

Superannuation Acts (Further Amendment) Act 1994

No. 120 of 1994

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Victoria

No. 120 of 1994

Superannuation Acts (Further Amendment) Act 1994

[Assented to 20 December 1994]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The purpose of this Act is to make miscellaneous amendments to certain specified Superannuation Acts.

2. Commencement

- (1) Subject to this section, this Act comes into operation on the day on which it receives the Royal Assent.
- (2) Section 12 is deemed to have come into operation on 13 June 1990.

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- (3) Section 79 (1) is deemed to have come into operation on 30 June 1992.
- (4) Sections 33 and 35 are deemed to have come into operation on 1 December 1993.
- (5) Sections 32 and 34 are deemed to have come into operation on 31 December 1993.
- (6) Sections 23 (1), 24, 30, 46, 60, 61, 64, 69 and 78 are deemed to have come into operation on 1 January 1994.
- (7) Sections 3, 4 and 6 are deemed to have come into operation on 1 July 1994.
- (8) Section 26 is deemed to have come into operation on 3 October 1994.
- (9) Sections 42 and 55 come into operation on 1 February 1995.

**PART 2—AMENDMENT OF EMERGENCY SERVICES
 SUPERANNUATION ACT 1986**

3. Amendment of section 6

- (1) In section 6 (1) (c) of the **Emergency Services Superannuation Act 1986** after “benefits” insert “under this Act and the **Police Regulation Act 1958**”.
- (2) After section 6 (2) (ba) of the **Emergency Services Superannuation Act 1986** insert—
 - “(bb) to administer Part III of the **Police Regulation Act 1958** and to perform the duties and powers of the Board under that Act;”.

4. New section 22A inserted

After section 22 of the **Emergency Services Superannuation Act 1986** insert—

“22A. *Transfer of assets and liabilities of Police Pensions Fund*

- (1) The assets and liabilities of the Police Pensions Fund under the **Police Regulation Act 1958** are by virtue of this section transferred to the Scheme and form part of the Scheme.
- (2) No stamp duty or other tax is chargeable under any Act in respect of anything done under this section.
- (3) The transfer effected by this section does not affect the benefits and rights conferred on any person by or under Part III of the **Police Regulation Act 1958**.”.

5. *Statute law revision*

In the **Emergency Services Superannuation Act 1986**—

- (a) in section 22 (1) for “State Superannuation Board of Victoria” (where twice occurring) substitute “Victorian Superannuation Board”;
- (b) in section 25A (1) in the definition of “post-June 1983 component” for “is” substitute “in”;
- (c) Part 8 is repealed.

PART 3—AMENDMENT OF POLICE REGULATION ACT 1958

6. *Amendment of Act*

(1) In the **Police Regulation Act 1958**—

(a) in section 3, insert the following definitions—

“**ESS Board**” means the Emergency Services Superannuation Board established under the **Emergency Services Superannuation Act 1986**;

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“Scheme” means the Emergency Services Superannuation Scheme established under the **Emergency Services Superannuation Act 1986**;’;

(b) in section 3, for the definition of **“spouse”** substitute—

“spouse” means in relation to a person—

(a) that person’s husband, wife, widower or widow; or

(b) a person of the opposite sex who, though not legally married to the first mentioned person, in the opinion of the ESS Board lives or lived with the first mentioned person as at the relevant date (being, in the case of a deceased person, the date of death) on a bona fide domestic basis as the husband or wife of the first mentioned person;’;

(c) in sections 24, 28 and 29 for **“Governor in Council”** substitute **“ESS Board”**;

(d) sections 31, 32, 33, 34, 35, 48, 53, 55, 65 and 67 are repealed.

(e) in section 39 (1), the definitions of **“Police Pensions Fund”** and **“Police Superannuation Board”** are repealed.

(f) in section 44 (3)—

(i) for **“Chief Commissioner”** substitute **“ESS Board”**;

(ii) for **“Police Superannuation Board”** substitute **“ESS Board”**;

(g) in sections 46A (1), 46A (3), 49, 54 (3), 64C (3), 64C (4), 67A (2), 67B (1) and 67C (1) for **“Police Superannuation Board”** (wherever occurring) substitute **“ESS Board”**;

(h) in section 52 (2) for **“Police Pensions Fund”** substitute **“Scheme”**;

(i) in section 66 for **“Chief Commissioner, who shall forward the same together with his report**

thereon to the Police Superannuation Board”
substitute “ESS Board”;

(j) in section 67B (1) for “Fund” (wherever occurring) **substitute** “Scheme”.

(2) In the Fourth Schedule to the **Police Regulation Act 1958**—

(a) in clauses 3 (a) (iii), 10 and 16 for “the Police Superannuation Board may recommend” **substitute** “ESS Board determines”;

(b) in clauses 7 and 14 for “Police Superannuation Board” **substitute** “ESS Board”;

(c) in clauses 7 (a) and 15 (2) for “Government Statist” **substitute** “actuary”;

(d) in clause 13 for “Police Superannuation Board recommends” (where twice occurring) **substitute** “ESS Board determines”;

(e) in clause 13 for “, child or dependant” **substitute** “or child”;

(f) clause 17 is **repealed**.

7. References to gender

(1) In section 3 of the **Police Regulation Act 1958** after “3” **insert** “(1)”.

(2) At the end of section 3 of the **Police Regulation Act 1958** **insert**—

‘(2) In this Act (other than in sections 59 and 62)—

(a) words importing the feminine gender include the masculine gender; and

(b) words importing the masculine gender include the feminine gender.

(3) Without limiting the generality of sub-section (2), in this Act (other than in sections 59 and 62) a reference to “his widow” is to be construed as a reference to “his or her spouse” where the member of the force or pensioner is deceased and other parts of speech and grammatical forms of “widow” are to be construed as having a corresponding meaning.’

8. Discriminatory provisions replaced

(1) After section 44 (3) of the **Police Regulation Act 1958** insert—

“(4) No benefit is payable under this Division to a spouse who became the spouse of a retired member of the force only after he or she had finally ceased to be a member of the force and within 2 years of the death of the retired member of the force.

(5) If a spouse who became the spouse of a retired member of the force after he or she had finally ceased to be a member of the force was more than 5 years younger than the retired member of the force then any pension payable to that spouse is to be reduced to the pension that, in the opinion of an actuary appointed by the ESS Board, is the actuarial equivalent at the date of becoming the spouse of the retired member of the force of the pension that would have been payable if the spouse was 5 years younger than the member of the force.

(6) A person is not entitled to receive under this Division at the same time more than one pension but is entitled to whichever of those pensions is the greater.

