

FIRE BRIGADES SUPERANNUATION ACT 1985.

(No. 87 of 1985.)

ARRANGEMENT.

PART I—PRELIMINARY.

Section.

1. Short title.
2. Commencement.
3. Interpretation.

PART II—THE WESTERN AUSTRALIAN FIRE BRIGADES SUPERANNUATION BOARD AND FUND.

4. Establishment and constitution of Superannuation Board.
5. The Superannuation Fund.
6. Function and general powers of Superannuation Board.
7. Power of investment.
8. Investment policy.
9. Power to insure.
10. Superannuation Board to have powers of a trustee.
11. Discretionary exercise of powers.
12. Power to make determinations.
13. Delegation.
14. Appointment of investment managers.
15. Appointment of secretary.
16. Appointment of actuary.
17. Actuarial review.
18. Advice to Superannuation Board.
19. Records.
20. Accounts.
21. Annual report.

PART III—THE WESTERN AUSTRALIAN FIRE BRIGADES DISABLEMENT BENEFITS BOARD AND FUND.

22. Establishment and constitution of Disablement Benefits Board.
23. The Disablement Benefits Fund.
24. Function of Disablement Benefits Board.
25. Records.
26. Portions of Part II to apply.

PART IV—MISCELLANEOUS.

Section.

27. Employers' powers and liabilities in respect of termination not affected.
28. Members' rights to compensation not affected.
29. General meetings of members of Superannuation Fund.
30. General meetings of persons interested in Disablement Benefits Fund.
31. Assistance from Fire Brigades Board.
32. Power to make regulations.
33. Review of Act.

PART V—AMENDMENT, REPEAL AND TRANSITIONAL.

34. Fire Brigades Act 1942 amended.
35. Repeal of previous regulations.
36. Transitional.

SCHEDULE 1.

BODIES THAT MAY BE ASSOCIATED EMPLOYERS.

SCHEDULE 2.

PROVISIONS AS TO SUPERANNUATION BOARD AND
DISABLEMENT BENEFITS BOARD.

1. Interpretation.
2. Elections.
3. Terms of office.
4. Chairman.
5. Publication.
6. How vacancies occur.
7. Alternate members.
8. Meetings of a Board.
9. Quorum.
10. Performance of functions by resolution.
11. Disclosure of interest.
12. Common seal.
13. Allowances.
14. Indemnity.

SCHEDULE 3.

TRANSITIONAL PROVISIONS.

Part I—Superannuation Fund.

1. Interpretation.
2. Transfer of assets and liabilities.
3. Transfer of operations.
4. Claims preserved.
5. Interim Board members.

Part II—Disablement Benefits Fund.

6. Interpretation.
7. Transfer of assets and liabilities.
8. Transfer of operations.
9. Claims preserved.
10. Interim Board members.

FIRE BRIGADES SUPERANUATION.

No. 87 of 1985.

AN ACT to provide superannuation and related benefits for the employees of the Western Australian Fire Brigades Board and other bodies and for additional benefits in respect of partial and permanent disablement benefits for officers and members of permanent fire brigades, to establish boards and funds for the purposes of providing those benefits and empower the making of regulations providing for contributions to and benefits from those funds, to amend the Fire Brigades Act 1942 and repeal certain regulations made under that Act, and for incidental and other purposes.

[Assented to 4 December 1985.]

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:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Fire Brigades Superannuation Act 1985*. Short title.

Commence-
ment.

2. This Act shall come into operation on such day as is fixed by proclamation.

Interpreta-
tion.

3. (1) In this Act, unless the contrary intention appears—

“associated employee” means a person in the employment of an associated employer but does not include a person employed on a casual basis;

“associated employer” means a body mentioned in Schedule 1 that is an associated employer under the regulations;

“beneficiary” in relation to the Disablement Benefits Fund means a former member of that fund who is entitled to receive periodical benefits from that fund;

“Disablement Benefits Board” means the Western Australian Fire Brigades Disablement Benefits Board established under section 22;

“Disablement Benefits Fund” means the Western Australian Fire Brigades Disablement Benefits Fund established under section 23;

“Fire Brigades Board” means the Western Australian Fire Brigades Board constituted under the Fire Brigades Act 1942;

“Fire Brigades Board employee” means a fire-fighter or other person in the employment of the Fire Brigades Board but does not include a person employed on a casual basis;

“firefighter” means an officer or member of a permanent fire brigade under the Fire Brigades Act 1942 and includes such an officer or member seconded for the time being to another employer;

“property” means real and personal property of any nature and includes—

- (a) any estate share or interest in any property;
- (b) any thing or chose in action; and
- (c) money and money’s worth;

“Superannuation Board” means the Western Australian Fire Brigades Superannuation Board established under section 4;

“Superannuation Fund” means the Western Australian Fire Brigades Superannuation Fund established under section 5;

“the actuary” means the actuary appointed under section 16;

“this Act” includes—

- (a) in relation to the Disablement Benefits Fund, the regulations made for the purposes of that fund;
- (b) in relation to the Superannuation Fund, the regulations made for the purposes of that fund.

(2) The Governor may amend Schedule 1 by order published in the *Gazette*.

