

# SUPERANNUATION.

## No. 28 of 1937.

### An Act to amend the *Superannuation Act* 1922-1934.

[Assented to 16th September, 1937.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title  
and citation.

1.—(1.) This Act may be cited as the *Superannuation Act* 1937.

(2.) The *Superannuation Act* 1922-1934\* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Superannuation Act* 1922-1937.

Parts.

2. Section three of the Principal Act is amended by inserting after the words "Division 3—Pensions and Benefits." the words "Part IVB.—The Provident Account."

Definitions.

3. Section four of the Principal Act is amended—

(a) by inserting in the definition of "Children", in sub-section (1.), after the word "contributor" (first occurring), the words "or by a contributor to the Provident Account";

(b) by inserting in the definition of "Contributor", in sub-section (1.), after the word "Act", the words "to the Fund";

(c) by adding at the end of sub-section (1.) the following definition :—

"'The Provident Account' means the Provident Account established under Part IVB. of this Act."; and

(d) by inserting after sub-section (1.) the following sub-section :—

"(1A.) Any reference in this Act to the *Australian Soldiers' Repatriation Act* 1920, the *War Service Homes Act* 1918, the *Science and Industry Research Act* 1920-1926 and to the *High Commissioner Act* 1909 shall include a reference to those Acts as amended at any time."

4. After section four A of the Principal Act the following section is inserted :—

Medical  
examination  
of employees.

"4B. Notwithstanding anything contained in any Act, no person who becomes an employee after the commencement of this section shall contribute to the Fund unless, prior to his appointment, a legally qualified medical practitioner satisfactory to the Board has certified that the employee is of sound bodily health and free from physical defects :

\* Act No. 33, 1922, as amended by No. 45, 1924 ; No. 22, 1930 ; No. 10, 1931 ; and No. 45, 1934.

Provided that this section shall not apply to an employee who is at the commencement of this section an officer appointed under section twenty-one of the *Australian Soldiers' Repatriation Act* 1920, section fifteen of the *War Service Homes Act* 1918, section fourteen A of the *Science and Industry Research Act* 1920-1926, or section nine of the *High Commissioner Act* 1909."

5. Section twelve of the Principal Act is amended by inserting after sub-section (1.) the following sub-section :—

Commencement  
and cessation  
of contributions.

"(1A.) Where a Minister in pursuance of the power conferred by section twenty-one of the *Australian Soldiers' Repatriation Act* 1920-1937, section fifteen of the *War Service Homes Act* 1918-1937, section fourteen A of the *Science and Industry Research Act* 1920-1937, or section nine of the *High Commissioner Act* 1909-1937, by notice published in the *Gazette* directs that an officer appointed under one of those Acts shall be deemed to be an employee within the meaning of section four of this Act, that officer shall commence contributing to the Fund on the pay day next following the publication of the notice."

6. Section thirteen of the Principal Act is amended by adding at the end thereof the following sub-section :—

Scale of units  
of pension.

"(8.) Any person who—

- (a) on or before the twentieth day of November, One thousand nine hundred and twenty-two, was appointed as an officer under section twenty-one of the *Australian Soldiers' Repatriation Act* 1920, section fifteen of the *War Service Homes Act* 1918 or section nine of the *High Commissioner Act* 1909 and has been continuously employed as an officer since that date ;
- (b) was not less than thirty years of age on the twentieth day of November, One thousand nine hundred and twenty-two ; and
- (c) is deemed to be an employee within the meaning of section four of this Act in consequence of a direction published in the *Gazette* in pursuance of the power conferred by section twenty-one of the *Australian Soldiers' Repatriation Act* 1920-1937, section fifteen of the *War Service Homes Act* 1918-1937 or section nine of the *High Commissioner Act* 1909-1937 (as the case may be),

shall not, in any case, be compelled to contribute for more than two units (which shall be at the rates prescribed for the age of thirty) but may, within three months from the date of commencement of his contributions, elect to contribute—

- (d) at the rates prescribed for the age of thirty for two and a half, three or four units ; and
- (e) at the rate appropriate to his age as provided in the Schedules to this Act for units additional to those contributed for under the last preceding paragraph :

Provided that the total number of units contributed for by any such employee shall not exceed the number of units prescribed for the salary group to which, according to the scale contained in sub-section (1.) of this section, he belongs, or the number of four units whichever is the greater.”.

