

Superannuation Legislation Amendment (Family Law) Bill 2003

Explanatory note

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

Overview of Bill

The object of this Bill is to amend various Acts and a Regulation regulating public sector superannuation schemes for the following purposes:

- (a) to give effect to agreements or orders under the *Family Law Act 1975* of the Commonwealth relating to the division of superannuation interests between spouses by providing for the payment of entitlements and other amounts and consequential matters,
- (b) to extend entitlements to spouse pensions to de facto partners of certain former pensioners under closed public sector superannuation schemes,
- (c) to update provisions relating to the adjustment of pensions under certain closed public sector superannuation schemes,
- (d) to enable savings and transitional regulations to be made consequent on the proposed amendments.

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.

Clause 3 is a formal provision giving effect to the amendments to Acts and a Regulation set out in Schedules 1–13.

Accommodation of Commonwealth legislation relating to division of superannuation interests in family law proceedings

Part VIIIB of the *Family Law Act 1975* of the Commonwealth and the *Family Law (Superannuation) Regulations 2001* of the Commonwealth (the **family law superannuation legislation**) provide for the division of superannuation entitlements on marriage breakdown. The legislation contains a scheme enabling agreements (**splitting agreements**) and orders (**splitting orders**) to be made specifying the division (or “split”) of superannuation interests. It also sets out the manner in which interests are to be valued for the purpose of an order and the circumstances in which trustees of superannuation schemes may or are required to pay amounts from, or relating to, superannuation interests. The legislation also provides for the subsequent calculation of payments under the legislation and the reduction of superannuation benefits by trustees. “Flagging orders” and “payment flags” may be imposed on trustees preventing payment of superannuation benefits that are subject to future splitting under the legislation. The legislation applies despite any other Act or law (including State law) and despite the provisions of any trust deed or agreement.

Generally, additional State legislation is not required to enable trustees of State public sector superannuation schemes to comply with the family law superannuation legislation and to implement agreements and orders under that legislation. Payment is to be made when a splittable superannuation benefit is paid. The family law superannuation legislation also provides for waiver in certain circumstances and for the situation where a spouse makes the required payment separately rather than having payment made from the superannuation entitlements.

However, the family law superannuation legislation (under Division 2.2 of Part 2 of the *Family Law (Superannuation) Regulations 2001* of the Commonwealth), also recognises payments made by trustees to meet all of the family law superannuation obligations, in circumstances set out in the scheme rules, once an order or agreement becomes operative under the legislation.

Payments can be made by way of transferring or rolling over a family law superannuation entitlement to another superannuation fund or retirement savings account or by paying it to the spouse or former spouse entitled to it. The proposed amendments (among other things) set out the procedures for making these payments and the circumstances in which they may be made, as well as providing for the consequential reduction of superannuation entitlements.

Schedule 1 Amendment of First State Superannuation Act 1992 No 100

Under the amendments made to other public sector superannuation Acts by the proposed Act, a person to whom payment is made under those Acts of an entitlement under the family law superannuation legislation may nominate a superannuation fund or retirement savings account (an **RSA**) into which the payment is to be made. If no nomination is made, the amendments provide for transfer of the payment to the First State Superannuation Fund.

Schedule 1 [2] inserts proposed sections 20BA and 20BB, which provide for the receipt of those payments and make the person on whose behalf the payment is made an associate member of the First State Superannuation Fund. The proposed sections also provide for rules to be made about the establishment of accounts and the crediting of payments to those accounts and other matters.

Schedule 1 [1] enables the trust deed and rules of the First State Superannuation Fund to provide for the levying of charges relating to administration and other costs arising out of the family law superannuation legislation and the payment to the Fund of any such costs.

Schedule 1 [3] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [4] makes a consequential amendment.

Schedule 2 Amendment of Judges' Pensions Act 1953 No 41

Schedule 2 [2] inserts proposed Part 3A (Provisions relating to family law superannuation legislation). The proposed Part inserts the following provisions: Proposed section 15A defines words and expressions used in the proposed Part. Proposed section 15B makes it clear that the Principal Act does not require any benefit to be paid if to do so would contravene the family law superannuation legislation and does not prevent a benefit from being reduced or a payment being made if it is required by, or results from, the family law superannuation legislation.

