

LEGISLATIVE ASSEMBLY

Read 1° 3 July 1985

(Brought in by Mr Jolly and Mr Roper)

A BILL

To amend the *Metropolitan Fire Brigades Superannuation Act 1976* and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is to
5 say):

Short title.

1. This Act may be cited as the *Metropolitan Fire Brigades Superannuation (Amendment) Act 1985*.

Commencement.

10 2. This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Principal Act.

15 3. In this Act the *Metropolitan Fire Brigades Superannuation Act 1976* is called the Principal Act.

Act No. 8952
Amended by
Nos. 9699, 9839
and 9928.

Seal of Board.

4. In section 4 (6) of the Principal Act for the words “two members of the Board” there shall be substituted the words “one member of the Board and an officer authorized by the Board”.

Actuarial investigations.

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5. In section 14 (1) of the Principal Act, for the words “an actuary” there shall be substituted the words “the Government Actuary or an actuary approved by the Treasurer”.

Repeal of present leave without pay provisions.

6. In section 21 of the Principal Act sub-sections (3) and (4) shall be repealed. 10

7. After section 21 of the Principal Act there shall be inserted the following sections:

Leave of absence for illness, union service or with pay.

“21A. (1) A contributor who is on leave of absence— 15

- (a) on the ground of ill-health and without pay;
- (b) without pay to act as a full-time official of the United Firefighters’ Union; or
- (c) with pay—

shall pay contributions during or in respect of the period of leave as for a period of service, without reduction. 20

(2) A contributor who has obtained leave of absence without pay to act as a full-time official of the United Firefighters’ Union may apply to the Board for approval for the salary paid to the contributor as a union official to be accepted as the contributor’s salary for the purposes of this Act. 25

(3) Upon the Board giving its approval in writing under sub-section (2), the salary paid to the contributor as a full-time official of the United Firefighters’ Union shall be deemed to be the contributor’s salary for the purposes of this Act during the period of leave of absence without pay. 30

(4) In the absence of the approval of the Board under sub-section (3), the salary which would be payable to the contributor if the contributor—

- (a) had not taken leave of absence without pay to act as a full-time official of the United Firefighters’ Union; and 35

- (b) had continued to work as a Fire Board officer at the same classification which the contributor held immediately before taking the leave of absence without pay—
- 5 shall be deemed to be the contributor's salary for the purposes of this Act during the period of leave of absence without pay."

Election in respect of leave of absence without pay.

10 "21B. (1) A contributor who is on leave of absence without pay (except leave on the ground of ill-health or to act as a full-time official of the United Firefighters' Union) for a period of more than four weeks may in respect of the period of the leave elect—

- (a) to pay no contributions under this Act;
- 15 (b) to pay contributions at half the rate of the contributions which would be payable by the contributor if the contributor had not taken leave and had continued to work at the salary payable to the contributor on the date on which the leave commences; or
- 20 (c) to pay contributions at three and one-half times the rate of contributions which would be payable by the contributor if the contributor had not taken the leave and had continued to work at the same classification which the contributor held immediately before taking the leave.

(2) An election under sub-section (1) is of no effect unless—

- (a) it is made in writing;
- 25 (b) it is made not later than four weeks from the date on which the leave commences; and
- 30 (c) it is accompanied by a sum equivalent to the total of all contributions payable throughout the period of the leave in accordance with the election but the Board may, on the application of the contributor, permit the contributions payable in accordance with the election to be paid by the contributor during the contributor's absence in such smaller sums and at such periods as the Board determines.

(3) An election made under sub-section (1) shall be deemed to have taken effect on the date on which the leave commences.

35 (4) A contributor—

- (a) who is on leave of absence without pay (except leave on the ground of ill-health or to act as a full-time official of the United Firefighters' Union) for a period of more than four weeks; and
- 40 (b) who does not before the expiration of four weeks from the date on which the leave commences make an election under sub-section (1)—

shall for the purposes of this Act be deemed to have made an election under paragraph (a) of that sub-section.

(5) Where a person who makes or is deemed to have made an election under sub-section (1) (a)—

(a) retires on the ground of disability; or

(b) dies—

more than four weeks after the leave commences but before the end of the leave, and the death or retirement is not a death or retirement to which sub-section (6) applies, benefits shall be payable under this Act to the persons who would but for the taking of the leave have been entitled to benefits on the death or retirement of the contributor and the benefits shall be calculated as though the contributor had voluntarily resigned from office on the date of the contributor's death or retirement. 5
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(6) Where—

(a) a contributor makes or is deemed to have made an election under sub-section (1) (a) and more than four weeks after the leave commences but before the end of the period for which the contributor was granted leave retires on the ground of disability or dies; 15

(b) the contributor applies for a benefit under this Act in consequence of the contributor's retirement on the ground of disability or the persons who would but for the taking of the leave have been entitled to benefits on the contributor's death apply for benefits under this Act in consequence of the contributor's death; and 20

