

STATE PUBLIC SERVICE SUPERANNUATION (AMENDMENT)
ACT 1985 No. 154

New South Wales



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ELIZABETHÆ II REGINÆ

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Act No. 154, 1985

An Act to amend the State Public Service Superannuation Act 1985 with respect to the superannuation scheme established under that Act and the constitution of the State Public Service Superannuation Board.
[Assented to, 28th November, 1985.]

See also Superannuation (Further Amendment) Act 1985

State Public Service Superannuation (Amendment) 1985

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 "State Public Service Superannuation (Amendment) Act 1985".

Commencement

2. (1) Except as provided by this section, this Act shall be deemed to have commenced on 1 July 1985.

(2) Schedule 1 (5) (a) and (6), and section 5 in its application to those provisions, shall commence on the date of assent to this Act.

(3) Schedule 2, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The State Public Service Superannuation Act 1985 is referred to in this Act as the Principal Act.

Schedules

4. This Act contains the following Schedules:

SCHEDULE 1—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT

SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE CONSTITUTION OF THE BOARD

Amendment of Act No. 45, 1985

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE 1

(Sec. 5)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) (a) Section 5 (1), definition of "employer-financed benefit"—

After the definition of "employer", insert:

"employer-financed benefit", in relation to a contributor, means—

- (a) an employer's component payable to, or in relation to, the contributor under Part V;
- (b) a benefit payable to the contributor under section 32 (2) (b); or
- (c) a benefit (including interest) payable to, or in relation to, the contributor under section 34 (5) (b),

whichever is applicable and, where the supplementary benefit is payable to, or in relation to, the contributor, includes an amount equal to 75 per cent of the supplementary benefit;

(b) Section 5 (1), definition of "superannuation scheme"—

After "arrangement" where firstly occurring, insert "(whether or not established by an Act)".

(c) Section 5 (2)—

Omit "the maximum number of the contributor's", insert instead "the number of the contributor's maximum".

(d) Section 5 (4)—

After section 5 (3), insert:

(4) For the purposes of this Act, a person appointed by the Coal Industry Tribunal to be a Local Coal Authority in the State shall be deemed to be, while holding office as such an Authority, a person employed by the Joint Coal Board.

(2) Section 6 (10)–(12)—

After section 6 (9), insert:

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(10) During the period in which a contributor is on part-time leave without pay (not being prescribed leave), the salary of the contributor shall, for the purposes of this Act, be deemed to be reduced by the same proportion as the contributor's hours of employment with an employer have been reduced by that part-time leave without pay.

(11) In subsection (10), "leave without pay" and "prescribed leave" have the same meanings as they have in section 17.

(12) Subsection (10) does not apply for the purpose of calculating the amount of any benefit.

(3) (a) Section 9 (1) (a) (i)—

Omit "and".

(b) Section 9 (1) (a) (iii)—

After section 9 (1) (a) (ii), insert:

(iii) interest as provided by section 10; and

(c) Section 9 (3) (a)—

Omit the paragraph, insert instead:

(a) to which shall be credited—

(i) the amounts debited pursuant to subsection (2) (b) (i); and

(ii) interest as provided by section 10; and

(d) Section 9 (4) (a) (i)—

After "contributions", insert "or other payments".

(e) Section 9 (4) (b)—

Omit the paragraph, insert instead:

(b) to which shall be debited—

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (i) so much of any benefit payable to, or in relation to, a contributor employed by the employer as comprises the employer-financed benefit, the amount payable where 2 or more employers employed the contributor between entry date and exit date being calculated as prescribed;
 - (ii) the amount of the employer's share of management costs referred to in section 46 (2); and
 - (iii) interest payable by the employer under section 58.
- (4) (a) Section 10 (1)—
- Omit "each contributor's account, and each employer's account.", insert instead "each of the accounts established under section 9".
- (b) Section 10 (3)—
- After "(1)", insert "to contributors' accounts and employers' accounts".
- (5) (a) Section 12 (2) (a), (d)—
- Omit "the prescribed form" wherever occurring, insert instead "a form approved by the Board for the purposes of this section".
- (b) Section 12 (5)—
- Omit "55 years", insert instead "60 years".
- (c) Section 12 (7)—
- After section 12 (6), insert:
- (7) Where a contributor to another superannuation scheme becomes (but for being such a contributor) entitled also to elect to contribute to the Fund by reason of a change of work category or for any other reason—

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (a) that contributor shall be deemed not to be a contributor to that other superannuation scheme for the purposes of making that election;
 - (b) that contributor may make that election on condition that the Board approves an application made by the person under section 13 to be covered for the supplementary benefit; and
 - (c) that election takes effect as at the date determined by the Board.
- (6) (a) Section 13 (2) (b)—
Omit “as are prescribed”, insert instead “as the Board considers to be necessary or convenient”.
- (b) Section 13 (3) (a)—
Omit the paragraph, insert instead:
- (a) to submit to such a medical examination as may be required by the Board; and
- (c) Section 13 (5)—
Omit the subsection, insert instead:
- (5) For the purpose of deciding whether or not to approve an application under subsection (1), the Board—
- (a) may, under subsection (3), require the applicant to submit to further medical examinations or provide further medical reports; and
 - (b) may obtain such evaluations of medical examinations or medical reports as it thinks fit.
- (7) Section 16 (4)—
Omit “as at that review date” insert instead “as at that adjustment date”.

