



New South Wales

# Superannuation Legislation Amendment Bill 2006

## 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 public sector superannuation Acts for the following purposes:

- (a) to make it clear that, despite the judicial decision in *Berrick Boland v SAS Trustee Corporation* [1999] NSWIRComm 488, in determining, for the purposes of the *Police Regulation (Superannuation) Act 1906*, whether members of the police force hurt on duty are incapable of discharging their duties, those duties include the general duties imposed on all police officers (and, as a consequence, to validate previous certificates given on that basis),
- (b) to impose mutual obligations on NSW Police and injured police officers to whom the *Police Regulation (Superannuation) Act 1906* applies in relation to an injury management program,
- (c) to make it clear that hurt on duty benefits are payable to a former member of the police force under the *Police Regulation (Superannuation) Act 1906* only if the former member actually was incapable of discharging the duties of the member's office at the time of the member's resignation or retirement,

- (d) to provide that a hurt on duty superannuation allowance or additional amount under that Act is not payable unless an application is made before the member reaches the age of 60 years or not later than 5 years after the member resigns or retires, whichever is the later, and to provide for when the allowance is first payable,
- (e) to provide for certain superannuation allowance commutations under the *Police Regulation (Superannuation) Act 1906* to be able to be made after a member reaches the age of 55 years (rather than the current age requirement of 60 years),
- (f) to provide for the partial commutation of certain superannuation allowances payable under the *Police Regulation (Superannuation) Act 1906*,
- (g) to amend the *State Authorities Superannuation Act 1987* to provide for the employer of a contributor to the State Authorities Superannuation Fund to be able to make salary sacrifice contributions to that Fund on the employee's behalf,
- (h) to amend Acts regulating the New South Wales public sector defined benefit superannuation schemes and the Parliamentary Contributory Superannuation Scheme to enable a person entitled to a pension under the relevant scheme to nominate a date that is later than that on which payment would otherwise commence as the date on which payment commences,
- (i) to amend the *Superannuation Act 1916*, the *State Authorities Superannuation Act 1987* and the *State Authorities Non-contributory Superannuation Act 1987* to enable the regulations under the relevant Act to provide that the salary of an employee or class of employees (other than an executive officer) for the purposes of that Act is to be determined in the manner prescribed by the regulations if the basis on which the remuneration of the employee or class of employees is determined has been changed to an annualised basis.

## 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.

**Clause 3** is a formal provision that gives effect to the amendments to the Acts set out in Schedule 1.

**Clause 4** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have 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 of Acts**

**Schedule 1.1** amends the *Parliamentary Contributory Superannuation Act 1971* to insert proposed section 32D, a provision that enables a person entitled to a pension under that Act to nominate the date on which payment of the pension commences (but has no effect on when the person becomes entitled to the pension). Any such nomination must be made within 3 months of when payment of the pension would otherwise commence and may not be revoked.

**Schedule 1.2** amends the *Police Regulation (Superannuation) Act 1906* as follows.

**Schedule 1.2 [4]** amends section 9A to modify the date a former member of the police force who resigned or retired becomes entitled to an annual superannuation allowance granted under section 10. The amendment made by **Schedule 1.2 [33]** also applies to such an allowance, enabling the person to nominate when payment of the allowance commences (but having no effect on when the person becomes entitled to the allowance).

**Schedule 1.2 [8]** amends section 10 to provide that a superannuation allowance or additional amount under that section is not payable unless an application is made before the member reaches the age of 60 years or not later than 5 years after the member resigns or retires, whichever is the later. The amendment also provides for when the allowance is first payable.

**Schedule 1.2 [11]** inserts proposed section 10A to provide for an injury management program that a member of the police force must participate in if the member is to receive hurt on duty benefits.

**Schedule 1.2 [32]** provides for a person aggrieved by a decision of the Commissioner of Police in relation to participation in such an injury management program to apply to the District Court for a determination in relation to that decision.

**Schedule 1.2 [14]** amends section 10B (2B) to make it clear that STC may give a certification necessary for a hurt on duty superannuation allowance to be granted to a former member of the police force who resigned or retired if the former member actually was incapable of discharging the duties of the member's office at the time of the member's resignation or retirement.

**Schedule 1.2 [7] and [13]** make consequential amendments.

**Schedule 1.2 [12]** makes a corresponding amendment to section 10B to make it clear that the certification necessary for a hurt on duty superannuation allowance to be granted on discharge is to be certification of incapacity from a specified infirmity at the actual time of the certification.

**Schedule 1.2 [15]** amends section 10B to make it clear that, for the purposes of determining whether a member of the police force hurt on duty is incapable of discharging the duties of the office in the police force in which the member is then or was employed, the duties include (but are not limited to) the duties of a police officer referred to in section 14 (1) of the *Police Act 1990*. This amendment clarifies

the law as it currently stands after the judicial decision in *Berrick Boland v SAS Trustee Corporation* [1999] NSWIRComm 488.

**Schedule 1.2 [2]** makes a corresponding amendment to section 8 in respect of incapacity of a member of the police force not hurt on duty.

**Schedule 1.2 [26]–[30]** amend section 14J to provide for the partial commutation of superannuation allowances payable under section 7 (other than to a disabled member) or section 7AA and to provide for elections for such commutations to be made on retirement, or if not made on retirement, at age 60.

**Schedule 1.2 [31]** substitutes section 14K to provide for the partial commutation of superannuation allowances payable to disabled members of the police force and for elections for such commutations under that section to be made at age 55, or if not made at age 55, at age 60. Certain transitional arrangements apply under **Schedule 1.2 [36]** in relation to these amendments.