(7) Despite anything in this Division, only one spouse pension is payable in the case of the death of any one member of the force or retired member of the force, and if after the ESS Board has made reasonable enquiries more than one person should appear to the ESS Board to qualify for a spouse pension then—

(a) if the member of the force or retired member of the force has by request in writing to the ESS Board directed that the spouse pension be paid wholly to one of the persons qualified to receive it or that each be paid part, the ESS Board must give effect to the expressed intentions;

- (b) if paragraph (a) does not apply, the ESS Board must in its absolute discretion determine which of the persons who qualifies is to receive the pension or must apportion it between them as the ESS Board considers appropriate.”.
- (2) Sections 44_A and 44_B of the **Police Regulation Act 1958** are repealed.
- (3) In section 45 of the **Police Regulation Act 1958** for paragraph (b) substitute—
- “(b) if a child of a member of the force is entitled to an allowance under this Division, the ESS Board may grant with the consent—
- (i) of the member’s spouse; or
 - (ii) if there is no spouse, the guardian of the child—
- a gratuity not exceeding the value of the allowance payable under paragraph (a) as calculated by an actuary appointed by the ESS Board; and”.

9. Amendment of sections 42A and 46A

- (1) In sections 42A (1) and 42A (3) of the **Police Regulation Act 1958**, for “the Government Statist” substitute “an actuary appointed by the ESS Board”.
- (2) For section 46A (4) of the **Police Regulation Act 1958** substitute—
- “(4) The ESS Board must—
- (a) arrange for the member to be examined by a registered medical practitioner appointed by the ESS Board; and
 - (b) forward to an actuary appointed by the ESS Board the medical report prepared under paragraph (a) together with any information that the ESS Board considers the actuary may require in relation to the member’s proposal.”.

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- (3) In section 46A (5), 46A (6) and 46A (7) for “Government Statist” (wherever occurring) substitute “actuary”.

10. Section 50 substituted

For section 50 of the **Police Regulation Act 1958** substitute—

“50. Assignment of benefits

Benefits under this Part cannot in any way be assigned, charged or passed by operation of law other than under an Act of the Commonwealth.

51. Payment of benefits if person is incapable

If a person who would ordinarily be entitled to receive benefits is—

- (a) a person who is in the opinion of the ESS Board incapable of managing his or her affairs or of unsound mind; or
- (b) an involuntary patient or a security patient within the meaning of the **Mental Health Act 1986**; or
- (c) a represented person under the **Guardianship and Administration Board Act 1986**—

the ESS Board may cause his or her benefits or any part of the benefits to be paid to his or her guardian or administrator, or, if there is no guardian or administrator, to a person nominated by the ESS Board for the benefit of that person and his or her dependants or any of them until he or she ceases to be incapable or of unsound mind, a patient or a represented person.”.

11. Amendment of section 64C

In section 64C (1) of the **Police Regulation Act 1958** for “Melbourne” substitute “all Capital Cities”.

12. Indexation of supplementary pensions

In section 64C (2) of the **Police Regulation Act 1958**, after “1966” insert “(whether granted before on or after the repeal of the **Pensions Supplementation Act 1966**)”.

13. Statute law revision

In section 46B (2) of the **Police Regulation Act 1958** in the definition of “employed in the service of the Crown” for “**Public Service Act 1974, the Teaching Service Act 1958**” substitute “**Public Sector Management Act 1992, the Teaching Service Act 1981**”.

PART 4—AMENDMENT OF HOSPITALS SUPERANNUATION ACT 1988

14. Definition of “disability”

In section 3 (1) of the **Hospitals Superannuation Act 1988** for the definition of “disability” substitute—

“**disability**”, in relation to a member, means the permanent inability of the member before the age of 60 years due to a continuing or recurring injury, disease or infirmity—

(a) to perform his or her duties; and

(b) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;’.

15. Definition of “spouse”

In section 3 (1) of the **Hospitals Superannuation Act 1988**, for the definition of “spouse” substitute—

“**spouse**” means in relation to a person—

- (a) that person’s husband, wife, widower or widow; or
- (b) a person of the opposite sex who, though not legally married to the first mentioned person, in the opinion of the Board lives or lived with the first mentioned person as at the relevant date (being, in the case of a deceased person, the date of death) on a bona fide domestic basis as the husband or wife of the first mentioned person;’.

16. Amendment of section 7

(1) In section 7 (2) (c) of the **Hospitals Superannuation Act 1988** for “members of the Fund elected by members of the Fund” substitute “persons who are eligible to be voters elected by voters”.

(2) After section 7 (2) of the **Hospitals Superannuation Act 1988** insert—

“(2A) In this section “**voters**” means—

- (a) members of the Fund; and
- (b) contributors who are not members of the Fund; and
- (c) members of the scheme under Part 6A.”.

17. Amendment of section 13

(1) In section 13 (1) of the **Hospitals Superannuation Act 1988** for “5 members” substitute “two-thirds of the members in office for the time being”.

(2) For section 13 (2) of the **Hospitals Superannuation Act 1988** substitute—

“(2) During any vacancy in the Board the continuing members may subject to there being a quorum act as if there were no vacancy.”.

18. Amendment of section 29

(1) for section 29 (2) (d) of the **Hospitals Superannuation Act 1988** substitute—

“(d) as a fixed amount; or

(e) by any combination of the methods specified in paragraphs (a), (b), (c) and (d).”.

(2) After section 29 (4) (b) of the **Hospitals Superannuation Act 1988** insert—

“(ba) any particular Class A participating institution; and”.

19. Amendment of section 37

(1) After section 37 (2) of the **Hospitals Superannuation Act 1988** insert—

“(2A) If the amount of the deferred benefit under sub-section (1) (b) does not exceed \$500, the Board may pay the deferred benefit to the contributor at any time after he or she ceases to be an employee of a participating institution.”.

(2) After section 37 (4) of the **Hospitals Superannuation Act 1988** insert—

“(5) If the Insurance and Superannuation Commissioner approves the payment to the former contributor under sub-section (4) of part of the deferred benefit on the ground of hardship, the Board must—

(a) pay to the former contributor the amount of the deferred benefit specified in the approval; and

(b) on the advice of an actuary, adjust the amount of the deferred benefit payable to the former contributor.”.

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20. Amendment of section 40A

In section 40A of the **Hospitals Superannuation Act 1988**, for paragraph (b) of the definition of “disability” substitute—

“(b) in any other case, the permanent inability of the member due to a continuing or recurring injury, disease or infirmity—

(i) to perform his or her duties; and

(ii) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;”.

21. Amendment of section 46

In section 46 (1) of the **Hospitals Superannuation Act 1988** after “the member” insert “on the ground of disability”.

22. New section 46A inserted

After section 46 of the **Hospitals Superannuation Act 1988** insert—

“46A. Temporary pensions

(1) If the Board determines that a member who has applied to retire on the grounds of disability may substantially recover from a recurring injury or illness, the Board may determine that he or she be given the pension to which he or she would have been entitled had he or she retired on the ground of disability for a limited period only of up to 2 years.

(2) The Board may determine that any pension payable under this section is to be

conditional upon the member undertaking an approved course of training or education or participating in any rehabilitation program at the expense of the Board.

