

SUPERANNUATION (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 66, 1972.

An Act to provide for a graduated increase of pensions payable under the Superannuation Act, 1916, to certain persons who retire on or after reaching the age of sixty-two years; to provide a withdrawal benefit under that Act; for these and other purposes to amend that Act; and for purposes connected therewith. [Assented to, 28th November, 1972.]

BE

Superannuation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 66, 1972
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 Short title.
(Amendment) Act, 1972".

(2) The Superannuation Act, 1916, is in this Act
referred to as the Principal Act.

2. (1) Subject to this section, the date of commencement Commence-
ment.
of this Act is the date of assent thereto.

(2) The amendments made by section 5 (b) (i) shall
be deemed to have taken effect on 1st July, 1963.

(3) The amendments made by section 6 (b) shall be
deemed to have taken effect on 1st January, 1970.

(4) The amendments made by sections 6 (c), 6 (p)
and 6 (v) shall be deemed to have taken effect on 13th May,
1971.

(5) Section 12 and the amendments made by sections
4 (g) and 9 shall be deemed to have taken effect on 23rd
September, 1971.

3. Part I of the Principal Act is amended—

Amendment
of Part I
of Act No.
28, 1916.

(a) by inserting next after section 3 (4) the following Sec. 3.
(Interpreta-
tion.)
new subsections :—

(5)

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(5) A reference in this Act to a person who is contributing continuously to the Fund includes a reference to a person who is a contributor to the Fund on a basis other than a continuous basis.

(6) For the purposes of this Act, the salary group within which a salary falls is—

- (a) in the case of a salary that does not exceed five thousand two hundred dollars—the salary group specified in the scale in paragraph (a) of subsection (1) of section 12 that is appropriate for the salary; or
- (b) in the case of a salary that exceeds five thousand two hundred dollars—the salary group in the scale in paragraph (a) of subsection (1) of section 12 in which the salary would fall if the scale were extended to express the unit entitlement for that salary as provided by paragraph (b) of that subsection.

(7) For the purposes of this Act, the number of abandoned units of pension that a person has at a particular time after the commencement of the Superannuation (Amendment) Act, 1972, is the number (if any) by which—

- (a) the number of units of pension that, pursuant to subsection (1) of section 12, is appropriate for a salary equal to his salary at that time,

exceeds

- (b) the number of units of pension in respect of which pension would be paid—
 - (i) if he had reached the age entitling him to retire under subsection (1) of section 21 and had so retired; and
 - (ii)

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- (ii) if any contributions under section No. 66, 1972 12B outstanding at that time in respect of any of those units of pension had been paid.
- (b) by inserting at the end of section 4 the following new subsection:—
- Sec. 4.
(Income and expenditure of Fund.)
- (4) Where, in respect of an instrument relating to a transaction, the Board, or a broker, dealer or other person acting on behalf of the Board in respect of that transaction, would, but for this subsection, be liable to pay stamp duty under the Stamp Duties Act, 1920, in respect of the instrument, the Board, broker, dealer or other person, as the case may be, shall not be so liable.
- (c) by inserting in section 5A (2) next after the definition of “debenture” the following new definition:—
- Sec. 5A.
(Certain share investments authorised.)
- “ordinary or other stock or shares” includes bonus shares, rights to subscribe for new shares, options to subscribe for shares or convertible notes, and other rights or options to acquire a share in the share capital of a company;
- (d) (i) by omitting section 5B (1) (c);
- Sec. 5B.
(Investment upon mortgages of land, etc.)
- (ii) by omitting from section 5B (1) (d) the word “lease.” and by inserting instead the following words and new paragraphs:—
- lease to the Crown or any other person;
- (e) by purchasing, acquiring or leasing from the Crown any land that the Board has, prior to completion of the purchase or acquisition or the granting of the lease, contracted to lease to the Crown or any other person;

(f)

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(f) by improving land referred to in paragraph (e).

(iii) by omitting from section 5B (6) the words "to the mortgagor or the vendor" wherever occurring;

(iv) by inserting in section 5B (9) next after the definition of "land" the following new definition :—

"mortgage" includes a contributory mortgage.

Sec. 9B.
(Employers to meet cost of certain increased pensions.)

(e) by inserting at the end of section 9B the following new subsection :—

(4) In making a calculation for the purposes of this section (whether the calculation relates to a period before or after the commencement of the Superannuation (Amendment) Act, 1972) pension that has been commuted shall be treated as if it had not been commuted.

Sec. 9C.
(Fund and employers' contribution to certain increases of pension.)

(f) (i) by inserting in section 9C (1) next before the definition of "secondary increase" the following new definitions :—

"additional commitment" in relation to a financial year means an amount equal to the difference between—

(a) the total of the additional amounts of pension (including additional amounts of widow's pension) paid or payable during that financial year that are attributable to the operation of section 28B; and

(b) the total amount paid or payable by employers in respect of that financial year pursuant to subsection (5) of section 28B.

"prescribed

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“prescribed amount” in relation to a financial year means the amount, if any, by which—

(a) the total of—

- (i) the amount by which formula X exceeds formula Y in that financial year;
- (ii) the amount by which formula X exceeded formula Y in preceding financial years; and
- (iii) any payments by employers under this section in respect of preceding financial years,

exceeds

(b) the total of—

- (i) sixty per centum of the secondary increases in preceding financial years; and
- (ii) the additional commitment in respect of preceding financial years,

any financial year being disregarded if, in the case of subsection (3), it preceded 1st July, 1971, or, in the case of subsections (4A) and (4B), it preceded 1st July, 1972.

(ii) by omitting from section 9C (3) (c) the following words :—

In this subsection “prescribed amount” means so much of the amount by which formula X exceeds formula Y in a financial year, together with the amounts by which formula X exceeded formula Y in preceding financial

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financial years and together with any payments by employers under this subsection in respect of preceding financial years, as is in excess of sixty per centum of the secondary increases in preceding financial years.

For the purposes of this subsection any financial year preceding the first day of July, one thousand nine hundred and seventy-one, shall not be taken into account.

- (iii) by inserting next after section 9c (4) the following new subsections :—

(4A) If, in respect of the financial year that commenced on 1st July, 1972, or in respect of any succeeding financial year, the prescribed amount exceeds sixty per centum of the secondary increase but the difference is less than the additional commitment, the employers shall pay to the Fund in accordance with subsection (4C) an amount equal to the difference between the additional commitment and that excess.

(4B) If, in respect of the financial year that commenced on 1st July, 1972, or in respect of any succeeding financial year, the prescribed amount is equal to or less than sixty per centum of the secondary increase, the employers shall pay to the Fund in accordance with subsection (4C) an amount equal to the additional commitment.

(4C) Where an amount is payable pursuant to subsection (4A) or (4B) in respect of a financial year, each employer shall, in accordance with directions given by the Board, pay to the Fund an amount that bears to the amount so payable the same proportion as is borne to the additional commitment in respect of that financial year by so much of that additional commitment as is represented by pensions paid or payable during that financial year

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year to pensioners who were employed in the service of the employer immediately before they retired and to the widows of deceased pensioners or contributors, being pensioners or contributors who were so employed immediately before they died or retired. No. 66, 1972

(iv) by inserting at the end of section 9c the following new subsection :—

(8) In making a calculation for the purposes of this section (whether the calculation relates to a period before or after the commencement of the Superannuation (Amendment) Act, 1972) pension that has been commuted shall be treated as if it had not been commuted.

4. Part III of the Principal Act is amended—

Amendment
of Part III
of Act No.
28, 1916.

