



ANNO SECUNDO

EDWARDI VII REGIS.

A.D. 1902.

No. 792.

An Act to provide for a Fund for the Relief and Maintenance of Superannuated Public Servants and of the Widows and Families of Deceased Public Servants, and for other purposes.

[Assented to, November 13th, 1902.]

BE it Enacted by the Governor, with the advice and consent of the Parliament of South Australia, as follows:

1. This Act may be cited as "The Public Service Superannuation Fund Act, 1902." Short title.

2. In the interpretation of this Act, and of any regulations made hereunder, unless inconsistent with the context or subject matter — Interpretation.

"Board" shall mean "The Public Service Superannuation Fund Board":

"The Fund" shall mean "The Public Service Superannuation Fund":

"Regulations" shall mean regulations made under this Act:

"Prescribed" shall mean prescribed by regulations under this Act:

"Minister" shall mean the Treasurer of South Australia:

"Subscriber" shall mean a person subscribing to "The Fund," or who having been a subscriber to "The Fund" is (a) receiving an annuity therefrom, or (b) is temporarily excluded or excused by the Board from paying subscriptions:

"Officer"

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“Officer” shall mean a person employed in any branch of the Public Service, unless upon the Civil List or engaged under a special contract, whose employment shall, in the opinion, expressed in the prescribed manner, of the Board and of the Minister controlling the department in which such person is employed, be of a permanent character.

Incorporation of Board.

3. For the purposes of this Act a Board is hereby constituted, to be called “The Public Service Superannuation Fund Board,” which shall be a body corporate with perpetual succession and a common seal, and shall by the said name be capable of suing and being sued, and of purchasing, holding, and alienating land, and of doing all acts necessary or expedient for carrying out the purposes of this Act, and of doing and suffering, subject to this Act, all such other acts and things as bodies corporate may by law do and suffer.

Members of Board.

4. The Board shall consist of seven members, of whom the Under Treasurer, or such other public servant as the Board and the Minister shall, in the prescribed manner, agree upon, shall *ex officio* be one. The first members other than the *ex officio* member shall be Charles Lawrence Whitham and Alexander Buchanan, who shall be deemed to have been appointed by the Governor; and Edwin Mitchell Smith, William Lewis Neale, John Pickering, and Arthur Webb Pettit. The *ex officio* member shall be the executive officer of the Board. The Board shall annually elect, from among themselves, a chairman, who shall have a casting as well as a deliberative vote.

Chairman.

Retirement of members; appointment and selection of new members.

5. (1) On the thirty-first day of December, one thousand nine hundred and three, and on the same day in every subsequent year, one member of the Board shall retire from office. The member to retire shall be the one, other than the *ex officio* member, who has been longest in office without re-appointment or re-election; and when there shall be two or more such members, or when all the members shall have been in office for the same period without re-appointment or re-election, the one to retire shall be decided by lot among them at least six weeks before the day for retirement; or, if the decision is not made by lot within the required time, then such member as the Governor may declare shall retire:

Appointment of two by Governor.

(2) In the case of the retirement on the last day of any year of the said Charles Lawrence Whitham, or Alexander Buchanan, or any of their successors in office, the Governor shall appoint a person to be a member of the Board in the place of the retiring member:

Election of four by subscribers.

(3) In the case of the retirement on the last day of any year of the said Edwin Mitchell Smith, or William Lewis Neale, or John Pickering, or Arthur Webb Pettit, or any of their successors in office, the subscribers shall, in the prescribed manner, elect a subscriber to be a member of the Board in the place of the retiring member:

Retiring member eligible.

(4) Any retiring member shall be eligible for re-appointment or re-election:
(5) Subscribers

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(5) Subscribers who are annuitants for life shall be eligible to be members of the Board. Life annuitants eligible.

6. Any of the following acts or events shall cause a casual vacancy in the office of member of the Board, namely:— Extraordinary vacancies in Board

Death, lunacy, idiocy, insolvency, the execution of a statutory deed of assignment for the benefit of creditors, any statutory composition made with creditors, or conviction for felony or misdemeanor:

Absence from the State without the leave of the Board during the holding of three consecutive ordinary meetings, or failure to attend three consecutive ordinary meetings of the Board without sufficient cause, followed in either case by a resolution of the Board, passed at or before the next succeeding ordinary meeting of the Board, declaring the office vacant, which resolution the Board may pass, but are not bound to pass:

As to an elected member, his ceasing to be a subscriber or his applying for an annuity on the ground of incapacity for work:

Resignation by notice in writing signed by the member and posted or delivered to the chairman of the Board, or, if there shall be no such chairman, then to the executive officer.

