

SUPERANNUATION (AMENDMENT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Statutory and Other Offices Remuneration (Superannuation) Amendment Bill, 1980;

Building and Construction Industry Long Service Payments (Investment) Amendment Bill, 1980.

The object of this Bill is to amend the Superannuation Act, 1916 ("the Act") so as—

- (a) to create the position of, and specify the powers of, the Vice-President of the State Superannuation Board ("the Board"), which position is to be held by a full-time member of the Board appointed by the Governor (Schedule 1);
- (b) to extend the powers of the Board with respect to investment in shares and debt securities of companies and to enable the Board to invest in beneficial interests in, and debt securities of, certain trusts (Schedule 2);
- (c) to enable a contributor to the State Superannuation Fund ("the Fund") who is retrenched to elect to take any withdrawal benefit which would be available to him on resignation (Schedule 3);
- (d) to empower the Minister to determine terms and conditions which shall relate to persons who are contributors to a retirement scheme, fund or arrangement whether or not the persons are eligible to contribute to the Fund at the time the Minister so determines (Schedule 4 (1));
- (e) to provide that a person who, pursuant to terms and conditions determined by the Minister, has withdrawn from a retirement scheme, fund or arrangement and who is later treated by the Board under section 10C (1) or 10D (3) of the Act as if he were not an employee shall be deemed for the purpose of any Act not to have withdrawn from the scheme, fund or arrangement (Schedule 4 (2));
- (f) to provide that a person who withdraws from a retirement scheme, fund or arrangement pursuant to terms and conditions determined by the Minister under section 92A (2) of the Act and who directs that any

benefits payable to him on withdrawal from the scheme, fund or arrangement be applied towards the purchase of fully paid up units in the Fund, shall be deemed to have purchased fully paid up units as if he transferred from a Public Service Superannuation Fund and elected to purchase fully paid up units under section 20c of the Act (Schedule 4 (2));

(g) to insert a new Part in the Act to make provision for—

(i) contributors who are employed in a country other than Australia and are paid salary at a rate expressed in a foreign currency to make contributions to and receive benefits from the Fund at a constant rate, determined in accordance with a conversion ratio, in that foreign currency; and

(ii) employers of foreign contributors to pay to or receive from the Fund any difference between the actual amount paid under the proposed Part and the amount that would otherwise be payable (Schedule 5—proposed Part IX);

(h) to provide that compulsory termination by an employer of the service of a contributor to the Fund will be retrenchment if the contributor served any 1 or more employers (within the meaning of the Act) for at least 10 years (Schedule 6 (2));

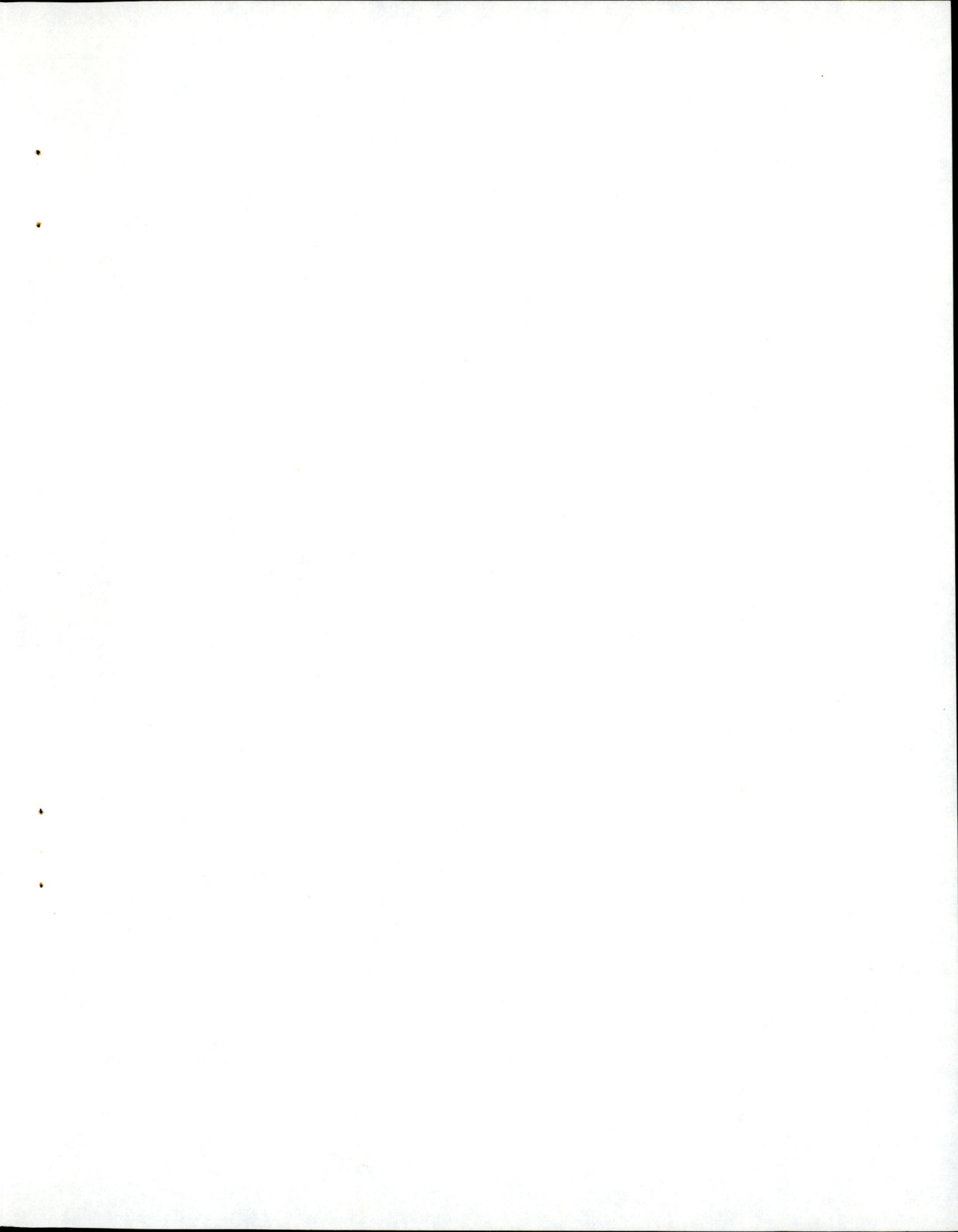
(i) to provide that voluntary termination of service by a person who is entitled to elect to retire under section 21 (1B) of the Act shall be deemed to be resignation unless the person so elects (Schedule 6 (3));

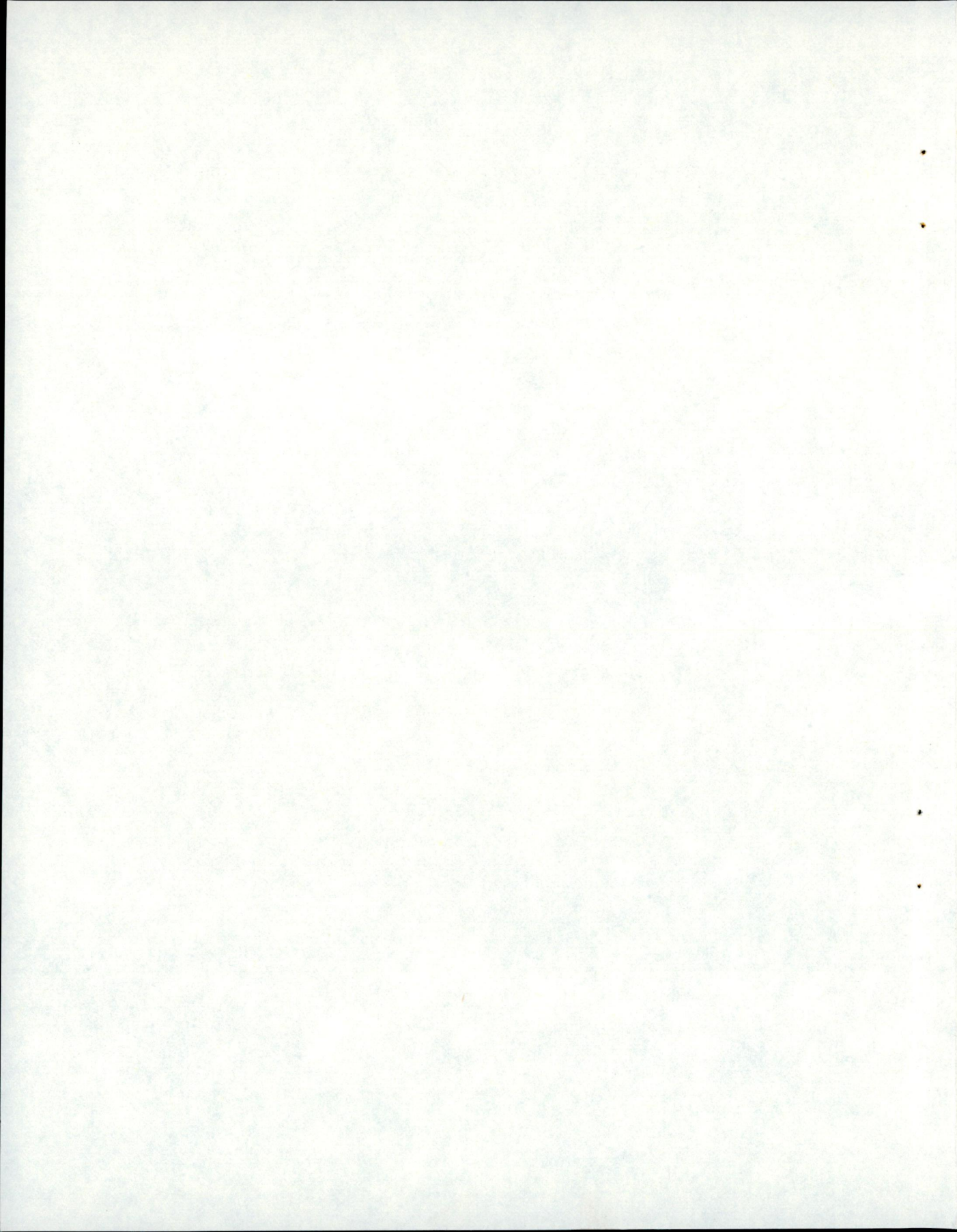
(j) to permit the Board to cancel a breakdown pension only if suitable employment can be found for the pensioner on a salary not less than two-thirds of the salary of a person employed in a position which, in the opinion of the Board, corresponds to that in which the pensioner was employed immediately before his retirement (Schedule 6 (4));

(k) to permit the Minister to vary or waive any terms and conditions determined by him under section 92A (2) of the Act in relation to a person before the person has complied with those terms and conditions if the person would not, in his opinion, be disadvantaged by his so doing (Schedule 6 (5));

(l) to validate certain matters in relation to benefits available on retrenchment, persons, transferring to the Fund from other schemes and retirement under section 21 (1B) of the Act (clause 5); and

(m) to enact other provisions of a minor, consequential or ancillary nature.





SUPERANNUATION (AMENDMENT) BILL, 1980

No. , 1980.

A BILL FOR

An Act to amend the Superannuation Act, 1916, with respect to the constitution and powers of the Board, foreign contributors to the Fund and certain benefits payable under that Act and in certain other respects.

[MR HILLS—25 March, 1980.]

See also Statutory and Other Offices Remuneration (Superannuation) Amendment Bill, 1980; Building and Construction Industry Long Service Payments (Investment) Amendment Bill, 1980.

Superannuation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the “Superannuation (Amend- Short title.
ment) Act, 1980”.

2. The Superannuation Act, 1916, is referred to in this Act Principal
as the Principal Act. Act.

3. This Act contains the following Schedules :— Schedules.

10 **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
 RELATING TO THE CONSTITUTION OF THE BOARD.**

**SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
 WITH RESPECT TO INVESTMENT POWERS.**

15 **SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT
 RELATING TO ALTERNATIVE BENEFITS PAYABLE ON
 RETRENCHMENT.**

**SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT
 RELATING TO THE TRANSFER TO THE FUND OF
 PARTICIPANTS IN OTHER SCHEMES.**

20 **SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT
 RELATING TO FOREIGN CONTRIBUTORS.**

**SCHEDULE 6.—MISCELLANEOUS AMENDMENTS TO THE
 PRINCIPAL ACT.**

25 **4.** The Principal Act is amended in the manner set forth in Amendment
of Act No.
28, 1916.
25 Schedules 1–6.

Superannuation (Amendment).

5. Any act, matter or thing done or omitted before the date of assent to this Act which would have been lawful had the amendments contained in Schedules 3, 4 and 6 (1) and (3) been in force when the act, matter or thing was done or omitted, is hereby validated.

6. (1) The person who, immediately before the date of assent to this Act, was the member of the State Superannuation Board appointed by the Governor as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied shall be deemed to have been appointed on that date as the Vice-President of the Board under that section as amended by this Act and shall hold office as the Vice-President of the Board for the remainder of the term of office for which he was appointed as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied.

(2) For the purpose of section 38A (3) of the Principal Act, any amount paid by an employer pursuant to section 37 (7) or (8) of the Principal Act, as in force immediately before the date of assent to this Act, in respect of retrenched employees who elected under section 38B of the Principal Act as so in force to take the benefit of section 38A of the Principal Act as so in force shall be deemed to be an amount paid pursuant to section 38A (2A) of the Principal Act, as amended by this Act.

