

SUPERANNUATION (AMENDMENT) ACT.

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 93, 1967.

An Act to make further provisions with respect to the State Superannuation Fund; for this and other purposes to amend the Superannuation Act, 1916-1965; to validate certain matters; and for purposes connected therewith. [Assented to, 18th December, 1967.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Superannuation (Amendment) Act, 1967".

Short title
and citation.

(2)

Superannuation (Amendment).

No. 93, 1967 (2) The Superannuation Act, 1916, as amended by subsequent Acts, by the Governor pursuant to section ninety-two of that Act, as so amended, and by this Act, may be cited as the Superannuation Act, 1916-1967.

Amendment of Act No. 28, 1916. 2. (1) The Superannuation Act, 1916-1965, is amended—

Sec. 5.
(Investment
of fund.)

(a) (i) by omitting from paragraph (b) of section five the words “, or the municipal council of Sydney” and by inserting in lieu thereof the words “or cities or county councils or The State Planning Authority of New South Wales”;

(ii) by omitting paragraph (c) of the same section and by inserting in lieu thereof the following paragraphs :—

(c) upon mortgage over freehold or leasehold land but so that the amount lent by way of security upon such mortgage does not exceed the amount which a trustee may lend in accordance with the provisions of section eighteen of the Trustee Act, 1925, as amended by subsequent Acts, unless the amount by which the amount so lent by the Board exceeds that which a trustee may so lend has been guaranteed or indemnified by the Government of the State or the Housing Loans Insurance Corporation constituted under the Housing Loans Insurance Act 1965 of the Parliament of the Commonwealth or any other guarantor or indemnifier approved by the Minister upon the recommendation of the Board;

(c1) in loans to permanent building societies registered under the Co-operation, Community Settlement, and

Superannuation (Amendment).

and Credit Act, 1923, as amended by No. 93, 1967 subsequent Acts, or under the Permanent Building Societies Act, 1967, as amended by subsequent Acts;

(c2) the purchase, at a price not exceeding the fair market value of the land as hereinafter determined by the Valuer-General of—

(i) freehold land which the Board has prior to completion of the purchase contracted to lease; or

(ii) a lease of not less than fifty years of freehold land from the Crown, the council of a county, city, shire or municipality or a statutory corporation in respect of which land the Board has prior to completion of the purchase contracted to assign the lease thereof to the Crown, such council or statutory corporation; or;

(iii) by inserting at the end of the same section the following new paragraph:—

Notwithstanding anything contained in any other Act the Valuer-General shall upon receipt of a request in writing from the Board furnish to the Board a valuation of the fair market price of the land proposed to be purchased for the purposes of paragraph (c2) of this section which valuation shall represent the Valuer-General's assessment of the price which a ready, willing and able but not an overanxious buyer would expect to pay for the land.

(b)

Superannuation (Amendment).

No. 93, 1967

Sec. 5A.
(Certain
share
investments
authorised.)

(b) (i) by omitting subsection one of section 5A and by inserting in lieu thereof the following subsections :—

(1) The fund or any part thereof, whether at the time in a state of investment or not, may be invested by the Board in—

(a) the debentures or debenture stock or preference stock of a company incorporated under the law of any State or Territory, including a Territory under the trusteeship, of the Commonwealth in respect of which company—

(i) the profits and dividends, or

(ii) the profits and dividends and earning rate, or

(iii) the profits and earning rate, are as prescribed by subsection (1A) of this section ;

(b) the unsecured notes of a company incorporated as aforesaid in respect of which company—

(i) the profits and dividends, or

(ii) the profits and dividends and earning rate, or

(iii) the profits and earning rate, are as prescribed by subsection (1B) of this section ;

(c) the ordinary or other stock (not being preference stock) or shares of a company incorporated as aforesaid in respect of which company—

(i) the dividends, or

(ii) the dividends and earning rate, or

(iii)

Superannuation (Amendment).

(iii) the earning rate,

No. 93, 1967

are as prescribed by subsection (1C) of this section.

(1A) For the purposes of paragraph (a) of subsection one of this section—

- (a) the profits shall be profits, shown by the company for each of its five financial years preceding the investment by the Board before taxation and payment of interest payable in each such year on the debentures issued by the company ranking equally with or prior to the proposed debentures or debenture stock or preference stock in which investment is being made, equivalent to at least one and one-half times the amount of the interest so payable; and
- (b) the dividends shall be dividends paid by the company upon its ordinary capital at the rate of at least five per centum per annum for each of its five financial years preceding the investment by the Board :

Provided that where in respect of any such year the company has not paid a dividend as aforesaid the earning rate for the purposes of subparagraph (ii) and subparagraph (iii) of paragraph (a) of subsection one of this section shall be an earning rate after taxation and interest payable as referred to in paragraph (a) of this subsection, on the total of the ordinary capital, reserves and undistributed profits of the company of not less than five per centum in that year.

(1B)

Superannuation (Amendment).

No. 93, 1967

(1B) For the purposes of paragraph (b) of subsection one of this section the profits and dividends or profits and dividends and earning rate or profits and earning rate shall be respectively as prescribed by subsection (1A) of this section in respect of profits for each of the five financial years of the company preceding the investment by the Board and in respect of dividends and earning rate for each of the ten financial years of the company preceding the investment by the Board.

(1C) For the purposes of paragraph (c) of subsection one of this section the dividends or dividends and earning rate or earning rate shall be as respectively prescribed by paragraph (b) of subsection (1A) of this section for each of the ten financial years of the company preceding the investment by the Board.