Proposed section 15C sets out the circumstances when the Minister can pay out a family law superannuation entitlement rather than splitting the payment among more than one benefit payment. If a spouse or former spouse (a **non-member spouse**) of a former Judge or other person entitled to a benefit (a **member spouse**) has an entitlement that is operative under the family law superannuation legislation and a pension is being paid to the member spouse or the member spouse is entitled to be paid a lump sum benefit, the Minister must, on written notice being given of the entitlement, either pay or release the whole of the entitlement (less costs) or transfer or roll it over to a nominated superannuation fund (either a fund regulated under Commonwealth law or the First State Superannuation Fund) or a retirement savings account. If there is no nomination, or it is not accepted, the payment may be transferred to the First State Superannuation Fund. The value of an entitlement or payment is to be determined in accordance with the regulations under the Principal Act and the family law superannuation legislation.

Proposed section 15D enables the Minister to reduce a future benefit (including a deferred or preserved benefit) payable to or in respect of a member spouse whose superannuation entitlements are affected by a splitting order or splitting agreement if an amount is paid or payable under the family law superannuation legislation or the proposed Part. The Minister may also reduce a benefit payable

to or in respect of a spouse or de facto partner of the member spouse. Proposed section 15E specifies the accrued benefit multiple for the calculation of a family law superannuation entitlement of the non-member spouse. This provision re-enacts section 16A which has been re-located to the new Part. Proposed section 15F enables regulations to be made for or with respect to matters related to payments under the family law superannuation legislation, including elections, composition of payments, periods of payment, calculation of entitlements and the value of superannuation interests, additional circumstances for payment and the reduction of benefits.

Schedule 2 [3] extends provisions enabling benefits to be paid to legal personal representatives to family law superannuation payments.

Schedule 2 [4] omits a provision that has been replaced by proposed section 15E.

Schedule 2 [1] provides that notes included in the Principal Act do not form part of that Act.

Schedule 2 [5] enables savings and transitional regulations to be made.

Schedule 5 Amendment of Parliamentary Contributory Superannuation Act 1971 No 53

Schedule 5 [4] inserts proposed Part 4A (Provisions relating to family law superannuation legislation). The proposed Part inserts the following provisions: Proposed section 29A defines words and expressions used in the proposed Part. Proposed section 29B makes it clear that the Principal Act does not require any benefit to be paid if to do so would contravene the family law superannuation legislation and does not prevent a benefit from being reduced or a payment being made if it is required by, or results from, the family law superannuation legislation.

Proposed section 29C sets out the circumstances when the trustees of the Parliamentary Contributory Superannuation Scheme can pay out a family law superannuation entitlement rather than splitting the payment among more than one benefit payment. If a spouse or former spouse (a **non-member spouse**) of a member or former member of the Scheme or other person entitled to a benefit under the Scheme (a **member spouse**) has an entitlement that is operative under the family law superannuation legislation and the member spouse is in receipt of a pension or there is a period of service that would entitle a member to a pension, the trustees must, on written notice being given of the entitlement, either pay or release the whole of the entitlement (less costs) or transfer or roll it over to a nominated superannuation fund (either a fund regulated under Commonwealth law or the First State Superannuation Fund) or a retirement savings account. Payment or release directly to the non-member spouse may be made only if the member spouse is being paid a pension or if the non-member spouse has satisfied a condition for payment or release of a benefit under the Scheme. If there is no nomination of a fund or account for a transfer or roll-over, or a nomination is not accepted, the payment must be transferred to the First State Superannuation Fund. The value of an entitlement or payment is to be determined in accordance with the regulations under the Principal Act and the family law superannuation legislation. The proposed section will not apply if payment of a pension is suspended.

Proposed section 29D enables the trustees to reduce a future benefit (including a deferred or preserved benefit) payable to or in respect of a member spouse whose superannuation entitlements are affected by a splitting order or splitting agreement if an amount is paid or payable under the family law superannuation legislation or the proposed Part. The trustees may also reduce a benefit payable to or in respect of a spouse or de facto partner of the member spouse.

Proposed section 29E enables regulations to be made for or with respect to

matters related to payments under the family law superannuation legislation, including elections, composition of payments, periods of payment, calculation of entitlements and the value of superannuation interests and the reduction of benefits.

Schedule 5 [1] inserts a definition.

Schedule 5 [2] makes it clear that notes included in the Principal Act do not form part of that Act.

Schedule 5 [3] enables fees (including administration costs) arising under the family law superannuation legislation or proposed Part 4A to be paid from the Parliamentary Contributory Superannuation Fund.

Schedule 5 [5] enables savings and transitional regulations to be made.