(a) (i) by omitting from section 11 (1) the words “reduce the number of units in respect of which she shall contribute or exempt her from contributing under this Act. Any unit or units in excess of the reduced number in respect of which an employee contributes pursuant to the foregoing provisions of this subsection as enacted before or after the commencement of section four of the Superannuation (Amendment) Act, 1965, up to the maximum number prescribed for her salary in accordance with the scale set out in subsection one of section twelve of this Act shall be deemed to be abandoned units within the meaning of paragraph (b) of the proviso to the said subsection one of section twelve” and by inserting instead the words “reduce to not less than six the number of units of pension in respect of which she is required to contribute under this Act or exempt her from so contributing”;

(ii)

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- (ii) by inserting next after section 11 (1A) the following new subsection :—

(1B) Where a person in the service of an employer becomes an employee, his contributions are due on and from the first day of the four-weekly contribution period in which he is first paid as an employee.

- (iii) by omitting from section 11 (2) the words "Such contributions" and by inserting instead the words "Contributions under this section";

- (iv) by omitting from section 11 (3) the words "Legislative Assembly Members Superannuation Act, 1946, as amended by subsequent Acts" and by inserting instead the words "Parliamentary Contributory Superannuation Act, 1971";

- (v) by omitting from sections 11 (3) (a) and 11 (3) (b) the words "of three and one-half per centum" wherever occurring and by inserting instead the words "in force under subsection (1) of section 38C";

New sec.
11AA.

- (b) by inserting next after section 11A the following new section :—

Powers of
Board where
true status
of employee
not deter-
mined.

11AA. (1) This section applies to a person if he was examined under section 11A before the commencement of the Superannuation (Amendment) Act, 1972, or is examined under that section or section 38C after that commencement, and the Chief Medical Officer at any time after making his report forms the opinion that the person examined suppressed information, or gave misleading information, in connection with the examination and that,

as

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as a result, his report would have been different No. 66, 1972 if all information, or correct information, in that connection had been given.

(2) The Board may require a person to whom this section applies to undergo a medical examination under section 11A as if he had not been examined under that section or section 38C and may determine in relation to a person to whom this section applies (whether or not he has undergone a further medical examination in accordance with such a requirement)—

- (a) that it should have refused to accept that person as a contributor;
- (b) that it should have accepted that person as a contributor for limited benefits; or
- (c) that acceptance of that person as a contributor or as a contributor for limited benefits should have been postponed until a date, or until the occurrence of an event, subsequent to the determination that the Board, having regard to the report of the Chief Medical Officer, considers to be appropriate.

(3) Where a determination by the Board under subsection (2) relates to a contributor aged less than sixty years or a person who died before he reached that age without any person becoming entitled to a pension in consequence of his death, that person—

- (a) shall, where the determination is made under paragraph (a) or (c) of that subsection, be deemed not to have been a contributor or, as the case may be, a contributor for limited benefits, and the Board shall refund any contributions made by him; or

(b)

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(b) shall, where the determination is made under paragraph (b) of that subsection, be deemed always to have been accepted only as a contributor for limited benefits.

(4) Where a determination by the Board relates to a person other than a person referred to in subsection (3), the Board—

(a) in the case of a determination made under paragraph (a) or (c) of that subsection—

(i) may discontinue any pension being paid in consequence of the retirement of that person under section 22 or in consequence of his death before reaching the age of sixty years or, where he was retired under section 22, in consequence of his death after reaching that age; and

(ii) subject to section 91A, shall refund any contributions made by him; or

(b) in the case of a determination made under paragraph (b) of that subsection, may reduce the amount of any such pension, other than a pension payable in respect of a child,

and may, in any such case, recover pursuant to section 91A the amount of any such pension paid in excess of the amount that would have been paid if the determination had been made before the retirement or death, as the case may be, any amount paid by reason of a commutation of pension being recoverable as if it were an amount of pension.

(5)

(5) Where the Board makes a determination under paragraph (c) of subsection (2) in respect of a person who is thereafter accepted as a contributor, or as a contributor for limited benefits, he shall make contributions to the Fund as from the first day of the four-weekly contribution period in which he is so accepted or as from such other day as the Board may in special circumstances allow.

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- (c) (i) by inserting in section 11D (1) (b) after the word "years" the words "since the date from which, pursuant to subsection (2), his acceptance as a contributor otherwise than for limited benefits would operate";
- (ii) by omitting from section 11D (2) the words "from the date on which payment of contributions by such contributor for limited benefits commenced and such" and by inserting instead the words "at the beginning of the period in respect of which payment of contributions by the contributor for limited benefits commenced and the";
- (d) by omitting section 12 and by inserting instead the following section :—

Sec. 11D.
(Contributors for limited benefits may be accepted as contributors.)

Subst.
sec. 12.

12. (1) Subject to this Act, the contributions of an employee under section 11 shall be made in respect of units of pension as defined in section 26 and—

Contributions to be related to units of pension.

- (a) with respect to salaries not exceeding five thousand two hundred dollars, the number

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of those units shall vary in relation to salary in accordance with the following scale :—

Where the salary of the employee is equivalent to an annual rate		The employee shall contribute the amount necessary to provide units of pension as under—
Exceeding—	But not exceeding—	
\$	\$	
.	324	Two units.
324	520	Three units.
520	650	Four units.
650	780	Five units.
780	960	Six units.
960	1,140	Seven units.
1,140	1,320	Eight units.
1,320	1,500	Nine units.
1,500	1,660	Ten units.
1,660	1,820	Eleven units.
1,820	1,980	Twelve units.
1,980	2,140	Thirteen units.
2,140	2,300	Fourteen units.
2,300	2,460	Fifteen units.
2,460	2,620	Sixteen units.
2,620	2,780	Seventeen units.
2,780	2,940	Eighteen units.
2,940	3,100	Nineteen units.
3,100	3,260	Twenty units.
3,260	3,420	Twenty-one units.
3,420	3,580	Twenty-two units.
3,580	3,740	Twenty-three units.
3,740	3,980	Twenty-four units.
3,980	4,220	Twenty-five units.
4,220	4,460	Twenty-six units.
4,460	4,700	Twenty-seven units.
4,700	4,940	Twenty-eight units.
4,940	5,200	Twenty-nine units.

(b) with respect to salaries exceeding five thousand two hundred dollars, the number of those 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)

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- (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. No. 66, 1972

(2) Upon being required pursuant to section 11 to contribute to the Fund—

(a) an employee who—

- (i) enters the service of his employer after the commencement of the Superannuation (Amendment) Act, 1972; and
- (ii) is aged thirty years or more at the time of entry into that service;

(b) an employee who—

- (i) is in the service of an employer whose name is added to Schedule III after that commencement; and
- (ii) is aged thirty years or more at the time of that addition to the Schedule; or

(c) a person in the service of an employer—

- (i) who becomes an employee; and
- (ii) is aged thirty years or more at the time he becomes an employee,

may elect to reduce to not less than six the number of units of pension in respect of which the employee would, but for that reduction, be required to contribute pursuant to subsection (1).

(3)

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(3) Where an employee is actually paid a salary increase after he reaches the age of thirty years, he may elect not to contribute in respect of one or more of any additional units of pension in respect of which, but for this subsection, he would be required to contribute pursuant to subsection (1) by reason of that increase of salary.

(4) Where an employee is actually paid a salary increase and the increased salary falls within a salary group that is higher than the salary group within which it fell immediately before the increase and the employee had, before payment of that increase, abandoned a unit, or units, of pension—

- (a) he shall, except to the extent that he makes an election under subsection (3) in consequence of that increase, contribute in respect of the number of units of pension that, pursuant to subsection (1), is appropriate for the increased salary, less the number of his abandoned units of pension at the time of the increase; and
- (b) he may elect to contribute in respect of one or more of the number of his abandoned units of pension at that time in addition to any additional units of pension in respect of which he is required to contribute pursuant to paragraph (a).

(5) Pension is not payable in respect of a unit of pension to which an election by an employee under paragraph (b) of subsection (4) relates unless—

- (a) contributions in respect of the unit of pension have been paid for the period of three years that next succeeds the date from which he was required to contribute in respect of that unit of pension;

(b)

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- (b) the contributions in respect of the unit of pension are payable under subsection (3) or (4) of section 16; or
- (c) the employee elects to retire under subsection (1), or is retired under subsection (2), of section 21.

