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 legally married to the member or former member at the time of his death—

(a) had ordinarily lived with him as his spouse, on a permanent and *bona fide* domestic basis, for a continuous period of not less than 3 years immediately before his death; or

(b) had ordinarily lived with him as his spouse, on a permanent and *bona fide* domestic basis, for a continuous period of less than 3 years immediately before his death and was, in the opinion of the Trustees, wholly or substantially dependent on him at the time of his death,

and for the purposes of this Act a relationship of the kind referred to in this subsection is to be regarded as a marriage that took place at the time when that person commenced so living with 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. ”.

(2) The amendment effected by subsection (1) applies only in relation to a member or former member who dies after the coming into operation of this section.

Section 11 amended

5. (1) Section 11 of the principal Act is amended—

(a) in subsection (1), by deleting “equal to 11.5 per centum of the gross amount of the instalment before any deductions have been made therefrom” and substituting the following—

“ calculated on such basis as is specified ”;

(b) by inserting after subsection (1) the following subsection—

“ (1aa) For the purposes of subsection (1), “specified” means specified in a determination made under the *Salaries and Allowances Act 1975*. ”; and

(c) by repealing subsections (3) and (4).

(2) Until the first determination is made under the *Salaries and Allowances Act 1975* for the purposes of section 11 (1) of the principal Act, that provision as in force before the coming into operation of this section shall continue to apply.

Section 13 amended

6. (1) Section 13 of the principal Act is amended in subsection (1) by deleting the definition of “basic pension” and substituting the following definitions—

“ “basic pension” in relation to a member who has contributed to the Fund for not less than 7 years, means the amount calculated at the rate of the specified basic percentage of the basic salary payable to the member immediately before he ceased to be a member, together with a further specified percentage of that basic salary for each completed period of one month, up to the specified maximum number of such periods, in excess of that 7 years for which the member has duly contributed to the Fund; and

“specified” means specified in a determination made under the *Salaries and Allowances Act 1975*. ”.

(2) Until the first determination is made under the *Salaries and Allowances Act 1975* for the purposes of section 13 (1) of the principal Act, that section as in force before the coming into operation of this section shall continue to apply.

Section 14 amended

7. (1) Section 14 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after “who” the following—

“ , after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*, ”;

(ii) in paragraphs (a) and (b), by deleting “fifteen” and substituting in each case the following—

“ 12 ”;

(iii) in paragraph (b), by inserting after subparagraph (i) the following subparagraph—

“ (ia) has so contributed for the duration of not less than 4 complete Parliaments; ”;

and

(iv) by deleting “subsection (4) of this section” and substituting the following—

“ subsection (3a) ”;

(b) by inserting after subsection (1) the following subsection—

“ (1aa) Without limiting the other reasons for declining to seek re-election that the Trustees may consider good and sufficient for the purposes of subsection (1) (b) (iv), a member has, for the purposes of that provision, good and sufficient reasons for declining to seek re-election if he satisfies the Trustees that—

(a) he could be reasonably expected to so decline if unable to obtain the endorsement of a political party;

(b) he has, after making reasonable endeavours to obtain the endorsement of a political party, been unable to obtain such endorsement; and

(c) his inability to obtain such endorsement does not result from circumstances substantially within his control. ”;

(c) in subsection (1a)—

(i) in paragraph (b) (i), by deleting “subject to subparagraph (ii) of this paragraph,”;

(ii) further in paragraph (b) (i), by deleting “and the day on which” and substituting the following—

“ and ending on the day of the declaration of the poll on which, by reason of being so elected, ”; and

(iii) by deleting paragraph (b) (ii);

(d) by repealing subsection (2) and substituting the following subsection—

“ (2) Subject to this Act—

(a) every person, other than a person referred to in paragraph (b), who has been a member and was, immediately prior to the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*, in receipt of pension under this Act, is entitled to be paid an annual pension at the rate ascertained in accordance with subsection (4); and

(b) every person who has been a member and was, immediately prior to 1 January 1970, in receipt of pension payable under the repealed Act, is entitled to be paid an annual pension at the rate ascertained in accordance with subsection (5). ”;

(e) by inserting after subsection (3) the following subsection—

“ (3a) For the purposes of subsection (1), the rate per annum of pension payable to a person entitled to pension under that subsection is the basic pension or, where the total salary paid to that person while he was making contributions to the Fund was in excess of the total basic salary paid to that person during that time, a higher amount calculated on such basis as is from time to time determined under the *Salaries and Allowances Act 1975*. ”;

(f) in subsection (4)—

(i) by deleting “subsection (1) of this section” and substituting the following—

“ subsection (2) (a) ”; and

(ii) by deleting “subsection is” and substituting the following

“ provision is ”; and

(g) in subsection (5)—

(i) by deleting “subsection (2) of this section” and substituting the following—

“ subsection (2) (b) ”; and

(ii) by deleting “subsection is” and substituting the following—

“ provision is ”.

(2) Until the first determination under the *Salaries and Allowances Act 1975* of the basis to be used for calculating the higher rate of pension to which a person may be entitled under section 14 (3a) of the principal Act, the rate of pension payable to a person who is entitled to pension at a higher rate than the basic pension shall be ascertained in accordance with section 14 (4) of the principal Act.

Section 15B amended

8. Section 15B of the principal Act is amended by repealing subsections (2) to (5) and substituting the following subsections—

“ (2) Subject to this section, every pension payable to a person to whom this section applies shall be increased in the period of 6 months ending on 31 December 1986, and thereafter in each period of 6 months ending on 30 June or 31 December, with effect on and from the first pay day occurring not less than 3 months after the commencement of that period, by such percentage as is determined by the Treasurer to be the percentage by which the Index for the quarter ending at the commencement of that period is greater than the Index for the quarter ending 6 months before the commencement of that period.