- (3) If a person has been granted a pension under this section, he or she may not retire on the grounds of that disability but in all other respects this Act as it relates to disability pensioners applies.
- (4) The eligibility of the pensioner must be reviewed at intervals not exceeding 6 months as determined by the Board.
- (5) If the pensioner does not comply with this section, the pension ceases to be payable as long as he or she continues in default.
- (6) If the pensioner continues in default for a period of 12 months, the Board must cancel the pension.”.

23. Amendment of section 50A

- (1) In section 50A (2) of the **Hospitals Superannuation Act 1988** after “basic benefit account” insert “and supplementary contributions (if any)”.
- (2) In section 50A of the **Hospitals Superannuation Act 1988** after “new scheme” (wherever occurring) insert “under Part 6A”.

24. Section 53—bi-annual indexation restored

For sections 53 (1) and 53 (2) of the **Hospitals Superannuation Act 1988** substitute—

‘(1) In this section—

“consumer price index” means the all groups consumer price index number for all Capital Cities published by the Commonwealth Statistician in respect of

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the June quarter and the December quarter for each year;

“**prescribed half year**” means the half year ended 31 December 1987 or any subsequent half year ending on 30 June or 31 December in which the consumer price index is higher than the previous highest consumer price index in or since the half year ended 31 December 1987;

“**prescribed percentage**” in relation to a prescribed half year after 31 December 1987 means the percentage calculated to two decimal places in accordance with the formula—

$$\frac{A - B}{B} \times \frac{100}{1}$$

where—

“A” is the consumer price index number for the prescribed half year;

“B” is the consumer price index number for the preceding prescribed half year.

(2) A contributor’s pension or deferred benefit under this Act other than basic benefits or benefits required to be increased with interest under the regulations must—

(a) in the case of a pension if it is then payable, be increased on the payment of the first instalment of the pension in the month of December or June by an amount equal to one-sixth of the prescribed percentage (if any) for the preceding half year of the pension for every whole month or part of a month during the preceding half year in respect of which a pension has been payable; or

(b) in the case of a pension or deferred benefit if for any reason it is not then payable, be notionally so increased as if then payable.’.

25. Statute law revision

In the **Hospitals Superannuation Act 1988**—

- (a) in section 51C (1), in the definition of “post-June 1983 component” for “is” substitute “in”;
- (b) the Schedule is repealed.

**PART 5—AMENDMENT OF LOCAL AUTHORITIES
SUPERANNUATION ACT 1988**

26. New sections 53B to 53E inserted

After section 53A of the **Local Authorities Superannuation Act 1988** insert—

‘53B. Transfer of assets in respect of MEU staff superannuation

(1) In this section and sections 53C and 53D—

“MEU” has the same meaning as in section 135 (1) of the **Electricity Industry Act 1993**;

“transferred MEU staff member” has the same meaning as in section 135 (1) of the **Electricity Industry Act 1993**;

“VEI Super Pty Ltd” is the same body and has the same meaning as **SECV Superannuation Pty Ltd** in section 84 of the **Electricity Industry Act 1993**;

“**Victorian Electricity Industry Superannuation Fund**” has the same meaning as in section 84 of the **Electricity Industry Act 1993**.

(2) With the approval of the Minister, the Board must enter into an agreement with **VEI Super Pty Ltd** which specifies—

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- (a) the liability of the Fund up to the date of transfer in respect of the entitlements of transferred MEU staff members as determined by an actuary appointed by the Board; and
 - (b) the value of assets of the Fund equal to the liability of the Fund under paragraph (a) that are to be transferred to the Victorian Electricity Industry Superannuation Fund; and
 - (c) the terms and conditions which apply to the transfer of those assets to the Victorian Electricity Industry Superannuation Fund.
- (3) If agreement cannot be reached before 12 December 1994, the Minister may determine the matters specified in sub-section (2) or which are in dispute and the Board and VEI Super Pty Ltd are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister.
- (4) The Board must transfer the assets specified in the agreement to the Victorian Electricity Industry Superannuation Fund.
- (5) As soon as the assets have been transferred, the assets form part of the Victorian Electricity Industry Superannuation Fund.

53c. *Contribution by certain municipal councils*

- (1) The Board must on the advice of an actuary appointed by the Board determine—
- (a) the extent to which the liability specified under section 53B (2) (a) is unfunded; and

- (b) the contribution to be paid to the Fund in respect of that unfunded liability by a municipal council conducting a MEU in respect of transferred MEU staff members under section 53B who were employed by that MEU.
- (2) For the purposes of sub-section (1), the liability in respect of each transferred MEU staff member is to be treated as being in the same proportion as total net assets of the Fund are to the total liabilities of the Fund.
- (3) A municipal council conducting a MEU must pay the contribution determined under sub-section (1) in respect of that municipal council to the Board in such instalments and at such intervals as is agreed between the Board and the municipal council or, in the absence of agreement, as is determined by the Minister.

53d. *City of Melbourne Superannuation Fund*

- (1) With the approval of the Minister, the trustees of the City of Melbourne Superannuation Fund must enter into an agreement with VEI Super Pty Ltd which specifies—
 - (a) the liability of the City of Melbourne Superannuation Fund up to the date of transfer in respect of the entitlements of transferred MEU staff members as determined by an actuary appointed by the trustees of the City of Melbourne Superannuation Fund; and
 - (b) the value of assets of the City of Melbourne Superannuation Fund equal

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to the liability of the City of Melbourne Superannuation Fund under paragraph (a) that are to be transferred to the Victorian Electricity Industry Superannuation Fund; and

- (c) the terms and conditions which apply to the transfer of those assets to the Victorian Electricity Industry Superannuation Fund.
- (2) If agreement cannot be reached before 12 December 1994, the Minister may determine the matters specified in sub-section (1) or which are in dispute and the trustees of the City of Melbourne Superannuation Fund and VEI Super Pty Ltd are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister.
- (3) The trustees of the City of Melbourne Superannuation Fund must transfer the assets specified in the agreement to the Victorian Electricity Industry Superannuation Fund.
- (4) As soon as the assets have been transferred, the assets form part of the Victorian Electricity Industry Superannuation Fund.

53E. No tax payable

No stamp duty or other tax is chargeable under any Act in respect of anything done under section 53B, 53C or 53D.

27. Statute law revision

In the Local Authorities Superannuation Act 1988—

- (a) in section 3 (1) in the definition of "Authority", paragraph (m) is **repealed**;

- (b) in section 23 (1) omit “3 financial years”;
- (c) in section 26 omit “(1)”;
- (d) in section 33 (6) for “acknowledgement” substitute “acknowledgment”;
- (e) in section 47K (2) for “section 40E” substitute “section 47E”;
- (f) in section 50c (1), in the definition of “post-June 1983 component” for “is” substitute “in”;
- (g) Part 11 is repealed.

