

## PARLIAMENTARY SUPERANNUATION.

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No. 36 of 1970.

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AN ACT to provide for the payment of Superannuation Pensions and other Benefits to persons who have served as Members of Parliament and to their Dependants, and for the making of contributions by Members of Parliament in respect of those Pensions and Benefits; to repeal the Parliamentary Superannuation Act, 1948-1968; and for incidental and other purposes.

[*Assented to 27th May, 1970.*]

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 *Parliamentary Superannuation Act, 1970.* Short title.

Commence-  
ment.

2. (1) Subject to subsection (2) of this section, this Act shall come into operation on the date on which it receives the Royal Assent.

(2) Part IV of this Act shall be deemed to have come into operation on the first day of January, 1970.

Arrange-  
ment.

3. This Act is divided into Parts, as follows—

PART I.—PRELIMINARY, ss. 1-5.

PART II.—THE PARLIAMENTARY SUPERANNUATION FUND, ss. 6-10.

PART III.—CONTRIBUTIONS TO FUND, ss. 11-12.

PART IV.—PENSIONS AND OTHER BENEFITS, ss. 13-24.

PART V.—MISCELLANEOUS, ss. 25-31.

SCHEDULE.

Repeal.

4. The Acts set out in the Schedule to this Act are repealed.

Interpreta-  
tion.

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

“basic salary” has the same meaning as in section 4 of the Parliamentary Salaries and Allowances Act, 1967;

“election” means any election for the Legislative Council or the Legislative Assembly of Western Australia;

“Fund” means the Parliamentary Superannuation Fund established under the repealed Act and maintained under Part II of this Act;

“member” means a member of the Legislative Council or the Legislative Assembly of Western Australia;

“salary”, in relation to a member, means the basic salary of the member together with any salary paid to him of the kind specified

in the Third Schedule or the Fourth Schedule to the Parliamentary Salaries and Allowances Act, 1967;

“the repealed Act” means the Parliamentary Superannuation Act, 1948-1968;

“Trustee” means a trustee of the Fund.

(2) For the purposes of this Act a member shall be deemed not to have ceased to be a member by reason only of his retirement by effluxion of time from the Legislative Council or, as the case may be, the expiration by effluxion of time or dissolution of the Legislative Assembly.

PART II.—THE PARLIAMENTARY SUPERANNUATION FUND.

6. (1) The Parliamentary Superannuation Fund maintained under the repealed Act shall continue to be maintained under that name for the purposes of this Act.

Parliamentary Superannuation Fund.

(2) There shall be paid into the Fund—

- (a) contributions paid by members pursuant to section 11 of this Act;
- (b) all moneys paid into the Fund by the Treasurer pursuant to this Act;
- (c) all interest and other income earned by the investment of the Fund or any part thereof; and
- (d) moneys borrowed by the Trustees pursuant to this Act.

(3) The Fund shall be vested in and managed by the Trustees.

7. The Trustees may invest the Fund or any part thereof in any manner in which trustees are authorised to invest trust funds under the Trustees Act, 1962.

Investment of Fund.

Accounts.

8. (1) The Trustees shall keep complete and proper accounts of all their financial transactions.

(2) In each year the accounts of the Trustees shall be audited by the Auditor General without cost to the Trustees, and copies of the accounts shall be laid before both Houses of Parliament.

Income of  
Fund not  
subject to  
tax.

9. The income of the Fund shall not be subject to any tax imposed by any law of the State.

Trustees of  
the Fund.

10. (1) There shall be a body to be called The Trustees of the Parliamentary Superannuation Fund, comprising the Treasurer *ex officio* or his Deputy (who shall be Chairman) and two members each from the Legislative Council and the Legislative Assembly, who shall be appointed by and may be removed by the order of the respective Houses, but who shall cease to be Trustees upon ceasing to be members.

(2) Unless otherwise ordered by the respective Houses, the Trustees, other than the Chairman, shall be appointed at the first sitting of each Parliament, but if at any time a vacancy occurs in any office of Trustee the Speaker of the Legislative Assembly or the President of the Legislative Council, as the case requires, may appoint a Trustee to hold office until the vacancy is filled by order of the House concerned.

