

**ELECTRICITY COMMISSION (SUPERANNUATION)
AMENDMENT ACT.**

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 24, 1973.

An Act relating to the superannuation entitlements of certain servants of The Electricity Commission of New South Wales; to amend the Electricity Commission Act, 1950, the Superannuation Act, 1916, and the New South Wales Retirement Benefits Act, 1972; and for purposes connected therewith. [Assented to, 2nd May, 1973.]

BE

Electricity Commission (Superannuation) Amendment.

BE it enacted by the Queen's Most Excellent Majesty, by No. 24, 1973 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Electricity Commission Short title. (Superannuation) Amendment Act, 1973".

2. The Electricity Commission Act, 1950, is amended— Amendment of Act No. 22, 1950.

(a) by inserting at the end of section 2 the word Sec. 2. "SCHEDULES."; (Division of Act.)

(b) by inserting next before section 73 the following New secs. 72A-72L. new sections :—

72A. In this Division and in the Schedule, except Interpretation. to the extent that the context or subject-matter otherwise indicates or requires—

"prescribed notification" in relation to a person means—

(a) a notification by the State Superannuation Board in respect of that person pursuant to paragraph (a) of subsection (2) of section 72C; or

(b)

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- (b) a notification by that person pursuant to paragraph (d) of subsection (1) of section 72J that he confirms his application to become a contributor to the State Superannuation Fund;

“prescribed period” in relation to a prescribed person means the period of three months that next succeeds—

- (a) a day appointed by the State Superannuation Board for the purposes of this paragraph and notified in the Gazette; or
- (b) the confirmation of the appointment of the prescribed person as a salaried officer,

whichever is the later;

“prescribed person” means—

- (a) a salaried officer who became a servant of the Commission pursuant to—
 - (i) paragraph (a) of subsection (1) of section 59;
 - (ii) paragraph (a) of subsection (2) of section 59;
 - (iii) paragraph (a) of subsection (3) of section 59;
 - (iv) subsection (4) of section 59;
 - (v) an agreement under section 34 approved by the Governor;
- (b) a salaried officer who became a servant of the Commission pursuant to the Electricity Commission (Balmain Electric Light Company Purchase)

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Purchase) Act, 1950, and is one of No. 24, 1973
the parties of the fourth part to the
Staff Pension Trust Deed referred to
in section 12 of that Act;

- (c) a salaried officer who is a servant of the Commission referred to in regulation 2 of the regulations made under this Act and published in Government Gazette Number 144 of 15th November, 1957;
- (d) a salaried officer who was a wages employee immediately before his appointment as a salaried officer, where his appointment as a salaried officer has been confirmed and he had not reached the age of sixty years at the time of that confirmation;
- (e) a salaried officer whom the State Superannuation Board had, before the commencement of the Superannuation (Amendment) Act, 1960, refused to accept as a contributor in accordance with subsection (2) of section 11A of the Superannuation Act, 1916, as enacted before that commencement,

being, in each case, a salaried officer who is not a contributor to the State Superannuation Fund and who would, if he continued as a servant of the Commission until he reached the age of sixty-five years, complete not less than ten years of continuous service as such a servant (including service as a wages employee and service before the commencement of the Electricity Commission (Superannuation) Amendment Act, 1973);

“prescribed

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“prescribed superannuation scheme” means a scheme of superannuation or retirement benefits in force at the commencement of the Electricity Commission (Superannuation) Amendment Act, 1973, and established by or pursuant to—

- (a) the Local Government (Superannuation) Act, 1927;
- (b) the Transport Employees Retirement Benefits Act, 1967;
- (c) Part IX of the Government Railways Act, 1912;
- (d) the regulations made under this Act and published in Government Gazette Number 144 of 15th November, 1957;
- (e) the industrial awards and industrial agreements specified in the Schedule to the Industrial Arbitration (Amendment) Act, 1955, and any industrial award or industrial agreement amending them or in substitution therefor;
- (f) the Staff Pension Trust Deed referred to in section 12 of the Electricity Commission (Balmain Electric Light Company Purchase) Act, 1950;
- (g) an endowment assurance policy for the benefit of a servant of the Commission to which the Commission and the servant contribute;