SCHEDULE 1.

Sec. 4.

25 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD.

- (1) (a) Section 69A, definition of "full-time member of the Board"—
- 30 Omit "the member of the Board referred to in section 70 (2) (a) (ii)", insert instead "the Vice-President".

Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD—*continued.*

(b) Section 69A, definition of “union”—

5 Omit “Commonwealth.”, insert instead “Commonwealth;”.

(c) Section 69A, definition of “Vice-President”—

After the definition of “union”, insert :—

10 “Vice-President” means the Vice-President of the Board.

(2) Section 70 (2) (a) (ii)—

Omit “a full-time member of the Board to whom this subparagraph applies”, insert instead “the Vice-President of the Board”.

15 (3) (a) Section 73 (1)—

After “Board”, insert “(other than the President)”.

(b) Section 73 (3)–(7)—

After section 73 (2), insert :—

20 (3) In the case of the illness, suspension or absence of the President, the Vice-President shall act in his place and, while so acting, shall have all the powers and authority of the President.

25 (4) Where, pursuant to subsection (3), the Vice-President is acting in the place of the President, a deputy may be appointed under subsection (1) for the Vice-President as if the Vice-President were absent while so acting as President.

Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD—*continued.*

5 (5) In the case of the illness, suspension or
absence of either the President or Vice-President
occurring at any time during the illness, suspension or
absence of the other or of both the President and
10 Vice-President occurring at the same time, subsections
(3) and (4) shall apply to and in respect of the
person acting in the place of the Vice-President at that
time or, as the case may be, if there is no person so
acting, the person next appointed after that time to so
act, as if that person were the Vice-President.

15 (6) No person shall be concerned to inquire
whether or not any occasion has arisen requiring or
authorising the Vice-President to act in the place of
the President, or a deputy to act in the place of a
member of the Board, or as to the necessity or
propriety of any appointment of a deputy.

20 (7) Any act, matter or thing done or omitted to be
done by the Vice-President when acting in the place
of the President, or a deputy when acting in the place
of a member of the Board, shall be as valid and
25 effectual and shall have the same consequences as if
the act, matter or thing was done or omitted to be
done by the President or the member of the Board in
whose place the deputy is acting, as the case may be.

(4) Section 78—

30 After "Board" where firstly occurring, insert "(one being
the President or Vice-President)".

Superannuation (Amendment).

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS.

(1) (a) Section 5 (1) (b1)—

5 After section 5 (1) (b), insert :—

(b1) in securities that are public securities as defined
in section 6 (1) of the Income Tax Assess-
ment Act 1936 of the Parliament of the
10 Commonwealth, as amended by subsequent
Acts of that Parliament;

(b) Section 5 (1) (c)—

Omit “and 5B”, insert instead “, 5B and 5C”.

(2) Section 5 (2)—

Omit “(a), (b) or (d)”.

15 (3) Section 5A—

Omit the section, insert instead :—

5A. (1) In this section, except in so far as the context
or subject-matter otherwise indicates or requires— Investment
in shares,
etc.

“company” means—

20 (a) a company incorporated under the
Companies Act, 1961, or under a law that
corresponds to that Act, being a law of
another State or of a Territory of the
Commonwealth; or

25 (b) a bank as defined in paragraph (a) or
(b) of the definition of that expression in
section 5C (1);

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 “co-operative society” means a society registered under
the Co-operation Act, 1923, or under a law that
corresponds to that Act, being a law of another
State or of a Territory of the Commonwealth;

 “corporate group” means a group of companies, or a
group of companies and trusts, of which—

10 (a) the assets exceed liabilities by at least
\$3,000,000; and

(b) the median earning rate is at least 7½ per
cent;

15 “corporate partnership” means a partnership in respect
of which—

(a) the assets exceed liabilities (excluding
any liability to a partner) by at least
\$1,000,000; and

20 (b) at least one of the members, or the
management company (if any), is a
prescribed company;

25 “debt security”, in relation to a prescribed body,
means loan to, deposit with, convertible note or
promissory note issued by, or bill of exchange
drawn, endorsed or accepted by, that body or
lease receivables payable by that body in respect
of personal property, whether or not the property
is vested in the Board;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 “earning rate” for a year in relation to a company or
corporate group means the amount of the operating
profit of the company or group for that year
divided by the amount of its shareholders’ funds
at the close of that year, the result being
expressed as a percentage;

10 “government” means the government of a State or of
the Commonwealth or of a Territory of the
Commonwealth;

 “government agency” means—

15 (a) a public authority constituted by the
law of a State or of the Commonwealth;

20 (b) a company of which at least 20 per cent
of the issued ordinary share capital is
beneficially owned by the government of
a State or of the Commonwealth or by a
public authority referred to in paragraph
(a);

25 (c) a partnership in which the government of
a State or of the Commonwealth, or a
public authority referred to in paragraph
(a), has an interest entitling it to at least
20 per cent of the profits of the
partnership;

 “holding company” has the same meaning as it has in
the Companies Act, 1961;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

“interest cover” for a year in relation to—

- 5 (a) debt securities, being unsecured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—
- 10 (i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and
- 15 (ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,
- 20 by that total amount of interest so charged; or
- (b) debt securities, being secured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—
- 25 (i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and
- 30 (ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 by such of that total amount of interest so charged as is interest charged on debt securities of the company that rank prior to, or *pari passu* with, the debt securities in which the Board proposes to invest;
- 10 “median earning rate” in relation to a company or corporate group is the earning rate that is third in sequence when the earning rates of the company or group for each of the latest 5 successive years for which audited accounts or audited group accounts of the company or group
- 15 are available are arranged in the order of their magnitude;
- 20 “median interest cover” in relation to a company or corporate group is the figure that is third in sequence when the figures representing the interest cover of the company or group for each of the latest 5 successive years for which audited accounts or audited group accounts of the company or group are available are arranged in the order of their magnitude;
- 25 “prescribed body” means—
- (a) a prescribed company;
 - (b) a company that is not a prescribed company but has assets that exceed its liabilities by at least \$1,000,000;
 - 30 (c) a corporate partnership;
 - (d) a partnership of companies (not being a corporate partnership)—
 - (i) that has an excess of assets over liabilities of at least \$1,000,000;

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (ii) of which none of the members is
a prescribed company; and
- (iii) at least one of the members of
which is a company referred to
in paragraph (b);
- 10 (e) a corporation to which the Life Insurance
Act 1945 of the Parliament of the
Commonwealth, as amended by sub-
sequent Acts of that Parliament, applies
—if the corporation has an excess of
15 assets over liabilities, as disclosed by its
latest audited accounts, of at least
\$3,000,000;
- (f) a company that holds a dealers licence
under the Securities Industry Act, 1975,
or a corresponding licence under the law
20 of another State or of a Territory of the
Commonwealth;
- (g) a trust;
- (h) a government agency or a co-operative
society; or
- 25 (i) a government;

“prescribed company” means—

- (a) a company that is not a holding company
or a subsidiary of a holding company
and of which—
- 30 (i) the assets exceed liabilities by at
least \$1,000,000; and
- (ii) the median earning rate is at
least 7½ per cent; or

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 (b) a company that is a member of a
corporate group and is—

(i) a holding company of which the
subsidiary companies are also
members of the corporate group;

10 (ii) a subsidiary company of a
holding company that is also a
member of a corporate group;
or

(iii) an associated company of another
member of the corporate group,

15 and has assets that exceed its liabilities
by at least \$1,000,000;

20 “share” includes stock, ordinary share, preference
share, bonus share, right to subscribe for a share,
option to subscribe for a share and any other
right or option to acquire a share in the share
capital of a company;

25 “stock exchange” means a stock exchange within the
meaning of the Securities Industry Act, 1975,
or a corresponding law of another State or of a
Territory of the Commonwealth;

“subsidiary company” in relation to a holding
company has the same meaning as it has in the
Companies Act, 1961;

“trust” means—

30 (a) a trust that is a member of a corporate
group;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (b) a trust of which the trustee is a corporation incorporated in Australia that is authorised to obtain a grant of probate; or
- (c) a company that is a subsidiary of a corporation referred to in paragraph (b).
- 10 (2) Calculations for the purposes of this section are to be made on the basis of the most recent publicly available accounts of the company, partners or group concerned and—
- 15 (a) in the case of an operating profit—on an historical cost basis before tax and including minority interests but excluding extraordinary items; and
- (b) in any other case—on an historical cost basis and including minority interests.
- 20 (3) For the purposes of this section, a company is an associated company of another company in a corporate group if—
- (a) at least 20 per cent of its issued ordinary share capital is held by the other company; and
- 25 (b) the companies are not related within the meaning of the Companies Act, 1961.
- 30 (4) For the purposes of this section, and without prejudice to any other method of investment in shares, debt securities or beneficial interests in a trust, the Board invests in shares, debt securities or beneficial interests in a trust if it does so as underwriter, co-underwriter or sub-underwriter.

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (5) Subject to this section, the fund or any part thereof, whether in a state of investment or not, may be invested by the Board in—
- (a) shares of a prescribed company;
 - (b) debt securities of a prescribed body;
 - 10 (c) the purchase of an interest as a beneficiary under a trust;
 - (d) subscribing for the shares or debt securities of a company, or a beneficial interest in a trust, if the company or trust was formed for the purpose of acquiring the shares in, or assets of, a prescribed company or a beneficial interest in, or assets of, 15 a trust;
 - (e) accepting an offer to exchange, with or without a cash payment, shares or debt securities, or shares and debt securities, held by it in a company for shares in, or debt securities of, another company (whether or not that other company is a prescribed company) where, in the case of shares or debt securities held by the Board that other company has made a take-over offer under the Companies Act, 1961, for shares in the first-mentioned company or is required by law or by 20 the rules of a stock exchange—
 - (i) to make an offer to buy;
 - (ii) to accept an offer to sell to it; or
 - 25 (iii) to limit the rate at which it acquires, shares in the first-mentioned company;
- 30

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (f) accepting an offer to exchange, with or without a cash payment, beneficial interests held by it in a trust—for shares in, or debt securities of, a company or for shares in, and debt securities of, a company (whether or not, in either case, the company is a prescribed company) where the
- 10 company has made an offer to make such an exchange or is required by law or by the rules of a stock exchange—
- (i) to make an offer to buy;
- (ii) to accept an offer to sell to it; or
- 15 (iii) to limit the rate at which it acquires, beneficial interests in the trust;
- (g) debt securities of a prescribed body pursuant to an agreement to do so when called upon;
- 20 (h) contracts or options, to purchase or sell, for immediate or forward delivery, shares in a prescribed company or debt securities of a prescribed body; or
- (i) the purchase of personal property where lease receivables in respect of the property are payable
- 25 to the Board by a prescribed body.
- (6) A company that has acquired another company is, for the purposes of this section, a prescribed company—
- (a) if the acquired company is a prescribed company; or
- 30 (b) where accounts sufficient to determine the median earning rate or median interest cover of the company or, where the company is a member of a corporate group, of the corporate group, are not publicly available—if the acquiring company

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 would be a prescribed company if the accounts
of the acquired company so available were
regarded as accounts of the acquiring company
for those years in respect of which the accounts
of the acquiring company or, as the case may be,
10 of the corporate group of which it is a member,
are not so available.

(7) Where the Board has invested in shares in, or
debt securities of, a company, the Board may concur in
any scheme or arrangement—

- (a) for the reconstruction of the company;
- 15 (b) for the restructuring of the company into a trust
or into a company and a trust;
- (c) for the amalgamation of the company with
another company;
- 20 (d) for the sale of all or any part of the property
and undertaking of the company to another
company or to a trust; or
- (e) for the release, modification or variation of any
rights, privileges or liabilities attached to the
shares or debt securities,

25 and, instead of, or in exchange for, the shares or debt
securities, the Board may accept any shares, debt securities,
or beneficial interests in a trust, of any denomination or
description, in the reconstructed, restructured, new or
purchasing company.

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (8) Except as provided in subsection (5) (d), (e)
and (f), this section does not authorise investment—
- (a) in the debt securities of a prescribed body
referred to in paragraph (b), (d) or (h) of
the definition of that expression in subsection
(1)—unless repayment is guaranteed by—
- 10 (i) a government;
- (ii) a prescribed company in the unsecured
debt securities of which the Board is
authorised to invest; or
- (iii) a bank as defined in section 5C (1);
- 15 (b) the debt securities of a prescribed company
unless—
- (i) where the company is not a member of a
corporate group—the median interest
cover of the company is at least 1.5; or
- 20 (ii) where the company is a member of a
corporate group—the median interest
cover of the corporate group is at least
1.5; or
- (c) where the Board proposes to invest in the debt
25 securities of a corporate partnership—unless the
median interest cover—
- (i) of a prescribed company that is a
member of the partnership; or
- 30 (ii) if the members of the partnership do not
include a prescribed company—of the
management company of the partnership,

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 is at least 1.5 calculated as if the investment to be made by the Board in the partnership were an investment in debt securities that represent unsecured obligations of that company; or

10 (d) if, by making the investment, the total amount invested by the Board pursuant to this section would exceed one-quarter of the total amount of the fund.

15 (9) If the Board so approves, a member of the Board, or of the staff of the Board, may, as part of the duties of his office as such a member, hold office as a director of a company.

20 (10) Where property is vested in the Board and a company has been formed to manage the property (whether with or without other property) the Board may take such action as may be necessary to qualify it to nominate a person for appointment as a director of the company.