(3) The Trustees holding office immediately prior to the coming into operation of this section shall, subject to this Act, continue to hold office as Trustees as if they had been appointed under this Act.

(4) The Trustees shall be a body corporate with perpetual succession and a common seal, and may in the corporate name, sue and be sued and shall have power to hold property of all kinds for the purposes of this Act.

(5) The Trustees may borrow on the security of property held by them as Trustees or on the guarantee of the Treasurer.

(6) Meetings of the Trustees shall be conducted in accordance with such procedure as the Trustees determine, and the decision of any three Trustees shall be binding.

(7) A quorum for any meeting of the Trustees shall be three.

(8) At any meeting of the Trustees the Chairman shall have both a deliberative and a casting vote.

(9) The Treasurer shall make available to the Trustees, without cost to them, the services of an officer of the Public Service of the State to assist the Trustees in the administration of this Act.

PART III.—CONTRIBUTIONS TO FUND.

11. (1) There shall be deducted from each instalment of salary paid to a member an amount, by way of contributions to the Fund, equal to ten per centum of the gross amount of the instalment before any deductions have been made therefrom.

Contributions by members.

(2) There shall be deducted, in the manner determined by the Treasurer, from instalments of salary payable to each member, the amount which represents the difference between—

- (a) the total of the instalments which would have been deducted from the salary of the member under this section during the period commencing on the first day of January, 1970 and ending on the date on which this Act receives the Royal Assent, if this section had been in force during that period; and
- (b) the total of the contributions actually made under subsection (1) of section 10 of the repealed Act by the member, with respect to the period referred to in paragraph (a) of this subsection.

(3) Where a person becomes a member on or after the coming into operation of this section, he may within three months after the date of his so becoming a member pay into the Fund an amount

equivalent to the amount of contribution he would have to pay in respect of a period specified by him if he were a member during that period, but the provisions of this subsection apply only if the period specified by him does not exceed the period between the first day of January of the year in which he was elected a member and the date of his so becoming a member.

Contributions by State.

12. (1) The Treasurer shall pay into the Fund—

- (a) not later than fourteen days after the end of each month, a sum equal to twice the amount of the contributions paid to the Fund during that month pursuant to section 11 of this Act; and
- (b) from time to time and in such instalments as he determines, such amounts as the Government Actuary certifies to be necessary in order to make proper provision for the payment out of the Fund of the pensions, benefits and refunds of contributions payable under this Act.

(2) All payments to be made under this section by the Treasurer shall be paid from the Consolidated Revenue Fund which is hereby appropriated accordingly.

#### PART IV.—PENSIONS AND OTHER BENEFITS.

Interpretation.

13. (1) In this Part, unless the contrary intention appears—

“basic pension” in relation to a member who has contributed to the Fund for not less than seven years, means the amount calculated at the rate of thirty per centum of the basic salary payable to the member immediately before he ceased to be a member, together with a further one per centum of that basic salary for each completed period of six months, up to a maximum of thirty-six such periods, in excess of that seven years for which the member has duly contributed to the Fund.

(2) Subject to subsection (2) of section 20 of this Act, a reference in this Part, however expressed, to a period for which a person made contributions to the Fund includes—

- (a) any period for which the person made contributions to the Fund under the repealed Act;
- (b) any period for which the person made contributions to the Fund maintained under the Members of Parliament Fund Act, 1941-1944,

and where the person has made contributions to the Fund in respect of two or more separated periods of service as a member, includes every period for which he so contributed, irrespective of any pension, refund of contributions with interest or other benefit which he received upon ceasing to be a member at the termination of any of those periods of service as a member.

(3) Where for the purposes of this Act it is necessary to ascertain the basic salary or the salary paid to a member or former member at a time prior to the coming into operation of the Parliamentary Salaries and Allowances Act, 1967, the basic salary or the salary, as the case may be, paid to the member at that time shall, for the purposes of this Act, be deemed to be that determined by the Treasurer.

14. (1) Subject to this Act, every person who ceases to be a member and—

- (a) has contributed to the Fund for not less than fifteen years; or
- (b) has contributed to the Fund for not less than seven years but less than fifteen years and—
  - (i) has attained the age of fifty-five years when he so ceases to be a member;

Members' superannuation benefits, etc.