**Schedule 1.2 [1], [3], [5], [6], [9], [10], [16]–[25] and [34]** make consequential amendments.

**Schedule 1.2 [33]** inserts proposed section 23D, a provision that enables a person entitled to a superannuation allowance to nominate the date on which payment of the allowance commences (but has no effect on when the person becomes entitled to the allowance). Any such nomination must be made within 3 months of when payment of the allowance would otherwise commence and may not be revoked.

**Schedule 1.2 [35]** enables the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1.2 [36]** inserts savings and transitional provisions in respect of the amendments made by the proposed Act.

**Schedule 1.3** amends the *State Authorities Non-contributory Superannuation Act 1987* as follows.

**Schedule 1.3 [1]** amends section 4 to enable the regulations to provide that the salary of an employee or class of employees (other than an executive officer) for the purposes of the Act is to be determined in the manner prescribed by the regulations if the basis on which the remuneration of the employee or class of employees is determined has been changed to an annualised basis.

**Schedule 1.3 [2]** inserts proposed section 4B to provide for the making of salary sacrifice contributions under the *State Authorities Superannuation Act 1987*, as is provided for by amendments made by **Schedule 1.4**, not to affect the amount that would otherwise constitute the salary of an employee for the purposes of the *State Authorities Non-contributory Superannuation Act 1987*.

**Schedule 1.3 [3]** enables the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1.4** amends the *State Authorities Superannuation Act 1987* as follows.

**Schedule 1.4 [2]** amends section 4 to enable the regulations to provide that the salary of an employee or class of employees (other than an executive officer) for the purposes of the Act is to be determined in the manner prescribed by the regulations if the basis on which the remuneration of the employee or class of employees is determined has been changed to an annualised basis.

**Schedule 1.4 [9]** inserts proposed section 19A to enable contributions to be made on behalf of a contributor by the contributor's employer in accordance with an agreement between the contributor and the employer under which the contributor is to forego remuneration the contributor is yet to earn and the employer is to apply the remuneration foregone to the cost of making contributions on behalf of the contributor (*salary sacrifice contributions*).

**Schedule 1.4 [9]** also inserts proposed section 19B to make provision for the amount payable in respect of a salary sacrifice contribution to be grossed up by the contributions tax payable on the contribution, that is, the amount payable is the amount necessary to result in an amount consistent with the rate specified by the contributor remaining after contributions tax is deducted.

**Schedule 1.4 [4], [6]–[8], [10]–[13] and [15]–[26]** make consequential amendments.

**Schedule 1.4 [1]** inserts definitions of *employee contribution* and *salary sacrifice contribution* that are used in the provisions regarding salary sacrifice contributions.

**Schedule 1.4 [3]** inserts proposed section 4B to provide for the making of salary sacrifice contributions not to affect the amount that would otherwise constitute the salary of a contributor for the purposes of the Act.

**Schedule 1.4 [5]** makes a corresponding amendment to section 12 to provide for the contributions tax payable in respect of a salary sacrifice contribution to be debited from the relevant contributor's account so that the cost of the contributions tax is not borne by the State Authorities Superannuation Fund but is funded out of the amount contributed on behalf of the contributor.

**Schedule 1.4 [27]** makes a corresponding amendment to section 45A to make it clear that a provision enabling STC to reduce benefits to offset certain tax liabilities does not apply to a contributions tax liability on a salary sacrifice contribution if the contributions tax has already been deducted from the relevant contributor's account.

**Schedule 1.4 [14]** amends section 25 to provide that an employer is not entitled to pay a salary sacrifice contribution to the Fund on behalf of an employee, and STC is not to accept a salary sacrifice contribution to the Fund on behalf of an employee, unless the employee is under 70 years of age.

**Schedule 1.4 [28]** enables the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1.5** amends the *Superannuation Act 1916* as follows.

**Schedule 1.5 [1]** amends section 3A to enable the regulations to provide that the salary of an employee or class of employees (other than an executive officer) for the purposes of the Act is to be determined in the manner prescribed by the regulations if the basis on which the remuneration of the employee or class of employees is determined has been changed to an annualised basis.

**Schedule 1.5 [2]** makes an amendment in the nature of statute law revision.

**Schedule 1.5 [3]** makes an amendment in the nature of statute law revision to omit references to a repealed provision.

**Schedule 1.5 [4]** makes an amendment in the nature of statute law revision to omit words made redundant by the repeal of a provision.

**Schedule 1.5 [5]** inserts proposed section 61VA, a provision that enables a person entitled to a pension to nominate the date on which payment of the pension commences (but has no effect on when the person becomes entitled to the pension). Any such nomination must be made within 3 months of when payment of the pension would otherwise commence and may not be revoked.

**Schedule 1.5 [6]** enables the making of savings and transitional regulations consequent on the enactment of the proposed Act.

