

**NEW SOUTH WALES RETIREMENT BENEFITS
(AMENDMENT) ACT, 1979, No. 124**

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 124, 1979.

An Act to amend the New South Wales Retirement Benefits Act, 1972, with respect to persons who are participants in superannuation schemes and who become contributors to the New South Wales Retirement Fund; and to validate certain matters. [Assented to, 1st November, 1979.]

New South Wales Retirement Benefits (Amendment).

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.

1. This Act may be cited as the "New South Wales Retirement Benefits (Amendment) Act, 1979".

Principal
Act.

2. The New South Wales Retirement Benefits Act, 1972, is referred to in this Act as the Principal Act.

Inter-
pretation.

3. (1) Except in so far as the context or subject-matter otherwise indicates or requires, words and expressions used in this Act (other than Schedule 1) have the meanings assigned to them respectively in the Principal Act.

(2) In this Act (other than Schedule 1), a reference to the Homebush Abattoir Corporation is a reference to that Corporation as constituted under section 51 of the Meat Industry Act, 1978, as in force at any time on or after 1st January, 1979, and includes a reference to The Metropolitan Meat Industry Board constituted under section 8 of the Meat Industry Act, 1915, as in force at any time before 1st November, 1978, and the Metropolitan Meat Industry Board constituted under section 51 of the Meat Industry Act, 1978, as in force at any time before 1st January, 1979.

Amendment
of Act
No. 70,
1972.

4. The Principal Act is amended in the manner set forth in Schedule 1.

New South Wales Retirement Benefits (Amendment).

5. (1) A person—

- (a) who was employed by the Fish Marketing Authority, The Metropolitan Water Sewerage and Drainage Board or the Homebush Abattoir Corporation;
- (b) who made or purported to make an election under section 12 (2) of the Principal Act, as in force at any time before the date of assent to this Act, to contribute to the Fund; and
- (c) who, on the day on which the election referred to in paragraph (b) was made or was purported to be made, was a person who, by virtue of his employment, was a participant in a superannuation scheme,

Validation of elections by certain persons to contribute to the New South Wales Retirement Fund, etc.

shall be deemed, on that day, to have been an employee within the meaning and for the purposes of the Principal Act, as so in force, and, for the purposes of section 3 (6) of that Act, as so in force, shall be deemed to have become such an employee pursuant to regulations referred to in section 12 (6) of that Act, as so in force.

(2) Where, in respect of a person referred to in subsection (1) who was employed by the Homebush Abattoir Corporation, an amount, being the amount of his contributions, together with interest, if any, accrued thereon, paid to him or on his behalf, or recovered by him or on his behalf, upon his withdrawal from a superannuation scheme in which he was, by virtue of his employment, a participant before he became a contributor to the Fund, has been paid into the Fund—

- (a) that amount shall be deemed to be, and at all relevant times to have been, an initial credit, for the purposes of the Principal Act, in relation to him; and
- (b) an amount equal to the sum of that amount and interest on that amount, as provided by section 53 of that Act being interest payable at a rate equivalent to the rate of interest payable pursuant to paragraph (b) of the definition of "initial credit benefit" in section 3 (1) of that Act, for the period from the date on which he

New South Wales Retirement Benefits (Amendment).

became such a contributor to the date on which he attained or attains the age of 60 years, shall be deemed to be, and at all relevant times to have been, his initial credit benefit for the purposes of that Act.

(3) Where the Homebush Abattoir Corporation has been paid on its own behalf, or has recovered on its own behalf, any money from a superannuation scheme in respect of the withdrawal from the superannuation scheme of a person referred to in subsection (1) and employed by it, it shall pay the money into the Fund.

(4) The Board may, in any court of competent jurisdiction, recover as a debt from the Homebush Abattoir Corporation the money referred to in subsection (3).

(5) The Board shall credit to the Homebush Abattoir Corporation, in the books of the Board, any money paid into the Fund by the Homebush Abattoir Corporation in accordance with subsection (3) and any money recovered by the Board from the Homebush Abattoir Corporation under subsection (4).

(6) For the purposes of section 34 (4) of the Principal Act, an amount credited to the Homebush Abattoir Corporation under subsection (5) shall be deemed to have been credited to that Corporation under section 34 of that Act.

Saving
of right
in respect
of certain
persons.

6. Where, had a person made or purported to have made an election which, if so made or purported to have been made, would be validated under section 5, he shall, as from the date on which the election would have taken effect, be deemed to be a person to whom section 66 of the Principal Act applies.

New South Wales Retirement Benefits (Amendment).

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 3 (1), definition of "employee"—

From paragraph (c) (ii), omit "to which regulations under section 12 (6) relate", insert instead "referred to in section 12 (1) (a) (ii)".

(b) Section 3 (1), definition of "initial credit"—

After paragraph (b), insert :—

(c) in relation to a contributor who, before he became a contributor, was a participant in a superannuation scheme by virtue of his employment, not being a superannuation scheme referred to in paragraph (a) or (b) —any amount paid into the Fund by or in relation to the contributor as a consequence of an order under section 12 (1), being the amount of any money paid to him or on his behalf, or recovered by him or on his behalf, upon withdrawal from the scheme less such part of that amount, if any, as may be required, by terms and conditions referred to in section 12 (1) (c), to be paid into the Fund on behalf of his employer or otherwise disbursed to or on behalf of his employer;

(c) Section 3 (1), definition of "initial credit benefit"—

Omit "or the Transport Retirement Fund", insert instead ", the Transport Retirement Fund or another superannuation scheme".