(11) For the purposes of this section, the Board may accept, as sufficient evidence of matters disclosed by—

25 (a) the accounts of a company that is not a member of a corporate group—statements in a statutory declaration purporting to be made by the secretary of the company;

30 (b) the group accounts of a corporate group—statements in a statutory declaration purporting to be made by—

(i) the secretary of a holding company that is a member of the corporate group; or

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (ii) where there is no holding company in
the corporate group—the secretary of a
company with which another company in
the group is associated; or
- 10 (c) the accounts of the partners in a corporate
partnership—statements in a statutory declara-
tion purporting to be made by the secretary of
a prescribed company that is—
- (i) a member of the partnership; or
 - (ii) the management company of the partner-
ship.
- 15 (4) Section 5B (3)—
Omit the subsection.
- (5) (a) Section 5c (1), definition of “bank”—
Omit “and” where firstly occurring.
- (b) Section 5c (1), definition of “bank”—
- 20 After “prescribed;”, insert :—
and
- 25 (c) a bank (whether or not it carries on business
in Australia) that the Minister declares by
order published in the Gazette with the
approval of the Treasurer to be a bank within
the meaning of this section;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

(c) Section 5C (3)—

- 5 After “not”, insert “, except in the case of a provision
of the Local Government and Other Authorities
(Superannuation) Act, 1927, and the New South
Wales Retirement Benefits Act, 1972.”.

(d) Section 5C (4) (i)—

- 10 Omit “confirmed”, insert instead “issued or
confirmed”.

SCHEDULE 3.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT.

15 (1) Heading before section 37—

Omit the heading, insert instead :—

Retrenchment, resignation, dismissal or discharge.

(2) (a) Section 37 (1), (2)—

Omit “instead of section 38A” wherever occurring.

20 (b) Section 37 (7), (8)—

Omit “or elects under section 38B to take the benefit
of section 38A instead of this section” wherever
occurring.

Superannuation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

5 (3) Heading before section 38—

Omit the heading.

(4) (a) Section 38 (1)—

After “contributor” where firstly occurring, insert “is
retrenched or”.

10 (b) Section 38 (1)—

Omit “instead of section 38A”.

(c) Section 38 (1)—

Omit “such resignation” wherever occurring, insert
instead “his retrenchment, resignation”.

15 (d) Section 38 (2)—

Omit “discharged”, insert instead “retrenched,
discharged”.

(5) (a) Section 38A (2)—

20 Omit “instead of section 37 or 38, as the case may
require”.

Superannuation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

- 5 (b) Section 38A (2) (a), (b)—
Omit “(not being a contributor who has been
retrenched)” wherever occurring.
- (c) Section 38A (2) (c)—
10 Omit “(whether or not he is a contributor who has
been retrenched)”.
- (d) Section 38A (2) (c) (i)—
Omit “, a contributor who has been retrenched being
deemed, for the purposes of this subparagraph, to
have resigned from the service of his employer”.
- 15 (e) Section 38A (2A)—
After section 38A (2), insert :—
(2A) Where a contributor who has been retrenched
elects under section 38B to take the benefit of this
20 section and the amount payable to that contributor
under subsection (2) exceeds the sum of the con-
tributions paid or payable under this Act (apart from
this subsection) to the Fund by and in respect of the
contributor, the employer from whose service the
25 contributor has been retrenched shall pay to the Fund,
on requisition by the Board, a lump sum equal to the
amount by which the amount payable under
subsection (2) exceeds the sum of those contributions.
- (f) Section 38A (3)—
30 Omit “section 37 (7) or (8) in respect of retrenched
employees who elected under section 38B to take the
benefit of section 38A”, insert instead “subsection
(2A)”.

Superannuation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

5 (6) (a) Section 38B (1)—

Omit the subsection, insert instead :—

(1) A contributor who is retrenched or resigns or is dismissed or discharged from the service of an employer may, within 3 months after his retrenchment, resignation, dismissal or discharge, elect—

10

(a) in the case of a contributor who is retrenched—between taking the benefit of section 37, 38 or 38A; or

15

(b) in any other case—between taking the benefit of section 38 or 38A.

(b) Section 38B (2)—

Omit “resigns”, insert instead “is retrenched or resigns”.

(c) Section 38B (3)—

20

After “section 37”, insert “, 38”.

Superannuation (Amendment).

SCHEDULE 4.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER SCHEMES.

(1) Section 92A (2)—

5 Omit the subsection, insert instead :—

(2) The Minister may determine terms and conditions
which shall relate to persons who—

(a) are in the service of an employer; and

10 (b) are participants in a retirement scheme, fund or
arrangement to or in respect of which the
employer made or makes, or was or is liable to
make, payments in respect of those persons.

(2) Section 92A (7), (8)—

After section 92A (6), insert :—

15 (7) Notwithstanding the provisions of this or any other
Act, a person who, after withdrawing from the scheme in
accordance with terms and conditions referred to in
subsection (2) is treated by the Board under section 10C
20 (1) or 10D (3) as if he were not and had not, since the
date of commencement of his employment, been an
employee shall be deemed, as long as the Board so treats
him, never to have withdrawn from the scheme.

25 (8) The provisions of Part IIIA shall apply to and in
respect of a person who, immediately before he becomes an
employee, was a participant in a scheme and who, in order
to comply with terms and conditions referred to in sub-
section (2), directs that any benefit payable to him on
withdrawal from the scheme be applied towards the
purchase of fully paid up units in the same way as they

Superannuation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER
SCHEMES—*continued.*

- 5 apply to and in respect of a person who, immediately before he becomes an employee, was a participant in a Public Service Superannuation Fund (as defined in section 20B), and who elects to take the benefit of section 20c.

SCHEDULE 5.

Sec. 4.

10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS.

- (1) Section 2—

After the matter relating to Part VIII, insert :—

15 PART IX.—PROVISIONS APPLICABLE IN RESPECT OF
FOREIGN CONTRIBUTORS—*ss.* 104–108.

- (2) Part IX—

After section 103, insert :—

PART IX.

20 PROVISIONS APPLICABLE IN RESPECT OF FOREIGN
CONTRIBUTORS.

- 104. (1) In this Part—

“conversion ratio” in relation to a foreign currency
means such ratio as may be prescribed;

Interpre-
tation:
Pt. IX.

*Superannuation (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS—*continued.*

“foreign contributor” means a contributor who is—

- 5 (a) an employee of a prescribed class;
 (b) employed in a country other than
 Australia; and
 (c) paid salary at a rate expressed in a
 currency other than Australian currency;

10 “foreign currency” in relation to a foreign contributor
 means the currency in which his rate of salary is
 expressed.

(2) A reference in this Part—

- 15 (a) to a foreign contributor shall be construed as
 including a reference to a former foreign
 contributor; and
 (b) to an employer of a foreign contributor shall be
 construed as including a reference to the person
 20 who was the employer of the former foreign
 contributor.

105. Where—

- 25 (a) an amount expressed in a foreign currency is
 required for the purposes of this Act to be
 expressed in Australian currency—that amount
 expressed in Australian currency; or
 (b) an amount expressed in Australian currency is
 required for the purposes of this Act to be
 expressed in a foreign currency—that amount
 expressed in the foreign currency,
 30 shall be calculated by means of the conversion ratio in
 relation to that foreign currency.

Certain
 calcula-
 tions to be
 made by
 means of a
 conversion
 ratio.

*Superannuation (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS—*continued.*

5 106. (1) This section shall not apply in respect of a foreign contributor unless a conversion ratio applies in relation to the currency of the country in which the foreign contributor is employed. Certain amounts to be expressed in foreign currency.

10 (2) For the purpose of determining the number of units of pension that, pursuant to section 12 (1), is appropriate for the salary actually being paid to a foreign contributor, the amount of the salary shall be expressed in Australian currency in accordance with section 105.

15 (3) Any amount payable under this Act by or to a foreign contributor shall be expressed in foreign currency in accordance with section 105.

20 107. (1) Where—

(a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is greater than the amount that is paid by him; or

(b) an amount that, but for section 106 (3), would be payable under this Act to a foreign contributor is less than the amount that is paid to him,

25 the employer of the foreign contributor shall pay to the Fund an amount equal to the difference between the amount that, but for section 106 (3), would be payable and the amount that is paid.

Employer to pay to or receive from the Fund any difference between actual amount paid under this Part and amount otherwise payable.

30 (2) Where—

(a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is less than the amount that is paid by him; or

Superannuation (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS—*continued.*

5 (b) an amount that, but for section 106 (3), would
be payable under this Act to a foreign contributor
is greater than the amount that is paid to him,

10 the Board shall pay from the Fund to the employer of the
foreign contributor an amount equal to the difference
between the amount that, but for section 106 (3), would
be payable and the amount that is paid.

108. Where a conversion ratio is prescribed in relation
to the currency of a country in which immediately prior to
the prescription of the conversion ratio there was employed
a foreign contributor to whom section 106 did not apply—

Payments
to be made
as if con-
version
ratio
always
applied.

15 (a) the Board may pay to the foreign contributor such
amount or make such allowance in respect of
future contributions payable by the contributor;

(b) the employer shall pay to the Fund such amount;
and

20 (c) the foreign contributor shall pay to the Fund such
amount,

25 as in the opinion of the Board would place the Fund, the
foreign contributor and the employer of the foreign
contributor in the financial position in which they would
have been if the conversion ratio had always applied.

Superannuation (Amendment).

SCHEDULE 6.

Sec. 4.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 21 (1B)—

5 Omit “may retire”, insert instead “shall be entitled to elect to retire”.

(2) Section 23 (a)—

Omit “such employer”, insert instead “any 1 or more employers”.

(3) Section 25—

10 Omit the section, insert instead :—

25. Voluntary termination of service (however ^{Resignation.} expressed)—

- (a) by a contributor who is not entitled to retire on pension shall be deemed to be resignation; and
- 15 (b) by a contributor who is entitled to elect to retire on pension under the provisions of section 21 (1B) shall be deemed to be resignation unless the contributor so elects.

(4) Section 51 (1)—

20 Omit “of his salary at the time of his retirement”, insert instead “of the salary of a person who is employed in a position which is, in the opinion of the Board, a corresponding position to that in which the pensioner was employed immediately before his retirement”.

Superannuation (Amendment).

SCHEDULE 6—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

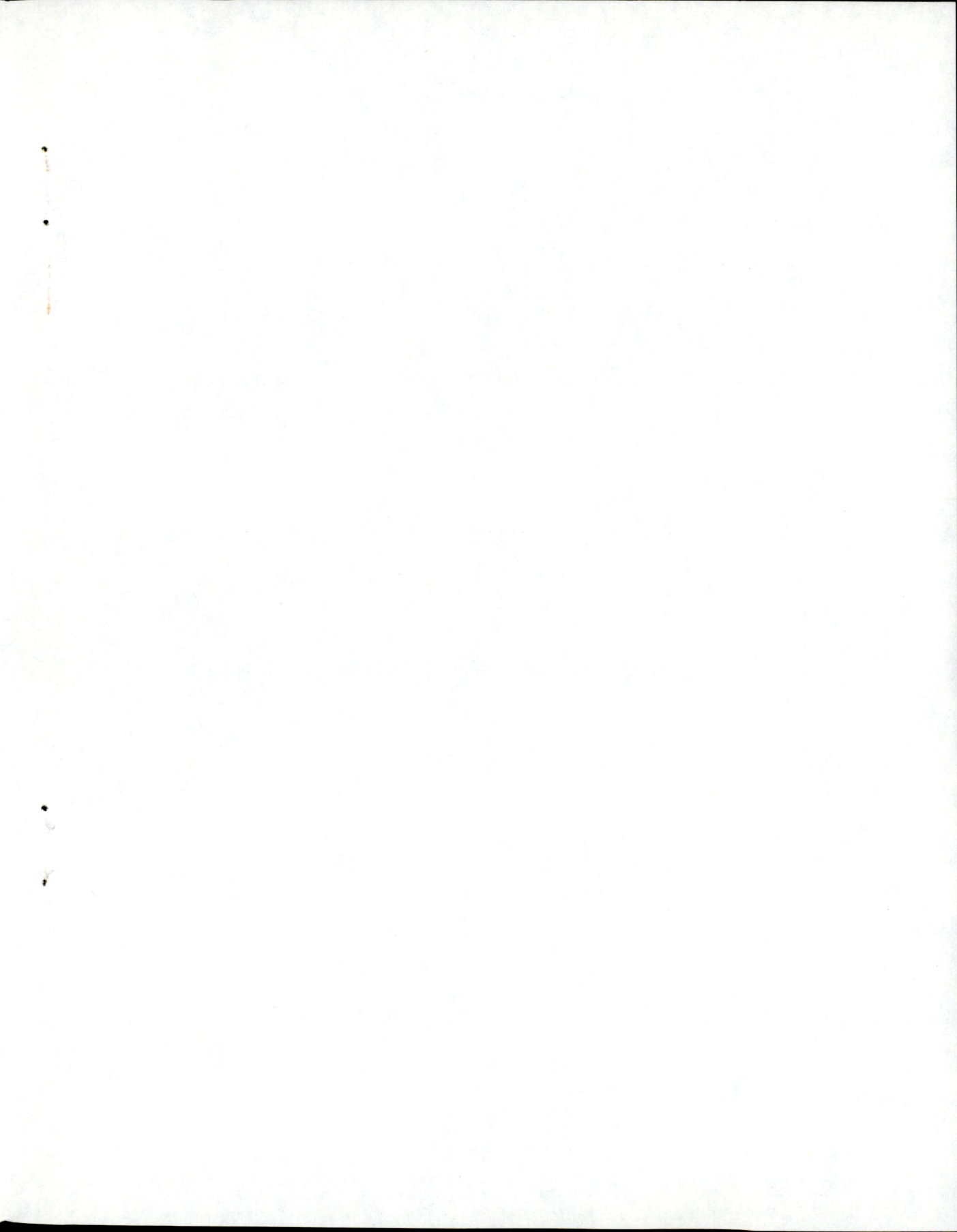
(5) Section 92A (2A)—

5 After section 92A (2), insert :—

(2A) The Minister may, at any time before a person has
complied with terms and conditions which relate to the
person, vary or waive any of those terms and conditions if,
in his opinion, it is desirable to do so and the person would
10 not be disadvantaged by his so doing.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980