First print



New South Wales

# Superannuation Legislation Amendment Bill 2006

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Acts	2
4 Repeal of Act	2
Schedule 1 Amendment of Acts	3







New South Wales

# Superannuation Legislation Amendment Bill 2006

No. , 2006

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## A Bill for

An Act to amend various public sector and parliamentary superannuation Acts with respect to police hurt on duty benefits, police superannuation benefits, the making of salary sacrifice contributions, the determination of salary for superannuation purposes and the nomination of the commencement of the payment of pensions; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Superannuation Legislation Amendment Act 2006</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5
<b>3 Amendment of Acts</b>	6
The Acts specified in Schedule 1 are amended as set out in that Schedule.	7 8
<b>4 Repeal of Act</b>	9
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	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

<b>Schedule 1</b>	<b>Amendment of Acts</b>	1
	(Section 3)	2
<b>1.1</b>	<b>Parliamentary Contributory Superannuation Act 1971 No 53</b>	3
	<b>Section 32D</b>	4
	Insert after section 32C:	5
<b>32D</b>	<b>Nominating commencement date of pension</b>	6
(1)	Despite any other provision of this Act, the payment period of a pension under this Act to which a person is entitled to payment commences on:	7
	(a) if a date is nominated in accordance with this section—the date so nominated, or	8
	(b) in any other case—the default date.	9
(2)	A person who is, or is to be, entitled to be paid a pension under this Act may, by notice in writing served on the trustees, nominate the date on which the payment period commences, if such a nomination is not inconsistent with a relevant Commonwealth superannuation standard.	10
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(3)	A notice under this section must:	12
	(a) nominate the date on which the payment period commences, and	13
	(b) be in the form approved by the trustees, and	14
	(c) be served on the trustees not later than the expiry date.	15
(4)	A notice under this section must not nominate a date earlier than the default date.	16
		17
(5)	A notice under this section is irrevocable.	18
(6)	This section does not affect whether any person is entitled to a pension or when any person becomes entitled to a pension.	19
		20
(7)	A person is not entitled to payment of a pension under this Act in respect of any period earlier than the commencement of the payment period of the pension.	21
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(8)	In this section:	23
	<i>default date</i> means, in respect of a pension under this Act, the date on which the payment period of the pension would, but for this section, commence.	24
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	<i>expiry date</i> means, in respect of a pension under this Act, the date that is 3 months after the default date in respect of the pension.	1 2
	<i>payment period</i> means, in respect of a pension under this Act, the period for which the pension is to be paid.	3 4
<b>1.2</b>	<b>Police Regulation (Superannuation) Act 1906 No 28</b>	5
<b>[1]</b>	<b>Section 5B Contributor who is executive officer</b>	6
	Insert “the whole of” after “commute” in section 5B (7A) (b).	7
<b>[2]</b>	<b>Section 8 Determination of members medically unfit</b>	8
	Insert after section 8 (2):	9
	(2A) For the purposes of subsection (2), the duties of the office in the police force in which a member of the police force is then employed includes (but is not limited to) the duties of a police officer referred to in section 14 (1) of the <i>Police Act 1990</i> .	10 11 12 13
<b>[3]</b>	<b>Section 8A Disengagement benefit for members aged between 45–55</b>	14
	Insert “wholly” after “force and had” in the definition of <i>E</i> in section 8A (5).	15
<b>[4]</b>	<b>Section 9A Commencement of pension</b>	16
	Omit section 9A (4). Insert instead:	17
	(4) An annual superannuation allowance granted under section 10 to a former member of the police force who resigned or retired is, subject to this Act, payable as from:	18 19 20
	(a) the date the former member lodged the application for the allowance that was determined by STC certifying the matters referred to in section 10B (2) (b), or	21 22 23
	(b) such earlier date as STC may determine if STC is satisfied that there are exceptional circumstances that merit STC doing so.	24 25 26
<b>[5]</b>	<b>Section 9B Preserved benefit</b>	27
	Insert “wholly” after “force and had” in the definition of <i>E</i> in section 9B (6) (b).	28 29
<b>[6]</b>	<b>Section 9B (6AA) (e), (6AB) and (6AC)</b>	30
	Insert “the whole of” after “commute” wherever occurring.	31

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<b>[7] Section 10 Superannuation allowance where member hurt on duty</b>	1
Omit “would have been” from paragraph (b) of the definition of <i>disabled member of the police force</i> in section 10 (1).	2
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Insert instead “was”.	4
<b>[8] Section 10 (1BA)</b>	5
Insert after section 10 (1B):	6
(1BA) A superannuation allowance referred to in subsection (1A) or an additional amount of a superannuation allowance referred to in subsection (1D) is not payable to a disabled member of the police force unless an application for payment of the allowance or additional amount concerned is made:	7
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(a) before the member reaches the age of 60 years, or	12
(b) not later than 5 years after the member resigns or retires, whichever is the later.	13
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<b>[9] Section 10 (2) (a)</b>	15
Insert “wholly” before “commuted”.	16
<b>[10] Section 10 (3)</b>	17
Insert after section 10 (2):	18
(3) If a superannuation allowance payable to a former member of the police force was partially commuted under Division 3, the allowance payable under subsection (1A) in respect of the member is to be reduced by the proportion that the commuted part of the superannuation allowance bears to the whole of the superannuation allowance.	19
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<b>[11] Section 10A</b>	25
Insert after section 10:	26
<b>10A Injury management program</b>	27
(1) STC is not to commence to pay a benefit otherwise payable under section 10 in respect of a member of the police force if the Commissioner of Police decides that a reasonable direction given to the member in respect of the member’s participation in an injury management program has, as at the time of the decision, not been complied with by the member.	28
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Superannuation Legislation Amendment Bill 2006