- (ii) so ceases to be a member upon his being defeated at an election;
- (iii) so ceases to be a member on the ground of ill health and satisfies the Trustees that his ceasing to be a member on that ground is warranted; or
- (iv) so ceases to be a member upon his resigning or declining to seek re-election for reasons which, in either case, the Trustees consider good and sufficient,

is entitled, on ceasing to be a member, to be paid an annual pension at the rate ascertained in accordance with subsection (4) of this section.

(2) Subject to this Act, every person who has been a member and is immediately prior to the coming into operation of this Part 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) of this section.

(3) Where a person who ceases to be a member is not, under the provisions of subsection (1) of this section, entitled to be paid a pension out of the Fund, he shall be paid an amount equal to the sum of the contributions made by him to the Fund under this Act or the repealed Act together with interest thereon at the rate determined by the Trustees, less any amount previously refunded to him under this subsection or any corresponding provision of the repealed Act.

(4) For the purposes of subsection (1) of this section, the rate per annum of pension payable to a person entitled to pension under that subsection is the rate ascertained in accordance with the

formula  $\frac{A \times B}{C}$ , where—

A is the basic pension of the person;



B is the total salary paid to that person while he was making contributions to the Fund; and

C is the total basic salary paid to that person while he was making contributions to the Fund.

(5) For the purposes of subsection (2) of this section, the rate per annum of pension payable to a person entitled to pension under that subsection is the rate ascertained in accordance with the formula

$$A \times \frac{(B-D)}{C}, \text{ where—}$$

A is the basic pension of the person;

B is the total salary paid to that person while he was making contributions to the Fund;

C is the total basic salary paid to that person while he was making contributions to the Fund; and

D is one-third of the difference between B and C.

(6) Nothing in this section entitles a member to be paid pension in respect of any portion of his annual pension entitlement which has been converted to a lump sum payment under subsection (2) of section 16 of this Act.

15. Where the basic salary that was paid to a person immediately before he ceased to be a member is less than the basic salary for the time being payable to members generally, the rate per annum of pension payable to that person shall be increased to the rate ascertained in accordance with the formula

Supplement-  
ation of  
pensions.

$$E \times \frac{(F-H)}{G}, \text{ where—}$$

E is the rate of annual pension payable to the person under section 14 of this Act reduced to the extent, if any, provided in section 17 of this Act;

F is the basic salary for the time being payable to members generally;

G is the basic salary that was paid to the person immediately before he ceased to be a member; and

H is one-third of the difference between F and G.

Cash  
conversion  
of certain  
pensions.

16. (1) Subject to subsections (4) and (5) of this section, the whole of the pension entitlement of a person who—

(a) ceases to be a member after the coming into operation of Part IV of this Act; and

(b) has not attained the age of forty years when he so ceases,

shall, forthwith upon his so ceasing to be a member, be converted to a lump sum payment in accordance with subsection (3) of this section and thereupon that person shall cease to be entitled to pension under this Act.

(2) Subject to subsections (4) and (5) of this section a person who—

(a) ceases to be a member after the coming into operation of Part IV of this Act; and

(b) has attained the age of forty years when he so ceases,

may elect, by notice in writing served on the Trustees within three months of his so ceasing to be a member, to convert to a lump sum payment, determined in accordance with subsection (3) of this section, a portion of his annual pension entitlement as follows—

(c) where he has not attained the age of sixty-five years when he so ceases to be a member—not more than seventy-five per centum of his annual basic pension entitlement less one per centum thereof for each

period of six months by which the member's age exceeds forty years when he ceases to be a member; or

- (d) where he has attained the age of sixty-five years when he so ceases to be a member—not more than twenty-five per centum of his annual basic pension entitlement.

(3) A lump sum payment under subsection (1) or (2) of this section shall be—

- (a) in the case of a person referred to in subsection (1) of this section—the amount of the annual pension entitlement of the person as ascertained under section 14 of this Act, multiplied by ten;
- (b) in the case of a person referred to in subsection (2) of this section—the amount of the portion of the annual basic pension entitlement of the person ascertained under section 13 of this Act and in respect of which the election is made, multiplied by ten.