PART II—THE WESTERN AUSTRALIAN FIRE
BRIGADES SUPERANNUATION BOARD AND FUND.

4. (1) For the purposes of this Act there shall be a board to be known as the Western Australian Fire Brigades Superannuation Board.

Establishment and constitution of Superannuation Board.

(2) The Superannuation Board—

- (a) is a body corporate;

(b) shall have an official seal; and

(c) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Superannuation Board affixed to a document and shall presume that it was duly affixed.

(4) Subject to this Act the Superannuation Board shall consist of 6 persons of whom—

(a) 3 shall be appointed by the Fire Brigades Board; and

(b) 3, of whom not less than 2 are members of the Superannuation Fund, shall be elected by the members of the Superannuation Fund.

(5) The Fire Brigades Board may appoint not more than 3 persons to be alternate members of the Superannuation Board.

(6) The members of the Superannuation Fund may elect a person to be an alternate member of the Superannuation Board.

Schedule 2.

(7) Schedule 2 shall have effect in relation to the Superannuation Board.

The Super-
annuation
Fund.

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

(2) The Superannuation Fund shall consist of—

(a) contributions paid by members of the Superannuation Fund and by the Fire Brigades Board and associated employers in respect of such members;

- (b) all other property received by the Superannuation Board for or in connection with the Superannuation Fund;
- (c) property (including policies of insurance and assurance) in which the Superannuation Fund is invested;
- (d) income derived from the investment of the Superannuation Fund; and
- (e) accretions to, and profits arising from the realization of, property in which the Superannuation Fund is invested.

(3) The Superannuation Fund shall be available for the payment of—

- (a) benefits to or in respect of members of the Superannuation Fund in accordance with this Act;
- (b) the costs and expenses of conducting elections in respect of the Superannuation Board under clause 2 of Schedule 2;
- (c) allowances to members of the Superannuation Board under clause 13 of Schedule 2; and
- (d) the costs and expenses of administering the Superannuation Fund and the provisions of this Act relating to the Superannuation Fund.

6. (1) The function of the Superannuation Board is to administer, invest and manage the Superannuation Fund.

Function
and general
powers of
Super-
annuation
Board.

(2) Subject to this Act the Superannuation Board may do all acts and things that are necessary or convenient to be done to enable it to perform its functions.

(3) Without limiting the generality of subsection (2) the Superannuation Board may, subject to this Act—

- (a) enter into and execute all deeds, contracts and documents that it may think expedient for the purpose of securing the benefits to be provided from the Superannuation Fund;
- (b) appropriate any part of the Superannuation Fund (including the proceeds arising from any insurance or assurance policies) in full or part satisfaction of any duties or taxes;
- (c) acquire or dispose of any property on such terms of payment as it thinks fit;
- (d) grant or take options or other pre-emptive rights for the sale, purchase or leasing of any property;
- (e) insure or re-insure any risks, contingencies or liabilities of the Superannuation Fund with or through such persons and on such terms and conditions as the Superannuation Board thinks fit;
- (f) raise or borrow money at such rates of interest and on such terms and conditions as it thinks fit and either by way of fixed loan for a period of time or by way of bank overdraft on a fluctuating basis;
- (g) incur liabilities of such amounts and on such terms and conditions as it thinks fit and provide and set aside out of the Superannuation Fund sufficient money for or towards the discharge or reduction of any encumbrance, debt or other liability affecting any part of the Superannuation Fund;
- (h) secure, guarantee, indemnify or support the performance of any obligation undertaken by it by securities of any nature over the whole or any part of the Superannuation Fund;

1985.] *Fire Brigades Superannuation.* [No. 87.

- (i) open and operate on accounts with bankers or other financial institutions and sign, draw, discount, accept and endorse cheques, bills and other negotiable instruments in such manner as it determines;
- (j) lease, let out or hire for such periods and at such rentals as it thinks fit any property forming part of the Superannuation Fund;
- (k) postpone the realization of any property forming part of the Superannuation Fund for so long as the Superannuation Board thinks fit even though the property may be of a speculative or wasting nature;
- (l) expend such amounts in the development and improvement of any property forming part of the Superannuation Fund as the Superannuation Board thinks fit.

7. (1) The Superannuation Board may invest any money or other assets of the Superannuation Fund not required for any other purpose—

Power of investment.

- (a) in any investments authorized by law for the investment of trust funds;
- (b) in the acquisition by original subscription or by purchase or otherwise of the shares or any classes of shares (whether fully paid up or not), stock, bonds, debentures or secured or unsecured notes of any company;
- (c) in the purchase, exchange and leasing of any property even though the property may be of a speculative or wasting nature;
- (d) on mortgage of or charge or other security over any property even though the mortgage charge or security shall not rank as a prime or first charge;

- (e) on deposit with any person with or without security and at such rates of interest and on such terms and conditions as the Superannuation Board thinks fit;
- (f) in any policies of assurance or insurance or annuity contracts whether by proposal, purchase or otherwise or any choses in action in interest in life or any lesser terms or in reversion and however arising;
- (g) in building or developing or improving any property forming part of the Superannuation Fund;
- (h) in the purchase or acquisition of any interests either jointly or in partnership or in any unit of interest;
- (i) in the discounting of loans, mortgages, contracts or leases;
- (j) generally in any investment not specifically authorized by law and whether or not involving waste or subject to liability which the Superannuation Board may consider suitable for the investment of the Superannuation Fund.