SUPERANNUATION (AMENDMENT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Statutory and Other Offices Remuneration (Superannuation) Amendment Bill, 1980;

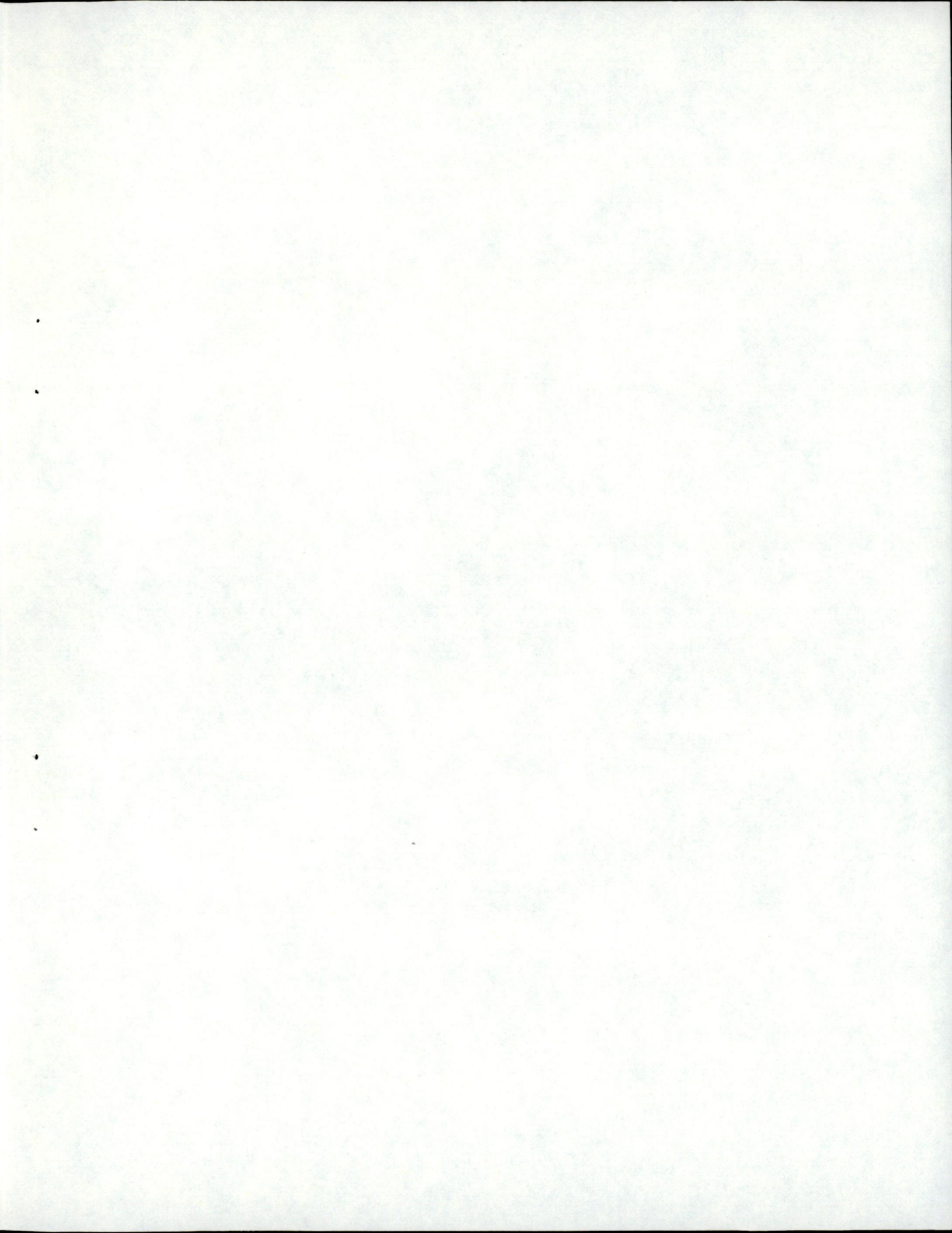
Building and Construction Industry Long Service Payments (Investment) Amendment Bill, 1980.

The object of this Bill is to amend the Superannuation Act, 1916 ("the Act") so as—

- (a) to create the position of, and specify the powers of, the Vice-President of the State Superannuation Board ("the Board"), which position is to be held by a full-time member of the Board appointed by the Governor (Schedule 1);
- (b) to extend the powers of the Board with respect to investment in shares and debt securities of companies and to enable the Board to invest in beneficial interests in, and debt securities of, certain trusts (Schedule 2);
- (c) to enable a contributor to the State Superannuation Fund ("the Fund") who is retrenched to elect to take any withdrawal benefit which would be available to him on resignation (Schedule 3);
- (d) to empower the Minister to determine terms and conditions which shall relate to persons who are contributors to a retirement scheme, fund or arrangement whether or not the persons are eligible to contribute to the Fund at the time the Minister so determines (Schedule 4 (1));
- (e) to provide that a person who, pursuant to terms and conditions determined by the Minister, has withdrawn from a retirement scheme, fund or arrangement and who is later treated by the Board under section 10C (1) or 10D (3) of the Act as if he were not an employee shall be deemed for the purpose of any Act not to have withdrawn from the scheme, fund or arrangement (Schedule 4 (2));
- (f) to provide that a person who withdraws from a retirement scheme, fund or arrangement pursuant to terms and conditions determined by the Minister under section 92A (2) of the Act and who directs that any

benefits payable to him on withdrawal from the scheme, fund or arrangement be applied towards the purchase of fully paid up units in the Fund, shall be deemed to have purchased fully paid up units as if he transferred from a Public Service Superannuation Fund and elected to purchase fully paid up units under section 20c of the Act (Schedule 4 (2));

- (g) to insert a new Part in the Act to make provision for—
- (i) contributors who are employed in a country other than Australia and are paid salary at a rate expressed in a foreign currency to make contributions to and receive benefits from the Fund at a constant rate, determined in accordance with a conversion ratio, in that foreign currency; and
 - (ii) employers of foreign contributors to pay to or receive from the Fund any difference between the actual amount paid under the proposed Part and the amount that would otherwise be payable (Schedule 5—proposed Part IX);
- (h) to provide that compulsory termination by an employer of the service of a contributor to the Fund will be retrenchment if the contributor served any 1 or more employers (within the meaning of the Act) for at least 10 years (Schedule 6 (2));
- (i) to provide that voluntary termination of service by a person who is entitled to elect to retire under section 21 (1B) of the Act shall be deemed to be resignation unless the person so elects (Schedule 6 (3));
- (j) to permit the Board to cancel a breakdown pension only if suitable employment can be found for the pensioner on a salary not less than two-thirds of the salary of a person employed in a position which, in the opinion of the Board, corresponds to that in which the pensioner was employed immediately before his retirement (Schedule 6 (4));
- (k) to permit the Minister to vary or waive any terms and conditions determined by him under section 92A (2) of the Act in relation to a person before the person has complied with those terms and conditions if the person would not, in his opinion, be disadvantaged by his so doing (Schedule 6 (5));
- (l) to validate certain matters in relation to benefits available on retrenchment, persons, transferring to the Fund from other schemes and retirement under section 21 (1B) of the Act (clause 5); and
- (m) to enact other provisions of a minor, consequential or ancillary nature.
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SUPERANNUATION (AMENDMENT) BILL, 1980

No. , 1980.

A BILL FOR

An Act to amend the Superannuation Act, 1916, with respect to the constitution and powers of the Board, foreign contributors to the Fund and certain benefits payable under that Act and in certain other respects.

[MR HILLS—25 *March*, 1980.]

See also Statutory and Other Offices Remuneration (Superannuation) Amendment Bill, 1980; Building and Construction Industry Long Service Payments (Investment) Amendment Bill, 1980.

Superannuation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Superannuation (Amend- Short title.
ment) Act, 1980".

2. The Superannuation Act, 1916, is referred to in this Act Principal
as the Principal Act. Act.

3. This Act contains the following Schedules :— Schedules.

10 **SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE CONSTITUTION OF THE BOARD.**

**SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
WITH RESPECT TO INVESTMENT POWERS.**

15 **SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO ALTERNATIVE BENEFITS PAYABLE ON
RETRENCHMENT.**

**SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE TRANSFER TO THE FUND OF
PARTICIPANTS IN OTHER SCHEMES.**

20 **SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO FOREIGN CONTRIBUTORS.**

**SCHEDULE 6.—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT.**

4. The Principal Act is amended in the manner set forth in Amendment
25 Schedules 1–6. of Act No.
28, 1916.

Superannuation (Amendment).

5. Any act, matter or thing done or omitted before the date of assent to this Act which would have been lawful had the amendments contained in Schedules 3, 4 and 6 (1) and (3) been in force when the act, matter or thing was done or omitted, is hereby validated. Validation.

6. (1) The person who, immediately before the date of assent to this Act, was the member of the State Superannuation Board appointed by the Governor as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied shall be deemed to have been appointed on that date as the Vice-President of the Board under that section as amended by this Act and shall hold office as the Vice-President of the Board for the remainder of the term of office for which he was appointed as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied. Transitional and savings.

(2) For the purpose of section 38A (3) of the Principal Act, any amount paid by an employer pursuant to section 37 (7) or (8) of the Principal Act, as in force immediately before the date of assent to this Act, in respect of retrenched employees who elected under section 38B of the Principal Act as so in force to take the benefit of section 38A of the Principal Act as so in force shall be deemed to be an amount paid pursuant to section 38A (2A) of the Principal Act, as amended by this Act.

SCHEDULE 1.

Sec. 4.

25 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD.

(1) (a) Section 69A, definition of "full-time member of the Board"—

30 Omit "the member of the Board referred to in section 70 (2) (a) (ii)", insert instead "the Vice-President".

Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD—*continued.*

(b) Section 69A, definition of “union”—

5 Omit “Commonwealth.”, insert instead “Commonwealth;”.

(c) Section 69A, definition of “Vice-President”—

After the definition of “union”, insert :—

10 “Vice-President” means the Vice-President of the Board.

(2) Section 70 (2) (a) (ii)—

Omit “a full-time member of the Board to whom this subparagraph applies”, insert instead “the Vice-President of the Board”.

15 (3) (a) Section 73 (1)—

After “Board”, insert “(other than the President)”.

(b) Section 73 (3)–(7)—

After section 73 (2), insert :—

20 (3) In the case of the illness, suspension or absence of the President, the Vice-President shall act in his place and, while so acting, shall have all the powers and authority of the President.

25 (4) Where, pursuant to subsection (3), the Vice-President is acting in the place of the President, a deputy may be appointed under subsection (1) for the Vice-President as if the Vice-President were absent while so acting as President.

Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD—*continued.*

5 (5) In the case of the illness, suspension or
absence of either the President or Vice-President
occurring at any time during the illness, suspension or
absence of the other or of both the President and
10 Vice-President occurring at the same time, subsections
(3) and (4) shall apply to and in respect of the
person acting in the place of the Vice-President at that
time or, as the case may be, if there is no person so
acting, the person next appointed after that time to so
act, as if that person were the Vice-President.

15 (6) No person shall be concerned to inquire
whether or not any occasion has arisen requiring or
authorising the Vice-President to act in the place of
the President, or a deputy to act in the place of a
member of the Board, or as to the necessity or
propriety of any appointment of a deputy.

20 (7) Any act, matter or thing done or omitted to be
done by the Vice-President when acting in the place
of the President, or a deputy when acting in the place
of a member of the Board, shall be as valid and
25 effectual and shall have the same consequences as if
the act, matter or thing was done or omitted to be
done by the President or the member of the Board in
whose place the deputy is acting, as the case may be.

(4) Section 78—

30 After "Board" where firstly occurring, insert "(one being
the President or Vice-President)".

Superannuation (Amendment).

SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS.

(1) (a) Section 5 (1) (b1)—

5 After section 5 (1) (b), insert :—

10 (b1) in securities that are public securities as defined
in section 6 (1) of the Income Tax Assessment
Act 1936 of the Parliament of the
Commonwealth, as amended by subsequent
Acts of that Parliament;

(b) Section 5 (1) (c)—

Omit “and 5B”, insert instead “, 5B and 5C”.

(2) Section 5 (2)—

Omit “(a), (b) or (d)”.

15 (3) Section 5A—

Omit the section, insert instead :—

5A. (1) In this section, except in so far as the context
or subject-matter otherwise indicates or requires—

Investment
in shares,
etc.

