

FIRST PRINT

**MISCELLANEOUS ACTS (SUPERANNUATION APPEALS)
AMENDMENT BILL 1986**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Industrial Arbitration (Superannuation Appeals) Amendment Bill 1986.

The object of this Bill is to create rights of appeal to the Industrial Commission of New South Wales against determinations of persons administering statutory superannuation schemes.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on the commencement of the proposed Industrial Arbitration (Superannuation Appeals) Amendment Act 1986.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Clause 4 is a formal provision that gives effect to the Schedule of transitional provisions.

The following Acts are amended in Schedule 1:

Coal and Oil Shale Mine Workers (Superannuation) Act 1941

Government Railways Act 1912

Local Government and Other Authorities (Superannuation) Act 1927

New South Wales Retirement Benefits Act 1972

Police Association Employees (Superannuation) Act 1969

Police Regulation (Superannuation) Act 1906

Public Authorities Superannuation Act 1985

State Public Service Superannuation Act 1985

Superannuation Act 1916

Transport Act 1930

Transport Employees Retirement Benefits Act 1967.

Each Act is amended so as to enable a person aggrieved by a determination of the person administering the superannuation scheme established under the Act to appeal against the determination to the Industrial Commission of New South Wales. Each amendment provides that the appeal is to be made within 6 months after the date of the determination or within such further period as the Commission may allow.

**MISCELLANEOUS ACTS (SUPERANNUATION
APPEALS) AMENDMENT BILL 1986**

NEW SOUTH WALES



TABLE OF PROVISIONS

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**MISCELLANEOUS ACTS (SUPERANNUATION APPEALS)
AMENDMENT BILL 1986**

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend certain Acts to create rights of appeal to the Industrial Commission of New South Wales against determinations of persons administering statutory superannuation schemes and in connection with the enactment of the Industrial Arbitration (Superannuation Appeals) Amendment Act 1986.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

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 Short title

1. This Act may be cited as the "Miscellaneous Acts (Superannuation Appeals) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Industrial Arbitration (Superannuation Appeals) Amendment Act 1986.

Amendment of certain Acts

15 3. Each Act specified in Schedule 1 is amended in the manner set forth in that Schedule.

Transitional provisions

4. Schedule 2 has effect.

SCHEDULE 1

20

(Sec. 3)

AMENDMENTS

Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No. 45—

(1) Section 14 (**Applications for pensions**)—

(a) Section 14 (5)—

25

Omit "or may refer the application to the Compensation Court of New South Wales".

(b) Section 14 (6), (8), (10)—

Omit the subsections.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

(2) Section 14H (**Applications for lump sum benefit payment**)—

(a) Section 14H (5)—

Omit “or may refer the application to the Compensation Court of New South Wales”.

5 (b) Section 14H (6), (8), (10), (11)—

Omit the subsections.

(3) Section 23 (**References to Industrial Commission of New South Wales**)—

Section 23 (1)—

10 After “Act”, insert “, other than a question which may be the subject of an appeal under section 23A,”.

(4) Section 23A—

After section 23, insert:

Appeals

15 23A. (1) Subject to this section, a dispute under this Act concerning a pension, a lump sum benefit or any other benefit (not being a subsidy under Part IVA) shall be determined by the Tribunal.

(2) A person aggrieved by a determination of the Tribunal may appeal against the determination to the Industrial Commission of New South Wales.

20 (3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

Government Railways Act 1912 No. 30—

(1) Section 127 (**Certain determinations of board to be final**)—

Omit the section.

(2) Section 128c—

25 After section 128B, insert:

Appeals

128c. (1) Subject to this section, a dispute under this Part shall be determined by the board.

30 (2) A person aggrieved by a determination of the board may appeal against the determination to the Industrial Commission of New South Wales.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*
AMENDMENTS—*continued*

(3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Industrial Commission may allow.

