

**Version No. 035**  
**State Superannuation Act 1988**

**Act No. 50/1988**

Version incorporating amendments as at 11 May 1999

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**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1. Purpose**

The purpose of this Act is to—

- (a) provide improved benefits under the State Superannuation Fund; and
- (b) introduce a new scheme for new officers; and
- (c) repeal the **Superannuation Act 1958**.

**2. Commencement**

- (1) Section 93(3) is deemed to have come into operation on 1 July 1987.
- (2) Section 93(4) is deemed to have come into operation on 27 November 1987.
- (3) Part 1 and Division 2 of Part 6 and section 91 are deemed to have come into operation on 1 January 1988.
- (4) The remaining provisions of this Act come into operation on a day or days to be proclaimed.

**3. Definitions**

- (1) In this Act—

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**"actuary"** means a fellow or accredited member of the Institute of Actuaries of Australia approved by the Minister;

S. 3(1) def. of "actuary" substituted by No. 4/1996

**"Board"** means the Victorian Superannuation Board established under section 5 of the **Public Sector Superannuation (Administration) Act 1993**;

S. 106(1)(a), S. 3(1) def. of "Board" substituted by No. 120/1994 s. 56(1).

**"child"** in relation to an officer or pensioner 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;

**"complying superannuation fund"** means a superannuation entity or a superannuation fund within the meaning of section 10 of the Commonwealth Superannuation Industry (Supervision) Act 1993 which is a complying superannuation fund or a complying approved deposit fund within the meaning of Part IX of the Commonwealth Income Tax Assessment Act 1936;

S. 3(1) def. of "complying superannuation fund" inserted by No. 4/1996 s. 106(1)(b).

**"contract officer"** means—

- (a) an executive within the meaning of section 4(1) of the **Public Sector Management and Employment Act 1998** employed under a contract of employment under that Act, other than an exempt officer; or
- (aa) any person who—
  - (i) is declared or deemed to be a

S. 3(1) def. of "contract officer" inserted by No. 87/1992 s. 15(1)(a), substituted by No. 110/1993 s. 70(1)(a), amended by Nos 46/1998 s. 7(Sch. 1), 84/1998 s. 45(1).

person to whom sub-section (2)(c) applies; or

- (ii) is a member of a class of persons declared or deemed to be persons to whom sub-section (2)(c) applies—

by the Minister by instrument in writing; 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;

**"contributor"** means an officer who will be, is, or has been, eligible to contribute to the Fund;

**"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;

S. 3(1) def. of "dependant" inserted by No. 120/1994 s. 53(1)(a).

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**"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;

**"employing authority"** means any person, authority or body who or which is the employer of an officer;

**"exempt officer"** means—

- (a) an executive within the meaning of section 4(1) of the **Public Sector Management and Employment Act 1998** 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 authority to the Board is in force; or
- (b) a contract officer whose employing 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;

S. 3(1) def. of "disability" amended by Nos 49/1992 s. 3(a), 110/1993 s. 70(1)(b), 23/1994 s. 118(Sch. 1 item 54.1(a)), substituted by No. 120/1994 s. 54.

S. 3(1) def. of "exempt officer" inserted by No. 87/1992 s. 15(1)(b), substituted by No. 110/1993 s. 70(1)(c), amended by No. 46/1998 s. 7(Sch. 1).



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**"expense allowance"** means an allowance payable periodically which—

- (a) is designated as an expense allowance or an expense of office allowance; or
- (b) is in fact an allowance which is granted to an officer in respect of expenses which are normally and properly incurred by the officer in carrying out the duties of his or her office;

S. 3(1) def. of "final average salary" inserted by No. 110/1993 s. 70(1)(d).

**"final average salary"** means—

- (a) in relation to an officer with less than 2 years of recognised service, an amount calculated in accordance with the formula—

$$\frac{A}{B} \times \frac{365}{1}$$

where—

"A" is the aggregate salary paid to the officer in respect of the officer's period of recognised service;

"B" is the total number of days in that period;

- (b) in relation to an officer with 2 years or more of recognised service, an amount equal to one-half of the officer's aggregate salary for the period of recognised service of 2 years ending on the officer's last day of service—

and if the period of recognised service includes a period of leave without pay, there is deemed to have been payable to that officer during that period of leave without pay, salary at the rate payable to the officer immediately before the period of leave, or

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such higher salary as has been approved by the Board for the purposes of this section, but in no case shall the amount in relation to a person who was an officer on 1 January 1994 be less than the officer's salary on that date;

**"Fund"** means the Superannuation Fund established under the **Superannuation Act 1925** and continued under this Act as the State Superannuation Fund;

S. 3(1) def. of "Fund" amended by No. 81/1988 s. 25(a).

\* \* \* \* \*

S. 3(1) def. of "Government Actuary" repealed by No. 4/1996 s. 106(1)(c).

**"ill health"** means a continuous or recurring impairment of the health of a member which is due to a physical or mental incapacity, bodily injury, illness or disease, which in the opinion of the Board—

S. 3(1) def. of "ill health" inserted by No. 102/1995 s. 22, amended by No. 4/1996 s. 106(2).

- (a) is not a disability; and
- (b) is likely to be adversely affected if the member remains in his or her employment or returns to employment with an employing authority; and
- (c) does not preclude the member from seeking alternative employment; and
- (d) has not been incurred or inflicted for the purpose of obtaining a benefit;

**"minimum age for retirement"** means—

- (a) the age of 55 years; or
- (b) if an entitlement to an accrued benefit at an earlier age than 55 years is prescribed for a prescribed class of members, that earlier age;

S. 3(1) def. of "minimum age for retirement" amended by No. 82/1996 s. 58(2).

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S. 3(1) def. of  
"new scheme  
member"  
amended by  
Nos 81/1988  
s. 25(b),  
49/1992  
s. 3(b),  
110/1993  
s. 82(2).

"new scheme member" means—

- (a) an officer who was not a contributor or a person entitled to a pension on the ground of disability under the **Superannuation Act 1958** or this Act on 30 June 1988; and
- (b) a person who becomes an officer after 30 June 1988, on and from the date on which that person becomes an officer; and
- (ba) a person who makes an election under any Act to transfer to the Fund, on and from the date on which that election takes effect; and
- (c) an officer who makes an election under section 61 or 61B, on and from the date on which that election takes effect—

but does not include—

- (d) a revised scheme member who after 30 June 1988 ceases to be a contributor for less than 30 days and again becomes an officer; and
- (e) a person—
  - (i) who was a contributor before 1 July 1988; and
  - (ii) to whom section 30(2)(b) of **The Constitution Act Amendment Act 1958** applies;

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S. 3(1) def. of "occupational super-annuation standards" inserted by No. 49/1992 s. 3(c), repealed by No. 4/1996 s. 106(1)(c).

**"officer"** (subject to sub-section (4)) means a person other than an exempt officer or a person who is employed on a casual basis who is—

S. 3(1) def. of "officer" amended by Nos 49/1992 s. 3(d), 87/1992 s. 15(1)(c), 18/1993 s. 34, 120/1994 s. 65(a), 50/1997 ss. 12, 18(4), 46/1998 s. 7(Sch. 1), 12/1999 s. 4(Sch. 2 item 13.1).

(a) employed—

(i) under Part 3 of the **Public Sector Management and Employment Act 1998**; or

(ii) under the **Teaching Service Act 1981** as—

(A) a member of the permanent staff of the teaching service; or

(B) a temporary teacher; or

(C) a temporary professional appointee; or

(D) a temporary assistant professional appointee; or

(E) a temporary special developmental school teacher; or

(iii) under the **Education Act 1958**—

(A) under section 5(1) or 15B of that Act; or

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- (B) as a rural school aide; or
  - (C) as a teacher aide; or
  - (iv) on the staff of officers of The Parliament under and in accordance with the **Parliamentary Officers Act 1975**; and
  - (b) on the staff of a post secondary education institution within the meaning of the **Tertiary Education Act 1993** or a technical and further education institution within the meaning of that Act whom the Secretary to the Department of Treasury and Finance certifies in writing to the Board to be in his or her opinion a person the greater part of whose salary is met from the Consolidated Fund; and
  - (c) a person or a member of a class of persons—
    - (i) holding any office under the Crown; or
    - (ii) holding any office as a member or in the service or employment of any body created by or under any Act; or
    - (iii) holding any office as a member or in the service or employment of any other body that the Minister by instrument declares to be a body to which this sub-paragraph applies—
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to which person or class of persons the Minister by instrument declares that this Act applies; and

- (d) holding any office—
- (i) under the Crown; or
  - (ii) as a member or in the service or employment of any body created by or under any Act—
- who was before his or her appointment to that office an officer for the purposes of this Act and who is by or under any Act or law deemed to continue to be an officer within the meaning of this Act while holding that office; and
- (e) an officer within the meaning of the **Superannuation Act 1958** on 30 June 1988 and continues to be employed by the same or another employing authority; and
- (f) referred to in paragraph (a), (b), (c), (d) or (e) and has resigned or been given leave of absence without pay to act as a full-time officer of a trade union which is approved by the Minister; and
- (g) a person referred to in a preceding paragraph who as a result of a change of employment becomes a person referred to in—
- (i) any other paragraph of this definition; or
  - (ii) any paragraph of the definition of "employee" in section 2(1) of the **State Employees Retirement Benefits Act 1979**; or

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(iii) any paragraph of the definition of "employee" in section 3(1) of the **Transport Superannuation Act 1988**.

**"original scheme member"** means an officer contributing to the Fund as at 30 June 1988 who was not a revised scheme member;

S. 3(1) def. of "Period of absence" repealed by No. 81/1988 s. 25(c).

\* \* \* \* \*

**"prescribed"** means prescribed by the regulations;

S. 3(1) def. of "recognised service" amended by Nos 81/1988 s. 25(d), 49/1992 s. 3(e)(f), 110/1993 s. 70(1)(e).

**"recognised service"**, in relation to an officer, means the total period (calculated in years, months and days) during which the officer contributed (or in the case of a new scheme member, was entitled to contribute) to the Fund and includes—

- (a) the additional period of service (if any) which the officer is taken as having by virtue of the operation of, or is by any Act deemed to have for the purpose of section 13D(3), 13DA(3), 13DB(1), 13DB(1A) or 67(1A) of the **Superannuation Act 1958** and in respect of which the officer has made contributions or other payments to the Fund; and
- (b) any additional period of service (if any) determined by the Board in accordance with the regulations—

but does not include any period after he or she attains the age of 65 years unless the Treasurer otherwise specifies in writing in

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respect of a specified officer or, except where express provision to the contrary is made in this Act, any period of leave of absence unless contributions have been paid in respect of that period of leave of absence under section 49(1)(c);

**"registered medical practitioner"** means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;

S. 3(1) def. of "registered medical practitioner" inserted by No. 23/1994 s. 118(Sch. 1 item 54.1(b)).

**"resignation"** means the termination of service (however expressed) other than by reason of death, disability or retrenchment of a member before he or she has attained the minimum age for retirement;

S. 3(1) def. of "resignation" substituted by No. 82/1996 s. 58(1).

**"retrenchment"** means the termination of the employment or service of an officer who has not attained the minimum age for retirement and in respect of whom the employing authority certifies in writing to the Board that the officer has been retrenched for the purposes of this Act;

S. 3(1) def. of "retrenchment" amended by No. 72/1990 s. 3(a)(b), substituted by No. 87/1992 s. 16(1)(d).

**"revised scheme member"** means an officer who was a revised scheme contributor within the meaning of section 3(1A) of the **Superannuation Act 1958**;

S. 3(1) def. of "revised scheme member" amended by No. 81/1988 s. 25(e).

**"revised scheme member's pension"** means, on the death or disability of a revised scheme member before retirement, the pension which would have become payable to the deceased or disabled revised scheme member at the retirement age of 60 if his or her final average salary at the time of death

S. 3(1) def. of "revised scheme member's pension" amended by No. 110/1993 ss 70(1)(f), 71(2).



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or disability had been his or her final average salary at age 60 and counting the recognised service which would have been completed by that age;

S. 3(1) def. of "salary" amended by Nos 81/1988 s. 25(f)(i)(ii), 49/1992 s. 3(g)-(i).

**"salary"** means the annual rate, computed as determined by the Board on the basis of a year consisting of 313 working days and 52 Sundays, of pecuniary emoluments payable periodically and regularly to an officer for the performance of the duties of his or her grade of employment as an officer, and includes—

- (a) the annual rate of allowances payable instead of free quarters, and, when free quarters are provided, the annual rate of allowance that would have been payable had free quarters not been provided; and
- (b) the annual rate of remuneration or pecuniary emolument payable for the regular performance of duties on Sundays, subject to deduction of the value of any leave of absence granted in respect thereof, where the annual value of that remuneration and of that deduction can be computed in advance; and
- (c) in the case of an officer holding an office in the senior executive service within the public service, the annual amount of performance pay payable to the officer whether payable as a lump sum or otherwise; and
- (d) unless an officer otherwise elects in writing, the annual rate of any higher duties allowance payable to an officer

for at least 12 months and includes any increase in the rate during a period of at least 12 months where a higher duties allowance has been paid continuously in respect of different positions held by that officer; and

- (e) any additional amount prescribed for officers who perform rostered or shift work; and
- (f) the annual rate of any other remuneration or pecuniary emolument payable periodically and approved by the Board—

but does not include a recreation leave allowance or an expense allowance or payment for overtime, or for travelling allowances or for incidental expenses or payments of a temporary character;

**"secondment"**, in relation to an officer, means leave without pay to engage in paid employment with the consent of his or her employer during the period of that leave and in respect of which contributions payable under section 51(3) or 90(3) are only met by or on behalf of the current employer during that period;

S. 3(1) def. of "secondment" amended by No. 49/1992 s. 3(j).

**"specified standards"** means standards specified under section 92A;

S. 3(1) def. of "specified standards" inserted by No. 4/1996 s. 106(1)(d).

**"spouse"** means in relation to a person—

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

S. 3(1) def. of "spouse" substituted by No. 120/1994 s. 53(1)(b).

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- (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;

**"Superannuation Act 1958"** means the **Superannuation Act 1958** as in force immediately before the commencement of section 93(1).

S. 3(2)  
amended by  
No. 87/1992  
s. 15(2)(b).

- (2) For the purposes of the definition of "salary" in sub-section (1)—

S. 3(2)(a)  
amended by  
No. 87/1992  
s. 15(2)(a).

- (a) if an officer's salary is reduced then, unless the officer agrees in writing that the reduced salary applies, salary means the greater of—
- (i) the salary of the officer immediately before the reduction; or
  - (ii) the actual salary; or
- (b) in the case of an officer referred to in paragraph (f) of the definition of "officer", salary means the last salary of the officer immediately prior to becoming a full-time officer of the trade union adjusted in accordance with changes in the rate of salary for the last substantive classification of the officer or any higher salary as is paid to the officer by the trade union and approved by the Board; or

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- (c) in the case of a person referred to in paragraph (a) or (aa) 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 authority to the Board; or
- (d) subject to paragraph (e), 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 from time to time in that person's contract of employment and notified in writing by the employing authority to the Board; 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) The Minister may, by an instrument of delegation under the hand of the Minister, delegate to the Secretary to the Department of Treasury and Finance any power or duty of the Minister under paragraph (c) of the definition of "officer" in subsection (1).
- S. 3(2)(c) inserted by No. 87/1992 s. 15(2)(b), amended by Nos 58/1994 s. 6(a), 84/1998 s. 45(2).
- S. 3(2)(d) inserted by No. 58/1994 s. 6(b), amended by No. 120/1994 s. 55(1)(2).
- S. 3(2)(e) inserted by No. 120/1994 s. 55(2).
- S. 3(3) amended by Nos 100/1995 s. 32(Sch. 2 item 9), 46/1998 s. 7(Sch. 1).

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- (4) Until 1 July 1988 "**officer**" in Division 2 of Part 6 has the same meaning as it has in section 3 of the **Superannuation Act 1958**.
- (5) A reference in this Act to a Commonwealth Act is a reference to that Act as amended and in force for the time being or as re-enacted and as subsequently amended and in force for the time being.
- (6) Despite the amendment of the definition of "revised scheme member's pension" by section 70(1)(f) of the **Public Sector Superannuation (Administration) Act 1993** no pension calculated according to that definition as amended shall be less than the pension that would have been payable had the revised scheme member retired due to disability or died (as the case may be) immediately before that section came into operation.

S. 3(6)  
inserted by  
No. 110/1993  
s. 70(2).

#### 4. *Application of Act*

- (1) Subject to sub-section (1A), this Act does not apply to an officer while he or she is a member of a prescribed superannuation scheme.
- (1A) For the purpose of this section, the Victorian Superannuation Fund constituted under the **Public Sector Superannuation (Administration) Act 1993** is deemed to have ceased to be a prescribed superannuation scheme on 19 December 1995.
- (2) If any person has been appointed prior to the commencement of the **Superannuation (Amendment) Act 1968** for a term of years to any of the offices mentioned in Part II of the Second Schedule of the **Superannuation Act 1958**—
- (a) for the purposes of this Act, he or she is so long as he or she continues to be employed in the office (whether during or after the

S. 4(1)  
amended by  
No. 4/1996  
s. 107(1).

S. 4(1A)  
inserted by  
No. 4/1996  
s. 107(2).

- 
- expiration of the term for which he or she was appointed) an officer within the meaning of this Act; and
- (b) the cessation of that employment (otherwise than by retrenchment, dismissal or resignation) is to be taken to be retirement within the meaning of this Act.
- (3) Any person who is an officer for the purposes of this Act by the operation of paragraph (d) in the definition of "officer" in section 3(1) or who would at any time have been an officer for the purposes of this Act or any corresponding previous enactment if the definition of "officer" at that time had included a provision corresponding to that paragraph is for the purposes of this Act and of any corresponding previous enactment to be taken to have been during the period that he or she holds or held that office, whether before or after the commencement of the **Superannuation Act 1965**, an officer within the meaning of this Act.
- (4) A person (other than a person referred to in subsection (5)) who, immediately before 1 July 1988—
- (a) is a contributor within the meaning of the **Superannuation Act 1958**; and
- (b) is liable to contribute under section 11 of that Act; and
- (c) since 1 July 1975 has not contributed under section 11 of that Act or received a disability pension under that Act—

is to be treated for the purposes of this Act as a new scheme member and is not entitled to receive any benefits under the **Superannuation Act 1958** in respect of any period for which that person has

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been liable to contribute under section 11 of that Act but has not so contributed.

- (5) Despite sub-section (4), a person referred to in that sub-section is to be treated as a revised scheme member if he or she—
- (a) within 6 months before 1 July 1988 becomes a contributor within the meaning of the **Superannuation Act 1958**; and
  - (b) has by 31 December 1988 commenced to contribute under section 28.
- (6) If a person becomes a new scheme member as a result of an election under section 75 of the **State Employees Retirement Benefits Act 1979** the Board must grant to that member an additional accrued retirement benefit equal to—
- (a) 15 per cent of final average salary for each year of service recognised by the State Employees Retirement Benefits Board in which no contributions were made; and
  - (b) 20 per cent of final average salary for each year of service recognised by the State Employees Retirement Benefits Board in which contributions were made on or after the commencement of section 26 of the **Superannuation Acts (Amendment) Act 1988**; and
  - (c) 21 per cent of final average salary for each year of service recognised by the State Employees Retirement Benefits Board in which contributions were made before the commencement of section 26 of the **Superannuation Acts (Amendment) Act 1988**.

S. 4(6)  
inserted by  
No. 81/1988  
s. 26.

S. 4(6)(a)  
amended by  
No. 110/1993  
s. 71(1).

S. 4(6)(b)  
amended by  
No. 110/1993  
s. 71(1).

S. 4(6)(c)  
amended by  
No. 110/1993  
s. 71(1).

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s. 4

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- (7) A person cannot become an officer or become a member of the revised scheme or the new scheme on or after the commencement of section 72 of the **Public Sector Superannuation (Administration) Act 1993** except by transferring from the revised scheme to the new scheme under section 61B.
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S. 4(7)  
inserted by  
No. 110/1993  
s. 72.



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*Act No. 50/1988*

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s. 6

Pt 2 (Heading)  
substituted by  
No. 120/1994  
s. 56(2).

**PART 2—THE BOARD**

S. 5  
repealed by  
No. 120/1994  
s. 56(3).

\* \* \* \* \*

**6. Objectives and duties of the Board**

- (1) The following are the objectives of the Board-
  - (a) to collect contributions;
  - (ab) to ensure that the Fund is administered in accordance with the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 and the Commonwealth Superannuation Contributions Tax Imposition Act 1997 and any regulations under those Acts;
  - (b) to manage and invest the Fund so as to maximize the return earned on the Fund having regard to—
    - (i) the need to provide for payments out of the Fund; and
    - (ii) the need to exercise reasonable care and prudence so as to maintain the integrity of the Fund;
  - (c) to administer the payment of benefits having due regard to the need for equity among contributors, pensioners and beneficiaries.
- (2) It is the duty of the Board to—
  - (a) establish policies in respect of the administration of this Act and the investment of money standing to the credit of the Fund

S. 6(1)(ab)  
inserted by  
No. 84/1998  
s. 46(1).

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and to adopt strategies designed to achieve those policies; and

- (b) determine, authorise or approve programs for the administration of this Act and the investment of money standing to the credit of the Fund; and

\* \* \* \* \*

**S. 6(2)(ba)**  
inserted by  
**No. 49/1992**  
s. 4(1),  
repealed by  
**No. 4/1996**  
s. 108(1).

- (c) ensure that the decisions and operations of the Board are directed towards achieving its objectives; and
- (d) ensure that the Board has, or has access to, the skills, facilities and resources required to achieve its objectives; and
- (e) subject to sub-section (3), inform contributors about the management and investment of the Fund including making available to contributors at least once in each year a summary of information relating to the management and investment of the Fund; and
- (f) subject to sub-section (3), liaise with relevant industrial organisations concerning the interests of contributors and inform those organisations about the management and investment of the Fund; and
- (g) ensure that the Board conducts its operations in an efficient manner.

