

# LEGISLATIVE COUNCIL

Read 1° 15 November 1983

*(Brought from the Legislative Assembly)*

## A BILL

*for*

An act to amend the *Hospitals Superannuation Act*  
1965, and for other purposes

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  
5 say):

1. (1) This Act may be cited as the *Hospitals Superannuation* Short title.  
*(Amendment) Act* 1983.

(2) In this Act the *Hospitals Superannuation Act* 1965 is called the Principal Act. Principal Act No.  
7354.  
Amended by Nos.  
7997, 8446, 8925,  
9023, 9069, 9397,  
9549, 9664, 9756  
and 9863.

10 (3) Subject to sub-section (4) the several provisions of this Act shall Commencement.  
come into operation on a day or the respective days to be fixed by  
proclamation or successive proclamations of the Governor in Council  
published in the *Government Gazette*.

(4) Section 6 (4) shall be deemed to have come into operation on  
15 22 December 1981.

15—[289]—750/16. 11. 1983—61469/83(922)

Amendment of  
No. 7354, s. 3.

2. In section 3 of the Principal Act in the interpretation of “retrenchment”, after the words “ten years’ employment” there shall be inserted the words “with that institution or any other institution”.

Amendment of  
No. 7354, s. 6 (1).

3. In section 6 (1) of the Principal Act, for the words “Governor in Council” there shall be substituted the word “Minister”.

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Amendment of  
No. 7354, s. 28.

4. Section 28 of the Principal Act is amended as follows:

(a) After sub-section (1) there shall be inserted the following sub-section:

“(1A) Notwithstanding anything in paragraph (a) of sub-section (1), if a contributor resigns and resumes employment with a participating institution within a period of 4 weeks he shall be deemed to have continued as a contributor and no benefits shall be payable upon such resignation.”;

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(b) In sub-section (2)—

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(i) after the expression “sub-section (1)” there shall be inserted the expression “or in sub-section (1A)”;

(ii) after paragraph (a) there shall be inserted the following paragraph:

“(ab) notifies the Board of his intention to continue as a contributor;”;

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(iii) in paragraph (b), for the words “two months” there shall be substituted the words “six months”; and

(for paragraph (c), there shall be substituted the following paragraph:

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“(c) during the time he is not employed by a participating institution pays to the Board—

(i) contributions at the same rate as would be applicable from time to time if he had continued to be employed by a participating institution at the Fund salary that he was in receipt of immediately before he ceased to be employed by the participating institution;

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(ii) supplementary contributions at the rate applicable from time to time in relation to the Fund salary that he was in receipt of immediately before he ceased to be employed by the participating institution; and

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(iii) payments and levies at the rate at which the participating institution by which he was last employed would have been required to make if it had been a Class A institution in respect of persons who are in receipt of a Fund salary

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equal to the Fund salary that he was in receipt of immediately before he ceased to be employed by the participating institution”;

(c) In sub-section (3)—

5 (i) after the expression “sub-section (1)” there shall be inserted the expression “or in sub-section (1A)”;

(ii) in paragraph (b), for the expression “two months” there shall be substituted the expression “six months”; and

10 (iii) for paragraph (c) there shall be substituted the following paragraph:

“(c) between the time when he ceases to be employed and the time when he dies or becomes disabled pays to the Board—

15 (i) contributions at the same rate as would be applicable from time to time if he had continued to be employed by a participating institution at the Fund salary that he was in receipt of immediately before he ceased to be employed by a participating institution;

20 (ii) supplementary contributions at the rate applicable from time to time in relation to the Fund salary that he was in receipt of immediately before he ceased to be employed by the participating institution; and

25 (iii) payments and levies at the rate at which the participating institution by which he was last employed would have been required to make if it had been a Class A institution in respect of persons who are in receipt of a Fund salary equal to the Fund salary that he was in receipt of immediately before he ceased to be employed by the participating institution”; and

35 (d) After sub-section (3), there shall be inserted the following sub-sections:

40 “(4) Where a contributor who is deemed by sub-section (2) to have continued to be a contributor is not again employed by a participating institution due to circumstances other than his death or disability he shall be deemed to have ceased to be a contributor as at the date he ceased to be employed by a participating institution and in addition to any other benefit payable to him he shall be paid a refund of all money paid by him under paragraph (c) of sub-section (2).

(5) Where a contributor who is deemed by sub-section (2) to have continued to be a contributor is again employed by a participating institution the Board shall determine the additional benefit, if any, to be provided as a consequence of the compliance by the contributor with paragraph (c) of sub-section (2).” 5

Amendment of No. 7354, s. 30.

5. Section 30 of the Principal Act is amended as follows:

(a) After sub-section (4), there shall be inserted the following sub-section:

“(4A) In the case of a contributor who is absent on leave without pay other than on account of ill-health, an election under sub-section (4) may be made only if the period of the leave is greater than four weeks.”; 10

(b) In sub-section (9), the expression “, and the disability benefits shall be calculated as though the contributor died on the date of his retirement” shall be repealed; 15

(c) After sub-section (9), there shall be inserted the following sub-section:

“(9A) Where a contributor makes an election under paragraph (a) of sub-section (4) the period for which the leave was granted shall not be taken into account when determining the period of the contributor’s service for the purposes of calculating benefits under this Act.”; and 20

(d) For sub-section (11), there shall be substituted the following sub-section: 25

“(11) Where a contributor makes an election under paragraph (c) of sub-section (4) he shall have the same entitlements to benefits under this Act as he would have had if he had paid contributions at the rate which would have been payable by him if he had not taken the leave and had continued to work at the salary payable to him on the date on which the leave commences and for the purposes of calculating those benefits the period for which the leave was granted shall be taken into account in determining the total period of the contributor’s service.”. 30 35

Amendment of No. 7354, s. 31 (1).

