



New South Wales

First State Superannuation Amendment Bill 2008

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *First State Superannuation Act 1992* (**the Act**):

- (a) to exempt employers from being required to make superannuation contributions for certain employees, and
- (b) to require employers to pay employees exempted under the proposed amendments an amount equal to the superannuation contribution they would have received but for 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 on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendment to the Act set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after the amendment made by the proposed Act has commenced. Once the amendment has commenced the

proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment

Section 8 of the Act requires employers to make compulsory superannuation contributions for each of their employees. For some employees (typically one-off employees such as those employed on election polling days) the amount received as superannuation contributions may be reduced by the fees charged by superannuation funds.

The amendment in **Schedule 1** inserts proposed subsections (5)–(8) into section 8 of the Act.

Proposed subsection (5) provides that where employment is of a kind prescribed by the regulations and the employee is either earning less than the amount prescribed by the relevant Commonwealth legislation, or is aged 70 or over, the employer is not required to pay superannuation contributions in relation to the employee. The relevant Commonwealth legislation provides that in calculating the amount of an employer's superannuation guarantee shortfall (the money that an employer must pay to the Commonwealth if superannuation contributions have not been paid) salaries and wages below \$450 per month, and the salaries and wages of employees who are aged 70 or over, are to be ignored.

Proposed subsection (6) provides that those employees exempted under proposed subsection (5) are to be paid an amount equivalent to the superannuation contribution that would have been paid were they not exempted.

Proposed subsection (7) makes it clear that the amount payable under proposed subsection (6) is in addition to any salary or wages payable to the employee.

Proposed subsection (8) defines **relevant Commonwealth legislation** to mean the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

First print



New South Wales

First State Superannuation Amendment Bill 2008

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of First State Superannuation Act 1992 No 100	2
4 Repeal of Act	2
Schedule 1 Amendment	3



New South Wales

First State Superannuation Amendment Bill 2008

No. , 2008

A Bill for

An Act to amend the *First State Superannuation Act 1992* so as to enable cash payments to employees to be substituted for superannuation contributions in relation to certain classes of employment.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>First State Superannuation Amendment Act 2008</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Amendment of First State Superannuation Act 1992 No 100	6
The <i>First State Superannuation Act 1992</i> is amended as set out in Schedule 1.	7 8
4 Repeal of Act	9
(1) This Act is repealed on the day following the day on which this Act commences.	10 11
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	12 13

Schedule 1	Amendment	1
	(Section 3)	2
Section 8	Compulsory employer superannuation contributions	3
	Insert after section 8 (4):	4
	(5) Subsection (1) does not apply in relation to:	5
	(a) an employee to whom an employer pays a total salary or wages in any month, including any amount payable under subsection (6), that is less than the amount prescribed by section 27 (2) of the relevant Commonwealth legislation, or	6 7 8 9 10
	(b) an employee to whom section 27 (1) (a) of the relevant Commonwealth legislation applies,	11 12
	in relation to employment of a kind prescribed by the regulations.	13
	(6) Where subsection (1) does not apply, the employer must pay to the employee an amount equivalent to the superannuation contribution that would have been payable but for the operation of subsection (5).	14 15 16 17
	(7) The amount payable under subsection (6) is in addition to any salary or wages payable to the employee.	18 19
	(8) In this section, <i>relevant Commonwealth legislation</i> means the <i>Superannuation Guarantee (Administration) Act 1992</i> of the Commonwealth.	20 21 22
	Note. The amount prescribed by section 27 (2) of the relevant Commonwealth legislation is \$450. Section 27 (1) (a) of the relevant Commonwealth legislation provides that the salary or wages of an employee who is aged 70 or over is to be excluded from the calculation of the superannuation guarantee shortfall under the relevant Commonwealth legislation.	23 24 25 26 27