

SUPERANNUATION AND FAMILY BENEFITS.

9° and 10° GEO. VI., No. LV.

No. 55 of 1945.

AN ACT to amend the Superannuation and Family Benefits Act, 1938-1939.

[Assented to 30th January, 1946.]

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

Short title.
cf. No. 43 of
1939, s. 19.

1. This Act may be cited as the *Superannuation and Family Benefits Act Amendment Act, 1945*, and shall be read as one with the Superannuation and Family Benefits Act, 1938-1939 (No. 34 of 1938 as amended by the Act No. 43 of 1939), hereinafter referred to as the principal Act.

Amendment
of s. 6.

2. (1) Subject to subsection (2) of this section, section six of the principal Act is amended as follows:—

(a) By inserting in subsection (1) after the definition of "actuary" a definition as follows:—

"Actuarial reserve portion of contributions" means the balance deemed to remain in the Fund to meet future risks after the estimated value of the risks carried by the Fund during the period of contributions has been assessed on an actuarial basis.

(b) By deleting from paragraph (i) of the proviso to the second paragraph of the definition of "Department" in subsection (1) the word "Treasurer" where it appears in lines eleven and fourteen respectively of such paragraph (i) and inserting in lieu thereof in each case the words "Board on behalf of the State."

(c) By inserting in subsection (1) after the definition of "employee" a new definition as follows:—

"Local authority" means a municipal council or a road board.

(2) Paragraph (b) of subsection (1) of this section shall have effect and be deemed to have had effect and to have been in operation as from and including the twentieth day of December, One thousand nine hundred and thirty-nine.

3. (1) Subject to subsection (2) of this section, a section is inserted in the principal Act after section six and in the same Part as that section as follows:—

New section.

6A. Where by any law of this State provision is made in relation to permanent employees of local authorities for the adoption or establishment of a scheme of superannuation and family benefits on a voluntary and contributory basis to operate within the provisions of this Act, and any local authority and the permanent employees thereof acting in pursuance of the provision of such law elect to participate in such a scheme, then, notwithstanding anything to the contrary contained in this Act, and in order to give effect to the provisions of the law aforesaid, but subject as in this section hereafter provided, the provisions of this Act shall, so far as may be necessary, apply and, with such adaptations thereof as may be requisite, be made applicable to such employees and to such local authority as if the employees of the local authority were employees within the meaning of this Act employed in a department.

Extension of this Act to employees of local authorities.

Provided that—

(a) the extension of the provisions of this Act as in this section provided for shall not take

effect in respect of any local authority or the employees of any local authority unless and until the Governor shall by notice in the *Government Gazette* declare that in relation to the local authority named in such notice and to the employees of such local authority the provisions of this section shall operate and have effect; and

- (b) nothing in this section or elsewhere in this Act shall create or be construed as creating any liability on the part of the State to contribute towards the cost of a pension payable or paid under this Act by virtue of this section in respect of any employee of a local authority who in accordance with the provisions of any other law aforesaid and of this section becomes a contributor under this Act or to contribute towards the cost of administration in connection with the payment of such pension; and the State shall not incur any liability whatsoever in relation to such employee or such pension, or such cost.

(2) Subsection (1) of this section shall come into operation and take effect on a date to be fixed by proclamation.

Amendment
of s. 8.

4. Section eight of the principal Act is amended by deleting from subsection (2) the words "one shall be the Government Actuary and" in lines one and two of such subsection.

Amendment
of s. 9.

5. Section nine of the principal Act is amended by deleting subsection (1) and inserting in lieu thereof, a subsection as follows:—

- (1) Subject to subsection (4) of section eight of this Act, the members of the Board may be appointed for any period not exceeding seven years, and every member shall be eligible for re-appointment.

6. Section ten of the principal Act is amended as follows:— Amendment of s. 10.

(a) By deleting from paragraph (ii) of the proviso to the section the word “and” at the end of such paragraph (ii);

(b) by deleting paragraph (iii) of the said proviso.

7. Section eleven of the principal Act is amended by deleting the proviso thereto. Amendment of s. 11.

8. (1) Subject to subsection (2) of this section, section twenty-three of the principal Act is amended by inserting in subsection (1) after the word “Act” in line six of such subsection the words “and any ‘employer’ payments made on behalf of the State for the purposes of this Act in pursuance of paragraph (i) of the proviso to the second paragraph of the definition of ‘department’ in section six of this Act”. Amendment of s. 23.