“company” means—

20 (a) a company incorporated under the
Companies Act, 1961, or under a law that
corresponds to that Act, being a law of
another State or of a Territory of the
Commonwealth; or

25 (b) a bank as defined in paragraph (a) or
(b) of the definition of that expression in
section 5C (1);

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 “co-operative society” means a society registered under
the Co-operation Act, 1923, or under a law that
corresponds to that Act, being a law of another
State or of a Territory of the Commonwealth;

 “corporate group” means a group of companies, or a
group of companies and trusts, of which—

10 (a) the assets exceed liabilities by at least
\$3,000,000; and

 (b) the median earning rate is at least 7½ per
cent;

15 “corporate partnership” means a partnership in respect
of which—

 (a) the assets exceed liabilities (excluding
any liability to a partner) by at least
\$1,000,000; and

20 (b) at least one of the members, or the
management company (if any), is a
prescribed company;

25 “debt security”, in relation to a prescribed body,
means loan to, deposit with, convertible note or
promissory note issued by, or bill of exchange
drawn, endorsed or accepted by, that body or
lease receivables payable by that body in respect
of personal property, whether or not the property
is vested in the Board;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 “earning rate” for a year in relation to a company or
 corporate group means the amount of the operat-
 ing profit of the company or group for that year
 divided by the amount of its shareholders’ funds
 at the close of that year, the result being
 expressed as a percentage;

10 “government” means the government of a State or of
 the Commonwealth or of a Territory of the
 Commonwealth;

 “government agency” means—

15 (a) a public authority constituted by the
 law of a State or of the Commonwealth;

 (b) a company of which at least 20 per cent
 of the issued ordinary share capital is
 beneficially owned by the government of
20 a State or of the Commonwealth or by a
 public authority referred to in paragraph
 (a);

 (c) a partnership in which the government of
 a State or of the Commonwealth, or a
 public authority referred to in paragraph
25 (a), has an interest entitling it to at least
 20 per cent of the profits of the
 partnership;

 “holding company” has the same meaning as it has in
 the Companies Act, 1961;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

“interest cover” for a year in relation to—

- 5 (a) debt securities, being unsecured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—
- 10 (i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and
- 15 (ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,
- 20 by that total amount of interest so charged; or
- (b) debt securities, being secured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—
- 25 (i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and
- 30 (ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 by such of that total amount of interest
so charged as is interest charged on debt
securities of the company that rank prior
to, or *pari passu* with, the debt securities
in which the Board proposes to invest;

10 “median earning rate” in relation to a company or
corporate group is the earning rate that is third
in sequence when the earning rates of the
company or group for each of the latest 5
15 successive years for which audited accounts or
audited group accounts of the company or group
are available are arranged in the order of their
magnitude;

20 “median interest cover” in relation to a company or
corporate group is the figure that is third in
sequence when the figures representing the
interest cover of the company or group for each
of the latest 5 successive years for which audited
accounts or audited group accounts of the
company or group are available are arranged in
the order of their magnitude;

25 “prescribed body” means—

- (a) a prescribed company;
- (b) a company that is not a prescribed
company but has assets that exceed its
liabilities by at least \$1,000,000;
- 30 (c) a corporate partnership;
- (d) a partnership of companies (not being a
corporate partnership)—
 - (i) that has an excess of assets over
liabilities of at least \$1,000,000;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (ii) of which none of the members is a prescribed company; and
- (iii) at least one of the members of which is a company referred to in paragraph (b);
- 10 (e) a corporation to which the Life Insurance Act 1945 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament, applies—
15 if the corporation has an excess of assets over liabilities, as disclosed by its latest audited accounts, of at least \$3,000,000;
- 20 (f) a company that holds a dealers licence under the Securities Industry Act, 1975, or a corresponding licence under the law of another State or of a Territory of the Commonwealth;
- (g) a trust;
- (h) a government agency or a co-operative society; or
- 25 (i) a government;

“prescribed company” means—

- 30 (a) a company that is not a holding company or a subsidiary of a holding company and of which—
 - (i) the assets exceed liabilities by at least \$1,000,000; and
 - (ii) the median earning rate is at least 7½ per cent; or

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (b) a company that is a member of a corporate group and is—
- (i) a holding company of which the subsidiary companies are also members of the corporate group;
 - 10 (ii) a subsidiary company of a holding company that is also a member of a corporate group; or
 - (iii) an associated company of another member of the corporate group,
- 15 and has assets that exceed its liabilities by at least \$1,000,000;

20 “share” includes stock, ordinary share, preference share, bonus share, right to subscribe for a share, option to subscribe for a share and any other right or option to acquire a share in the share capital of a company;

25 “stock exchange” means a stock exchange within the meaning of the Securities Industry Act, 1975, or a corresponding law of another State or of a Territory of the Commonwealth;

“subsidiary company” in relation to a holding company has the same meaning as it has in the Companies Act, 1961;

“trust” means—

- 30 (a) a trust that is a member of a corporate group;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (b) a trust of which the trustee is a corporation incorporated in Australia that is authorised to obtain a grant of probate; or
- (c) a company that is a subsidiary of a corporation referred to in paragraph (b).
- 10 (2) Calculations for the purposes of this section are to be made on the basis of the most recent publicly available accounts of the company, partners or group concerned and—
- 15 (a) in the case of an operating profit—on an historical cost basis before tax and including minority interests but excluding extraordinary items; and
- (b) in any other case—on an historical cost basis and including minority interests.
- 20 (3) For the purposes of this section, a company is an associated company of another company in a corporate group if—
- (a) at least 20 per cent of its issued ordinary share capital is held by the other company; and
- 25 (b) the companies are not related within the meaning of the Companies Act, 1961.
- 30 (4) For the purposes of this section, and without prejudice to any other method of investment in shares, debt securities or beneficial interests in a trust, the Board invests in shares, debt securities or beneficial interests in a trust if it does so as underwriter, co-underwriter or sub-underwriter.

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (5) Subject to this section, the fund or any part thereof, whether in a state of investment or not, may be invested by the Board in—
- (a) shares of a prescribed company;
 - (b) debt securities of a prescribed body;
 - 10 (c) the purchase of an interest as a beneficiary under a trust;
 - (d) subscribing for the shares or debt securities of a company, or a beneficial interest in a trust, if the company or trust was formed for the purpose of acquiring the shares in, or assets of, a prescribed
15 company or a beneficial interest in, or assets of, a trust;
 - (e) accepting an offer to exchange, with or without a cash payment, shares or debt securities, or shares and debt securities, held by it in a company for shares in, or debt securities of, another
20 company (whether or not that other company is a prescribed company) where, in the case of shares or debt securities held by the Board that other company has made a take-over offer under the Companies Act, 1961, for shares in the first-
25 mentioned company or is required by law or by the rules of a stock exchange—
 - (i) to make an offer to buy;
 - (ii) to accept an offer to sell to it; or
 - 30 (iii) to limit the rate at which it acquires, shares in the first-mentioned company;

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (f) accepting an offer to exchange, with or without a cash payment, beneficial interests held by it in a trust—for shares in, or debt securities of, a company or for shares in, and debt securities of, a company (whether or not, in either case, the company is a prescribed company) where the
- 10 company has made an offer to make such an exchange or is required by law or by the rules of a stock exchange—
- (i) to make an offer to buy;
- (ii) to accept an offer to sell to it; or
- 15 (iii) to limit the rate at which it acquires, beneficial interests in the trust;
- (g) debt securities of a prescribed body pursuant to an agreement to do so when called upon;
- 20 (h) contracts or options, to purchase or sell, for immediate or forward delivery, shares in a prescribed company or debt securities of a prescribed body; or
- (i) the purchase of personal property where lease receivables in respect of the property are payable
- 25 to the Board by a prescribed body.
- (6) A company that has acquired another company is, for the purposes of this section, a prescribed company—
- (a) if the acquired company is a prescribed company; or
- 30 (b) where accounts sufficient to determine the median earning rate or median interest cover of the company or, where the company is a member of a corporate group, of the corporate group, are not publicly available—if the acquiring company

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 would be a prescribed company if the accounts
of the acquired company so available were
regarded as accounts of the acquiring company
for those years in respect of which the accounts
of the acquiring company or, as the case may be,
10 of the corporate group of which it is a member,
are not so available.

(7) Where the Board has invested in shares in, or
debt securities of, a company, the Board may concur in
any scheme or arrangement—

- (a) for the reconstruction of the company;
- 15 (b) for the restructuring of the company into a trust
or into a company and a trust;
- (c) for the amalgamation of the company with
another company;
- 20 (d) for the sale of all or any part of the property
and undertaking of the company to another
company or to a trust; or
- (e) for the release, modification or variation of any
rights, privileges or liabilities attached to the
shares or debt securities,

25 and, instead of, or in exchange for, the shares or debt
securities, the Board may accept any shares, debt securities,
or beneficial interests in a trust, of any denomination or
description, in the reconstructed, restructured, new or
purchasing company.

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (8) Except as provided in subsection (5) (d), (e)
and (f), this section does not authorise investment—
- (a) in the debt securities of a prescribed body
referred to in paragraph (b), (d) or (h) of
the definition of that expression in subsection
10 (1)—unless repayment is guaranteed by—
- (i) a government;
- (ii) a prescribed company in the unsecured
debt securities of which the Board is
authorised to invest; or
- (iii) a bank as defined in section 5c (1);
- 15 (b) the debt securities of a prescribed company
unless—
- (i) where the company is not a member of a
corporate group—the median interest
cover of the company is at least 1.5; or
- 20 (ii) where the company is a member of a
corporate group—the median interest
cover of the corporate group is at least
1.5; or
- (c) where the Board proposes to invest in the debt
25 securities of a corporate partnership—unless the
median interest cover—
- (i) of a prescribed company that is a
member of the partnership; or
- (ii) if the members of the partnership do not
30 include a prescribed company—of the
management company of the partnership,

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

5 is at least 1.5 calculated as if the investment to
be made by the Board in the partnership were an
investment in debt securities that represent
unsecured obligations of that company; or

10 (d) if, by making the investment, the total amount
invested by the Board pursuant to this section
would exceed one-quarter of the total amount of
the fund.

15 (9) If the Board so approves, a member of the
Board, or of the staff of the Board, may, as part of the
duties of his office as such a member, hold office as a
director of a company.

20 (10) Where property is vested in the Board and
a company has been formed to manage the property
(whether with or without other property) the Board may
take such action as may be necessary to qualify it to
nominate a person for appointment as a director of the
company.

(11) For the purposes of this section, the Board
may accept, as sufficient evidence of matters disclosed by—

25 (a) the accounts of a company that is not a member
of a corporate group—statements in a statutory
declaration purporting to be made by the
secretary of the company;

30 (b) the group accounts of a corporate group—state-
ments in a statutory declaration purporting to
be made by—

(i) the secretary of a holding company that
is a member of the corporate group; or

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- 5 (ii) where there is no holding company in the corporate group—the secretary of a company with which another company in the group is associated; or
- 10 (c) the accounts of the partners in a corporate partnership—statements in a statutory declaration purporting to be made by the secretary of a prescribed company that is—
- (i) a member of the partnership; or
 - (ii) the management company of the partnership.
- 15 (4) Section 5B (3)—
Omit the subsection.
- (5) (a) Section 5C (1), definition of “bank”—
Omit “and” where firstly occurring.
- (b) Section 5C (1), definition of “bank”—
- 20 After “prescribed;”, insert :—
and
- 25 (c) a bank (whether or not it carries on business in Australia) that the Minister declares by order published in the Gazette with the approval of the Treasurer to be a bank within the meaning of this section;

Superannuation (Amendment).

SCHEDULE 2—continued.
**AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—continued.**

(c) Section 5c (3)—

- 5 After “not”, insert “, except in the case of a provision of the Local Government and Other Authorities (Superannuation) Act, 1927, and the New South Wales Retirement Benefits Act, 1972,”.

(d) Section 5c (4) (i)—

- 10 Omit “confirmed”, insert instead “issued or confirmed”.

SCHEDULE 3.

Sec. 4.

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT.**

15 (1) Heading before section 37—

Omit the heading, insert instead :—

Retrenchment, resignation, dismissal or discharge.

(2) (a) Section 37 (1), (2)—

Omit “instead of section 38A” wherever occurring.

20 (b) Section 37 (7), (8)—

Omit “or elects under section 38B to take the benefit of section 38A instead of this section” wherever occurring.

Superannuation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

- 5 (3) Heading before section 38—
Omit the heading.
- (4) (a) Section 38 (1)—
After “contributor” where firstly occurring, insert “is
retrenched or”.
- 10 (b) Section 38 (1)—
Omit “instead of section 38A”.
- (c) Section 38 (1)—
Omit “such resignation” wherever occurring, insert
instead “his retrenchment, resignation”.
- 15 (d) Section 38 (2)—
Omit “discharged”, insert instead “retrenched,
discharged”.
- (5) (a) Section 38A (2)—
20 Omit “instead of section 37 or 38, as the case may
require”.

Superannuation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

5 (b) Section 38A (2) (a), (b)—

Omit “(not being a contributor who has been
retrenched)” wherever occurring.

(c) Section 38A (2) (c)—

10 Omit “(whether or not he is a contributor who has
been retrenched)”.

(d) Section 38A (2) (c) (i)—

Omit “, a contributor who has been retrenched being
deemed, for the purposes of this subparagraph, to
have resigned from the service of his employer”.