(2) The Superannuation Board may at any time and in its absolute discretion vary or transpose any investments or other applications of the Superannuation Fund for or into others authorized by this Act.

(3) The Superannuation Board may underwrite or sub-underwrite any of the investments authorized by this Act.

Investment
policy.

8. The Superannuation Board and every delegate of the Superannuation Board who at any time undertakes the investment of all or part of the Superannuation Fund shall have regard only to the best interests of the Superannuation Fund and its members in relation to the making of every such investment.

9. (1) The Superannuation Board may—

Power to insure.

- (a) subject to the regulations, effect and maintain policies of all types of insurance or assurance to provide for any benefit or part of a benefit that may become payable from the Superannuation Fund; and
- (b) pay out of the Superannuation Fund all premiums under or in respect of policies referred to in paragraph (a).

(2) The powers conferred under this section are in addition to and extension of the powers conferred by sections 7 and 8.

(3) In this section “effect” includes acquire or take by assignment.

10. Without limiting the generality of section 6 or 7 the Superannuation Board shall have the powers conferred by law on a trustee.

Super-annuation Board to have powers of a trustee.

11. Subject to section 8 the powers conferred on the Superannuation Board under this Act or by any other law—

Discretionary exercise of powers.

- (a) may be exercised by the Superannuation Board in such circumstances, in such manner and on such terms and conditions as the Superannuation Board thinks fit;
- (b) may be exercised by the Superannuation Board jointly with any other person and notwithstanding that by doing so the Superannuation Board may lose sole control of any of the investments or other applications of the Superannuation Fund or cause any part of the property of the Superannuation Fund to be intermingled with any other property; and

- (c) shall so far as they relate to the investment or other applications of the Superannuation Fund be exercisable by the Superannuation Board as if it were the absolute beneficial owner of the Superannuation Fund.

Power to
make
determina-
tions.

12. The Superannuation Board shall determine all questions or issues of doubt or difficulty in relation to—

- (a) the interpretation of any of the provisions of this Act relating to the Superannuation Fund;
- (b) the rights of the members of the Superannuation Fund under this Act; or
- (c) the management and administration of the Superannuation Fund or the performance of the functions conferred on the Superannuation Board.

Delegation.

13. (1) The Superannuation Board may, by instrument in writing delegate to any person any power or duty conferred or imposed on the Superannuation Board under this Act or any other Act.

(2) A power or duty delegated under subsection (1) shall, when exercised or performed by the delegate in accordance with the instrument of delegation, be deemed, for the purposes of this Act, to have been exercised or performed by the Superannuation Board.

Appointment
of invest-
ment
managers.

14. (1) The Superannuation Board may appoint a person as an investment manager of the Superannuation Fund and, without limiting the generality of section 13, may delegate to an investment manager so appointed any of its powers and duties under this Act or any other Act as to the investment of the Superannuation Fund.

(2) An investment manager may be appointed on such terms and at such remuneration as the Superannuation Board thinks fit.

(3) The Superannuation Board may cause or permit the title to any property forming part of the Superannuation Fund to be registered in the name of an investment manager in trust.

15. (1) The Superannuation Board shall appoint a secretary of the Superannuation Board. Appointment of secretary.

(2) The secretary shall be appointed on such terms and at such remuneration as the Superannuation Board thinks fit.

(3) The secretary shall perform such duties and have such powers as the Superannuation Board may from time to time determine.

16. (1) The Superannuation Board shall appoint as the actuary to the Superannuation Fund any person who is, or any firm a member of which is, a Fellow of the Institute of Actuaries of Australia or any body formed in reconstruction of or in succession to that Institute. Appointment of actuary.

(2) The actuary shall be appointed on such terms and at such remuneration as the Superannuation Board thinks fit.

17. (1) On or before the day 3 years after the commencement of this Act and thereafter at intervals of not more than 3 years the Superannuation Board shall call on the actuary to conduct an actuarial review of the Superannuation Fund. Actuarial review.

(2) The Superannuation Board shall provide the actuary with such information as he may require to conduct an actuarial review under subsection (1).

(3) The actuary shall report to the Superannuation Board in writing the result of an actuarial review conducted under subsection (1).

(4) The Superannuation Board shall provide the Fire Brigades Board and each associated employer (if any) with a copy of each report received by the Superannuation Board under subsection (3).

Advice to
Super-
annuation
Board.

18. The Superannuation Board may obtain the advice or opinion of any accountant, actuary, banker, legal practitioner, medical practitioner, stockbroker or other professional person and may act on the advice or opinion of such a person irrespective of whether or not the advice or opinion has been sought by the Superannuation Board.

Records.

19. The Superannuation Board shall ensure that a complete record is kept of—

- (a) all the members of the Superannuation Fund and all other persons becoming entitled to a benefit from the Superannuation Fund;
- (b) the deaths of members of the Superannuation Fund; and
- (c) all other things necessary for the proper administration of the Superannuation Fund.

Accounts.