Schedule 1      Amendment of Acts

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(2)	If the Commissioner makes such a decision, the Commissioner must give written notice of the decision to STC and to the member.	1 2 3
(3)	The Commissioner must not so decide unless:	4
(a)	the injury management program was approved by the Commissioner as being no less beneficial to participants in the program than any comparable injury management program under the <i>Workplace Injury Management and Workers Compensation Act 1998</i> applicable to members of the police force, and	5 6 7 8 9 10
(b)	the member failed to comply with a reasonable direction given to the member in respect of the member's participation in the program, and	11 12 13
(c)	the member was given a reasonable opportunity to comply, and	14 15
(d)	the member was warned in writing that failure to comply might result in the member not receiving a benefit under this Act.	16 17 18
<b>[12]</b>	<b>Section 10B Medical examination of disabled member and determination of whether hurt on duty</b>	19 20
	Insert "of the member at the time of the certification" after "mind" in section 10B (1).	21 22
<b>[13]</b>	<b>Section 10B (2) (b)</b>	23
	Omit "would have been". Insert instead "was".	24
<b>[14]</b>	<b>Section 10B (2B)</b>	25
	Omit "would have been" where firstly and secondly occurring.	26
	Insert instead "was".	27
<b>[15]</b>	<b>Section 10B (2BA)</b>	28
	Insert after section 10B (2B):	29
(2BA)	For the purposes of subsections (2A) and (2B), the duties of the office in the police force in which a member of the police force is then or was employed includes (but is not limited to) the duties of a police officer referred to in section 14 (1) of the <i>Police Act 1990</i> .	30 31 32 33 34

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<b>[16]</b>	<b>Section 10C Redemption of superannuation allowance granted to disabled member</b>	1 2
	Insert “the whole or part of” after “apply to” in section 10C (3).	3
<b>[17]</b>	<b>Section 11 Grant of superannuation allowance to the surviving spouse or de facto partner of a former member of the police force who dies after the commencement of Schedule 1 (7) to the Police Regulation (Superannuation) Amendment Act 1988</b>	4 5 6 7
	Insert “wholly” after “who has” in section 11 (2) (b).	8
<b>[18]</b>	<b>Section 11 (3)</b>	9
	Insert after section 11 (2):	10
	(3) If a superannuation allowance payable to a former member of the police force was partially commuted under Division 3, the allowance payable under subsection (1) in respect of the death of the member is to be reduced by the proportion that the commuted part of the superannuation allowance bears to the whole of the superannuation allowance.	11 12 13 14 15 16
<b>[19]</b>	<b>Section 11AA Grant of superannuation allowance to the surviving spouse or de facto partner of a former member of the police force who dies after the commencement of Schedule 1.4 [10] to the Superannuation Legislation Amendment Act 1997</b>	17 18 19 20
	Insert “wholly” after “who has” in section 11AA (2) (b).	21
<b>[20]</b>	<b>Section 11AA (3)</b>	22
	Insert after section 11AA (2):	23
	(3) If a superannuation allowance payable to a former member of the police force was partially commuted under Division 3, the allowance payable under subsection (1) in respect of the death of the member is to be reduced by the proportion that the commuted part of the superannuation allowance bears to the whole of the superannuation allowance.	24 25 26 27 28 29
<b>[21]</b>	<b>Section 11D Grant of superannuation allowance to surviving spouse or de facto partner of certain former members</b>	30 31
	Insert “wholly” after “who has” in section 11D (2) (b).	32

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<b>[22] Section 11D (2A)</b>	1
Insert after section 11D (2):	2
(2A) If a superannuation allowance payable to a former member of the police force was partially commuted under Division 3, the allowance payable under subsection (1) in respect of the death of the member is to be reduced by the proportion that the commuted part of the superannuation allowance bears to the whole of the superannuation allowance.	3 4 5 6 7 8
<b>[23] Section 12 Superannuation allowance where a member or former member dies as a result of being hurt on duty</b>	9 10
Insert “wholly” before “commuted” in section 12 (1D) (a).	11
<b>[24] Section 12 (2)</b>	12
Insert after section 12 (1D):	13
(2) If a superannuation allowance payable to a member or former member of the police force was partially commuted under Division 3, the allowance payable under subsection (1) in respect of the death of the member or former member is to be reduced by the proportion that the commuted part of the superannuation allowance bears to the whole of the superannuation allowance.	14 15 16 17 18 19
<b>[25] Section 12A Allowance in respect of certain children</b>	20
Insert “wholly” before “commuted” in section 12A (2B) (a).	21
<b>[26] Section 14J Commutation on normal or early retirement of member</b>	22
Omit section 14J (2). Insert instead:	23
(2) A person who becomes entitled to a superannuation allowance to which this section applies may, on becoming so entitled, commute the whole or part of that allowance.	24 25 26
(2A) A person who is entitled to a superannuation allowance to which this section applies and who has not previously commuted the allowance under this section may commute the whole or part of that allowance on the day on which the person attains 60 years of age.	27 28 29 30 31
<b>[27] Section 14J (3)</b>	32
Insert “under this section” after “allowance”.	33
<b>[28] Section 14J (3A)</b>	34
Omit “such an election”. Insert instead “an election under subsection (2)”.	35



<b>[29] Section 14J (3B)</b>	1
Insert after section 14J (3A):	2
(3B) The date on which an election under subsection (2A) is to take effect is to be the day the person making the election attains the age of 60, irrespective of the date on which the election is made.	3 4 5
<b>[30] Section 14J (4)</b>	6
Omit the subsection. Insert instead:	7
(4) If a person elects to commute a superannuation allowance under this section, the lump sum payable from the Fund to the person is to be calculated by multiplying the attributed salary of office of the person by the appropriate commutation factor listed in Schedule 3 and by the equivalent service ratio for the person as at the date the person retired and, in the case of a partial commutation, by the proportion that the commuted part of the allowance bears to the whole of the allowance.	8 9 10 11 12 13 14 15
<b>[31] Section 14K</b>	16
Omit the section. Insert instead:	17
<b>14K Commutation on discharge of disabled member</b>	18
(1) This section applies to a superannuation allowance payable to a disabled member of the police force under:	19 20
(a) section 7, or	21
(b) section 10.	22
(2) A person who is entitled to a superannuation allowance to which this section applies and who has not previously commuted the allowance under this section may commute the whole or part of that allowance on:	23 24 25 26
(a) the day on which the person attains 55 years of age, or	27
(b) the day on which the person becomes entitled to that allowance,	28 29
whichever is the later.	30
(3) The date on which an election under subsection (2) is to take effect is to be:	31 32
(a) the day on which the person attains 55 years of age, or	33
(b) the day on which the person became entitled to that allowance,	34 35
whichever is the later.	36