Retirement  
through  
invalidity—  
amount of  
pension.

7. Section thirty of the Principal Act is amended by adding at the end thereof the following sub-section :—

“(2.) Where a person appointed prior to the commencement of this sub-section, as an officer under section twenty-one of the *Australian Soldiers’ Repatriation Act* 1920, section fifteen of the *War Service Homes Act* 1918, section fourteen A of the *Science and Industry Research Act* 1920–1926, or section nine of the *High Commissioner Act* 1909, becomes a contributor and is retired on the ground of invalidity or physical or mental incapacity to perform his duties or dies within seven years of his becoming a contributor, any pension payable under this Act shall be paid from the Fund and the payments from the Fund shall be repaid from the Consolidated Revenue Fund.”.

8. After Part IVA. of the Principal Act the following Part and sections are inserted :—

“PART IVB.—THE PROVIDENT ACCOUNT.

The Provident  
Account.

“60U. There shall be a Provident Account which shall form part of the Superannuation Fund and into which shall be paid all contributions of employees and payments by the Commonwealth under this Part and from which shall be paid the benefits provided for in this Part.

Contributors to  
Provident  
Account.

“60V. The following persons shall be contributors to the Provident Account :—

- (a) all persons appointed, whether before or after the commencement of this section, under sub-section (8.) of section eighty-four of the *Commonwealth Public Service Act* 1922 (or of that Act as since amended) whose appointments have been confirmed and who are not contributors to the Superannuation Fund ;
- (b) all persons who become employees after the commencement of this Part who are not contributors to the Superannuation Fund in consequence of their having failed to be certified by a qualified medical practitioner as prescribed by section four B of this Act ; and
- (c) all employees who elect under section sixty x of this Act to contribute to the Provident Account.

Contributions  
to Provident  
Account.

“60W.—(1.) The contributions of a contributor to the Provident Account shall be at the rate of Five pounds per centum per annum of his annual salary.

(2.) From the salary of a contributor to the Provident Account there shall be deducted in respect of each fortnightly pay day occurring during his service one twenty-sixth of his annual rate of contributions, calculated to the nearest penny :

Provided that where a contributor to the Provident Account is on leave of absence through illness either without pay or at less than full pay the Board may, upon his application, permit the contributions falling due during his absence to be paid by him in such smaller sums and during such periods as the Board approves :

Provided further that where a contributor to the Provident Account is on leave of absence without pay, he shall not make any contributions in respect of any fortnightly pay day occurring during the period of that leave.

“ 60x.—(1.) Any contributor to the Superannuation Fund or any employee who would, but for this section, be required to become a contributor to the Superannuation Fund, whose contributions for his first two units—

Election to  
contribute to  
Provident  
Account.

- (a) are or would be at a rate in excess of the rate prescribed in Schedule I. or II. to this Act for forty-five years of age ; and
- (b) exceed, or would exceed, an amount equal to five per centum of his salary,

may, within six months after the date of commencement of this section, or of the commencement of his employment, whichever is the later, elect to contribute to either the Superannuation Fund or the Provident Account.

(2.) Where a contributor to the Superannuation Fund elects in pursuance of the last preceding sub-section to contribute to the Provident Account—

- (a) he shall, as from the date on which he so elects, make no further contributions to the Superannuation Fund and shall cease to be entitled to any pension or benefit which would otherwise be payable from the Superannuation Fund ; and
- (b) such portion of the Superannuation Fund as the Actuary to the Board certifies is the actuarial equivalent of the contributions made by the contributor to the Superannuation Fund shall be credited to the Provident Account and treated as being contributions by that contributor to the Provident Account.

“ 60y. Where a contributor to the Provident Account retires or is retired on or after having attained the age of sixty years or where his services are terminated—

Payments on  
retirement.