20. (1) In this section “liabilities” does not include liabilities for the payment of benefits under the Superannuation Fund.

(2) The Superannuation Board shall cause to be kept in a manner required or approved by the Auditor General true and regular accounts and records—

- (a) of money received by it;

- (b) of money expended by it and the purposes for which that money has been expended;
and
- (c) of the assets and liabilities held or incurred by it.

(3) If the receipt or expenditure of money is delegated by the Superannuation Board under section 13 or 14, the Superannuation Board shall procure from the delegate, as soon as practicable after the end of each financial year, a full and true statement of account of all the moneys received and expended by the delegate on behalf of the Superannuation Board during that year and a statement of the assets and liabilities held or incurred by the delegate on behalf of the Superannuation Board as at the end of that year.

(4) The Superannuation Board shall, as soon as practicable after the end of each financial year, cause a full and true statement of accounts of all the moneys received and expended by it or on its behalf during that year, of the assets and liabilities held or incurred by it or on its behalf as at the end of that year, and statements of all other matters which it considers of material importance to the Superannuation Fund, to be prepared and submitted to the Auditor General.

(5) The Auditor General shall have in respect of the accounting records of the Superannuation Board like powers to those conferred on him by the Audit Act 1904 in respect of public accounts.

(6) To the extent that the statements submitted to the Auditor General under subsection (4) relate to accounts and records kept by the Superannuation Board pursuant to subsection (2), the Auditor General shall audit the accounts of the Superannuation Board and shall prepare a report stating that the statements are based on proper accounts and records and are in agreement with those accounts and records and that they present a true and fair view of the transactions and the state of affairs of

the Superannuation Fund, or otherwise as the case may be, and whether there have been any other matters that are not disclosed in the statements but are of material importance.

(7) To the extent that the statements submitted to the Auditor General under subsection (4) do not relate to accounts and records kept by the Superannuation Board pursuant to subsection (2) but relate to statements procured by the Superannuation Board from a delegate pursuant to subsection (3), the Auditor General shall prepare a report stating whether the statements submitted to him correspond with the information contained in the statements submitted to the Superannuation Board by the delegate and whether the powers or duties exercised or performed by the delegate (as disclosed in such statements) have been duly delegated to the delegate by the Superannuation Board under section 13 or 14.

(8) The Superannuation Board shall pay reasonable expenses and remuneration from the Superannuation Fund to the Auditor General for his services under this section.

(9) The Auditor General shall submit his report to the Superannuation Board and send a copy to the Minister.

Annual
report.

21. (1) As soon as practicable after the Auditor General submits his report, the Superannuation Board shall prepare and submit to the Minister a report of the operations of the Superannuation Fund and its accounts and statements in respect of the financial year to which the Auditor General's report relates.

(2) The Minister may, at any time prior to the submission to him of the Superannuation Board's report in respect of a financial year, direct the Superannuation Board to include in such report a report on any particular matter with respect to the Superannuation Fund and the Superannuation Board shall comply with such a direction.

(3) The Minister shall cause a copy of each report submitted to him under this section and each report submitted by the Auditor General under section 20 to be laid as soon as practicable before both Houses of Parliament.

PART III—THE WESTERN AUSTRALIAN FIRE
BRIGADES DISABLEMENT BENEFITS BOARD AND FUND.

22. (1) For the purposes of this Act there shall be a board to be known as the Western Australian Fire Brigades Disablement Benefits Board.

Establish-
ment and
constitution
of Disable-
ment
Benefits
Board.

(2) The Disablement Benefits Board—

- (a) is a body corporate;
- (b) shall have an official seal; and
- (c) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Disablement Benefits Board affixed to a document and shall presume that it was duly affixed.

(4) Subject to this Act the Board shall consist of 6 persons of whom—

- (a) 3 shall be appointed by the Fire Brigades Board; and
- (b) 3, of whom not less than 2 are members of the Disablement Benefits Fund shall be elected by the members of the Disablement Benefits Fund.

(5) The Fire Brigades Board may appoint not more than 3 persons to be alternate members of the Disablement Benefits Board.

(6) The members of the Disablement Benefits Fund may elect a person to be an alternate member of the Disablement Benefits Board.

(7) Schedule 2 shall have effect in relation to the Disablement Benefits Board.

The Disable-
ment
Benefits
Fund.

23. (1) For the purposes of providing benefits for partial and permanent disablement, and for subsequent death, to and in respect of firefighters in accordance with this Act, there shall be a fund to be known as the Western Australian Fire Brigades Disablement Benefits Fund.

(2) The Disablement Benefits Fund shall consist of—

- (a) contributions paid by the Fire Brigades Board in respect of members of the Disablement Benefits Fund;
- (b) all other moneys received by the Disablement Benefits Board in connection with the Disablement Benefits Fund;
- (c) property (including policies of insurance and assurance) in which the Disablement Benefits Fund is invested;
- (d) income derived from the investment of the Disablement Benefits Fund; and
- (e) accretions to, and profits arising from the realization of, property in which the Disablement Benefits Fund is invested.