15 (e) Section 38A (2A)—

After section 38A (2), insert :—

20 (2A) Where a contributor who has been retrenched
elects under section 38B to take the benefit of this
section and the amount payable to that contributor
under subsection (2) exceeds the sum of the con-
tributions paid or payable under this Act (apart from
this subsection) to the Fund by and in respect of the
contributor, the employer from whose service the
25 contributor has been retrenched shall pay to the Fund,
on requisition by the Board, a lump sum equal to the
amount by which the amount payable under
subsection (2) exceeds the sum of those contributions.

(f) Section 38A (3)—

30 Omit “section 37 (7) or (8) in respect of retrenched
employees who elected under section 38B to take the
benefit of section 38A”, insert instead “subsection
(2A)”.

Superannuation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

5 (6) (a) Section 38B (1)—

Omit the subsection, insert instead :—

10 (1) A contributor who is retrenched or resigns or
is dismissed or discharged from the service of an
employer may, within 3 months after his retrench-
ment, resignation, dismissal or discharge, elect—

(a) in the case of a contributor who is
retrenched—between taking the benefit of
section 37, 38 or 38A; or

15 (b) in any other case—between taking the
benefit of section 38 or 38A.

(b) Section 38B (2)—

Omit “resigns”, insert instead “is retrenched or
resigns”.

(c) Section 38B (3)—

20 After “section 37”, insert “, 38”.

Superannuation (Amendment).

SCHEDULE 4.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER SCHEMES.

(1) Section 92A (2)—

5 Omit the subsection, insert instead :—

(2) The Minister may determine terms and conditions
which shall relate to persons who—

(a) are in the service of an employer; and

10 (b) are participants in a retirement scheme, fund or
arrangement to or in respect of which the
employer made or makes, or was or is liable to
make, payments in respect of those persons.

(2) Section 92A (7), (8)—

After section 92A (6), insert :—

15 (7) Notwithstanding the provisions of this or any other
Act, a person who, after withdrawing from the scheme in
accordance with terms and conditions referred to in
subsection (2) is treated by the Board under section 10C
20 (1) or 10D (3) as if he were not and had not, since the
date of commencement of his employment, been an
employee shall be deemed, as long as the Board so treats
him, never to have withdrawn from the scheme.

25 (8) The provisions of Part IIIA shall apply to and in
respect of a person who, immediately before he becomes an
employee, was a participant in a scheme and who, in order
to comply with terms and conditions referred to in sub-
section (2), directs that any benefit payable to him on
withdrawal from the scheme be applied towards the
purchase of fully paid up units in the same way as they

Superannuation (Amendment).

SCHEDULE 4—*continued.*
 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
 TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER
 SCHEMES—*continued.*

- 5 apply to and in respect of a person who, immediately before he becomes an employee, was a participant in a Public Service Superannuation Fund (as defined in section 20B), and who elects to take the benefit of section 20C.

 SCHEDULE 5.

Sec. 4.

 10 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
 CONTRIBUTORS.

(1) Section 2—

After the matter relating to Part VIII, insert :—

- 15 PART IX.—PROVISIONS APPLICABLE IN RESPECT OF
 FOREIGN CONTRIBUTORS—ss. 104–108.

(2) Part IX—

After section 103, insert :—

PART IX.

- 20 PROVISIONS APPLICABLE IN RESPECT OF FOREIGN
 CONTRIBUTORS.

104. (1) In this Part—

“conversion ratio” in relation to a foreign currency
 means such ratio as may be prescribed;

 Interpretation:
 Pt. IX.

*Superannuation (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS—*continued.*

“foreign contributor” means a contributor who is—

- 5 (a) an employee of a prescribed class;
 (b) employed in a country other than
 Australia; and
 (c) paid salary at a rate expressed in a
 currency other than Australian currency;

10 “foreign currency” in relation to a foreign contributor
 means the currency in which his rate of salary is
 expressed.

(2) A reference in this Part—

- 15 (a) to a foreign contributor shall be construed as
 including a reference to a former foreign
 contributor; and
 (b) to an employer of a foreign contributor shall be
 construed as including a reference to the person
 who was the employer of the former foreign
 20 contributor.

105. Where—

- 25 (a) an amount expressed in a foreign currency is
 required for the purposes of this Act to be
 expressed in Australian currency—that amount
 expressed in Australian currency; or
 (b) an amount expressed in Australian currency is
 required for the purposes of this Act to be
 expressed in a foreign currency—that amount
 expressed in the foreign currency,
 30 shall be calculated by means of the conversion ratio in
 relation to that foreign currency.

Certain
 calcula-
 tions to be
 made by
 means of a
 conversion
 ratio.

*Superannuation (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS—*continued.*

5 106. (1) This section shall not apply in respect of a foreign contributor unless a conversion ratio applies in relation to the currency of the country in which the foreign contributor is employed.

Certain amounts to be expressed in foreign currency.

10 (2) For the purpose of determining the number of units of pension that, pursuant to section 12 (1), is appropriate for the salary actually being paid to a foreign contributor, the amount of the salary shall be expressed in Australian currency in accordance with section 105.

15 (3) Any amount payable under this Act by or to a foreign contributor shall be expressed in foreign currency in accordance with section 105.

107. (1) Where—

20 (a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is greater than the amount that is paid by him; or

(b) an amount that, but for section 106 (3), would be payable under this Act to a foreign contributor is less than the amount that is paid to him,

25 the employer of the foreign contributor shall pay to the Fund an amount equal to the difference between the amount that, but for section 106 (3), would be payable and the amount that is paid.

Employer to pay to or receive from the Fund any difference between actual amount paid under this Part and amount otherwise payable.

(2) Where—

30 (a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is less than the amount that is paid by him; or

*Superannuation (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS—*continued.*

5 (b) an amount that, but for section 106 (3), would be payable under this Act to a foreign contributor is greater than the amount that is paid to him,

10 the Board shall pay from the Fund to the employer of the foreign contributor an amount equal to the difference between the amount that, but for section 106 (3), would be payable and the amount that is paid.

108. Where a conversion ratio is prescribed in relation to the currency of a country in which immediately prior to the prescription of the conversion ratio there was employed a foreign contributor to whom section 106 did not apply—

Payments to be made as if conversion ratio always applied.

15 (a) the Board may pay to the foreign contributor such amount or make such allowance in respect of future contributions payable by the contributor;

(b) the employer shall pay to the Fund such amount; and

20 (c) the foreign contributor shall pay to the Fund such amount,

25 as in the opinion of the Board would place the Fund, the foreign contributor and the employer of the foreign contributor in the financial position in which they would have been if the conversion ratio had always applied.

Superannuation (Amendment).

SCHEDULE 6.

Sec. 4.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 21 (1B)—

5 Omit “may retire”, insert instead “shall be entitled to elect to retire”.

(2) Section 23 (a)—

Omit “such employer”, insert instead “any 1 or more employers”.

(3) Section 25—

10 Omit the section, insert instead :—

25. Voluntary termination of service (however expressed)— Resignation.

- 15 (a) by a contributor who is not entitled to retire on pension shall be deemed to be resignation; and
- (b) by a contributor who is entitled to elect to retire on pension under the provisions of section 21 (1B) shall be deemed to be resignation unless the contributor so elects.

(4) Section 51 (1)—

20 Omit “of his salary at the time of his retirement”, insert instead “of the salary of a person who is employed in a position which is, in the opinion of the Board, a corresponding position to that in which the pensioner was employed immediately before his retirement”.

Superannuation (Amendment).

SCHEDULE 6—continued.

**MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.**

(5) Section 92A (2A)—

5 After section 92A (2), insert :—

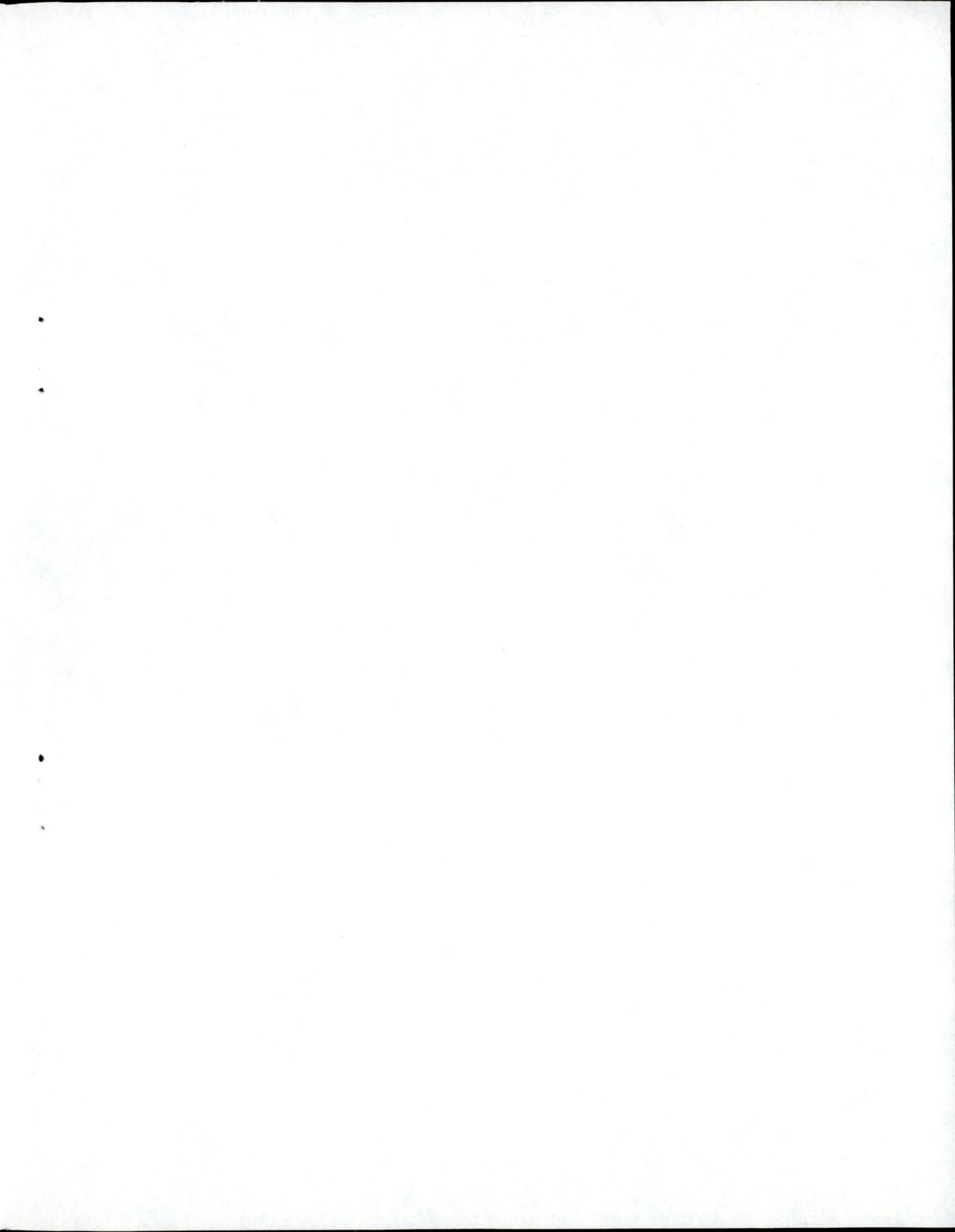
(2A) The Minister may, at any time before a person has complied with terms and conditions which relate to the person, vary or waive any of those terms and conditions if, in his opinion, it is desirable to do so and the person would not be disadvantaged by his so doing.