6. (1) In section 31 (1) of the Principal Act—

(a) before the words “a participating institution” there shall be inserted the words “other than on account of ill-health”; and

(b) the expression “(whether or not the contributor is absent on leave without pay or with reduced pay)” shall be repealed. 40

Amendment of No. 7354, s. 32 (1).

(2) In section 32 (1) of the Principal Act—

- (a) before the words “a participating institution” there shall be inserted the words “other than on account of ill-health”; and
- 5 (b) the expression “(whether or not the contributor is absent on leave without pay or with reduced pay)” shall be repealed.
- (3) In section 32A (1) of the Principal Act—
- (a) before the words “a participating institution” there shall be inserted the words “other than on account of ill-health”; and
- 10 (b) the expression “(whether or not the contributor is absent on leave without pay or with reduced pay)” shall be repealed.
- (4) In section 6 (4) of the *Hospitals Superannuation (General Amendment) Act* 1981 for the expression “35ZFB” there shall be substituted the expression “35ZB”. Amendment of No. 7354, s. 32 (1).  
Repeal of s. 6 (4).
- 15 (5) In section 35ZB (4) of the Principal Act after the words “leave without pay” there shall be inserted the words “other than on account of ill-health”. Amendment of No. 7354, s. 35 (4).
7. In section 34 of the Principal Act the expression “as calculated in accordance with the provisions of this Act in force immediately
- 20 before the commencement of the *Hospitals Superannuation (Amendment) Act* 1980 and” shall be repealed. Amendment of No. 7354, s. 34.
8. (1) In section 35A (1) of the Principal Act in the interpretation of “Minimum wage”—
- 25 (a) for the expression “\$82.80” there shall be substituted the expression “\$144.80”;
- (b) for the word “Melbourne” there shall be substituted the word “Victoria”; and
- (c) for the expression “1st day of January, 1976” there shall be substituted the expression “30th day of June, 1981”.
- 30 (2) In section 35A (2) of the Principal Act—
- (a) the words “having regard to any awards of the Australian Conciliation and Arbitration Commission” shall be repealed; and
- 35 (b) for the expression “1st day of January 1976” there shall be substituted the expression “30th day of June 1981”.
- (3) In section 35F of the Principal Act, after the words “Average Weekly Earnings (Melbourne) Index” (where twice occurring) there shall be inserted the words “or such other similar index as the Treasurer on the recommendation of the Government actuary from time to time
- 40 determines that is”. Amendment of No. 7354, s. 35 (5).  
Substitution of ss.

Amendment of  
No. 7354, s. 35i.

(4) In section 35i of the Principal Act, after the words "Average Weekly Earnings (Melbourne) Index" (where twice occurring) there shall be inserted the words "or such other similar index as the Treasurer on the recommendation of the Government Actuary from time to time determines that is".

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Amendment of  
No. 7354, s. 35i.

9. Section 35FA of the Principal Act is amended as follows:

- (a) In sub-section (3) for the expression "sub-section (1)" there shall be substituted the words "this section";
- (b) In sub-section (1), after the word "receiving" there shall be inserted the words "or entitled to receive";
- (c) In sub-section (5), after the word "receiving" there shall be inserted the words "or entitled to receive";
- (d) For sub-section (9) there shall be substituted the following section:

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"A pension contributor who is receiving a pension pursuant to this Part and who has been granted an application pursuant to sub-section (5) shall not be granted a further application pursuant to sub-section (5) until the period of time in respect of which the last preceding application of the pension contributor was granted has elapsed."; and

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- (e) After sub-section (9) there shall be inserted the following sub-section:

"(10) the provisions of this section shall apply to and in relation to the spouse of a deceased pension contributor and to the pension entitlement of that spouse in the same manner and to the same extent and subject to the same conditions as they apply to a pension contributor in relation to his pension entitlement."

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Amendment of  
No. 7354, s. 35i  
(1).

10. In section 35j (1) of the Principal Act, for the expression "\$442" there shall be inserted the expression "\$650".

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Amendment of  
No. 7354, s. 35vi.

11. For section 35M of the Principal Act there shall be substituted the following section:

"(1) A pension contributor who ceases to be a contributor without becoming entitled to benefits under this Part otherwise than under this section shall be entitled to be paid—

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- (a) an amount by way of benefits equal to the contributions made by him under this Part: 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 30 June 1983.

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(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 each year is determined such rate per annum as is determined by the Board; and
- 5 (b) as from the determination of the rate per annum for a financial year under sub-section (3) that rate per annum.

(3) The Board shall as soon as practicable after the end of the year ending on 30 June 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.

15 (4) Immediately on the determination of the prescribed rate for a year pension 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 per annum on the amount of their contributions and accrued interest if any.”.

20 12. In section 35U of the Principal Act, after sub-section (3) there shall be inserted the following sub-sections:

Amendment of  
No. 7354, s. 35U.  
Insertion of ss. (4)  
and (5).

“(4) Where the Board—

- (a) is in receipt of a request in writing from a pensioner that his pension not be increased in accordance with the provisions of sub-section (3); and
- 25 (b) the Board is of the opinion that it would not be in that pensioner’s best interests to increase his pension in accordance with the provisions of sub-section (3)—

30 it shall not increase such pension pursuant to sub-section (3) unless and until such request is revoked.

(5) A pensioner who has been granted a request made under sub-section (4) may revoke such request at any time.”.

13. In section 47 (2) of the Principal Act—

- (a) after the word “interest” there shall be inserted the words “at the prescribed rate”; and
- 35 (b) the words “at the rate of six per centum” shall be repealed.

Amendment of  
No. 7354, s. 47  
(2).