(3) The Disablement Benefits Fund shall be available for the payment of—

- (a) benefits to or in respect of members of the Disablement Benefits Fund in accordance with this Act;
- (b) the costs and expenses of conducting elections in respect of the Disablement Benefits Board under clause 2 of Schedule 2;
- (c) allowances to members of the Disablement Benefits Board under clause 13 of Schedule 2; and

- (d) the costs and expenses of administering the Disablement Benefits Fund and the provisions of this Act relating to the Disablement Benefits Fund.

24. The function of the Disablement Benefits Board is to administer, invest and manage the Disablement Benefits Fund.

Function of
Disablement
Benefits
Board.

25. The Disablement Benefits Board shall ensure that a complete record is kept of—

Records.

- (a) all the members and beneficiaries of the Disablement Benefits Fund and other persons becoming entitled to a benefit from the Disablement Benefits Fund; and
- (b) all other things necessary for the proper administration of the Disablement Benefits Fund.

26. Sections 6 (2) and (3), 7 to 18, 20 and 21 shall apply to and in relation to the Disablement Benefits Board and the Disablement Benefits Fund as if any reference in those provisions—

Portions of
Part II
to apply.

- (a) to the Superannuation Board were a reference to the Disablement Benefits Board;
- (b) to the Superannuation Fund were a reference to the Disablement Benefits Fund.

PART IV—MISCELLANEOUS.

27. (1) Nothing in this Act shall affect the rights of the Fire Brigades Board or an associated employer in relation to the termination of employment of a member of the Superannuation Fund or the Disablement Benefits Fund and the fact of being a member of either of those funds shall not be taken in any respect as implying a guarantee of continued employment by the Fire Brigades Board or an associated employer.

Employers'
powers and
liabilities in
respect of
termination
not affected.

(2) Nothing in this Act and no right or expectation with respect to the accrual in the future of a benefit under this Act shall affect the quantum of damages in any action brought by a member of the Superannuation Fund or the Disablement Benefits Fund against the Fire Brigades Board or an associated employer on account of the termination of his employment.

Members' rights to compensation not affected.

28. (1) Nothing in this Act shall affect the rights of a member of the Superannuation Fund or the Disablement Benefits Fund in relation to any claim for damages or compensation that he may have arising out of or with respect to his employment by the Fire Brigades Board or an associated employer.

(2) A benefit to which a member of the Superannuation Fund or the Disablement Benefits Fund or any other person is entitled under this Act shall not be affected by any damages or compensation payable to or in respect of the member.

General meetings of members of Superannuation Fund.

29. (1) The Superannuation Board shall call an annual general meeting of the members of the Superannuation Fund.

(2) The Superannuation Board may call a special general meeting of the members of the Superannuation Fund whenever it thinks fit and shall call such a meeting at the request, in writing, of not less than 5% of those members.

(3) Subject to regulations the day on which, and time and place at which, a general meeting is held under this section shall be determined by the Superannuation Board.

(4) A general meeting held under this section may make recommendations to the Superannuation Board on the business considered by the general meeting.

(5) A general meeting held under this section shall be conducted in accordance with the prescribed procedures.

30. (1) In this section "persons interested in the Disablement Benefits Fund" means the members and beneficiaries of the Disablement Benefits Fund.

General meetings of persons interested in Disablement Benefits Fund.

(2) The Disablement Benefits Board shall call an annual general meeting of the persons interested in the Disablement Benefits Fund.

(3) The Disablement Benefits Board may call a special general meeting of the persons interested in the Disablement Benefits Fund whenever it thinks fit and shall call such a meeting at the request, in writing, of not less than 5% of those persons.

(4) Subject to the regulations the day on which, and time and place at which, a general meeting is held under this section shall be determined by the Disablement Benefits Board.

(5) A general meeting held under this section may make recommendations to the Disablement Benefits Board on the business considered by the general meeting.

(6) A general meeting held under this section shall be conducted in accordance with the prescribed procedures.

31. The Fire Brigades Board may provide the Superannuation Board and the Disablement Benefits Board with such assistance with respect to staff, facilities and services as the Fire Brigades Board thinks fit.

Assistance from Fire Brigades Board.

32. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are

Power to make regulations.

necessary or convenient to be prescribed for giving effect to the purposes of this Act, and in particular may make regulations—

- (a) providing for firefighters and other Fire Brigades Board employees and associated employees to be members of the Superannuation Fund, and for continuity and cessation of membership;
- (b) as to contributions to the Superannuation Fund by members and by the Fire Brigades Board and associated employers;
- (c) as to the superannuation and related benefits to be paid from the Superannuation Fund and the protection, adjustment, reduction, forfeiture and application of such benefits;
- (d) as to the manner in which a body specified in Schedule 1 may become and cease to be an associated employer for the purposes of the Superannuation Fund and providing for the case of the winding up, dissolution, amalgamation or transfer of the engagements of an associated employer;
- (e) providing for the transfer of persons to or from other superannuation or like funds or schemes;
- (f) providing for firefighters to be members of the Disablement Benefits Fund, and for continuity and cessation of membership;
- (g) as to contributions to the Disablement Benefits Fund by the Fire Brigades Board;
- (h) as to the benefits to be paid from the Disablement Benefits Fund and the protection, adjustment, reduction, forfeiture and application of such benefits;
- (i) requiring members of the Superannuation Fund and Disablement Benefits Fund to undergo medical examinations;

1985.] *Fire Brigades Superannuation.* [No. 87.]

