



New South Wales

# State Authorities Non-contributory Superannuation Amendment Bill 2013

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The main object of this Bill is to require employers of NSW public sector employees in 'defined benefit' superannuation schemes, and who are subject to the 2.5% wages cap under the NSW Public Sector Wages Policy, to pay the 0.25% increase in the superannuation guarantee charge for the 2013–14 financial year (provided for in the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth) by means of a compulsory employer contribution under the *State Authorities Non-contributory Superannuation Act 1987*.

The Bill also updates the compulsory employer contributions payable for various financial years under the *First State Superannuation Act 1992* in line with the increases in the superannuation guarantee charge for those years provided for in the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

## **Schedule 1      Amendment of State Authorities Non-contributory Superannuation Act 1987 No 212**

The Government's NSW Public Sector Wages Policy 2011 applies a wages cap of 2.5% in respect of employees of public sector agencies to which it applies. The application of the 2.5% wages cap for the 2013–14 financial year takes into account the 0.25% increase in the superannuation guarantee charge payable by all employers for that financial year under the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

In the case of employees subject to the wages cap who are members of the First State Superannuation Fund (which is an 'accumulation' superannuation fund), the increase in the superannuation guarantee charge is to be paid to employees by way of a 0.25% increase in the compulsory employer superannuation contributions payable under the *First State Superannuation Act 1992* for that financial year (see Schedule 2 below).

However, to account for the increase in the case of such employees who are in 'defined benefit' superannuation schemes in the NSW public sector, the proposed Act amends the *State Authorities Non-contributory Superannuation Act 1987* (the *principal Act*) to require the employer to make an additional superannuation contribution for such employees, being the equivalent of 0.25% of their salary for each financial year, or part, for which they are employees. **Schedule 1 [3]** provides for these additional employer superannuation contributions (termed *section 16A employer contributions*) and includes provision for replacement of the percentage amount by regulation in relation to a financial year (or years).

**Schedule 1 [2]** requires the trustee of the superannuation scheme established under the principal Act (known as *STC*) to establish, for each employee in respect of whom section 16A employer contributions must be paid, an account (an *additional employer contributions account*) within the fund established under the principal Act, and to credit the account with the section 16A employer contributions paid for the employee.

**Schedule 1 [7]** provides for an *additional employer contributions benefit* for a person in respect of whom section 16A employer contributions are made, being (generally) an amount equal to the balance of the person's additional employer contributions account at the time the benefit is paid or preserved.

**Schedule 1 [1]** inserts various definitions for the purposes of the principal Act.

**Schedule 1 [4]** makes a consequential amendment to a regulation-making power.

**Schedule 1 [5] and [8]–[11]** extend provisions dealing with the circumstances in which benefits under the principal Act are payable, and those in which they are to be preserved, to apply also in relation to additional employer contributions benefits. **Schedule 1 [5]** also extends provisions relating to the treatment of benefits under the principal Act on transfer of employment, and on attaining the age of 65, to apply also in relation to additional employer contributions benefits.

**Schedule 1 [6]** excludes section 16A employer contributions from contributions that *STC* may vary under the principal Act, and from contributions that may be taken into account in determining the net liability of an employer for the purposes of certain provisions relating to privatisation of employers and other Government initiatives.

**Schedule 1 [12]** excludes section 16A employer contributions from a provision requiring the transfer of employer contributions made under the principal Act to the First State Superannuation Scheme in certain circumstances.

**Schedule 1 [13]** amends a heading to a Schedule.

**Schedule 1 [14]** contains a power to make regulations containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the principal Act.

**Schedule 1 [15]** provides that the first financial year in relation to which proposed section 16A applies is the year starting on 1 July 2013 and that the section is taken to apply on and from that date.

## **Schedule 2      Amendment of First State Superannuation Act 1992 No 100**

**Schedule 2 [1]** replaces the current employee salary contribution percentage (of 9%) on which compulsory employer superannuation contributions under the *First State Superannuation Act 1992* (the *FSS Act*) are based, with a table of percentages that are to apply for the financial year starting on 1 July 2013 through to the financial year starting on or after 1 July 2019. The proposed percentages are in line with the increases in the superannuation guarantee charge for those financial years provided for in the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth. The table of percentages may be amended by regulation.

**Schedule 2 [2]** contains a power to make regulations containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the FSS Act.

**Schedule 2 [3]** applies the proposed salary contribution percentage relating to the 2013–14 financial year, as from 1 July 2013.