



ANNO TRICESIMO OCTAVO

# ELIZABETHAE II REGINAE

A.D. 1989

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No. 54 of 1989

An Act to amend the Superannuation Act, 1988.

[Assented to 19 October 1989]

The Parliament of South Australia enacts as follows:

## Short title

1. (1) This Act may be cited as the *Superannuation Act Amendment Act (No. 2), 1989*.
- (2) The *Superannuation Act, 1988*, is referred to in this Act as “the principal Act”.

## Superannuation arrangements

2. Section 5 of the principal Act is amended by striking out from subsection (1) “or body” wherever occurring and substituting, in each case, “, body or person”.

## The Trust

3. Section 11 of the principal Act is amended by inserting after subsection (3) the following subsection:

- (3a) The Trust is an instrumentality of the Crown.

## Functions of the Trust

4. Section 12 of the principal Act is amended by striking out from subsection (2) “funds arising from other public sector superannuation schemes” and substituting “other funds related to public sector superannuation”.

## Substitution of s. 17

5. Section 17 of the principal Act is repealed and the following section is substituted:

### The Fund

17. (1) The Fund continues in existence.
- (2) The assets of the Fund belong (both at law and in equity) to the Crown.
- (3) The Fund is subject to the management and control of the Trust.
- (4) The Treasurer must pay into the Fund periodic contributions reflecting the contributions paid to the Treasurer by contributors with respect to the relevant period.
- (5) All interest and accretions arising from investment of the Fund must be paid into the Fund.

(6) The Fund will be treated as made up of two major divisions—

(a) one proportioned to—

- (i) the aggregate balance, as at a date determined by the Board, of contribution accounts maintained in the names of old scheme contributors;
- (ii) the amount, as at the date referred to in subparagraph (i), that represents income of the Fund referable to old scheme contributors that is not reflected in contribution accounts;
- (iii) the amount, as at the date referred to in subparagraph (i), that is referable to contributions of old scheme contributors whose contribution accounts have been closed;
- (iv) subsequent contributions and payments referable to old scheme contributors;
- (v) subsequent income of the Fund attributable to investment of this division of the Fund;

(b) the other proportioned to—

- (i) the aggregate balance, as at the date referred to in paragraph (a) (i), of contribution accounts maintained in the names of new scheme contributors;
  - (ii) subsequent contributions and payments referable to new scheme contributors;
- and
- (iii) subsequent income of the Fund attributable to investment of this division of the Fund.

(7) The following amounts will be paid from the Fund:

- (a) administrative costs and other expenses related to the management and investment of the Fund;
- (b) the prescribed percentage of the other costs of administering this Act;
- (c) any reimbursement of the Consolidated Account that the Treasurer charges against the Fund in pursuance of this Act.

(8) The Trust must determine the value of each division of the Fund as at the end of each financial year.

### **Repeal of s. 18**

6. Section 18 of the principal Act is repealed.

### **Insertion of Divisions IIIA and IIIB in Part II**

7. The following Divisions are inserted after Division III of Part II:

#### **DIVISION IIIA**

##### **Contributor's accounts**

20a. (1) The Board will maintain accounts in the names of all contributors.

(2) A contributor's account must be debited with any payment that is, in pursuance of this Act, to be charged against that account.

(3) At the end of each financial year, each contributor's account that has a credit balance will be increased—

- (a) if the account is in the name of an old scheme contributor—to reflect a rate of return determined by the Board in relation to the contribution accounts of old scheme contributors for the relevant financial year;
- (b) if the account is in the name of a new scheme contributor—to reflect a rate of return determined by the Board in relation to the contribution accounts of new scheme contributors for the relevant financial year.
- (4) In determining a rate of return for the purposes of subsection (3), the Board should have regard to—
- (a) the net rate of return achieved by investment of the relevant division of the Fund over the financial year;
- and
- (b) the desirability of reducing undue fluctuations in the rate of return on contributors' accounts.
- (5) Where, in pursuance of subsection (4) (b), the Board determines a rate of return that is at variance with the net rate of return achieved by investment of the relevant division of the Fund, the Board must include its reasons for the determination in its report for the relevant financial year.
- (6) Where it is necessary to determine the balance of a contributor's account at some time other than the end of a financial year, the balance will be extrapolated by applying a percentage rate of return on accounts in the relevant division of the Fund estimated by the Board.

#### DIVISION IIIB

##### **Payment of benefits**

20b. (1) Any payment to be made under this Act to a contributor, a deceased contributor's estate, or a spouse or child of a deceased contributor, must be made out of the Consolidated Account (which is appropriated to the necessary extent).

(2) If any such payment, or a proportion of any such payment, is, in pursuance of this Act, to be charged against the contributor's contribution account, the Treasurer may re-imburse the Consolidated Account by charging the relevant division of the Fund with the amount of that payment or the relevant proportion of that payment (as the case requires).

##### **Enactment of s. 43a**

8. The following section is inserted after section 43:

##### **Percentage of pension, etc., to be charged against contribution account**

43a. A prescribed proportion of a pension or lump sum paid to or in relation to a contributor will be charged against the contributor's contribution account.