(c) the Board considers that the major cause of the disability or death of the contributor is an impairment which originated before the taking of the leave or during the period of four weeks after the date on which the leave commences— 25

benefits shall be payable to the contributor or person or persons (as the case requires) under this Act in respect of the contributor's death or retirement and the benefits shall be calculated as though the death or retirement of the contributor took place on the day the contributor commenced leave without pay. 30

(7) Subject to sub-sections (8) and (9), where a contributor makes an election under sub-section (1) (b), the contributor shall have the same entitlements to benefits under this Act as the contributor would have had if the contributor had paid contributions at the rate which would have been payable by the contributor if the contributor had not taken the leave and had continued to work at the salary payable to the contributor on the date on which the leave commences but for the purposes of calculating those benefits any period of leave in respect of which an election is made under sub-section (1) (b) shall not be taken into account as years as a contributor. 35
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(8) Where a contributor who has made an election under sub-section (1) (b) returns to duty as a Fire Board officer and pays contributions for a period of 12 months or more after returning to duty and then resigns, the contributions paid by the contributor pursuant to 45

sub-section (1) (b) shall be deemed to be ordinary contributions for the purpose of calculating the benefits payable to the contributor on resignation.

5 (9) Where a contributor who has made an election under sub-section (1) (b), resigns from employment as a Fire Board officer—

(a) before returning to duty from the leave of absence; or

(b) before the expiration of 12 months after returning to duty from the leave of absence—

10 the contributor shall not be entitled on that resignation to a refund of the contributions paid by the contributor pursuant to sub-section (1) (b).

(10) Where a contributor makes an election under sub-section (1) (c) and subsequently resigns from employment as a Fire Board officer—

15 (a) the ordinary contributions paid by the contributor under sub-section (1) (c) shall be taken into account in calculating the benefits payable to the contributor on resignation; and

(b) the additional contributions paid by the contributor under sub-section (1) (c) shall be paid to the contributor on resignation as an additional benefit.”

20 **Transitional.**

“21C. Where, on the date on which the *Metropolitan Fire Brigades Superannuation (Amendment) Act 1985* comes into operation, a contributor is on leave of absence without pay (except leave on the ground of ill-health or to act as a full-time official of the United

25 Firefighters’ Union)—

(a) the contributor shall immediately be liable to pay all contributions due but unpaid at that date in respect of the leave up to that date but the Board may, on the application of the contributor made not more than two months from that date, permit those contributions to be paid by the contributor in such smaller sums and at such periods as the Board determines; and

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(b) section 21B shall apply to the contributor in respect of leave of absence without pay after that date as if the contributor had commenced the leave on that date (or where the contributor has before that date paid contributions in respect of the leave up to a later date as if the contributor had commenced the leave on that later date).”

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40 **Benefits where contributor returns after leave of absence and subsequently retires or dies.**

“21D. Where a contributor who has been on leave of absence without pay (except leave on the ground of ill-health or to act as a full-time official of the United Firefighters’ Union) returns to duty and

within three years of that return or within the period of time which is the same as the period of time for which the contributor was so absent (whichever is the less) the contributor retires on the ground of disability or dies—

- (a) where the contributor made or was deemed to make an election under paragraph (a) of section 21B (1), the benefits payable to the contributor; and 5
- (b) where the contributor made an election under paragraph (b) or (c) of section 21B (1), the benefits payable to the contributor in respect of the amount by which the contributor's salary after resumption of duty exceeds the contributor's salary immediately before the commencement of the leave— 10

shall be those appropriate to service benefits, unless the contributor has undergone a medical examination and been classified as a contributor for limited or full benefits.”. 15

Payments by Metropolitan Fire Brigades Board.

8. Section 22 of the Principal Act is amended as follows:

- (a) In sub-section (1) for the expression “(being not less than ten and a half per centum and not more than thirteen per centum)” there shall be substituted the expression “(being not more than twenty-one per centum)”; 20
- (b) In sub-section (2) for the words “three years” there shall be substituted the words “twelve months”;
- (c) In sub-section (3) after the word “year” there shall be inserted the words “or such other date as the Treasurer may determine in any particular case”; and 25
- (d) After sub-section (5) there shall be inserted the following sub-sections:
 - “(6) The Fire Board shall pay to the Board in respect of a contributor who is on leave of absence on the ground of ill-health and without pay amounts determined in accordance with sub-section (1) as if the Board had paid to the contributor during the period of the leave the salary which the contributor received or was entitled to receive immediately before taking the leave. 30 35
 - (7) Where a contributor is on leave of absence without pay to act as a full-time official of the United Firefighters' Union, the Union shall in respect of the period of that leave of absence pay to the Board amounts equal to the percentage 40

for the time being fixed for the purposes of this section of the contributor's salary during that period.

(8) The Fire Board shall not be liable to pay amounts under this section in respect of a contributor in relation to any period of leave of absence without pay taken by the contributor to act as a full-time official of the United Firefighters' Union."

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