7. Any casual vacancy in the Board occurring at any time other than the last day of any year shall be filled by the Board appointing a person to take the place of the member whose office is vacant, or, when there shall not be sufficient members of the Board to form a quorum, by the Governor appointing a person to take the place of such member. Any member appointed under this section shall retire when the member whose place he takes would have retired had no such casual vacancy occurred, and on such retirement the successor of the retiring member shall be appointed or elected, as the case may be, as if the retirement had been that of the member whose place has been so taken. Subject to the regulations for the time being in force relating to a quorum, the powers of the Board shall not be affected by any diminution in the number of its members, or by any vacancy in the office of member. Casual vacancy, how filled.

Powers not affected by vacancy.

8. Upon the appointment or election of any person as a member of the Board, notice thereof by the Chairman, or, if none, then by the Executive Officer of the Board, shall be published in the *Government Gazette*, and the *Government Gazette* containing such notice shall be conclusive evidence of such appointment or election. Evidence of appointment or election.

9. No member of the Board shall during his membership, nor until a period of six months shall have elapsed after he has ceased to be a member of the Board, borrow from the Fund. Member of Board not to borrow from Fund.

10. No

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Protection to members
of Board.

10. No member of the Board shall be personally liable except for his own acts and deeds, or be answerable for any banker, broker, or other person with whom any part of the moneys or effects of or belonging to the Fund shall be deposited or lodged for safe custody, or be answerable for the insufficiency or deficiency of any security or securities in or upon which any moneys shall be placed out or invested, or for the defect of or in title or value of any lands, or for any other misfortune, loss, or damage which may happen by reason of anything done by him in virtue of his office in the execution of this Act, except in cases where he shall be guilty of wilful neglect or default.

Officers of Board.

11. (1) The Board may—

- (a) Appoint such officers, clerks, and servants as they shall think necessary for efficiently conducting the affairs of the Fund:
- (b) Pay and allow such salaries and emoluments as the Board shall think fit:
- (c) From time to time remove from office any officer, clerk, or servant, and re-appoint him, or appoint another in his place.

(2) Any person in the Public Service appointed under subsection (1) of this section shall, while in the employment of the Board, be deemed to be still in the Public Service.

Formation of Fund.

12. A fund, to be called "The Public Service Superannuation Fund," shall be formed by the subscriptions to be paid by subscribers and by the moneys which may be received for the purchase of status, and the interest arising from the investment of such subscriptions and moneys. The Fund shall be exempt from income tax and from all other taxation whatsoever.

Investment of Fund.

13. The Fund shall be vested in and be under the control and management of the Board, who may invest the same on deposit with the Treasurer, or in any bank, or upon first mortgage of the fee-simple of land in South Australia, or upon Government securities of the Commonwealth of Australia, or of any State of the said Commonwealth, or upon securities guaranteed by the Government of the said Commonwealth or of any such State, or upon the securities of any Municipal Corporation in South Australia, or upon any other securities authorised by law for the investment of trust funds.

Application of Fund.

14. The Fund shall be devoted, as may be prescribed, to the following purposes:—

- i. Payment of the expenses of management, including the payment of an amount not exceeding One Pound One Shilling per meeting to each member of the Board:

ii. Providing

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11. Providing annuities—

- (a) For subscribers having a status of not less than twenty years with respect to the Fund on their retirement from the Public Service on or after attaining the prescribed age:
- (b) For subscribers having such status as may be prescribed during incapacity for work by reason of ill health or infirmity:

111. Providing annuities for widows of male subscribers and for children of male subscribers:

- 1v. Payment of money to any subscriber ceasing by reason of dismissal from the Public Service or otherwise to be a subscriber.

15. Subject to and in accordance with the regulations—

Optional subscribers.

1. Any of the following persons may be, with the consent of the Board, but shall not be compelled to be, a subscriber to the fund:—

(a) Any officer not within division (b) of this sub-section now in the Public Service who, being a male, is now receiving One Hundred Pounds or more per annum, or, being a female, is now receiving Seventy-five Pounds or more per annum:

(b) Any person now in or hereafter entering the Railway Service or the Police Service, or now capable or hereafter becoming capable of subscribing to the Public School Teachers' Superannuation Fund.

11. The following officers shall be subscribers to the Fund:—

Compulsory subscribers.