“New

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"New South Wales Retirement Board" means No. 24, 1973
the body corporate constituted by section 35
of the New South Wales Retirement Benefits
Act, 1972;

"salaried officer" means a servant of the Commission who is within the jurisdiction of the Electricity Commission (Professional Staff) Conciliation Committee established pursuant to the Industrial Arbitration Act, 1940, or of the Electricity Commission (Salaried, other than Professional, Staff) Conciliation Committee so established;

"State Superannuation Board" means the body corporate constituted by section 80 of the Superannuation Act, 1916;

"State Superannuation Fund" means the fund established pursuant to section 4 of the Superannuation Act, 1916;

"Transport Retirement Fund" means the fund established pursuant to section 4 of the Transport Employees Retirement Benefits Act, 1967;

"wages employee" means a servant of the Commission other than a salaried officer.

72B. This Division has effect notwithstanding Operation
any other provision of this Act or any provision of of
another Act or of any regulation, ordinance, by-law,
rule, order or proclamation made under an Act and
notwithstanding any industrial award or agreement
or any other agreement.

72C. (1) Where a prescribed person—

- (a) applies in writing to the State Superannuation Board before the expiration of the prescribed period (or, where the State

Procedure
where
prescribed
person
applies to
become
contributor
to State
Super-
annuation
Fund.

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Superannuation Board allows an extended period, before the expiration of the extended period) for acceptance as a contributor to the State Superannuation Fund; and

- (b) as soon as practicable thereafter submits himself to medical examination by the Chief Medical Officer of the Government as if he were an employee referred to in subsection (1) of section 11A of the Superannuation Act, 1916,

the Chief Medical Officer shall report to the State Superannuation Board whether or not, in his opinion, that person is suffering from any physical or mental defect that is likely to affect his health or longevity or his capacity to continue his employment with the Commission.

(2) After receipt of a report referred to in subsection (1), the State Superannuation Board shall notify the Commission and the prescribed person to whom the report relates—

- (a) that it will accept that person as a contributor to the State Superannuation Fund;
- (b) that it will accept that person as a contributor to the State Superannuation Fund for limited benefits; or
- (c) that it will not accept that person as a contributor to the State Superannuation Fund.

(3) Where—

- (a) the State Superannuation Board notifies a prescribed person as provided by paragraph (b)

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(b) of subsection (2) and that person fails No. 24, 1973 within one month thereafter, or within such further period as that Board may allow, to notify the Commission and that Board in writing that he confirms his application to become a contributor to the State Superannuation Fund; or

- (b) the State Superannuation Board notifies a prescribed person as provided by paragraph (c) of subsection (2),

that person ceases to be a prescribed person and ceases to be entitled to become a contributor to the State Superannuation Fund as provided by this Division.

72D. (1) Where the Commission receives a procedure in case of prescribed person to whom Act No. 35, 1927, applies notification in respect of a person to whom the Local Government (Superannuation) Act, 1927, applies, it shall notify the Local Government Superannuation Board accordingly.

(2) Where the Local Government Superannuation Board is notified as provided by subsection (1)—

(a) the provisions of paragraph (f) of subsection (4) of section 4 of the Local Government (Superannuation) Act, 1927, apply in respect of the person to whom the notification relates if he is a person to whom Part II of that Act applies;

(b) the provisions of section 15 of that Act apply in respect of that person if he is a person to whom Part III of that Act applies; and

(c) the provisions of section 15v of that Act apply in respect of that person if he is a person to whom Part IIIB of that Act applies,

and

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and they apply in respect of that person as if, on the date determined by the State Superannuation Board under subsection (1) of section 72J, he had ceased to be employed as referred to in the applicable provisions of that Act, as if he had advised that Board that he does not wish to take over or to continue any policy on his life effected under that Act and as if any moneys that, in consequence of that cessation of employment, would be payable to that person pursuant to those provisions were payable to the Commission.