**PART 6—AMENDMENT OF PUBLIC SECTOR
SUPERANNUATION (ADMINISTRATION) ACT 1993**

28. Definition of “disability”

In section 3 (1) of the **Public Sector Superannuation (Administration) Act 1993**, for paragraph (b) of the definition of “disability” substitute—

“(b) in any other case, the permanent inability of the member due to a continuing or recurring injury, disease or infirmity—

- (i) to perform his or her duties; and
- (ii) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;”.

29. Repeal of section 55

- (1) Section 55 of the **Public Sector Superannuation (Administration) Act 1993** is repealed.
- (2) In section 3 (1) of the **Public Sector Superannuation (Administration) Act 1993**—

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- (a) the definition of “advisory committee” is repealed;
- (b) in the definition of “governing body” omit “or an advisory committee”.

30. Amendment of section 65

After section 65 (3) of the **Public Sector Superannuation (Administration) Act 1993** insert—

“(3A) For the purposes of this section—

- (a) in the case of a transfer of a member or beneficiary from the Fund or an administered scheme to a public sector superannuation scheme, the governing body of the public sector superannuation scheme has in respect of that member or beneficiary as from the date of transfer the duties and powers conferred on the Board by or under the provisions of the governing instrument of the Fund or the administered scheme; and
- (b) in the case of a transfer of a member or beneficiary from a public sector superannuation scheme to the Fund or an administered scheme, the Board has in respect of that member or beneficiary as from the date of transfer the duties and powers conferred on the governing body by or under the provisions of the governing instrument of the public sector superannuation scheme.”.

31. Statute law revision

In section 68 (1) of the **Public Sector Superannuation (Administration) Act 1993**, in the definition of “post-June 1983 component” for “is” substitute “in”.

**PART 7—AMENDMENT OF PARLIAMENTARY SALARIES
AND SUPERANNUATION ACT 1968**

32. Amendment of section 15

In section 15 (1A) of the **Parliamentary Salaries and Superannuation Act 1968** for “at that time” substitute “from time to time.”

33. Clarification of section 15

- (1) In sections 15 (2) and 15 (3) of the **Parliamentary Salaries and Superannuation Act 1968** after “section 19” insert “as in force before the commencement of section 105 of the **Public Sector Superannuation (Administration) Act 1993**”.
- (2) In section 15 (4) of the **Parliamentary Salaries and Superannuation Act 1968** after “is or was made” insert “before 1 December 1993”.

34. Repeal of section 19—indexation

Section 19 of the **Parliamentary Salaries and Superannuation Act 1968** is repealed.

35. Amendment of section 20 (3)

In section 20 (3) of the **Parliamentary Salaries and Superannuation Act 1968**—

(a) for the definition of “Z” substitute—

““Z” is the sum of ZP calculated for each period of service as a member which ends after 1 December 1993;”.

(b) in the definition of “LS” for “section” substitute “sections 15 (2) and”.

36. Statute law revision

In section 13 (4) of the **Parliamentary Salaries and Superannuation Act 1968** for “widows” substitute “spouses”.

**PART 8—AMENDMENT OF STATE CASUAL EMPLOYEES
 SUPERANNUATION ACT 1989**

37. Definition of “disability”

In section 3 of the **State Casual Employees Superannuation Act 1989**, for the definition of “disability” substitute—

“**disability**”, in relation to a member, means the permanent inability of the member before the age of 60 years due to a continuing or recurring injury, disease or infirmity—

(a) to perform his or her duties; and

(b) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;’.

38. Repeal of redundant provisions

(1) In section 3 of the **State Casual Employees Superannuation Act 1989** for the definition of “**Board**” substitute—

“**Board**” means the Victorian Superannuation Board established under section 5 of the **Public Sector Superannuation (Administration) Act 1993**;’.

(2) For the heading to Part 2 of the **State Casual Employees Superannuation Act 1989** substitute—

“PART 2—THE BOARD”

(3) Sections 5, 7 to 15, 18 and 43 of the **State Casual Employees Superannuation Act 1989** are repealed.

**PART 9—AMENDMENT OF STATE EMPLOYEES
RETIREMENT BENEFITS ACT 1979**

39. Definitions of “child” and “spouse”

In section 2 (1) of the **State Employees Retirement Benefits Act 1979**—

(a) after the definition of “adjusted final salary” insert—

“**child**” in relation to a person means a child of himself or herself or of his or her spouse other than any child born more than 10 months after his or her death who is—

(a) under 18 years of age; or

(b) between the age of 18 and 25 years and in the opinion of the Board is a full-time student;’;

(b) after the definition of “service” insert—

“**spouse**” means in relation to a person—

(a) that person’s husband, wife, widower or widow; or

(b) a person of the opposite sex who, though not legally married to the first mentioned person, in the opinion of the Board lives or lived with the first mentioned person as at the relevant date (being, in the case of a deceased person, the date of death) on a bona fide domestic basis as the husband or wife of the first mentioned person;’.

40. Definition of “disability”

In section 2 (1) of the **State Employees Retirement Benefits Act 1979** for the definition of “disability” substitute—

“**disability**”, in relation to a member, means the permanent inability of the member before the

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age of 60 years due to a continuing or recurring injury, disease or infirmity—

- (a) to perform his or her duties; and
- (b) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;’.

41. Definitions of “contract officer” and “exempt officer”

(1) In section 2 (1) of the **State Employees Retirement Benefits Act 1979**—

(a) for the definition of “contract officer” substitute—

“**contract officer**” means—

(a) an executive officer within the meaning of section 4 (1) of the **Public Sector Management Act 1992** employed under a contract of employment under that Act, other than an exempt officer; or

(b) any person who—

(i) is declared or deemed to be a contract officer; or

(ii) is a member of a class of persons declared or deemed to be contract officers—

by the Minister by instrument in writing for the purposes of this Act;’;

(b) for the definition of “exempt officer” substitute—

“**exempt officer**” means—

(a) an executive officer within the meaning of section 4 (1) of the **Public Sector Management Act 1992**

employed under a contract of employment under the Act during any period that a certificate in writing issued under section 7 (5) of the **Superannuation (Public Sector) Act 1992** by the employer to the Board is in force; or

(b) a contract officer whose employer advises the Board in writing that the contract of employment under which the contract officer is employed provides that the contract officer is an exempt officer for the purposes of this Act;’.

(2) For section 2 (3) of the **State Employees Retirement Benefits Act 1979** substitute—

‘(3) For the purposes of the definition of “salary” in sub-section (1)—

(a) in the case of a person referred to in paragraph (a) of the definition of “contract officer”, salary means the salary for superannuation purposes in accordance with section 12 of the **Superannuation (Public Sector) Act 1992** and notified in writing by the employer to the Board; or

(b) in the case of a person referred to in paragraph (b) of the definition of “contract officer”, salary means the salary for superannuation purposes specified in that person’s contract of employment and notified in writing by the employer to the Board.’.

42. Amendment of section 2 (3)

(1) In section 2 (3) (b) of the **State Employees Retirement Benefits Act 1979** after “(b)” (where first occurring) insert “subject to paragraph (c),”.