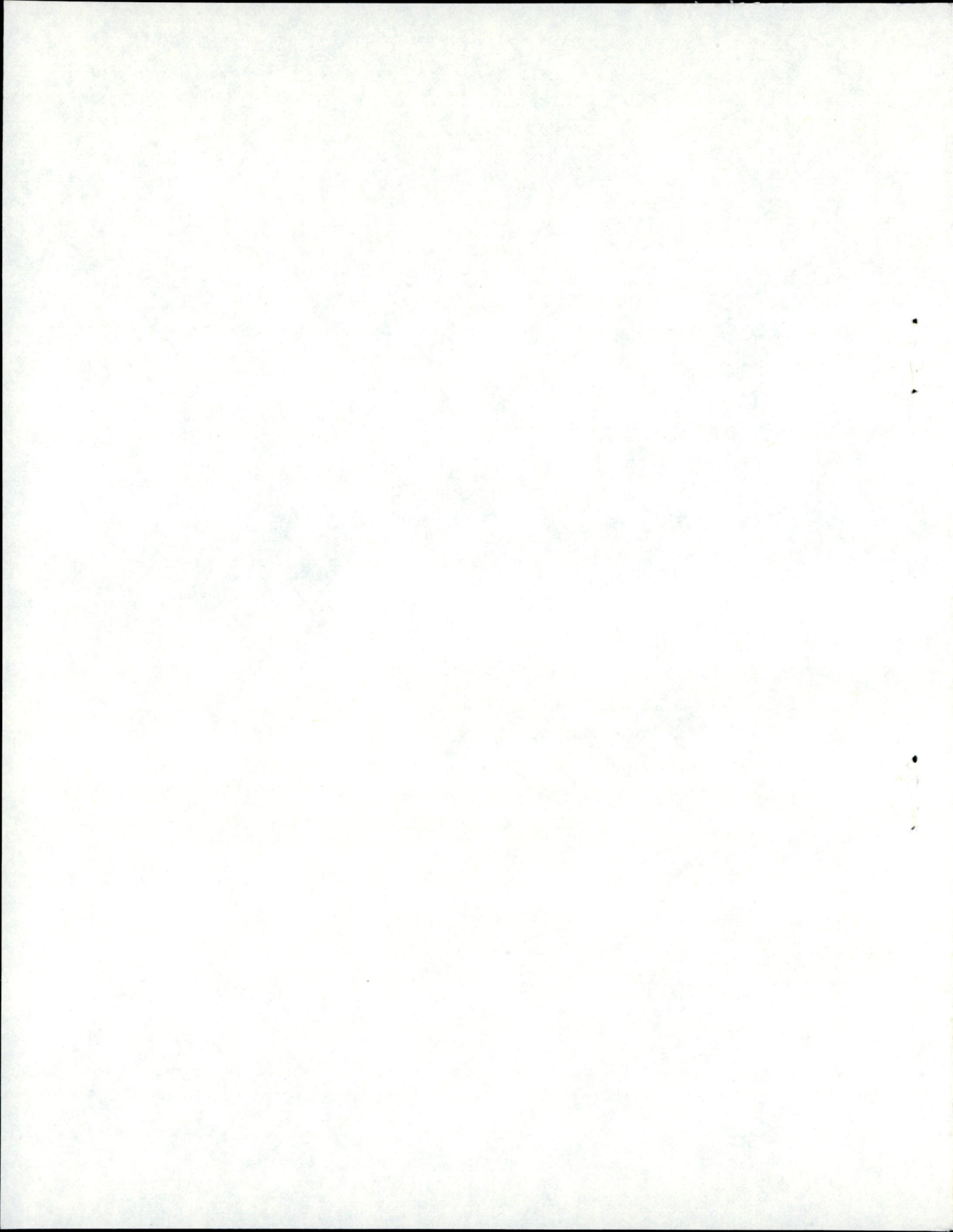
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(70c)





**SUPERANNUATION (AMENDMENT) ACT,
1980, No. 50**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 50, 1980.

An Act to amend the Superannuation Act, 1916, with respect to the constitution and powers of the Board, foreign contributors to the Fund and certain benefits payable under that Act and in certain other respects. [Assented to, 28th April, 1980.]

See also Statutory and Other Offices Remuneration (Superannuation) Amendment Act, 1980; Building and Construction Industry Long Service Payments (Investment) Amendment Act, 1980.

Superannuation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Superannuation (Amendment) Act, 1980".

Principal Act. **2.** The Superannuation Act, 1916, is referred to in this Act as the Principal Act.

Schedules. **3.** This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE CONSTITUTION OF THE BOARD.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT
WITH RESPECT TO INVESTMENT POWERS.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO ALTERNATIVE BENEFITS PAYABLE ON
RETRENCHMENT.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO THE TRANSFER TO THE FUND OF
PARTICIPANTS IN OTHER SCHEMES.

SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT
RELATING TO FOREIGN CONTRIBUTORS.

SCHEDULE 6.—MISCELLANEOUS AMENDMENTS TO THE
PRINCIPAL ACT.

Amendment of Act No. 28, 1916. **4.** The Principal Act is amended in the manner set forth in Schedules 1–6.

Superannuation (Amendment).

5. Any act, matter or thing done or omitted before the date of assent to this Act which would have been lawful had the amendments contained in Schedules 3, 4 and 6 (1) and (3) been in force when the act, matter or thing was done or omitted, is hereby validated. Validation.

6. (1) The person who, immediately before the date of assent to this Act, was the member of the State Superannuation Board appointed by the Governor as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied shall be deemed to have been appointed on that date as the Vice-President of the Board under that section as amended by this Act and shall hold office as the Vice-President of the Board for the remainder of the term of office for which he was appointed as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied. Transitional and savings.

(2) For the purpose of section 38A (3) of the Principal Act, any amount paid by an employer pursuant to section 37 (7) or (8) of the Principal Act, as in force immediately before the date of assent to this Act, in respect of retrenched employees who elected under section 38B of the Principal Act as so in force to take the benefit of section 38A of the Principal Act as so in force shall be deemed to be an amount paid pursuant to section 38A (2A) of the Principal Act, as amended by this Act.

SCHEDULE 1.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD.

(1) (a) Section 69A, definition of "full-time member of the Board"—

Omit "the member of the Board referred to in section 70 (2) (a) (ii)", insert instead "the Vice-President".

Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD—*continued.*

(b) Section 69A, definition of “union”—

Omit “Commonwealth.”, insert instead “Commonwealth;”.

(c) Section 69A, definition of “Vice-President”—

After the definition of “union”, insert :—

“Vice-President” means the Vice-President of the Board.

(2) Section 70 (2) (a) (ii)—

Omit “a full-time member of the Board to whom this subparagraph applies”, insert instead “the Vice-President of the Board”.

(3) (a) Section 73 (1)—

After “Board”, insert “(other than the President)”.

(b) Section 73 (3)–(7)—

After section 73 (2), insert :—

(3) In the case of the illness, suspension or absence of the President, the Vice-President shall act in his place and, while so acting, shall have all the powers and authority of the President.

(4) Where, pursuant to subsection (3), the Vice-President is acting in the place of the President, a deputy may be appointed under subsection (1) for the Vice-President as if the Vice-President were absent while so acting as President.

Superannuation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
CONSTITUTION OF THE BOARD—*continued.*

(5) In the case of the illness, suspension or absence of either the President or Vice-President occurring at any time during the illness, suspension or absence of the other or of both the President and Vice-President occurring at the same time, subsections (3) and (4) shall apply to and in respect of the person acting in the place of the Vice-President at that time or, as the case may be, if there is no person so acting, the person next appointed after that time to so act, as if that person were the Vice-President.

(6) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Vice-President to act in the place of the President, or a deputy to act in the place of a member of the Board, or as to the necessity or propriety of any appointment of a deputy.

(7) Any act, matter or thing done or omitted to be done by the Vice-President when acting in the place of the President, or a deputy when acting in the place of a member of the Board, shall be as valid and effectual and shall have the same consequences as if the act, matter or thing was done or omitted to be done by the President or the member of the Board in whose place the deputy is acting, as the case may be.

(4) Section 78—

After "Board" where firstly occurring, insert "(one being the President or Vice-President)".

Superannuation (Amendment).

Sec. 4.

SCHEDULE 2.

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS.

(1) (a) Section 5 (1) (b1)—

After section 5 (1) (b), insert :—

(b1) in securities that are public securities as defined in section 6 (1) of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament;

(b) Section 5 (1) (c)—

Omit “and 5B”, insert instead “, 5B and 5C”.

(2) Section 5 (2)—

Omit “(a), (b) or (d)”.

(3) Section 5A—

Omit the section, insert instead :—

5A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires—

“company” means—

(a) a company incorporated under the Companies Act, 1961, or under a law that corresponds to that Act, being a law of another State or of a Territory of the Commonwealth; or

(b) a bank as defined in paragraph (a) or (b) of the definition of that expression in section 5C (1);

Investment.
in shares,
etc.

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

“co-operative society” means a society registered under the Co-operation Act, 1923, or under a law that corresponds to that Act, being a law of another State or of a Territory of the Commonwealth;

“corporate group” means a group of companies, or a group of companies and trusts, of which—

- (a) the assets exceed liabilities by at least \$3,000,000; and
- (b) the median earning rate is at least 7½ per cent;

“corporate partnership” means a partnership in respect of which—

- (a) the assets exceed liabilities (excluding any liability to a partner) by at least \$1,000,000; and
- (b) at least one of the members, or the management company (if any), is a prescribed company;

“debt security”, in relation to a prescribed body, means loan to, deposit with, convertible note or promissory note issued by, or bill of exchange drawn, endorsed or accepted by, that body or lease receivables payable by that body in respect of personal property, whether or not the property is vested in the Board;

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

“earning rate” for a year in relation to a company or corporate group means the amount of the operating profit of the company or group for that year divided by the amount of its shareholders’ funds at the close of that year, the result being expressed as a percentage;

“government” means the government of a State or of the Commonwealth or of a Territory of the Commonwealth;

“government agency” means—

- (a) a public authority constituted by the law of a State or of the Commonwealth;
- (b) a company of which at least 20 per cent of the issued ordinary share capital is beneficially owned by the government of a State or of the Commonwealth or by a public authority referred to in paragraph (a);
- (c) a partnership in which the government of a State or of the Commonwealth, or a public authority referred to in paragraph (a), has an interest entitling it to at least 20 per cent of the profits of the partnership;

“holding company” has the same meaning as it has in the Companies Act, 1961;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

“interest cover” for a year in relation to—

(a) debt securities, being unsecured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—

(i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and

(ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,

by that total amount of interest so charged; or

(b) debt securities, being secured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—

(i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and

(ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

by such of that total amount of interest so charged as is interest charged on debt securities of the company that rank prior to, or pari passu with, the debt securities in which the Board proposes to invest;

“median earning rate” in relation to a company or corporate group is the earning rate that is third in sequence when the earning rates of the company or group for each of the latest 5 successive years for which audited accounts or audited group accounts of the company or group are available are arranged in the order of their magnitude;

“median interest cover” in relation to a company or corporate group is the figure that is third in sequence when the figures representing the interest cover of the company or group for each of the latest 5 successive years for which audited accounts or audited group accounts of the company or group are available are arranged in the order of their magnitude;

“prescribed body” means—

- (a) a prescribed company;
- (b) a company that is not a prescribed company but has assets that exceed its liabilities by at least \$1,000,000;
- (c) a corporate partnership;
- (d) a partnership of companies (not being a corporate partnership)—
 - (i) that has an excess of assets over liabilities of at least \$1,000,000;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- (ii) of which none of the members is a prescribed company; and
- (iii) at least one of the members of which is a company referred to in paragraph (b);
- (e) a corporation to which the Life Insurance Act 1945 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament, applies—if the corporation has an excess of assets over liabilities, as disclosed by its latest audited accounts, of at least \$3,000,000;
- (f) a company that holds a dealers licence under the Securities Industry Act, 1975, or a corresponding licence under the law of another State or of a Territory of the Commonwealth;
- (g) a trust;
- (h) a government agency or a co-operative society; or
- (i) a government;

“prescribed company” means—

- (a) a company that is not a holding company or a subsidiary of a holding company and of which—
 - (i) the assets exceed liabilities by at least \$1,000,000; and
 - (ii) the median earning rate is at least 7½ per cent; or

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- (b) a company that is a member of a corporate group and is—
- (i) a holding company of which the subsidiary companies are also members of the corporate group;
 - (ii) a subsidiary company of a holding company that is also a member of a corporate group;
or
 - (iii) an associated company of another member of the corporate group,
- and has assets that exceed its liabilities by at least \$1,000,000;

“share” includes stock, ordinary share, preference share, bonus share, right to subscribe for a share, option to subscribe for a share and any other right or option to acquire a share in the share capital of a company;

“stock exchange” means a stock exchange within the meaning of the Securities Industry Act, 1975, or a corresponding law of another State or of a Territory of the Commonwealth;

“subsidiary company” in relation to a holding company has the same meaning as it has in the Companies Act, 1961;

“trust” means—

- (a) a trust that is a member of a corporate group;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- (b) a trust of which the trustee is a corporation incorporated in Australia that is authorised to obtain a grant of probate; or
- (c) a company that is a subsidiary of a corporation referred to in paragraph (b).

(2) Calculations for the purposes of this section are to be made on the basis of the most recent publicly available accounts of the company, partners or group concerned and—

- (a) in the case of an operating profit—on an historical cost basis before tax and including minority interests but excluding extraordinary items; and
- (b) in any other case—on an historical cost basis and including minority interests.

(3) For the purposes of this section, a company is an associated company of another company in a corporate group if—

- (a) at least 20 per cent of its issued ordinary share capital is held by the other company; and
- (b) the companies are not related within the meaning of the Companies Act, 1961.

(4) For the purposes of this section, and without prejudice to any other method of investment in shares, debt securities or beneficial interests in a trust, the Board invests in shares, debt securities or beneficial interests in a trust if it does so as underwriter, co-underwriter or sub-underwriter.

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

(5) Subject to this section, the fund or any part thereof, whether in a state of investment or not, may be invested by the Board in—

- (a) shares of a prescribed company;
- (b) debt securities of a prescribed body;
- (c) the purchase of an interest as a beneficiary under a trust;
- (d) subscribing for the shares or debt securities of a company, or a beneficial interest in a trust, if the company or trust was formed for the purpose of acquiring the shares in, or assets of, a prescribed company or a beneficial interest in, or assets of, a trust;
- (e) accepting an offer to exchange, with or without a cash payment, shares or debt securities, or shares and debt securities, held by it in a company for shares in, or debt securities of, another company (whether or not that other company is a prescribed company) where, in the case of shares or debt securities held by the Board that other company has made a take-over offer under the Companies Act, 1961, for shares in the first-mentioned company or is required by law or by the rules of a stock exchange—
 - (i) to make an offer to buy;
 - (ii) to accept an offer to sell to it; or
 - (iii) to limit the rate at which it acquires, shares in the first-mentioned company;

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- (f) accepting an offer to exchange, with or without a cash payment, beneficial interests held by it in a trust—for shares in, or debt securities of, a company or for shares in, and debt securities of, a company (whether or not, in either case, the company is a prescribed company) where the company has made an offer to make such an exchange or is required by law or by the rules of a stock exchange—
 - (i) to make an offer to buy;
 - (ii) to accept an offer to sell to it; or
 - (iii) to limit the rate at which it acquires, beneficial interests in the trust;
 - (g) debt securities of a prescribed body pursuant to an agreement to do so when called upon;
 - (h) contracts or options, to purchase or sell, for immediate or forward delivery, shares in a prescribed company or debt securities of a prescribed body; or
 - (i) the purchase of personal property where lease receivables in respect of the property are payable to the Board by a prescribed body.
- (6) A company that has acquired another company is, for the purposes of this section, a prescribed company—
- (a) if the acquired company is a prescribed company; or
 - (b) where accounts sufficient to determine the median earning rate or median interest cover of the company or, where the company is a member of a corporate group, of the corporate group, are not publicly available—if the acquiring company

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

would be a prescribed company if the accounts of the acquired company so available were regarded as accounts of the acquiring company for those years in respect of which the accounts of the acquiring company or, as the case may be, of the corporate group of which it is a member, are not so available.