**Procedure
in case of
prescribed
person to
whom Act
No. 96,
1967,
applies.**

72E. (1) Where the Commission receives a prescribed notification in respect of a person to whom the Transport Employees Retirement Benefits Act, 1967, applies, it shall notify the New South Wales Retirement Board accordingly.

(2) Where the New South Wales Retirement Board is notified as provided by subsection (1), there shall be paid to the Commission from the Transport Retirement Fund an amount equal to the sum of—

- (a) the amount of any initial credit (within the meaning of the Transport Employees Retirement Benefits Act, 1967) of the person to whom the notification relates;
- (b) an amount equal to the total amount of the contributions paid by or on behalf of that person to that Fund before the date determined in respect of him pursuant to subsection (1) of section 72J reduced by—
 - (i) the difference between that total amount and the total amount of contributions that would have been paid by him or on his behalf to that Fund before the date so determined had they been made in accordance with Scale 2 of Schedule 2 to that Act; and

(ii)

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(ii) where any amounts have been paid No. 24, 1973 to him from that Fund—an amount determined by that Board; and

(c) an amount of interest on the sum of the amounts referred to in paragraphs (a) and (b) compounded at the prescribed rate for each financial year during the period for which that person contributed to that Fund before the date so determined.

(3) For the purpose of paragraph (c) of subsection (2) the prescribed rate of interest in respect of a financial year is the rate determined in respect of that financial year by the New South Wales Retirement Board in accordance with subsection (4) of section 3 of the New South Wales Retirement Benefits Act, 1972.

72F. Where the Commission receives a prescribed notification in respect of a person to whom Part IX of the Government Railways Act, 1912, applies it shall notify the board constituted under that Part of that Act accordingly.

Procedure in case of prescribed person to whom Part IX of Act No. 30, 1912, applies.

72G. Where the Commission receives a prescribed notification in respect of a person to whom the regulations made pursuant to this Act and published in Gazette Number 144 of 15th November, 1957, apply, there shall be paid to the Commission from the Superannuation Fund established pursuant to those regulations an amount equal to the amount that would be payable from that Fund to the person to whom the notification relates if he

Procedure in case of prescribed person to whom certain regulations apply.

ceased

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ceased to be employed by the Commission immediately before he becomes, by the operation of subsection (1) of section 72J, an employee within the meaning of the Superannuation Act, 1916.

**Procedure
in case of
prescribed
person who
is party to
certain deed.**

72H. (1) Where the Commission receives a prescribed notification in respect of a person who is a party of the fourth part referred to in the Staff Pension Trust Deed referred to in section 12 of the Electricity Commission (Balmain Electric Light Company Purchase) Act, 1950, it shall notify the trustees holding office pursuant to that deed accordingly.

(2) Where the trustees referred to in subsection (1) are notified as provided by that subsection, they shall, subject to subsection (2) of section 72J, arrange to cancel any policy of assurance to which the Staff Pension Trust Deed so referred to relates, in so far as the policy relates to that person.

(3) Where a policy of assurance is cancelled pursuant to subsection (2) in so far as it relates to a prescribed person, any moneys payable under the policy upon that cancellation are, after deduction therefrom of any amounts authorised by the Staff Pension Trust Deed referred to in subsection (1) to be retained by the trustees under that deed, payable by those trustees to the Commission.

**Procedure
where
prescribed
person and
Commission
contribute
towards
policy of
assurance.**

72I. Where the Commission receives a prescribed notification in respect of a person who is a beneficiary under a policy of endowment assurance towards which that person and the Commission contribute, the Commission shall, subject to subsection (2) of section 72J, arrange to cancel that policy of assurance in so far as it relates to that person, and any moneys payable under the policy upon that cancellation are payable to the Commission.

72J.