Superannuation Legislation Amendment Bill 2006

Schedule 1      Amendment of Acts

---

- (4) A person who is entitled to a superannuation allowance to which this section applies and who has not previously commuted the allowance under this section may commute the whole or part of that allowance on the day on which the person attains 60 years of age. 1  
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- (5) The date on which an election under subsection (4) is to take effect is to be the day on which the person attains 60 years of age. 6  
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- (6) If a disabled member of the police force, having been paid a superannuation allowance under section 7 or a gratuity under section 14, is granted a hurt-on-duty allowance under section 10 after having attained the age of 60 years, the member may, as the case requires, commute to a lump sum: 8  
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- (a) the difference (if any) between the allowance granted under section 10 (1A) (a) and the superannuation allowance paid to that member under section 7, or 13  
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- (b) the balance (if any) of the allowance granted under section 10 (1A) (a) after an appropriate adjustment has been made for the repayment of the gratuity that has been paid to that member under section 14. 16  
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- (7) If a disabled member of the police force, having been granted an additional amount of allowance under section 10 (1A) (b) or (c), elects to commute to a lump sum an allowance under section 10 (1A) in accordance with subsection (6), the member must commute the additional amount to the extent that it has not already been commuted to a lump sum under section 10C. 20  
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- (8) If a disabled member of the police force makes no election to commute to a lump sum an allowance granted under section 10 (1A) because the member has already elected to commute an equivalent allowance payable under section 7, the member is, for the purposes of subsection (7), to be treated as having elected to commute the first-mentioned allowance in accordance with subsection (6). 26  
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- (9) The date on which an election under subsection (6) takes effect is the date on which the election is made. 33  
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- (10) A person wishing to commute a superannuation allowance under subsection (2), (4) or (6) must lodge the election to do so with STC in the form and within the time required by STC. 35  
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- (11) If a person elects to commute a superannuation allowance under this section, the lump sum payable from the Fund to the person is to be calculated by multiplying the annual superannuation allowance payable at the time the election takes effect by the 38  
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appropriate commutation factor listed in the Table to this subsection and, in the case of a partial commutation, by the proportion that the commuted part of the allowance (including any additional allowance amount commuted under subsection (7)) bears to the whole of the allowance.

Age at time commutation election takes effect	Commutation factor
55	11.82
56	11.64
57	11.46
58	11.28
59	11.10
60 or older	10.92

(12) If STC has made a determination under section 14AA in relation to a lump sum resulting from the commutation of a superannuation allowance to which this section applies, the lump sum is reduced by the amount specified in STC’s determination.

**[32] Section 21 Determination by District Court** 10

Insert “10A (1),” after “section” in section 21 (1) (b). 11

**[33] Section 23D** 12

Insert after section 23C: 13

**23D Nominating commencement date of superannuation allowance** 14

(1) Despite any other provision of this Act, the payment period of a superannuation allowance under this Act to which a person is entitled to payment commences on: 15  
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(a) if a date is nominated in accordance with this section—the date so nominated, or 18  
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(b) in any other case—the default date. 20

(2) A person who is, or is to be, entitled to be paid a superannuation allowance under this Act may, by notice in writing served on STC, nominate the date on which the payment period commences, if such a nomination is not inconsistent with a relevant Commonwealth superannuation standard. 21  
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Superannuation Legislation Amendment Bill 2006

Schedule 1 Amendment of Acts

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(3)	A notice under this section must:	1
(a)	nominate the date on which the payment period commences, and	2
(b)	be in the form approved by STC, and	3
(c)	be served on STC not later than the expiry date.	4
(4)	A notice under this section must not nominate a date earlier than the default date.	5
(5)	A notice under this section is irrevocable.	6
(6)	This section does not affect whether any person is entitled to a superannuation allowance or when any person becomes entitled to a superannuation allowance.	7
(7)	A person is not entitled to payment of a superannuation allowance under this Act in respect of any period earlier than the commencement of the payment period of the allowance.	8
(8)	In this section:	9
	<i>default date</i> means, in respect of a superannuation allowance under this Act, the date on which the payment period of the allowance would, but for this section, commence.	10
	<i>expiry date</i> means, in respect of a superannuation allowance under this Act, the date that is 3 months after the default date in respect of the allowance.	11
	<i>payment period</i> means, in respect of a superannuation allowance under this Act, the period for which the allowance under this Act is to be paid.	12
[34]	<b>Schedule 3 Lump sum benefits for normal or early retirement— commutation factors (multiples of attributed final salary of office)</b>	13
	Omit the heading to the Column “Age at exit”.	14
	Insert instead “Age at date election takes effect”.	15
[35]	<b>Schedule 6 Savings and transitional provisions</b>	16
	Insert at the end of clause 1 (1):	17
	<i>Superannuation Legislation Amendment Act 2006</i> , but only to the extent to which it amends this Act	18