##### **Repeal of s. 60**

9. Section 60 of the principal Act is repealed.

10. The principal Act is amended as indicated in the Schedule.

## SCHEDULE

## Superannuation Act, 1988

Section Amended	How Amended
Section 4— Definition of “contributor” Definition of “new scheme contributor” After the definition of “salary”	Delete “to the Fund” wherever it occurs. Delete “to the Fund”. Insert the following definition: “the Scheme” means the scheme of superannuation established by this Act and (where the context admits) includes the scheme of superannuation established by a corresponding previous enactment.
Section 4 (4)	Delete “to the Fund”.
Section 5 (1)	Delete “to the Fund”.
Section 7 (2)	Delete “to the Fund” wherever it occurs.
Section 22 (1)	Delete “to the Fund”.
Section 22 (8)	Delete “Fund” and substitute “Scheme”; Delete “which is to be financed from the General Revenue of the State” and substitute “(other than one that is to be charged against the contributor’s contribution account)”.
Section 23 (1)	Delete “contribute to the Fund” and substitute “make contributions to the Treasurer”.
Section 23 (2)	Delete “to the Fund” wherever it occurs.
Section 23 (7)	Delete “to the Fund”.
Section 24 (1) (b)	Delete “to the Fund”.
Section 27 (1) (a)	Delete this paragraph and substitute: (a) an employee component (to be charged against the contributor’s contribution account) equivalent to the amount standing to the credit of the contributor’s contribution account;
Section 28 (1) (a)	After “immediately” insert “an amount (to be charged against the contributor’s contribution account) equivalent to”.
Section 28 (1) (b)	Delete “in the Fund”.
Section 28 (2)	Delete “in the Fund”.
Section 28 (3) (a)	Delete this paragraph and substitute: (a) an employee component (to be charged against the contributor’s contribution account) equivalent to the amount standing to the credit of the contributor’s contribution account;
Section 28 (5) (b) (i)	Delete this subparagraph and substitute: (i) an employee component (to be charged against the contributor’s contribution account) equivalent to the amount standing to the credit of the contributor’s contribution account;
Section 28 (6) (a)	Delete “Fund” and substitute “Scheme”.
Section 29 (2) (a)	Delete this paragraph and substitute: (a) an employee component (to be charged against the contributor’s contribution account) equivalent to the amount standing to the credit of the contributor’s contribution account;
Section 29 (3) (a)	Delete “to the Fund”.
Section 30 (8)	Delete “to the Fund”.
Section 31 (1) (a)	Delete this paragraph and substitute: (a) an employee component (to be charged against the contributor’s contribution account) equivalent to the amount standing to the credit of the contributor’s contribution account;

Section Amended	How Amended
Section 32 (2) (a)	Delete this paragraph and substitute: (a) an employee component (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account;
Section 32 (5) (a)	Delete this paragraph and substitute: (a) an employee component (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account;
Section 34 (2)	Delete "membership of the Fund" and substitute "membership of the Scheme".
Section 34 (3)	Delete "Fund" from the definition of "A" and substitute "Scheme"; Delete "pays to the Fund" from the definition of "R" and substitute "pays to the Treasurer".
Section 35 (5) (a)	Delete this paragraph and substitute: (a) an employee component (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account;
Section 35 (5) (b)	Delete "to the Fund".
Section 36 (8)	Delete "to the Fund".
Section 38 (4) (c) (ii)	Delete "to the Fund".
Section 39 (1)	Delete paragraph (a) and substitute: (a) to take immediately an amount (to be charged against the contributor's contribution account) equivalent to the total balance of the account;
Section 39 (3)	Delete paragraph (a) and substitute: (a) an employee component (to be charged against the contributor's contribution account) equivalent to the total balance of the account;
Section 39 (4)	Delete "to the Fund".
Section 39 (5)	Delete "in the Fund".
Section 39 (6) (a)	Delete "to the Fund".
Section 39 (7)	Delete "to the Fund".
Section 39 (8)	Delete "to the Fund".
Section 48 (1)	Delete "the balance standing to the credit of the contributor's contribution account will be paid to the contributor or to the contributor's estate" and substitute "an amount equivalent to the balance standing to the contributor's contribution account will be paid to the contributor or the contributor's estate (and charged against that account)".
Section 48 (2) (f)	Delete "it will be paid to the contributor or the contributor's estate" and substitute "an amount equivalent to the balance will be paid to the contributor or the contributor's estate (and charged against that account)".
Section 54 (5)	Delete "Fund" and substitute "Scheme".
Schedule 1	
Clause 1	Delete from subclauses (1) and (2) "to the Fund" and substitute, in each case, "to the Scheme".
Clause 2 (1) (b)	Delete "to the Fund".
Clause 2 (4)	Delete "to the Fund".
Clause 4	Delete "to the Fund".
Clause 5 (1) (a) (ii)	Delete "to the Fund".
Clause 9 (1a)	Delete from paragraph (a) "in the Fund".
Clause 9 (2)	Delete "Fund" and substitute "Treasurer".
Clause 11 (2)	Delete "to the Fund" and substitute "made in accordance with the Scheme".

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Section Amended	How Amended
Clause 12	Insert the following subclause: (2) Money paid by an employer pursuant to an arrangement referred to in subclause (1) and held by the Trust does not form part of the Fund and must be applied by the Trust in accordance with the arrangement.

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In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor