

WESTERN AUSTRALIA.

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# SUPERANNUATION AND FAMILY BENEFITS.

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No. 78 of 1985.

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AN ACT to amend the Superannuation and  
Family Benefits Act 1938.

[Assented to 20 November 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:—

1. (1) This Act may be cited as the *Superannuation and Family Benefits Amendment Act 1985*.

Short title  
and principal  
Act.

(2) In this Act the Superannuation and Family Benefits Act 1938 is referred to as the principal Act.

Reprinted as  
approved  
1 October  
1976 and  
amended by  
Acts Nos. 134  
of 1976, 76 of  
1979, 9 of  
1981, 23 of  
1982 and 30  
of 1984.

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Commence-  
ment.

2. Subject to section 9 (2), this Act shall come into operation on the day on which it receives the Royal Assent.

Section 24A  
amended.

3. Section 24A of the principal Act is amended in subsection (2) by inserting after "Act" the following—

“ or payable under the Sixth Schedule by reason of the operation of section 46C or item 1A of Part III of that Schedule ”.

Section 46C  
amended.

4. (1) Section 46C of the principal Act is amended—

(a) in subsection (2), by deleting "each year" and substituting the following—

“ the period of 6 months ending on 31 December 1985 and thereafter in each period of 6 months ending on 30 June or 31 December, ”;

(b) by repealing subsections (3) to (8) and substituting the following subsections—

“ (3) The Treasurer shall, as soon as is practicable in each period referred to in subsection (2), declare the percentage (if any) by which pensions shall be adjusted in that period.

(4) The percentage declared under subsection (3) in a period shall be that which the Board certifies in writing to 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.

(5) The adjustment of a pension under this section in any period shall be made—

(a) subject to subsection (7), by increasing the rate at which, immediately before the making of the adjustment, the pension was payable by the percentage declared under subsection (3) in that period; and

(b) so as to operate from and including the first pay-day occurring not less than 3 months after the commencement of that period.

(6) An adjustment of a pension shall not be made under this section in a period if the pension comes into force in that period or less than 3 months before the commencement of that period.

(7) Where a pension comes into force not less than 3 months but less than 6 months before the commencement of a period, the adjustment 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 (5) (a).

(8) Where the Index for the quarter ending at the commencement of a period referred to in subsection (2) is not greater than the Index for the quarter ending 6 months before the commencement of that period, the

Board shall certify to the Treasurer that it is the same or, the percentage by which it is less, as the case may be, and—

(a) no adjustment 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 adjustment in pensions under this section. ”; and

(c) by repealing subsection (9).

(2) Nothing in subsection (1) or the principal Act shall be taken to prevent the amount of an adjustment of pension that operates from and including the first pay-day occurring on or after 1 October 1985 from being first paid in the period of 6 months commencing on 1 January 1986 with arrears to the day on and from which the adjustment operates.

Section 60D  
amended.

5. Section 60D of the principal Act is amended—

(a) in subsection (2), by deleting “, becomes” and substituting the following—

“ but before the assent day, became ”;

(b) by inserting after subsection (3a) the following subsection—

“ (3b) A person who, on or after the assent day, becomes the widow of a contributor or pensioner may, within 6 months after the death of her husband, elect to commute the whole or any part of the Fund share of her widow’s pension to an equivalent entitlement by way of a lump sum payment. ”;

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(c) in subsection (7), by deleting “or (3a)” and substituting the following—

“ , (3a) or (3b) ”; and

(d) in subsection (10), by inserting after the definition of “appointed day” the following definition—

“ “assent day” means the day on which the Superannuation and Family Benefits Amendment Act 1985 receives the Royal Assent; ”.

6. Section 62 of the principal Act is amended in subsection (1) by inserting before “to the widows” the following—

Section 62  
amended.

“ at any time (in the Sixth Schedule referred to as “the relevant time”) ”.

7. Section 64A of the principal Act is amended in subsection (2) by deleting “of—”, paragraphs (a) and (b) and “and” between those paragraphs and substituting the following—

Section 64A  
amended.

“ of any further increase in pension payable under this Act. ”.