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<b>[36] Schedule 6, Part 9</b>	1
Insert after Part 8:	2
<b>Part 9 Superannuation Legislation Amendment Act 2006</b>	3
	4
<b>28 Certification not invalid if in compliance with Act as amended</b>	5
A certification given by STC under section 10B (2A) or (2B) is not invalid merely because of a failure to comply with this Act as in force before the commencement of an amendment made to this Act by the <i>Superannuation Legislation Amendment Act 2006</i> , if the certification was given before that commencement and would have been valid had it been given under this Act as in force after that commencement.	12
<b>29 Commutation of allowance of disabled member already 55 or older</b>	13
(1) A person who:	14
(a) is entitled to a superannuation allowance to which section 14K applies, and	16
(b) has not previously commuted the allowance under that section, and	18
(c) had attained the age of 55 before the commencement of section 14K, as inserted by the <i>Superannuation Legislation Amendment Act 2006</i> , and	21
(d) is not 60 years of age or older,	22
may commute the whole or part of that allowance, in accordance with section 14K, on that commencement.	24
(2) The date on which an election under subclause (1) is to take effect is to be the day of that commencement.	26
<b>1.3 State Authorities Non-contributory Superannuation Act 1987 No 212</b>	27
	28
<b>[1] Section 4 Salary</b>	29
Insert after section 4 (1B):	30
(1C) Despite subsection (1), the regulations may provide that the <i>salary</i> of an employee or class of employees (other than an executive officer) for the purposes of this Act is to be determined in the manner prescribed by the regulations.	34

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(1D)	A regulation may be made under subsection (1C) only if the Minister and the Treasurer certify in writing that:	1
		2
(a)	there has been a change in the basis on which the remuneration of the employee or class of employees is determined, and	3
		4
		5
(b)	the effect of that change is to change the basis of remuneration to an annualised one, and	6
		7
(c)	the effect of the regulation is not to reduce the benefits that would have accrued under this Act to the employee or class of employees, had there been no change in the basis of remuneration, and	8
		9
		10
		11
(d)	the making of the regulation and associated arrangements will not result in a greater financial cost to the Government than if the regulation and associated arrangements were not made.	12
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		14
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<b>[2]</b>	<b>Section 4B</b>	16
	Insert after section 4A:	17
	<b>4B Salary not to be affected by salary sacrifice</b>	18
	Despite sections 4 and 4A, the making of a salary sacrifice contribution within the meaning of the <i>State Authorities Superannuation Act 1987</i> in respect of an employee does not affect the amount that would otherwise constitute the salary of the employee for the purposes of this Act.	19
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<b>[3]</b>	<b>Schedule 5 Savings and transitional provisions</b>	24
	Insert at the end of clause 1 (1):	25
	<i>Superannuation Legislation Amendment Act 2006</i> , but only to the extent to which it amends this Act	26
		27
<b>1.4</b>	<b>State Authorities Superannuation Act 1987 No 211</b>	28
<b>[1]</b>	<b>Section 3 Definitions</b>	29
	Insert in appropriate order in section 3 (1):	30
	<i>employee contribution</i> means a contribution made under Part 3, other than a salary sacrifice contribution.	31
		32
	<i>salary sacrifice contribution</i> means a contribution paid to the Fund for crediting in a contributor's account by the contributor's employer in accordance with an agreement referred to in section 19A (b).	33
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<b>[2] Section 4 Salary</b>	1
Insert after section 4 (1B):	2
(1C) Despite subsection (1), the regulations may provide that the <i>salary</i> of an employee or class of employees (other than an executive officer) for the purposes of this Act is to be determined in the manner prescribed by the regulations.	3 4 5 6
(1D) A regulation may be made under subsection (1C) only if the Minister and the Treasurer certify in writing that:	7 8
(a) there has been a change in the basis on which the remuneration of the employee or class of employees is determined, and	9 10 11
(b) the effect of that change is to change the basis of remuneration to an annualised one, and	12 13
(c) the effect of the regulation is not to reduce the benefits that would have accrued under this Act to the employee or class of employees, had there been no change in the basis of remuneration, and	14 15 16 17
(d) the making of the regulation and associated arrangements will not result in a greater financial cost to the Government than if the regulation and associated arrangements were not made.	18 19 20 21
<b>[3] Section 4B</b>	22
Insert after section 4A:	23
<b>4B Salary not to be affected by salary sacrifice</b>	24
Despite sections 4 and 4A, the making of a salary sacrifice contribution under this Act in respect of a contributor does not affect the amount that would otherwise constitute the salary of the contributor for the purposes of this Act.	25 26 27 28
<b>[4] Section 12 Contributors' accounts</b>	29
Omit section 12 (2). Insert instead:	30
(2) There is to be credited to a contributor's account:	31
(a) the contributions made by the contributor to the Fund, and	32
(b) any salary sacrifice contributions made by the contributor's employer under Part 3 in respect of the contributor.	33 34 35