(a) Every male officer now in the Public Service, and not within division (b) of sub-section 1. of this section, who is now receiving less than One Hundred Pounds per annum, upon his entering into receipt of One Hundred Pounds or more per annum:

(b) Every female officer now in the Public Service, and not within division (b) of sub-section 1. of this section, who is now receiving less than Seventy-five Pounds per annum, upon her entering into receipt of Seventy-five Pounds or more per annum:

(c) Every person hereafter entering the Public Service, and not within division (b) of sub-section 1. of this section, who, being a male, shall enter into receipt of One Hundred Pounds or more per annum; or who, being a female, shall enter into receipt of Seventy-five Pounds or more per annum.

16. Unless

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Maximum and minimum subscriptions.

16. Unless and until otherwise prescribed—

(1) The maximum annual subscription shall be as follows:—

MALES.		FEMALES.	
Pay.	Maximum Subscription.	Pay.	Maximum Subscription.
Not exceeding £200	£16	Not exceeding £150	£12
Each full £50 above the first £200	£4 up to £40, inclusive of the £16	Each full £37 10s. above the first £150	£3 up to £30, inclusive of the £12

Provided that, in computing the maximum amount of subscription of any person who shall also be a subscriber to the Public School Teachers' Superannuation Fund, the amount subscribed by such person to that fund shall be included.

(2) The minimum annual subscriptions shall be, for males Eight Pounds, and for females Six Pounds.

Subscriptions not to cease without consent.

17. No subscriber shall, without the consent of the Board, cease while in the Public Service to be a subscriber to the Fund.

How subscriptions to be paid.

18. The Treasurer shall pay to the Board month by month the subscriptions due by each subscriber in the Public Service on pay, and the Minister controlling the department to which the subscriber belongs shall deduct such payments from the pay of the subscriber.

Purchase of status.

19. (1) Any officer entitled, or contingently entitled, to a retiring allowance under the provisions of the "Civil Service Act, 1874," and the "Civil Service Amendment Act, 1881," or to an allowance under any Government departmental regulations, may, with the sanction of the Minister and of the Board, and notwithstanding anything to the contrary contained in any Act heretofore passed, assign such allowance or any part thereof, with all interest thereon, to the Board, in the prescribed form, for the purchase of status with respect to the Fund. Any such purchase shall be conditional on the Board receiving the allowance and the interest (if any) assigned; and if the moneys received by the Board shall be less than contemplated at the time of the purchase, the status shall be proportionately reduced.

(2) Any officer may, with the consent of the Board, purchase by a money payment status with respect to the Fund.

Subscribers of the Public School Teachers' Fund may remain in that fund upon transfer to the State or Commonwealth Public Services.

20. In the event of any subscriber of the Public School Teachers' Superannuation Fund being transferred from the Education Department to some other branch of the Public Service of South Australia, or to the Public Service of the Commonwealth of Australia, it shall be lawful, notwithstanding such transfer, for the Board of Management of the Public School Teachers' Superannuation

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annuation Fund, if it think fit, to continue such subscriber so long as he shall remain in the Public Service of South Australia or of the Commonwealth of Australia in employment approved by the said Board of Management, as a subscriber of the Public School Teachers' Superannuation Fund.

21. (1) Every subscriber who shall have paid subscriptions for twenty years, or shall have acquired a status with respect to the Fund equivalent to twenty years' subscription, and shall have attained the prescribed age, shall, on retiring from the Public Service, be entitled to receive the prescribed annuity for the remainder of his life. Annuities for life—

(2) Every other annuity shall be granted for not more than one year at a time, and a fresh application from the subscriber shall each time be necessary. And for a year.

22. As regards a subscriber who from pay, or being upon leave of absence without pay, in the Public Service passes to the receipt of an annuity other than an annuity for his life, the following conditions shall apply for a period of two years:— Annuitants for a year to be deemed in the Public Service on leave without pay for two years.

- (a) He shall during the continuance of such annuity or any renewal thereof be held to be on leave of absence without pay, and shall not by reason of absence from active service forfeit his seniority or status in the Public Service :
- (b) The period of such continuance shall not count as service, but neither shall it in the event of his re-employment in the Public Service be held to constitute a break in the continuity of his service :
- (c) Upon regaining, in the opinion of the Board, capacity for work, the Governor may appoint him to such vacant position in the Public Service as his seniority and then capacity for work and efficiency may, in the opinion of the Governor, entitle him to :
- (d) If he refuses re-employment in the Public Service when so offered he shall cease to be a subscriber, and shall not be entitled to any further annuity out of the Fund, and any moneys he shall have received by way of annuity shall be deducted from the sum repayable to him out of the Fund upon his so ceasing to be a subscriber.