8. Section 76 of the principal Act is repealed.

Section 76  
repealed.

9. (1) The Sixth Schedule to the principal Act is amended—

Sixth  
Schedule  
amended.

(a) in Part I—

(i) in item 1, by deleting the rate set out in column 2 and substituting the following rate—

“  $\frac{2}{3}$  of the pension that would at the relevant time, have been payable to the husband if he—

(a) had not died;

and

(b) had not com-  
muted any of  
the Fund  
share of his  
pension that  
he in fact  
commuted. ”;

- (ii) in item 3, by deleting paragraph (a) of the rate set out in column 2 and substituting the following paragraph—

“ (a) 2/3 of the pension that would, at the relevant time, have been payable to the husband if, on the day on which he in fact died, he had retired on the grounds of invalidity or incapacity and had not since died. ”;

- (iii) in item 3A, by deleting paragraph (a) of the rate set out in column 2 and substituting the following paragraph—

“ (a) 2/3 of the pension that would, at the relevant time, have been payable to the husband if, on the day on which he in fact died, he had retired on the grounds of invalidity or incapacity due to, or arising from, a cause that in fact resulted in his death, and he had not since died. ”;

- (iv) in item 4, by deleting the rate set out in column 2 and substituting the following rate—

“ As in item 1 (disregarding paragraph (b) in column 2 in that item) or paragraph (a) in column 2 in item 3, as the case requires, subject to references to the husband in those provisions being read as references to the wife. ”;

and

- (v) in item 5, by deleting the rate set out in column 2 and substituting the following rate—

“ As in paragraph (a) in column 2 in item 3A, subject to references to the husband in that paragraph being read as references to the wife. ”;

- (b) in Part II—

- (i) in item 1, by deleting “\$16.00” in sub-item (1) and substituting the following—

“ \$25.00 ”;

and

- (ii) in item 2, by deleting sub-item (2) and substituting the following sub-item—

“ (2) Subject to the following, the rate per week at which allowance is payable under this item at any time is the greater of the following rates—

(a) \$50.00; or

(b) the amount calculated in accordance with the formula—

$A + R/4$ , where

A is \$14.00; and  
R is the rate of reversionary pension that would, at the relevant time, have been payable to the spouse of the contributor or former contributor if the spouse had not died and had been eligible to receive the reversionary pension. ”;

and

(c) in Part III—

(i) by inserting after item 1 the following item—

“ Item 1A:

The amounts prescribed in item 1 (1) and 2 (2) (a) of Part II and the amount represented by A in the formula set out in item 2 (2) (b) of that Part shall be adjusted on 1 October 1986 and thereafter on 1 April and 1 October in each year, with effect from and including the first fortnightly payment of allowance after the adjustment, by multiplying each of those amounts by the fraction  $I/I_b$ , where—

I is the Index referred to in section 46C for the quarter ending on the 30 June or 31 December last preceding the date of the adjustment;  
and

$I_b$  is the Index referred to in section 46C for the quarter ending on 31 December 1985,

except that an adjustment shall only be made if it would result in an increase over the amount applicable before the adjustment. ”;

(ii) in item 3, by inserting after “Subject” the following—

“ to the following and ”;

and

(iii) by adding the following item—

“ Item 4:

(1) The State shall pay to the Fund the balance of the amount of any increase in the rate of a reversionary pension under Part I



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provided for by the application of section 46C to the notional pension on which the reversionary pension is based and any increase in the rate of an allowance provided for by item 1A or by the application of section 46C to the reversionary pension referred to in item 2 (2) (b) of Part II, after first taking into account all amounts available for the purpose in the Indexation Account.

- (2) The State shall pay to the Fund the difference between the amount that would be payable from the Fund by way of reversionary pension and allowance if the amendments made by sections 4 (1) (c) and 9 (1) (a) of the Superannuation and Family Benefits Amendment Act 1985 had not been enacted and the amount that is so payable. ”.

(2) The amendments made by subsection (1) (a) and (b) have effect in respect of every fortnightly payment of a pension or allowance that is payable under the principal Act on or after 1 January 1986.

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