(6) Where the widow of an employee is, or becomes, an employee she may—

- (a) within three months after becoming a widow; or
- (b) within three months after becoming an employee (whether by the addition of the name of her employer to Schedule III or otherwise),

whichever is the later, elect not to contribute to the Fund, or to reduce to not less than six the number of units of pension in respect of which she is required to contribute to the Fund.

(7) Where the salary of an employee fluctuates, the employee may, with the consent of the Board, contribute in respect of a number of units of pension—

- (a) not exceeding the number of units of pension in respect of which he would be required or entitled to contribute were his salary fixed at an amount equal to the highest amount of his fluctuating salary; and

(b)

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(b) not less than the number of units of pension in respect of which he would be required or entitled to contribute were his salary fixed at an amount equal to the lowest amount of his fluctuating salary.

(8) The Board may exempt from contributing to the Fund an employee who satisfies the Board that he has made adequate provision for himself and his family.

(9) Where a person is required, or has elected, by reason of an increase of salary to contribute in respect of additional units of pension (including abandoned units in respect of which an election has been made under paragraph (b) of subsection (4)) the contributions are due on and from the first day of the four-weekly contribution period in which the increased rate of salary is actually paid.

(10) Notwithstanding subsection (9), an employee who is serving with the naval, military or air forces of the Commonwealth may elect to contribute in respect of any additional unit of pension, or all additional units of pension, in respect of which he would thereafter be entitled or required to contribute if an increase, or increases, of salary to which he becomes entitled during the period of that service were actually paid during that period, whether or not the increase is, or the increases are, actually paid during that period, and contributions in respect of a unit or units of pension to which such an election relates shall commence from the first day of the four-weekly contribution period in which he becomes entitled to the increase of salary by virtue of which he is entitled or required to contribute in respect of the

unit,

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unit, or units, of pension and, where an employee makes an election under this section, his employer shall contribute in respect of the unit, or units, of pension to which the election relates. No. 66, 1972

(11) Except in the circumstances specified in subsection (7) or in section 13A, an employee shall not contribute in respect of a number of units of pension that is greater than the number that, pursuant to subsection (1), is appropriate for his salary.

(12) An election under this section does not take effect before its receipt in the office of the Board.

- (e) by omitting section 12A and by inserting instead the following section : — Subst.
sec. 12A.

12A. (1) Where the salary of an employee is increased after he ceases to contribute to the Fund under subsection (2) of section 11 (otherwise than by ceasing to be employed by an employer) and his salary after the increase falls within a salary group that is higher than the salary group within which it fell immediately before the increase, the employee— Continua-
tion of
require-
ment to
contribute.

- (a) shall contribute in respect of an additional number of units of pension equal to the difference between the number of units of pension that, pursuant to subsection (1) of section 12 was appropriate for his salary immediately before the increase and the number of units of pension that, pursuant to that subsection, is appropriate for the increased salary, except to the extent that, within three months after the first payment

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of his salary at the increased rate, he elects not to contribute for any one or more of that number of units; and

- (b) in addition, may elect to contribute for all or any of his abandoned units of pension.

(2) Where a married employee entitled to make an election under paragraph (a) of subsection (1) dies without making such an election before the expiration of the period within which, but for his death, he could have made the election his widow may, before the expiration of that period, make that election.

(3) An election under this section does not take effect before its receipt in the office of the Board.

(4) Where, although not required by this section so to do, a person elects to contribute in respect of a unit of pension in respect of which he could, but for this subsection, have elected under paragraph (a) of subsection (1) not to contribute, he may not, except with the approval of the Board, make an election under that paragraph not to contribute in respect of that unit of pension.

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

- (f) (i) by omitting section 12B (2) and by inserting instead the following subsection :—

(2) Where, after the commencement of the Superannuation (Amendment) Act, 1972, an employee who has reached the prescribed age elects or is required to contribute in respect of an additional unit or units of pension he may, notwithstanding any other provision of this Act, elect to contribute the total amount of the

contributions

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contributions payable in respect of the additional unit or units of pension by not more than sixty-five four-weekly instalments commencing on the first day of the four-weekly contribution period in which he is required to commence to contribute for the additional unit or units, each such instalment being not less than an amount determined by the Board, being an amount that is, or is not less by more than a fraction of a cent than, one sixty-fifth of that total amount. No. 66, 1972

- (ii) by omitting section 12B (3);
 - (iii) by omitting section 12B (4);
 - (iv) by omitting from section 12B (5) the words "by the instalments specified in paragraph (a) or (b), as the case may be, of" and by inserting instead the words "pursuant to";
 - (v) by omitting from section 12B (5) the words "on or before the date upon which such employee ceases to be so employed" wherever occurring and by inserting instead the words "within one month after the date upon which the employee ceases to be so employed, or within such further period as the Board may, in special circumstances, allow";
 - (vi) by inserting in section 12B (5) (c) after the word "employee" where secondly occurring the words ", or within such further period as the Board may in special circumstances allow,";
 - (vii) by inserting in section 12B (6) after the word "prescribed" the words ", or within such further period as the Board may in special circumstances allow,";
- (g) (i) by omitting sections 15 (1c), 15 (1H), 15 (1I), 15 (1J) and 15 (1K);
- (ii) Sec. 15.
(Tables of contribu-
tions in
Schedules.)

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- (ii) by omitting from section 15 (1L) the letters "VI,";
- (iii) by omitting from section 15 (1L) the letters and words " , X, XI, XII, XIII and XIV to this Act" and by inserting instead the letter and word "and X";
- (iv) by omitting from section 15 (2) (a) the word and letters "Schedule VI,";
- (v) by omitting from section 15 (2) (a) the words and letters " , Schedule X, Schedule XI, Schedule XII, Schedule XIII or Schedule XIV" and by inserting instead the words "or Schedule X";

Sec. 15A.
(Reserve
units.)

- (h) (i) by omitting from section 15A (1) the words "Such contributions shall accumulate at such rate of interest, compounded annually, as may from time to time be determined by the Governor on the recommendation of the Board as the result of the quinquennial investigation and, until such determination has been made, at the rate of three and one-half per centum interest, compounded annually.";
- (ii) by inserting next after section 15A (1) the following new subsection :—

(1A) Contributions paid into the reserve account—

- (a) shall bear interest compounded annually in a manner determined by the Board at the rate of six and one-half per centum per annum; or
- (b) where, as a result of the triennial investigation, the Minister, by order published in the Gazette, so directs— shall bear interest so compounded at a rate specified by the Minister in the order on the recommendation of the Board.

(iii)

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- (iii) by omitting from section 15A (5) (a) (i) the words "Act; or" and by inserting instead the word "Act,"; No. 66, 1972
- (iv) by omitting section 15A (5) (a) (ii);
- (v) by omitting section 15A (6) (c) and by inserting instead the following paragraph:—
- (c) In this subsection "the specified rate" means six and one-half per centum per annum or, where the Minister by order published in the Gazette specifies some other rate for the purposes of this paragraph, that other rate.
- (i) (i) by inserting in section 16 (3) after the word "entitled" the words "or is required"; Sec. 16.
(Particulars and table of contributions by employers.)
- (ii) by inserting next after section 16 (3) the following new subsection :—
- (3A) Notwithstanding subsection (3), where a contributor over fifty-nine years of age and less than sixty years of age makes an election under paragraph (a) of subsection (5) of section 15A in respect of an additional unit of pension—
- (a) the contributor shall pay contributions calculated under paragraph (b) of that subsection in respect of the additional unit of pension to the end of the contribution period preceding that in which he would reach the age of sixty years; and
- (b) the employer shall pay contributions calculated under paragraph (b) of subsection (8) of that section in respect of the additional unit of pension to the end of that period.
- (iii) by inserting in section 16 (4) after the word "entitled" the words "or is required";
- (iv)

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(iv) by inserting at the end of section 16 the following new subsections:—

(5) Notwithstanding subsection (4), where a contributor is a woman who has elected to contribute at the rate for retirement at age fifty-five and she makes an election under paragraph (a) of subsection (5) of section 15A in respect of an additional unit of pension when she is over fifty-four years of age and less than fifty-five years of age—

(a) she shall pay contributions calculated under paragraph (b) of that subsection in respect of the additional unit of pension to the end of the contribution period preceding that in which she would reach the age of fifty-five years; and

(b) the employer shall pay contributions calculated under paragraph (b) of subsection (8) of that section in respect of the additional unit of pension to the end of that period.