**Schedule 6 Amendment of Police Association Employees
(Superannuation) Act 1969 No 33**

Schedule 6 [1] applies proposed Part 4A of the *Police Regulation (Superannuation) Act 1906* and any regulations made under that Part, which relate to obligations and other matters under the family law superannuation legislation, to officers of the Police Association who contribute to the Police Superannuation Scheme and other persons who are beneficiaries of the Scheme under the Principal Act.

Schedule 6 [2] enables savings and transitional regulations to be made.

**Schedule 7 Amendment of Police Regulation (Superannuation) Act
1906 No 28**

Schedule 7 [5] inserts proposed Part 4A (Provisions relating to family law superannuation legislation). The proposed Part inserts the following provisions: Proposed section 14N defines words and expressions used in the proposed Part. Proposed section 14O makes it clear that the Principal Act does not require any benefit to be paid if to do so would contravene the family law superannuation legislation and does not prevent a benefit from being reduced or a payment being made if it is required by, or results from, the family law superannuation legislation.

Proposed section 14P sets out the circumstances when the SAS Trustee Corporation (**STC**) can pay out a family law superannuation entitlement rather than splitting the payment among more than one benefit payment. If a spouse or former spouse (a **non-contributor spouse**) of a contributor or former contributor to the Police Superannuation Scheme or other person entitled to a benefit under that Scheme (a **contributor spouse**) has an entitlement that is operative under the family law superannuation legislation, STC must, on written notice being given of the entitlement, either pay or release the whole of the entitlement (less costs) or transfer or roll it over to a nominated superannuation fund (either a fund regulated under Commonwealth law or the First State Superannuation Fund) or a retirement savings account. Payment or release directly to the non-contributor spouse may be made only if the contributor spouse is being paid a pension or if the non-contributor spouse has satisfied a condition for payment or release of a benefit under the Scheme. If there is no nomination of a fund or account for a transfer or roll-over, or a nomination is not accepted, the payment must be transferred to the First State Superannuation Fund. The value of an entitlement or payment is to be determined in accordance with the regulations under the Principal Act and the family law superannuation legislation.

Proposed section 14Q enables STC to reduce a future benefit (including a deferred or preserved benefit) payable to or in respect of a contributor spouse whose superannuation entitlements are affected by a splitting order or splitting agreement if an amount is paid or payable under the family law superannuation legislation or the proposed Part. STC may also reduce a benefit payable to or in respect of a spouse or de facto partner of the contributor spouse.

Proposed section 14R enables regulations to be made for or with respect to matters related to payments under the family law superannuation legislation, including elections, composition of payments, periods of payment, calculation of entitlements and the value of superannuation interests and the reduction of benefits.

Schedule 7 [1] inserts definitions.

Schedule 7 [2] makes it clear that notes included in the Principal Act do not form part of that Act.

Schedule 7 [3] enables fees arising under the family law superannuation legislation or proposed Part 4A to be paid to the Police Superannuation Fund.

Schedule 7 [4] enables administration costs and other amounts arising under the family law superannuation legislation or proposed Part 4A to be paid from the Police Superannuation Fund.

Schedule 7 [6] extends provisions relating to fractions of cents in benefits to family law superannuation payments.

Schedule 7 [7] extends provisions enabling pensions to be paid to legal personal representatives to family law superannuation payments.

Schedule 7 [8] enables savings and transitional regulations to be made.

Schedule 10 Amendment of State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 10 [7] inserts proposed Part 4D (Provisions relating to family law superannuation legislation). The proposed Part inserts the following provisions: Proposed section 27AH defines words and expressions used in the proposed Part.

Proposed section 27AI makes it clear that the Principal Act does not require any benefit to be paid if to do so would contravene the family law superannuation legislation and does not prevent a benefit from being reduced or a payment being made if it is required by, or results from, the family law superannuation legislation.

Proposed section 27AJ sets out the circumstances when STC can pay out a family law superannuation entitlement rather than splitting the payment among more than one benefit payment. If a spouse or former spouse (a **non-employee spouse**) of an employee or former employee under the State Authorities Noncontributory Superannuation Scheme (an **employee spouse**) has an entitlement that is operative under the family law superannuation legislation, STC must, on written notice being given of the entitlement, either pay or release the whole of the entitlement (less costs) or transfer or roll it over to a nominated superannuation fund (either a fund regulated under Commonwealth law or the First State Superannuation Fund) or a retirement savings account. Payment or release directly to the non-employee spouse may be made only if the spouse or former spouse has satisfied a condition for payment or release of a benefit under the Scheme. If there is no nomination of a fund or account for a transfer or rollover, or a nomination is not accepted, the payment must be transferred to the First State Superannuation Fund. The value of an entitlement or payment is to be determined in accordance with the regulations under the Principal Act and the family law superannuation legislation.

