



# **Superannuation (Distribution of Surplus) Act 1974**

**No. 15 of 1974**

**An Act relating to Superannuation**



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# **Superannuation (Distribution of Surplus) Act 1974**

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## **An Act relating to Superannuation**

[Assented to 11 April 1974]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Superannuation (Distribution of Surplus) Act 1974*.

## 2 Commencement

This Act shall come into operation on the day on which it receives the Royal Assent.

## 3 Interpretation

- (1) In this Act, unless the contrary intention appears:

**actuary** means the actuary who was appointed by the Superannuation Board under section 17 of the *Superannuation Act 1922-1971* to make an investigation as to the state and sufficiency of the Fund at 30 June 1972 or, if the actuary so appointed dies or the Treasurer certifies that the actuary so appointed is not available to perform functions under this Act, such other actuary as the Treasurer appoints.

**contributor**, in relation to a particular time, means a person who was or is, at that time, contributing under Part III of the *Superannuation Act 1922*, or of that Act as amended, to the Fund.

**eligible contributor** means a person whose obligation to contribute under Part III of the *Superannuation Act 1922*, or of that Act as amended, to the Fund came into existence before the end of the relevant period and who:

- (a) is a contributor on the date on which this Act receives the Royal Assent;
- (b) has become a pensioner after the commencement of the relevant period but before the date referred to in paragraph (a); or
- (c) has died, after the commencement of the relevant period but before the date referred to in paragraph (a), while he was a contributor, leaving a widow or leaving children who were eligible children at the date of his death or who have become eligible children since that date,

other than such a person in respect of whom deferred benefits had become applicable under section 119W of the *Superannuation Act 1922-1971* on or before 30 June 1972.

**eligible pensioner** means a person who or in respect of whom, at any time during the relevant period, pension, other than a

non-contributory pension, was payable or would, but for the pension having been suspended, have been payable under:

- (a) the *Superannuation Act 1922* as amended;
- (b) section 12 of the *Superannuation Act 1957*;
- (c) section 27 of the *Superannuation Act 1963*;
- (d) section 5 of the *Superannuation (Pension Increases) Act 1961*;
- (e) section 5 of the *Superannuation (Pension Increases) Act 1967*; or
- (f) section 10 of the *Superannuation (Pension Increases) Act 1971*,

whether or not the person was a contributor at any other time during the relevant period.

***non-contributory pension*** means:

- (a) a pension that became payable under section 57 of the *Superannuation Act 1922* or of that Act as amended, not being a pension for which contributions were made to a State Fund as defined by section 101 of the *Superannuation Act 1922-1973*;
- (b) a pension that became payable under section 58 of the *Superannuation Act 1922* or of that Act as amended; or
- (c) a pension to which subsection 9(2) or subsection 14(2) of the *Superannuation Act (No. 2) 1956* applies;

***relevant period*** means the period of 10 years that ended on 30 June 1972.

- (2) Where deferred benefits were applicable in respect of a person under section 119W of the *Superannuation Act 1922-1971* on 30 June 1972 but had not become payable to or in respect of the person on or before that date, the person shall be deemed to be an eligible pensioner within the meaning of this Act whether or not the person was a contributor at any time during the relevant period.
- (3) Expressions used in this Act that are also used in the *Superannuation Act 1922-1973* have in this Act, unless the contrary intention appears, the same respective meanings as they have in the *Superannuation Act 1922-1973*.

#### 4 Object of Act

The object of this Act is to make provision for and in relation to the distribution out of the Fund, to or in respect of eligible contributors and eligible pensioners, of the amount of \$70,015,000, being the amount by which the Fund was, according to the Report to the Board by the Actuary on his Investigation of the Fund as at 30 June 1972, more than sufficient to provide for the benefits that were a charge upon it at that time, and, for the purposes of this Act:

- (a) the amount available for distribution to or in respect of eligible contributors is the amount of \$52,525,000; and
- (b) the amount available for distribution to or in respect of eligible pensioners is the amount of \$17,490,000.

#### 5 Distribution of surplus

- (1) The Treasurer shall, by notice published in the *Gazette*:
  - (a) fix a date as at which the amount referred to in paragraph (2)(b) shall be distributed to or in respect of eligible contributors; and
  - (b) fix a date as at which the amount referred to in paragraph (3)(b) shall be distributed to or in respect of eligible pensioners.
- (2) As soon as practicable after the date has been fixed in accordance with paragraph (1)(a), the Board shall:
  - (a) ascertain the amount (in this subsection referred to as ***the relevant amount***) that is equal to the sum of:
    - (i) the amount available for distribution to or in respect of eligible contributors; and
    - (ii) an amount determined by the Treasurer, after receiving advice from the Board, to be the amount that will have accrued to the Fund, in respect of the period that commenced on 1 July 1972 and ends on the date so fixed by reason of the retention in the Fund during that period of the amount available for distribution to or in respect of eligible contributors; and
  - (b) allocate among eligible contributors, in such manner as the Treasurer, after receiving advice from the actuary, determines,



the amount nearest to the relevant amount that it is practicable to allocate in that manner among eligible contributors.

- (3) As soon as practicable after the date has been fixed in accordance with paragraph (1)(b), the Board shall:
- (a) ascertain the amount (in this subsection referred to as *the relevant amount*) that is equal to the sum of:
    - (i) the amount available for distribution to or in respect of eligible pensioners; and
    - (ii) an amount determined by the Treasurer, after receiving advice from the Board, to be the amount that will have accrued to the Fund in respect of the period that commenced on 1 July 1972 and ends on the date so fixed by reason of the retention in the Fund during that period of the amount available for distribution to or in respect of eligible pensioners; and
  - (b) allocate among eligible pensioners, in such manner as the Treasurer, after receiving advice from the actuary, determines, the amount nearest to the relevant amount that it is practicable to allocate in that manner among eligible pensioners.
- (4) In furnishing advice to the Treasurer for the purposes of subsection (2) or (3), the actuary shall have regard to actuarial principles and practice and shall take into account all matters relevant to ensure that the amount to be distributed will be allocated among the persons concerned on a fair and reasonable basis.

## **6 Payment of shares of surplus to individual contributors and pensioners**

- (1) Subject to subsection (2), as soon as practicable after the allocation in respect of eligible contributors, or the allocation in respect of eligible pensioners, has been made under section 5, there shall be paid out of the Fund to each eligible contributor or eligible pensioner, as the case requires, who is entitled to an amount under the allocation an amount equal to that amount.
- (2) Where an eligible contributor or eligible pensioner who is entitled to an amount under the allocation made under subsection 5(2) or (3), as the case may be, has died before the time of payment of the amount:

- (a) if the widow of the contributor or pensioner is alive at the time of payment—an amount equal to the amount to which the contributor or pensioner is so entitled shall be paid out of the Fund to that widow; or
- (b) in any other case—an amount equal to, or amounts aggregating, the amount to which the contributor or pensioner is so entitled shall be paid out of the Fund to such person (if any), or to such persons (if any), as the case requires, as the Board determines.

## **7 Assignment and attachment of amounts payable**

Sections 143 and 143A of the *Superannuation Act 1922-1973* apply in relation to any moneys payable under Part III as if those moneys were a benefit under the first-mentioned Act and, where the moneys are payable in respect of a person who has died, as if the person had been an employee and the moneys were payable on his death.