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VICTORIA

Local Authorities Superannuation (Amendment) Act 1983

No. 9949

An Act to amend the *Local Authorities Superannuation Act 1958* to enable it to remain consistent with other superannuation schemes and for other purposes.

[Assented to 18 October 1983]

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

Short title.

1. (1) This Act may be cited as the *Local Authorities Superannuation (Amendment) Act 1983*.

Principal Act No. 6298.

Reprinted to No. 9393.

Subsequently amended by Nos. 9614, 9699, 9751 and 9831.

(2) In this Act the *Local Authorities Superannuation Act 1958* is referred to as the Principal Act.

Commencement.

(3) The several provisions of this Act shall come into operation or be deemed to have come into operation as follows:

(a) Section 5 shall be deemed to have come into operation on 2 August 1982;

- (b) Section 7 shall be deemed to have come into operation on 1 March 1983;
- (c) Section 8 shall be deemed to have come into operation on 1 June 1982;
- (d) Section 11 shall be deemed to have come into operation on 1 March 1980; and
- (e) The remaining provisions shall come into operation on a day or days to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

2. In section 1 of the Principal Act after the expression "Division 6A—Maternity Leave, ss. 11JGA—11JGAB." there shall be inserted the expression "Division 6B—Re-employment of Retrenched Persons, s. 11JGB."

Amendment of
No. 6298 s. 1
Division 6B.

3. In section 3 (1) of the Principal Act after the interpretation of "Prescribed" there shall be inserted the following interpretation:

Amendment of
No. 6298 s. 3.

"Retrenchment" means the compulsory termination of the services of a permanent employé for the reason that in the opinion of the Board his service or position is not necessary or for the reason that the work for which he was engaged is finished or for the reason that the quantity of work has diminished and has rendered necessary a reduction in staff."

"Retrenchment."

4. In section 11IG (2) of the Principal Act for the expression "other than on attainment of 65 years" there shall be substituted the expression "prior to the 60th birthday".

Amendment of
No. 6298 s. 11IG.
Deferred
retirement benefit
payable at age 60.

5. At the end of section 11IJ (1) (a) of the Principal Act there shall be inserted the following words:

Amendment of
No. 6298 s. 11IJ.

"and where any reductions have been made under sections 11IHAB, 11IHAC or 11IR or indexation has not been effected in accordance with a request under section 11IV (4), two-thirds of any additional amounts that would have been payable had the reduction or request not been made;"

6. After section 11F (2) (a) (iii) of the Principal Act the word "and" is repealed and after section 11F (2) (a) (iv) the following sub-paragraphs shall be inserted:

Amendment of
No. 6298 s. 11F.

- "(v) the Cash Management Account established under the *Public Account Act 1958*;
- (vi) the State Development Account established under the *Public Account Act 1958*; and
- (vii) the Local Government Investment Service Fund established under the *Municipal Association Act 1907*."

Amendment of
No. 6298 s. 111L.

7. For section 111L of the Principal Act there shall be substituted the following section:

Resignation
benefits.

"111L. (1) A pension contributor who ceases to be a permanent employé without becoming entitled to benefits under this Division otherwise than under this section shall be entitled to be paid—

- (a) an amount by way of benefits equal to the contributions made by him under this Division; and
- (b) interest at the prescribed rate per annum calculated on the amount of those contributions during each year or that part of a year after the year ending on 28 February 1983.

(2) For the purposes of sub-section (1) the prescribed rate per annum shall in relation to a financial year be—

- (a) until the rate for the year ending on 28 February 1984 is determined such rate per annum as is determined by the Board;
- (b) as from the determination of the rate per annum for a financial year under sub-section (3) that rate; and
- (c) until a rate per annum for a financial year has been determined by the Board the rate per annum that was determined for the last preceding financial year.

(3) The Board shall as soon as practicable after the end of the year ending on 28 February 1984 and after the end of each succeeding financial year determine the prescribed rate per annum on actuarial advice having regard to the results achieved by the investments of the Fund during the last preceding financial year less such percentage of the earnings on the investments that the Board on actuarial advice determines should be retained in the Fund to meet the contingent liabilities of the Fund in respect of death and disability benefits.

(4) Immediately on the determination of the prescribed rate for a year contributors shall for the purpose of this section be credited with interest as at the end of the last preceding financial year at the prescribed rate on the amount of their contributions and accrued interest if any."

Amendment of
No. 6298
s. 111LA.

8. Section 111LA of the Principal Act is amended as follows:

- (a) Before the word "Notwithstanding" there shall be inserted the expression "(1)"; and
- (b) After sub-section (1) there shall be inserted the following sub-sections:

Entitlement upon
retrenchment.

"(2) Where the services of a permanent employé are terminated because of retrenchment such employé is entitled to a benefit calculated in accordance with section 3 (1) (aa) of the *Superannuation Benefits Act 1977*.

(3) For the purposes of determining whether a permanent employé has been retrenched the Board shall have access to such records of the employing authority as the Board considers necessary to satisfy itself as to whether retrenchment has occurred."

Board's access to records.

9. In section 11JLB of the Principal Act for the expression "upon attaining the age of 65" there shall be substituted the expression "having attained the age of 60".

Amendment of No. 6298 s. 11JLB.

10. In section 11JN (1) of the Principal Act there shall be substituted for the word "disability" the words "disability, retrenchment".

Consequential amendment of No. 6298 s. 11JN.

11. After Division 6A of Part I. of the Principal Act there shall be inserted the following Division:

New Division inserted.

"DIVISION 6B—RE-EMPLOYMENT OF RETRENCHED PERSONS.

11JGB. (1) Where a permanent employé has been retrenched but within two years of such retrenchment again becomes an employé of an Authority he may repay all or part of any moneys received by him pursuant to Divisions 3, 5 or 7.

Repayment of retrenchment benefits.

(2) Subject to sub-section (3) a permanent employé who under sub-section (1) repays moneys received by him pursuant to Divisions 3, 5 or 7 shall upon such repayment be credited with such number of years of service as an actuary determines is the appropriate number of years of service represented by the amount repaid.

(3) Where benefits received by a permanent employé pursuant to Divisions 3, 5 or 7 were not calculated solely by reference to years of service, and where such employé repays any moneys pursuant to sub-section (1), his future entitlement to benefits pursuant to this Act shall be adjusted by the Board on the basis recommended by an actuary."

12. After section 30 of the Principal Act there shall be inserted the following section:

New section inserted.

"30A. Where the Board determines that any person not being a permanent employé has been contributing to any fund established pursuant to this Act, the Board shall—

Person contributing in error.

(a) cancel any contract then in existence or deemed to be in existence for benefits between the Board and such person; and

(b) refund an amount equal to—

(i) the contributions made by such person together with an amount being interest at a rate specified by the Board on actuarial advice, to such person; and

- (ii) the contribution made to any fund established pursuant to this Act by any Authority in respect of such person, to such Authority.”.

Amendment of
No. 6298 s. 11JA.

13. After section 11JA(2) of the Principal Act there shall be inserted the following sub-sections:

Surplus in
Employees' Fund.

“(3) Where the actuarial investigation referred to in sub-section (1) reveals a surplus in the Employees' Fund the Board may transfer from the Employees' Fund to the Authorities' Fund such amounts as are recommended by an actuary.

Deficit in
Employees' Fund.

(4) Where the actuarial investigation referred to in sub-section (1) reveals a deficit in the Employees' Fund the Board may transfer from the Authorities' Fund to the Employees' Fund such amounts as are recommended by an actuary.”.