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- (2) After section 2 (3) (b) of the **State Employees Retirement Benefits Act 1979** insert—

“; or

- (c) if a person to whom paragraph (b) applies is a member of the Principal Class within the meaning of the **Teaching Service Act 1981**, the salary specified for the purposes of paragraph (b) must not exceed 82.3 percent of that person’s remuneration package.”.

43. Repeal of redundant provisions

- (1) In section 2 (1) of the **State Employees Retirement Benefits Act 1979** after the definition of “adjusted final salary” insert—

“**Board**” means the Victorian Superannuation Board established under section 5 of the **Public Sector Superannuation (Administration) Act 1993**;’.

- (2) In the heading to Part 1 of the **State Employees Retirement Benefits Act 1979** omit “**STATE EMPLOYEES RETIREMENT BENEFITS**”.
- (3) Sections 3, 4 to 10A, 73, 75 (1) and 75 (2) of the **State Employees Retirement Benefits Act 1979** are repealed.

44. Amendment of section 25

For section 25 (2) (c) of the **State Employees Retirement Benefits Act 1979** substitute—

“(c) as a fixed amount; or

- (d) by any combination of the method specified in paragraphs (a), (b) and (c).”.

45. Amendment of section 38

In section 38 (3) of the **State Employees Retirement Benefits Act 1979** for paragraph (b) substitute—

“(b) in respect of any child of the deceased member, a pension calculated as though the member was a contributor at the date of his or her death; or”.

46. Amendment of sections 43 and 43A—bi-annual indexation restored

(1) For sections 43 (1) and 43 (2) of the **State Employees Retirement Benefits Act 1979** substitute—

‘(1) In this section—

“**consumer price index**” means the all groups consumer price index number for all Capital Cities published by the Commonwealth Statistician in respect of the June quarter and the December quarter for each year;

“**financial half year**” means a period of six months ending on 30 June or 31 December;

“**prescribed proportion**” in relation to a prescribed half year means—

$$\frac{A - B}{B}$$

where A is the consumer price index number for the prescribed half year and B is the consumer price index number for the quarter ended 30 June 1979 or the highest consumer price index number in the half year between that quarter and the prescribed half year (whichever is higher);

“**prescribed half year**” means the half year ended 30 June 1979 and any subsequent half year ending on 30 June or 31 December in which the consumer price index is higher than the highest consumer price index in or since the half year ended 30 June 1979.

(1A) Where the prescribed proportion consists of or includes a fraction of a whole number, it is

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deemed to have been calculated in accordance with this section if it is calculated to the nearest one-hundredth part.

- (2) Subject to sub-section (4) in any prescribed half year, any pension to which a member or the spouse or child or dependent person of a deceased member is entitled under this Part must—
 - (a) if it is then payable, be increased on the payment of the first instalment of pension in the month of June or December by an amount equal to one-sixth of the prescribed proportion of the pension that person is receiving under this Part for every whole month or part of a month during which he or she was entitled to the pension during the preceding financial half year; and
 - (b) if for any reason it is not then payable, be notionally so increased as if then payable.
- (2) In section 43A (1) of the **State Employees Retirement Benefits Act 1979** for “31 December” substitute “30 June or 31 December (whichever is the later)”.

47. Amendment of sections 44 and 45

- (1) In section 44 (1) of the **State Employees Retirement Benefits Act 1979** for paragraph (c) substitute—

“(c) in respect of each of the children of the deceased member, a pension at the prescribed rate per annum.”.
- (2) In section 44 (8) of the **State Employees Retirement Benefits Act 1979** for “is unmarried or divorced or whose spouse is dead” substitute “does not have a spouse”.
- (3) In section 45 (1) (a) of the **State Employees Retirement Benefits Act 1979** for “the spouse married” substitute “he or she became the spouse of”.

(4) In section 45 (1) of the **State Employees Retirement Benefits Act 1979** for paragraph (b) substitute—

“(b) in respect of each of the children of the deceased pensioner, a pension at the prescribed rate per annum.”.

(5) After section 45 (2) of the **State Employees Retirement Benefits Act 1979** insert—

“(3) Despite anything to the contrary in this Part, only one pension is payable in the case of the death of a deceased member or pensioner to a spouse and if after the Board has made reasonable enquiries more than one person should appear to the Board to qualify for that pension then—

(a) if the member or pensioner has by request in writing to the Board directed that the pension be paid wholly to one of the persons qualified to receive it or that each is to be paid part, the Board must give effect to the expressed intentions;

(b) if paragraph (a) does not apply, the Board must in its absolute discretion determine which of the persons who qualifies is to receive the pension or apportion it between them as the Board considers appropriate.”.

(6) For section 45 (6) of the **State Employees Retirement Benefits Act 1979** substitute—

“(6) If a person becomes the spouse of a pensioner after the pensioner’s retirement, a pension is not payable to the spouse on the death of the pensioner unless—

(a) at the time that the person became the pensioner’s spouse, the pensioner was receiving or entitled to receive a disability retirement pension and had not attained the age of 60 years; or

(b) the person became the pensioner’s spouse at least 3 years before the pensioner’s death.”.

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(7) In section 45 of the **State Employees Retirement Benefits Act 1979**—

- (a) in sub-section (7) for “of the marriage” substitute “the person became the pensioner’s spouse”;
- (b) in sub-section (8) for “The spouse of a pensioner who marries the” substitute “A person who becomes the spouse of a”;
- (c) in sub-section (9) for “is unmarried or divorced or whose spouse is dead” substitute “does not have a spouse”.

48. Repeal of section 46

Section 46 of the **State Employees Retirement Benefits Act 1979** is repealed.

49. Section 47 substituted

For section 47 of the **State Employees Retirement Benefits Act 1979** substitute—

“47. Pension to child if no surviving spouse

If on the death of a member or pensioner—

- (a) a pension is payable in respect of a child under section 44 or 45; and
- (b) no other person is entitled to a benefit under section 44 (1) (a), 44 (1) (b) or 45 (1) (a)—

there is to be paid to such person as the Board directs on behalf of the child in addition to the pension under section 44 or 45 a pension at the prescribed rate per annum.”.

50. Amendment of section 49

For section 49 (2) of the **State Employees Retirement Benefits Act 1979** substitute—

“(2) A pension in respect of a child is payable until the end of the fortnightly pay period in which—

(a) the child ceases to be a child; or

(b) dies—

whichever is the earlier.”.

51. Amendment of section 57

For section 57 (3) (c) of the **State Employees Retirement Benefits Act 1979** substitute—

“(c) in respect of each of the children of the deceased pensioner, a pension in accordance with section 45 (1) (b).”.

