

SUPERANNUATION (AMENDMENT) ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 7, 1970.

An Act to increase certain pensions payable from the State Superannuation Fund; to amend the scale relating to the number of units of pension in respect of which contributions may be made to that Fund; to increase the rate of interest payable on voluntary savings under the Superannuation Act, 1916; for these and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 20th March, 1970.]

BE

Superannuation (Amendment).

No. 7, 1970 **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:—

Short title
and con-
struction.

1. (1) This Act may be cited as the "Superannuation (Amendment) Act, 1970".

(2) This Act shall be read and construed with the Superannuation Act, 1916, which is in this Act referred to as the Principal Act.

Increase in
certain
pensions.

2. (1) In this section—

"Commonwealth pension" means—

- (a) service pension payable under Division 5 of Part III of the Repatriation Act 1920 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament;
- (b) age or invalid pension payable under Part III of the Social Services Consolidation Act 1947 of that Parliament, as so amended;
- (c) widow's pension payable under Part IV of the Social Services Consolidation Act 1947 of that Parliament, as so amended; or
- (d) such other pension, or payment of a like nature, payable under a law of the Commonwealth, as may be prescribed;

"prescribed pension"—

- (a) in relation to a married person referred to in paragraph (a) of subsection three of this section means—
 - (i) the maximum pension that, if received by that person, would not, under subparagraph (iii) of that paragraph,

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paragraph, disqualify that person as No. 7, 1970
a person to whom this section
applies; or

- (ii) pension of thirty-two dollars per fortnight,

whichever is the lesser pension;

- (b) in relation to spouses referred to in paragraph (b) of that subsection means—

- (i) the maximum total pension that, if received by those spouses, would not, under subparagraph (iii) of that paragraph, disqualify either of them as a person to whom this section applies; or

- (ii) pension of thirty-two dollars per fortnight,

whichever is the lesser pension; or

- (c) in relation to a person referred to in paragraph (c) of that subsection means—

- (i) the maximum pension that, if received by that person, would not, under subparagraph (ii) of that paragraph, disqualify that person as a person to whom this section applies; or

- (ii) pension of twenty dollars per fortnight,

whichever is the lesser pension.

(2) For the purposes of this section a pension or Commonwealth pension payable in respect of a child shall be disregarded.

(3)

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(3) This section applies to—

(a) a married person, where—

- (i) the spouse of that person is not in receipt of a pension under the Principal Act;
- (ii) that person is in receipt of a pension under the Principal Act that is less than thirty-two dollars per fortnight; and
- (iii) that person is in receipt of a class of Commonwealth pension that is the maximum amount of that class of Commonwealth pension that may be paid to that person without any deduction on account of means as assessed within the meaning of the law of the Commonwealth pursuant to which the Commonwealth pension is paid;

(b) a married person who is in receipt of a pension under the Principal Act, where—

- (i) the spouse of that person is in receipt of such a pension;
- (ii) the total pension payable to both spouses under the Principal Act is less than thirty-two dollars per fortnight; and
- (iii) subparagraph (iii) of paragraph (a) of this subsection applies; and

(c) a person who is not married, where—

- (i) that person is in receipt of a pension under the Principal Act (whether or not it is so received as the widow of a person who was in receipt of such a pension) that is less than twenty dollars per fortnight; and
- (ii) subparagraph (iii) of paragraph (a) of this subsection applies,

but does not apply to or in respect of any such person who has commuted any pension or part of a pension under section 21A of the Principal Act.

(4)

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(4) The pension payable under the Principal Act to **No. 7, 1970** a person to whom this section applies is, subject to subsection five of this section, hereby increased—

- (a) in the case of a married person referred to in paragraph (a) of subsection three of this section, to the prescribed pension for that person;
- (b) in the case of a married person referred to in paragraph (b) of that subsection, to an amount determined by the Board so that the total produced by adding—
 - (i) the increased pension payable to that person under this paragraph; and
 - (ii) any increased pension payable to the spouse of that person under this paragraph.is the prescribed pension for those spouses; and
- (c) in the case of a person referred to in paragraph (c) of that subsection, to the prescribed pension for that person.

(5) Payment of an increase in pension under subsection four of this section shall be made—

- (a) in the case of a person who, at the commencement of this Act, is eligible for the increase, on and from the first day of the pension pay period under the Principal Act next succeeding that commencement;
- (b) in the case of a person who becomes eligible for an increase after that commencement, on and from the first day of the pension pay period under the Principal Act next succeeding his becoming so eligible.

(6) Nothing in this section shall be construed as authorising or requiring any reduction in a pension that has been increased under this section.