(7) Where the Board has invested in shares in, or debt securities of, a company, the Board may concur in any scheme or arrangement—

- (a) for the reconstruction of the company;
- (b) for the restructuring of the company into a trust or into a company and a trust;
- (c) for the amalgamation of the company with another company;
- (d) for the sale of all or any part of the property and undertaking of the company to another company or to a trust; or
- (e) for the release, modification or variation of any rights, privileges or liabilities attached to the shares or debt securities,

and, instead of, or in exchange for, the shares or debt securities, the Board may accept any shares, debt securities, or beneficial interests in a trust, of any denomination or description, in the reconstructed, restructured, new or purchasing company.

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

(8) Except as provided in subsection (5) (d), (e) and (f), this section does not authorise investment—

(a) in the debt securities of a prescribed body referred to in paragraph (b), (d) or (h) of the definition of that expression in subsection (1)—unless repayment is guaranteed by—

(i) a government;

(ii) a prescribed company in the unsecured debt securities of which the Board is authorised to invest; or

(iii) a bank as defined in section 5c (1);

(b) the debt securities of a prescribed company unless—

(i) where the company is not a member of a corporate group—the median interest cover of the company is at least 1.5; or

(ii) where the company is a member of a corporate group—the median interest cover of the corporate group is at least 1.5; or

(c) where the Board proposes to invest in the debt securities of a corporate partnership—unless the median interest cover—

(i) of a prescribed company that is a member of the partnership; or

(ii) if the members of the partnership do not include a prescribed company—of the management company of the partnership,

Superannuation (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

is at least 1.5 calculated as if the investment to be made by the Board in the partnership were an investment in debt securities that represent unsecured obligations of that company; or

- (d) if, by making the investment, the total amount invested by the Board pursuant to this section would exceed one-quarter of the total amount of the fund.

(9) If the Board so approves, a member of the Board, or of the staff of the Board, may, as part of the duties of his office as such a member, hold office as a director of a company.

(10) Where property is vested in the Board and a company has been formed to manage the property (whether with or without other property) the Board may take such action as may be necessary to qualify it to nominate a person for appointment as a director of the company.

(11) For the purposes of this section, the Board may accept, as sufficient evidence of matters disclosed by—

- (a) the accounts of a company that is not a member of a corporate group—statements in a statutory declaration purporting to be made by the secretary of the company;
- (b) the group accounts of a corporate group—statements in a statutory declaration purporting to be made by—
- (i) the secretary of a holding company that is a member of the corporate group; or

Superannuation (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
INVESTMENT POWERS—*continued.*

- (ii) where there is no holding company in the corporate group—the secretary of a company with which another company in the group is associated; or
 - (c) the accounts of the partners in a corporate partnership—statements in a statutory declaration purporting to be made by the secretary of a prescribed company that is—
 - (i) a member of the partnership; or
 - (ii) the management company of the partnership.
- (4) Section 5B (3)—
Omit the subsection.
- (5) (a) Section 5c (1), definition of “bank”—
Omit “and” where firstly occurring.
- (b) Section 5c (1), definition of “bank”—
After “prescribed;”, insert :—
and
- (c) a bank (whether or not it carries on business in Australia) that the Minister declares by order published in the Gazette with the approval of the Treasurer to be a bank within the meaning of this section;

Superannuation (Amendment).

 SCHEDULE 2—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO
 INVESTMENT POWERS—*continued.*

(c) Section 5C (3)—

After “not”, insert “, except in the case of a provision of the Local Government and Other Authorities (Superannuation) Act, 1927, and the New South Wales Retirement Benefits Act, 1972,”.

(d) Section 5C (4) (i)—

Omit “confirmed”, insert instead “issued or confirmed”.

Sec. 4.

 SCHEDULE 3.

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
 ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT.

(1) Heading before section 37—

Omit the heading, insert instead :—

Retrenchment, resignation, dismissal or discharge.

(2) (a) Section 37 (1), (2)—

Omit “instead of section 38A” wherever occurring.

(b) Section 37 (7), (8)—

Omit “or elects under section 38B to take the benefit of section 38A instead of this section” wherever occurring.

Superannuation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

(3) Heading before section 38—

Omit the heading.

(4) (a) Section 38 (1)—

After “contributor” where firstly occurring, insert “is
retrenched or”.

(b) Section 38 (1)—

Omit “instead of section 38A”.

(c) Section 38 (1)—

Omit “such resignation” wherever occurring, insert
instead “his retrenchment, resignation”.

(d) Section 38 (2)—

Omit “discharged”, insert instead “retrenched,
discharged”.

(5) (a) Section 38A (2)—

Omit “instead of section 37 or 38, as the case may
require”.

Superannuation (Amendment).

SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

(b) Section 38A (2) (a), (b)—

Omit “(not being a contributor who has been retrenched)” wherever occurring.

(c) Section 38A (2) (c)—

Omit “(whether or not he is a contributor who has been retrenched)”.

(d) Section 38A (2) (c) (i)—

Omit “, a contributor who has been retrenched being deemed, for the purposes of this subparagraph, to have resigned from the service of his employer”.

(e) Section 38A (2A)—

After section 38A (2), insert :—

(2A) Where a contributor who has been retrenched elects under section 38B to take the benefit of this section and the amount payable to that contributor under subsection (2) exceeds the sum of the contributions paid or payable under this Act (apart from this subsection) to the Fund by and in respect of the contributor, the employer from whose service the contributor has been retrenched shall pay to the Fund, on requisition by the Board, a lump sum equal to the amount by which the amount payable under subsection (2) exceeds the sum of those contributions.

(f) Section 38A (3)—

Omit “section 37 (7) or (8) in respect of retrenched employees who elected under section 38B to take the benefit of section 38A”, insert instead “subsection (2A)”.

Superannuation (Amendment).

SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—
continued.

(6) (a) Section 38B (1)—

Omit the subsection, insert instead :—

(1) A contributor who is retrenched or resigns or is dismissed or discharged from the service of an employer may, within 3 months after his retrenchment, resignation, dismissal or discharge, elect—

(a) in the case of a contributor who is retrenched—between taking the benefit of section 37, 38 or 38A; or

(b) in any other case—between taking the benefit of section 38 or 38A.

(b) Section 38B (2)—

Omit “resigns”, insert instead “is retrenched or resigns”.

(c) Section 38B (3)—

After “section 37”, insert “, 38”.

Superannuation (Amendment).

Sec. 4.

SCHEDULE 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER SCHEMES.

(1) Section 92A (2)—

Omit the subsection, insert instead :—

(2) The Minister may determine terms and conditions which shall relate to persons who—

- (a) are in the service of an employer; and
- (b) are participants in a retirement scheme, fund or arrangement to or in respect of which the employer made or makes, or was or is liable to make, payments in respect of those persons.

(2) Section 92A (7), (8)—

After section 92A (6), insert :—

(7) Notwithstanding the provisions of this or any other Act, a person who, after withdrawing from the scheme in accordance with terms and conditions referred to in subsection (2) is treated by the Board under section 10C (1) or 10D (3) as if he were not and had not, since the date of commencement of his employment, been an employee shall be deemed, as long as the Board so treats him, never to have withdrawn from the scheme.

(8) The provisions of Part IIIA shall apply to and in respect of a person who, immediately before he becomes an employee, was a participant in a scheme and who, in order to comply with terms and conditions referred to in subsection (2), directs that any benefit payable to him on withdrawal from the scheme be applied towards the purchase of fully paid up units in the same way as they

Superannuation (Amendment).

SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE
TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER
SCHEMES—*continued.*

apply to and in respect of a person who, immediately before he becomes an employee, was a participant in a Public Service Superannuation Fund (as defined in section 20B), and who elects to take the benefit of section 20c.

SCHEDULE 5.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS.

(1) Section 2—

After the matter relating to Part VIII, insert :—

PART IX.—PROVISIONS APPLICABLE IN RESPECT OF
FOREIGN CONTRIBUTORS—ss. 104–108.

(2) Part IX—

After section 103, insert :—

PART IX.

PROVISIONS APPLICABLE IN RESPECT OF FOREIGN
CONTRIBUTORS.

104. (1) In this Part—

“conversion ratio” in relation to a foreign currency
means such ratio as may be prescribed;

Interpre-
tation:
Pt. IX.

Superannuation (Amendment).

SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN CONTRIBUTORS—*continued.*

“foreign contributor” means a contributor who is—

- (a) an employee of a prescribed class;
- (b) employed in a country other than Australia; and
- (c) paid salary at a rate expressed in a currency other than Australian currency;

“foreign currency” in relation to a foreign contributor means the currency in which his rate of salary is expressed.

(2) A reference in this Part—

- (a) to a foreign contributor shall be construed as including a reference to a former foreign contributor; and
- (b) to an employer of a foreign contributor shall be construed as including a reference to the person who was the employer of the former foreign contributor.

105. Where—

- (a) an amount expressed in a foreign currency is required for the purposes of this Act to be expressed in Australian currency—that amount expressed in Australian currency; or
- (b) an amount expressed in Australian currency is required for the purposes of this Act to be expressed in a foreign currency—that amount expressed in the foreign currency,

shall be calculated by means of the conversion ratio in relation to that foreign currency.

Certain calculations to be made by means of a conversion ratio.

Superannuation (Amendment).

SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
CONTRIBUTORS—*continued.*

106. (1) This section shall not apply in respect of a foreign contributor unless a conversion ratio applies in relation to the currency of the country in which the foreign contributor is employed.

Certain amounts to be expressed in foreign currency.

(2) For the purpose of determining the number of units of pension that, pursuant to section 12 (1), is appropriate for the salary actually being paid to a foreign contributor, the amount of the salary shall be expressed in Australian currency in accordance with section 105.

(3) Any amount payable under this Act by or to a foreign contributor shall be expressed in foreign currency in accordance with section 105.

107. (1) Where—

(a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is greater than the amount that is paid by him; or

(b) an amount that, but for section 106 (3), would be payable under this Act to a foreign contributor is less than the amount that is paid to him,

Employer to pay to or receive from the Fund any difference between actual amount paid under this Part and amount otherwise payable.

the employer of the foreign contributor shall pay to the Fund an amount equal to the difference between the amount that, but for section 106 (3), would be payable and the amount that is paid.

(2) Where—

(a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is less than the amount that is paid by him; or

Superannuation (Amendment).

 SCHEDULE 5—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN
 CONTRIBUTORS—*continued.*

- (b) an amount that, but for section 106 (3), would be payable under this Act to a foreign contributor is greater than the amount that is paid to him,

the Board shall pay from the Fund to the employer of the foreign contributor an amount equal to the difference between the amount that, but for section 106 (3), would be payable and the amount that is paid.

Payments
to be made
as if con-
version
ratio
always
applied.

108. Where a conversion ratio is prescribed in relation to the currency of a country in which immediately prior to the prescription of the conversion ratio there was employed a foreign contributor to whom section 106 did not apply—

- (a) the Board may pay to the foreign contributor such amount or make such allowance in respect of future contributions payable by the contributor;
- (b) the employer shall pay to the Fund such amount;
and
- (c) the foreign contributor shall pay to the Fund such amount,

as in the opinion of the Board would place the Fund, the foreign contributor and the employer of the foreign contributor in the financial position in which they would have been if the conversion ratio had always applied.

Superannuation (Amendment).

SCHEDULE 6.

Sec. 4.

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

(1) Section 21 (1B)—

Omit “may retire”, insert instead “shall be entitled to elect to retire”.

(2) Section 23 (a)—

Omit “such employer”, insert instead “any 1 or more employers”.

(3) Section 25—

Omit the section, insert instead :—

25. Voluntary termination of service (however expressed)— **Resignation.**

- (a) by a contributor who is not entitled to retire on pension shall be deemed to be resignation; and
- (b) by a contributor who is entitled to elect to retire on pension under the provisions of section 21 (1B) shall be deemed to be resignation unless the contributor so elects.

(4) Section 51 (1)—

Omit “of his salary at the time of his retirement”, insert instead “of the salary of a person who is employed in a position which is, in the opinion of the Board, a corresponding position to that in which the pensioner was employed immediately before his retirement”.

Superannuation (Amendment).

SCHEDULE 6—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued.

(5) Section 92A (2A)—

After section 92A (2), insert :—

(2A) The Minister may, at any time before a person has complied with terms and conditions which relate to the person, vary or waive any of those terms and conditions if, in his opinion, it is desirable to do so and the person would not be disadvantaged by his so doing.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 28th April, 1980.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980