52. Statute law revision

In the **State Employees Retirement Benefits Act 1979**—

(a) in section 38 (1) for “**Superannuation Benefits Act 1977**” substitute “**Superannuation (Portability) Act 1989**” and for “paragraph (a) of section 3 (1)” substitute “section 5”;

(b) in section 51 (2) in the definition of “employed in the service of the Crown” for “**Public Service Act 1974**” substitute “**Public Sector Management Act 1992**”;

(c) in section 74C (1), in the definition of “post-June 1983 component” for “is” substitute “in”.

PART 10—AMENDMENT OF STATE SUPERANNUATION ACT 1988

53. Definitions of “dependant” and “spouse”

(1) In section 3 (1) of the **State Superannuation Act 1988**—

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(a) after the definition of **“contributor”** insert—

“dependant”, in relation to a deceased person, means—

- (a) his or her spouse; or
- (b) a child of the person; or
- (c) any other person who in the opinion of the Board was at the date of the death of the person wholly or partially dependent on the person or who at that date had a legal right to look to him or her for financial support;’;

(b) for the definition of **“spouse”** substitute—

“spouse” means in relation to a person—

- (a) that person’s husband, wife, widower or widow; or
- (b) a person of the opposite sex who, though not legally married to the first mentioned person, in the opinion of the Board lives or lived with the first mentioned person as at the relevant date (being, in the case of a deceased person, the date of death) on a bona fide domestic basis as the husband or wife of the first mentioned person;’.

(2) Section 16A (5B) of the **State Superannuation Act 1988** is repealed.

54. Definition of “disability”

In section 3 (1) of the **State Superannuation Act 1988** for the definition of **“disability”** substitute—

“disability”, in relation to a member, means the permanent inability of the member before the age of 60 years due to a continuing or recurring injury, disease or infirmity—

- (a) to perform his or her duties; and

(b) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;’.

55. Amendment of section 3 (2)

(1) In section 3 (2) (d) of the **State Superannuation Act 1988** after “(d)” insert “subject to paragraph (e),”.

(2) After section 3 (2) (d) of the **State Superannuation Act 1988** insert—

“; or

(e) if a person to whom paragraph (d) applies is a member of the Principal Class within the meaning of the **Teaching Service Act 1981**, the salary specified for the purpose of paragraph (d) must not exceed—

(i) in the case of a person who was a member of the new scheme on 31 January 1995, a maximum of 90.9 per cent of the person’s remuneration package; or

(ii) in any other case, a maximum of 82.3 per cent of the person’s remuneration package;”.

(3) Section 28 of the **Teaching Service Act 1981** is repealed.

56. Repeal of redundant provisions

(1) In section 3 (1) of the **State Superannuation Act 1988** for the definition of “Board” substitute—

“**Board**” means the Victorian Superannuation Board established under section 5 of the

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**Public Sector Superannuation
 (Administration) Act 1993**

- (2) For the heading to Part 2 of the **State Superannuation Act 1988** substitute—

“PART 2—THE BOARD”.

- (3) Sections 5, 7 to 15, 18 and 19 of the **State Superannuation Act 1988** are repealed.

57. Provisions relating to pensions rationalised

In the State Superannuation Act 1988—

- (a) in section 36 (2) (b) omit “or as a dependent person”;
- (b) in section 37 (2) (b) for “officer or as a dependent person” substitute “pensioner”;
- (c) section 38 is repealed;
- (d) in section 39—
 - (i) in sub-section (3) omit “or dependent person”;
 - (ii) in sub-sections (4) and (5) omit “or a dependent person”;
- (e) in section 40 (1)—
 - (i) omit “or as a dependent person” (where first occurring);
 - (ii) omit “or” after paragraph (b);
 - (iii) paragraph (c) is repealed;
- (f) in section 41 (1)—
 - (i) in paragraph (a) omit “or as a dependent person”;
 - (ii) omit “or in the case of a dependent person within 12 months of an order under section 38”;
- (g) section 42 is repealed;
- (h) in section 43 (1)—
 - (i) omit “or a dependent person”;

- (ii) for “, 37 or 38” substitute “or 37”;
- (i) in section 43 (2) for “, 37 or 38” substitute “or 37”;
- (j) in section 48 (1) omit “or a dependent person”;
- (k) in section 48 (3) for “, 37 or 38” substitute “or 37”;
- (l) section 53 (1) is repealed;
- (m) in section 61 (6) (c) omit “or to any dependant person within the meaning of section 38”;
- (n) section 61A (4) is repealed;
- (o) in section 67 (3) (a) for “, 37 or 38” substitute “or 37”.

58. Amendment of section 24

In section 24 (1) of the **State Superannuation Act 1988**, in the definition of “total service” for “continuous service” (where twice occurring) substitute “continuous recognised service”.

59. Amendment of sections 36 and 37

- (1) In section 36 (1) (b) of the **State Superannuation Act 1988** omit “the spouse or”.
- (2) In section 37 (1) (b) of the **State Superannuation Act 1988** omit “of the spouse or”.
- (3) After section 37 (2) of the **State Superannuation Act 1988** insert—
 - “(2A) Despite anything to the contrary in this Part, only one pension is payable in the case of the death of a deceased member or pensioner to a spouse and if after the Board has made reasonable enquiries more than one person should appear to the Board to qualify for that pension then—
 - (a) if the member or pensioner has by request in writing to the Board directed that the pension be paid wholly to one of the

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persons qualified to receive it or that each is to be paid part, the Board must give effect to the expressed intentions;

(b) if paragraph (a) does not apply, the Board must in its absolute discretion determine which of the persons who qualifies is to receive the pension or apportion it between them as the Board considers appropriate.”.

(4) For section 37 (3) of the **State Superannuation Act 1988** substitute—

“(3) If a person becomes the spouse of a pensioner after the pensioner’s retirement, a pension is not payable to the spouse on the death of the pensioner unless—

(a) at the time that the person became the pensioner’s spouse, the pensioner was receiving a pension under section 34 or 63 and had not attained the age of 60 years; or

(b) the person became the pensioner’s spouse at least 2 years before the pensioner’s death.”.

(5) In section 37 (4) of the **State Superannuation Act 1988** for “of the marriage” substitute “the person became the pensioner’s spouse”.

60. Amendment of section 53

(1) In sections 53 (3) and 53 (5) of the **State Superannuation Act 1988** after “new scheme member” (where first occurring) insert “(other than a prescribed fire-fighter)”.

(2) For sections 53 (4) and 53 (4A) of the **State Superannuation Act 1988** substitute—

“(4) Subject to section 52 (3), on the death of a prescribed fire-fighter who has not attained the age of 55 years before retirement, the Board must apportion between those of his or her dependants that the Board considers appropriate a lump sum equal to his or her accrued

retirement benefit calculated as the total of the sums under section 52 (2) and an amount calculated at the rate of 24 per cent of final average salary of the prescribed fire-fighter for each year from the date of death until the age of 55 years as if his or her final average salary at death had been his or her final average salary at the age of 55 years.