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No. 7, 1970 **3.** (1) Where, pursuant to section two of this Act, an increased pension is payable to a pensioner or to the widow of a deceased pensioner or contributor, the employer in whose service the pensioner or deceased pensioner was employed at the date of his retirement or retrenchment, or in whose service the contributor was employed at the date of his death, shall pay to the Fund at four-weekly intervals, or at such other intervals as may be determined by the Board, and on the requisition of the Board, an amount equal to the difference between the amount of the pension so payable and the amount of pension that would have been payable had section two of this Act not been enacted.

Additional
payment by
employers.

(2) An amount payable under this section shall be in addition to any contribution or other payment which the employer may be required to make under the Principal Act.

Amend-
ment
of Act No.
28, 1916.

4. The Principal Act is amended—

Sec. 12.
(Scale of
units of
pension.)

(a) (i) by omitting from subsection one of section twelve the words “twenty-six; and the number of such units shall vary in relation to salary in accordance with the following scale :—” and by inserting in lieu thereof the following words :—

twenty-six, and—

(a) with respect to salaries not exceeding five thousand two hundred dollars, the number of those units shall vary in relation to salary in accordance with the following scale :—;

(ii) by omitting from the scale in the same subsection the word “, or” wherever occurring;

(iii) by omitting from the same scale the symbol “\$” in the second column and all figures thereunder in that column;

(iv)

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(iv) by omitting from the same scale all matter No. 7, 1970 relating to salaries at annual rates in excess of five thousand two hundred dollars (including matter relating to numbers of units) ;

(v) by omitting from the same subsection the words "Subject to any Act amending this Act the amounts set out in the last column of the said scale shall be applicable to and in respect of contributors at the thirtieth day of June, one thousand nine hundred and sixty-three, and who are contributors on the appointed day, and in respect of persons who became contributors on or after the first day of July, one thousand nine hundred and sixty-three, and who are contributors on the appointed day, or who become contributors on or after the appointed day, the said scale shall apply as if the amounts specified in the said last column were omitted and amounts calculated at the rate of one hundred and four dollars per unit were substituted therefor" and by inserting in lieu thereof the following paragraph :—

(b) with respect to salaries exceeding five thousand two hundred dollars, the number of units shall be twenty-nine together with—

(i) an additional unit for every two hundred and sixty dollars by which the salary exceeds five thousand two hundred dollars; and

(ii) where the amount by which the salary exceeds five thousand two hundred dollars is not a multiple of two hundred and sixty dollars, an additional unit;

(vi)

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- (vi) by omitting from paragraph (a) of the proviso to the same subsection the words "the scale set out in";
- (vii) by omitting from subparagraph (i) of paragraph (b) of the proviso to the same subsection the words "from one salary group as set out in the scale in this section to a higher salary group as set out in such scale";
- (viii) by omitting from the same subparagraph the words "so increased" where firstly, secondly and thirdly occurring and by inserting in lieu thereof the word "increased";
- (ix) by omitting from the same subparagraph the words "so increased," where fourthly occurring and by inserting in lieu thereof the words "increased, or in the case of an employee under the age of thirty years contributing for fifty-eight units of pension immediately before the commencement of the Superannuation (Amendment) Act, 1970, his salary is, on or after that commencement, increased,";
- (x) by omitting from the same subparagraph the words "the additional" and by inserting in lieu thereof the words "any additional";
- (xi) by inserting in the same subparagraph after the words "paid on that date." where fourthly occurring the following words :—

Where at the date of the commencement of the Superannuation (Amendment) Act, 1970, the actual salary of an employee is in excess of the annual rate of ten thousand one hundred and forty dollars his salary shall, for the purposes of this subparagraph, be deemed to have been increased on that date from that rate to that actual salary and that actual

salary

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salary shall, for the purposes of subparagraph No. 7, 1970 (iii) of this paragraph and of paragraph (h) of this proviso, be deemed to have been actually paid on that date.

- (xii) by inserting in subparagraph (ii) of paragraph (b) of the proviso to the same subsection after the figures "1965," the words "or of paragraph (g) of this proviso, or of subsection one of section eleven, as enacted before or after the commencement of the Superannuation (Amendment) Act, 1970,";
- (xiii) by omitting from the same subparagraph the words "to another higher salary group as set out in the scale in this section";
- (xiv) by omitting from the same subparagraph the words "Any election under paragraph (b) of this subparagraph shall become effective only when the same has been approved by the Board, but any contributions in respect of any such unit of pension shall be payable as from the first day of the month or of the four-weekly contribution period, as the case may be, in which the increased rate of salary is actually paid. The Board may require any employee who makes such election to furnish evidence as to the state of his health and may refuse its approval if evidence is not so furnished or if, from the evidence furnished, the Board is satisfied that the employee is not in good health.";
- (xv) by inserting next after the same subparagraph the following new subparagraphs :—
 - (ia) Where an election made under paragraph (b) of subparagraph (ii) of this paragraph before the commencement of the Superannuation (Amendment) Act, 1970, was not approved by the Board

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Board before that commencement and contributions in respect thereof would, upon the election becoming effective, be payable from a day that was earlier than the eighteenth day of November, one thousand nine hundred and sixty-nine, the election shall only be effective when it has been approved by the Board in accordance with subparagraph (ii) of this paragraph, as enacted immediately before that commencement.

