

**LOCAL GOVERNMENT
(SUPERANNUATION)
AMENDMENT AND REPEAL
ACT 1993**

No. 2 of 1993

AN ACT to amend the *Local Government Act 1960*, to repeal the *Local Government Superannuation Act 1980*, to make consequential amendments to the —

- *Constitution Acts Amendment Act 1899*;
- *Financial Administration and Audit Act 1985*;
- and
- *Parliamentary Commissioner Act 1971*,

and for related purposes.

[Assented to 18 August 1993.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Local Government (Superannuation) Amendment and Repeal Act 1993*.

Commencement

2. This Act is deemed to have come into operation on 1 July 1993.

PART 2 — LOCAL GOVERNMENT ACT 1960

Principal Act

3. In this Part the *Local Government Act 1960** is referred to as the principal Act.

[* *Reprinted as approved 24 June 1983.*
*For subsequent amendments see 1992 Index to
Legislation of Western Australia, Table 1, pp. 122-5.]*

Section 169 repealed and sections 169 and 169AA substituted

4. Section 169 of the principal Act is repealed and the following sections are substituted —

“

Superannuation

169. (1) In this section and section 169AA —

“**City of Perth scheme**” means the scheme defined in section 169A as the “existing scheme”;

“**municipality**” includes a regional council;

“**the scheme**” means the scheme known as the W.A. Local Government Occupational Superannuation Fund established under the Deed of Trust dated 21 March 1990 and executed by representatives of the Local Government Association of Western Australia (Inc.), the Country Shire Councils' Association of Western Australia (Inc.), the Municipal Officers' Association of Australia (now known as the Australian

Municipal Transport, Energy, Water, Ports, Communications and Information Services Union) and the Federated Municipal and Shire Council Employees Union of Australia, and includes that scheme as amended from time to time.

(2) A municipality shall participate in the scheme and the municipality shall exercise such powers and discharge such obligations as are necessary to give effect to the scheme.

(3) Nothing in subsection (2) prevents a municipality from participating, in respect of an officer or employee of the municipality, in any other superannuation scheme in addition to the scheme if the municipality and the officer or employee have agreed to participate in that other scheme.

(4) Subsection (2) applies to the City of Perth only in respect of such of the officers and employees of the City of Perth as are not contributors to the City of Perth scheme.

Transfer of employment to the City of Perth

169AA. If an officer or employee of a municipality —

- (a) ceases to be employed by the municipality;
- (b) does not claim a benefit under the scheme; and
- (c) within 6 years of ceasing to be employed by the municipality —
 - (i) commences employment with the City of Perth; and

- (ii) becomes a member of the City of Perth scheme,

the moneys in the scheme on account of the officer or employee shall, subject to the terms of the scheme, be paid into the City of Perth scheme on account of the officer or employee.

”

Section 169A amended

5. Section 169A (6) of the principal Act is amended by deleting “a scheme established under the Superannuation, Sick, Death, Insurance, Guarantee and Endowment (Local Governing Bodies’ Employees) Funds Act 1947” and substituting the following —

“ the scheme defined in section 169 (1) as “the scheme” ”.

No. 2]
s. 6

*Local Government (Superannuation)
Amendment and Repeal Act 1993*

**PART 3 — LOCAL GOVERNMENT SUPERANNUATION
ACT 1980**

Repeal

6. The *Local Government Superannuation Act 1980* is repealed.

PART 4 — TRANSITIONAL

Interpretation

7. In this Part —

“former Board” means the Board as defined in the repealed Act;

“former scheme” means the scheme that was established under the repealed Act;

“repealed Act” means the Act repealed by Part 3;

“the scheme” means the scheme defined in section 169 (1) of the *Local Government Act 1960* (as enacted by section 4 of this Act) as “the scheme”;

“variation Deed” means the Deed of Trust dated 17 June 1993 that amends the Deed of Trust referred to in the definition of “the scheme” in section 169 (1) of the *Local Government Act 1960* (as enacted by section 4 of this Act).

Transfer of assets and liabilities

8. With effect on and from the commencement of this Act —

- (a) assets of the former scheme held by the former Board, by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance, become assets of the scheme held by the Trustees of the scheme;
- (b) persons who immediately before the commencement of this Act were members of the former scheme, by virtue of this clause, become members of the scheme and the rights, entitlements and obligations of persons

PART 4 — TRANSITIONAL

Interpretation

7. In this Part —

“former Board” means the Board as defined in the repealed Act;

“former scheme” means the scheme that was established under the repealed Act;

“repealed Act” means the Act repealed by Part 3;

“the scheme” means the scheme defined in section 169 (1) of the *Local Government Act 1960* (as enacted by section 4 of this Act) as “the scheme”;

“variation Deed” means the Deed of Trust dated 17 June 1993 that amends the Deed of Trust referred to in the definition of “the scheme” in section 169 (1) of the *Local Government Act 1960* (as enacted by section 4 of this Act).

Transfer of assets and liabilities

8. With effect on and from the commencement of this Act —

- (a) assets of the former scheme held by the former Board, by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance, become assets of the scheme held by the Trustees of the scheme;
- (b) persons who immediately before the commencement of this Act were members of the former scheme, by virtue of this clause, become members of the scheme and the rights, entitlements and obligations of persons

as members of the former scheme are taken to be replaced by rights, entitlements and obligations (from time to time) as members of the scheme;

- (c) except as provided in paragraph (b), all rights and liabilities of the former Board under the former scheme, by virtue of this clause, become rights and liabilities of the Trustees of the scheme under the scheme;
- (d) all proceedings commenced before the commencement of this Act by or against the former Board and pending immediately before the commencement of this Act are taken to be proceedings pending by or against the Trustees of the scheme;
- (e) all proceedings that could have been taken by or against the former Board if this Act had not come into operation may be taken by or against the Trustees of the scheme.