(4) Where a former member ceased to be a member on the grounds of ill health and had contributed to the Fund for less than fifteen years when he so ceased to be a member—

- (a) the provisions of subsection (1) of this section do not apply to him if he had not attained the age of forty years when he so ceased to be a member;
- (b) he is not entitled to make an election under subsection (2) of this section if he had not attained the age of fifty-five years when he so ceased to be a member.

(5) Where section 17 of this Act applies to a former member, the whole or the appropriate portion, as the case may be, of his annual pension entitlement for the purposes of this section shall be reduced by the amount that his annual pension entitlement is reduced pursuant to that section.

Reduction of  
pension in  
certain  
cases.

17. (1) Where a person who, on ceasing to be a member converted portion of his annual basic pension entitlement to a lump sum payment under section 16 of this Act, again becomes a member on a subsequent date, the amount, if any, by which the benefits received by that person under this Part before he again became a member exceed the amount of the benefits he would have received under this Part if he had not so converted portion of his pension entitlement shall be calculated.

(2) Where a person who—

- (a) ceased to be a member before attaining the age of forty years; and
- (b) accordingly received a payment under section 16 of this Act by reason of the conversion to a lump sum payment of the whole of his annual pension entitlement,

again becomes a member on a subsequent date, there shall be calculated the amount, if any, by which that payment exceeds the total of the amounts which he would have received by way of pension before he again so became a member if none of his annual pension entitlement had been so converted and he had been entitled to be paid such a pension.

(3) Notwithstanding anything in this Part, where a person to whom subsection (1) or (2) of this section applies again becomes entitled to a pension under section 14 of this Act, the amount of annual pension payable to him under sections 14 and 15 of this Act shall be reduced by ten per centum of the amount calculated under subsection (1) or (2) of this section, as the case requires.

Pensions  
payable to  
certain  
widows.

18. (1) Where the widow of a former member was in receipt of a widow's pension payable under the repealed Act immediately prior to the coming into operation of this Part, she is entitled until her death or re-marriage to be paid an annual pension at the rate determined in accordance with subsection (2) or (3) of this section, as the case requires.

(2) For the purposes of subsection (1) of this section, the rate of annual pension payable to a widow is five-eighths of the rate of annual pension to which her husband would, but for his death, have been entitled from time to time under the provisions of this Act.

(3) Where with respect to any period, the rate of annual pension payable to a widow pursuant to subsection (2) of this section is less than the rate of annual pension to which she would have been entitled under the repealed Act, she shall, during that period, be paid pension at that lastmentioned rate.

19. (1) On the death of a former member receiving pension under this Act, the widow of the former member is entitled to be paid, until her death or re-marriage, an annual pension at the rate of five-eighths of the pension that would from time to time continue to be payable under this Act to her husband but for his death.

Payment of pensions to widows generally.

(2) On the death of a member who has contributed to the Fund for not less than seven years, the widow of the member is entitled to be paid, until her death or re-marriage, an annual pension at the rate of five-eighths of the pension that would from time to time be payable under this Act to her husband if he had not died but had ceased to be a member on the date of his death and thereby become entitled to a pension under section 14 of this Act.

(3) On the death of a member who has contributed to the Fund for less than seven years, the widow of the member is entitled to be paid, until her death or re-marriage, an annual pension at the rate of five-eighths of the pension that would from time to time be payable under this Act to her husband if he had not died but—

(a) had, during the whole of the period during which he made contributions to the Fund, been in receipt of salary not exceeding the

basic salary payable from time to time during that period; and

- (b) at the date of his death—
  - (i) had contributed to the Fund for seven years; and
  - (ii) had ceased to be a member and thereby become entitled to pension under section 14 of this Act.

(4) In this section, “widow” does not include a woman who married a former member after he finally ceased to be a member.

Repayments  
to Fund of  
amounts  
previously  
refunded to  
contributor.