- (4A) On the death of a prescribed fire-fighter who has attained the age of 55 years before retirement, the Board must apportion between those of his or her dependants that the Board considers appropriate a lump sum equal to his or her accrued retirement benefit.
- (4B) A benefit calculated under sub-section (4) or (4A) must not be less than the benefit that would have been payable if the prescribed fire-fighter had died on 31 December 1993 under this section as in force at that date.”.

61. Amendment of section 54 (1B)

In section 54 (1B) of the **State Superannuation Act 1988** after “disability” insert “before he or she attained 60 years of age”.

62. Amendment of sections 55, 75, 76, 77 and 83

- (1) Section 55 of the **State Superannuation Act 1988** is repealed.
- (2) In section 75 of the **State Superannuation Act 1988** for “Subject to section 68 (3)” substitute “Subject to this Act, the following provisions apply to pensioners—”.
- (3) In the **State Superannuation Act 1988**—
 - (a) in sections 75 (a) and 75 (c) for “, 54 or 55” substitute “or 54”;
 - (b) in sections 76 (2), 77 (1) and 77 (7), for “, 55 or 83” substitute “or 83A”.

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- (4) In section 83 of the **State Superannuation Act 1988**—
- (a) in sub-section (1) after “the contributor” insert “on the ground of disability”;
 - (b) sub-sections (3) to (5) are **repealed**.

63. New section 83A inserted

After section 83 of the **State Superannuation Act 1988** insert—

“83A. Temporary pensions

- (1) If the Board determines that a contributor who has applied to retire on the grounds of disability may substantially recover from a recurring injury or illness, the Board may determine that he or she be given the pension to which he or she would have been entitled had he or she retired on the ground of disability for a limited period only of up to 2 years.
- (2) The Board may determine that any pension payable under this section is to be conditional upon the contributor undertaking an approved course of training or education or participating in any rehabilitation program at the expense of the Board.
- (3) If a person has been granted a pension under this section, he or she may not retire on the grounds of that disability but in all other respects this Act as it relates to disability pensioners applies.
- (4) The eligibility of the pensioner must be reviewed at intervals not exceeding 6 months as determined by the Board.
- (5) If the pensioner does not comply with this section, the pension ceases to be payable as long as he or she continues in default.

- (6) If the pensioner continues in default for a period of 12 months, the Board must cancel the pension.”.

64. Amendment of section 91—bi-annual indexation restored

For sections 91 (1) and 91 (2) of the **State Superannuation Act 1988** substitute—

(1) In this section—

“**consumer price index**” means the all groups consumer price index number for all Capital Cities published by the Commonwealth Statistician in respect of the June quarter and the December quarter for each year;

“**prescribed half year**” means the half year ended 30 June 1987 or any subsequent half year ending on 31 December or 30 June in which the consumer price index is higher than the previous highest consumer price index in or since the half year ended 30 June 1987;

“**prescribed percentage**” in relation to a prescribed half year after 30 June 1987 means the percentage calculated to two decimal places in accordance with the formula—

$$\frac{A - B}{B} \times \frac{100}{1}$$

where A is the consumer price index number for the prescribed half year and B is the consumer price index number for the preceding prescribed half year.

(2) A pension under this Act must—

- (a) if it is then payable, be increased on the payment of the first instalment of pension in the month of December or June by an amount equal to one-sixth of the prescribed

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percentage (if any) for the preceding half year of the pension for every whole month or part of a month during the preceding half year in respect of which a pension has been payable; or

- (b) if for any reason it is not then payable, be notionally so increased as if then payable.’

65. Statute law revision

In the State Superannuation Act 1988—

- (a) in sections 3 (1), (in the definition of “officer”) 14, 19 and 67 (1), for “**Public Service Act 1974**” substitute “**Public Sector Management Act 1992**”;
- (b) in section 53 (3) after “been his or” insert “her”;
- (c) in section 71B (1), in the definition of “post-June 1983 component” for “is” substitute “in”;
- (d) sections 93 (1), 93 (2), 93 (3) and 93 (4) and Schedule 2 are **repealed**.

**PART 11—AMENDMENT OF SUPERANNUATION
(PORTABILITY) ACT 1989**

66. Definition of “actuary”

- (1) In section 3 (1) of the **Superannuation (Portability) Act 1989**—
- (a) before the definition of “administrators” insert—
- “**“actuary”** means a fellow or accredited member of the Institute of Actuaries of Australia approved by the Minister;”
- (b) the definition of “Government Actuary” is **repealed**.
- (2) In section 10 of the **Superannuation (Portability) Act 1989** for “Government Actuary” (wherever occurring) substitute “actuary”.

- (3) In section 10 (2) of the **Superannuation (Portability) Act 1989** after “actuary” insert “appointed by the administrators”.

67. Definitions

In section 3 (1) of the **Superannuation (Portability) Act 1989**—

(a) in the definition of “member” after “scheme” insert “however designated in or for the purposes of the statutory superannuation scheme”;

(b) for the definition of “spouse” substitute—

“spouse” means in relation to a person—

(a) that person’s husband, wife, widower or widow; or

(b) a person of the opposite sex who, though not legally married to the first mentioned person, in the opinion of the administrators lives or lived with the first mentioned person as at the relevant date (being, in the case of a deceased person, the date of death) on a bona fide domestic basis as the husband or wife of the first mentioned person;’.

68. Definition of “disability”

In section 3 (1) of the **Superannuation (Portability) Act 1989** for the definition of “disability” substitute—

“disability”, in relation to a member, means the permanent inability of the member before the age of 60 years due to a continuing or recurring injury, disease or infirmity—

(a) to perform his or her duties; and

(b) to perform any other duties for which he or she is suited by education, training or

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experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;’.

69. Quarterly indexation restored

In section 3 (2) of the **Superannuation (Portability) Act 1989**—

(a) for the definition of **“A” substitute**—

“**A**” is the consumer price index number for the quarter prior to the quarter in which the pension or lump sum becomes payable;’.

(b) for the definition of **“consumer price index number” substitute**—

“**Consumer price index number**”, for a quarter, means the all groups consumer price index number for all Capital Cities published by the Commonwealth Statistician in respect of the relevant quarter;’.

PART 12—AMENDMENT OF TRANSPORT SUPERANNUATION ACT 1988

70. Definition of “dependant” and “spouse”

In section 3 (1) of the **Transport Superannuation Act 1988**—

(a) for the definition of **“dependant” substitute**—

“**dependant**”, in relation to a deceased person, means—

- (a) his or her spouse; or
- (b) a child of the person; or
- (c) any other person who in the opinion of the Board was at the date of the death of the person wholly or partially

dependent on the person or who at that date had a legal right to look to him or her for financial support;’;

(b) for the definition of “spouse” insert—

“spouse” means in relation to a person—

- (a) that person’s husband, wife, widower or widow; or
- (b) a person of the opposite sex who, though not legally married to the first mentioned person, in the opinion of the Board lives or lived with the first mentioned person as at the relevant date (being, in the case of a deceased person, the date of death) on a bona fide domestic basis as the husband or wife of the first mentioned person;’.