Transfer of books, etc.

9. The Trustees of the scheme shall take delivery of all books, documents and other records, however compiled or stored, relating to the operations of the former Board.

Exemption from *Stamp Act 1921*

10. Notwithstanding anything in the *Stamp Act 1921*, no duty is payable under that Act in respect of the passing of any assets under this Part.

Other members may continue in the scheme

11. A member of the former scheme who on the commencement of this Act is employed by a department or other body, other than a municipality, that was a corporation under the repealed Act, may continue to be a member under the scheme and the department or other body shall make the contributions required of an employer under the scheme in respect of such a person.

Report

12. Notwithstanding Part 3, the former Board shall report in respect of the former scheme under section 66 of the *Financial Administration and Audit Act 1985* in respect of the financial year ending 30 June 1993, and the former Board is continued in existence for that purpose.

Condition precedent satisfied

13. The condition precedent specified in recital E to the variation Deed shall be taken to have been satisfied by the coming into operation of section 4 and the Deed shall be taken to have operated accordingly with effect on and from 1 July 1993.

Savings

14. Anything done on or after 1 July 1993 but before the day on which this Act receives the Royal Assent that would have been in accordance with law if this Act had not come into operation but as a result of the coming into operation of this Act is contrary to law, is deemed to be in accordance with law.

PART 5 — MISCELLANEOUS

***Constitution Acts Amendment Act 1899* amended**

15. The *Constitution Acts Amendment Act 1899** is amended in Schedule V Part 3 by deleting "The Local Government Superannuation Board established by the *Local Government Superannuation Act 1980*".

[* *Reprinted as at 6 April 1993.*

For subsequent amendments see Act No.77 of 1992.]

***Financial Administration and Audit Act 1985* amended**

16. The *Financial Administration and Audit Act 1985** is amended in Schedule 1 by deleting "Local Government Superannuation Board".

[* *Reprinted as at 1 July 1991.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 73-4 and Act No.60 of 1992.]

***Parliamentary Commissioner Act 1971* amended**

17. The *Parliamentary Commissioner Act 1971** is amended in the Schedule by deleting "Local Government Superannuation Board established under the *Local Government Superannuation Act 1980*".

[* *Reprinted as at 21 October 1992.]*

as members of the former scheme are taken to be replaced by rights, entitlements and obligations (from time to time) as members of the scheme;

- (c) except as provided in paragraph (b), all rights and liabilities of the former Board under the former scheme, by virtue of this clause, become rights and liabilities of the Trustees of the scheme under the scheme;
- (d) all proceedings commenced before the commencement of this Act by or against the former Board and pending immediately before the commencement of this Act are taken to be proceedings pending by or against the Trustees of the scheme;
- (e) all proceedings that could have been taken by or against the former Board if this Act had not come into operation may be taken by or against the Trustees of the scheme.

Transfer of books, etc.

9. The Trustees of the scheme shall take delivery of all books, documents and other records, however compiled or stored, relating to the operations of the former Board.

Exemption from *Stamp Act 1921*

10. Notwithstanding anything in the *Stamp Act 1921*, no duty is payable under that Act in respect of the passing of any assets under this Part.

Other members may continue in the scheme

11. A member of the former scheme who on the commencement of this Act is employed by a department or other body, other than a municipality, that was a corporation under the repealed Act, may continue to be a member under the scheme and the department or other body shall make the contributions required of an employer under the scheme in respect of such a person.

Report

12. Notwithstanding Part 3, the former Board shall report in respect of the former scheme under section 66 of the *Financial Administration and Audit Act 1985* in respect of the financial year ending 30 June 1993, and the former Board is continued in existence for that purpose.

Condition precedent satisfied

13. The condition precedent specified in recital E to the variation Deed shall be taken to have been satisfied by the coming into operation of section 4 and the Deed shall be taken to have operated accordingly with effect on and from 1 July 1993.

Savings

14. Anything done on or after 1 July 1993 but before the day on which this Act receives the Royal Assent that would have been in accordance with law if this Act had not come into operation but as a result of the coming into operation of this Act is contrary to law, is deemed to be in accordance with law.

PART 5 — MISCELLANEOUS

***Constitution Acts Amendment Act 1899* amended**

15. The *Constitution Acts Amendment Act 1899** is amended in Schedule V Part 3 by deleting "The Local Government Superannuation Board established by the *Local Government Superannuation Act 1980*".

[* *Reprinted as at 6 April 1993.*

For subsequent amendments see Act No.77 of 1992.]

***Financial Administration and Audit Act 1985* amended**

16. The *Financial Administration and Audit Act 1985** is amended in Schedule 1 by deleting "Local Government Superannuation Board".

[* *Reprinted as at 1 July 1991.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 73-4 and Act No.60 of 1992.]

***Parliamentary Commissioner Act 1971* amended**

17. The *Parliamentary Commissioner Act 1971** is amended in the Schedule by deleting "Local Government Superannuation Board established under the *Local Government Superannuation Act 1980*".

[* *Reprinted as at 21 October 1992.]*