Proposed section 27AK enables STC to reduce a future benefit (including a deferred or preserved benefit) payable to or in respect of an employee spouse whose superannuation entitlements are affected by a splitting order or splitting agreement if an amount is paid or payable under the family law superannuation legislation or the proposed Part. STC may also reduce a benefit payable to or in respect of a spouse or de facto partner of the employee spouse.

Proposed section 27AL enables regulations to be made for or with respect to matters related to payments under the family law superannuation legislation,

including elections, composition of payments, periods of payment, calculation of entitlements and the value of superannuation interests and the reduction of benefits.

Schedule 10 [1] inserts definitions.

Schedule 10 [2] makes it clear that notes included in the Principal Act do not form part of that Act.

Schedule 10 [3] enables fees arising under the family law superannuation legislation or proposed Part 4D to be paid to a fund established under the Principal Act.

Schedule 10 [4] and [5] enable administration costs and other amounts arising under the family law superannuation legislation or proposed Part 4D to be paid from any such fund.

Schedule 10 [6] enables employer reserves to be debited for the payment of payments under the family law superannuation legislation or proposed Part 4D.

Schedule 10 [8] and [9] extend provisions enabling pensions to be paid to legal personal representatives to family law superannuation payments and other payments under the family law superannuation legislation.

Schedule 10 [10] enables savings and transitional regulations to be made.

Schedule 11 Amendment of State Authorities Superannuation Act 1987 No 211

Schedule 11 [9] inserts proposed Part 5AA (Provisions relating to family law superannuation legislation). The proposed Part inserts the following provisions: Proposed section 45F defines words and expressions used in the proposed Part. Proposed section 45G applies the proposed Part to contributors and former contributors (including pensioners) under certain closed schemes operated from the State Authorities Superannuation Fund by virtue of savings and transitional regulations made under the Principal Act.

Proposed section 45H makes it clear that the Principal Act does not require any benefit to be paid if to do so would contravene the family law superannuation legislation and does not prevent a benefit from being reduced or a payment being made if it is required by, or results from, the family law superannuation legislation.

Proposed section 45I sets out the circumstances when STC can pay out a family law superannuation entitlement rather than splitting the payment among more than one benefit payment. If a spouse (a **non-contributor spouse**) of a contributor or former contributor to the State Authorities Superannuation Scheme or other person entitled to a benefit under the Scheme (a **contributor spouse**) has an entitlement that is operative under the family law superannuation legislation, STC must, on written notice being given of the entitlement, either pay or release the whole of the entitlement (less costs) or transfer or roll it over to a nominated superannuation fund (either a fund regulated under Commonwealth law or the First State Superannuation Fund) or a retirement savings account. Payment or release directly to the non-contributor spouse may be made only if the contributor spouse is being paid a pension or if the noncontributor spouse has satisfied a condition for payment or release of a benefit under the Scheme. If there is no nomination of a fund or account for a transfer or roll-over, or a nomination is not accepted, the payment must be transferred to the First State Superannuation Fund. The value of an entitlement or payment is to be determined in accordance with the regulations under the Principal Act and the family law superannuation legislation.

Proposed section 45J enables STC to reduce a future benefit (including a deferred or preserved benefit) payable to or in respect of a contributor spouse whose superannuation entitlements are affected by a splitting order or splitting agreement if an amount is paid or payable under the family law superannuation

legislation or the proposed Part. STC may also reduce a benefit payable to or in respect of a spouse or de facto partner of the contributor spouse.

Proposed section 45K enables regulations to be made for or with respect to matters related to payments under the family law superannuation legislation, including elections, composition of payments, periods of payment, calculation of entitlements and the value of superannuation interests and the reduction of benefits.

Schedule 11 [1] inserts definitions.

Schedule 11 [2] makes it clear that notes included in the Principal Act do not form part of that Act.

Schedule 11 [3] enables fees arising under the family law superannuation legislation or proposed Part 5AA to be paid to the State Authorities Superannuation Fund.

Schedule 11 [4] and [5] enable administration costs and other amounts arising under the family law superannuation legislation or proposed Part 5AA to be paid from the State Authorities Superannuation Fund.