(d) Section 3 (6) (b)—

Omit "pursuant to regulations referred to in section 12 (6)", insert instead "by reason of his being within a class of persons referred to in section 12 (1) (a) (ii)".

New South Wales Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(e) Section 3 (10)—

After “period”, insert “of”.

(2) (a) Section 12 (1)—(1B)—

Omit section 12 (1), insert instead :—

(1) The Minister—

(a) by order published in the Gazette may specify a class or classes of persons being either or both of the following classes, namely :—

(i) a class of employees;

(ii) a class of persons in the employment of an employer, being persons who, immediately before the date of publication of the order in the Gazette, were participants in a superannuation scheme by virtue of their employment;

(b) shall, where he specifies a class or classes of persons referred to in paragraph (a), declare in the order that a specified date, being a date that is not earlier than 3 months later than the date of publication of the order in the Gazette, is the election date for the purposes of this section in respect of a person within any such class; and

New South Wales Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) shall, where he specifies a class of persons referred to in paragraph (a) (ii), determine terms and conditions of either or both of the following kinds, namely :—

(i) such terms and conditions as he thinks fit in compliance with which a person within that class may elect on that election date to become a contributor to the Fund;

(ii) such terms and conditions as he thinks fit which shall apply to a person within that class who elects on that election date to become a contributor to the Fund.

(1A) The terms and conditions referred to in subsection (1) (c)—

(a) in relation to a person within a class of persons referred to in subsection (1) (a) (ii), may include terms and conditions in relation to the withdrawal from a superannuation scheme and the disposition of money payable to him or on his behalf, or recoverable by him or on his behalf, upon withdrawal from the scheme; and

(b) may be made to vary in their application according to time or circumstance.

(1B) The Board shall notify, in writing, a person referred to in subsection (1) (a) (ii) of the terms and conditions determined in relation to him under

New South Wales Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

subsection (1) (c) as soon as practicable after the publication in the Gazette of the order under subsection (1) that relates to him.

(b) Section 12 (2)—

Omit “the regulations”, insert instead “compliance with any terms and conditions determined under subsection (1) (c) (i) in relation to him”.

(c) Section 12 (2A)–(2C)—

After section 12 (2), insert :—

(2A) A person within a class of persons referred to in subsection (1) (a) (ii) may, for the purpose of complying with any terms and conditions determined under subsection (1) in relation to him, withdraw from a superannuation scheme in which he was, immediately before the date of publication of the order in the Gazette, a participant by virtue of his employment as if he had resigned, immediately before his withdrawal from the superannuation scheme, from the employment of his employer.

(2B) Where a person within a class of persons referred to in subsection (1) (a) (ii) fails to comply with a term or condition of a kind referred to in subsection (1) (c) (ii), the Board may—

(a) treat the person for the purposes of this Act in such manner; and

(b) take such action,

as will, having regard to the circumstances of the case, on actuarial advice, be reasonably appropriate to deal with the failure.

New South Wales Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(2C) Without limiting the generality of subsection (2B), the action which the Board may take under that subsection may include either of the following :—

(a) treating the election by the person to contribute to the Fund as having been a nullity and refunding to him an amount equal to the sum of—

(i) the total of the amounts of his contributions to the Fund; and

(ii) the amount of his initial credit, if any;

(b) withholding or reducing any benefit payable under this Act to the extent to which the benefit is attributable to the person's employer's contributions to the Fund, or to a lesser extent.

(d) Section 12 (6), (6A)—

Omit section 12 (6), insert instead :—

(6) Where the employer of a person within a class of persons referred to in subsection (1) (a) (ii) is entitled to be paid on its own behalf, or to recover on its own behalf, or has been paid on its own behalf, or has recovered on its own behalf, money from a superannuation scheme from which the person has withdrawn as a consequence of an order under subsection (1), the Minister may direct the employer, in writing, to pay the money into the Fund.

(6A) The Board may, in any court of competent jurisdiction, recover as a debt from an employer any money that the employer has been directed to pay into the Fund pursuant to subsection (6).

New South Wales Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Section 16 (1) (b)—

Omit “12 (2)”, insert instead “12 (1) (a) (i)”.

(4) Section 26 (7) (c)—

Omit “five-eighths”, insert instead “five-eighths”.

(5) Section 34 (3A)—

After section 34 (3), insert :—

(3A) The Board shall credit to an employer, in the books of the Board—

- (a) any money paid into the Fund by the employer in accordance with a direction under section 12 (6) (or section 12 (6) as applied by section 66 (3));
- (b) any money recovered by the Board from the employer under section 12 (6A) (or section 12 (6A) as applied by section 66 (3)); and
- (c) any money paid into the Fund by or in relation to a contributor on behalf of the employer as may be required by terms and conditions referred to in section 12 (1) (c).

(6) Section 66 (3)—

After section 66 (2), insert :—

(3) Without limiting the generality of subsection (2), subsections (6) and (6A) of section 12 apply to and in respect of the employer of a person who makes an election

New South Wales Retirement Benefits (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

under this section and who was, immediately before he made the election, a participant in a superannuation scheme by virtue of his employment, in the same way as those subsections apply to and in respect of the employer of a person referred to in section 12 (1) (a) (ii) who makes an election under section 12 (2).

(7) Schedule 2—

Omit :—

Metropolitan Meat Industry Board ..	All persons employed by the Board.
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insert instead :—

Homebush Abattoir Corporation ..	All persons employed by the Corporation.
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