

LOCAL GOVERNMENT SUPERANNUATION AMENDMENT ACT

No. 102 of 1990

AN ACT to amend the *Local Government Superannuation Act 1980* and for related purposes.

[Assented to 22 December 1990.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Local Government Superannuation Amendment Act 1990*.

Commencement

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

Principal Act

3. In this Act the *Local Government Superannuation Act 1980** is referred to as the principal Act.

[*Act No. 76 of 1980 as amended by Acts Nos. 40 of 1983 and 98 of 1985 (as amended by Act No. 4 of 1986).]

Section 3 amended

4. Section 3 of the principal Act is amended—

- (a) by deleting the definition of “chairman” and substituting the following definition—

“ “chairman of the Government Employees Superannuation Board” includes a person appointed as deputy chairman of that Board under the *Government Employees Superannuation Act 1987*; ”;

- (b) by inserting after the definition of “commencement date” the following definitions—

“ “Commissioner” has the same meaning as in the Commonwealth Act;

“Commonwealth Act” means the *Occupational Superannuation Standards Act 1987* of the Commonwealth;

“Commonwealth standards” means any standards prescribed by regulation under the Commonwealth Act that apply in relation to the fund; ”;

- (c) by inserting after the definition of “fund” the following definition—

“ “Government Employees Superannuation Board” means the Government Employees Superannuation Board established under section 5 of the *Government Employees Superannuation Act 1987*; ”;

- (d) by inserting after the definition of “insurable benefits” the following definition—

“ “insurer” means an insurer with whom the Board has made arrangements for insurance under section 9 (1); ”;

- (e) by deleting the definitions of “paragraph”, “section”, “State Superannuation Board”, “subparagraph” and “subsection”;

and

- (f) by deleting the semi-colon after the definition of “scheme” and substituting a full stop.

Section 7 amended

5. Section 7 of the principal Act is amended in subsection (1) by deleting paragraph (a) and substituting the following paragraph—

- “ (a) one shall be the chairman of the Government Employees Superannuation Board who shall be the chairman of the Board; ”.

Section 8A inserted

6. After section 8 of the principal Act, the following section is inserted—

Compliance with Commonwealth standards

- “ 8A. (1) The Board—

- (a) shall ensure that the fund complies with Commonwealth standards;
- (b) shall comply with any requirement made in relation to the fund by the Commissioner under the Commonwealth Act;
- (c) shall not, in relation to the administration of the fund, do anything that is inconsistent with Commonwealth standards.

(2) The Board may—

- (a) do all acts and things that are necessary or convenient to be done to enable it to perform its duties under subsection (1) (a) and (b); and
- (b) do any other act or thing required or contemplated by the Commonwealth Act that it considers necessary or expedient in the best interests of the fund.

(3) This section has effect notwithstanding any other provision in this Act. ”.

Section 10 amended

7. Section 10 of the principal Act is amended by deleting “State Superannuation Board” wherever it occurs and substituting in each place the following—

“ Government Employees Superannuation Board ”.

Section 13 repealed and a section substituted

8. Section 13 of the principal Act is repealed and the following section is substituted—

Limitation on power to borrow

“ 13. (1) Subject to subsection (2), the Board shall not borrow, or maintain an existing borrowing of, money, whether by way of secured or unsecured loan.

(2) Notwithstanding subsection (1), the Board may secure temporary finance by way of an overdraft with an eligible bank.

(3) In this section—

“eligible bank” has the same meaning as in the Commonwealth Act. ”.

Sections 15A and 15B inserted

9. After section 15 of the principal Act the following sections are inserted—

**Investments to comply with
Commonwealth standards**

- “ 15A. Notwithstanding anything to the contrary in section 14 or 15, the Board shall comply with Commonwealth standards that relate to the investment of assets of superannuation funds.

Lending prohibited

15B. The Board shall not lend any money from the fund to a member, either directly or by means of arrangements being entered into for lending money to a member in the exercise of a power of investment of assets of the fund. ”.

Section 19 amended

10. Section 19 of the principal Act is amended—

- (a) by inserting after subsection (5a) the following subsections—

“ (5b) Notwithstanding subsection (1), a member may, in a form approved by the Board, apply to the Board within 3 months from the date of his election under that subsection, to withdraw from the scheme.