(iib) Where an election was made under paragraph (b) of subparagraph (ii) of this paragraph before the commencement of the Superannuation (Amendment) Act, 1970, and contributions in respect thereof would, upon the election becoming effective, be payable from a day not earlier than the eighteenth day of November, one thousand nine hundred and sixty-nine, the election shall be deemed to have become effective upon being received by the Board.

(iic) Where an election made under paragraph (b) of subparagraph (ii) of this paragraph has become effective under subparagraph (iib) of this paragraph or is made after the commencement of the Superannuation (Amendment) Act, 1970, the employee shall not be entitled to a pension in respect of any unit of pension to which the election relates unless—

(a) contributions in respect of the unit of pension have been paid for a period of three years before the employee retires;

(b)

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- (b) the contributions in respect of No. 7, 1970
the unit of pension are payable
under subsection three or four
of section sixteen of this Act;
or
- (c) the employee elects under sub-
section one or two of section
twenty-one of this Act to
retire before the expiration of
three years after the election
becomes effective.
- (xvi) by inserting in subparagraph (iv) of the same
paragraph after the word "subsection" the
words "as enacted at that commencement";
- (xvii) by inserting in subparagraph (v) of the same
paragraph after the word "subsection" the
words "as enacted at that commencement";
- (xviii) by omitting paragraph (f) of the proviso to
the same subsection and by inserting in lieu
thereof the following paragraph :—
- (f) Where the salary of an employee
fluctuates, the Board may, notwith-
standing section thirteen of this Act,
allow the employee to contribute for
any number of units for which he
would be entitled to contribute in
respect of a salary not less than his
lowest salary and not more than his
highest salary.
- (xix) by omitting from paragraph (g) of the proviso
to the same subsection the words "in accord-
ance with the scale set out in this subsection";
- (xx) by inserting in paragraph (h) of the proviso
to the same subsection after the word "salary"
the words "(including abandoned units in
respect

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- respect of which an election under paragraph (b) of subparagraph (ii) of paragraph (b) of this proviso has become effective”;
- (xxi) by inserting in paragraph (a) of subsection (1A) of the same section after the word “section” where secondly occurring the words “, as enacted at that commencement,”;
- (xxii) by inserting in paragraph (a) of subsection (1B) of the same section after the word “section” where secondly occurring the words “, as enacted at that commencement,”;
- (xxiii) by omitting from subsection (1E) of the same section the words “specified in the scale in subsection one of this section opposite the salary group in which his salary falls” and by inserting in lieu thereof the words “provided in respect of his salary by paragraph (a) or (b) of subsection one of this section”;
- (b) (i) by inserting next after subsection one of section 12A the following new subsections :—
- (1A) Where, after the commencement of the Superannuation (Amendment) Act, 1970—
- (a) the salary of an employee who before that commencement reached, or after that commencement reaches, the prescribed age and who was, immediately before reaching that age, a contributor, is increased; and
- (b) the number of units of pension for which he is a contributor is less than the number of units of pension for which an employee who had not reached the prescribed age would, if

Sec. 12A.
(Right to contribute after age 60 or, in certain cases, after age 55.)

he

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he received a salary equal to that No. 7, 1970
increased salary, be entitled to
contribute,

he may elect to contribute for an additional unit or units of pension but so that the total of the number of units of pension for which he was a contributor before reaching the prescribed age and the number of additional units of pension for which he elects to contribute under this subsection does not exceed the number of units for which a person receiving a salary equal to that increased salary would be entitled to contribute before reaching the prescribed age.

(1B) A person who, pursuant to subsection two of this section as enacted immediately before the commencement of the Superannuation (Amendment) Act, 1970, would, but for the repeal of that subsection by that Act, be entitled to make an election under that subsection after that commencement, may make such an election as if that Act had not been enacted.

(1C) Where an employee at the commencement of the Superannuation (Amendment) Act, 1970, reached the prescribed age before that commencement and his actual salary at that commencement was in excess of the annual rate of ten thousand one hundred and forty dollars, his salary shall be deemed, for the purposes of subsection (1A) of this section, to have been increased, immediately after that commencement, from a salary lower than that actual salary to that actual salary and that increased salary shall be deemed to have been actually paid immediately after that commencement.