20. (1) Where—

- (a) a refund of contributions made to the Fund together with interest thereon has been made to a person under subsection (3) of section 14 of this Act or any corresponding provision of the repealed Act; and
- (b) that person again becomes a member on a subsequent date,

he may—

- (c) within three months of his again so becoming a member, pay into the Fund a sum equal to the amounts of the refund of contributions and the interest so made to him; or
- (d) after the expiration of the period referred to in paragraph (c) of this subsection, but while he continues to be a member, pay into the Fund a sum equal to the total of the amounts of the refund of contributions and the interest so made to him together with interest on those amounts at the rate determined by the Trustees.

(2) Notwithstanding the provisions of subsection (2) of section 13 of this Act, where a person to whom paragraphs (a) and (b) of subsection (1) of this section apply fails to pay a sum into the Fund in

accordance with paragraph (c) or (d) of that subsection, the period for which that person contributed to the Fund and in respect of which the refund of contributions with interest referred to in paragraph (a) of that subsection was made, shall not be regarded, for the purposes of this Part, as a period for which that person contributed to the Fund.

21. If a former member who is receiving or is entitled to receive a pension under this Part again becomes a member, his right to that pension shall cease.

Termination of pension if recipient becomes member of Parliament.

22. (1) Subject to section 21 of this Act and to subsection (2) of this section, but notwithstanding any other provision of this Act, where a former member who is receiving or is entitled to receive a pension under this Part—

Reduction of pensions in certain cases.

- (a) becomes a member of the Parliament of the Commonwealth or of any other State;  
or
- (b) holds within the State or elsewhere an office of profit under the Crown, whether in right of the State or otherwise,

the pension payable to him from time to time under this Part shall be reduced by the amount, if any, by which the remuneration he receives as such a member of Parliament or from the office of profit, as the case may be, together with two-thirds of that pension exceeds the basic salary for the time being payable to a member.

(2) Where, but for this subsection, a pension payable to a former member would be reduced, pursuant to subsection (1) of this section, by more than two-thirds, that pension shall be reduced by two-thirds only

Children's  
allowances.

23. (1) Subject to this section, on the death of a member or on the death of a former member who at the time of his death was in receipt of pension under this Act, there is payable to any child of the member or former member for so long as the child—

- (a) is less than sixteen years of age; or
- (b) is more than sixteen but less than twenty-one years of age and is undergoing a full-time course of education at a school, college, institute or university,

an annual allowance—

- (c) while the deceased member or former member is survived by a widow—of three per centum of the basic salary for the time being payable to a member;
- (d) while the deceased member or former member is not survived by a widow—of six per centum of the basic salary for the time being payable to a member.

(2) In this section “child”, in relation to a deceased former member, does not include a child the issue of a marriage contracted by the former member after he finally ceased to be a member.

(3) Payment of allowance under this section in respect of any child shall be made on behalf of the child to such person or persons as the Treasurer determines, and the Treasurer is under no obligation or duty to inquire into or see to the proper application of any payments so made

Return of  
part of con-  
tributions in  
special cases.

24. (1) Where a member dies while serving as a member and he is not survived by a widow or by any child to whom an allowance under section 23 of this Act is or might become payable, there shall be paid to his personal representative an amount equal to the sum of the contributions made by him to the Fund, together with interest thereon at the rate determined by the Trustees, less any amount



previously refunded to him under subsection (3) of section 14 of this Act or any corresponding provision of the repealed Act.

(2) Where—

- (a) a member dies and is survived by a widow or by any child to whom an allowance under section 23 of this Act is or might become payable; or
- (b) a member ceases to be a member and thereby becomes entitled to a pension under this Act which is not required to be converted wholly to a lump sum payment under subsection (1) of section 16 of this Act,

there shall be calculated and recorded the amount, in this section referred to as “the recorded amount” which consists of the sum of the contributions made by the member to the Fund, together with interest thereon, at the rate determined by the Trustees, as at the date on which the member died or so ceased to be a member, less any amount that has been paid to the member under subsection (3) of section 14 of this Act or any corresponding provision of the repealed Act and has not been repaid by him to the Fund.

(3) Where no further pension or allowance under this Part is liable to be paid in respect of a member or former member, his widow or any of his children, there shall be calculated the total of all amounts paid under this Act by way of pension, lump sum payment on conversion of pension and children’s allowance to the member or former member, his widow and children.