71. Definition of “disability”

In section 3 (1) of the **Transport Superannuation Act 1988** for the definition of “disability” substitute—

“disability”, in relation to a member, means the permanent inability of the member before the age of 60 years due to a continuing or recurring injury, disease or infirmity—

- (a) to perform his or her duties; and
- (b) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining—

as determined by the Board on the basis of reports provided by at least 2 registered medical practitioners appointed by the Board;’.

72. Definitions of “contract officer” and “exempt officer”

- (1) In section 3 (1) of the **Transport Superannuation Act 1988**—

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(a) for the definition of “contract officer” substitute—

“contract officer” means—

(a) an executive officer within the meaning of section 4 (1) of the **Public Sector Management Act 1992** employed under a contract of employment under that Act, other than an exempt officer; or

(b) any person who—

(i) is declared or deemed to be a contract officer; or

(ii) is a member of a class of persons declared or deemed to be contract officers—

by the Minister by instrument in writing for the purposes of this Act;’;

(b) for the definition of “exempt officer” substitute—

“exempt officer” means—

(a) an executive officer within the meaning of section 4 (1) of the **Public Sector Management Act 1992** employed under a contract of employment under the Act during any period that a certificate in writing issued under section 7 (5) of the **Superannuation (Public Sector) Act 1992** by the employing transport authority to the Board is in force; or

(b) a contract officer whose employing transport authority advises the Board in writing that the contract of employment under which the contract officer is employed provides that the contract officer is an exempt officer for the purposes of this Act;’.

(2) For section 3 (3) of the **Transport Superannuation Act 1988** substitute—

‘(3) For the purposes of the definition of “salary” in sub-section (1)—

(a) in the case of a person referred to in paragraph (a) of the definition of “contract officer”, salary means the salary for superannuation purposes in accordance with section 12 of the **Superannuation (Public Sector) Act 1992** and notified in writing by the employing transport authority to the Board; or

(b) in the case of a person referred to in paragraph (b) of the definition of “contract officer”, salary means the salary for superannuation purposes specified is that person's contract of employment and notified in writing by the employing transport authority to the Board.”.

73. Repeal of redundant provisions

(1) In section 3 (1) of the **Transport Superannuation Act 1988** for the definition of “Board” substitute—

“Board” means the Victorian Superannuation Board established under section 5 of the **Public Sector Superannuation (Administration) Act 1993**;’.

(2) For the heading to Part 2 of the **Transport Superannuation Act 1988** substitute—

“PART 2—THE BOARD”.

(3) Sections 5, 7 to 15, 18 and 53 of the **Transport Superannuation Act 1988** are repealed.

74. Amendment of section 27

For section 27 (2) (d) of the **Transport Superannuation Act 1988** substitute—

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- “(d) as a fixed amount; or
- (e) by any combination of the methods specified in paragraphs (a), (b), (c) and (d).”.

75. Amendment of section 31

After section 31 (4) of the **Transport Superannuation Act 1988** insert—

- “(5) A person is not entitled to a benefit under this section if the person has ceased to be employed and the cessation of employment was not on the ground of disability.”.

76. Section 32 substituted

For section 32 of the **Transport Superannuation Act 1988** substitute—

“32. Temporary pensions

- (1) If the Board determines that a member who has applied to retire on the grounds of disability may substantially recover from a recurring injury or illness, the Board may determine that he or she be given the pension to which he or she would have been entitled had he or she retired on the ground of disability for a limited period only of up to 2 years.
- (2) The Board may determine that any pension payable under this section is to be conditional upon the member undertaking an approved course of training or education or participating in any rehabilitation program at the expense of the Board.
- (3) If a person has been granted a pension under this section, he or she may not retire on the grounds of that disability but in all

other respects this Act as it relates to disability pensioners applies.

- (4) The eligibility of the pensioner must be reviewed at intervals not exceeding 6 months as determined by the Board.
- (5) If the pensioner does not comply with this section, the pension ceases to be payable as long as he or she continues in default.
- (6) If the pensioner continues in default for a period of 12 months, the Board must cancel the pension.”.

77. Amendment of section 40

In section 40 (1) of the **Transport Superannuation Act 1988** after “the member” insert “on the ground of disability”.

78. Section 46—bi-annual indexation restored

For sections 46 (1) and 46 (2) of the **Transport Superannuation Act 1988** substitute—

‘(1) In this section—

“**consumer price index**” means the all groups consumer price index number for all Capital Cities published by the Commonwealth Statistician in respect of the June quarter and the December quarter for each year;

“**prescribed half year**” means the half year ended 31 December 1987 or any subsequent half year ending on 30 June or 31 December in which the consumer price index is higher than the previous highest consumer price index in or since the half year ended 31 December 1987;

“**prescribed percentage**” in relation to a prescribed half year after 31 December

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1987 means the percentage calculated to two decimal places in accordance with the formula—

$$\frac{A - B}{B} \times \frac{100}{1}$$

where—

“A” is the consumer price index number for the prescribed half year;

“B” is the consumer price index number for the preceding prescribed half year.

(2) A contributor's pension or deferred benefit under this Act other than basic benefits or benefits required to be increased with interest under the regulations must—

(a) in the case of a pension if it is then payable, be increased on the payment of the first instalment of the pension in the month of December or June by an amount equal to one-sixth of the prescribed percentage (if any) for the preceding half year of the pension for every whole month or part of a month during the preceding half year in respect of which a pension has been payable; or

(b) in the case of a pension or deferred benefit if for any reason it is not then payable, be notionally so increased as if then payable.’.

PART 13—MISCELLANEOUS

79. Statute law revision

(1) In section 104 of the **Superannuation (Occupational Superannuation Standards) Act 1992** for “81” substitute “44”.

(2) The **Superannuation (Occupational Superannuation Standards) Act 1992** and the **Superannuation (Compliance) Act 1993** are repealed.

80. *Amendment of Borrowing and Investment Powers Act 1987*

In Schedule 1 of the ***Borrowing and Investment Powers Act 1987***, items 13, 15, 17 and 19 are repealed.

NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 15 November 1994

Legislative Council: 7 December 1994

2. The long title for the Bill for this Act was "A Bill to amend the ***Emergency Services Superannuation Act 1986***, the ***Hospitals Superannuation Act 1988***, the ***Local Authorities Superannuation Act 1988***, the ***Parliamentary Salaries and Superannuation Act 1968***, the ***Police Regulation Act 1958***, the ***Public Sector Superannuation (Administration) Act 1993***, the ***State Casual Employees Superannuation Act 1989***, the ***State Employees Retirement Benefits Act 1979***, the ***State Superannuation Act 1988***, the ***Superannuation (Portability) Act 1989***, the ***Teaching Service Act 1981*** and the ***Transport Superannuation Act 1988*** and for other purposes."
3. Section headings appear in bold italics and are not part of the Act. (See ***Interpretation of Legislation Act 1984***.)