23. No annuity payable out of the Fund shall be anticipated, assigned, transferred, charged, encumbered, or otherwise parted with by the person entitled or contingently entitled thereto, in possession, expectancy, or otherwise ; nor shall any such annuity be attached or taken in execution under the process of any Court, nor, in the event of the insolvency of or statutory assignment or composition by such person, vest in the assignee or trustee of his estate ; but every such annuity shall be an inalienable personal provision for the person entitled thereto. Protection to annuitants.

24. During

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Government
guarantee.

24. During the period of fifteen years, computed from the first meeting of the Board, the due payment of all annuities payable under this Act is hereby guaranteed by the Government of South Australia, and such sum as the Treasurer may at any time certify under his hand to be necessary to secure such payment is hereby appropriated accordingly out of the General Revenue.

Audit of accounts.

25. The accounts relating to the Fund shall once at least in every year be audited by the Commissioner of Audit.

Annual report.

26. In the month of March in every year a report on the condition, investments, and affairs of the Fund and its administration during the year ending on the thirty-first day of December next preceding shall be prepared and laid before the Governor by the Board, and published in the *Government Gazette*.

Quinquennial
investigation.

27. (1) As soon as conveniently may be after the thirty-first day of December, one thousand nine hundred and seven, and at the end of every subsequent period of five years, the affairs of the Fund shall be investigated and reported upon by an actuary, to be appointed by the Board and approved by the Governor, and the report of such actuary shall be laid before the Governor by the Board.

(2) After every such actuarial investigation the rates of subscriptions or scales of benefits, or both, shall be reviewed, and shall be altered if in the opinion of the Board alteration shall be necessary to ensure—

- (a) The actuarial soundness of the Fund:
- (b) The fullest benefits to subscribers consistent with such soundness.

Regulations.

28. The Board, with the sanction of the Governor, may, from time to time, make, alter, and revoke regulations for all or any of the following purposes, that is to say—

- (a) Prescribing the duties of all persons employed in the administration of the Fund or otherwise for the purpose of this Act:
- (b) Regulating the security to be given by such persons or any of them:
- (c) Fixing the mode of subscribing, and fixing, increasing, or reducing the subscriptions to be paid, and the benefits to be taken by subscribers, their widows and children, whether already receiving annuities or not, or by any particular class or classes of subscribers, their widows and children, or in special cases by any individual subscriber or subscribers, their widows and children, on the ground of special eligibility, previous subscription to the Fund, or ill health, or on any other ground that shall appear reasonable to the Board, and the proportion of money to be repaid to subscribers ceasing to be subscribers:

(d) Prescribing

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- (d) Prescribing conditions as to age and medical examination :
- (e) Providing for policies to be taken out by subscribers :
- (f) The continuance as a subscriber of any officer transferred from the Public Service of South Australia to the Public Service of the Commonwealth of Australia during such period as such officer shall remain in such last-mentioned Public Service ; and the continuance for any period not exceeding three years as a subscriber of any officer leaving the Public Service of South Australia, otherwise than to enter the Public Service of the said Commonwealth, in any case where the Board shall think it probable that such officer may re-enter the Public Service of South Australia :
- (g) Prescribing the modes of purchasing status in respect of the Fund, whether by cash payments or by assignments of retiring allowances or otherwise, and prescribing and for increasing or reducing the amounts to be paid for the purchase of status :
- (h) Prescribing the times and manner of elections of members of the Board :
- (i) Regulating the meetings of the Board, and the times and places of and the quorum and proceedings at such meetings, the custody of the common seal, and the mode of its use :
- (j) Prescribing the mode of election of the chairman :
- (k) Prescribing forms necessary or expedient for carrying out this Act :
- (l) For holding meetings of subscribers, and regulating the proceedings thereat :
- (m) Carrying out the objects of this Act, and to meet any particular case that may arise.

In the construction of this section general words shall not be limited or controlled by particular words.

29. Such regulations shall be published in the *Government Gazette*, and shall afterwards be judicially noticed and have the force of law ; and the *Government Gazette* purporting to contain a copy of any such regulations shall be conclusive evidence thereof. All such regulations shall be laid before both Houses of Parliament within fourteen days after the publication thereof, if Parliament be then sitting, and if Parliament be not sitting, then within fourteen days after the commencement of the next sitting of Parliament.

Regulations to be published, &c.

30. This Act shall not apply to the Judges of the Supreme Court or to any Judge of the Northern Territory.

Not to apply to Judges.

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

S. J. WAY, Lieutenant-Governor.