(4) Where the amount calculated under subsection (3) of this section is less than the recorded amount appropriate to the member, there shall be paid to the personal representative of—

- (a) the member or former member, where he is not survived by a widow or he is so survived but the widow re-marries; or

(b) the widow, where she survives the member or former member and does not re-marry, the amount of the difference between those amounts.

Pensions payable fortnightly, etc.

PART V.—MISCELLANEOUS.

25. (1) Every pension under this Act is payable in fortnightly instalments equal to one twenty-sixth of the annual rate of the pension, and is apportionable in point of time.

(2) Where in calculating the annual pension payable to a person under this Act, the result so obtained includes a fraction of a dollar, that pension shall be increased to the next whole dollar.

(3) Every fortnightly instalment of pension or allowance under this Act which includes a fraction of a cent shall be increased to the next whole cent.

Pensions, etc., to be paid out of Fund.

26. All pensions, benefits and refunds of contributions under this Act payable to members, former members and the widows and children of members and former members shall be paid out of the Fund.

Administration.

27. Subject to sections 11, 12 and 26 of this Act, the costs of the administration of this Act shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly.

Actuarial investigation.

28. (1) An investigation as to the state and sufficiency of the Fund shall be made by the Government Actuary at the expiration of each period of three years.

(2) The first investigation under this section shall be made into the state and sufficiency of the Fund as at the thirty-first day of December, 1970.

(3) The Government Actuary shall, after making any investigation under this section, make a report to the Trustees as to the results of the investigation and shall include in his report his conclusions as to—

- (a) whether the Fund is sufficient to provide for the pensions, benefits and refunds of contributions payable under this Act; and
- (b) the amounts, if any, necessary to be paid into the Fund in accordance with paragraph (b) of subsection (1) of section 12 of this Act.

29. (1) Any payment of pension made under the repealed Act to a former member or widow of a former member with respect to the period commencing on the first day of January, 1970 and ending on the date on which this Act receives the Royal Assent shall, for the purposes of this Act, be regarded as having been made in part payment of the pension liable to be paid to that former member or widow under Part IV of this Act with respect to that period.

Special provisions concerning pension payments made during period commencing 1/1/70.

(2) As soon as practicable after the date on which this Act receives the Royal Assent there shall be paid to a former member or widow referred to in subsection (1) of this section the amount, if any, by which the amount of pension to which the former member or widow is entitled under Part IV of this Act with respect to the period referred to in that subsection exceeds the amount of pension actually paid under the repealed Act to that former member or widow with respect to that period, and thereupon that former member or widow is not entitled to any further payment under this Act with respect to that period.

Pensions,  
etc., not  
assignable,  
etc.

30. Subject to any provision of this Act whereby it is expressly provided that an amount, sum or benefit is payable to the personal representative of a member or his widow, the right or interest of any member or former member or of the widow or child of any member or former member, in the Fund or to any payment, benefit or pension payable from the Fund shall not be in any way assigned, charged or passed by operation of law to any person other than the member or former member, as the case may be, or his widow or children, and the pensions, benefits and payments payable under this Act shall be personal to the member or former member as the case may be and to his widow and children and shall not inure for the benefit of their respective estates.

Regulations.

31. The Governor may make regulations not inconsistent with this Act prescribing any matter or thing necessary or convenient to be prescribed for the purposes of carrying this Act into effect.

#### SCHEDULE.

##### Title of Act.

Parliamentary Superannuation Act, 1948.  
Parliamentary Superannuation Act Amendment Act, 1950.  
Parliamentary Superannuation Act Amendment Act, 1951.  
Parliamentary Superannuation Act Amendment Act, 1953.  
Parliamentary Superannuation Act Amendment Act, 1954.  
Parliamentary Superannuation Act Amendment Act, 1955.  
Parliamentary Superannuation Act Amendment Act, 1957.  
Parliamentary Superannuation Act Amendment Act, 1958.  
Parliamentary Superannuation Act Amendment Act, 1960.  
Parliamentary Superannuation Act Amendment Act, 1964.  
Parliamentary Superannuation Act Amendment Act, 1968.