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<b>[5] Section 12 (3) (a1)</b>	1
Insert after section 12 (3) (a):	2
(a1) an amount equal to the income tax payable by STC under Commonwealth taxation law in respect of any salary sacrifice contribution credited to a contributor's account,	3 4 5
<b>[6] Section 14 Reserves for employers</b>	6
Insert “, other than salary sacrifice contributions made under Part 3” after “relates” in section 14 (3).	7 8
<b>[7] Part 3, heading</b>	9
Omit the heading. Insert instead:	10
<b>Part 3 Employee contributions and salary sacrifice contributions</b>	11 12
<b>[8] Section 19 Election to have employee or salary sacrifice contributions paid to the Fund</b>	13 14
Omit section 19 (2) (b). Insert instead:	15
(b) specify the rate at which contributions are, subject to this Act, to be credited to the contributor's account in respect of the employee (or, in the case of salary sacrifice contributions, retained in that account as provided by section 19B), being the rate of 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent of the employee's salary,	16 17 18 19 20 21
<b>[9] Sections 19A and 19B</b>	22
Insert after section 19:	23
<b>19A Contributions by or on behalf of employees</b>	24
Contributions may be made to the Fund for crediting to a contributor's account:	25 26
(a) by the contributor ( <i>employee contributions</i> ), and	27
(b) by the contributor's employer in accordance with an agreement between the contributor and the employer under which the contributor is to forego remuneration the contributor is yet to earn and the employer is to apply the remuneration foregone to the cost of making contributions on behalf of the contributor ( <i>salary sacrifice contributions</i> ).	28 29 30 31 32 33 34



<b>19B</b>	<b>Amount payable for salary sacrifice contributions to allow for the contributions tax payable</b>	1 2
	The amount payable to the Fund in respect of a salary sacrifice contribution in respect of a contributor is the amount that is necessary for an amount at the rate specified in accordance with this Part to be retained in the contributor's account out of the salary sacrifice contribution after the income tax amount is deducted under section 12 (3) (a1).	3 4 5 6 7 8
<b>[10]</b>	<b>Section 25 Liability to contribute</b>	9
	Omit section 25 (1). Insert instead:	10
	(1) Where an election under section 19 takes effect, the contributor who made the election becomes, and remains, liable to ensure that contributions are paid to the Fund in the amount necessary to result in an amount being credited to the contributor's account (or, in the case of salary sacrifice contributions, retained in that account as provided by section 19B), at the rate specified under section 19 (2) (b) and, except as provided by sections 27, 28, 29 and 35A, to ensure those contributions are paid in respect of successive contribution periods:	11 12 13 14 15 16 17 18 19
	(a) commencing with the contribution period in which the contributor's entry date occurs, and	20 21
	(b) ending with the last complete contribution period ending on or before the contributor's exit date.	22 23
<b>[11]</b>	<b>Section 25 (2)</b>	24
	Omit "A contributor's contributions to the Fund shall be".	25
	Insert instead "Contributions under this Part are to be".	26
<b>[12]</b>	<b>Section 25 (3)</b>	27
	Omit "A contributor's contributions to the Fund".	28
	Insert instead "Contributions under this Part".	29
<b>[13]</b>	<b>Section 25 (4)</b>	30
	Omit "STC on a contribution to the Fund".	31
	Insert instead "STC on a contribution under this Part".	32

Superannuation Legislation Amendment Bill 2006

Schedule 1      Amendment of Acts

---

<b>[14] Section 25 (5A)</b>	1
Insert after section 25 (5):	2
(5A) An employer is not entitled to pay a salary sacrifice contribution to the Fund on behalf of an employee, and STC is not to accept a salary sacrifice contribution to the Fund on behalf of an employee, unless the employee is under 70 years of age.	3 4 5 6
<b>[15] Section 26 Salary basis for contributions</b>	7
Omit “A contributor’s contributions to the Fund”.	8
Insert instead “Employee contributions and salary sacrifice contributions in respect of a contributor”.	9 10
<b>[16] Section 27 Variations of contribution rate</b>	11
Omit “per cent of the contributor’s salary to be paid to the Fund” from section 27 (1).	12 13
Insert instead “specified under section 19 (2) (b)”.	14
<b>[17] Section 27 (2) (b)</b>	15
Omit the paragraph. Insert instead:	16
(b) is to specify the varied rate per cent (being 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent) of contributions to be credited to the contributor’s account (or, in the case of salary sacrifice contributions, retained in that account as provided by section 19B), and	17 18 19 20 21
<b>[18] Section 27 (3)</b>	22
Omit “the contributor’s contribution to the Fund”.	23
Insert instead “contributions payable under this Part”.	24
<b>[19] Section 27 (3)</b>	25
Omit “contributions to the Fund”.	26
Insert instead “contributions payable under this Part”.	27
<b>[20] Section 27 (4)</b>	28
Omit “the contribution that the contributor is required to pay to the Fund”.	29
Insert instead “contributions payable under this Part”.	30
<b>[21] Section 27 (5)</b>	31
Omit “to the contributor”. Insert instead “in respect of the contributor”.	32

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<b>[22] Section 28</b>	1
Omit the section. Insert instead:	2
<b>28 Variations of contribution rate: hardship</b>	3
(1) Despite section 27 (1), STC may, if it is satisfied that a continuation of contributions under this Part in respect of a contributor would result in financial hardship for the contributor, accept at any time an election under that subsection to reduce, as from a date determined by STC having regard to the circumstances of the contributor, the rate of contributions to be credited to the contributor's account (or, in the case of salary sacrifice contributions, retained in that account as provided by section 19B) under this Part.	4 5 6 7 8 9 10 11 12
(2) Despite section 27 (1), an election referred to in subsection (1) may specify as the varied rate the rate of 0 per cent.	13 14
(3) During a period when a rate of 0 per cent is in force, no contributions are payable under this Part.	15 16
(4) After an election referred to in subsection (1) is accepted by STC, STC must refund any resulting excess of contributions paid to the Fund under this Part to the person who paid them, after the date determined by STC for commencement of the new rate.	17 18 19 20
(5) STC's acceptance of an election for a rate of 0 per cent is to be given only for a limited period or periods.	21 22
<b>[23] Section 29 Contributions during leave without pay and other matters</b>	23
Omit "to make contributions to the Fund" wherever occurring (except section 29 (5)).	24 25
Insert instead "to make contributions to the Fund under this Part".	26
<b>[24] Section 29 (4)</b>	27
Omit the subsection. Insert instead:	28
(4) A contributor liable to make contributions under subsection (2) or (3) is to pay to the Fund in accordance with directions given by STC such contributions as would have been, but for the contributor being on leave without pay, required to be paid under this Part if the contributor had continued to be paid salary by the employer during the contribution period or periods concerned at the rate at which the contributor would have been paid.	29 30 31 32 33 34 35