- (j) preventing the Superannuation Board from effecting or maintaining a policy of insurance under section 9 if that policy does not comply with prescribed requirements;
- (k) as to general meetings under sections 29 and 30;
- (l) requiring the Superannuation Board and the Disablement Benefits Board to furnish reports to the members of the Superannuation Fund and the Disablement Benefits Fund, respectively, and prescribing the matters to be dealt with in such reports;
- (m) prescribing the manner in which notices may be served under this Act;
- (n) prescribing or providing for the approval of forms for the purposes of this Act;
- (o) prescribing requirements as to information to be given in or in connection with applications, returns, claims, elections, and other documents delivered or made for the purposes of this Act, and the evidence to be supplied in support;
- (p) imposing conditions or restrictions on the making of amendments to the regulations.

33. (1) The Minister shall carry out a review of the operation of this Act 5 years after the commencement of this Act, and in the course of such review the Minister shall consider and have regard to—

Review
of Act.

- (a) the effectiveness of the operations of the Superannuation Board and the Disablement Benefits Board;
- (b) the need for the continuation of the functions of the Superannuation Board and the Disablement Benefits Board; and

- (c) such other matters as appear to him to be relevant to the operation and effectiveness of this Act.

(2) The Minister shall prepare a report based on his review of this Act and shall, as soon as practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

PART V—AMENDMENT, REPEAL AND TRANSITIONAL.

Fire Brigades Act 1942 amended. Reprinted as approved 16 February 1972 and amended by Acts Nos. 107 of 1972, 42 of 1975, 76 and 85 of 1978, 63 of 1979 and 28 of 1982.

34. Section 35 of the Fire Brigades Act 1942 is amended by deleting paragraph (h).

Repeal of previous regulations.

35. The following regulations made under the Fire Brigades Act 1942, namely—

- (a) the Fire Brigades (Superannuation Fund) Regulations 1977; and
- (b) the Fire Brigades (Disablement Fund) Regulations 1984,

are hereby repealed.

Transitional. Schedule 3.

36. Schedule 3 shall have effect.

SCHEDULE 1. (Section 3.)

BODIES THAT MAY BE ASSOCIATED EMPLOYERS.

West Australian Fire Brigade Employees' Industrial Union of Workers.

W.A. Fire Brigades Employees' Credit Union Society Limited.

Western Australia Volunteer Fire Brigades Association (Inc.)

SCHEDULE 2. (Sections 4 and 22.)

PROVISIONS AS TO SUPERANNUATION BOARD AND
DISABLEMENT BENEFITS BOARD.

1. In this Schedule, unless the contrary intention appears— Interpreta-
tion.
 - “appointed member” means a member of a Board appointed by the Fire Brigades Board and includes an alternate member so appointed;
 - “Board” means the Superannuation Board or the Disablement Benefits Board;
 - “elected member” means a member of a Board elected by the members of the Superannuation Fund or the Disablement Benefits Fund, as the case may be and includes an alternate member so elected.

2. (1) As soon as practicable after the commencement of this Act elections shall be conducted in the prescribed manner— Elections.
 - (a) amongst the members of the Superannuation Fund to fill the offices of elected members of the Superannuation Board;
 - (b) amongst the members of the Disablement Benefits Fund to fill the offices of elected members of the Disablement Benefits Board.

(2) Whenever the office of an elected member is vacant or is due to become vacant an election shall be conducted in the prescribed manner amongst the members of the Superannuation Fund or the Disablement Benefits Fund, as the case may require, to elect a person to fill the vacancy.

3. (1) Subject to this Schedule— Terms of
office.
 - (a) an appointed member shall hold office for such period not exceeding 3 years as is specified in the instrument of his appointment and is eligible for reappointment;
 - (b) an elected member other than an alternate member shall hold office—
 - (i) where he is elected to fill a vacancy occurring by effluxion of time—for a period ending 3 years after the occurrence of that vacancy;

- (ii) where he is elected to fill a vacancy occurring otherwise than by effluxion of time—for the remainder of the period for which his predecessor in office was elected,

and is eligible for re-election;

- (c) an elected member who is an alternate member shall hold office—

- (i) where he is elected to fill a vacancy occurring by effluxion of time—for a period ending 1 year after the occurrence of that vacancy;

- (ii) where he is elected to fill a vacancy occurring otherwise than by effluxion of time—for the remainder of the period for which his predecessor in office was elected,

and is eligible for re-election.

(2) Notwithstanding subclause (1) (b) and (c) members elected at an election held under clause 2 (1) (a) or (b) shall, subject to the other provisions of this Schedule, hold office for periods as follows—

- (a) the members other than the alternate member shall hold office for periods ending 3 years, 2 years and 1 year, respectively, after the election, the order of retirement being determined in accordance with the regulations;

- (b) the alternate member shall hold office for a period ending 1 year after the election.

Chairman 4. A Board may appoint one of its members to be chairman of the Board and determine the period for which that member shall hold that office.

Publication. 5. A Board shall cause notice of—

- (a) the appointment of appointed members to the Board;

- (b) the election of elected members to the Board;

- (c) the appointment of a chairman of the Board,

to be published for information in the *Gazette*.