*State Superannuation Act 1988*

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s. 6

S. 6(2A)  
inserted by  
No. 49/1992  
s. 4(2),  
repealed by  
No. 4/1996  
s. 108(1).

S. 6(4)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

S. 6(6)  
inserted by  
No. 84/1998  
s. 46(2).

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- \* \* \* \* \*
- (3) In performing its duties under sub-sections (2)(e) and (2)(f) the Board must have regard to the need to protect information the disclosure of which could adversely affect the financial position of the commercial or other operations of the Board.
- (4) If the Minister at any time gives to the President—
- (a) a statement of government policy on any matter that is relevant to the performance of the duties of the Board; and
  - (b) a request that the Board consider that policy in the performance of its duties—
- the Board must ensure that consideration is given to that policy.
- (5) The Board must publish any statement under sub-section (4) in its next annual report together with the results of its consideration.
- (6) If any provision of the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 or the Commonwealth Superannuation Contributions Tax Imposition Act 1997 or of any regulations under those Acts is inconsistent with this Act or any regulations under this Act, the Board is to be taken to have complied with this Act or the regulations if the Board has complied with the provision of the Commonwealth Superannuation Contributions Tax (Assessment and Collection) Act 1997 or the Commonwealth Superannuation Contributions Tax Imposition Act 1997 or of the regulations under those Acts.
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*Act No. 50/1988*

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*	*	*	*	*	<p><b>S. 7</b> amended by Nos 81/1988 s. 27(a), 49/1992 s. 5(a)(b)(i)(ii), repealed by No. 120/1994 <del>S. 56(3)</del>, repealed by No. 120/1994 s. 56(3).</p>
*	*	*	*	*	
*	*	*	*	*	<p><b>S. 9</b> amended by Nos 81/1988 s. 27(b)(c), 72/1990 s. 4, 49/1992 s. 6(1), repealed by No. 120/1994 s. 56(3)<sup>1</sup>.</p>
*	*	*	*	*	<p><b>S. 10</b> amended by No. 49/1992 s. 6(2)(a)(b), repealed by No. 120/1994 s. 56(3).</p>
*	*	*	*	*	<p><b>Ss 11, 12</b> repealed by No. 120/1994 s. 56(3).</p>
*	*	*	*	*	<p><b>S. 13</b> amended by No. 49/1992 s. 7, repealed by No. 120/1994 s. 56(3).</p>
*	*	*	*	*	<p><b>S. 14</b> repealed by No. 120/1994 s. 56(3).</p>

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*State Superannuation Act 1988*

*Act No. 50/1988*

s. 8

S. 15  
amended by  
No. 49/1992  
s. 8,  
repealed by  
No. 120/1994  
s. 56(3).

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**PART 3—THE SUPERANNUATION FUND**

**16. *The Superannuation Fund***

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|---|---|
| (1) The Fund called "The Superannuation Fund" is continued under this Act and renamed the "State Superannuation Fund".  | S. 16(1)<br>amended by<br>No. 81/1988<br>s. 27(d).  |
| (2) Into the Fund are to be paid the contributions of officers and the payments and repayments by the Treasurer and employing authorities under this Act and amounts payable under section 16A into the non-contributory schemes account in the Fund. | S. 16(2)<br>amended by<br>No. 54/1993<br>s. 11(1)(a).                                     |
| (3) Out of the Fund are to be paid the benefits provided for in this Act and amounts payable under section 16A out of the non-contributory schemes account in the Fund and all costs of administering the Fund and this Act.                          | S. 16(3)<br>amended by<br>No. 54/1993<br>s. 11(1)(b).                                     |
| (4) Income derived from investment of the Fund forms part of the Fund.  |   |
| *            *            *            *            *   | S. 16(5)<br>amended by<br>No. 49/1992<br>s. 9, repealed<br>by<br>No. 82/1996<br>s. 59(1). |

**16AA. *Merger of Funds***

- |   |   |
|---|---|
| (1) On the commencement of section 109 of the <b>Superannuation Acts (Amendment) Act 1996</b> , the assets and liabilities of the State Employees Retirement Benefits Fund and the Transport Superannuation Fund are by virtue of this section transferred to the Fund and form part of the Fund. | S. 16AA<br>inserted by<br>No. 4/1996<br>s. 109. |
| (2) On and after the commencement of section 109 of the <b>Superannuation Acts (Amendment) Act 1996</b> —   |   |

- (a) the contributions of employees and the payments and repayments into the Fund by employers and any other money received or recovered by the Board under the **State Employees Retirement Benefits Act 1979** are to be paid into the Fund;
  - (b) the contributions of members and the payments and repayments into the Fund by a transport authority and any other money received or recovered by the Board under the **Transport Superannuation Act 1988** are to be paid into the Fund;
  - (c) the benefits provided for in the **State Employees Retirement Benefits Act 1979** and all the costs of administering that Act are to be paid out of the Fund;
  - (d) the benefits provided for in the **Transport Superannuation Act 1988** and all the costs of administering that Act are to be paid out of the Fund.
- (3) No stamp duty or other tax is chargeable under any Act in respect of anything done under this section.
- (4) The transfer effected by this section does not affect the benefits and entitlements conferred or the duties and obligations imposed under the **State Employees Retirement Benefits Act 1979** or the **Transport Superannuation Act 1988**.

S. 16A  
inserted by  
No. 54/1993  
s. 10.

**16A. Non-contributory schemes account**

- (1) The Board must keep an account in the Fund called the non-contributory schemes account.
  - (2) There shall be credited to the account in respect of each scheme member such amounts in respect of such periods commencing on or after 1 July 1992 as the Board, on the advice of an actuary and with
-

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s. 16A

the approval of the Minister, determines from time to time, having regard to the Commonwealth Act.

- (3) In addition to the amounts paid under sub-section (2), there shall be credited to the account in respect of a scheme member such amounts as the Board from time to time determines, on the advice of an actuary and with the approval of the Minister, having regard to interest earned on investment of the Fund, after deduction of income tax (if any) and costs and expenses incurred by the Board in keeping the account.

\* \* \* \* \*

S. 16A(4)(5)  
repealed by  
No. 82/1996  
s. 59(2).

- (5A) If a pension or benefit is not payable to or in respect of a person under the relevant Act, the amount in the account is to be paid to the person or to his or her dependant or legal personal representative as the Board determines.

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S. 16A(5A)  
inserted by  
No. 110/1993  
s. 73.

S. 16A(5B)  
inserted by  
No. 110/1993  
s. 73,  
repealed by  
No. 120/1994  
s. 53(2).

- (6) In this section—

**"account"** means the non-contributory schemes account referred to in sub-section (1);

**"Commonwealth Act"** means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth;

**"relevant Act"** means **Attorney-General and Solicitor-General Act 1972, Constitution Act 1975, County Court Act 1958,**



**Director of Public Prosecutions Act 1982  
and Supreme Court Act 1986;**

**"scheme member"** means a person who has not resigned or retired but who, on resignation or retirement, will be entitled to a pension under a relevant Act.

**17. *The Management Account***

- (1) The Board must keep an account called the Management Account.
  - (2) The Board must credit to the Management Account—
    - (a) any money appropriated from time to time by the Board from the Fund; and
    - (b) any amount received under sub-section (3); and
    - (c) any money standing to the credit of the Management Account established under section 5(4) of the **Superannuation Act 1958** immediately before the commencement of section 93(1).
  - (3) If the Board administers any other superannuation fund or scheme or provides services to any Minister or employing authority, the Board may require reimbursement for the costs of that administration or the provision of those services.
  - (4) The Board must debit to the Management Account—
    - (a) the remuneration paid to members of the Board; and
    - (b) the salaries or other remuneration paid to persons employed by the Board; and
    - (c) the pensions or other benefits paid to or in respect of former officers or employees of
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the Board who ceased employment on or after 1 July 1981; and

- (d) the expenses and other payments of the Board (including any expenses or other payments made by the Board in the resolution of disputes with the Board) incurred in administering the Fund and carrying out its functions under this Act; and
- (e) the expenses of the Board in administering any other superannuation scheme.

*	*	*	*	*	Ss 18, 19 repealed by No. 120/1994 s. 56(3).
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*	*	*	*	*	Ss 20–22 repealed by No. 31/1994 s. 4(Sch. 2 item 84).
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**23. Actuarial investigation of the Fund**

- (1) The Board must arrange for an actuarial investigation into the financial position of the Fund as at 30 June 1988 and at the end of each following period of 3 years to be made by an actuary appointed by the Board.
- (2) The actuary's report must include details of—
  - (a) the amount of any unfunded liabilities; and
  - (b) the amount of those unfunded liabilities which is attributable to each employing authority concerned.
- (3) The Board must submit the actuary's report of the investigation to the Minister within 6 months after the end of each period of 3 years.

S. 23(3)  
amended by  
Nos 82/1996  
s. 60, 46/1998  
s. 7(Sch. 1).

*State Superannuation Act 1988*

*Act No. 50/1988*

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s. 23

**S. 23(4)**  
**amended by**  
**No. 46/1998**  
**s. 7(Sch. 1).**

- (4) The Minister must cause each actuary's report submitted to him or her to be laid before the Legislative Council and the Legislative Assembly before the expiration of the seventh sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the actuary's report has been received by the Minister.
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**PART 4—PART-TIME OFFICERS**

**24. Definitions applying to this Part only**

(1) In this Part—

**"comparable full-time officer"** in relation to a part-time officer means an officer who is employed in a similar office to the part-time office on a full-time basis, whether or not there is such an officer;

**"full-time officer"** means an officer who is employed on a full-time basis throughout the year;

**"part-time officer"** means an officer who is employed at any time on a basis which requires him or her to render part-time service;

**"pro rata"** in relation to a part-time officer means—

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

where—

A is the total service in years and completed months of the part-time officer;

B is the total service in years and completed months that the part-time officer would have rendered if he or she had been a full-time officer throughout his or her service as a part-time officer;

**"total service"**—

(a) in relation to a revised scheme member, means the total in years and completed months of his or her continuous

S. 24(1) def. of "total service" amended by Nos 81/1988 s. 27(e), 120/1994 s. 58.

recognised service, whether as a full-time or part-time officer, or 30 years, whichever is the lesser; or

- (b) in relation to a new scheme member, the total in years and completed months of his or her continuous recognised service whether as a full-time or part-time officer—

and where that total is relevant to the calculation of benefits on death or retirement on grounds of disability includes prospective service.

- (2) The Board may recognise as a part-time officer an officer who is employed on an intermittent basis if it is satisfied that the total service required of that officer can be calculated annually in advance.
- (3) If a full-time officer is employed on a part-time basis due to ill-health, the Board may recognise all or part of that part-time service as full-time employment.

**25. *Service and prospective service of a part-time officer***

- (1) The service of a part-time officer is to be the proportion that his or her actual part-time service bears to the service that a comparable full-time officer would have been required to render.
- (2) The prospective service of a part-time officer at any time is to be calculated on the proportion that his or her average service over the preceding 3 years or his or her period of membership of the Fund (whichever is the lesser) bears to the service which would have been required of a comparable full-time officer over the same period.

**26. *Act applies subject to principles and rules for part-time officers***

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*State Superannuation Act 1988*

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- (1) This Act applies to a part-time officer (other than an officer employed on that basis who has been recalled to service under section 76) subject to and in accordance with the principles and subject to the rules and modifications provided in this section.
- (2) If—
  - (a) the service of a part-time officer follows continuously upon his or her service as a full-time officer; or
  - (b) the service of a full-time officer follows continuously upon his or her service as a part-time officer—his or her period of service as a full-time officer is to be added to his or her period of service as a part-time officer.
- (3) The contributions to be paid by a part-time officer are that proportion of the contributions that would be payable by a comparable full-time officer which the service of the part-time officer at the time the contributions fall due bears to the service of a comparable full-time officer.
- (4) Where a contributor has been a full-time officer and a part-time officer his or her benefits on retirement or death are to be calculated pro rata to the benefits payable to a comparable full-time officer.

**PART 5—ORIGINAL SCHEME MEMBERS**

**27. *Original scheme members***

Despite the repeal of the **Superannuation Act 1958**, an officer who is an original scheme member is entitled to contribute for units of pension and has the same benefits and rights under that Act as if that Act had not been repealed.

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**PART 6—REVISED SCHEME MEMBERS**

**Division 1—Contributions**

**28. Contribution rates**

- (1) A revised scheme member must make contributions to the Fund determined in accordance with the following Table<sup>2</sup>:

\* \* \* \* \*

- (2) If a revised scheme member or a person to whom section 61(1) applies was entitled to contribute for optional units under the **Superannuation Act 1958** he or she may—

S. 28(2)  
amended by  
No. 72/1990  
s. 7(2).

- (a) continue to pay or, with the approval of the Board after considering medical evidence, at any time elect to pay additional contributions fixed by the Board on the advice of an actuary appointed by the Board at regular periods; or
- (b) within 1 month of retirement due to age elect to contribute an amount considered appropriate by the Board—

to entitle him or her to an additional pension equal to the pension that he or she would have been entitled if he or she had contributed for all his or her optional units<sup>3</sup>.

- (2A) Sub-section (2) applies to any revised scheme member entitled to contribute for optional units under the **Superannuation Act 1958** who elected to transfer to the Transport Superannuation Fund under section 4 of the **Transport Superannuation Act 1988**.

S. 28(2A)  
inserted by  
No. 49/1992  
s. 10(1).



*State Superannuation Act 1988*  
*Act No. 50/1988*

s. 29

S. 28(3)  
amended by  
No. 81/1988  
s. 27(f).

- (3) If a revised scheme member was not contributing for all of his or her optional units as at 1 February 1975 or was holding fully paid up units under the **Superannuation Act 1958** the Board may determine that his or her contributions to the Fund are to be based on a reduced amount of salary.
- (4) If the Board recognises any service or further service for a revised scheme member after 30 June 1988, the Board may on the advice of an actuary appointed by the Board fix an additional contribution to be made by the revised scheme member.
- (5) If a revised scheme member attains the age of 65 years no further contributions are to be made.

S. 28(6)  
inserted by  
No. 49/1992  
s. 10(2),  
repealed by  
No. 4/1996  
s. 108(2).

\* \* \* \* \*

**29. *Adjustment of contribution rates***

- (1) If the contribution that a revised scheme member is liable to contribute is increased because of—
  - (a) an increase in his or her salary; or
  - (b) having a birthday which places him or her in the next age range in the Table in section 28—

the contribution is to be adjusted as at the day in each calendar year fixed by the Board for the adjustment of contributions next following the date upon which he or she becomes so liable and the Board may fix one or more days in each calendar year.

- (2) The contribution as adjusted is payable as from and inclusive of the pay day on or next following

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the day being 2 months after the day fixed under  
sub-section (1).

\* \* \* \* \*

S. 30  
amended by  
No. 110/1993  
s. 74, repealed  
by No.  
64/1995  
s. 38(1).

### **Division 2—Benefits**

#### **31. *Pension on retirement through age or disability***

- (1) A revised scheme member is entitled to a pension on retirement on or after attaining the minimum age for retirement.
- (2) Subject to this Act upon the retirement of a revised scheme member on the ground of disability he or she is entitled to a pension.
- (3) A revised scheme member who became a contributor before 15 December 1970 is entitled to not less than the benefits and rights that he or she would have been entitled to under the **Superannuation Act 1958**.

#### **32. *Minimum amount of pension***

Except where this Act requires a pension to be actuarially determined the minimum amount of pension payable to any revised scheme member or to the spouse of a revised scheme member or pensioner is \$130 per annum.

#### **33. *Amount of pension on retirement through age***

- (1) In this section—

N represents the amount of the pension that would have been payable to the officer if the officer had continued to serve as an officer until attaining the age of 60 years and had then retired and as if his or her final average salary at retirement had been his or her final

S. 33(1)  
amended by  
Nos 81/1988  
s. 28(a),  
110/1993  
s. 71(2).

average salary at age 60 and counting the recognised service which would have been completed by that age;

YA represents the period of recognised service of the officer before attaining the age of 60 years or 42 years whichever is the lesser;

YP represents the period of recognised service which the officer would have had if the officer had continued to serve as an officer until attaining the age of 60 years and had then retired or 42 years whichever is the lesser;

C60 represents the lump sum factor at age 60 as specified in Schedule 1;

CR represents the lump sum factor specified in Schedule 1 with respect to the age in completed years and months at which the officer retires.

S. 33(2)  
amended by  
No. 110/1993  
s. 71(1).

(2) A revised scheme member who retires at the age of 60 years and has completed recognised service of not less than 30 years is entitled to a pension equal to two-thirds of his or her final average salary.

S. 33(3)  
amended by  
No. 110/1993  
s. 71(1).

(3) A revised scheme member who retires after the age of 60 years and has completed recognised service of not less than 30 years is entitled to a pension equal to two-thirds of his or her final average salary multiplied by—

$$\frac{C60}{CR}$$

(4) A revised scheme member who retires at or after the age of 60 years and has completed recognised service of less than 30 years is entitled to a pension calculated under sub-section (2) or (3)

reduced in the proportion that his or her recognised service bears to 30 years.

- (5) A revised scheme member who retires on or after the minimum age for retirement but before attaining the age of 60 years is entitled to a pension equal to—

$$N \times \frac{YA}{YP} \times \frac{C60}{CR}.$$

- (6) Despite sub-section (1), until 30 June 1988, C60 and CR are to be determined from Schedule 6 of the **Superannuation Act 1958**.

**34. Pension entitlement on retirement through disability**

- (1) If a revised scheme member contributing for full benefits retires on the ground of disability which is not due to his or her own fault, he or she is entitled to the revised scheme member's pension.
- (2) If a revised scheme member contributing for full benefits retires on the ground of disability which is due to his or her own fault, he or she is entitled to a pension calculated as if he or she is a service benefits contributor.
- (3) A pension under sub-section (1) or (2) is to be paid from a date not later than the date of retirement of the revised scheme member as the Board determines.
- (4) Despite sub-section (3), if a revised scheme member—
- (a) has retired on the ground of disability; and
  - (b) was absent from duty by reason of that disability before the date of his or her retirement; and
  - (c) has exhausted his or her entitlement to paid leave before the date of his or her retirement—

S. 34(4)(c)  
amended by  
No. 81/1988  
s. 28(b).

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**s. 34**

he or she may make an election under sub-section (5) at his or her date of retirement.

(5) The revised scheme member may elect to receive a pension—

S. 34(5)(a)  
amended by  
No. 110/1993  
s. 71(2).

(a) calculated from the date on which he or she ceased to be entitled to paid leave at the rate applicable to his or her final average salary at that date; or

S. 34(5)(b)  
amended by  
No. 110/1993  
s. 71(2).

(b) at the rate applicable to the final average salary at the date of his or her retirement.

S. 34(6)  
amended by  
No. 4/1996  
s. 110(1).

(6) If a revised scheme member elects to receive a pension in accordance with sub-section (5)(a), he or she is entitled to a refund of any contributions made after the date on which his or her entitlement to paid leave ceased and interest at the rate which is the prescribed rate under section 46(1).

(7) Even though a revised scheme member may have been incapable of forming, or unwilling to form, an intention to retire, he or she is to be taken to have retired on the ground of disability for the purpose of this section if—

(a) the Board has determined under section 83 that he or she is unable by reason of disability to perform his or her duties; and

(b) within 6 months of the determination he or she is dismissed from his or her employment as an officer or that employment is otherwise terminated and no reason other than disability is given for the dismissal or termination.

**35. Retirement or death after return from leave of absence**

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*Act No. 50/1988*

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- (1) This section applies to a revised scheme member who—
  - (a) returns to duty after being on leave of absence without pay; and
  - (b) retires on the ground of disability or dies within the period—
    - (i) of 3 years of his or her return; or
    - (ii) of time after his or her return which is equal to the period of time for which he or she was absent—whichever is the lesser.
- (2) Unless sub-section (4) applies, if the revised scheme member made or was taken to have made an election under section 49(1)(a) the benefits payable are those appropriate to service benefits.
- (3) Unless sub-section (4) applies, if the revised scheme member made an election under section 49(1)(b) the benefits payable in respect of any increase in salary immediately on resuming duty are those appropriate to service benefits.
- (4) Sub-sections (2) and (3) do not apply if the revised scheme member has made an election under section 49(1)(c) or has in respect of his or her return to duty undergone a medical examination in accordance with section 62 and has been classified as a contributor for limited or full benefits.