Local Government and Other Authorities (Superannuation) Act 1927 No. 35—

5 (1) Section 17N (**Date of effect of certain board decisions**)—

(a) Section 17N—

Omit “shall be final and conclusive”.

(b) Section 17N—

Omit “. Such decision”.

10 (2) Section 18A—

After section 18, insert:

Appeals

18A. (1) Subject to this section, a dispute under this Act shall be determined by the board.

15 (2) A person aggrieved by a determination of the board may appeal against the determination to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

New South Wales Retirement Benefits Act 1972 No. 70—

20 Section 59 (**Disputes and appeals**)—

Section 59 (2), (3)—

Omit the subsections, insert instead:

(2) A person aggrieved by a determination of the Board may appeal against the determination to the Industrial Commission of New South Wales.

25 (3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*
 AMENDMENTS—*continued*

Police Association Employees (Superannuation) Act 1969 No. 33—

Section 5—

After section 4, insert:

Appeals

5 5. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) A person aggrieved by a determination of the Board may appeal against the determination to the Industrial Commission of New South Wales.

10 (3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

Police Regulation (Superannuation) Act 1906 No. 28—

Sections 20A, 20B—

After section 20, insert:

Determination of disputes

15 20A. Subject to sections 20B and 21, a dispute under this Act shall be determined by the Board or the Commissioner of Police, as the case requires.

Appeals—other than hurt on duty cases

20B. (1) A person aggrieved by—

20 (a) a decision made by the Board (not being a decision referred to in section 21 (1) (a)); or

(b) a decision made by the Commissioner of Police under section 10 (6) (g),

may appeal against the decision to the Industrial Commission of New South Wales.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*
AMENDMENTS—*continued*

(2) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

Public Authorities Superannuation Act 1985 No. 41—

Section 60 (**Appeals**)—

5 Section 60 (2)-(4)—

Omit the subsections, insert instead:

(2) The Board may, in determining a dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

10 (3) A person aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(4) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

State Public Service Superannuation Act 1985 No.45—

15 Section 59 (**Appeals**)—

Section 59 (2)-(4)—

Omit the subsections, insert instead:

20 (2) The Board may, in determining a dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

(3) A person aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(4) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

25 Superannuation Act 1916 No. 28—

Section 85—

Omit the section, insert instead:

Settlement of disputes

30 85. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) The Board may, in determining a dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

(3) A person aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(4) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

5 **Transport Act 1930 No. 18—**

Section 132C—

After section 132B, insert:

Appeals

10 132C. (1) Subject to this section, a dispute under this Part shall be determined by the Trust.

(2) A person aggrieved by a decision of the Trust may appeal against the decision to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

15 **Transport Employees Retirement Benefits Act 1967 No. 96—**

Section 60 (**Disputes**)—

Section 60 (2), (3)—

Omit the subsections, insert instead:

20 (2) A person or employer aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

SCHEDULE 2

(Sec. 4)

25

TRANSITIONAL PROVISIONS

Interpretation

1. (1) In this Schedule—

“date of amendment” means the day appointed and notified under section 2 (2) of the Industrial Arbitration (Superannuation Appeals) Amendment Act 1986.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 2—*continued*

TRANSITIONAL PROVISIONS—*continued*

(2) In this Schedule, a reference to the bringing of an appeal includes—

- (a) a reference to the referring of a question; and
- (b) a reference to the applying for of a determination.

Application of amendments

5 2. The amendments made by this Act to the following Acts, namely:

Coal and Oil Shale Mine Workers (Superannuation) Act 1941;

Government Railways Act 1912;

Local Government and Other Authorities (Superannuation) Act 1927;

Police Association Employees (Superannuation) Act 1969;

10 Police Regulation (Superannuation) Act 1906 in so far as those amendments apply to decisions which were not subject to any appeal under that Act before the date of amendment;

Transport Act 1930,

15 apply only to decisions or determinations made under those Acts on or after the date of amendment.