*State Public Service Superannuation (Amendment) 1985*SCHEDULE 1—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(8) Section 17 (4)—

After section 17 (3), insert:

(4) For the purpose of determining the initial period in relation to a contributor who is on part-time leave without pay, a reference in the definition of “initial period” in subsection (1) to 3 months shall be read as a reference to the number of months (rounded off to the nearest whole number) calculated in accordance with the formula—

$$\text{EIP} = \frac{3}{1-S}$$

where—

EIP represents the number of months to be ascertained; and

S represents the contributor’s salary ratio.

(9) Section 18 (1) (a)—

After “55”, insert “or under section 33 (benefit on retrenchment before age 55),”.

(10) Part IV, heading—

After “CONTRIBUTIONS”, insert “AND OTHER PAYMENTS”.

(11) (a) Section 22 (1)—

Omit “paid”, insert instead “payable”.

(b) Section 22 (3)—

Omit “Board” where firstly occurring, insert instead “Fund”.

(c) Section 22 (4)—

Omit the subsection.

State Public Service Superannuation (Amendment) 1985

SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(12) Section 26 (3)—

After section 26 (2), insert:

(3) In calculating the adjusted length of a contributor's membership period under this section, the salary ratio of the contributor during any period that is not an applicable superannuation period shall be deemed to be zero.

(13) Section 29 (1)—

Omit "representative", insert instead "representatives".

(14) Section 32 (4)—

After section 32 (3), insert:

(4) In subsection (1), "discharged" includes ceasing to be employed by an employer by reason of the expiration of the period, or successive periods, of employment.

(15) (a) Section 34 (1), (6) (a)—

After "55" wherever occurring, insert "or under section 33 (benefit on retrenchment before age 55)".

(b) Section 34 (3)—

Omit "in the case of a contributor covered for the supplementary benefit".

(c) Section 34 (7)—

After section 34 (6), insert:

(7) A contributor who ceases to be an employee within the meaning of this Act while employed by the same employer—

(a) is required to make provision for a benefit provided by this section notwithstanding anything to the contrary in subsection (1);

State Public Service Superannuation (Amendment) 1985

SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) shall be deemed to have elected under subsection (1) to make provision for that benefit on so ceasing to be an employee; and

(c) is not entitled to elect to take the benefit provided by subsection (6) while employed by that same employer.

(16) Section 39 (2)—

At the end of section 39, insert:

(2) An agent may be employed by the Board to receive or pay money notwithstanding that the agent, or any subagent employed by the agent, is not a bank.

(17) (a) Section 42—

After “director” wherever occurring, insert “or other officer”.

(b) Section 42 (3)—

After section 42 (2), insert:

(3) A reference in this section to an officer of a company includes a reference to any person concerned in the management of the company.

(18) (a) Section 43 (2), (3)—

Omit “or suffered” wherever occurring, insert instead “or omitted to be done”.

(b) Section 43 (3)—

Omit “or commenced”, insert instead “or omitted to be done”.

(c) Section 43 (4)—

Omit the subsection, insert instead:

(4) No decision made, or act done or omitted to be done, by the Board, a member of the Board, a member of the staff of the

State Public Service Superannuation (Amendment) 1985

SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

Board or any other person acting under the direction of the Board, in good faith for the purposes of executing this or any other Act subjects a member of the Board, a member of that staff or a person so acting personally to any action, liability, claim or demand.

(19) Section 52 (1)—

Omit “who have elected to become”, insert instead “who may elect to become”.

(20) Section 53 (3)—

Omit “in relation to a medical examination or”.

(21) Section 58 (1)—

Omit “(2)”, insert instead “(3)”.

(22) Schedule 3—

Omit “The Trustees of the Sydney Grammar School.”.

(23) (a) Schedule 6, clause 2A—

After clause 2, insert:

State Public Service Superannuation (Amendment) Act 1985

2A. An election made under section 12, an application made under section 13 or a medical examination undergone under section 13, before the date of assent to the State Public Service Superannuation (Amendment) Act 1985 shall be deemed to have been duly made or undergone notwithstanding the amendments made by Schedule 1 (5) and (6) to that Act.

State Public Service Superannuation (Amendment) 1985

SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) Schedule 6, clause 3 (1)—

Omit “and the Superannuation (Scheme Closure) Amendment Act 1985”, insert instead “or upon the enactment of the State Public Service Superannuation (Amendment) Act 1985”.

(c) Schedule 6, clause 3 (2)—

Omit the subclause.

SCHEDULE 2

(Sec. 5)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD

(1) (a) Section 36 (2) (c)—

Omit “and”.

(b) Section 36 (2) (d), (e)—

At the end of section 36 (2) (d), insert:

; and

(e) a part-time appointed member of the Board, who shall be the person for the time being holding or acting in the office of part-time appointed member of the State Superannuation Board.

(2) Section 43 (2A)—

State Public Service Superannuation (Amendment) 1985

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD—*continued*

After section 43 (2), insert:

(2A) A decision made, or any act or thing done or omitted to be done, by the Board or by a member of the Board who is also a member of the Public Authorities Superannuation Board in the exercise of a function conferred on the Board or that member by this Act shall not be called in question on the ground of an alleged conflict of interest by reason that such a member is a member of both the Board and the Public Authorities Superannuation Board or on the ground that knowledge gained by such a member in one of those capacities is, or may be, relevant to the exercise of a function in the other of those capacities.

(3) Schedule 2, clause 2—

Omit "3 members", insert instead "4 members".