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72J. (1) Where a prescribed person—

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- (a) is, pursuant to this Division, notified by the State Superannuation Board—
 - (i) that he will be accepted as a contributor to the State Superannuation Fund; or
 - (ii) that he will be accepted as a contributor to the State Superannuation Fund for limited benefits;
- (b) is, by the terms of his employment, required to give his whole time to the duties of his employment;
- (c) is not paid at hourly, daily, weekly or fortnightly rates, or by piece-work; and
- (d) has, where he has been notified as provided by subparagraph (ii) of paragraph (a), notified the State Superannuation Board in writing within one month after being notified as so provided that he confirms his application to become a contributor to the State Superannuation Fund,

Certain pre-scribed persons to be contributors to State Superannua-tion Fund.

he becomes an employee within the meaning of the Superannuation Act, 1916, on and from a date determined by the State Superannuation Board and, on and from that date, he ceases to be entitled to any rights, benefits or privileges that, but for this subsection, would have accrued to him under a prescribed superannuation scheme.

(2) Where, for the purpose of making a payment to the Commission pursuant to this Act a policy of assurance is to be cancelled, it shall be cancelled so that the effective date of the cancellation is the date determined by the State Superannuation Board under subsection (1).

(3) The State Superannuation Board may defer for such period as it thinks fit the payment of the contribution to be made under section 72K in

respect

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respect of a prescribed person but the prescribed person shall not on that account alone be deemed to have failed to become a contributor to the State Superannuation Fund.

Commission
to make
certain
payment
to State
Superannua-
tion Fund.

72K. (1) Where the Commission receives a prescribed notification it shall, in its books and as soon as practicable, credit the person to whom the notification relates with an amount calculated according to the Table specified in the Schedule that is applicable to his case.

(2) An amount credited to a servant of the Commission pursuant to subsection (1) shall, for the purposes of Part IIIA of the Superannuation Act, 1916, be deemed to be an amount refunded to him from a Public Service Superannuation Fund within the meaning of that Part of that Act and he shall be deemed, for those purposes—

- (a) to have duly elected to take the benefit of section 20C of that Act; and
- (b) to have directed the Commission to pay that amount, or such part thereof as may be required, to the State Superannuation Fund for the purpose of that Part of that Act.

(3) The Commission shall, within one month after the date determined by the State Superannuation Board under subsection (1) of section 72J, pay to the State Superannuation Fund the amount it is deemed by subsection (2) to have been directed by a prescribed person so to pay and shall pay to the prescribed person any balance of the amount credited to him pursuant to subsection (1).

(4) Interest accrues on an amount due and payable under subsection (3) as if it were an amount referred to in subsection (2) of section 91A of the Superannuation Act, 1916.

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72L. (1) Where, pursuant to section 72J a pre- No. 24, 1973
 scribed person becomes an employee within the meaning of the Superannuation Act, 1916, any service with an employer during which that person was required or entitled to be a participant in a pre-scribed superannuation scheme shall be deemed to be service for the purposes of subsection (1) of section 21, and of section 23, of that Act, but not for the purposes of subsection (1B) of section 21, or of section 28B, of that Act.

(2) Service referred to in subsection (1) is, in the case of a person who is retrenched but not otherwise, contributory service for the purposes of section 38A of the Superannuation Act, 1916.

(c) by inserting at the end of the Act the following New Schedule :—

SCHEDEULE 1.

TABLE 1.

Secs. 72D,

Amount to be credited to prescribed person to whom Part II of the Local Government (Superannuation) Act, 1927, applies.

The amount calculated in accordance with the formula $\frac{A}{B} \times C$

where—

“A” represents the total of the premiums paid by the prescribed person in respect of policies of assurance that are to be cancelled pursuant to section 72D in so far as they relate to him;

“B” represents the total of all premiums paid in respect of those policies of assurance in so far as they relate to the prescribed person;

“C” represents the amount that, by the operation of paragraph (a) of subsection (2) of section 72D, is payable to the Commission by the Local Government Superannuation Board.

TABLE 2.

Secs. 72D,

Amount to be credited to prescribed person to whom Part III of the Local Government (Superannuation) Act, 1927, applies.

One-half of the amount that, by the operation of paragraph (b) of subsection (2) of section 72D, is payable to the Commission by the Local Government Superannuation Board in respect of the prescribed person.

TABLE

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TABLE 3.