Schedule 11 [6] enables contributor accounts to be debited for the payment of amounts arising under the family law superannuation legislation or proposed Part 5AA.

Schedule 11 [7] and [8] enable employer reserves to be debited for the payment of administration costs and other amounts arising under the family law superannuation legislation or proposed Part 5AA.

Schedule 11 [10] and [11] extend provisions enabling benefits to be paid to legal personal representatives to family law superannuation payments.

Schedule 11 [12] enables savings and transitional regulations to be made.

Schedule 12 Amendment of Superannuation Act 1916 No 28

Schedule 12 [11] inserts proposed Part 4A (Provisions relating to family law superannuation legislation). The proposed Part inserts the following provisions: Proposed section 61W defines words and expressions used in the proposed Part. Proposed section 61WA makes it clear that the Principal Act does not require any benefit to be paid if to do so would contravene the family law superannuation legislation and does not prevent a benefit from being reduced or a payment being made if it is required by, or results from, the family law superannuation legislation.

Proposed section 61WB sets out the circumstances when STC can pay out a family law superannuation entitlement rather than splitting the payment among more than one benefit payment. If a spouse (a **non-contributor spouse**) of a contributor or former contributor to the State Superannuation Scheme or other person entitled to a benefit under the Scheme (a **contributor spouse**) has an entitlement that is operative under the family law superannuation legislation, STC must, on written notice being given of the entitlement, either pay or release the whole of the entitlement (less costs) or transfer or roll it over to a nominated superannuation fund (either a fund regulated under Commonwealth law or the First State Superannuation Fund) or a retirement savings account. Payment or release directly to the non-contributor spouse may be made only if the contributor spouse is being paid a pension or if the non-contributor spouse has satisfied a condition for payment or release of a benefit under the Scheme. If there is no nomination of a fund or account for a transfer or roll-over, or a nomination is not accepted, the payment must be transferred to the First State Superannuation Fund. The value of an entitlement or payment is to be determined in accordance with the regulations under the Principal Act and the family law superannuation legislation.

Proposed section 61WC enables STC to reduce a future benefit (including a deferred or preserved benefit) payable to or in respect of a contributor spouse

whose superannuation entitlements are affected by a splitting order or splitting agreement if an amount is paid or payable under the family law superannuation legislation or the proposed Part. STC may also reduce a benefit payable to or in respect of a spouse or de facto partner of the contributor spouse.

Proposed section 61WD enables regulations to be made for or with respect to matters related to payments under the family law superannuation legislation, including elections, composition of payments, periods of payment, calculation of entitlements and the value of superannuation interests and the reduction of benefits.

Schedule 12 [1] inserts definitions.

Schedule 12 [2] makes it clear that notes included in the Principal Act do not form part of that Act.

Schedule 12 [3] enables fees arising under the family law superannuation legislation or proposed Part 4A to be paid to the State Superannuation Fund.

Schedule 12 [4] and [5] enable administration costs and other amounts arising under the family law superannuation legislation or proposed Part 4A to be paid from the State Superannuation Fund.

Schedule 12 [6] enables contributor reserves in the State Superannuation Fund to be debited for the payment of amounts arising under the family law superannuation legislation or proposed Part 4A.

Schedule 12 [7], [8] and [9] enable employer reserves to be debited for the payment of administration costs and other amounts arising under the family law superannuation legislation or proposed Part 4A.

Schedule 12 [10] provides for the apportionment, between contributor reserves and employer reserves, of amounts to be debited for the payment of amounts arising under the family law superannuation legislation or proposed Part 4A.

Schedule 12 [12] enables savings and transitional regulations to be made.

Amendments relating to de facto partners and pension adjustments

The remaining amendments made by the proposed Act update provisions relating to certain closed superannuation schemes so as to extend reversionary pension entitlements to de facto partners of existing pensioners, whether or not the partner was a partner at the time the pension was taken and to provide for the adjustment of pensions in line with provisions contained in other State public sector superannuation schemes. Under the *Superannuation Legislation Amendment (Same Sex Partners) Act 2000* benefits payable to widows or widowers under State public sector superannuation schemes were extended to de facto partners of deceased members of those schemes. Under the *Superannuation Legislation Amendment Act 2002*, in relation to schemes where pension rights were dependent on being married or in a relationship when a pension was taken, reversionary pension rights were extended to spouses or de facto partners of deceased pensioners in certain circumstances even if they were not spouses or de facto partners when the pension was originally taken.