(1D)

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(1D) An election under subsection (1A) of this section shall be in writing and shall be forwarded so as to be received in the office of the Board—

- (a) within a period of three months after the date on which salary at the increased rate referred to in that subsection is actually paid or is deemed to have been actually paid; or
- (b) within such further period as the Board may, in special circumstances, allow.

(ii) by omitting subsection two of the same section;

(iii) by omitting from subsection (2A) of the same section the word “two” and by inserting in lieu thereof the symbols, figure and letter “(1A)”;

(iv) by omitting subsection three of the same section.

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

(c) by omitting from paragraph (a) of subsection three of section 12B the figures “1965” and by inserting in lieu thereof the figures “1970”;

Sec. 27.
(Amount of pension on retirement.)

(d) by inserting in subsection one of section twenty-seven after the word “therefor” the words “; and, without prejudice to the operation of any Act that, before the commencement of the Superannuation (Amendment) Act, 1970, amended this Act in respect of a pension payable after that commencement, the scale as so applying shall, in respect of persons who were contributors immediately before that commencement, or who become contributors thereafter, apply as if it had been extended indefinitely beyond fifty-eight units at the rate per unit applicable to the scale immediately before that commencement”;

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5. (1) The Principal Act is further amended—

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Further
amendment
of Act No.
28, 1916.

- (a) by omitting from subparagraph (ii) of paragraph (a) of subsection one of section thirty-one the words “where the pensioner becomes entitled to a pension after such commencement” and by inserting in lieu thereof the words “in any other case, where the pensioner became entitled to a pension before that commencement, or becomes so entitled after that commencement”;
- (b) by omitting from section 32c the words “less the total amount of pension paid to the wife under the provisions of paragraph (a) or paragraph (i) of section thirty of this Act” and by inserting in lieu thereof the following words :—
- less—
- (a) the total amount of pension paid to the wife under section thirty of this Act otherwise than in respect of a child; and
- (b) any lump sum paid to the wife under section 21A of this Act in respect of such a pension.

Sec. 31.

(Pension to
widow and
orphans on
death of
pensioner
after
retirement.)

Sec. 32c.

(Refund in
certain cases
where
widow dies
leaving
children.)

(2) The amendments made by subsection one of this section shall be deemed to have taken effect on the twenty-seventh day of November, one thousand nine hundred and sixty-nine.

6. (1) The Principal Act is further amended—

Further
amendment
of Act No.
28, 1916.

- (a) by omitting section sixty-four and by inserting in lieu thereof the following section :—

Subst.
sec. 64.

64. Money paid to the Fund under section sixty-two of this Act shall be credited to the employee, or person in receipt of a pension, on whose behalf

Interest
on
voluntary
savings.

it

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it was paid and shall accumulate with interest on the minimum balance for each month at the rate of six and one-tenth per centum per annum compounded annually or, where some other rate of interest is specified by the Minister by order published in the Gazette on the recommendation of the Board, the money shall, from a day specified in the order (being a day before or after the day of publication of the order) accumulate with interest on the minimum balance for each month at the rate so specified, or the later or latest of the rates so specified, compounded annually.

Subst. sec.
65.

(b) by omitting section sixty-five and by inserting in lieu thereof the following section :—

Withdrawal
of money
at credit.

65. An employee or person in receipt of a pension may, on such notice to the Board (not exceeding three months) as the Board may require, withdraw from the Fund the whole, or any part, of the principal and interest lying at his credit in the Fund under this Part.

(2) The amendments made by subsection one of this section shall take effect on the first day of April, one thousand nine hundred and seventy.

Further
amendment
of Act No.
28, 1916.
Subst. sec.
92.

7. The Principal Act is further amended by omitting section ninety-two and by inserting in lieu thereof the following section :—

Extension
of Act.

92. (1) Where the Minister approves of an application, made in the prescribed manner, for an employing authority to be an employer within the meaning of this Act the Governor may, by order published in the

Gazette,

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Gazette, amend Schedule III to this Act by adding No. 7, 1970 thereto the name of that authority and that Schedule, as so amended, shall be Schedule III to this Act.

(2) Where the Governor amends Schedule III to this Act pursuant to subsection one of this section he may, by the amendment, limit the extent of its application.

(3) The Governor may, by order published in the Gazette, amend Schedule III to this Act as enacted before or after the commencement of the Superannuation (Amendment) Act, 1970, and that Schedule, as so amended, shall be Schedule III to this Act.

(4) An amendment made pursuant to subsection one of this section shall not affect a person who, immediately before the amendment was subject to this Act.

(5) Paragraph (c) of the proviso to subsection one of section twelve, and sections 34A and thirty-five, of this Act, shall not apply to or in respect of an employer or employee affected by an amendment made pursuant to subsection one of this section.