(2) Subsection (1) of this section shall have effect and be deemed to have had effect and to have been in operation as from and including the twentieth day of December, one thousand nine hundred and thirty nine.

9. (1) Subject to subsection (2) of this section, section thirty-one of the principal Act is amended as follows: Amendment of s. 31.

(a) by inserting at the beginning of the section after the section number the figure “1” in brackets as follows—“(1)”;

(b) by adding to the section subsections as follows:—

(2) Notwithstanding the provisions of subsection (1) of this section but subject to subsections (3) and (4) of this section, any employee employed at the commencement of this subsection and any person who later becomes an employee, and who wishes to become a contributor under this Act, may at any time, provided he is still an employee, elect to become a contributor and become such a contributor by giving to the Board notice of such election in the prescribed form.

(3) Before making his election under subsection (2) of this section, the employee shall submit himself for medical examination as to

his mental and physical health, and shall not be eligible or entitled to become a contributor unless and until he has on a date not earlier than one month prior to the date of lodgment of the notice of his election, submitted himself for the said medical examination and has been certified by a duly qualified medical practitioner to be free from mental and physical infirmity likely to affect seriously and prejudicially a reasonable expectation of life in such employee.

(4) The provisions of subsection (6) of section thirty-six of this Act shall not apply to an employee who elects under subsection (2) of this section to become a contributor under this Act; and upon becoming such a contributor such employee shall contribute to the Fund at the rate appropriate to his age prescribed in the appropriate schedule to this Act.

(2) Subsection (1) of this section shall come into operation and take effect on a date to be fixed by proclamation.

Amendment
of s. 36.

10. (1) Subject to subsection (2) of this section, section thirty-six of the principal Act is amended as follows:—

- (a) By inserting in subsection (1) after the word “the” in line four of such subsection, the word “maximum”;
- (b) by deleting from subsection (1) the word “shall” where it appears after the word “contributor” in line five of such subsection, and inserting in lieu thereof the word “may”;
- (c) by deleting subsection (4) and inserting in lieu thereof a subsection as follows:—

(4) where an employee enters the service after the commencement of this subsection and becomes a contributor, the Board may grant an application by him for a number of units less than the relative number for his salary-group as shown in the scale in subsection (1) of this section;

(d) by deleting from paragraph (b) of subsection (5) the word "shall" in line one of such paragraph (b) and inserting in lieu thereof the word "may."

(2) Subsection (1) of this section shall come into operation and take effect on a date to be fixed by proclamation.

11. (1) Subject to subsection (2) of this section, section thirty-seven of the principal Act is repealed, and a section is inserted in lieu thereof as follows:—

Amendment of s. 37.
Repeal and new section.

37. (1) Notwithstanding anything to the contrary contained in this Act, it shall be optional for an employee who becomes a contributor to contribute for more than two units of pension; but the total number of units shall not exceed the prescribed number for the salary-group of the contributor concerned, as shown in the scale in subsection (1) of section thirty-six of this Act.

Units in excess of two units optional.

(2) Subsection (1) of this section may be applied to any employee who has already become a contributor at the commencement of this section. In any such case the provisions of sections thirty-eight and forty-six A of this Act shall apply and have effect.

(2) Subsection (1) of this section shall come into operation and take effect on a date to be fixed by proclamation.

12. Section thirty-eight of the principal Act is amended by deleting the words "payments for paid-up pensions to be actuarially calculated" in lines nine and ten, and inserting in lieu thereof the words "contributions in respect of the reduced pension."

Amendment of s. 38.

13. (1) Subject to subsection (2) of this section, section forty-two of the principal Act is amended by adding thereto a proviso as follows:—

Amendment of s. 42.

Provided that where in accordance with paragraph (i) of the proviso to the second paragraph of the definition of "Department" in section six of this Act, fortnightly payments have been made to the Board on behalf of the State on account of the pension to which such contributor is entitled under this Act, the liability of the State in respect of the pen-

sion payable to such contributor under this section and section forty-three of this Act shall be deemed to be satisfied and discharged to the extent to which the said fortnightly payments have already been made as aforesaid.

(2) Subsection (1) of this section shall have effect and be deemed to have had effect and to have been in operation as from and including the twentieth day of December, one thousand nine hundred and thirty-nine.

Amendment
of s. 56.