Secs. 72D,
72K. *Amount to be credited to prescribed person to whom Parts II and III
of the Local Government (Superannuation) Act, 1927, apply.*

The total of the amounts calculated in relation to the prescribed person under Table 1 and Table 2.

Secs. 72D,
72K.

TABLE 4.

*Amount to be credited to prescribed person to whom Part IIIB of the
Local Government (Superannuation) Act, 1927, applies.*

The total of—

- (a) one-half of the amount transferred in respect of the prescribed person pursuant to paragraph (c) of subsection (3) of section 15K of that Act or paragraph (a) of subsection (9) of section 15L of that Act;
- (b) the amount of the proceeds of the surrender or cancellation of the insurance policies referred to in those paragraphs, dealt with as if Table 1 applied;
- (c) the amount of interest credited to the account of the prescribed person in the Benefits Fund under that Act that is attributable to the amounts referred to in paragraphs (a) and (b) of this Table;
- (d) two-fifths of the amount of the contributions received or receivable by the Local Government Superannuation Board in respect of the prescribed person pursuant to Part IIIB of that Act in respect of the prescribed person; and
- (e) two-fifths of the amount of any interest credited to the account of the prescribed person in the Benefits Fund under that Act that is attributable to the contributions referred to in paragraph (d) of this Table,

reduced by an amount equal to two-fifths of the amounts debited to the account of the prescribed person pursuant to paragraphs (a) and (b) of subsection (2) of section 15U of the Local Government (Superannuation) Act, 1927.

Secs. 72E,
72K.

TABLE 5.

*Amount to be credited to prescribed person who is a contributor to
the Transport Retirement Fund.*

The amount that, by the operation of section 72E, is payable to the Commission from the Transport Retirement Fund in respect of the prescribed person.

TABLE

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Secs. 72F,
72K.

TABLE 6.

Amount to be credited to prescribed person to whom Part IX of the Government Railways Act, 1912, applies.

The total of—

- (a) an amount equal to the total of the contributions of the prescribed person to the Government Railways Superannuation Account; and
- (b) such percentage of the amount referred to in paragraph (a) as is specified in the Second Column hereunder opposite the number of years specified in the First Column hereunder that is equal to the number of complete years for which the prescribed person contributed to the Government Railways Superannuation Account.

First Column	Second Column	First Column (continued)	Second Column (continued)
Number of complete years during which the prescribed person contributed to the Account	Percentage	Number of complete years during which the prescribed person contributed to the Account	Percentage
45 years and over	100·0 per centum	23 years	41·1 per centum
44 years	96·0 " "	22 "	39·2 " "
43 "	92·0 " "	21 "	37·3 " "
42 "	88·0 " "	20 "	35·4 " "
41 "	84·0 " "	19 "	33·5 " "
40 "	80·0 " "	18 "	31·6 " "
39 "	76·0 " "	17 "	29·8 " "
38 "	73·0 " "	16 "	28·0 " "
37 "	70·0 " "	15 "	26·2 " "
36 "	67·0 " "	14 "	24·4 " "
35 "	65·0 " "	13 "	22·6 " "
34 "	63·0 " "	12 "	20·8 " "
33 "	61·0 " "	11 "	19·0 " "
32 "	59·0 " "	10 "	17·3 " "
31 "	57·0 " "	9 "	15·6 " "
30 "	55·0 " "	8 "	13·9 " "
29 "	53·0 " "	7 "	12·2 " "
28 "	51·0 " "	6 "	10·5 " "
27 "	49·0 " "	5 "	8·8 " "
26 "	47·0 " "	4 "	7·1 " "
25 "	45·0 " "	3 "	5·4 " "
24 "	43·0 " "	2 "	3·7 " "
		1 year	2·0 " "

TABLE

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TABLE 7.

Secs. 72G, 72K. *Amount to be credited to prescribed person who is a participant in the superannuation scheme established pursuant to the regulations made under this Act and published in the Gazette on 15th November, 1957.*

The total of—

- (a) the amount of the contributions made by the prescribed person pursuant to regulation 4 of those regulations;
- (b) the amount received by the Commission from the prescribed person as the amount received by him pursuant to the Superannuation Act 1922 of the Parliament of the Commonwealth, as subsequently amended, upon his ceasing to be a contributor under that Act; and
- (c) interest earned by the Superannuation Fund established pursuant to those regulations that is attributable to the contributions referred to in paragraphs (a) and (b), the interest being compounded annually at the end of each year computed from the date of the first of those contributions to and including the date on which liability to make those contributions ceased.