- (a) on the ground of invalidity ; or
- (b) owing to retrenchment,

there shall be paid to him a sum equal to twice the following amount, namely, the aggregate of his contributions to the Provident Account, together with compound interest on those contributions at the rate of Three pounds per centum per annum :

Provided that the payment so made shall not be less than a sum equal to one-half of his annual rate of salary.

Payments on  
death of  
contributor  
with  
dependants.

“ 60z. On the death of a male contributor to the Provident Account before retirement there shall be paid to his widow a sum equal to twice the following amount, namely, the aggregate of his contributions to the Provident Account, together with compound interest on those contributions at the rate of Three pounds per centum per annum :

Provided that the payment so made shall not be less than a sum equal to one-half of the employee's annual rate of salary :

Provided further that where a male contributor is not survived by a widow but is survived by children under the age of sixteen years the payments specified in this section shall be divided equally amongst those children.

Payment on  
death of  
contributor  
without  
dependants.

“ 60AA. On the death of a contributor to the Provident Account, who is unmarried or is a widower without children under the age of sixteen years, there shall be paid to his personal representatives, or, failing them, to such persons (if any) as the Board determines, an amount equal to the contributions paid by him to the Provident Account together with compound interest thereon at the rate of Three pounds per centum per annum.

Payments on  
resignation  
or dismissal.

“ 60AB. Where a contributor to the Provident Account resigns or is discharged or is dismissed there shall be paid to him an amount equal to the contributions paid by him to the Provident Account together with compound interest thereon at the rate of Three pounds per centum per annum.

Retrenchment  
or discharge.

“ 60AC. The compulsory termination of the service of a contributor to the Provident Account for the reason that his service or position is not necessary, or for the reason that the work for which he was engaged is finished, or for the reason that the quantity of work has diminished and has rendered necessary a reduction in the number of employees—

(a) shall be deemed to be ‘retrenchment’ if he has had not less than ten years’ service ; and

(b) shall be deemed to be ‘discharge’ if he has had less than ten years’ service.

Payment to  
other person.

“ 60AD. Where in the opinion of the Board any payment under this Part should be made to a person other than the person specified, the Board may, subject to this Act, authorize payment to that other person accordingly.

Payments by  
Commonwealth

“ 60AE.—(1.) In respect of each payment made to a contributor to the Provident Account or to his widow or children in pursuance of section sixty y or sixty z of this Act, the Commonwealth shall pay to the Provident Account an amount equal to the contributions made by that contributor together with compound interest thereon at the rate of Three pounds per centum per annum.

(2.) Where an amount paid to a contributor to the Provident Account is the minimum payment prescribed by the proviso to section sixty y of this Act or the first proviso to section sixty z of this Act the Commonwealth shall pay to the Provident Account any additional amount which has been paid to the contributor in pursuance of that proviso or first proviso, as the case may be.

(3.) Payments by the Commonwealth to the Provident Account for the purposes of this Act shall be made from the Consolidated Revenue Fund which is hereby appropriated accordingly

(4.) The payments shall be made in such manner and at such periods as are prescribed.”.

9. After section eighty of the Principal Act, the following section is inserted :—

“ 80A.—(1.) Where the salary of an employee is fixed and payable in sterling this Act shall be read as if, for the purposes of calculating— Employees paid in sterling.

(a) the number of units of pension in respect of which the employee shall contribute ;

(b) the contributions payable under this Act by that employee ;

(c) any pension or amount becoming payable under this Act to or in respect of that employee ; and

(d) any payment for which the Commonwealth becomes liable under this Act in respect of that employee,

any reference to any amount of salary, contribution or payment were a reference to that amount in sterling.

(2.) Where payments made to or from the Fund or the Provident Account exceed or are less than the amount of the payment which would, but for this section, have been so made, there shall be payable to the Commonwealth from the Fund or the Provident Account, as the case may be, the amount by which its receipts exceed those it would have received but for this section, and the Commonwealth shall recoup the Fund or the Provident Account, as the case may be, the amount of any loss sustained by reason of this section.”.

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