14. (1) Subject to subsection (2) of this section, section fifty-six of the principal Act is amended as follows:—

(a) by inserting after the section number at the beginning of the section the figure “1” in brackets as follows:—“(1)”;

(b) by adding to the section new subsections as follows:—

(2) As an alternative to the acceptance by him of a pension according to the number of units for which he was contributing at the time of his retirement, a contributor may either—

(a) accept a pension for two or more units with a refund of the actual amount of his contributions for the units in excess of the number of units represented by such reduced pension; or

(b) waive his entitlement to a pension under this Act and accept from the Board a refund of the actual amount of the contributions made by him as a contributor.

(3) The contributor shall make his choice of the benefit under this section which he desires to take, and shall give to the Board notice thereof in writing in the prescribed form within one month after he is notified of the proposed retirement or within such further period as the Board may allow.

(2) Subsection (1) of this section shall come into operation and take effect on a date to be fixed by proclamation.

Amendment
of s. 63.

15. Section sixty-three of the principal Act is amended by deleting from subsection (1) the word “actual” in line five of such subsection

16. (1) Subject to subsection (2) of this section, a New section. section is inserted in the principal Act after section sixty-three as follows:—

63A. Notwithstanding anything to the contrary Refunds. contained in this Act or in any other Act and save and except as regards refunds of contributions made under the provisions of subsection (2) of section fifty-six of this Act, wherever in any provision in this Act it is enacted that a contributor shall be entitled to have refunded or paid to him or to his personal representative (as the case may be) the amount or amounts of contributions made by such contributor in accordance with the provisions of this Act, the refund or payment made to such contributor or to his personal representative shall represent the actuarial reserve portion of such contributions. Provided that before any such refund or payment aforesaid is made by the Board there shall be deducted therefrom—

- (a) any sum of money due and payable by or in respect of the contributor to the Board or to the State; and
- (b) any sum received by the contributor as pension under section fifty-seven of this Act; but such deduction shall not in any case reduce the sum to be paid to the contributor below the amount of the actuarial reserve portion of the contributions made by the contributor subsequently to the receipt by him of the amount then last paid to him as pension.

(2) Subsection (1) of this section shall come into operation and take effect on a date to be fixed by proclamation.

17. Section sixty-six of the principal Act is amended by deleting from subsection (3) all the words contained in such subsection after the word “contained” in line two thereof, and inserting in lieu thereof the words “in the Public Trustee Act, 1940.” Amendment of s. 66.

Amendment
of s. 73.

18. Section seventy-three of the principal Act is amended by adding thereto subsections as follows:—

Breakdown
pensioner
leaving the
State.

(4) Before any such pensioner shall leave this State, he shall submit to the Board a certificate from a duly qualified medical practitioner indicating the need of the pensioner to leave the State; and in any such case the continuance of the payment of pension to the pensioner shall be subject to the approval of the Board to the pensioner leaving this State being first obtained.

Breakdown
pensioner
engaging in
employment
or business.

(5) If a person who has retired through invalidity as provided for in section fifty-seven of this Act, engages in employment, or in any occupation or business on his own account, the Board may, if it thinks fit, cancel the pension payable to such person or reduce the amount of such pension to any amount which in its opinion the circumstances of the case warrant.

Amendment
of s. 75.

19. Section seventy-five of the principal Act is amended by adding to subsection (1) a proviso as follows:—

Provided that the cancellation provided for in this section shall not be imposed or be effective during that or those portions of the period of employment or re-employment aforesaid which constitute the equivalent of the first twenty-eight working days in each twelve-monthly period of such period of the said employment or re-employment.

Validation.

20. (1) Insofar as any matter or thing has been done in pursuance of the provisions of the principal Act prior to the passing of this Act which at the time of the doing thereof was not or may not have been authorised by the principal Act as then in force, but which if done after the relevant provisions of this Act shall have come into operation and taken effect would be authorised by the principal Act as amended by this Act, the doing of such matter or thing shall be and is hereby confirmed and validated.

(2) Any adjustments and other arrangements in relation to any matter or thing, which by subsection (1) of this section is confirmed or validated, may be made or effected after the relevant provisions of this Act shall have come into operation and taken effect wherever necessary in order to give effect retrospectively to the provisions of the principal Act as amended by this Act.

21. The principal Act as amended by this Act may be cited as the Superannuation and Family Benefits Act, 1938-1945.

Citation of
principal Act
as amended.