(6) Where an employee or contributor to whom subsection (3) applies is aged sixty years or more, or an employee or contributor to whom subsection (4) applies is aged fifty-five years or more, the tables referred to in those subsections apply for the purposes of those subsections as if the employee or contributor were aged fifty-nine years in the case of subsection (3) or fifty-four years in the case of subsection (4).

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

(j) by omitting sections 19 (2) and 19 (3);

(k)

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- (k) by inserting next after section 19 the following new sections :—

No. 66, 1972
New secs.
19A and 19B.

19A. The Board may, in special circumstances, defer the payment of any contribution by a contributor but, where the Board so defers a payment, no benefit is payable to or in respect of the contributor until the outstanding contribution and, where appropriate, interest thereon, have been paid or arrangements satisfactory to the Board have been made for their payment.

Deferment
of payment
of contri-
butions.

19B. Any contributions unpaid on the due date for payment thereof (including contributions of which payment has been deferred by the Board) shall bear interest at the rate of six and one-half per centum per annum or, where some other rate is determined by the Minister on the recommendation of the Board, that other rate, from that due date until the date of payment unless the Board, in special circumstances, waives payment of the interest.

Interest
on arrears
of con-
tributions.

5. Part IIIA of the Principal Act is amended—

Amendment
of Part
IIIA of
Act No.
28, 1916.

- (a) (i) by omitting from section 20c (4) (a) the words “corresponding to his salary in the scale in subsection one of section twelve of this Act” and by inserting instead the words “appropriate for the salary group within which his salary falls”;
- (ii) by inserting at the end of section 20c the following new subsection :—

Sec. 20c.
(Public
Service
Super-
annuation
Fund con-
tributors
becoming
employees.)

(5) Where a person who has exercised the right of election conferred by this section dies, or where he retires under subsection (1B) of section

section

Superannuation (Amendment).

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section 21 before he reaches the age of sixty years, or where he is retired under section 22 before he reaches that age, or where, being a woman contributing for retirement at the age of fifty-five years she is retired under section 22 before reaching that age, the Board may, except where the amount paid under subsection (1) is refunded pursuant to section 32, 32A or 32B, determine that a specified amount, being part of the amount so paid, be refunded to that person or, where he is dead, to his personal representatives, and may act in accordance with its determination.

Sec. 20E.
(Employer's
contri-
bution.)

- (b) (i) by omitting from section 20E the word "ten-elevenths" and by inserting instead the word "five-eighths";
- (ii) by inserting at the end of section 20E the following new subsection :—

(2) With respect to a person referred to in subsection (5) of section 20C or a person who resigns or is dismissed or discharged from the service of his employer, the Board may determine that part of the amount paid by the employer under subsection (1) is refundable and may act in accordance with its determination.

Amendment
of Part
IV of
Act No.
28, 1916.
Sec. 21.
(Age of
optional
retire-
ment.)

6. Part IV of the Principal Act is amended—

- (a) (i) by omitting from section 21 (1) the words "Every man contributor" and by inserting instead the words "A contributor (being, in the case of a woman, a contributor at the rate prescribed for retirement at age sixty)";
- (ii) by inserting in section 21 (1) after the word "contributor" where secondly occurring the words "at the rate prescribed for retirement at age fifty-five";

(iii)

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- (iii) by omitting section 21 (1B) and by inserting No. 66, 1972 instead the following subsection :—

(1B) A contributor (being, in the case of a woman, a contributor at the rate prescribed for retirement at age sixty) may retire from the service of his employer on the pension provided by section 28A on or after reaching the age of fifty-five years if he has continuously been a contributor during the next preceding period of ten years.

- (b) (i) by omitting from section 21A (2) the words ^{Sec. 21A.} “An election may upon application of an ^(Commuting of certain units.) employee or a pensioner and with the approval of the Board be varied or amended and thereupon such election shall have effect in accordance with such variation or amendment.”;
- (ii) by omitting section 21A (3) and by inserting instead the following subsection :—

(3) Upon an election under this section taking effect there shall be paid from the Fund to the person who made the election or, as the case may require, to his personal representatives, a lump sum calculated by multiplying the fortnightly amount of pension commuted—

- (a) by 250 where no prescribed period has elapsed in relation to that person; or
- (b) where a prescribed period has elapsed in relation to that person—by a figure lower than 250 determined by the Board having regard to the length of that prescribed period.

(iii)

Superannuation (Amendment).

No. 66, 1972

(iii) by inserting at the end of section 21A the following new subsection :—

(5) In subsection (3) “prescribed period” in relation to a person whose election under this section has taken effect means—

(a) in the case of such a person who retired on or before reaching the age of sixty-five years—the period (if any) between—

(i) his attainment of the age of sixty years or his retirement, whichever was the later; and

(ii) the day on which the election took effect;

(b) in the case of such a person who retired after reaching the age of sixty-five years—the period (if any) between—

(i) his attainment of the age of sixty-five years; and

(ii) the day on which the election took effect;

(c) in the case of such a person who is a widow whose election related to pension payable to her by virtue of the death of a husband who died before she reached, or when she reached, the age of sixty-five years—the period (if any) between—

(i) the death of the husband or her attainment of the age of sixty years, whichever was the later; and

(ii) the day on which the election took effect; or

(d)

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- (d) in the case of such a person who is a widow whose election related to pension payable to her by virtue of the death of a husband who died after she reached the age of sixty-five years—the period (if any) between—
- (i) her attainment of the age of sixty-five years; and
 - (ii) the day on which the election took effect.
- (c) (i) by omitting section 21B (4) and by inserting instead the following subsection :—
- No. 66, 1972
Sec. 21B.
(Commutation of increases of pension by Superannuation (Amendment) Act, 1971.)
- (4) Subsections (3) and (5) of section 21A apply to and in respect of an election under this section and the fortnightly amount of pension thereby commuted in the same way as they apply to and in respect of an election under that section and the fortnightly amount of pension thereby commuted.
- (ii) by omitting section 21B (6) and by inserting instead the following subsection :—
- (6) An employer is under the like liability to make payments in respect of pension commuted under this section as he is under in respect of pension commuted under section 21A.
- (d) (i) by omitting section 23B (2) and by inserting instead the following subsection :—
- Sec. 23B.
(Date of retirement, contributions payable, etc.)
- (2) Except as provided by section 23BA, a person is not entitled to elect to contribute, or required to contribute, in respect of an additional unit or units of pension by reason of a salary increase not actually paid before the date of his retirement, determined as provided by subsection (1), or the date of his death, whichever first occurs.

(ii)

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- (ii) by omitting section 23B (3) and by inserting instead the following subsection :—

(3) Where the contributions of an employee ceased, pursuant to subsection (2) of section 11, to be paid otherwise than by reason of age and the employee was entitled or required to contribute in respect of an additional unit or units of pension by virtue of a salary increase actually paid on or after the day on which the contributions so ceased to be paid—

(a) contributions equivalent to the amount due for one four-weekly contribution period in respect of the units of pension for which the employee was contributing at the time his contributions so ceased to be paid; and

(b) contributions in respect of the additional unit or units of pension,

shall be paid to the last day of the four-weekly contribution period during which he retired or died, as the case may be.

New sec.
26A.

- (e) by inserting next after section 26 the following new section :—

Benefit payable not to include fraction of a cent.

26A. Where the Board is required to pay to a person as a benefit under this Act an amount that includes a fraction of a cent, the fraction shall be ignored and, where the fraction is one-half or more, the amount payable after ignoring the fraction shall be increased by one cent.