**36. *Pension to spouse or children on death of revised scheme member***

- (1) On the death of a revised scheme member before retirement there is to be paid—
    - (a) unless sub-section (2) applies, to the spouse during his or her life sixty-six and two-thirds
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*State Superannuation Act 1988*

*Act No. 50/1988*

s. 36

per cent of the revised scheme member's pension; and

S. 36(1)(b) amended by No. 120/1994 s. 59(1).

- (b) to each child of the deceased revised scheme member a pension at the rate applicable under sub-section (3) or the rate of \$312 per annum, whichever is the greater.

- (2) A spouse is not entitled to receive—

S. 36(2)(a) repealed by No. 110/1993 s. 75(1).

\* \* \* \* \*

S. 36(2)(b) amended by No. 120/1994 s. 57(a).

- (b) at any one time more than 1 pension as the spouse of a deceased officer but is entitled to receive whichever of those pensions is the greater.

- (3) The pension payable to a child of a revised scheme member under sub-section (1) is—

(a) if there are not more than 2 eligible children, an amount equal to eleven and one-ninth per cent of the revised scheme member's pension; or

(b) if there are 3 or more eligible children, an amount equal to thirty-three and one-third per cent of the revised scheme member's pension divided by the number of eligible children for the time being.

- (4) If a revised scheme member had attained the age of 65 years and dies before retirement leaving a spouse, the pension of the spouse is to be determined under section 37 as if the revised scheme member had retired immediately before his or her death.

- (5) In addition to any other pension payable under this section, if on the death of a revised scheme member before retirement—

(a) the Board is satisfied that the revised scheme member was during any continuous period of absence from duty immediately preceding his or her death incapable of performing his or her duties on the ground of disability not due to his or her own fault; and

(b) the revised scheme contributor is survived by a spouse—

the Board may authorise payment to the spouse of a sum not exceeding the amount of pension which would have been payable to the revised scheme member if during the period of absence he or she had been in receipt of a pension under section 34.

(6) Contributions are not required to be made to the Fund for the period in respect of which an amount is calculated under sub-section (5).

**37. Pension to spouse or children on death of revised scheme member who is a pensioner**

(1) On the death of a former revised scheme member who is a pensioner there is to be paid—

S. 37(1)  
amended by  
No. 49/1992  
s. 11.

(a) unless sub-section (2) applies, to the spouse during his or her life a pension—

(i) equal to sixty-six and two-thirds per cent of the pension payable to the deceased at the time of his or her death; or

(ii) in the case of a deceased officer who has under section 39(5) converted part of his or her fortnightly pension entitlement to an equivalent entitlement by way of a lump sum payment or of a deceased officer in the railway service or a deceased person employed at the date of his or her death in the Public Transport Corporation whose pension

S. 37(1)(a)(ii)  
amended by  
No. 44/1989  
s. 41(Sch. 2  
item 40.1).



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Act No. 50/1988

s. 37

entitlement has been reduced under section 51 of the **Superannuation Act 1975**, equal to sixty-six and two-thirds per cent of the pension that would have been payable to the deceased at the time of his or her death if he or she had not so converted part of his or her pension or if his or her pension entitlement had not been so reduced; or

(iii) at the rate of \$130 per annum—

whichever is the greater; and

S. 37(1)(b)  
amended by  
Nos 120/1994  
s. 59(2),  
82/1996 s. 61.

(b) to each child of the deceased pensioner a pension at the rate applicable under section 36(3) (adjusted in accordance with section 91 up to the date of death of the pensioner) or the rate of \$312 per annum, whichever is the greater.

(2) A spouse is not entitled to receive—

S. 37(2)(a)  
repealed by  
No. 110/1993  
s. 75(2).

\* \* \* \* \*

S. 37(2)(b)  
amended by  
No. 120/1994  
s. 57(b).

(b) at any one time more than 1 pension as the spouse of a deceased pensioner but is entitled to receive whichever of those pensions is the greater.

S. 37(2A)  
inserted by  
No. 120/1994  
s. 59(3).

(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 persons

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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.

(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—

S. 37(3)  
substituted by  
No. 120/1994  
s. 59(4).

(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.

(4) If a spouse—

S. 37(4)  
amended by  
No. 120/1994  
s. 59(5).

(a) is entitled to a pension by virtue of subsection (3)(b); and

(b) was more than 5 years younger than the pensioner—

the pension payable to the spouse is to be reduced to the pension that in the opinion of an actuary appointed by the Board is the actuarial equivalent at the date the person became the pensioner's spouse of the pension that would have been payable if the spouse was 5 years younger than the pensioner.

(5) A spouse of a pensioner who married a pensioner after his or her retirement is not entitled to receive—

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s. 39

S. 37(5)(a)  
repealed by  
No. 110/1993  
s. 75(4).

\* \* \* \* \*

(b) at the same time a pension as a surviving spouse and as a former contributor but is entitled to whichever of those pensions is the greater.

S. 38  
amended by  
Nos 81/1988  
s. 28(c),  
19/1989  
s. 16(Sch.  
items 50.1–  
50.6), 49/1992  
s. 12(a)–(e),  
repealed by  
No. 120/1994  
s. 57(c).

\* \* \* \* \*

**39. Pensioner may elect to convert part of pension entitlement to a lump sum payment entitlement**

S. 39(1)  
amended by  
No. 81/1988  
s. 28(d).

- (1) A pensioner under the **Superannuation Act 1958** who has not converted any part of his or her pension to a lump sum or who is receiving a pension under section 33 or whose pension has been reduced under section 67 and who has not made an election under sub-section (3), may within the period of 3 months immediately prior to attaining the age of 65 years elect in writing to convert not more than 50 per cent of the pensioner's fortnightly pension entitlement and the fortnightly pension entitlement of his or her spouse following his or her death to an equivalent entitlement by way of a lump sum payment as determined in accordance with Schedule 1.
- (2) If a pensioner makes an election under sub-section (1), he or she is entitled to the lump sum payment when he or she attains the age of 65 years and his or her pension and the pension of his or her spouse are reduced by the amount of the pension entitlement converted to a lump sum on the day on

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which he or she becomes entitled to the lump sum payment.

- (3) A revised scheme member or pensioner who is or will be entitled to a pension under section 33 may within the period commencing 3 months prior to his or her retirement and ending 3 months after his or her retirement (or any later date fixed by the Board) elect in writing to convert not more than 50 per cent of the pensioner's fortnightly pension entitlement and the fortnightly pension entitlement of his or her spouse following his or her death or a greater amount of pension as may be prescribed to an equivalent entitlement by way of lump sum payment as determined in accordance with Schedule 1.
- (4) If a revised scheme member or pensioner makes an election under sub-section (3), he or she is entitled to the lump sum payment on retirement or on the day on which he or she makes the election (whichever is the later) and his or her pension and the pension of his or her spouse are reduced by the amount of the pension entitlement converted to a lump sum on the day on which he or she becomes entitled to the lump sum payment.
- (5) A person making an election under sub-section (1) or (3) may request that no proportion of the fortnightly pension entitlement of his or her spouse following his or her death is to be converted into a lump sum payment.
- (6) If sub-section (5) applies, Schedule 1 has effect as if each lump sum factor specified in column 2 of Schedule 1 was reduced by \$2.00.
- (7) This section does not enable a revised scheme member or pensioner who after he or she has attained the minimum age for retirement has received a pension under section 34 or 63 to elect

S. 39(3)  
amended by  
Nos 81/1988  
s. 28(e),  
49/1992 s. 13,  
120/1994  
s. 57(d)(i).

S. 39(4)  
amended by  
Nos 49/1992  
s. 13,  
120/1994  
s. 57(d)(ii).

S. 39(5)  
amended by  
Nos 49/1992  
s. 13,  
120/1994  
s. 57(d)(ii).

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*Act No. 50/1988*

s. 40

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to convert any of his or her fortnightly pension entitlement under section 33 to a lump sum entitlement unless that member or pensioner has resumed duty and was on duty during the whole of the period of 12 months immediately prior to his or her retirement on account of age.

S. 39(8)  
amended by  
No. 81/1988  
s. 28(f).

- (8) A person is not entitled to make more than 1 election under this section unless the Board otherwise determines.

**40. *Spouse of pensioner aged 60 years or over entitled to convert part of pension to a lump sum***

S. 40(1)  
amended by  
No. 120/1994  
s. 57(e)(i).

- (1) A person who is aged 60 years or over and is entitled to a pension as the spouse of a revised scheme member or former revised scheme member may—

(a) within 12 months of attaining the age of 60 years; or

S. 40(1)(b)  
amended by  
No. 120/1994  
s. 57(e)(ii).

(b) in the case of the spouse of a revised scheme member or former revised scheme member, within the period of 12 months immediately after the death of the revised scheme member or former revised scheme member—

S. 40(1)(c)  
repealed by  
No. 120/1994  
s. 57(e)(iii).

\* \* \* \* \*

elect in writing to convert part of his or her fortnightly pension entitlement to a lump sum payment as determined by the Board.

- (2) A person is not entitled to convert to an equivalent lump sum payment an amount greater than 50 per cent of his or her fortnightly pension entitlement.
- (3) A person who makes an election under subsection (1) is entitled to the lump sum payment on the day on which the election is made.

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- (4) The person's pension is to be reduced by the amount of the pension entitlement converted to a lump sum on the day on which the person becomes entitled to the lump sum payment.

**41. *Spouse of deceased revised scheme member under age 60 may convert whole of pension to a lump sum***

- (1) A person—

S. 41(1)  
amended by  
No. 120/1994  
s. 57(f)(ii).

- (a) entitled to a pension as the spouse of a revised scheme member or former revised scheme member; and

S. 41(1)(a)  
amended by  
No. 120/1994  
s. 57(f)(i).

- (b) who is under the age of 60 years at the date of death of the revised scheme member or former revised scheme member—

may within the period of 12 months immediately after the death elect in writing to convert his or her fortnightly pension entitlement to a lump sum payment equal to the annual pension entitlement of that person immediately prior to his or her election multiplied by 7.

- (2) A person who makes an election under subsection (1) is entitled to the lump sum payment on the day on which the election is made and the person's pension ceases to be payable on that day.

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S. 42  
repealed by  
No. 120/1994  
s. 57(g).

S. 43  
amended by  
Nos 120/1994  
s. 57(h)(i)(ii),  
4/1996  
s. 110(1).

**43. *Payment on death of revised scheme member before retirement***

- (1) If on the death of a revised scheme member a pension is not payable to a spouse under section 36 or 37 there is to be paid to his or her personal representative the actual amount contributed by him or her to the Fund and interest at the rate which is the prescribed rate under section 46(1) less the amount certified by an actuary appointed by the Board as being necessary to pay any pension payable to his or her children.
- (2) This section does not apply if a pension was payable under section 36 or 37 and has been wholly converted into a lump sum.

S. 43(2)  
amended by  
No. 120/1994  
s. 57(i).

**44. *Retrenchment of revised scheme member***

- (1) A revised scheme member who is retrenched is entitled—
  - (a) to a lump sum payment of an amount equal to—
$$N \times \frac{YA}{YP} \times C \times C60; \text{ or}$$
  - (b) to elect either to take a lump sum payment under paragraph (a) or a deferred pension equal to—

$$N \times \frac{YA}{YP} \times C$$

where N, YA, YP and C60 have the same meanings as in section 33(1) and C has the same meaning as in section 46(2).

- 
- (2) If an election is not made under sub-section (1)(b) the Board must determine the benefits to which the revised scheme member is entitled.
  - (3) If a revised scheme member who has been retrenched re-enters the service—
    - (a) his or her entitlement to a deferred pension under sub-section (1)(b) is not affected; and
    - (b) he or she must contribute under Part 7 and is not entitled to claim any further benefit in respect of his or her previous service.

S. 44(3)(a)  
amended by  
No. 81/1988  
s. 28(g).

**45. *Rights of statutory officer***

If a revised scheme member—

- (a) has not attained the minimum age for retirement; and
- (b) has been or is appointed for a term of years to a statutory office; and
- (c) is not re-appointed to that office; and
- (d) ceases to be an officer—

he or she is entitled to the same benefits as he or she would be entitled under section 44(1).

**46. *Rights on resignation***

- (1) Subject to sub-section (4), if a revised scheme member resigns, he or she may elect within 1 month of his or her resignation to receive either—
  - (a) a cash benefit equal to the amount of the contributions paid by him or her and interest at the prescribed rate and a deferred pension calculated in accordance with the formula:



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$$N \times \frac{(YA - X)}{YP} \times C \times \frac{5}{7}; \text{ or}$$

S. 46(1)(b)  
amended by  
No. 81/1988  
s. 28(h).

- (b) a cash benefit equal to the amount of the contributions due and paid by him or her during the last X years and interest at the prescribed rate and a deferred pension calculated in accordance with the formula:

$$N \times \frac{(YA - X)}{YP} \times C.$$

- (2) For the purposes of sub-section (1) N, YA and YP have the same meanings as in section 33(1) and C means the contribution factor in accordance with the following Table with values for intermediate ages being calculated to the lower 0.01:

**TABLE**

<i>Age</i>	<i>Factor</i>
50	1.00
45	.90
40	.80
35	.70
30 or less	.60

X means the lesser of—

- (a) the excess (if any) of 50 years over the age of the officer in years and completed months; and  
(b) 5 years.

S. 46(2A)  
inserted by  
No. 81/1988  
s. 28(i).

- (2A) For the purposes of sub-sections (1) and (2) "**recognised service**" included in "YA" and "YP" includes unpaid parental leave up to 12 months for each confinement if the revised scheme member has returned for at least 12 months of paid
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employment after the period of unpaid parental leave and any period of unpaid leave during which contributions have been paid under section 49.

- (3) If a revised scheme member elects to receive a lesser cash benefit the Board on the advice of an actuary appointed by the Board must grant an additional amount of deferred pension.
- (4) Sub-section (1) does not apply in respect of any person who—
  - (a) has received a pension following retirement on the ground of disability; and
  - (b) subsequently re-enters or is re-employed in the service—

S. 46(3)  
amended by  
No. 81/1988  
s. 28(j).

unless that person continues to make contributions for a period of not less than 12 months.

- (5) If a revised scheme member does not make an election under sub-section (1), the Board must determine the benefits to which the revised scheme member is entitled.
- (6) Despite sub-section (1), if a revised scheme member is entitled to a deferred pension equal to less than 1 per cent of salary, he or she may elect to receive an equivalent cash benefit.

**47. Provisions applying to deferred pensions**

- (1) If a revised scheme member was not contributing for all of his or her optional units under the **Superannuation Act 1958** the Board must make an appropriate adjustment in calculating the deferred pension under section 44, 45, 46 or 61.
- (2) If a person who is entitled to a deferred pension is not a pensioner but is unable to work because of a disability this Act applies with such adaptations as are necessary in all respects as if he or she was a

S. 47(1)  
amended by  
No. 72/1990  
s. 5(1).

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 47

contributor who had become unable to perform his or her duties because of disability but—

- (a) section 34(1) applies as if any reference to "revised scheme member's pension" was a reference to "pension which he or she had elected to receive on attaining the age of 60 years"; and
- (b) any pension under this sub-section may cease to be payable during any period the Board thinks fit.

S. 47(3)  
amended by  
No. 49/1992  
s. 14(a).

- (3) On the death of a person who is entitled to a deferred pension and is not a pensioner, he or she is deemed to have been a revised scheme member at the date of his or her death and this Act applies accordingly but the pension to which his or her spouse is entitled is to be two-thirds of the pension which the deceased would have received on attaining the age of 60 years.

S. 47(4)  
repealed by  
No. 72/1990  
s. 5(2).

\* \* \* \* \*

S. 47(5)  
amended by  
Nos 49/1992  
s. 14(b),  
82/1996  
s. 62(a)(b).

- (5) If a person who is entitled to a deferred pension has a spouse after becoming so entitled, a pension is not payable upon his or her death to his or her spouse or in respect of any children of that spouse and that person, born after becoming his or her spouse.

S. 47(6)  
amended by  
No. 72/1990  
s. 5(3).

- (6) Subject to sub-section (6A), section 39 applies to a person entitled to a deferred pension as if he or she was a revised scheme member entitled to a pension under section 33 at the time the deferred pension became payable.

S. 47(6A)  
inserted by  
No. 72/1990  
s. 5(4).

- (6A) Section 39 applies to a person who becomes entitled to a deferred benefit under section 46(1)(a) on or after 1 April 1991 as if—

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- (a) he or she was a revised scheme member entitled to a pension under section 33 at the time the deferred pension became payable; and
  - (b) the Board had determined under section 39(8) that 2 elections could be made; and
  - (c) the cash benefit paid under section 46(1)(a) is the lump sum equivalent to 20 per cent of the deferred pension.
- (7) The deferred pension is payable upon the revised scheme member attaining the age of 60 years.
- (8) A revised scheme member may elect to receive a deferred pension at any time after attaining the minimum age for retirement.
- (9) If a revised scheme member makes an election under sub-section (8) the deferred pension must be multiplied by—

$\frac{C60}{CR}$

where C60 and CR have the same meanings as in section 33(1).

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S. 47(10)(11)  
inserted by  
No. 110/1993  
s. 76, repealed  
by  
No. 82/1996  
s. 67.

**48. *Payments to children***

- (1) If a benefit is not payable to a spouse of a revised scheme member the pension for each child of the revised scheme member is to be at the rate applicable under sub-section (2) or at the rate of

S. 48(1)  
amended by  
Nos 81/1988  
s. 28(k),  
120/1994  
s. 57(j).

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\$624 per annum whichever is the greater.

- (2) The pension payable to each child of a revised scheme member is—
  - (a) if there is 1 eligible child, an amount equal to 45 per cent of the revised scheme member's pension; or
  - (b) if there are 2 eligible children, an amount equal to 40 per cent of the revised scheme member's pension; or
  - (c) if there are 3 or more eligible children, an amount equal to the revised scheme member's pension divided by the number of eligible children in respect of whom the pension is for the time being payable.
- (3) This section does not apply if a pension was payable under section 36 or 37 and has been wholly converted into a lump sum.

S. 48(3)  
amended by  
No. 120/1994  
s. 57(k).

**49. *Election in respect of leave of absence without pay***

- (1) A revised scheme member who is on leave of absence without pay (except leave on the grounds of ill health) for at least 4 weeks may in respect of the period of the leave for a period not exceeding 7 years if the member is on parental leave or not exceeding 2 years if the member is on leave for any other reason except ill-health elect—
  - (a) to pay no contributions; or
  - (b) to pay contributions at half the rate of the contributions which would be payable by the revised scheme member if he or she had not taken leave and had continued to work at the salary payable to him or her on the date on which the leave commences or at such other

S. 49(1)  
amended by  
No. 4/1996  
s. 111(1)(a).

S. 49(1)(b)  
amended by  
No. 4/1996  
s. 111(1)(b).

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rate as is first determined by an actuary after the commencement of section 111(1) of the **Superannuation Acts (Amendment) Act 1996** and thereafter during an actuarial investigation under section 23 and which is specified in the actuary's report; or

- (c) to pay contributions at 4 times the rate of contributions which would be payable by him or her if he or she had not taken the leave and had continued to work at the salary which would have been payable to him or her during the period of the leave.

S. 49(1)(c) amended by No. 49/1992 s. 15(1).

(2) The election is of no effect unless—

- (a) it is made in writing; and
- (b) it is made not later than 1 month from the date on which the leave commences; and
- (c) if sub-section (3) applies, 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.

S. 49(2)(c) amended by Nos 81/1988 s. 28(i), 49/1992 s. 15(2), 4/1996 s. 111(2)(a).

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S. 49(2)(d) inserted by No. 49/1992 s. 15(2), repealed by No. 4/1996 s. 111(2)(b).

(3) The Board may, on the application of that person permit the contributions payable in accordance with the election to be paid by him or her during his or her absence in smaller sums and at periods as the Board determines.

(4) The election takes effect on the date on which the leave commences.

(5) A revised scheme member who is absent on leave without pay, otherwise than on the grounds of ill-health, and who does not before the expiration of 1 month from the date on which the leave commences make an election is for the purposes of this Act to be regarded as having made an election under sub-section (1)(a).

(6) If a person who makes or is to be regarded as having made an election under sub-section (1)(a)—

(a) retires on grounds of disability; or

(b) dies—

more than 1 month after the leave commences but before the end of the leave, benefits are payable under this Act to the person who would but for the taking of the leave have been entitled to benefits on the death or retirement of the revised scheme member and the benefits are calculated as though the revised scheme member had voluntarily resigned from his or her office on the date of his or her death or retirement.

(7) If a revised scheme member makes an election under sub-section (1)(b), he or she must until he or she returns to duty have the same entitlements to benefits under this Act as he or she would have had if he or she had paid contributions at the rate which would have been payable by him or her if he or she had not taken the leave and had continued to work at the salary payable to him or her on the date on which the leave commences.

