

SUPERANNUATION AMENDMENT ACT (No. 2) 1981

No. 75 of 1981

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SUPERANNUATION AMENDMENT ACT (No. 2) 1981

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AN ACT to amend the Superannuation Act 1938 to make further provision for the payment of expenses incurred for actuarial services carried out for the purposes of the administration of that Act, to provide for the protection of members of the Superannuation Fund Board, and to remove doubts which have arisen concerning the jurisdiction of the Board with respect to the payment of pensions and other benefits on the ground of invalidity, and for other purposes.

[Royal Assent 9 December 1981]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Superannuation Amendment Act* Short title. (No. 2) 1981.

2—This Act shall commence on the twenty-eighth day after the date on which it receives the Royal Assent. Commencement.

Principal Act. **3**—In this Act, the *Superannuation Act 1938** is referred to as the Principal Act.

Amendment of section 3 of Principal Act (Interpretation). **4**—Section 3 (1) of the Principal Act is amended by omitting “Superannuation Board” from the definition of “the Board” and substituting “Superannuation Fund Board”.

Amendment of section 4 of Principal Act (Establishment of Fund). **5**—(1) Section 4 (3) of the Principal Act is amended by omitting the passage beginning with “, and, except” and ending with “by the Board”.

(2) Section 4 of the Principal Act is further amended by inserting the following subsection after subsection (3):—

(3A) The Board shall pay out of the Fund—

(a) all benefits under this Act, except where otherwise provided by this Act; and

(b) the expenses incurred for services that are carried out by the Actuary on or after 1st July 1981 for the purposes of the administration of this Act.

Insertion in Principal Act of new section 15A.

6—After section 15 of the Principal Act, the following section is inserted:—

Protection for members of the Board.

15A—(1) Subject to subsection (2), any matter or thing done by a member of the Board in good faith for the purpose or purported purpose of the performance by him of his duties as a member of the Board shall not subject him personally to any action, liability, claim, or demand.

(2) Subsection (1) does not preclude the Board from being subject to any action, liability, claim, or demand to which the Board would, but for that subsection, have been subject.

Substitution of section 16 of Principal Act.

7—Section 16 of the Principal Act is repealed and the following section is substituted:—

Delegation.

16—(1) The Board may by instrument in writing delegate to a member of the Board or to an officer of the Board appointed under section 13 the performance or exercise of such of the Board’s functions and powers (other than this power of delegation) as are specified in the instrument, and may, by a similar instrument, revoke wholly or in part any such delegation.

* 2 Geo. VI No. 41. For this Act, as amended to 1969, see Appendix A of the Annual Volume of Statutes for 1969. Subsequently amended by Nos. 46 and 73 of 1970, No. 112 of 1974, No. 94 of 1976, No. 107 of 1977, No. 59 of 1978, No. 15 of 1980, and No. 23 of 1981.

(2) A function or power, the performance or exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be performed or exercised from time to time in accordance with the terms of the delegation.

(3) A delegation under this section may be made subject to such conditions or limitations as to the performance or exercise of any of the functions or powers delegated, or as to time or circumstance, as are specified in the instrument.

(4) Notwithstanding any delegation under this section, the Board may continue to perform or exercise all or any of the functions or powers delegated.

(5) Any act or thing done by or to a delegate while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done by or to the Board and shall be deemed to have been done by or to the Board.

(6) An instrument purporting to be signed by a delegate of the Board in his capacity as such a delegate shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Board under seal and, until the contrary is proved, shall be deemed to be an instrument signed by a delegate of the Board under this section.

8—(1) Section 28 (1) of the Principal Act is amended by omitting “Every” and substituting “Subject to subsection (1A), every”.

Amendment of section 28 of Principal Act (Full pension: When payable).

(2) Section 28 of the Principal Act is further amended by inserting the following subsection after subsection (1A):—

(1A) A contributor to whom paragraph (b) of subsection (1) relates is not entitled to a pension under that subsection unless the Board, before the retirement of the contributor on the ground of invalidity not due to his own fault, has, in determining—

(a) the question referred to in section 62 (4) (a), found that the contributor is an invalid or is physically or mentally incapable of performing his duties; and

- (b) the question referred to in section 62 (4) (b), found that any such invalidity or incapacity is not due to the fault of the contributor.

Amendment of section 29 of Principal Act (Qualified pension: When payable).

9—(1) Section 29 (4) of the Principal Act is amended by omitting “Where” and substituting “Subject to subsection (4A), where”.

(2) Section 29 of the Principal Act is further amended by inserting the following subsection after subsection (4):—

(4A) A contributor is not entitled to a pension under subsection (4) unless the Board, before the retirement of the contributor on the ground of invalidity due to his own fault, has, in determining—

- (a) the question referred to in section 62 (4) (a), found that the contributor is an invalid or is physically or mentally incapable of performing his duties; and
- (b) the question referred to in section 62 (4) (b), found that any such invalidity or incapacity is due to the fault of the contributor.

Amendment of section 42F of Principal Act (Rights and obligations of contributors for limited benefits and their dependants).

10—(1) Section 42F (3) of the Principal Act is amended by omitting “A person” and substituting “Subject to subsection (3AA), a person”.

(2) Section 42F of the Principal Act is further amended by inserting the following subsection after subsection (3):—

(3AA) A contributor for limited benefits to whom paragraph (a) of subsection (3) relates is not entitled to any refund, allowance, or pension under that subsection unless the Board, before the retirement of the contributor on the ground of invalidity not due to his own fault, has, in determining—

- (a) the question referred to in section 62 (4) (a), found that the contributor is an invalid or is physically or mentally incapable of performing his duties; and
- (b) the question referred to in section 62 (4) (b), found that any such invalidity or incapacity is not due to the fault of the contributor.

11—Section 58 of the Principal Act is amended—

(a) by inserting “(1)” before “All expenses”; and

(b) by adding the following subsection as subsection (2) of that section:—

(2) In subsection (1), “expenses” does not include expenses for services referred to in section 4 (3A) (b) that are carried out on or after 1st July 1981.

Amendment of
section 58 of
Principal Act
(Cost of
administration).

12—Any authorization in force under section 16 of the Principal Act, as in force immediately before the commencement of section 7 of this Act, shall be deemed to be a delegation under section 16 of the Principal Act as in force on and after that commencement. **Saving.**