Sec. 28A.
(Pension on retirement before 60.)

- (f) (i) by omitting from section 28A (1) the words “who being a man elects”;

(ii)

Superannuation (Amendment).

(ii) by omitting from section 28A (1) the words **No. 66, 1972**
 “to retire upon or after reaching the age of
 fifty-five years, or who, being a woman, has
 contributed for at least ten years at the rate
 prescribed for retirement at the age of sixty
 years.”;

(g) by inserting next after section 28A the following **New sec.**
 new section :— **28B.**

28B. (1) For the purposes of this section, the **Increase of**
 period of contributory service of a contributor upon **pension in**
 his retirement is the next preceding period that **case of**
 commenced— **certain re-**
irements
after age
62.

- (a) when he last became an employee; or
- (b) if he had last become a contributor pursuant to subsection (1B) of section 11—on the date from which his contributions then became due for payment; or
- (c) if, since he last became an employee or last so became a contributor, he had been on leave of absence pursuant to section 48—when he was re-employed by an employer after the last such leave of absence,

and ended upon his retirement.

(2) Where a contributor aged sixty-two years or more retired on or after 1st July, 1972, and before the commencement of the Superannuation (Amendment) Act, 1972, or retires at or after

that

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that commencement, the pension that, but for this section, would be payable to him shall, if he has completed not less than eleven years of contributory service, be increased by a percentage determined in accordance with subsection (3).

(3) The percentage referred to in subsection (2) is—

(a) where the contributor had completed forty years or more of contributory service at the time of his retirement—

(i) ten per centum if he retired on or after reaching the age of sixty-two years and before reaching the age of sixty-three years;

(ii) twenty per centum if he retired on or after reaching the age of sixty-three years and before reaching the age of sixty-four years; and

(iii) thirty per centum if he retired on or after reaching the age of sixty-four years; or

(b) where the contributor had completed eleven or more, but less than forty, years of contributory service at the time of his retirement—the percentage that would, if he had completed more than forty years of contributory service, be applicable under paragraph (a), multiplied by the fraction obtained by applying the formula—

$$\frac{n - 10}{30}$$

where “n” represents the number of years of contributory service that he had completed.

(4)

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(4) Notwithstanding subsection (2), the pension of a contributor shall not be increased under this section to an amount in excess of the amount of the upper limit of the salary group in which his salary fell immediately before his retirement, any salary increase referred to in section 23BA being deemed to have been paid to him immediately before that retirement. No. 66, 1972

(5) Where a pension is increased pursuant to this section or the pension of a widow is calculated under section 30 or 31 by reference to a pension that would have been, or was, so increased, the liability of an employer to make payments to the Fund (otherwise than pursuant to section 9A, 9B or 9C) in respect of that pension is increased in the same proportion as the pension.

(h) by inserting at the end of section 29 the following new subsections :— Sec. 29.

(4) Where section 11AA applies in respect of a non-disclosure, at a medical examination under section 11A or 38C, of the causes of any invalidity or physical or mental incapacity to perform duties, this section does not apply to or in respect of the non-disclosure.

(Retirement through invalidity not his own fault.)

(5) Contributions payable by or in respect of a contributor retired on pension under this section cease to be payable on the first day of the four-weekly contribution period during which the pension becomes payable pursuant to subsection (3).

(i) (i) by omitting from section 30 (1) the words "not being a contributor for limited benefits pension shall" and by inserting instead the words "(aged, in the case of a contributor for limited benefits, sixty years or more) pension shall, subject to section 31A,"; Sec. 30.

(Pensions to widow and orphans on death of contributor.)

(ii)

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(ii) by omitting section 30 (1) (a) and by inserting instead the following paragraph :—

(a) during any period while she is not married, two-thirds of the pension (including any increase of pension under section 28B) that would have been payable to the contributor had he, where he was aged not less than sixty years, retired immediately before his death or, where he died before reaching the age of sixty years, had he been retired under section 22 immediately before his death; and;

(iii) by inserting in section 30 (2) after the word “benefits” the words “aged less than sixty years”;

(iv) by omitting section 30 (7);

Sec. 30A.
(Special provisions in the case of employees engaged on service with armed forces.)

(j) by omitting from section 30A the words “paragraph (i) or (j) of the proviso to subsection one of section twelve of this Act” and by inserting instead the words “subsection (10) of section 12”;

Sec. 31.
(Pension to widow and orphans on death of pensioner after retirement.)

(k) (i) by omitting from section 31 the words “On the death” and by inserting instead the words “Subject to section 47, on the death”;

(ii) by inserting in section 31 (1) (a) (ii) after the word “death” the words “including, subject to section 31A, any increase of pension so payable under section 28B”;

(iii) by inserting next after section 31 (1) the following new subsection :—

(1A) Notwithstanding subsection (1), where a pensioner referred to in that subsection had contributed for not more than four

units

Superannuation (Amendment).

units and had received a pension increase in terms of section 2 of the Superannuation (Amendment) Act, 1970, the pension payable to his widow otherwise than in respect of a child or children shall not exceed twenty dollars per fortnight. No. 66, 1972

- (l) by inserting next after section 31 the following new section :— New sec. 31A.

31A. The pension payable to a widow under paragraph (a) of subsection (1) of section 30, or under subparagraph (ii) of paragraph (a) of subsection (1) of section 31, shall not exceed an amount equal to two-thirds of the maximum amount that, pursuant to subsection (4) of section 28B, could have been paid as pension to her deceased husband in respect of whom her pension is payable. Pension to widow not to exceed certain amount.

- (m) by omitting section 32 and by inserting instead the following section :— Subst. sec. 32.

32. Where an employee who is a woman dies before her retirement she shall be deemed to have resigned immediately before her death from the service of her employer and to have elected under section 38B to take the benefit of section 38A, and the moneys payable under section 38A shall be paid by the Board to her personal representatives or, where she has no personal representatives, to such persons as the Board may determine. Death before retirement of woman employee.

- (n) by omitting section 32A and by inserting instead the following section :— Subst. sec. 32A.

32A. (1) Where a male employee dies before his retirement and is not married at the time of his death he shall, unless he leaves a child or children in respect of whom pension is payable under this Death before retirement of un-married male employee.

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Act or would, but for this section, be so payable, be deemed to have resigned, immediately before his death, from the service of his employer and to have elected under section 38B to take the benefit of section 38A, and the moneys payable under section 38A shall be paid by the Board to his personal representatives or, where he has no personal representatives, to such persons as the Board may determine.

(2) Where an employee referred to in subsection (1) leaves a child or children in respect of whom pension is payable under this Act or would, but for this section, be so payable, the Board may—

- (a) make a payment referred to in subsection (1) as if the employee had not left such a child or children, in which case a pension or pensions shall not be payable under this Act in respect of the child or children; or
- (b) pay a pension or pensions in respect of the child or children as if this section had not been enacted and pay to the personal representatives of the employee or, if there are no personal representatives, to such persons as the Board may determine, an amount equal to the total of the contributions paid by the employee to the Fund,

whichever the Board considers to be in the best interests of the child or children.

Subst. sec.
32B.

Death
after re-
irement
and before
payment of
pension.

- (o) by omitting section 32B and by inserting instead the following section :—

32B. Where, after retirement, a person who was a contributor dies before the day on which pension would, but for his death, be payable pursuant to subsection (3) of section 29 and does not leave a widow entitled to payment of pension under this Act, section 32A applies in respect of that person in the same way as it applies in respect of an employee referred to in that section.

(p)

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- (p) by omitting from paragraph (b) of section 32C the words "of this Act" and by inserting instead the word, figures and letter "or 21B"; No. 66, 1972
Sec. 32c.
(Refund in certain cases where widow dies leaving children.)
- (q) by inserting in section 33 after the word "shall" the words ", subject to section 32A,"; Sec. 33.
(Pension to orphans on death of employee or pensioner.)
- (r) (i) by inserting in section 37 (1) after the word "shall" where firstly occurring the words ", if he elects under section 38B to take the benefit of this section instead of section 38A, be entitled to choose at the time of making that election"; Sec. 37.
(Contributor retrenched has choice of benefits.)
- (ii) by omitting from section 37 (1) the words "be entitled within one month after such retrenchment to choose";
- (iii) by inserting in section 37 (4) after the word "service" where secondly occurring the words "unless he complies with section 38C";
- (iv) by inserting in section 37 (5) after the word "section" where firstly occurring the words "or elects under section 38B to take the benefit of section 38A instead of this section";
- (v) by inserting in section 37 (5A) after the word "section" the words "or elects under section 38B to take the benefit of section 38A instead of this section";
- (s) (i) by omitting from section 38 (1) the words ", there shall be paid to such contributor, upon application by him in or to the effect of the prescribed form," and by inserting instead the words "and elects under section 38B to take the benefit of this section instead of section 38A, there shall be paid to him"; Sec. 38.
(Refund of contributions.)
- (ii)

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- (ii) by inserting in section 38 (1) after the word "contributions" where firstly occurring the words "(other than contributions refundable under paragraph (b) of subsection (6) of section 15A)";
- (iii) by omitting section 38 (1A);
- (iv) by omitting from section 38 (2) the words "a refund of the amount of his contributions" and by inserting instead the words "a benefit under this section or section 38A";
- (v) by inserting in section 38 (2) after the word "service" where secondly occurring the words "unless he complies with section 38C";
- (vi) by omitting sections 38 (3) and 38 (4);

New secs.
38A, 38B
and 38C.

- (t) by inserting next after section 38 the following new sections :—

Withdrawal
benefit.

38A. (1) For the purposes of this section—

- (a) the prescribed rate of interest is three and one-half per centum per annum in respect of any relevant period that ended before 1st July, 1972, and, in respect of any relevant period that commenced or commences on or after 1st July, 1972, is—

- (i) four and one-half per centum per annum; or
- (ii) where some other rate is notified by the Minister by order published in the Gazette on the recommendation of the Board—that other rate; and

(b)

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(b) the period of contributory service of a No. 66, 1972 contributor upon his retrenchment, resignation, dismissal or discharge from the service of his employer is the next preceding period that commenced—

- (i) when he last became an employee; or
- (ii) if he had last become a contributor pursuant to subsection (1B) of section 11 on the date from which his contributions then became due for payment; or
- (iii) if, since he last became an employee or last so became a contributor, he had been on leave of absence pursuant to section 48, when he was re-employed by an employer after that leave of absence,

and ended when his employment with his employer ceased.

(2) Subject to this section, where a contributor is retrenched or resigns or is dismissed or discharged from the service of an employer and elects under section 38B to take the benefit of this section instead of section 37 or 38, as the case may require, there shall be paid to him from the Fund—

- (a) in the case of a contributor (not being a contributor who has been retrenched) who had not completed five years' contributory service—the amount that would have been payable had he elected to take the benefit of section 38;
- (b) in the case of a contributor (not being a contributor who has been retrenched) who had completed five years' contributory

service

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service and had not completed ten years' contributory service—an amount equal to the sum of—

- (i) the amount that would have been payable had he elected to take the benefit of section 38;
- (ii) in respect of his period of contributory service, interest compounded on the thirtieth day of June in each year during that period on the amount calculated by applying the formula—

$$\frac{a + b}{2}$$

where

“a” represents the total amount of contributions (excluding contributions refundable under paragraph (b) of subsection (6) of section 15A) that had been paid to the Fund by the contributor from the beginning of the period of contributory service to the beginning of the period in respect of which the calculation is made together with interest, if any, due to the thirtieth day of June next preceding that period;

“b” represents the total amount of those contributions from the beginning of the period of contributory service to

the

Superannuation (Amendment).

the end of the period in respect of which the calculation is made, together with interest, if any, due to the thirtieth day of June next preceding that period; or

(c) in the case of a contributor (whether or not he is a contributor who has been retrenched) who had completed not less than ten years' contributory service—an amount equal to the sum of—

(i) the amount to which he would be entitled if paragraph (b) were applicable to him, a contributor who has been retrenched being deemed, for the purposes of this subparagraph, to have resigned from the service of his employer; and

(ii) an amount ascertained in accordance with the formula—

$$\frac{c \times d}{40}$$

where

“c” represents the total of the amounts referred to in subparagraphs (i) and (ii) of paragraph (b);

“d” represents the number of completed years of contributory service.

(3) Where a contributor is retrenched or resigns or is deemed to have resigned or is dismissed or discharged from the service of an employer and is paid an amount referred to in paragraph (c) of subsection (2), that employer shall, if an investigation of the Fund under section 10 discloses a deficiency and covers a period that included the time

of

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of the payment of that amount, pay to the Fund, on the requisition of the Board—

- (a) an amount that bears to the deficiency the same proportion as the total of all amounts paid under subparagraph (ii) of paragraph (c) of subsection (2) in respect of his former employees during that period bears to the total of all amounts paid under that subparagraph in respect of the former employees of all employers during that period; or
- (b) where the total of the amounts paid in respect of his former employees under that subparagraph during that period is less than the amount referred to in paragraph (a)—that lesser amount,

reduced by any amounts paid by the employer during that period pursuant to subsection (5) or (5A) of section 37 in respect of retrenched employees who elected under section 38B to take the benefit of section 38A.

Election
by employee
retrenched
or dismissed,
etc.

38B. (1) A contributor who is retrenched or resigns or is dismissed or discharged from the service of an employer may, within three months after his retrenchment, resignation, dismissal or discharge, elect between taking the benefit of section 38A and taking the benefit—

- (a) in the case of a contributor who is retrenched—of section 37; or
- (b) in any other case—of section 38.

(2) Where a contributor resigns or is dismissed or discharged from the service of an employer, the employer shall take all practicable steps to obtain from the contributor an election under this section and shall, after obtaining such an election, forward it forthwith to the Board.

(3)

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(3) Where a person entitled to make an election under this section does not do so within the prescribed time, the Board may, notwithstanding the lack of an election, pay a benefit under section 37 or 38A or, as the case may require, under section 38 or 38A, whichever the Board considers to be appropriate in the circumstances.

38c. (1) For the purposes of this section, the prescribed rate of interest is—

- (a) six and one-half per centum per annum; or
- (b) where some other rate is notified by the Minister by order published in the Gazette—that other rate.

Break in service may be cured upon certain conditions.

(2) Where a person who ceases to be employed by an employer (otherwise than by retirement or retrenchment on pension under this Act) enters the service of the same or a different employer within the next succeeding period of three months and, within that same period of three months, is required to contribute to the Fund, he may, subject to subsection (8), resume payment of his contributions as if he had not ceased to be employed if he elects within three months after he is required to contribute to the Fund to comply, and upon the election taking effect does comply, with this section.

(3) A person referred to in subsection (2) complies with this section if—

- (a) he pays to the Fund any lump sum received by him, or authorises the retention in the Fund of any lump sum payable to him, under section 37, 38 or 38A in consequence

of

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of the cessation of his employment together with, where he has received any such amount, interest thereon at the prescribed rate from the date the amount was paid to him to the date of receipt in the office of the Board of the amount payable pursuant to this paragraph;

- (b) he pays to the Fund the amount referred to in subsection (4); and
- (c) he resumes payment to the Fund of the contributions that, subject to sections 12, 13 and 13A, would, had he continued in the employment of his previous employer, have been payable by him on and from the beginning of the four-weekly contribution period in which he ceased to be employed.

(4) The amount required to be paid under paragraph (b) of subsection (3) by a person who makes an election under this section is an amount equal to the sum of—

- (a) all the contributions that would have been payable—
 - (i) by him from the day following the day to which his contributions were paid before cessation of his former employment; and
 - (ii) by his employer from the beginning of the four-weekly contribution period in which he ceased to be employed,

had he continued in the employment of his former employer, at the same salary as that which he was receiving immediately before

cessation

Superannuation (Amendment).

cessation of the contributions he was required to make by reason of his former employment, until the beginning of the first four-weekly contribution period in respect of which he is required to contribute to the Fund by virtue of his subsequent employment; and

- (b) interest at the prescribed rate on the amount of each contribution referred to in paragraph (a) from the termination of the four-weekly contribution period in respect of which it is required to be paid to the date of receipt of the contribution in the office of the Board.

(5) The Board may, in special circumstances and in a particular case—

- (a) waive payment of interest under this section or any part thereof; or
- (b) permit payment over an extended period of any amount required to be paid pursuant to paragraph (a) or (b) of subsection (3).

(6) Where a person who makes an election under this section was, immediately before cessation of his employment, contributing for reserve units of pension under section 15A, he may, when making an election under this section, make an election under subsection (6) of that section and, where he so elects under that section, contributions in respect of the reserve units to which the election under that section relates shall not be taken into account when calculating any amount payable by that person under this section.

(7)

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(7) Subsection (1) or (1B), as the case may require, of section 11 applies to and in respect of a contributor who makes an election under this section and does not—

- (a) comply with this section; or
- (b) subject to subsection (8), resume payment of his contributions as if he had not ceased to be employed.

(8) The Board may require a person who makes an election under this section to submit himself to medical examination by the Chief Medical Officer of the Government and, where the report of the Chief Medical Officer indicates that the person so submitting himself is suffering from any physical or mental defect likely to affect his health or longevity or his capacity to continue in employment, the Board may—

- (a) refuse to accept that person as a contributor;
- (b) accept that person as a contributor for limited benefits; or
- (c) postpone the acceptance of that person as a contributor for limited benefits until such time as the Board, having regard to the report of the Chief Medical Officer, determines.

(9) Where the Board has acted in accordance with paragraph (a) or (c) of subsection (8) of this section, or paragraph (a) or (c) of subsection (2) of section 11AA, in relation to an employee who has made an election under this section the employee shall be deemed not to have been entitled to make the election.

(10)

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(10) Where the Board has acted in accordance with paragraph (c) of subsection (8) in relation to an employee and the employee is subsequently accepted as a contributor, or as a contributor for limited benefits, he shall make contributions to the Fund as from the first day of the four-weekly contribution period in which he is so accepted, or from such other day as the Board may in special circumstances allow.

(11) A person who makes an election under, and complies with, this section shall, for the purposes of this Act, be deemed not to have ceased to be a contributor by reason of the cessation of employment that gave rise to the election and, for the purposes of subsection (1) of section 11A, his resumption of employment shall be deemed not to be a commencement of employment.

- (u) (i) by inserting in section 39 (1) after the word “determine” the words “, subject to the pension so ordered to be paid not exceeding the pension being paid to the pensioner at the time of the order”;
- Sec. 39.
(Desertion
of wife or
child.)
- (ii) by inserting in section 39 (2) after the word “dead” where secondly occurring the words “subject to the pension so ordered to be paid not exceeding the pension payable to the pensioner at the time of the order”;
- (iii) by inserting in section 39 (3) after the word “thirty-eight” the words “, or payable under section 38A,”;
- (v) by omitting from section 46 the word “five-eighths” and by inserting in lieu thereof the word “two-thirds”;
- Sec. 46.
(Reduction
of pension
of widow.)

(w)

*Superannuation (Amendment).***No. 66, 1972**New sec.
47B.Employer
subsidy not
to be of
greater
benefit if
service not
continuous.

(w) by inserting next after section 47A the following new section :—

47B. (1) In this section “withdrawal benefit” means—

(a) a benefit payable pursuant to paragraph (b) or (c) of subsection (2) of section 38A;

(b) any other benefit payable to or in respect of a person on cessation of his employment otherwise than by reason of his death, where the benefit is wholly or partly payable pursuant to or from a retirement scheme, fund or arrangement to or in respect of which an employer or a public or local authority constituted by an Act makes, or is liable to make, a payment in respect of a person employed by the employer or authority.

(2) Where a withdrawal benefit is paid, or is or will become payable, to a person and he subsequently contributes to the Fund without complying with section 38C, any benefit (other than a benefit payable pursuant to section 38 or a benefit referred to in paragraph (a) of subsection (1)) payable in respect of that person shall be reduced in a manner determined by the Board having regard to the amount of any withdrawal benefit previously paid to him.

Sec. 49.
(Continuity
of service.)

(x) by omitting from section 49 the words “neither shall it” and by inserting instead the words “it shall not, except for the purposes of section 28B or 38A”.

*Superannuation (Amendment).***7. Part V of the Principal Act is amended—****No. 66, 1972****Amendment
of Part V
of Act No.
28, 1916.**

- (a) by omitting section 62 and by inserting instead the following section :— **Subst. sec. 62.**

62. (1) In this Part “prescribed person” means—

**Additional
and other
payments to
Fund by
prescribed
persons.**

- (a) an employee;
- (b) a person in receipt of a pension under this Act;
- (c) a person on whose behalf such a pension is paid;
- (d) the spouse or child of a person referred to in paragraph (a) or (b); or
- (e) the spouse or child of a deceased person who, before his death, was a person referred to in paragraph (a) or (b).

(2) Moneys may be paid to the Fund for the credit of an account opened in the name of a prescribed person or in trust for him or for the credit of an account referred to in section 69.

(3) A prescribed person referred to in paragraph (a) or (b) of subsection (1) may authorise his employer or the Board, as the case may require, to deduct moneys from his salary or pension and pay them to the Fund under this Part.

(4) The Board and the officers of the Board are not affected by, and shall not (except as provided by subsection (5)) enter in any records kept by the Board, notice of any express, implied or constructive trust affecting any moneys paid to the Fund under this section.

(5)

Superannuation (Amendment).

No. 66, 1972

(5) The Board and the officers of the Board shall be deemed not to have received notice of a trust referred to in subsection (4) notwithstanding that an entry is made, in a manner determined by the Board, in records kept by the Board and is to the effect that moneys referred to therein and credited to an account under this section are subject to a trust in favour of a specified child of the prescribed person in whose name the account was opened.

(6) Nothing in subsection (4) affects the rights or liabilities of a person other than the Board and its officers.

(7) The Board may decline to open an account under this section or section 69 and shall not, in the case of a child referred to in paragraph (e) of subsection (1), open an account in his name after the death of the prescribed person whose child he is.

Sec. 63.
(Moneys
part of
Fund.)

- (b) (i) by omitting from section 63 (1) the words "any employee or person in receipt of a pension" and by inserting instead the words "a prescribed person";
- (ii) by omitting from section 63 (2) the words "section sixty-two of this Act" and by inserting instead the words "this Part";

Sec. 64.
(Interest on
voluntary
savings.)

- (c) (i) by omitting from section 64 the words "section sixty-two of this Act" and by inserting instead the words "this Part";
- (ii) by omitting from section 64 the words "employee, or person in receipt of a pension," and by inserting instead the words "person by or";

(d)

Superannuation (Amendment).

- (d) by omitting section 65 and by inserting instead the following section :—

Subst.
sec. 65.
Withdrawal
of money
at credit.

65. The withdrawal from the Fund of the whole, or any part of, the principal or interest lying at the credit of a person under this Part may be effected by that person on giving to the Board such notice (not exceeding three months) as the Board may require.

- (e) (i) by omitting from section 66 the words “Any employee or person in receipt of a pension” and by inserting instead the words “A prescribed person referred to in paragraph (a) or (b) of subsection (1) of section 62 or the spouse of such a person”;

Sec. 66.
(Purchase
of
annuity.)

- (ii) by omitting from the same section the words “, or on the life of his wife, son or daughter”;

- (f) by omitting section 66A and by inserting instead the following section :—

Subst.
sec. 66A.

66A. The Board may refuse to accept a payment for credit of an account opened under this Part and shall, upon such a refusal, pay to the person in whose name the account was opened all principal and interest lying at his credit in the account.