(8) If a revised scheme member makes an election under sub-section (1) and becomes entitled to a benefit which is directly related to the amount of contributions he or she has made to the Fund, any contributions paid by him or her in consequence of an election under paragraph (b) or (c) of sub-

S. 49(8)  
amended by  
Nos 81/1988  
s. 28(m),  
4/1996  
s. 110(1).

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section (1) are to be disregarded in determining the amount of that benefit, but, subject to sub-section (9), in the case of an election under paragraph (c) of sub-section (1) six-sevenths of the contributions so paid are payable to him or her as an additional benefit with interest at the rate which is the prescribed rate under section 46(1).

- (9) If a revised scheme member who has made an election under paragraph (b) or (c) of sub-section (1)—
- (a) returns to duty upon the expiration of the period for which the leave was granted; and
  - (b) makes contributions in accordance with this Act for a period of not less than 12 months—

**S. 49(9)**  
**amended by**  
**Nos 81/1988**  
**s. 28(m),**  
**4/1996**  
**s. 110(1).**

the whole of the amount of the contributions paid by the revised scheme member in consequence of the election are payable to the revised scheme member as an additional benefit with interest at the rate which is the prescribed rate under section 46(1).

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**PART 7—NEW SCHEME MEMBERS**

**Division 1—Contributions**

**50. Contribution rates**

S. 50(1)  
amended by  
No. 110/1993  
s. 77(1).

- (1) Except as provided in sub-sections (2) and (3), a new scheme member must make contributions to the Fund at a rate specified in the following Table at the election of the new scheme member:

**TABLE OF CONTRIBUTIONS**

*Contribution as a percentage of salary*

Nil

3·0%

5·0%

7·0%

- (2) A new scheme member can only elect to contribute at a rate equal to 7 per cent of his or her salary if—

S. 50(2)(a)  
repealed by  
No. 110/1993  
s. 77(2).

\*            \*            \*            \*            \*

- (b) he or she is a member of a prescribed class of new scheme members; or

S. 50(2)(c)  
amended by  
No. 81/1988  
s. 29.

- (c) contributing at that rate will not make him or her eligible to an accrued retirement benefit greater than that for which he or she would be eligible by contributing at the rate of 5 per cent of his or her salary for the whole of his or her period of—

S. 50(2)(c)(i)  
inserted by  
No. 81/1988  
s. 29.

- (i) recognised service; and

*State Superannuation Act 1988*  
*Act No. 50/1988*

s. 50

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|---|---|
| (ii) service as an officer prior to 1 July 1988 during which no contributions were made to the Fund; and  | S. 50(2)(c)(ii) inserted by No. 81/1988 s. 29.  |
| (iii) earlier continuous service approved by the Board in respect of which no deferred benefit can become payable under another statutory superannuation scheme.  | S. 50(2)(c)(iii) inserted by No. 81/1988 s. 29. |
| (2A) A new scheme member contributing at a rate equal to 7 per cent of his or her salary under subsection (2) as in force before the commencement of section 77 of the <b>Public Sector Superannuation (Administration) Act 1993</b> who does not meet the requirements of that subsection as in force after that commencement is to be deemed to have elected to contribute at a rate of 5 per cent of his or her salary with effect from the last pay day in February 1994. | S. 50(2A) inserted by No. 110/1993 s. 77(3).    |
| (3) A new scheme member contributing at a rate equal to 8 per cent of his or her salary under this section as in force before the commencement of section 77 of the <b>Public Sector Superannuation (Administration) Act 1993</b> is to be deemed to have elected to contribute at a rate of 7 per cent of his or her salary with effect from the last pay day in February 1994.  | S. 50(3) substituted by No. 110/1993 s. 77(4).  |
| (4) For the purposes of sub-sections (2) and (3), " <b>recognised service</b> " includes unpaid parental leave up to 12 months for each confinement if the new scheme member has returned for at least 12 months of paid employment after the period of unpaid parental leave.  |   |
| (5) A new scheme member may elect to change his or her rate of contribution on the day or days in any calendar year fixed by the Board as the day or days on which new scheme members or a class of   |   |
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new scheme members of which he or she is a member may elect to change their rate of contributions.

- (6) The changed contribution is payable as from and inclusive of the pay day on or next following the day being 2 months after the day fixed under subsection (5).
- (7) An election continues in force until another election is made in accordance with this section.
- (8) Until a new scheme member makes an election he or she is to be treated as having elected not to contribute.
- (9) If a new scheme member becomes entitled to the maximum accrued retirement benefit or attains the age of 65 years no further contributions are to be made.

S. 50(10)  
inserted by  
No. 49/1992  
s. 16, repealed  
by No. 4/1996  
s. 108(2).

\* \* \* \* \*

S. 51  
repealed by  
No. 64/1995  
s. 38(2).

\* \* \* \* \*

**Division 2—Benefits**

**52. Benefit on retirement of new scheme member**

- (1) A new scheme member is entitled to a lump sum equal to his or her accrued retirement benefit on retirement on or after the minimum age for retirement.
- (2) The accrued retirement benefit of a new scheme member is the sum of—

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 52

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| (a) 10 per cent of the final average salary of the new scheme member for each year of recognised service in which he or she has not contributed to the Fund; and   | S. 52(2)(a)<br>amended by<br>No. 110/1993<br>s. 71(1).                         |
| (b) 16 per cent of the final average salary of the new scheme member for each year of recognised service in which he or she contributed 3 per cent of salary to the Fund; and  | S. 52(2)(b)<br>amended by<br>No. 110/1993<br>s. 71(1).                         |
| (c) 20 per cent of the final average salary of the new scheme member for each year of recognised service in which he or she contributed 5 per cent of salary to the Fund; and  | S. 52(2)(c)<br>amended by<br>No. 110/1993<br>s. 71(1).                         |
| (d) except as provided for in paragraph (e), 24 per cent of the final average salary of the new scheme member for each year of recognised service in which he or she contributed 7 per cent of salary to the Fund; and | S. 52(2)(d)<br>amended by<br>No. 110/1993<br>s. 71(1).                         |
| (e) 28 per cent of the final average salary of the new scheme member for each year of recognised service in which he or she was a prescribed fire-fighter and contributed 7 per cent of salary to the Fund; and        | S. 52(2)(e)<br>amended by<br>No. 110/1993<br>s. 71(1).                         |
| (f) 32 per cent of the final average salary of the new scheme member for each year of recognised service in which he or she was a prescribed fire-fighter and contributed 8 per cent of salary to the Fund; and        | S. 52(2)(f)<br>amended by<br>Nos 20/1989<br>s. 43(3),<br>110/1993<br>s. 71(1). |

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 52

S. 52(2)(g)  
inserted by  
No. 20/1989  
s. 43(3),  
amended by  
No. 110/1993  
s. 71(1).

(g) 15 per cent of the final average salary of the new scheme member who elected to transfer under section 43 of the **State Casual Employees Superannuation Act 1989** for each year of his or her contributory service under that Act.

S. 52(2A)  
inserted by  
No. 110/1993  
s. 82(3),  
substituted by  
No. 58/1994  
s. 7.

(2A) In the case of a revised scheme member who elects to transfer to the new scheme under section 61B, his or her accrued retirement benefit for the total period of membership as a revised scheme member and as a new scheme member is the sum of—

- (a) the transfer multiple of final average salary calculated in accordance with section 61D; and
- (b) the accrued retirement benefit calculated in accordance with sub-section (2).

S. 52(2B)  
inserted by  
No. 58/1994  
s. 7.

(2B) For the purpose only of sub-section (2A)(b), recognised service is recognised service for the period after the date of transfer to the new scheme.

S. 52(2C)  
inserted by  
No. 64/1995  
s. 39.

(2C) In the case of a member of the Melbourne Water Corporation Employees' Superannuation Fund who is transferred to the new scheme, his or her accrued retirement benefit for the total period of membership as a member of that Fund and as a new member is the sum of—

- (a) the accrued retirement benefit (however designated) to the date of transfer calculated in accordance with section 95; and
- (b) the accrued retirement benefit calculated in accordance with sub-section (2).

S. 52(3)  
amended by  
No. 110/1993  
s. 71(1).

(3) The accrued retirement benefit of a new scheme member must not exceed a maximum of 8.4 times

the final average salary of the new scheme member.

**53. Benefit on death of new scheme member before retirement**

\* \* \* \* \*

S. 53(1) amended by No. 81/1988 s. 30(a), repealed by No. 120/1994 s. 57(l).

(2) A new scheme member may register the names of persons which he or she considers to be his or her dependants (other than a spouse or child) with the Board for the purposes of this section.

(3) On the death of a new scheme member (other than a prescribed fire-fighter) who has not attained the age of 60 years before retirement the Board must apportion between those of his or her dependants that the Board considers appropriate a lump sum equal to the accrued retirement benefit which would have been payable if the new scheme member had retired at 60 years of age and was contributing at 3 per cent of final average salary from the date of death until the date of retirement as if his or her final average salary at death had been his or her final average salary at the date of retirement.

S. 53(3) amended by Nos 110/1993 s. 71(2), 120/1994 ss 60(1), 65(b).

(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

S. 53(4) amended by No. 110/1993 ss 71(2), 78(1)(a)(b), substituted by No. 120/1994 s. 60(2).

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 53

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.

**S. 53(4A)**  
inserted by  
No. 110/1993  
s. 78(2),  
substituted by  
No. 120/1994  
s. 60(2).

(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.

**S. 53(4B)**  
inserted by  
No. 120/1994  
s. 60(2).

(4B) A benefit calculated under sub-section (4) and (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.

**S. 53(5)**  
amended by  
No. 120/1994  
s. 60(1).

(5) On the death of a new scheme member (other than a prescribed fire-fighter) who has attained the age of 60 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.

**S. 53(6)**  
amended by  
No. 81/1988  
s. 30(b).

(6) On the death of a new scheme member before retirement the Board must pay to each child of the spouse or the deceased new scheme member—

**S. 53(6)(a)**  
amended by  
No. 110/1993  
s. 71(1).

(a) for each eligible child not exceeding 4, a pension equal to 5 per cent of the new scheme member's final average salary; or

**S. 53(6)(b)**  
amended by  
No. 110/1993  
s. 71(1).

(b) if there are more than 4 eligible children, for each eligible child an equal share of 20 per cent of the new scheme member's final average salary.

**S. 53(7)**  
amended by  
No. 4/1996  
s. 110(2).

(7) If on the death of a new scheme member before retirement there are no dependants, the Board must pay to his or her personal representative the actual amount contributed by him or her to the

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Fund and interest at the rate which is the prescribed rate under section 58(1).

- (8) The Board may assume that there are no dependants for the purposes of sub-section (7) if—
- (a) no dependants have been registered under sub-section (2); and
  - (b) the Board has not received any claims by dependants within 12 months of the death of the new scheme member.

**54. *Benefit on retirement through disability***

- (1) Subject to sub-section (1A), if a new scheme member retires on the ground of disability before he or she attains 60 years of age he or she is entitled to a pension for life at the rate of one-twelfth of the accrued retirement benefit which would have been payable if the new scheme member had retired at 60 years of age and was contributing from the date of retirement until the date on which he or she would attain 60 years of age at the higher of—
- (a) 5 per cent of salary; or
  - (b) the highest rate at which the new scheme member has contributed for more than half of the 3 years immediately preceding retirement;

S. 54(1)  
amended by  
No. 110/1993  
ss 71(3),  
78(3)(a).

\* \* \* \* \*

S. 54(1)(c)  
repealed by  
No. 110/1993  
s. 78(3)(b).

as if his or her final average salary at the date of retirement had been his or her final average salary at the date on which he or she would attain 60 years of age.



*State Superannuation Act 1988*

*Act No. 50/1988*

s. 54

S. 54(1A)  
inserted by  
No. 110/1993  
s. 78(4).

(1A) In the case of a prescribed fire-fighter, for the purposes of this section, the contribution rate is to be the highest rate at which the prescribed firefighter would then have been entitled to contribute and sub-section (1) applies as if for "60" there were substituted "55".

S. 54(1B)  
inserted by  
No. 110/1993  
s. 78(4),  
amended by  
No. 120/1994  
s. 61.

(1B) Despite sub-section (1A), no benefit calculated under this section shall be less than the benefit that would have been payable had the new scheme member retired due to disability before he or she attained 60 years of age immediately before section 78(4) of the **Public Sector Superannuation (Administration) Act 1993** came into operation.

S. 54(2)  
amended by  
No. 81/1988  
s. 30(c).

(2) If a new scheme member continues to receive a pension under sub-section (1) until he or she attains 65 years of age, he or she may elect to receive a lump sum equal to his or her accrued retirement benefit calculated at the date of retirement instead of continuing to receive a pension under sub-section (1).

(3) Despite sub-sections (1) and (2), the Board may at its discretion determine that instead of the pension at the rate under sub-section (1) the new scheme member is to receive—

S. 54(3)(a)  
amended by  
No. 49/1992  
s. 17(1).

(a) a lump sum equal to a part or all of the accrued retirement benefit; and

(b) a pension at the rate of one-twelfth of the balance of the accrued retirement benefit—

in the proportions determined by the Board.

S. 54(3A)  
inserted by  
No. 49/1992  
s. 17(2).

(3A) If the new scheme member receives a lump sum equal to all of the accrued retirement benefit, the new scheme member ceases to have any entitlement to a pension.

- (4) If the new scheme member dies before attaining the age of 65 years the Board must pay to the dependants or other persons that it determines a lump sum equal to—

S. 54(4)  
amended by  
No. 81/1988  
s. 30(d).

$$D \frac{(312 - X)}{312}$$

where—

D means the accrued retirement benefit that would have been payable if he or she had died on the date of retirement increased in the proportion that the pension payable under this section was increased under section 91 between the date of retirement and the date of death;

X means the number of instalments of pension already paid.

\*                    \*                    \*                    \*                    \*

S. 55  
repealed by  
No. 120/1994  
s. 62(1).

**56. *Benefit on retirement due to ill-health***

If the Board considers that a new scheme member has retired on the ground of ill-health not constituting disablement, the new scheme member is entitled to a lump sum equal to the accrued retirement benefit at the time of his or her retirement.

**57. *Benefit on retrenchment***

- (1) A new scheme member who is retrenched is entitled to a lump sum equal to the accrued retirement benefit at the time of his or her retrenchment.

S. 57  
amended by  
No. 81/1988  
s. 30(e)(i).

*State Superannuation Act 1988*  
*Act No. 50/1988*

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s. 58

S. 57(2)  
inserted by  
No. 81/1988  
s. 30(e)(ii).

- (2) If a new scheme member—
- (a) has not attained the minimum age for retirement; and
  - (b) has been or is appointed for a term of years to a statutory office; and
  - (c) is not re-appointed to that office; and
  - (d) ceases to be an officer—
- he or she is entitled to the same benefits as he or she would be entitled under sub-section (1).

**58. *Benefit on resignation***

S. 58(1)  
amended by  
No. 110/1993  
s. 71(1).

- (1) If a new scheme member resigns he or she is entitled to—
- (a) a cash benefit equal to the amount of the contributions paid by him or her and interest at the prescribed rate; and
  - (b) a deferred benefit calculated in accordance with the formula—

S. 58(1)(b)  
amended by  
Nos 72/1990  
s. 6(b),  
110/1993  
s. 79(2).

$$(A - B) \times \frac{(S - X)}{S}$$

where—

- A means the accrued retirement benefit at the time of his or her resignation expressed as a multiple of final average salary;
- B means the cash benefit under paragraph (a) expressed as a multiple of final average salary;
- S means years of recognised service (including as a revised scheme member) and includes up to 12 months unpaid parental leave for each confinement if the new scheme member has returned for at least 12

*State Superannuation Act 1988*  
*Act No. 50/1988*

s. 58

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months of paid employment after the period  
of unpaid parental leave;

X has the same meaning as in section 46<sup>4</sup>;

\*                    \*                    \*                    \*                    \*

**S. 58(1)(c)**  
inserted by  
No. 72/1990  
s. 6(a),  
repealed by  
No. 110/1993  
s. 79(2).

(2) Despite sub-section (1), a new scheme member who is entitled to a deferred benefit of less than 10 per cent of final average salary may elect to receive an equivalent cash benefit.

**S. 58(2)**  
amended by  
No. 110/1993  
s. 71(1).

(2A) If a new scheme member who has been a revised scheme member resigns, section 61(2A) applies to his or her deferred pension under the revised scheme.

**S. 58(2A)**  
inserted by  
No. 110/1993  
s. 79(3).

(3) A deferred benefit is payable at the earlier of—

**S. 58(3)**  
inserted by  
No. 81/1988  
s. 30(f).

(a) a request of the former new scheme member at or after the minimum age for retirement;  
or

(b) the disability of the former new scheme member; or

(c) the death of the former new scheme member in which case the deferred benefit is payable in accordance with section 53; or

(d) the attainment of the former new scheme member of the age of 65 years.

\*                    \*                    \*                    \*                    \*

**S. 58(4)(5)**  
inserted by  
No. 110/1993  
s. 78(6),  
repealed by  
No. 82/1996  
s. 67.

**59. Intermittent service**

S. 59(1)  
substituted by  
No. 81/1988  
s. 30(g)(i),  
amended by  
No. 4/1996  
s. 112(1).

(1) If a new scheme member takes a period of unpaid leave of absence of 4 weeks or more he or she may elect to make contributions in respect of that leave at a rate of 1.5 per cent (or such other percentage as is first determined by an actuary after the commencement of section 112(1) of the **Superannuation Acts (Amendment) Act 1996** and thereafter during an actuarial investigation under section 23 and which is specified in the actuary's report) of salary immediately before the commencement of the leave for a period not exceeding—

S. 59(1)(a)  
inserted by  
No. 4/1996  
s. 112(1).

(a) 7 years, if the member is on parental leave;  
or

S. 59(1)(b)  
inserted by  
No. 4/1996  
s. 112(1).

(b) 2 years, if the member is on leave for any other reason except ill-health.

S. 59(1A)  
inserted by  
No. 81/1988  
s. 30(g)(i).

(1A) The election is of no effect unless—

(a) it is made in writing; and  
(b) it is made not later than 1 month from the date on which the leave commences; and

S. 59(1A)(c)  
amended by  
Nos 49/1992  
s. 18, 4/1996  
s. 112(2)(a).

(c) unless sub-section (1B) applies, 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.

S. 59(1A)(d)  
inserted by  
No. 49/1992  
s. 18, repealed  
by No. 4/1996  
s. 112(2)(b).

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*State Superannuation Act 1988*  
*Act No. 50/1988*

s. 59

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| (1B) The Board may, on the application of that person permit the contributions payable in accordance with the election to be paid by him or her during his or her absence in smaller sums and at periods as the Board determines.   | <b>S. 59(1B)</b><br>inserted by<br>No. 81/1988<br>s. 30(g)(i). |
| (1C) The election takes effect on the date on which the leave commences.  | <b>S. 59(1C)</b><br>inserted by<br>No. 81/1988<br>s. 30(g)(i). |
| (1D) A new scheme member who is absent on leave without pay, otherwise than on the grounds of ill-health, and who does not before the expiration of 1 month from the date on which the leave commences make an election is for the purposes of this Act to be regarded as having made an election not to make any contributions.  | <b>S. 59(1D)</b><br>inserted by<br>No. 81/1988<br>s. 30(g)(i). |
| (2) If a contribution is made under sub-section (1)—<br>(a) the period of unpaid leave is to be treated as service for the purposes of section 58(1); and<br>(b) the new scheme member is entitled to death and disability benefits in the event of death or disability before his or her return from leave as if he or she had returned from leave on the day that the death or disability occurs. |  |
| (3) A contribution is not required if the period of unpaid leave is not more than 4 weeks.  | <b>S. 59(3)</b><br>amended by<br>No. 81/1988<br>s. 30(g)(ii).  |
| (4) If a contribution is not made only the service before and the service after the period of unpaid leave is to be counted in relation to any benefit entitlement upon return from leave.  |  |
| (5) If a new scheme member resigns and subsequently resumes service and contributes to the Fund for 3 years his or her previous accrued retirement  | <b>S. 59(5)</b><br>amended by<br>No. 110/1993<br>s. 71(1).     |
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**s. 59**

*State Superannuation Act 1988*

*Act No. 50/1988*

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benefit less the multiple of final average salary paid as a cash resignation benefit is to be included in his or her subsequent benefit entitlement.

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**PART 8—GENERAL PROVISIONS**

**59A. *Payment of benefits subject to specified standards***

Notwithstanding anything to the contrary in this Act, the payment of any benefit under this Act is subject to any relevant specified standards.

**S. 59A  
inserted by  
No. 13/1999  
s. 12.**

**60. *Payment of contributions***

- (1) The contributions of an officer are (except as otherwise provided in this Act) payable on and from the first pay day after the commencement of his or her employment as an officer or where he or she is appointed as or becomes an officer on a pay day, on and from that pay day.
- (2) The contributions of contributors are to—
  - (a) be deducted from their salaries at each payment of salaries; and
  - (b) be paid to the Board, without deduction for postage, forwarding or exchange.
- (3) Contributions of contributors who are on the staff of any technical school are to be deducted and paid as prescribed.
- (4) If a contributor is on leave of absence through illness, either without pay or at less than full pay, the Board may, upon his or her application, permit the contributions falling due during his or her absence to be paid by him or her in smaller sums, and at periods, as the Board approves.
- (5) Any amounts other than contributions payable to the Board by a contributor are to—
  - (a) be deducted from his or her salary at each payment of salary; and
  - (b) be paid to the Board, without deduction for postage, forwarding or exchange.