Schedule 3 Amendment of Local Government and Other Authorities (Superannuation) Act 1927 No 35

The pension and other superannuation schemes established under the Principal Act were closed off in 1985. Currently, the Act only operates in relation to pensioners who received a pension under the Local Government Pension Fund before that time.

Schedule 3 [1] extends the right to a spouse pension on the death of a pensioner to the de facto partner of the pensioner who was such a partner when the pension was taken by the pensioner.

Schedule 3 [2] and [4] extend the right to a full pension on the death of a pensioner to a de facto partner of the pensioner who became a de facto partner after the pension was taken if the relationship was of 3 or more years duration

and there are or have been dependent children of the relationship. In the case of a relationship of a shorter duration where there are or have been dependent children, a part pension, determined on a pro rata basis, is payable.

Schedule 3 [3], [5], [6], [7], [8] and [9] make consequential amendments.

Schedule 3 [10] enables savings and transitional regulations to be made.

Schedule 4 Amendment of New South Wales Retirement Benefits

Act 1972 No 70

The superannuation scheme established under the Principal Act was closed off in 1985. Currently, the Act only operates in relation to pensioners who received a pension under the New South Wales Retirement Fund before that time.

Schedule 4 [1] extends the right to a full spouse pension on the death of a pensioner to a de facto partner of the pensioner who became a de facto partner after the pension was taken if the relationship was of 3 or more years duration and there are or have been dependent children of the relationship. In the case of a relationship of a shorter duration where there are or have been dependent children, a part pension, determined on a pro rata basis, is payable.

Schedule 4 [2], [3], [4] and [5] make consequential amendments.

Schedule 4 [6] enables pensions to be increased if the annual CPI increase is less than 1 per cent. Currently there is no increase if the annual CPI increase is less than 1 per cent. The amendment brings the provisions into line with other State public sector superannuation schemes.

Schedule 4 [7] and [8] enable savings and transitional regulations to be made.

Schedule 8 Amendment of Public Authorities Superannuation Act 1985

No 41

The superannuation scheme established under the Principal Act was closed off in 1987. Currently, the Act only operates in relation to pensioners transferred to the Scheme under savings and transitional Schedules.

Schedule 8 [1] enables savings and transitional regulations to be made.

Schedule 8 [3] extends the right to a spouse pension on the death of a pensioner (who was formerly a contributor to the Local Government Pension Fund) to the de facto partner of the pensioner.

Schedule 8 [4] extends provisions relating to payment of children's pensions to a spouse to a de facto partner of a deceased pensioner.

Schedule 8 [5] extends provisions relating to adjustment of spouse pensions to pensions paid to a de facto partner of a deceased pensioner.

Schedule 8 [7] extends the right to a spouse pension on the death of a pensioner (who was formerly a contributor to the New South Wales Retirement Fund) to the de facto partner of the pensioner.

Schedule 8 [2] and [6] make consequential amendments.

Schedule 9 Amendment of Public Authorities Superannuation (Transport Retirement Fund Closure) (Savings and Transitional)

Regulation 1986

The Regulation proposed to be amended relates to contributors and former contributors to the Transport Retirement Fund.

The Schedule extends the right to a spouse pension on the death of a pensioner (who was formerly a contributor to the Transport Retirement Fund) to the de facto partner of the pensioner.

Schedule 13 Amendment of Transport Employees Retirement Benefits

Act 1967 No 96

The pension and other superannuation schemes established under the Principal Act were closed off in 1985. Currently, the Act only operates in relation to pensioners who received a pension under the Transport Retirement Fund before that time.

Schedule 13 [1] extends the right to a spouse pension on the death of a pensioner

to the de facto partner of the pensioner who was such a partner when the pension was taken by the pensioner.

Schedule 13 [2] extends the right to a full spouse pension on the death of a pensioner to a spouse or de facto partner of the pensioner who became a spouse or de facto partner after the pension was taken if the marriage or relationship was of 3 or more years duration and there are or have been dependent children of the marriage or relationship. In the case of a marriage or relationship of a shorter duration where there are or have been dependent children, a part pension, determined on a pro rata basis, is payable.

Schedule 13 [3] enables pensions to be increased if the annual CPI increase is less than 1 per cent. Currently there is no increase if the annual CPI increase is less than 1 per cent. The amendment brings the provisions into line with other State public sector superannuation schemes.

Schedule 13 [4] enables savings and transitional regulations to be made.