Secs. 72H,
72K.

TABLE 8.

Amount to be credited to prescribed person who is a party to the Staff Pension Trust Deed referred to in section 72H.

The amount calculated in accordance with the formula $\frac{A}{B} \times C$
where—

“A” represents the total of the premiums paid by the prescribed person in respect of policies of assurance that are to be cancelled pursuant to section 72D in so far as they relate to him;

“B” represents the total of all premiums paid in respect of those policies of assurance in so far as they relate to the prescribed person;

“C”

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"C" represents the amount that, by the operation of section 72H No. 24, 1973 is payable to the Commission in respect of the prescribed person.

TABLE 9.

Secs. 72I,
72K.

Amount to be credited to prescribed person who, together with the Commission, contributes towards endowment policy of assurance for his benefit.

The same amount that would be credited if the policy of assurance to be cancelled were a policy of assurance referred to in Table 1.

3. The Superannuation Act, 1916, is amended—

Amendment
of Act No.
28, 1916.

- (a) by inserting in section 20B after the word "includes" Sec. 20B. the words "the New South Wales Retirement Fund (Interpretation.) and";
- (b) by omitting section 20c (4) and by inserting instead Sec. 20c. (Public Service Superannuation contributors becoming employees.) the following subsections :—
 - (4) In the application of this Act to and in respect of a person who, pursuant to subsection (1) becomes a contributor—
 - (a) the salary of that person immediately before he became a contributor shall be deemed to have been a salary within the salary group appropriate for the number of units of pension for which, by subsection (1), he is deemed to be a contributor; and
 - (b) he shall be deemed to have been paid, during the four-weekly contribution period in which he became an employee, an increase of salary to an amount equal to the amount of his salary when he became an employee.

(4A)

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(4A) Where a person who, pursuant to subsection (1), becomes a contributor will, at the expiration of the four-weekly contribution period in which he became an employee, be of or above the age at which he may elect to retire on pension from the service of his employer, the increase of salary he is deemed, by subsection (4), to have been paid shall be deemed to have been an increase of salary referred to in subsection (1) of section 12A.

Amendment
of Act No.
70, 1972.
Sec. 62.

(Eligibility
to contribute
to super-
annuation
scheme.)

4. The New South Wales Retirement Benefits Act, 1972, is amended by inserting at the end of section 62 the following new subsections :—

(6) Where a contributor elects, in the circumstances referred to in subsection (2), not to contribute to the Fund and pursuant to the superannuation scheme so referred to he elects to pay as a contribution under that scheme moneys paid under this Act, there shall, whatever the length of his service, be paid to his employer on his behalf from the Fund an amount equal to the amount that would have been payable to him pursuant to section 30 if, on becoming a participant in the superannuation scheme, he—

- (a) had completed not less than five but less than ten, years' service; and
- (b) had ceased to be employed by an employer.

(7) Moneys paid to an employer pursuant to subsection (6) on behalf of an employee shall be paid by the employer—

- (a) in accordance with the requirements of the superannuation scheme in which the employee becomes a participant; and
- (b) to the extent of any amount not required for the purposes of paragraph (a)—to the employee.

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(8) Where a contributor elects, in the circumstances No. 24, 1973 referred to in subsection (2), not to contribute to the Fund and—

- (a) the superannuation scheme so referred to entitles him to elect to pay as a contribution under that scheme moneys paid to him under this Act, but he does not so elect; or
- (b) the superannuation scheme so referred to does not entitle him so to elect,

there shall be paid to him from the Fund an amount equal to the amount that would be paid to him pursuant to section 30 (section 30 (d) (ii) excepted) if, on becoming a participant in the superannuation scheme, he ceased to be employed by an employer.

GOVERNOR'S