(5c) Notwithstanding subsection (1), the Board, if it thinks fit, may approve an application under subsection (5b) and the withdrawal takes effect on the day on which the approval is given.

(5d) Notwithstanding subsections (1) and (2), an employee of a corporation who has withdrawn from the scheme under subsections (5b) and (5c)—

- (a) for the first time during his contract of employment with that corporation, cannot elect to become a member of the scheme again

during the term of that contract of employment until the expiration of 2 years from the day on which the withdrawal takes effect;

- (b) for the second time during his contract of employment with that corporation, cannot elect to become a member of the scheme again during the term of that contract of employment.

(5e) Where an employee of a corporation has withdrawn from the scheme under subsections (5b) and (5c), the Board shall—

- (a) repay to the employee the aggregate amount of his contributions to the scheme together with any interest on those contributions; and
- (b) after deducting any administrative charges and insurance costs, repay to the corporation the balance of any contributions made by the corporation in respect of the employee (other than contributions that are required by regulations made under this Act to be preserved). ”;

and

- (b) in subsection (6) by deleting “and (5a)” and substituting the following—

“ , (5a), (5b) and (5c) ”.

Section 20 amended and saving

11. Section 20 of the principal Act is amended by deleting “21” and substituting the following—

“ 19 (5e) (b) ”.

Section 21 repealed

12. (1) Section 21 of the principal Act is repealed.

(2) Where, immediately before the commencement of this Act, the Board or a corporation had a lien under section 21 of the principal Act on a benefit payable to a member, the lien shall, on and after the

commencement of this Act, continue to have effect as if subsection (1) had not come into operation and section 21 shall continue to have effect for the purpose of enforcing the lien.

(3) Notwithstanding subsection (2), the Board or a corporation shall not exercise a lien, continued in existence by that subsection, in a manner that is contrary to Commonwealth standards.

Section 22 amended and application provision

13. (1) Section 22 of the principal Act is amended—

(a) in subsection (5) by inserting after “section” the following—

“ or by a decision of an insurer to which this section applies ”;

(b) by inserting after subsection (5) the following subsection—

“ (5a) A decision of an insurer to which this section applies is a decision which in terms or effect denies the liability of the insurer to pay to the Board under the terms of insurance arrangements between the insurer and the Board an amount sought by the Board in respect of a benefit claimed by a member. ”;

and

(c) in subsection (6) by inserting after “Board” the following—

“ or the insurer (as the case may be) ”.

(2) The amendments effected by subsection (1) apply—

(a) in respect of a decision of an insurer made after the commencement of this Act under an insurance arrangement;
and

(b) irrespective of whether the insurance arrangement referred to in paragraph (a) was made before or after the commencement of this Act.

Section 24 amended and validation

14. (1) Section 24 of the principal Act is amended—

(a) by inserting after the section designation “24.” the subsection designation “(1)”;

(b) in subsection (1) by inserting after “this Act” the following—

“ and, where required by an industrial award, agreement or order made under an Act of the Commonwealth or the State, the scheme known as the Western Australian Local Government Occupational Superannuation Fund ”;

and

(c) by inserting after subsection (1) the following subsection—

“ (2) In this section—

“Western Australian Local Government Occupational Superannuation Fund” means the fund established under the Deed of Trust dated 21 March 1990 (as varied from time to time) entered into by the Local Government Association of Western Australia (Inc.), the Country Shire Councils’ Association of Western Australia (Inc.), the Municipal Officers’ Association of Australia and the Federated Municipal and Shire Council Employees Union of Australia. ”.

(2) Every contribution made before the commencement of this Act by a municipality or a county or regional council constituted under the *Local Government Act 1960* in respect of its employees to the scheme known as the Western Australian Local Government Occupational Superannuation Fund that would have been lawful if section 24 of the principal Act (as amended by subsection (1)) had been in force at the time when it was made is validated and declared to have been lawful.

Section 27 amended

15. Section 27 of the principal Act is amended in subsection (1)—

- (a) by deleting the fullstop at the end of paragraph (za) and substituting a semi-colon; and
 - (b) by inserting after paragraph (za) the following paragraph—
 - “ (zb) providing for any matter relating to the vesting, preservation or portability of benefits, the disclosure of information, or any other matter, that is prescribed in Commonwealth standards. ”.
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