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<b>[25] Section 30 Resumption of contributions after break in employment</b>	1
Omit “to resume making contributions to the Fund” from section 30 (2).	2
Insert instead “for the resumption of contributions under this Part”.	3
<b>[26] Section 30 (3) (b) and (c)</b>	4
Omit section 30 (3) (b). Insert instead:	5
(b) the contributor is liable to make contributions to the Fund under this Part in respect of the intervening contribution period or periods, as if the contributor had been employed with the employer with whom the contributor has resumed employment for the duration of the intervening contribution period or periods, and	6 7 8 9 10 11
(c) the employer with whom the contributor has resumed employment is liable to make contributions to the Fund under Part 4 in respect of the intervening contribution period or periods, as if the contributor had been employed with the employer for the duration of the intervening contribution period or periods.	12 13 14 15 16 17
<b>[27] Section 45A Power of STC to reduce benefits to offset certain tax liabilities</b>	18 19
Insert after section 45A (1):	20
(1AA) Subsection (1) does not apply to an income tax liability if an amount equal to the liability was deducted under section 12 (3) (a1) in respect of the liability.	21 22 23
<b>[28] Schedule 6 Savings and transitional provisions</b>	24
Insert at the end of clause 1 (1):	25
<i>Superannuation Legislation Amendment Act 2006</i> , but only to the extent to which it amends this Act	26 27
<b>1.5 Superannuation Act 1916 No 28</b>	28
<b>[1] Section 3A Salary</b>	29
Insert after section 3A (1B):	30
(1C) Despite subsection (1), the regulations may provide that the <i>salary</i> of an employee or class of employees (other than an executive officer) for the purposes of this Act is to be determined in the manner prescribed by the regulations.	31 32 33 34

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(1D)	A regulation may be made under subsection (1C) only if the Minister and the Treasurer certify in writing that:	1 2
(a)	there has been a change in the basis on which the remuneration of the employee or class of employees is determined, and	3 4 5
(b)	the effect of that change is to change the basis of remuneration to an annualised one, and	6 7
(c)	the effect of the regulation is not to reduce the benefits that would have accrued under this Act to the employee or class of employees, had there been no change in the basis of remuneration, and	8 9 10 11
(d)	the making of the regulation and associated arrangements will not result in a greater financial cost to the Government than if the regulation and associated arrangements were not made.	12 13 14 15
<b>[2]</b>	<b>Section 61RB Power of STC to adjust benefits to comply with certain Commonwealth standards relating to superannuation</b>	16 17
	Omit “, by notice in writing given to STC before the pension starts to be paid, elect” from section 61RB (2).	18 19
	Insert instead “elect, before the pension starts to be paid,”.	20
<b>[3]</b>	<b>Section 61RB (2) (d) and (6)</b>	21
	Omit “and section 61RC” wherever occurring.	22
<b>[4]</b>	<b>Section 61RB (3)</b>	23
	Omit “, by notice in writing given to STC at any time before STC is required to take the action referred to in section 61RC (1),”.	24 25
<b>[5]</b>	<b>Section 61VA</b>	26
	Insert after section 61V:	27
<b>61VA</b>	<b>Nominating commencement date of pension</b>	28
(1)	Despite any other provision of this Act, the payment period of a pension under this Act to which a person is entitled to payment commences on:	29 30 31
(a)	if a date is nominated in accordance with this section—the date so nominated, or	32 33
(b)	in any other case—the default date.	34
(2)	A person who is, or is to be, entitled to be paid a pension under this Act may, by notice in writing served on STC, nominate the	35 36

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Superannuation Legislation Amendment Bill 2006

Schedule 1 Amendment of Acts

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	date on which the payment period commences, if such a nomination is not inconsistent with a relevant Commonwealth superannuation standard.	1 2 3
(3)	A notice under this section must:	4
	(a) nominate the date on which the payment period commences, and	5 6
	(b) be in the form approved by STC, and	7
	(c) be served on STC not later than the expiry date.	8
(4)	A notice under this section must not nominate a date earlier than the default date.	9 10
(5)	A notice under this section is irrevocable.	11
(6)	This section does not affect whether any person is entitled to a pension or when any person becomes entitled to a pension.	12 13
(7)	A person is not entitled to payment of a pension under this Act in respect of any period earlier than the commencement of the payment period of the pension.	14 15 16
(8)	In this section:	17
	<i>default date</i> means, in respect of a pension under this Act, the date on which the payment period of the pension would, but for this section, commence.	18 19 20
	<i>expiry date</i> means, in respect of a pension under this Act, the date that is 3 months after the default date in respect of the pension.	21 22
	<i>payment period</i> means, in respect of a pension under this Act, the period for which the pension is to be paid.	23 24
<b>[6]</b>	<b>Schedule 25 Savings and transitional provisions</b>	25
	Insert at the end of clause 1 (1):	26
	<i>Superannuation Legislation Amendment Act 2006</i> , but only to the extent to which it amends this Act	27 28