(1D) The power conferred by subsection one of this section shall not extend to any stocks, shares or securities subject to any liability for calls or other payments other than the liability arising from the investment in shares which are subject to a call or calls within a limited period.

The Board shall not at any time make any investment pursuant to subsection one of this section where the total amount of the moneys proposed to be invested and of other moneys at such time invested by the Board pursuant to that subsection would exceed one-quarter of the total amount of the fund at such time.

(1E) A statutory declaration by the secretary of a company or by the manager of a bank setting forth—

- (a) the profit of the company as referred to in subsection (1A) or (1B) of this section;

(b)

Superannuation (Amendment).

(b) the rate of dividend paid by the company as referred to in subsection (1A), (1B) or (1C) of this section; No. 93, 1967

(c) the earning rate of the company as referred to in subsection (1A), (1B) or (1C) of this section,

shall be sufficient evidence of the relevant facts.

(ii) by inserting at the end of subsection two of the same section the following new paragraph :—

In this section—

“debenture” means any instrument or document acknowledging a loan, other than a loan by way of mortgage under paragraph (c) of section five of this Act, which creates a security by way of charge over assets of a company;

“unsecured note” means any instrument or document acknowledging a loan which does not create a security by way of charge over assets of a company;

(c) by omitting section eight and by inserting in lieu thereof the following section :— Subst. sec. 8.

8. (1) The accounts relating to the Fund shall be audited by the Auditor-General who shall have in respect thereof all the powers conferred on him by any law now or hereafter in force relating to the audit of public accounts. Audit.

(2) The Audit Act, 1902, and any Act amending that Act, shall apply to members of the Board in the same manner as they apply to accounting officers in public departments.

(d) by inserting next after subsection one of section eleven the following new subsection :— Sec. 11.

(1A) The time prescribed by subsection one of this section for the making of any application thereunder may, whether such time has elapsed before

or

(When to commence.)

Superannuation (Amendment).

No. 93, 1967

or after the commencement of the Superannuation (Amendment) Act, 1967, be extended, in special circumstances, by the Board.

Sec. 12B.
(Contributions in certain cases.)

- (e) by inserting in paragraph (b) of subsection five of section 12B after the words "as the case may be," the words "preceding that";

Sec. 17B.
(Additional payment by employers in respect of increase in pension unit value.)

- (f) by inserting next after subsection six of section 17B the following new subsection :—

(7) The liability of employers to make payments to the fund pursuant to this section shall be calculated as if section two of the Superannuation (Amendment) Act, 1965, had not been enacted.

This subsection shall be deemed to have commenced upon the first day of February, one thousand nine hundred and sixty-six.

Sec. 17C.
(Additional payment by employers in respect of persons becoming contributors after 1.7.63.)

- (g) by inserting next after subsection three of section 17C the following new subsection :—

(4) The liability of employers to make payments to the fund pursuant to this section shall be calculated as if section two of the Superannuation (Amendment) Act, 1965, had not been enacted.

This subsection shall be deemed to have commenced upon the first day of February, one thousand nine hundred and sixty-six.

Sec. 19.
(Employees on leave of absence.)

- (h) by omitting from subsection two of section nineteen the words "three and one half per centum per annum" and by inserting in lieu thereof the words "four and one-half per centum per annum, or, where some other rate is determined by the Governor on the recommendation of the Board, such other rate,";

(i)

Superannuation (Amendment).

- (i) (i) by inserting next after subsection one of No. 93, 1967 section sixty-two the following new subsection :—
- Sec. 62.
(Additional payments to Fund by deduction from salary.)
- (1A) Any person in receipt of a pension may authorise the Board to deduct from his pension such sum as he may specify and pay such sum to the Fund and may at any time cancel such authorisation.
- (ii) by inserting in subsection two of the same section after the word "employee" the words "or person in receipt of a pension";
- (j) by inserting in section sixty-three after the word "employee" the words "or person in receipt of a pension";
- Sec. 63.
(Moneys part of Fund.)
- (k) by inserting in section sixty-four after the word "employee," the words "or person in receipt of a pension, as the case may be.;"
- Sec. 64.
(Rate of interest allowed.)
- (l) by inserting in section sixty-five after the word "employee" the words "or person in receipt of a pension";
- Sec. 65.
(Money withdrawable at any time.)
- (m) by inserting in section sixty-six after the word "employee" the words "or person in receipt of a pension";
- Sec. 66.
(Purchase of additional pensions, or of annuities.)
- (n) by inserting in section 66A after the word "employee" where secondly and thirdly occurring the words "or person in receipt of a pension";
- Sec. 66A.
(Power to close accounts.)
- (o) by omitting paragraphs (i) and (ii) of subsection one of section 88A and by inserting in lieu thereof the following paragraphs :—
- Sec. 88A.
(Payment without probate, etc.)
- (i) in payment of the same, or
- (ii)

Superannuation (Amendment).

No. 93, 1967

- (ii) after payment of the funeral expenses of the deceased or reimbursing any person who has paid such expenses in payment of any balance,

to the widower, widow, or some relative of the deceased or to such other person as the Board in the circumstances thinks fit;

**Schedule IV.
Table A.**

- (p) by omitting from the third column of Table A to Schedule IV the figures "0.59" and by inserting in lieu thereof the figures "0.57".

(2) The amendments made by paragraphs (a) and (b) of subsection one of this section shall not affect any investment made by the Board before the commencement of this Act and subsisting at such commencement.

(3) The amendment made by paragraph (p) of subsection one of this section shall be deemed to have commenced upon the fourteenth day of February, one thousand nine hundred and sixty-six.