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- (6) A contributor who is on leave of absence, with or without pay (other than a contributor to whom sub-section (4) applies) who fails to pay his or her contributions on the due date is not if any contribution remains outstanding for a period of more than 3 months, entitled to any benefit under this or any other Act until—
- (a) his or her contributions are fully paid; or
  - (b) he or she resumes duty.
- (7) If, on the date on which the **Superannuation (Amendment) Act 1984** came into operation, a contributor was on leave of absence without pay (except leave on the grounds of ill-health) and the Board permitted him or her to pay all his or her contributions due but unpaid at that date in respect of the leave up to that date in smaller sums and at periods as the Board determined, section 49 applies to the contributor in respect of leave of absence without pay after that date as if he or she had commenced the leave on that date (or where he or she has before that date paid contributions in respect of the leave up to a later date, as if he or she had commenced the leave on that later date).

**61. Transfer from revised scheme to new scheme**

- (1) A revised scheme member may during the period commencing on 1 July 1988 and ending on the prescribed date elect to transfer from the revised scheme into the new scheme.
- (2) A revised scheme member who elects to transfer under sub-section (1) is entitled up to the date of transfer to a deferred pension payable in accordance with sections 46 and 47 and calculated in accordance with the following formula—

$$N \times \frac{YA}{YP} \times C \times F$$

S. 61(2)  
amended by  
No. 81/1988  
s. 31(1).

where—

N, YA and YP have the same meanings as in section 33(1);

C means the contribution factor in accordance with section 46;

F means—

- (a) for a prescribed fire-fighter, a factor in accordance with the following Table:

**TABLE**

<i>Age last birthday before transfer</i>	<i>Factor</i>
45 or less	1.05
46	1.04
47	1.03
48	1.02
49	1.01
50 or over	1.00

; or

- (b) for any other revised scheme member, a factor of 1.00.

- (2A) If a person who is entitled to a deferred pension under sub-section (2) resigns he or she may elect to receive—

**S. 61(2A)**  
**inserted by**  
**No. 72/1990**  
**s. 7(1),**  
**substituted by**  
**No. 110/1993**  
**s. 79(1).**

- (a) a cash benefit equal to a refund of the contributions paid by him or her during the period he or she was a revised scheme member and interest at the rate which is the prescribed rate under section 46(1); and

**S. 61(2A)(a)**  
**amended by**  
**No. 4/1996**  
**s. 110(3).**

- (b) a deferred pension reduced in accordance with the following formula—

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$$DF \times \left[ \frac{5}{7} \times \frac{(S - X)}{S} \right]$$

where—

DF means the deferred pension calculated under sub-section (2);

S, X have the same meanings as in section 58<sup>5</sup>.

**S. 61(2B)**  
inserted by  
No. 110/1993  
s. 79(1).

- (2B) Section 47 applies to a deferred pension under sub-section (2) or a reduced deferred pension under sub-section (2A) as if the reference to deferred pensions in that section included a reference to a deferred pension under sub-section (2) or a reduced deferred pension under sub-section (2A).

**S. 61(3)**  
inserted by  
No. 81/1988  
s. 31(2).

- (3) If a prescribed fire-fighter makes an election under sub-section (1) he or she may further elect not later than 31 December 1989 to have his or her deferred pension calculated as at 1 January 1988 and to be treated as having become a new scheme member on 1 January 1988 if he or she pays any arrears of contributions based on his or her salary as at 1 May 1988 at the time of the further election.

**S. 61(4)**  
inserted by  
No. 81/1988  
s. 31(2).

- (4) For the purposes of determining the maximum benefit under section 52(3)—
- (a) the amount of any deferred pension under sub-section (2) is to be taken into account; and
  - (b) the deferred pension must be notionally converted into a lump sum as determined in accordance with Schedule 1.

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*Act No. 50/1988*

s. 61

(5) A revised scheme member who elects whether before or after the commencement of section 19 of the **Superannuation (Occupational Superannuation Standards) Act 1992** to transfer to the Transport Superannuation Fund under section 4 of the **Transport Superannuation Act 1988** is entitled—

S. 61(5)  
inserted by  
No. 49/1992  
s. 19,  
substituted by  
No. 110/1993  
s. 80.

(a) to a deferred pension up to the date of transfer calculated in accordance with sub-section (2); or

(b) if he or she subsequently resigns, to elect to receive a cash benefit and reduced deferred benefit calculated in accordance with sub-section (2A).

(6) A deferred pension under sub-section (5)(a) or a reduced deferred pension under sub-section (5)(b) is payable at the earlier of—

S. 61(6)  
inserted by  
No. 49/1992  
s. 19,  
substituted by  
No. 110/1993  
s. 80.

(a) a request of the former revised scheme member at or after the minimum age for retirement; or

(b) the disability of the revised scheme member;  
or

(c) the death of the revised scheme member, to his or her spouse, child or personal representative as the Board determines; or

S. 61(6)(c)  
amended by  
No. 120/1994  
s. 57(m).

(d) the attainment of the former revised scheme member of the age of 65 years.

\* \* \* \* \*

S. 61(7)  
inserted by  
No. 49/1992  
s. 19,  
substituted by  
No. 110/1993  
s. 80, repealed  
by  
No. 82/1996  
s. 67.

*State Superannuation Act 1988*  
*Act No. 50/1988*

s. 61A

S. 61(8)  
inserted by  
No. 110/1993  
s. 80, repealed  
by  
No. 82/1996  
s. 67.

\* \* \* \* \*

S. 61(9)  
inserted by  
No. 110/1993  
s. 80.

(9) A revised scheme member who elects whether before or after the commencement of section 19 of the **Superannuation (Occupational Superannuation Standards) Act 1992** to transfer under this section into the new scheme and is subsequently retrenched is entitled to receive a benefit calculated and payable under section 44 as if he or she had been retrenched on the date of transfer.

S. 61(10)  
inserted by  
No. 110/1993  
s. 80.

(10) A revised scheme member who elects whether before or after the commencement of section 19 of the **Superannuation (Occupational Superannuation Standards) Act 1992** to transfer to the Transport Superannuation Fund under section 4 of the **Transport Superannuation Act 1988** and is subsequently retrenched is entitled to receive a benefit calculated and payable under section 44 as if he or she has been retrenched on the date of transfer.

S. 61A  
inserted by  
No. 87/1992  
s. 16.

**61A. Exempt officers**

S. 61A(1)  
amended by  
No. 110/1993  
s. 81(1).

(1) A revised scheme member who becomes an exempt officer is entitled up to the date of becoming an exempt officer to a deferred pension calculated in accordance with the formula—

$$N \times \frac{YA}{YP} \times C \times F$$

where—

N, YA and YP have the same meanings as in section 33(1);

C means the contribution factor in accordance with section 46;

F has the same meaning as in section 61(2).

- (2) A new scheme member who becomes an exempt officer is entitled up to the date of becoming an exempt officer to a deferred lump sum equal to his or her accrued retirement benefit.
- (3) A pension or benefit under this section—
- (a) must be indexed in accordance with section 91; and
  - (b) is payable to the member or any dependant or legal personal representative as determined by the Board in accordance with the specified standards.

S. 61A(3)(b) substituted by No. 110/1993 s. 81(2), amended by No. 4/1996 s. 108(3).

\* \* \* \* \*

S. 61A(4) inserted by No. 110/1993 s. 81(3), repealed by No. 120/1994 s. 57(n).

**61B. *Voluntary transfer from revised scheme to new scheme***

S. 61B inserted by No. 110/1993 s. 82(1).

- (1) In this section and section 61C—

**"extended transfer period"** means the transfer period as extended in accordance with sub-section (3);

**"minimum transfer rate"** means the minimum transfer rate calculated in accordance with sub-section (4);

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**"transfer period"** means the period commencing on 1 January 1994 and ending on 30 June 1994.

- (2) A revised scheme member may during the transfer period or the extended transfer period (if any) elect to transfer from the revised scheme into the new scheme.
- (3) The Board may, after consultation with the Minister, by notice published in the Government Gazette before the expiry of the transfer period extend the transfer period to a date specified in the notice being a date not later than 31 August 1994 if the Board considers that the minimum transfer rate will not be achieved by 30 June 1994 but may be achieved by the specified date.
- (4) The minimum transfer rate is achieved if the number of revised scheme members who elect to transfer during the transfer period and the extended transfer period (if any) expressed as a percentage of the number of revised scheme members who so elect plus the number of revised scheme members at the end of the transfer period or extended transfer period (if any) is not less than 50 per cent.

S. 61C  
inserted by  
No. 110/1993  
s. 82(1).

**61C. New revised scheme contribution rates**

- (1) As from 1 May 1994 the following Table of Contributions is to be substituted for the Table in section 28(1)—

**"TABLE OF CONTRIBUTIONS"**

<i>Age last birthday</i>	<i>Contributions as a percentage of salary</i>
15 years to 29 years	5·0%
30 years to 34 years	5·5%
35 years to 39 years	6·0%
40 years to 44 years	6·5%

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<i>Age last birthday</i>	<i>Contributions as a percentage of salary</i>
45 years to 49 years	7.5%
50 years to 54 years	8.0%
55 years or older	8.5%

- (2) As from 29 October 1994 the following Table of Contributions is to be substituted for the Table in section 28(1)—

**"TABLE OF CONTRIBUTIONS**

<i>Age last birthday</i>	<i>Contributions as a percentage of salary</i>
15 years to 29 years	8.0%
30 years to 39 years	8.5%
40 years to 49 years	9.0%
50 years or older	9.5%

- (3) If at the expiry of the transfer period or, if there is an extended transfer period, at the expiry of the extended transfer period, the Board certifies to the Minister that the minimum transfer rate has been achieved, the Board must publish the certificate in the Government Gazette within 14 days of the expiry of the transfer period or the extended transfer period as the case may be.
- (4) If a certificate is published in the Government Gazette under sub-section (3), sub-section (2) is repealed from the date on which the Government Gazette is published<sup>6</sup>.

**61D. Entitlements of section 61B transferee**

- (1) A revised scheme member who elects to transfer to the new scheme under section 61B is entitled to have his or her entitlement to a benefit from the revised scheme up to the date of transfer converted into a lump sum benefit entitlement from the new scheme equal to a transfer multiple

S. 61D  
inserted by  
No. 110/1993  
s. 82(1).



of final average salary calculated in accordance with the formula—

$$TM = \frac{YA}{YP} \times BM \times D$$

where—

"TM" means the transfer multiple of final average salary for the purposes of section 52(2A);

"YA" is the revised scheme member's period of recognised service in completed years and fraction thereof up to and including the date of transfer or 42 years whichever is the lesser;

"YP" is the period of recognised service in completed years and fraction thereof which the officer would have if the officer had continued to serve as an officer until attaining the age of 60 years and had then retired or 42 years whichever is the lesser;

"BM" is—

(a) the product of YP multiplied by 0.28;  
or

(b) 8.4—

whichever is the lesser;

"D" is the factor relating to the revised scheme member's age (rounded down to the next lowest 6 months) at 1 January 1994 in accordance with the following table:

**TABLE**

Age	Factor
less than or equal to 40 years	0.80
40 years 6 months	0.81
41 years	0.82
41 years 6 months	0.83

S. 61D(1) def. of "YA" amended by No. 58/1994 s. 8(a).

*State Superannuation Act 1988*  
*Act No. 50/1988*

s. 62

42 years	0.84
Age	Factor
42 years 6 months	0.85
43 years	0.84
43 years 6 months	0.83
44 years	0.82
44 years 6 months	0.81
45 years or greater	0.80

- (2) A revised scheme member to whom sub-section (1) applies ceases to have any other entitlement to a benefit from the revised scheme.
- (3) Despite sub-section (1), the Board on the advice of an actuary may reduce the value of "TM" in respect of a member if—
  - (a) the member was not contributing for all of his or her optional units under the **Superannuation Act 1958**; or
  - (b) the Board recognises any service or further service for the member in respect of the period before the date of transfer but which is not taken into account under paragraph (a).

S. 61D(3)(b) amended by No. 58/1994 s. 8(b).

**62. Classification of revised scheme members**

A revised scheme member is to be classified or re-classified by the Board in accordance with the **Superannuation Act 1958** having regard to the medical and other evidence available to the Board.

S. 62 substituted by No. 81/1988 s. 32(a).

**63. Benefits payable to revised scheme member classified as limited or service**

If a revised scheme member who has been classified as a limited contributor or a service benefits contributor dies or becomes disabled, the benefits which are payable to him or her are—

S. 63 substituted by No. 81/1988 s. 32(b).

- (a) to bear the same relationship to the benefits payable to a full benefits contributor as is

provided in the **Superannuation Act 1958**;  
or

- (b) to be any greater benefits than under paragraph (a) which may be prescribed.

S. 64  
amended by  
No. 81/1988  
s. 32(c)(d),  
substituted by  
No. 49/1992  
s. 20.

**64. Classification of new scheme members**

- (1) If the Board after consideration of any personal statement of medical history and any medical report or other medical evidence as it considers relevant is of the opinion that there is a real risk that a new scheme member will not by reason of or connected with any physical or mental condition continue to be an employee until he or she attains the age of 60 years, the Board may issue a benefits classification certificate specifying that condition.
- (2) Until a new scheme member has provided the Board with a personal statement of medical history or any medical report or received any medical evidence as it considers relevant and the member has been classified by the Board, he or she must be treated as having been issued with a benefits classification certificate specifying any relevant condition.
- (3) The Board may after consideration of any personal statement of medical history and any medical report or other medical evidence as it considers relevant, vary or revoke a benefits classification certificate under sub-section (1) or (2).

S. 65  
amended by  
No. 49/1992  
s. 21(a)–(c).

**65. Benefits payable to new scheme member issued with a medical classification certificate**

If a new scheme member in respect of whom there is in force a benefits classification certificate dies or becomes disabled and the Board is of the opinion that the death or disability was caused or

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substantially contributed to by a condition specified in the benefits classification certificate, the benefit payable instead of the benefit under section 53(3), 54, 55 or 56 (as the case may be) is—

(a) in the event of death—

- (i) the accrued retirement benefit at the date of death; and
- (ii) if the new scheme member has completed more than 4 years of recognised service one-sixteenth of the balance of the lump sum benefit which would have been payable if no benefits classification certificate was in force for each year of recognised service in excess of 4 years—

but not exceeding the benefit which would have been payable if no benefits classification certificate was in force at the date of death; and

(b) in the event of disability, a pension for life at the rate of one-twelfth of—

- (i) the accrued retirement benefit at the date of disability; and
- (ii) one-twentieth of the balance of the lump sum benefit which would have been payable if no benefits classification certificate was in force for each year of recognised service—

but not exceeding the pension which would have been payable if no benefits classification certificate was in force at the date of disability.

*State Superannuation Act 1988*  
*Act No. 50/1988*

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s. 66

S. 66  
amended by  
No. 4/1996  
s. 112(3).

**66. *Officers on secondment or leave of absence***

A contributor who is on secondment or is on leave of absence on the grounds of ill-health without pay must pay his or her contributions during or in respect of the period of leave as for a period of service without reduction for a period not exceeding—

S. 66(a)  
inserted by  
No. 4/1996  
s. 112(3).

(a) 7 years, if the member is on parental leave;  
or

S. 66(b)  
inserted by  
No. 4/1996  
s. 112(3).

(b) 2 years, if the member is on leave for any other reason except ill-health.

**67. *If pensioner re-employed by Crown, pension may be reduced***

(1) In this section—

**"current equivalent of the salary on**

**retirement"** in relation to a pensioner means the salary that the Board from time to time determines as being equivalent at any relevant time to the salary that was payable to the pensioner immediately prior to his or her retirement having regard to general increases in salary that have occurred since the retirement of the pensioner;

*State Superannuation Act 1988*

*Act No. 50/1988*

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**"employed in the service of the Crown"** in relation to a pensioner means a person employed—

- (a) by the Crown whether employed under the **Public Sector Management and Employment Act 1998**, the **Teaching Service Act 1981** or otherwise; or
- (b) by any body created by or under any Act; or
- (c) by any other body that the Governor in Council, on the recommendation of the Minister, by Order published in the Government Gazette, declares to be a body to which this paragraph applies—

whether permanent, temporary, casual, full-time, part-time or other type of employment.

- (2) Despite any other provision of this Act the pension payable to any pensioner who continues to be an officer and who is employed in the service of the Crown is to be reduced by the amount by which the remuneration he or she or any other person, a corporation or a trust receives from his or her employment in the service of the Crown together with the pension payable to the pensioner under this Act (other than a disability pension) exceeds the current equivalent of his or her salary on retirement.

- (3) This section does not apply to the payment of a pension to a pensioner—

- (a) who is in receipt of a pension under section 36 or 37; or

S. 67(1) def. of "employed in the service of the Crown" amended by Nos 49/1992 s. 22(a)(b), 120/1994 s. 65(a), 46/1998 s. 7(Sch. 1).

S. 67(2) amended by Nos 81/1988 s. 33(a), 4/1996 s. 113(1)(a)(b).

S. 67(3)(a) amended by Nos 81/1988 s. 33(b), 120/1994 s. 57(o).

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- (b) who being a pensioner became employed in the service of the Crown prior to the commencement of section 6 of the **Superannuation (Amendment) Act 1969.**

S. 67A  
inserted by  
No. 4/1996  
s. 114.

**67A. Entitlement to pension**

- (1) The entitlement of a former officer to receive a pension under this Act ceases if any part of any entitlement under this Act or membership of the Fund is recognised as entitlement towards any benefit in a complying superannuation fund and there is a transfer of assets from the Fund to that complying superannuation fund in accordance with sub-section (2), on the day determined by the Board.
- (2) The Board must on the recommendation of an actuary transfer from the Fund to the relevant complying superannuation fund an amount certified by the actuary to be equivalent to the former officer's entitlement under this Act.
- (3) The Board is released from any liability to make any further payments to, or in respect of, any entitlement of the former officer or of any of his or her dependants.
- (4) The entitlement of a former officer to receive a pension under this Act does not cease if the entitlement under this Act or membership of the Fund is not recognised as entitlement towards any benefit in a complying superannuation fund.

S. 67B  
inserted by  
No. 84/1998  
s. 47.

**67B. Commutation of pension not exceeding declared rate**

- (1) This section applies to a person who is entitled to a pension administered by the Board under this Act at a rate per year which does not exceed the declared rate.
  - (2) Notwithstanding anything to the contrary in this Act, the Board may at its discretion determine that
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instead of a pension the person may elect to receive a lump sum payment as determined by the Board on the advice of an actuary.

- (3) If a person elects to accept a lump sum payment under sub-section (2), the Board is released from any liability to make any further payments to, or in respect of, any entitlements of that person or any of his or her dependants in relation to that pension entitlement and this Act ceases to apply to that person in respect of that pension entitlement.
- (4) In this section, "**declared rate**" means—
  - (a) \$520 per year; or
  - (b) such higher rate per year as may be declared from time to time by the Minister by Order published in the Government Gazette.

**68. Pension entitlements—Masters of the Supreme Court**

- (1) In this section—
  - "**Master**" means a Master of the Supreme Court of Victoria;
  - "**pension entitlements**" means the entitlement of a Master or his or her spouse and children to a pension.
- (2) A Master who was an officer within the meaning of this Act on 31 December 1990 ceased to be such an officer on 1 January 1991.
- (3) The pension entitlements of a Master who was a contributor on 31 December 1990 are to be determined exclusively in accordance with section 104A of the **Supreme Court Act 1986**.
- (4) A pension which first became payable to or in respect of a Master before 1 January 1991 continues to be payable in accordance with this Act.

S. 68 amended by No. 81/1988 s. 33(c), repealed by No. 64/1989 s. 36(4)(a), new s. 68 inserted by No. 110/1993 s. 83.



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- (5) The Minister must offset the total of amounts paid to the Masters in satisfaction of their entitlement under this Act before the commencement of section 104A of the **Supreme Court Act 1986** against amounts determined under section 30 as being payable from the Consolidated Fund into the Fund.
  - (6) The Board is released from any liability to make any payment to, or in respect of, a Master who ceases to be an officer by virtue of this section.
  - (7) This section does not affect the application of section 16A.

**69. Members of approved superannuation schemes**

- (1) In this section "**scheme of superannuation**" means a scheme for the administration of any assets with the object of providing superannuation payments, annuities, pensions, allowances, lump sum payments or other benefits for employees or former employees or for the spouses, children, dependants or legal personal representatives of employees or former employees.
- (2) The Governor in Council, on the recommendation of the Minister, may by Order published in the Government Gazette declare a scheme of superannuation to be an approved superannuation scheme for the purposes of this section.
- (3) Despite anything to the contrary in this Act an officer who becomes eligible to be a member of an approved superannuation scheme may within 3 months or any longer period approved by the Board of becoming eligible elect to cease to contribute in accordance with this Act.

S. 69(2)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

S. 69(3)  
amended by  
No. 81/1988  
s. 33(d).

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 69A

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|---|---|
| (4) A contributor who ceases to be a contributor under sub-section (3) is entitled to a deferred retirement benefit—<br><br>(a) in the case of a revised scheme member, in accordance with the formula in section 61(2); and<br><br>(b) in the case of a new scheme member, equal to the accrued retirement benefit.  | S. 69(4) amended by Nos 81/1988 s. 33(e), 49/1992 s. 23(a), substituted by No. 110/1993 s. 84(1). |
| (5) If a person who is entitled to a deferred benefit under sub-section (4) resigns, he or she may elect to receive instead of that deferred benefit—<br><br>(a) a cash benefit equal to a refund of contributions and interest at the prescribed rate; and<br><br>(b) a deferred retirement benefit reduced by such amount as is determined by the Minister on the advice of an actuary. | S. 69(5) inserted by No. 72/1990 s. 8, amended by No. 110/1993 s. 84(2).                          |
| (6) The aggregate benefits of a contributor must not exceed 8.4 times the final average salary of the contributor.  | S. 69(6) inserted by No. 49/1992 s. 23(b), amended by No. 110/1993 s. 71(1).                      |
| (7) The Governor in Council may by Order in Council published in the Government Gazette revoke a declaration made under sub-section (2).  | S. 69(7) inserted by No. 110/1993 s. 84(3).   |
| (8) The revocation does not affect the entitlement under this section of a person who has elected to cease to contribute under sub-section (3).   | S. 69(8) inserted by No. 110/1993 s. 84(3).   |
| <b>69A. Exemption from membership</b>   | S. 69A inserted by No. 110/1993 s. 85.  |
| (1) The Minister may by instrument in writing declare that an officer or a class of officers specified in   |   |
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the instrument is or are eligible to elect to be exempted from continuing to be a member of the revised scheme or the new scheme.

- (2) A person who is an officer or a member of a class of officers specified under sub-section (1) may elect in writing to the Board to be exempted from continuing to be a member of the revised scheme or the new scheme from a date specified in the election.
- (3) As from the date of the election the former officer is deemed to be an exempt officer and is entitled to a benefit calculated and payable in accordance with section 61A as if the officer were an exempt officer.

S. 69B  
inserted by  
No. 110/1993  
s. 85.

#### **69B. Designated employees**

S. 69B(1)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

- (1) If an officer's employment is terminated under section 33 of the **Public Sector Management and Employment Act 1998**, the officer is entitled to a benefit calculated in accordance with—
  - (a) section 61A(1) if the officer is a revised scheme member; or
  - (b) section 61A(2) if the officer is a new scheme member.
- (2) The benefit is payable in accordance with section 61A(3) unless the officer makes an election under sub-section (3).

S. 69B(3)(a)  
amended by  
No. 4/1996  
s. 110(4).

- (3) The officer may elect to receive—
  - (a) a cash benefit equal to a refund of the contributions paid by him or her during the period he or she was a revised scheme member or a new scheme member (whichever is his or her current membership)

and interest at the rate which is the prescribed rate under section 46(1) or 58(1) as appropriate; and

(b) a deferred retirement benefit reduced by such amount as is determined by the Minister on the advice of an actuary.

(4) A deferred retirement benefit under sub-section (3)(b) is payable in accordance with section 61A(3).

(5) If an officer making an election under sub-section (3) is a new scheme member who had transferred from the revised scheme under section 61(1), the officer is deemed to have resigned for the purposes of section 61(2A).

**70. Provision where contributor who resigns is appointed to a public body**

(1) In this section "**public body**" means—

(a) the governing body of any authority constituted under any Act of a State, the Commonwealth or a Territory; or

(b) any office prescribed as a public body for the purposes of this section.

(2) If a contributor resigns and is subsequently employed by a public body he or she may instead of receiving a cash benefit and a deferred pension elect within 1 month of resigning or a longer period approved by the Board to authorise the Board to make arrangements for specified contributions to the Fund to be deducted from his or her salary for the duration of his or her employment with the public body.

(3) With the consent of the Minister, the Board may make the arrangement and agree as to—

(a) the amount of the pension entitlement and

S. 70(3)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

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Act No. 50/1988

s. 71

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- other benefits of that pension; and
  - (b) the conditions under which pensions and benefits will be payable; and
  - (c) the amount to be paid by the Minister from the Consolidated Fund into the Fund in respect of the pensions and benefits.

S. 70(3)(c) amended by No. 12/1999 s. 4(Sch. 2 item 13.2).

**71. Provision if benefit payable is less than contributions**

S. 71 amended by No. 49/1992 s. 24(a)(b).

- (1) If the amount of the benefit paid or payable under this Act in respect of any contributor or former contributor is less than the sum of the amount contributed by him or her to the Fund and interest at the rate which is the prescribed rate under section 46(1) or 58(1) as appropriate on that amount contributed, and the superannuation guarantee amount, there is to be paid out of the Fund to that person in the manner that the Board determines the difference between the amount of the benefit and that sum.

S. 71(1A) inserted by No. 54/1993 s. 11(3).

- (1A) If the benefit consists of or includes a pension, the amount of the benefit shall be the amount determined by an actuary.

S. 71(1B) inserted by No. 54/1993 s. 11(3).

- (1B) In this section—

S. 71(1B) def. of "superannuation guarantee amount" amended by No. 110/1993 s. 71(1).

**"superannuation guarantee amount"**, in relation to a contributor or former contributor, means the amount determined in accordance with the formula  $A \times S$  where—

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- (a) A is the sum of the percentages calculated in accordance with the formula

$$P \times \frac{B}{365}$$

and, so far as applicable, the Commonwealth Act and regulations under that Act in respect of the year commencing on 1 July 1992 and each subsequent 1 July, being a year during the whole or part of which the contributor or former contributor was a contributor, where—

(i) P is the percentage determined by the Board on the advice of an actuary as the minimum percentage to be applied to avoid a superannuation guarantee shortfall within the meaning of the Commonwealth Act in respect of that year or part; and

(ii) B is the number of days during that year less the number of days on which the contributor or former contributor was not a contributor, was on leave of absence without pay, was on leave due to a temporary disability or was retired on the grounds of disability and less the number of any other days that, under the Commonwealth Act, are to be disregarded; and

- (b) S is—

(i) the contributor or former contributor's final average salary;  
or

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s. 71A

- (ii) the maximum contribution base (expressed as an annual amount) within the meaning of the Commonwealth Act, at the time when the final average salary is determined—

whichever is the lesser;

**"the Commonwealth Act"** means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.

S. 71(1C) inserted by No. 54/1993 s. 11(3), substituted by No. 4/1996 s. 108(4).

- (1C) Any part of the superannuation guarantee amount which is required to be preserved in accordance with the specified standards must be preserved.

S. 71(2) inserted by No. 49/1992 s. 24(c), repealed by No. 4/1996 s. 108(5).

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S. 71A inserted by No. 49/1992 s. 25, repealed by No. 4/1996 s. 108(5), new s. 71A inserted by No. 82/1996 s. 63.

**71A. Early release of benefits**

- (1) The Board may approve the early release of part or all of the vested benefit of a member or former member in accordance with the specified standards.
- (2) The Board must determine—
  - (a) the amount of the benefit to be released; and
  - (b) the method of payment of that amount; and
  - (c) the reduction to be made to the vested benefit—

in accordance with the specified standards.

**71B. Taxation on benefits**

S. 71B  
inserted by  
No. 110/1993  
s. 86.

(1) In this section—

**"actuary"** means a person who is—

- (a) a fellow or an accredited member of the Institute of Actuaries of Australia; and
- (b) approved by the Minister; and
- (c) appointed by the Board as the actuary for the purpose of this section;

**"affected member"** means in relation to a benefit reduction under sub-section (2) or (3) a person who is a member of the Fund immediately before the date from which that reduction commences to apply;

**"after-tax benefit"** means the amount of benefit after allowing for income tax calculated at the rates and in the manner as at the date of commencement of section 86 of the **Public Sector Superannuation (Administration) Act 1993** applicable to a person aged 55 years or more;

**"detriment"** means receiving a lesser amount of after-tax benefit than would have been received if the benefit—

- (a) had not been reduced in accordance with sub-sections (2) and (3); and
- (b) had been an untaxed benefit;

**"post-June 1983 component"** has the same meaning as in section 27A of the tax law;

S. 71B(1) def.  
of "post-  
June 1983  
component"  
amended by  
No. 120/1994  
s. 65(c).

**"rebatable 27H amount"** has the same meaning as in section 159SJ of the tax law;



**"tax law"** means the Commonwealth Income Tax Assessment Act 1936;

**"taxed element"** has the same meaning as in section 27A of the tax law;

**"taxed"** in respect of a benefit means a benefit in relation to which there is a taxed element or a rebatable 27H amount as the case may be;

**"untaxed"** in respect of a benefit means a benefit in relation to which there is no taxed element or rebatable 27H amount as the case may be.

- (2) If before the commencement of section 86 of the **Public Sector Superannuation (Administration) Act 1993** the Board determined that any part of the post-June 1983 component of a benefit paid or payable to a member of the Fund was to be classified for the purposes of the tax law as taxed, then the benefits accruing in respect of members of the Fund in relation to the period after 1 July 1993 (and any relevant maximum benefit) must be reduced on the basis determined by an actuary and approved by the Minister.
- (3) If at any time after the commencement of section 86 of the **Public Sector Superannuation (Administration) Act 1993** the Board determines that any part of the post-June 1983 component of a benefit paid or payable to a member of the Fund is to be classified for the purposes of the tax law as taxed, then the benefits (including any relevant maximum benefit) must be reduced on the basis determined by an actuary and approved by the Minister.
- (4) In addition to any other form of determination by the Board, the Board shall be deemed to have made a determination under sub-section (2) or (3) if it fails to issue a relevant notice to a benefit recipient under the tax law classifying all of the
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post-June 1983 component of a benefit payable to a member of the Fund as untaxed.

- (5) In determining the basis of the reduction required under sub-section (2) or (3), the actuary must aim to ensure as far as practicable that—
  - (a) the cost of the Fund to employers participating in the Fund is not greater than what would have been the employer cost if the income of the Fund was from 1 July 1988 not subject to tax; and
  - (b) no unreasonable detriment is caused to an affected member of the Fund.
- (6) If, having received an application from an affected member in accordance with sub-section (7), the Board is satisfied that a reduction in benefits has resulted in an unreasonable detriment to the member in respect of a benefit which has become payable to the member, the Board may take such steps, including without limitation increasing the benefit, as the Board considers necessary to avoid or compensate for that detriment.
- (7) An affected member may within 3 months of a benefit becoming payable from the Fund (or any longer period approved by the Board if the Board considers that there are special circumstances) apply to the Board for a review of the amount of the benefit.
- (8) The application must be in a form and contain and be accompanied by information prescribed by the Board.
- (9) The Board must not consider an application for review under this sub-section on any ground other than unreasonable detriment.
- (10) In determining whether an unreasonable detriment exists and the extent of that detriment—

- (a) the Board must act on the advice of the actuary, given either generally or in any specific case; and
- (b) the actuary must have regard to the following factors—
- (i) the receipt by a member of a post-June 1983 component of the benefit classified for the purposes of the tax law as a taxed element rather than as an untaxed element; and
  - (ii) the rates of tax and the basis for its assessment under the tax law as at the date of commencement of this Act in respect of a benefit that becomes payable to a person aged 55 years or more; and
  - (iii) any other matters the actuary considers relevant.

***72. Provisions relating to children's pensions***

- (1) A child is only entitled to a pension if at the date of the death of the revised scheme member, new scheme member or pensioner the child was wholly or partly dependent on him or her or had a legal right to look to him or her for financial support.
- (2) If pensions are payable in respect of a child as a child of more than one revised scheme member or new scheme member only the pension which is the greater is payable in respect of that child.
- (3) Despite anything to the contrary in this Act, any money payable out of the Fund in respect of a child may at the discretion of the Board be paid to

S. 72(1)  
amended by  
No. 49/1992  
s. 26.

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a person directed by the Board on behalf and for the benefit of the child or expended by the Board for the benefit of the child.

**73. *Pensions payable for life except in case of children***

- (1) Except where otherwise provided in this Act, a pension is payable during the life of the person entitled to it.
- (2) A pension in respect of a child is payable until the end of the fortnightly pay period in which—
  - (a) he or she attains the age of 18 years; or
  - (b) in the case of a student, he or she attains the age of 25 years or the Board ceases to be satisfied that he or she is a full-time student; or
  - (c) he or she dies—whichever is the earlier.
- (3) The Board may require any evidence it thinks fit in order to decide whether or not a child is a full-time student.

**74. *Pensions payable fortnightly***

- (1) A pension payable to—
  - (a) a student child may be paid quarterly in arrears; and
  - (b) any other person, is payable in fortnightly instalments.
- (2) The amount of an instalment of a pension covering a period of a fortnight is to be determined by dividing the annual pension by 26.

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 76

S. 75  
amended by  
No. 120/1994  
s. 62(2).

**75. *Disability pensioner to be taken to be on leave***

Subject to this Act, the following provisions apply to pensioners—

S. 75(a)  
amended by  
No. 120/1994  
s. 62(3)(a).

(a) any pensioner receiving a pension under section 34 or 54 is for the purposes of this Act to be treated as being on leave of absence without pay and is not required to contribute in respect of the period of that leave; and

(b) despite paragraph (a), his or her office or position is to be held to be vacant and may be filled by the appointment of some other person; and

S. 75(c)  
amended by  
Nos 81/1988  
s. 33(f)(g),  
120/1994  
s. 62(3)(a).

(c) if a person who has retired on a pension under section 34 or 54 again becomes an officer, the period during which he or she was retired, is not for the purposes of this Act to be treated as a break in the continuity of his or her service as an officer; and

(d) the pensioner must submit himself or herself for medical examination as and when required by the Board; and

(e) if the pensioner does not comply with paragraph (d) the pension ceases to be payable so long as he or she continues in default; and

(f) if the pensioner continues in default for a period of 12 months the Board must cancel the pension and this Act (other than section 71) ceases to apply in respect of that pensioner.

**76. *Liability to be recalled to service***

(1) Nothing in any Act regulating or restricting the appointment of a person to an office by an

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 76

employing authority applies to appointments made by an employing authority under this section.

- (2) If in the opinion of the Board the health of a pensioner to whom a pension under section 34, 54 or 83A is being paid would enable him or her to perform duties for which the pensioner is suited by education, training or experience and the Board so informs an employing authority, the employing authority must ensure that the pensioner is appointed to the first vacancy.
- (3) If employment is offered to a pensioner at a salary that is less than the salary (excluding the remuneration referred to in paragraph (b) of the definition of "salary" in section 3) then appropriate to the grade in which he or she was employed at the time of his or her retirement because the pensioner is unable to perform the previous duties due to ill health, the Board may agree to pay to him or her fortnightly out of the Fund an amount equal to the difference between the salary offered and the salary then appropriate to the grade in which he or she was employed at the time of his or her retirement while he or she remains an officer.
- (4) An amount paid by the Board under sub-section (3)—
  - (a) is not a pension and the person receiving it is not a pensioner; and
  - (b) is salary for the purposes of this Act and may be adjusted by the Board to allow for changes in the salary paid to the person.
- (5) If a pensioner is offered employment which the employing authority certifies to the Board is employment that the pensioner is suited by education, training or experience or would be suited as a result of retraining and the salary

**S. 76(2)**  
**amended by**  
**Nos 81/1988**  
**s. 33(h)(i)(ii),**  
**120/1994**  
**s. 62(3)(b).**

**S. 76(3)**  
**amended by**  
**No. 4/1996**  
**s. 113(2).**

**S. 76(4)(b)**  
**amended by**  
**No. 81/1988**  
**s. 33(i).**

**S. 76(5)**  
**amended by**  
**No. 102/1995**  
**s. 23(1)(a)(b).**

offered and any benefit under sub-section (3) is not less than the salary (excluding the remuneration referred to in paragraph (b) of the definition of "salary" in section 3) then appropriate to the grade in which he or she was employed at the time of his or her retirement, the Board must if—

- (a) he or she accepts the employment; or
- (b) being under the minimum age for retirement, he or she refuses to accept the employment—

cancel the pension.

(6) Despite anything to the contrary in this section, the Board may offer any pensioner receiving a pension under section 34 a lump sum equal to 5 times the annual rate of his or her pension instead of that pension.

(7) If the pensioner accepts the offer under sub-section (6), he or she ceases to be a pensioner and the Board is released from any liability to make any further payments to, or in respect of, any entitlement of the pensioner or of any of his or her dependants.

S. 76(7) substituted by No. 102/1995 s. 23(2).

S. 76(8) amended by No. 81/1988 s. 33(j), repealed by No. 102/1995 s. 23(3).

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**77. Review of pension under section 34, 54 or 83A**

S. 77(1) amended by No. 120/1994 s. 62(3)(b).

(1) The Board may at any time review the question of whether a pensioner who is in receipt of a pension under section 34, 54 or 83A is gainfully employed and after the review it may—

- (a) continue the existing pension; or

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 77

(b) increase the pension up to the pensioner's maximum pension entitlement; or

(c) reduce the pension; or

(d) suspend the pension; or

S. 77(1)(d)  
amended by  
No. 102/1995  
s. 24(a).

(e) cancel the pension.

S. 77(1)(e)  
inserted by  
No. 102/1995  
s. 24(a).

(2) For the purposes of this section a person is to be taken as gainfully employed if the person or another person, a corporation or a trust is receiving remuneration that is derived wholly or partly from labour provided by the person whether under a contract of service or otherwise.

(3) A determination to reduce benefits or to suspend a pension does not take effect for a period of 3 months from the date of the determination.

(4) During the period of 3 months a pensioner in respect of whom a determination has been made may appeal to the Board against that determination.

(5) The Board after consideration of the appeal must confirm or cancel the determination previously made.

(6) If the Board confirms the determination on appeal the reduction of pension or the suspension or cancellation of pension will apply 3 months after the original determination was made or on the pension pay day following the determination of the appeal whichever is the later.

S. 77(6)  
amended by  
No. 102/1995  
s. 24(b).



*State Superannuation Act 1988*

*Act No. 50/1988*

s. 77A

S. 77(7)  
amended by  
No. 120/1994  
s. 62(3)(b).

(7) The Board may at any time require a pensioner who is in receipt of a pension under section 34, 54 or 83A to provide to the Board within 45 days any returns and information which the Board may require for the purposes of this section.

(8) If the pensioner fails or refuses to do so the Board may suspend or cancel the pension and, where the Board cancels the pension, this Act (other than section 71) ceases to apply in respect of that pensioner.

S. 77A  
inserted by  
No. 102/1995  
s. 25.

**77A. *Disability pensioner retiring due to ill health***

(1) If the Board has made a determination (whether before, on or after the commencement of section 25 of the **Superannuation Acts (Miscellaneous Amendments) Act 1995**) that a person in receipt of a pension under section 34 or 54 who has not attained the minimum age for retirement is again able to perform his or her duties or any other duties for which the disability pensioner is suited by education, training or experience or for which the disability pensioner would be suited as a result of retraining, the former disability pensioner may within the prescribed period apply to the Board to retire on the grounds of ill health and receive a payment under this section.

(2) If the Board determines that the application should be granted, the Board must pay the former disability pensioner—

(a) in the case of a pension under section 34, a lump sum benefit calculated under section 44(1)(a); or

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(b) in the case of a pension under section 54, a benefit calculated under section 56—

as if it were payable as at the date that the disability benefit was first granted and indexed in accordance with section 91 from the date that the disability benefit was first granted until the date of the determination as if it were a pension first payable on the date that the disability benefit was first granted.

(3) If the former disability pensioner accepts a payment under sub-section (2), the Board is released from any liability to make any further payments to, or in respect of, any entitlements of the former disability pensioner or any of his or her dependants and this Act ceases to apply to the former disability pensioner.

(4) In this section, "**prescribed period**" means—

(a) in the case of a determination specified in sub-section (1) made before the commencement of section 25 of the **State Superannuation (Miscellaneous Amendments) Act 1995**, the period specified in paragraph (c) or the period of 90 days after that commencement, whichever is later;

(b) in the case of a determination specified in sub-section (1) made on or after the commencement of section 25 of the **State Superannuation (Miscellaneous Amendments) Act 1995**, if the former disability pensioner does not apply for a review of the determination, the period of 90 days after the determination;

(c) in the case of a determination specified in sub-section (1) made before, on or after the commencement of section 25 of the **State**

**Superannuation (Miscellaneous Amendments) Act 1995**, if the former disability pensioner has applied or does apply for a review of the determination, the period of 30 days after—

S. 77A(4)(c)(ii) substituted by No. 52/1998 s. 311(Sch. 1 item 84.1).

- (i) the Board confirms the determination on review; or
- (ii) in the case of an application to the Victorian Civil and Administrative Tribunal, the Tribunal affirms the determination on review.

**78. Desertion by pensioner of spouse or child**

S. 78(1) amended by No. 57/1989 s. 3(Sch. item 186).

- (1) If—
  - (a) a pensioner has unlawfully deserted his or her spouse or left his or her spouse without means of support; or
  - (b) a pensioner's spouse is dead or divorced and the pensioner has deserted any of his or her children who are dependent on him or her—

Part II of the **Maintenance Act 1965** extends and applies so as to enable the Magistrates' Court on complaint to order the payment, during the period it thinks desirable of so much of his or her pension as the Magistrates' Court thinks fit for the benefit of his or her spouse or his or her children or of his or her spouse and children.