Power to
close
account
under this
Part.

- (g) by omitting section 68.

Sec. 68.
(Retired
employee
may con-
tinue in
Fund.)

8. Part VII of the Principal Act is amended—

Amendment
of Part VII
of Act No.
28, 1916.

- (a) (i) by inserting in section 91 after the word “Act” where firstly occurring the words “(subsection (2) excepted)”;

Sec. 91.
(Time for
making
elections,
applications,
etc.)

- (ii)

Superannuation (Amendment).

No. 66, 1972

(ii) by omitting section 91 (b) and by inserting instead the following paragraph :—

(b) may be made on or before—

(i) the last day on which, but for this paragraph, it could be made; or

(ii) the expiration of the period of three months after the right to make it arises,

whichever is the later, but is not validly made unless received in the office of the Board on or before the last day on which, pursuant to this paragraph, it may be made;

(iii) by omitting section 91 (d) and by inserting instead the following paragraph :—

(d) may, with the approval of the Board, be amended or revoked subject to such conditions as the Board may impose, including conditions as to the time or times at which, and the manner in which, the election as amended is to take effect, or the time at which the revocation is to take effect.

(iv) by omitting from section 91 the words "Provided that where an election, application or choice is made or purports to be made by a person after the expiration of the time provided for in paragraph (b) of this section" and by inserting instead the following words :—

(2) Where an election, application or choice is not made or received within the time prescribed in respect thereof by paragraph (b) of subsection (1);

(v)

Superannuation (Amendment).

(v) by omitting from section 91 the words “within the time prescribed by paragraph (b) of this section” and by inserting instead the words “or received within the time so prescribed”. No. 66, 1972

(b) by inserting next after section 91 the following new section :— New sec. 91A.

91A. (1) Notwithstanding anything in this Act, the Board may recover any moneys owing to the Fund by an employee or pensioner, or by the widow of a deceased employee or pensioner, or by any other person, together with interest thereon as provided by subsection (2) by deduction—

- (a) in the case of an employee or pensioner— from amounts payable from the Fund to the employee or pensioner, or to his widow, or to his personal representatives, or in respect of his children or the children of his widow ;
- (b) in the case of the widow of a deceased employee or pensioner—from amounts payable from the Fund to her, or to her personal representatives, or in respect of her children or the children of the deceased employee or pensioner ; or
- (c) in the case of any other person—from any amounts payable from the Fund to or in respect of that other person or his personal representatives.

(2) Interest at the rate of six and one-half per centum or, where some other rate is determined by the Minister on the recommendation of the Board, that other rate, shall be payable in respect of any amount owing to the Fund by an employee or pensioner, or by the widow of a deceased employee or pensioner, calculated from the date on which the amount owing became due for payment to the date on which the amount is paid but the

Board

Superannuation (Amendment).

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Board may, in special circumstances and in a particular case, waive payment of any such interest or part thereof.

(3) The Board may, in a court of competent jurisdiction, recover as a debt owing to the Board any moneys owing to the Fund together with any interest thereon.

Sec. 92.
(Extension
of Act.)

(c) by omitting from section 92 (5) the words "Paragraph (c) of the proviso to subsection one of section twelve, and sections" and by inserting instead the word "Sections".

Further
amendment
of Act No.
28, 1916.

9. The Principal Act is further amended by omitting Schedules VI, XI, XII, XIII and XIV.

Certain
amendments
deemed to
have
retrospective
effect.

10. (1) Paragraph (b) (ii) of the proviso to section 12 (1) of the Principal Act shall be deemed to have been amended on 20th March, 1970, to provide for the same election as is provided for by section 12 (4) (b) of the Principal Act, as amended by this Act.

(2) Paragraph (b) (iic) of the proviso to section 12 (1) of the Principal Act shall be deemed to have been amended on 18th November, 1969, to provide for the same restrictions on the payment of pension in respect of a unit of pension to which an election referred to in that paragraph relates (including an election under that paragraph made pursuant to section 11 of this Act) as are imposed on payment of pension in respect of a unit of pension to which an election referred to in section 12 (5) of the Principal Act, as amended by this Act, relates and, notwithstanding the repeal of that paragraph, those restrictions continue to apply after that repeal in respect of a unit of pension to which they applied before that repeal.

11.

Superannuation (Amendment).

11. (1) An election, application or choice made before **No. 66, 1972** the commencement of this Act under a provision of the Principal Act repealed by this Act shall have effect after that commencement as if that provision had not been repealed by this Act. ^{Transitional provisions.}

(2) Where, immediately before the commencement of this Act, the time for making an election under a provision of the Principal Act repealed by this Act had not expired, the election may be made after that commencement as if that provision had not been repealed by this Act.

(3) An exemption under paragraph (d), or a consent under paragraph (f), of the proviso to section 12 (1) of the Principal Act that was in force immediately before the commencement of this Act continues in force after that commencement as an exemption under section 12 (8), or a consent under section 12 (7), of the Principal Act, as amended by this Act.

(4) To the extent to which the provisions of sections 12 (1A) and 12 (1B) of the Principal Act applied to an employee immediately before the commencement of this Act, they apply to the employee after that commencement.

(5) Where—

- (a) immediately before the commencement of this Act, contributions pursuant to an election made under a provision of the Principal Act repealed by this Act had not commenced;
- (b) such an election takes effect after that commencement; or
- (c) such an election is made by virtue of subsection (2) of this section,

contributions

Superannuation (Amendment).

No. 66, 1972 contributions in respect of the election shall be commenced as if the provision had not been repealed by this Act.

(6) Where, immediately before the commencement of this Act, a person was an employee who had made the election referred to in section 30A of the Principal Act, as enacted before that commencement, he shall, for the purposes of section 30A of the Principal Act, as amended by this Act, be deemed on and after that commencement to have made the election pursuant to section 12 (10) of the Principal Act, as amended by this Act.

(7) Section 91 of the Principal Act, as amended by this Act, applies to and in respect of—

- (a) elections referred to in subsections (1) and (2); and
- (b) an election made after the commencement of this Act that purports, notwithstanding the repeal by this Act of a provision of the Principal Act, to be made pursuant to that provision,

and where, pursuant to section 91 (2) of the Principal Act, as amended by this Act, an election referred to in paragraph (b) is accepted, it has effect as if the provision of the Principal Act pursuant to which it purports to have been made had not been repealed.

(8) The enactment of section 12 (1) of the Principal Act, as amended by this Act, does not of itself entitle or require a person who, immediately before the commencement of this Act, was a contributor under the Principal Act to contribute under the Principal Act, as amended by this Act, in respect of a number of units of pension different from the number of units of pension in respect of which he was contributing immediately before that commencement.

(9) Nothing in this section affects any saving in the Interpretation Act, 1897.

Superannuation (Amendment).

12. Where, immediately before 23rd September, 1971, an employee who was a member of the fire fighting staff of the Board of Fire Commissioners of New South Wales was contributing in respect of a unit of pension, he and that Board shall thereafter contribute in respect of that unit of pension as if sections 15 (1c), 15 (1H), 15 (1I), 15 (1J) and 15 (1K) of, and Schedules VI, XI, XII, XIII and XIV to, the Principal Act had not been enacted.

No. 66, 1972
Rate of contribution in respect of fire fighting staff.

13. (1) A mortgage entered into by the State Superannuation Board before the commencement of this Act shall be deemed to have been a valid mortgage if it would have been a valid mortgage had it been entered into after that date.

Validation.

(2) A payment made under section 21A or 21B of the Principal Act as enacted before the commencement of this Act is not invalidated by the operation of the Principal Act, as amended by this Act.

14. Where an election, application or choice was amended or revoked before the commencement of this Act, the election, application or choice as amended, or the revocation, shall be deemed to have taken effect or, as the case may require, shall take effect, subject to any conditions imposed by the State Superannuation Board when giving its approval to the amendment or revocation.

Effect of amendment or revocation of certain elections, etc.

WHEAT