1985.] *Fire Brigades Superannuation.* [No. 87.]

6. (1) The office of a member of a Board becomes vacant if— How vacancies occur.

- (a) he becomes permanently incapable of performing his duties as a member;
- (b) he resigns his office by notice in writing delivered to the Board;
- (c) he is removed from office under subclause (2), (3) or (4);
- (d) he becomes an insolvent under administration within the meaning of the Companies (Western Australia) Code;
- (e) for more than 2 months he is absent without leave of the Board from meetings of the Board that he is entitled to attend;
- (f) he fails to make a disclosure as required by clause 11;
- (g) being an elected member of the Superannuation Board who is a member of the Superannuation Fund, he ceases to be a member of that fund; or
- (h) being an elected member of the Disablement Benefits Board who is a member of the Disablement Benefits Fund, he ceases to be a member of that fund.

(2) The Fire Brigades Board may remove an appointed member from office for inability, inefficiency or misbehaviour.

(3) An elected member of the Superannuation Board may be removed from office by a motion passed in accordance with the regulations at a general meeting of members of the Superannuation Fund held in accordance with the regulations.

(4) An elected member of the Disablement Benefits Board may be removed from office by a motion passed in accordance with the regulations at a general meeting of members of the Disablement Benefits Fund held in accordance with the regulations.

7. (1) An appointed member of a Board who proposes to be absent from a meeting of the Board may, in writing, nominate an appointed alternate member of the Board to attend that meeting in his place and the alternate member so nominated is entitled to attend that meeting. Alternate members.

(2) If an appointed member of a Board is absent from a meeting of the Board and does not make a nomination under subclause (1) the Fire Brigades Board may nominate an appointed alternate member of the Board to attend that meeting and the alternate member so nominated is entitled to attend that meeting.

(3) If for any reason an appointed member of a Board vacates his office before the expiry of the period for which he was appointed, the Fire Brigades Board may nominate an appointed alternate member of the Board 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 Board.

(4) If an elected member of a Board is absent from a meeting of the Board the elected alternate member of the Board is entitled to attend that meeting.

(5) If for any reason an elected member of a Board vacates his office before the expiry of the period for which he was elected, the elected alternate member of the Board is, until the vacancy is filled, entitled to receive notice of and attend every meeting of the Board.

(6) An alternate member attending a meeting of a Board in accordance with this clause has all the powers and duties of a member of the Board.

Meetings of
a Board.

8. (1) The chairman of a Board shall preside at all meetings of the Board at which he is present but, if a chairman is not elected or the chairman is not present at a meeting, the members of the Board present may elect one of their number to preside.

(2) A Board shall hold such meetings as are necessary for the performance of its functions.

(3) The secretary of a Board may convene a meeting of the Board at any time and shall on request in writing by a member of the Board convene such a meeting before the expiration of 30 days after the receipt of the request.

(4) The secretary of a Board shall notify each member of the Board of the time, date, and place of every meeting and adjourned meeting of the Board.

(5) Questions arising at a meeting of a Board shall be determined by a majority of the votes of the members of the Board present and voting.

1985.] *Fire Brigades Superannuation.* [No. 87.

(6) In the case of an equality of votes on a question the person presiding at the meeting shall not have a second or casting vote and the question shall be deemed to have been resolved in the negative.

(7) A Board shall cause to be kept a record of the proceedings of its meetings.

(8) Subject to this Act, a Board may regulate its own procedure.

9. (1) Subject to subclauses (2) and (3) the quorum for a meeting of a Board shall be not less than 4 members of whom not less than 2 shall be appointed members and not less than 2 shall be elected members. Quorum.

(2) If a quorum is not present at a meeting of a Board, the meeting shall be adjourned for 1 week and if a quorum is not then present, the meeting shall be further adjourned for 1 week and, if a quorum is not then present, the members who are present shall, notwithstanding subclause (1), constitute a quorum for the purposes of the meeting.

(3) If as a result of vacancies in the offices of members of a Board it is not possible to obtain a quorum for a meeting of the Board, the remaining members or member may act for the purpose of—

- (a) paying benefits from the Superannuation Fund or Disablement Benefit Fund, as the case may be;
- (b) calling a meeting of members of the Superannuation Fund or Disablement Benefit Fund, as the case may be; or
- (c) conducting an election of one, or more than one, elected member of the Board,

but for no other purpose.

10. (1) A resolution in writing, signed by all members of a Board for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effectual as if it had been passed at the meeting of the Board duly convened and held. Performance of functions by resolution.

(2) A resolution under subclause (1) may consist of several documents in like form, each signed by one or more members of the Board.

No. 87.] *Fire Brigades Superannuation.* [1985.

Disclosure of
interest.

11. (1) A member of a Board who has a direct or indirect pecuniary interest in a matter that is being or is about to be considered by the Board, otherwise than as a member of and in common with other members of the Superannuation Fund or the Disablement Benefits Fund, as the case may be—

(a) shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board;

(b) shall not take part in any deliberation or decision of the Board with respect to that matter.

Penalty: \$500.