- (2) The Board must comply with the order and during the period for which the order operates, pay to the pensioner the balance (if any) of his or her pension.

S. 79 repealed by No. 110/1993 s. 87.

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**80. *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 Board incapable of managing his or her affairs or of unsound mind; or
- (b) a patient within the meaning of the **Mental Health Act 1986**; or
- (c) a represented person under the **Guardianship and Administration Act 1986**—

S. 80 substituted by No. 81/1988 s. 33(k), amended by No. 110/1993 s. 88(c).

S. 80(a) amended by No. 110/1993 s. 88(a).

S. 80(b) amended by Nos 110/1993 s. 88(b), 43/1998 s. 42(5).

S. 80(c) amended by No. 52/1998 s. 311(Sch. 1 item 84.2).

the 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 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.

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S. 81 amended by Nos 81/1988 s. 33(l), 49/1992 s. 27(a)–(c), repealed by No. 102/1995 s. 26.

**82. *Contributors transferring from recognised superannuation schemes***

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 82

S. 82(1)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

(1) In this section "**recognised superannuation scheme**" means a fund approved by the Minister by instrument for the purposes of this section.

(2) If within the period of 6 months immediately before becoming an officer a person was a contributor to a recognised superannuation scheme, the Board may permit him or her to contribute to the Fund without medical examination at a rate and on the terms determined by the Board.

(3) If an officer referred to in sub-section (2) was contributing to a recognised superannuation scheme under provisions for less than full benefits, the Board must not permit him or her to contribute to the Fund for full benefits unless the officer is classified by the Board as a contributor for full benefits.

S. 82(4)  
amended by  
No. 110/1993  
s. 89.

(4) If the officer is not so classified by the Board and the Board permits the officer to contribute to the Fund under sub-section (2), the Board may issue a benefit classification certificate.

(5) If at any time the Board is satisfied that an officer referred to in sub-section (2) has the right to retain a pension entitlement in the fund to which he or she formerly contributed, it may vary the rate at which and the terms under which it permitted the officer to contribute to the Fund but so that his or her entitlement to pension from both funds, if he or she were to exercise his or her right to retain a pension entitlement in the former fund, would not be less in total than the pension entitlement provided by the rate originally agreed to between the Board and the officer.

- (6) If the Board has received a transfer of money or other assets from a recognised superannuation scheme the Board must determine the additional benefits for the officers for whom the transfer has been made having regard to the amount of money or assets transferred, the periods of membership and the contributions (if any) of the officers under that recognised superannuation scheme and any benefits paid to the officers from that recognised superannuation scheme.

S. 82(6)  
substituted by  
No. 81/1988  
s. 33(m).

**83. *Question as to disability determined by Board on medical officer's report***

- (1) If any question arises as to—
- (a) whether a contributor is suffering disability;  
and
  - (b) whether the disability is due to his or her fault—

S. 83(1)  
substituted by  
No. 49/1992  
s. 28,  
amended by  
Nos 23/1994  
s. 118(Sch. 1  
item 54.2),  
120/1994  
s. 62(4)(a).

the question is to be determined by the Board (whether before or after the retirement of the contributor on the ground of disability) after considering, among other things, reports from at least 2 registered medical practitioners appointed by the Board as medical officers for the purposes of this Act.

- (2) After the Board receives the reports from the medical officers and has made a determination on the question which is adverse to the contributor, the contributor has the right to require the Board to review its determination and obtain a further report from—
- (a) a registered medical practitioner mutually agreed upon by the contributor and the Board; or

S. 83(2)  
substituted by  
No. 49/1992  
s. 28.

S. 83(2)(a)  
amended by  
No. 23/1994  
s. 118(Sch. 1  
item 54.2).

*State Superannuation Act 1988*  
*Act No. 50/1988*

s. 83A

S. 83(2)(b)  
amended by  
Nos 23/1994  
s. 118(Sch. 1  
item 54.2),  
46/1998  
s. 7(Sch. 1).

(b) if the contributor and the Board do not agree,  
a registered medical practitioner appointed  
by the Minister.

S. 83(3)-(5)  
repealed by  
No. 120/1994  
s. 62(4)(b).

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S. 83(6)(7)  
repealed by  
No. 64/1989  
s. 36(4)(b).

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S. 83A  
inserted by  
No. 120/1994  
s. 63.

**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.

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- (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.

**84. Request for review of classification**

- (1) If a contributor is dissatisfied with the determination of the Board as to his or her classification, the contributor may on payment to the Board of the prescribed fee require the Board to refer the question of his or her classification to a review panel.
- (2) A review panel is to consist of a member of the Board appointed by the Board, an actuary and a registered medical practitioner both mutually agreed upon by the contributor and the Board or in default of agreement appointed by the Minister.
- (3) The determination of a review panel as to the classification of a contributor is final and conclusive and is not subject to appeal or review under section 85.
- (4) The review panel must examine the evidence upon which the Board has classified or reclassified the contributor and determine the classification of the contributor where applicable in accordance with the **Superannuation Act 1958**.
- (5) If the determination of the Board is varied by the review panel, the fee paid by the contributor must be refunded to the contributor.
- (6) A person appointed to be a member of a review panel is entitled to the salary, fees or allowances as are fixed by the Governor in Council by Order in Council.

S. 84(2)  
amended by  
Nos 23/1994  
s. 118(Sch. 1  
item 54.3),  
46/1998  
s. 7(Sch. 1).

S. 84(4)  
amended by  
No. 81/1988  
s. 33(n).

**85. Settlement of disputes**



*State Superannuation Act 1988*  
*Act No. 50/1988*

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s. 86

S. 85(2)  
substituted by  
No. 52/1998  
s. 311(Sch. 1  
item 84.3).

S. 85(3)  
inserted by  
No. 52/1998  
s. 311(Sch. 1  
item 84.3).

- (1) Any dispute under this Act must be determined in the first place by the Board.
- (2) A person whose interests are affected by a decision of the Board may apply to the Victorian Civil and Administrative Tribunal for review of the decision.
- (3) An application for review must be made within 28 days after the later of—
  - (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

**86. *Board may require information for purposes of administering Act***

S. 86(1)(a)  
amended by  
Nos 46/1998  
s. 7(Sch. 1),  
84/1998 s. 48.

- (1) The Board may at any time require—
  - (a) the Department Head of any Department or any other person or body who or which employs or uses the services of a person who is an officer to furnish any returns and information with respect to any person as the Board may require for the purpose of this Act, including without limiting the generality of the foregoing, particulars of the name, sex, date of birth, date of appointment, date of commencement of duty, rate of salary and changes in the rate of salary, and hours of duty and changes in the hours of duty, and tax file number, of that person; and

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 87

(b) any officer or person entitled or claiming to be entitled to a benefit to furnish any returns and information (including the report of any registered medical practitioner) as the Board may require for the purposes of this Act.

S. 86(1)(b)  
amended by  
No. 23/1994  
s. 118(Sch. 1  
item 54.4).

(2) Subject to the **Freedom of Information Act 1982**, the Board must not disclose to any person except a court or the person to whom the report relates, information contained in the report of a registered medical practitioner given to the Board under sub-section (1)(b).

S. 86(2)  
amended by  
No. 23/1994  
s. 118(Sch. 1  
item 54.4).

(3) Despite any Act or rule of law or practice to the contrary, the Board is not prevented on the ground of medical professional privilege from producing in any legal proceedings any report referred to in sub-section (2).

(4) Any person who, without reasonable excuse, fails neglects or refuses to furnish the information required of him or her under this Act is liable to a penalty of not more than 10 penalty units.

**87. Power of Board to reclassify in certain cases**

(1) If the Board is satisfied that—

S. 87(1)  
amended by  
No. 110/1993  
s. 89.

(a) an officer or former officer has failed to fully and honestly disclose any information that he or she was requested to give in relation to his or her classification or reclassification or a benefit classification certificate; or

S. 87(1)(a)  
amended by  
No. 110/1993  
s. 89.

(b) the officer or former officer has given any incorrect or misleading information in relation to his or her classification or

S. 87(1)(b)  
amended by  
No. 110/1993  
s. 89.

*State Superannuation Act 1988*

*Act No. 50/1988*

s. 88

reclassification or a benefit classification certificate—

the Board may reclassify the officer or former officer as it thinks fit or issue a new or revised benefit classification certificate.

S. 87(2)  
amended by  
No. 110/1993  
s. 89.

- (2) Any reclassification or benefit classification certificate takes effect from the day whether or not an earlier day as is specified by the Board.

**88. *Assignment of pensions and payment out of Fund on death of pensioner***

S. 88(1)  
amended by  
No. 49/1992  
s. 29(a).

- (1) Pensions and other benefits under this Act cannot in any way be assigned, charged or passed by operation of law other than under an Act of the Commonwealth to any person other than the pensioner or beneficiary.

S. 88(2)  
amended by  
No. 49/1992  
s. 29(b).

- (2) Unless any Act of the Commonwealth expressly provides to the contrary, any money payable out of the Fund on the death of an officer or beneficiary is not an asset for the payment of his or her debts or liabilities.

S. 88(3)  
amended by  
No. 81/1988  
s. 33(o).

- (3) Despite sub-section (2) if at the time of the death of a pensioner or other beneficiary to or in respect of whom any money (not exceeding the prescribed amount) was payable by way of pension or other benefit the Board may pay the money to a person as in the circumstances the Board thinks fit.
- (4) Despite sub-section (1) the Board may deduct from any money payable out of the Fund to any person in respect of any pension or benefit under this Act any money—
- (a) which is due to the Fund in respect of that pension or benefit; or
  - (b) which is owing to the Board by that person (whether that money is secured by a mortgage or not).

- (5) If a pension or other benefit under this Act has been assigned or charged before the commencement of section 29 of the **Superannuation (Occupational Superannuation Standards) Act 1992** all or part of which after that commencement could not be so assigned or charged, the assignment or charge can only be varied after that commencement to limit its scope or to cancel it.

S. 88(5)  
inserted by  
No. 49/1992  
s. 29(c).

**89. *Payment of benefits***

Unless otherwise determined by the Board, any pension or benefit under this Act is payable in Australian currency at the office of the Board.

**89A. *Payment of lump sum benefits***

If a lump sum benefit (not being a payment under section 77A) to which a person is entitled is not paid within 14 days of the person becoming entitled, the person is entitled to receive interest at the rate prescribed for the purposes of section 46(1)(a) or 58(1)(a) as the case may be from the date of entitlement until the lump sum benefit is paid.

S. 89A  
inserted by  
No. 102/1995  
s. 27.

**90. *Payments from Consolidated Fund***

- (1) Any payment or repayment by the Treasurer into the Fund for the purposes of this Act is to be made from the Consolidated Fund which is to the necessary extent appropriated accordingly.
- (2) The Treasurer may pay from the Consolidated Fund into the Fund any additional amount or amounts determined by the Minister on the advice of an actuary appointed by the Board in respect of any unfunded liability of the Fund relating to—

S. 90(2)  
amended by  
No. 44/1989  
s. 41(Sch. 2  
item 40.2),  
substituted by  
No. 64/1995  
s. 38(3),  
amended by  
No. 4/1996  
s. 115.

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*Act No. 50/1988*

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s. 90A

S. 90(2)(a)  
inserted by  
No. 4/1996  
s. 115.

(a) an employing authority or class of  
employing authority under section 90A; or

S. 90(2)(b)  
inserted by  
No. 4/1996  
s. 115.

(b) an employer or class of employer within the  
meaning of section 25(5) of the **State  
Employees Retirement Benefits Act 1979**;  
or

S. 90(2)(c)  
inserted by  
No. 4/1996  
s. 115.

(c) a transport authority or class of transport  
authority within the meaning of section 27(5)  
of the **Transport Superannuation Act  
1988**.

S. 90(3)  
amended by  
No. 49/1992  
s. 30,  
substituted by  
No. 64/1995  
s. 38(3).

(3) Any amount or amounts determined under sub-  
section (2) is or are to be paid into the Fund in a  
manner and a time agreed between the Minister  
and the Board.

S. 90A  
inserted by  
No. 64/1995  
s. 40.

**90A. *Payments into Fund by employing authority***

(1) In this section, "**employing authority**" means—

(a) an employing authority within the meaning  
of the definition of "employing authority" in  
section 3(1); and

(b) any other person, authority or body declared  
by the Minister by notice published in the  
Government Gazette to be an employing  
authority in respect of an officer, scheme  
member or pensioner.

(2) The Minister may by notice published in the  
Government Gazette declare a class or classes of  
employing authority.

(3) Subject to sub-section (5), the Board may  
determine the contributions to be paid into the  
Fund by an employing authority or a class of  
employing authority.

- (3A) Sub-section (3) does not apply in respect of—
- (a) a revised scheme member who has ceased making contributions because of section 28(5); or
  - (b) a new scheme member who has ceased making contributions because of section 50(9).
- (4) Contributions under sub-section (3) may be calculated—
- (a) as a percentage or percentages of salary; or
  - (b) as a multiple or multiples of an employee's contribution; or
  - (c) as a proportion or proportions of the benefit payable; or
  - (d) as a fixed amount; or
  - (e) by any combination of the methods specified in paragraphs (a), (b), (c) and (d).
- (5) A determination of the Board under this section has no effect unless the determination has been approved by the Minister.
- (6) A determination—
- (a) takes effect on the expiry of 4 months after notice of the determination is given by the Board to the employing authority or class of employing authority; and
  - (b) continues in force for such period as is specified in the determination.
- (7) An employing authority must pay its contributions on such dates as are determined by the Board in

**S. 90A(3A)**  
inserted by  
**No. 84/1998**  
s. 49(1).

**S. 90A(6)**  
substituted by  
**No. 84/1998**  
s. 49(2).

respect of that employing authority or the class of employing authority of which the employing authority is a member.

- (8) If an employing authority does not within 14 days after an amount has become payable pay the whole of that amount to the Board, the employing authority must pay interest at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** on the amount remaining unpaid from the date on which it became payable until the date on which it is paid to the Board.

### 91. *Indexation of pensions*

S. 91(1)  
amended by  
No. 49/1992  
s. 31(a)(b),  
substituted by  
Nos 110/1993  
s. 90(1),  
120/1994  
s. 64.

- (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

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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 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.

S. 91(2) amended by No. 48/1992 s. 31(c), substituted by Nos 110/1993 s. 90(1), 120/1994 s. 64.

(2A) A reference in sub-section (2) to a "**pension**" includes a reference to—

- (a) any deferred pension under sections 44, 45, 46 and 61; and
- (b) any deferred benefit under section 58.

S. 91(2A) inserted by No. 81/1988 s. 33(p).

(3) If a pensioner becomes liable to have the amount of any pension, allowance, subsidy, concession or other benefit payable to the pensioner under the Social Security Act 1947 of the Commonwealth or the Veterans' Entitlements Act 1986 of the Commonwealth reduced by reason of an increase in the amount of the pensioner's fortnightly pension entitlement under this Act the Board may, on the application in writing of the pensioner at any time within the period commencing 3 months before the date on which the reduction is due to take effect and ending 3 months after the date on which the reduction took effect, convert the amount of the increase in the pensioner's



fortnightly pension entitlement to an equivalent entitlement by way of a lump sum payment as determined by an actuary appointed by the Board.

- (4) If an application by a pensioner under sub-section (3) is approved by the Board, the pensioner is entitled to the lump sum payment on the day on which the reduction in the amount of the Commonwealth pension or other benefit is due to take effect or on the day on which the approval is given (whichever is the later) and the pensioner's pension is to be reduced by the amount of the pension entitlement converted to a lump sum on the day on which the pensioner becomes entitled to the lump sum payment.
- (5) An approval under this section operates to convert the proportion of the fortnightly pension entitlement of the pensioner's spouse following the pensioner's death that is identical to the proportion of the pensioner's fortnightly pension entitlement that is converted.

**92. Regulations**

- (1) The Governor in Council may, after consideration of a report from the Board, make regulations not inconsistent with this Act prescribing all matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular where under this Act an officer may make any election or choice, and the time within which it may be made is not stated in the Act—prescribing the time within which it must be made and the conditions upon which it may be made.

\* \* \* \* \*

S. 92(1A)  
inserted by  
No. 49/1992  
s. 32, repealed  
by No. 4/1996  
s. 108(5).

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- (2) The regulations—
- (a) may be of general or limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may impose penalties not exceeding five penalty units for a contravention of or an offence under the regulations; and
  - (d) may apply, adopt or incorporate (with or without modification)—
    - (i) the provisions of any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person or body whether as formulated, issued, prescribed or published at the time the regulations are made, or at any time before then; or
    - (ii) the provisions of any Act of the Commonwealth or of another State or of a Territory or any matter contained in an Index published by the Commonwealth or of another State or of a Territory or any matter contained in an Index published by the Commonwealth Statistician or the provisions of any subordinate instrument under any of those Acts, whether wholly or partially or as amended by the regulations or as in force or published at a particular time or from time to time; and

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- (e) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Board; and
  - (f) may confer powers or impose duties in connection with the regulations on the Board.
- (3) Regulations made under this Act may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the **Subordinate Legislation Act 1962**.
  - (4) Disallowance of a regulation under sub-section (3) is deemed to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1962**.

S. 92A  
inserted by  
No. 4/1996  
s. 116.

#### 92A. *Specified standards*

- (1) The Governor in Council may by Order in Council—
  - (a) specify standards and conditions for the preservation of specified employer and member contributions; and
  - (b) specify the method, manner and form in which preserved contributions may be paid as a benefit; and
  - (c) specify maximum fees and charges which the Board may impose on specified types of benefits; and
  - (d) specify the circumstances (other than death, disability or ill health) in which an application for an early release of benefits may be made; and
  - (e) specify the benefits in respect of which an application for an early release may be made; and

S. 92A(1)(c)  
amended by  
No. 82/1996  
s. 65.

S. 92A(1)(d)  
inserted by  
No. 82/1996  
s. 65.

S. 92A(1)(e)  
inserted by  
No. 82/1996  
s. 65.

*State Superannuation Act 1988*  
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s. 93

- (f) specify the method, manner and form in which benefits which are the subject of an application for an early release may be paid.
- (2) An Order in Council made under this section—
  - (a) must be published in the Government Gazette;
  - (b) takes effect on and from the date on which it is published or any later date of commencement as may be specified in the Order in Council;
  - (c) may apply, adopt or incorporate (with or without modification) the provisions of any document, code, standard, rule, specification or method whether as formulated, issued, prescribed or published at the time the Order in Council is made.

S. 92A(1)(f) inserted by No. 82/1996 s. 65.

**93. Savings**

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\*            \*            \*            \*            \*

S. 93(1)–(3) repealed by No. 120/1994 s. 65(d).

S. 93(4) amended by No. 81/1988 s. 33(q), repealed by No. 120/1994 s. 65(d).

- (5) On the commencement of section 91—
  - (a) the **Pensions Supplementation Act 1966** ceases to apply in respect of any pension payable under this Act and that Act is to be construed as if all the provisions relating to pensions under the **Superannuation Act 1958** were omitted; and

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- (b) pensions payable from both the Superannuation Fund and the Pensions Supplementation Fund will continue to be payable in accordance with sections 73 and 74.
  - (6) Despite the repeal of the **Superannuation (Amendment) Act 1975** a revised scheme member entitled to a reduction in fortnightly contributions under that Act is entitled to have—
    - (a) his or her contributions under section 28(1) of this Act reduced by an amount calculated under section 2(2)(a)(ii) of that Act; and
    - (b) any unapplied excess of contributions refunded to him or her by the Board not later than the last payday in 1989.
  - (7) Unless the context otherwise requires, any reference to the **Superannuation Act 1958** in any Act, regulation, subordinate instrument or other document is to be construed as a reference to the **State Superannuation Act 1988**.