(3) A pension shall not be increased under this section in a period referred to in subsection (2) if the pension first becomes payable in that period or less than 3 months before the commencement of that period.

(4) Where a pension first becomes payable not less than 3 months but less than 6 months before the commencement of a period, the increase of the pension under this section in that period shall be by one-half of the amount of the increase that would otherwise apply under subsection (2).

(5) Where, for the purposes of this section, the Treasurer determines that the Index for the quarter ending at the commencement of a period referred to in subsection (2) is less than, or equal to, the Index for the quarter ending 6 months before the commencement of that period—

- (a) no increase in pensions shall be made under this section in that period; and
- (b) where applicable, the percentage by which it is less shall first be taken into account before making a subsequent increase in pensions under this section. ”.

Section 16 amended

9. Section 16 of the principal Act is amended—

- (a) in subsection (1), by deleting all of the subsection after “thereof” and substituting a full stop;
- (b) in subsection (2), by deleting paragraphs (a) and (b) and substituting the following paragraphs—

“ (a) in the case of a person who has not attained the specified age when he ceases to be a member or who attained the specified age less than a year before he ceases to be a member—the amount of the annual pension entitlement of the person converted under subsection (1) multiplied by 12;

(b) in the case of a person who attained the specified age at least a year before he ceases to be a member—the amount of the annual pension entitlement of the person converted under subsection (1) multiplied by a factor calculated by deducting from 12 half the number by which the age, in complete years, attained by the person when he ceases to be a member exceeds the specified age. ”;

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

“ (2a) Until otherwise specified in a determination made under the *Salaries and Allowances Act 1975*, “the specified age” for the purposes of subsection (2) is 65 years. ”; and

(d) in subsection (3)—

(i) by deleting “15” and substituting the following—

“ 12 ”; and

(ii) by deleting “if he had not attained the age of 55 years” and substituting the following—

“ unless—

(a) he had attained the age of 55 years; or

(b) he had contributed to the Fund for the duration of not less than 4 complete Parliaments, ”.

Section 19 amended

10. Section 19 of the principal Act is amended—

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

“ (1b) Where, after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*, a former member—

(a) converted all of his annual pension entitlement to a lump sum payment under section 16, the widow of the former member is not entitled to an annual pension under subsection (1);

(b) converted a portion of his annual pension entitlement to a lump sum payment under section 16, the rate of annual pension to which the widow of the former member is entitled under subsection (1) shall be reduced by an amount that bears to that rate the same ratio as the portion so converted by the former member bears to his annual pension entitlement before such conversion. ”;

(b) in subsection (4), by inserting after “pension”, in the first place where it occurs, the following—

“ , if any, ”; and

(c) by inserting after subsection (5) the following subsection—

“ (6) Where, as a result of section 5 (4), more than one person would be entitled under this section to be paid a pension as the widow of a member or former member, the pension, if any, that each of those persons is entitled to be paid under this section shall be such proportion, if any, of the pension that would have been payable under this section had only one person been so entitled, as the Trustees determine having regard to the respective needs of those persons and such other matters as the Trustees consider relevant. ”.

Section 19B amended

11. Section 19B of the principal Act is amended—

(a) in subsection (2), by deleting paragraphs (a) and (b) and substituting the following paragraphs—

“ (a) in the case of a widow who has not attained the specified age when she becomes entitled to be paid an annual pension or who attained the specified age less than a year before she became so entitled—the amount of the annual pension entitlement of the widow converted under subsection (1) multiplied by 10;

(b) in the case of a widow who attained the specified age at least a year before she became entitled to be paid an annual pension—the amount of the annual pension entitlement of the widow converted under subsection (1) multiplied by a factor calculated by deducting from 10 half the number by which the age, in complete years, attained by the widow when she becomes entitled to be paid an annual pension exceeds the specified age. ”;

and

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

“ (3) In subsection (2), “the specified age” is the age that is the specified age for the purposes of section 16 (2). ”.

Section 23 amended

12. Section 23 of the principal Act is amended by inserting after subsection (1) the following subsection—

“ (2) Subsection (1) does not apply in respect of a child of a former member who, after the coming into operation of the *Acts Amendment (Parliamentary Superannuation) Act 1986*, converted all of his annual pension entitlement to a lump sum payment under section 16. ”.

PART II—*SALARIES AND ALLOWANCES ACT 1975*

Principal Act

13. In this Part the *Salaries and Allowances Act 1975** is referred to as the principal Act.

[*Act No. 27 of 1975 as amended by Acts Nos. 89 of 1975, 63 of 1978, 33 of 1979, 34 of 1980, 78 of 1984, and 34 of 1986.]

Long title amended

14. The long title to the principal Act is amended by inserting after “offices,” the following—

“ to determine certain matters relating to the superannuation of Members of Parliament, ”.

Section 3 repealed

15. Section 3 of the principal Act is repealed.

Section 6A inserted

16. After section 6 of the principal Act the following section is inserted—

Determinations relating to
parliamentary superannuation

“ 6A. (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*—

- (a) the basis to be used for calculating the amount that, under section 11 (1) of that Act, is to be deducted, by way of contributions to the Fund, from each instalment of salary;
- (b) the specified basic percentage, the further specified percentage, and the specified maximum number of periods referred to in section 13 (1) of that Act for calculating the “basic pension” under that provision;
- (c) the basis to be used for calculating the higher rate of pension to which a person may be entitled under section 14 (3a) of that Act; and
- (d) the specified age referred to in section 16 (2) of that Act for calculating the amount of the lump sum payment to which a person is entitled upon converting his pension entitlement, or a portion thereof, under section 16 (1) of that Act.

(2) Section 6 (2) and (3) apply in relation to a determination under this section. ”.