(2) A disclosure made under subclause (1) (a) at a meeting of a Board shall be recorded in the record of proceedings of the Board.

(3) For the purposes of clauses 7 (1) and (3) and 9, a member who is precluded under subclause (1) (b) from taking part in any deliberation or decision of a Board with respect to a matter shall be deemed to be absent from the meeting while that matter is being deliberated or decided upon.

Common seal.

12. (1) The form of the common seal of a Board shall be determined by the Board.

(2) The common seal of a Board shall not be used except upon the resolution of the Board.

(3) The common seal of a Board shall only be affixed to an instrument in the presence of 2 members and the instrument shall be signed by those 2 members.

Allowances.

13. There shall be paid to the members of a Board such allowances as the Minister may, on the recommendation of the Board approve.

Indemnity.

14. No liability shall attach to a Board or to a member of a Board for any act or omission that occurred in good faith and in the exercise or purported exercise of their or his powers or in the discharge or purported discharge of their or his duties under this Act.

SCHEDULE 3. (Section 36.)

TRANSITIONAL PROVISIONS.

Part I—Superannuation Fund.

1. In this Part—

Interpreta-
tion.

“former regulations” means the regulations mentioned in section 35 (a);

“previous superannuation fund” means the Western Australian Fire Brigades Board Superannuation Fund continued by the former regulations.

2. All moneys standing to the credit of, and all investments forming part of, the previous superannuation fund immediately before the commencement of this Act shall, on and after that commencement, stand to the credit of, or form part of the Superannuation Fund for the purposes of this Act, and all liabilities of the previous superannuation fund immediately before that commencement, including contingent liabilities, shall on and after that commencement, be liabilities of the Superannuation Fund.

Transfer of
assets and
liabilities.

3. (1) Any policy of insurance, agreement or instrument subsisting immediately before the commencement of this Act to which the Fire Brigades Board is a party and which relates to the administration of the former regulations shall, subject to this Act, subsist and enure for the purposes of the administration of the Superannuation Fund as if—

Transfer of
operations.

(a) the Superannuation Board were substituted for the Fire Brigades Board as a party to the policy, instrument or agreement; and

(b) any reference in the policy, agreement or instrument to the Fire Brigades Board were (unless the context otherwise requires) a reference to the Superannuation Board.

(2) Any proceedings pending immediately before the commencement of this Act to which the Fire Brigades Board is a party and which relates to the former regulations may be continued after that commencement as if the Superannuation Board were a party thereto in lieu of the Fire Brigades Board.

(3) Any question arising as to whether or not a provision of this clause applies to any particular policy, agreement, instrument or proceedings shall be determined by the Minister and the decision of the Minister is final.

No. 87.] *Fire Brigades Superannuation.* [1985.

Claims preserved.

4. Any claim for benefits under the former regulations that has not been finally dealt with immediately before the commencement of this Act may be proceeded with and dealt with after that commencement as if it were a claim for benefits from the Superannuation Fund under this Act.

Interim Board members.

5. The Minister shall appoint persons to act as members of the Superannuation Board under section 4 (4) (b) until members of the Superannuation Board are elected under clause 2 (1) of Schedule 2.

Part II—Disablement Benefits Fund.

Interpretation.

6. In this Part—

“former regulations” means the regulations mentioned in section 35 (b);

“previous disablement benefits fund” means the Western Australian Fire Brigades Disablement Benefits Fund established by the former regulations.

Transfer of assets and liabilities.

7. All moneys standing to the credit of, and all investments forming part of, the previous disablement benefits fund immediately before the commencement of this Act shall, on and after that commencement, stand to the credit of, or form part of the Disablement Benefits Fund for the purposes of this Act, and all liabilities of the previous disablement benefits fund immediately before that commencement, including contingent liabilities, shall on and after that commencement, be liabilities of the Disablement Benefits Fund.

Transfer of operations.

8. (1) Any policy of insurance, agreement or instrument subsisting immediately before the commencement of this Act to which the Fire Brigades Board is a party and which relates to the administration of the former regulations shall, subject to this Act, subsist and enure for the purposes of the administration of the Disablement Benefits Funds as if—

(a) the Disablement Benefits Board were substituted for the Fire Brigades Board as a party to the policy, instrument or agreement; and

(b) any reference in the policy, agreement or instrument to the Fire Brigades Board were (unless the context otherwise requires) a reference to the Disablement Benefits Board.

(2) Any proceedings pending immediately before the commencement of this Act to which the Fire Brigades Board is a party and which relates to the former regulations may be continued after that commencement as if the Disablement Benefits Board were a party thereto in lieu of the Fire Brigades Board.

(3) Any question arising as to whether or not a provision of this clause applies to any particular policy, agreement, instrument or proceedings shall be determined by the Minister and the decision of the Minister is final.

9. Any claim for benefits under the former regulations that has not been finally dealt with immediately before the commencement of this Act may be proceeded with and dealt with after that commencement as if it were a claim for benefits from the Disablement Benefits Fund under this Act. Claims
preserved.

10. The Minister shall appoint persons to act as members of the Disablement Benefits Board under section 22 (4) (b) until members of the Disablement Benefits Board are elected under clause 2 (1) of Schedule 2. Interim
Board
members.