S. 94  
inserted by  
No. 64/1995  
s. 41.

#### 94. *Transfer of members of MWCESF*

- (1) On the commencement of section 41 of the **Superannuation Acts (General Amendment) Act 1995**, a person who is a member of the Melbourne Water Corporation Employees' Superannuation Fund to whom section 42(2) of the **Metropolitan Bridges Highways and Foreshores Act 1974** or section 47(1), 48(1), 49(1) or 51(1) of the **Town and Country Planning (Transfer of Functions) Act 1985** applies is transferred to the Fund.
  - (1A) Despite the transfer of a member under this section to the Fund—
    - (a) the member is entitled to receive the same benefits that he or she would have been
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- entitled to receive had he or she not been so transferred; and
- (b) the member is entitled to have his or her rights and obligations determined in accordance with the provisions of the governing instrument of the Melbourne Water Corporation Employees' Superannuation Fund as in force immediately before the transfer.
- (1B) For the purposes of sub-section (1A) the Board has in respect of a member the duties and powers conferred on the trustees of the Melbourne Water Corporation Employees Superannuation Fund by or under the provisions of the governing instrument of the Melbourne Water Corporation Employees' Superannuation Fund as in force immediately before the transfer.
- (1C) Without derogating from sub-sections (1A) and (1B), sections 71A, 83 and 85 apply to and in respect of a transferred member.
- (1D) Sub-section (1A) is subject to—
- (a) any relevant specified standards; and
- (b) any provisions of a relevant Commonwealth or Victorian law relating to anti-discrimination.
- (2) With the approval of the Minister, the trustees of the Melbourne Water Corporation Employees' Superannuation Fund must enter into an agreement with the Board which specifies—
- (a) the liability of the Melbourne Water Corporation Employees' Superannuation Fund up to the date of transfer in respect of

**S. 94(1C)**  
inserted by  
No. 4/1996  
s. 117,  
amended by  
No. 13/1999  
s. 13(1).

**S. 94(1D)**  
inserted by  
No. 13/1999  
s. 13(2).

- the entitlements of transferred members as determined by an actuary appointed by the trustees of the Melbourne Water Corporation Employees' Superannuation Fund; and
- (b) the value of assets of the Melbourne Water Corporation Employees' Superannuation Fund equal to the liability of the Melbourne Water Corporation Employees' Superannuation Fund under paragraph (a) that are to be transferred to the Fund; and
- (c) the terms and conditions which apply to the transfer of these assets to the Fund.
- (3) For the purposes of sub-section (2), the liability in respect of each transferred member is to be treated as being in the same proportion as total net assets of the Melbourne Water Corporation Employees' Superannuation Fund are to the total liabilities of the Melbourne Water Corporation Employees' Superannuation Fund.
- (4) If agreement cannot be reached within 3 months of the commencement of section 41 of the **Superannuation Acts (General Amendment) Act 1995**, the Minister may determine the matters specified in sub-section (2) or which are in dispute and the trustees of the Melbourne Water Corporation Employees' Superannuation Fund and the Board are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister.
- (5) No stamp duty or other tax is payable under any Act in respect of anything done under this section.

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**95. Provision relating to change of employment**

S. 95  
inserted by  
No. 64/1995  
s. 41.

- (1) If a person to whom section 94 applies ceases to be an employee of their current employing authority so as to become an employee of another employing authority and that employee is not an officer referred to in paragraph (a) of the definition of "officer" in section 3(1), the person becomes from the date of commencement of employment with the other employing authority a member of the new scheme with a resignation benefit and an accrued retirement benefit and an accrued retirement benefit entitlement calculated in accordance with sub-section (2).
- (2) The resignation benefit and accrued retirement benefit entitlement to the date of becoming a member of the new scheme under this section are to be calculated in accordance with the provisions of the governing instrument of the Melbourne Water Corporation Employees' Superannuation Fund and certified by an actuary appointed by the Board after having been translated into the corresponding benefit entitlements under this Act.
- (3) From the date of becoming a member of the new scheme under this section a person is entitled to receive benefits as a member of the new scheme.

S. 95(1)  
amended by  
No. 102/1995  
s. 28.

**96. Provisions relating to certain water authorities**

S. 96  
inserted by  
No. 4/1996  
s. 118.

- (1) In this section—  
    "**transfer date**" means 17 June 1996 or such earlier date as is specified in the agreement;  
    "**water authority**" means—
  - (a) the Melbourne Water Corporation;
  - (b) City West Water Ltd;



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- (c) South East Water Ltd;
  - (d) Yarra Valley Water Ltd.
- (2) On the transfer date an employee of a water authority who immediately before the transfer date is a member of the Fund is transferred to the Water Industry Superannuation Fund.
- (3) Despite the transfer of a member under this section to the Water Industry Superannuation Fund—
- (a) the member is entitled to receive the same benefits that he or she would have been entitled to receive had he or she not been so transferred; and
  - (b) the member is entitled to have his or her rights and obligations determined in accordance with this Act (other than sections 83 and 85) as in force immediately before that transfer.
- (4) For the purposes of sub-section (3) the trustees of the Water Industry Superannuation Fund have in respect of a member the duties and powers conferred on the Board by or under this Act (other than sections 83 and 85) as in force immediately before the transfer.
- (5) With the approval of the Minister, the Board must enter into an agreement with the trustees of the Water Industry Superannuation Fund which specifies—
- (a) the liability of the Fund up to the date of transfer in respect of the entitlements of transferred members as determined by an actuary appointed by the Board; and

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- (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 Water Industry Superannuation Fund; and
  - (c) the terms and conditions which apply to the transfer of these assets to the Water Industry Superannuation Fund.
- (6) If agreement cannot be reached before 1 June 1996, the Minister may determine the matters specified in sub-section (5) or which are in dispute and the Board and the trustees of the Water Industry Superannuation Fund are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister.
  - (7) The Board must transfer the assets specified in the agreement to the Water Industry Superannuation Fund.
  - (8) As soon as the assets specified in the agreement have been transferred the assets form part of the Water Industry Superannuation Fund.
  - (9) The Board is released from any liability in respect of the entitlements of transferred members as soon as the assets specified in the agreement have been transferred.

**97. *Provision relating to change of employment***

- (1) If a person to whom section 96 applies ceases to be an employee of a water authority so as to become an employee of another water authority, the person becomes from the date of commencement of employment with the other water authority a member of the Water Industry Superannuation Fund with a resignation benefit and an accrued retirement benefit entitlement calculated in accordance with sub-section (2).

S. 97  
inserted by  
No. 4/1996  
s. 118.

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- (2) The resignation benefit and accrued retirement benefit entitlement to the date of becoming a member of the Water Industry Superannuation Fund under this section are to be calculated in accordance with this Act and certified by an actuary appointed by the trustees of the Water Industry Superannuation Fund after having been translated into the corresponding benefit entitlements under the governing instrument of the Water Industry Superannuation Fund.
- (3) From the date of becoming a member of the Water Industry Superannuation Fund under this section a person is entitled to receive benefits as a member of the Water Industry Superannuation Fund.

S. 98  
inserted by  
No. 4/1996  
s. 118.

**98. Provisions relating to transfer of assets and liabilities**

No stamp duty or other tax is payable under any Act in respect of anything done under section 96.

S. 99  
inserted by  
No. 82/1996  
s. 66.

**99. Transfer of members under section 4(1BA) of ESSA**

- (1) This section applies to an officer who elects to transfer to the new scheme under section 4(1BA) of the **Emergency Services Superannuation Act 1986**.
- (2) Upon electing to transfer to the new scheme the officer becomes a member of the new scheme with a resignation benefit and an accrued retirement benefit calculated in accordance with Part 3 of the **Emergency Services Superannuation Act 1986** and, if not adjusted in accordance with section 25A of that Act, adjusted in accordance with section 71B of this Act and certified by an actuary appointed by the Emergency Services Superannuation Board.
- (3) From the date of becoming a member of the new scheme the officer is entitled to receive benefits as a member of the new scheme.
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- (4) The Emergency Services Superannuation Board must transfer to the Fund assets of the Emergency Services Superannuation Scheme equal to the liability of the scheme up to the date of transfer of the officer in respect of the entitlement under subsection (2) as determined by an actuary appointed by the Emergency Services Superannuation Board.
  - (5) As soon as the assets have been transferred the assets form part of the Fund.
  - (6) The Emergency Services Superannuation Board is released from any liability in respect of the entitlement of an officer as soon as the assets have been transferred.
  - (7) No stamp duty or other tax is payable under any Act in respect of anything done under this section.
  - (8) Any dispute between the Emergency Services Superannuation Board and the Board in respect of assets to be transferred under this section is to be determined by the Minister.

**100. *Transfer of assets in respect of PMAF***

- (1) In this section and section 101—

**"transfer date"** means 27 June 1997 or such earlier date as is specified in the agreement;

**"transferred beneficiary"** means a beneficiary in the Port of Melbourne Authority Superannuation Fund who first became entitled to a pension on or before the transfer date or who becomes entitled after the transfer date due to the death of the first beneficiary after the transfer date.

- (2) On the transfer date, a transferred beneficiary is transferred to the Fund.

S. 100  
inserted by  
No. 50/1997  
s. 9.

- (3) With the approval of the Minister, Port of Melbourne Authority Superannuation Scheme Pty Ltd must enter into an agreement with the Board which specifies—
- (a) the liability of the Port of Melbourne Authority Superannuation Fund up to the transfer date in respect of the entitlements of transferred beneficiaries as determined by an actuary appointed by Port of Melbourne Authority Superannuation Scheme Pty Ltd; and
  - (b) the value of assets of the Port of Melbourne Authority Superannuation Fund equal to the liability of the Port of Melbourne Authority Superannuation Fund under paragraph (a) that are to be transferred to the Fund; and
  - (c) the terms and conditions which apply to the transfer of these assets to the Fund.
- (4) If agreement cannot be reached before 16 June 1997, the Minister may determine the matters specified in sub-section (3) or which are in dispute and Port of Melbourne Authority Superannuation Scheme Pty Ltd and the Board are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister.
- (5) Port of Melbourne Authority Superannuation Scheme Pty Ltd must transfer the assets specified in the agreement to the Fund.
- (6) As soon as the assets specified in the agreement have been transferred, the assets form part of the Fund.
- (7) No stamp duty or other tax is chargeable under any Act in respect of anything done under this section.
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- (8) Port of Melbourne Authority Superannuation Scheme Pty Ltd is released from any liability in respect of the entitlements of transferred beneficiaries as soon as the assets specified in the agreement have been transferred.

**101. Provisions relating to transferred beneficiaries**

S. 101  
inserted by  
No. 50/1997  
s. 9.

- (1) Despite the transfer of a beneficiary under section 100 to the Fund—
- (a) the transferred beneficiary is entitled to receive the same benefits that he or she would have been entitled to receive had he or she not been so transferred; and
  - (b) the transferred beneficiary is entitled to have his or her rights and obligations determined in accordance with the provisions of the governing instrument of the Port of Melbourne Authority Superannuation Fund as in force immediately before the transfer date.

(1A) Sub-section (1) is subject to—

S. 101(1A)  
inserted by  
No. 13/1999  
s. 14(1).

- (a) any relevant specified standards; and
  - (b) any provisions of a relevant Commonwealth or Victorian law relating to anti-discrimination.
- (2) For the purposes of sub-section (1), the Board has in respect of the transferred beneficiary the duties and powers conferred on Port of Melbourne Authority Superannuation Scheme Pty Ltd by or under the provisions of the governing instrument of the Port of Melbourne Authority Superannuation Fund as in force immediately before the transfer date.
- (3) For the purposes of sub-section (1), the powers of the Board are not limited by regulations 7E and

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*Act No. 50/1988*

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**s. 101**

9(2) of the Port of Melbourne Authority  
(Superannuation) Regulations 1989.

**S. 101(4)**  
**amended by**  
**No. 13/1999**  
**s. 14(2).**

(4) Without derogating from sub-sections (1) and (2),  
sections 71A, 84 and 85 apply to and in respect of  
a transferred beneficiary.

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**SCHEDULES**

**SCHEDULE 1**

**LUMP SUM PAYMENT FOR EACH \$1.00 OF ANNUAL PENSION**

<i>Column 1</i> Age	<i>Column 2</i> Lump sum factor \$ cts	<i>Column 3</i> Lump sum factor to be subtracted from factor in Column 2 for each completed month of age \$ cts
50	15.20	0.0333
51	14.80	0.0250
52	14.50	0.0250
53	14.20	0.0250
54	13.90	0.0250
55	13.60	0.0167
56	13.40	0.0167
57	13.20	0.0167
58	13.00	0.0167
59	12.80	0.0167
60	12.60	0.0167
61	12.40	0.0083
62	12.30	0.0083
63	12.20	0.0083
64	12.10	0.0083
65	12.00	

Note: The lump sum for any age over 65 years is to be determined by an actuary appointed by the Board.

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Sch. 2  
amended by  
No. 81/1988  
s. 34(a)-(i),  
repealed by  
No. 120/1994  
s. 65(d).



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*Act No. 50/1988*

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**NOTES**

**1. General Information**

*Minister's second reading speech—*

*Legislative Assembly: 14 April 1988*

*Legislative Council: 5 May 1988*

The long title for the Bill for this Act was "A Bill to provide improved benefits under the State Superannuation Fund, to introduce a new scheme for new officers, to repeal the **Superannuation Act 1958** and certain other Acts, to make consequential amendments to certain other Acts and for other purposes."

The **State Superannuation Act 1988** was assented to on 24 May 1988 and came into operation as follows:

Section 93(3) on 1 July 1987: section 2(1); section 93(4) on 27 November 1987: section 2(2); Part 1, Division 2 of Part 6, section 91 on 1 January 1988: section 2(3); rest of Act on 1 July 1988: Government Gazette 1 June 1988 page 1487.

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Notes

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## 2. Table of Amendments

This Version incorporates amendments made to the **State Superannuation Act 1988** by Acts and subordinate instruments.

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### **Superannuation Acts (Amendment) Act 1988, No. 81/1988**

*Assent Date:* 20.12.88  
*Commencement Date:* Ss 21, 22, 25 on 1.1.88: s. 2(1); Ss 5, 10, 29, 31 on 1.7.88: s. 2(2); rest of Act on 20.12.88: s. 2(3)  
*Current State:* All of Act in operation

### **County Court (Amendment) Act 1989, No. 19/1989**

*Assent Date:* 16.5.89  
*Commencement Date:* 1.8.89: Government Gazette 26.7.89 p. 1858  
*Current State:* All of Act in operation

### **State Casual Employees Superannuation Act 1989, No. 20/1989**

*Assent Date:* 16.5.89  
*Commencement Date:* 1.7.89: Government Gazette 7.6.89 p. 1358  
*Current State:* All of Act in operation

### **Transport (Amendment) Act 1989, No. 44/1989**

*Assent Date:* 6.6.89  
*Commencement Date:* S. 41(Sch. 2 item 40) on 1.7.89: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

### **Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.89: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

### **Accident Compensation (General Amendment) Act 1989, No. 64/1989**

*Assent Date:* 29.9.89  
*Commencement Date:* S. 36 on 1.7.90: Government Gazette 21.2.90 p. 518  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

### **Superannuation Acts (Miscellaneous Amendments) Act 1990, No. 72/1990**

*Assent Date:* 4.12.90  
*Commencement Date:* Ss 3–5, 8 on 19.12.90: Government Gazette 19.12.90 p. 3751; ss 6, 7(1)(2) on 1.7.88: s. 2(2); s. 7(3) on 4.12.90: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

*State Superannuation Act 1988*  
*Act No. 50/1988*

**Superannuation (Occupational Superannuation Standards) Act 1992, No. 49/1992**

*Assent Date:* 30.6.92  
*Commencement Date:* 30.6.92: Special Gazette (No. 31) 30.6.92 p. 2  
*Current State:* All of Act in operation

**Superannuation (Public Sector) Act 1992, No. 87/1992**

*Assent Date:* 26.11.92  
*Commencement Date:* Pt 1 (Ss 1, 2) on 26.11.92; rest of Act on 27.11.92: Special Gazette (No. 63) 27.11.92 p. 1  
*Current State:* All of Act in operation

**Tertiary Education Act 1993, No. 18/1993**

*Assent Date:* 18.5.93  
*Commencement Date:* S. 34 on 1.7.93: Government Gazette 3.6.93 p. 1414  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation (Compliance) Act 1993, No. 54/1993**

*Assent Date:* 8.6.93  
*Commencement Date:* S. 10 on 8.6.93: s. 2(1); s. 11 on 1.7.92: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Public Sector Superannuation (Administration) Act 1993, No. 110/1993**

*Assent Date:* 30.11.93  
*Commencement Date:* Ss 70(1)(a)–(c)(e), 73–76, 81, 83, 84(3), 85–88 on 30.11.93: s. 2(1); ss 70(1)(d)(f)(2), 71, 72, 77, 78, 82, 90 on 1.1.94: s. 2(6); s. 79 on 1.7.88: s. 2(2); ss 80, 84(1)(2), 89 on 30.6.92: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Medical Practice Act 1994, No. 23/1994**

*Assent Date:* 17.5.94  
*Commencement Date:* Ss 1, 2 on 17.5.94: s. 2(1); rest of Act on 1.7.94: Government Gazette 23.6.94 p. 1672  
*Current State:* All of Act in operation

**Financial Management (Consequential Amendments) Act 1994, No. 31/1994**

*Assent Date:* 31.5.94  
*Commencement Date:* S. 4(Sch. 2 item 84) on 1.1.95: Government Gazette 28.7.94 p. 2055  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation Acts (Amendment) Act 1994, No. 58/1994**

*Assent Date:* 15.6.94  
*Commencement Date:* S. 4 on 30.11.93: s. 2(2); ss 7, 8, 10 on 1.1.94: s. 2(3); rest of Act on 15.6.94: s. 2(1)  
*Current State:* All of Act in operation

**Superannuation Acts (Further Amendment) Act 1994, No. 120/1994**

*State Superannuation Act 1988*

*Act No. 50/1988*

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*Assent Date:* 20.12.94  
*Commencement Date:* Ss 53, 57, 59 on 1.7.94: s. 2(7A); ss 60, 61, 64 on 1.1.94: s. 2(6); s. 55 on 1.2.95: s. 2(9); ss 54, 56, 58, 62, 63, 65 on 20.12.94: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Equal Opportunity Act 1995, No. 42/1995**

*Assent Date:* 14.6.95  
*Commencement Date:* S. 224 on 5.10.95: Government Gazette 28.9.95 p. 2731; Sch. 2 item 38 on 1.1.96: Government Gazette 21.12.95 p. 3571  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation Acts (General Amendment) Act 1995, No. 64/1995**

*Assent Date:* 27.6.95  
*Commencement Date:* Ss 38, 40 on 1.11.95: s. 2(4); ss 39, 41 on 1.7.95: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995**

*Assent Date:* 5.12.95  
*Commencement Date:* S. 32(Sch. 2 item 9) on 5.12.95: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation Acts (Miscellaneous Amendments) Act 1995, No. 102/1995**

*Assent Date:* 5.12.95  
*Commencement Date:* S. 28 on 1.7.95: s. 2(2); s. 30 on 1.11.95: s. 2(3); ss 14, 15, 26, 27 on 12.2.96: s. 2(4); rest of Act on 5.12.95: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation Acts (Amendment) Act 1996, No. 4/1996**

*Assent Date:* 18.6.96  
*Commencement Date:* Ss 106(1), 108, 115, 117 on 30.6.96: s. 2(12); s. 106(2) on 5.12.95: s. 2(6); s. 107 on 19.12.95: s. 2(7); ss 109, 110(1)(2)(5), 111–113 on 31.5.96: s. 2(11); s. 110(3) on 1.7.88: s. 2(2); s. 110(4) on 30.11.93: s. 2(3); ss 114, 116 on 18.6.96: s. 2(1); s. 118 on 1.5.96: s. 2(10)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation Acts (Further Amendment) Act 1996, No. 82/1996**

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*State Superannuation Act 1988**Act No. 50/1988*

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*Assent Date:* 23.12.96  
*Commencement Date:* Ss 58–67 on 1.1.97: s. 2(4)  
*Current State:* This information relates only to the provision/s amended the **State Superannuation Act 1988**

**Superannuation Acts (Miscellaneous Amendment) Act 1997, No. 50/1997**

*Assent Date:* 11.6.97  
*Commencement Date:* Ss 12, 18(4) on 11.6.97: s. 2(1), s. 9 on 1.6.97:s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Miscellaneous Acts (Omnibus No. 1) Act 1998, No. 43/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 42(5) on 18.4.98: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998**

*Assent Date:* 2.6.98  
*Commencement Date:* S. 311(Sch. 1 item 84) on 1.7.98: Government Gazette 18.6.98 p. 1512  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation Acts (Amendment) Act 1998, No. 84/1998**

*Assent Date:* 17.11.98  
*Commencement Date:* Ss 45–49 on 17.11.98: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Public Sector Reform (Further Amendments) Act 1999, No. 12/1999**

*Assent Date:* 11.5.99  
*Commencement Date:* S. 4(Sch. 2 item 13) on 11.5.99: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

**Superannuation Acts (Further Amendment) Act 1999, No. 13/1999**

*Assent Date:* 11.5.99  
*Commencement Date:* Ss 12–14 on 11.5.99: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **State Superannuation Act 1988**

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### 3. Explanatory Details

<sup>1</sup> S.9: The amendment proposed by section 224(Sch. 2 item 38) of the **Equal Opportunity Act 1995**, No. 42/1995 is ineffective as section 9 no longer exists.

<sup>2</sup> S. 28(1) Table: See section 61C(2) for new Table of Contributions.

<sup>3</sup> S. 28(2): Section 7(3) of the **Superannuation Acts (Miscellaneous Amendments) Act 1990**, No. 72/1990 reads as follows:

***7. Transfer from revised scheme to new scheme***

(3) Despite the amendments made to the **State Superannuation Act 1988** by section 6 and subsections (1) and (2), any revised scheme member who transferred to the new scheme under section 61 of the **State Superannuation Act 1988** and has resigned before this Act receives the Royal Assent may elect to retain his or her entitlements as if this Act had not been enacted.

<sup>4</sup> S. 58(1)(b): See note 3.

<sup>5</sup> S. 61(2A): See note 3.

<sup>6</sup> S. 61C(4): No such certificate was published.