Appeals current at date of amendment

3. Where, immediately before the date of amendment, an appeal had been brought but had not been determined under an Act amended by this Act, the appeal shall be continued and determined as if this Act had not been enacted.

20 **Rights of appeal current at date of amendment**

4. Where, immediately before the date of amendment, an appeal could have (but had not) been brought in respect of a decision or determination under an Act amended by this Act, the amendments made by this Act shall apply to and in respect of the decision or determination as if those amendments had been in force at the date of the decision
25 or determination.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

**MISCELLANEOUS ACTS (SUPERANNUATION
APPEALS) AMENDMENT ACT 1986 No. 129**

NEW SOUTH WALES



TABLE OF PROVISIONS

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SCHEDULE 2—TRANSITIONAL PROVISIONS

**MISCELLANEOUS ACTS (SUPERANNUATION APPEALS)
AMENDMENT ACT 1986 No. 129**

NEW SOUTH WALES



Act No. 129, 1986

An Act to amend certain Acts to create rights of appeal to the Industrial Commission of New South Wales against determinations of persons administering statutory superannuation schemes and in connection with the enactment of the Industrial Arbitration (Superannuation Appeals) Amendment Act 1986. [Assented to, 4 December 1986]

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

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 "Miscellaneous Acts (Superannuation Appeals) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Industrial Arbitration (Superannuation Appeals) Amendment Act 1986.

Amendment of certain Acts

3. Each Act specified in Schedule 1 is amended in the manner set forth in that Schedule.

Transitional provisions

4. Schedule 2 has effect.

SCHEDULE 1

(Sec. 3)

AMENDMENTS

Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No. 45—

(1) Section 14 (**Applications for pensions**)—

(a) Section 14 (5)—

Omit "or may refer the application to the Compensation Court of New South Wales".

(b) Section 14 (6), (8), (10)—

Omit the subsections.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*
 AMENDMENTS—*continued*

- (2) Section 14H (**Applications for lump sum benefit payment**)—
- (a) Section 14H (5)—
- Omit “or may refer the application to the Compensation Court of New South Wales”.
- (b) Section 14H (6), (8), (10), (11)—
- Omit the subsections.
- (3) Section 23 (**References to Industrial Commission of New South Wales**)—
- Section 23 (1)—
- After “Act”, insert “, other than a question which may be the subject of an appeal under section 23A,”.
- (4) Section 23A—
- After section 23, insert:
- Appeals**
- 23A. (1) Subject to this section, a dispute under this Act concerning a pension, a lump sum benefit or any other benefit (not being a subsidy under Part IVA) shall be determined by the Tribunal.
- (2) A person aggrieved by a determination of the Tribunal may appeal against the determination to the Industrial Commission of New South Wales.
- (3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

Government Railways Act 1912 No. 30—

- (1) Section 127 (**Certain determinations of board to be final**)—
- Omit the section.
- (2) Section 128C—
- After section 128B, insert:
- Appeals**
- 128C. (1) Subject to this section, a dispute under this Part shall be determined by the board.
- (2) A person aggrieved by a determination of the board may appeal against the determination to the Industrial Commission of New South Wales.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*
 AMENDMENTS—*continued*

(3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Industrial Commission may allow.

Local Government and Other Authorities (Superannuation) Act 1927 No. 35—

(1) Section 17N (**Date of effect of certain board decisions**)—

(a) Section 17N—

Omit "shall be final and conclusive".

(b) Section 17N—

Omit ". Such decision".

(2) Section 18A—

After section 18, insert:

Appeals

18A. (1) Subject to this section, a dispute under this Act shall be determined by the board.

(2) A person aggrieved by a determination of the board may appeal against the determination to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

New South Wales Retirement Benefits Act 1972 No. 70—

Section 59 (**Disputes and appeals**)—

Section 59 (2), (3)—

Omit the subsections, insert instead:

(2) A person aggrieved by a determination of the Board may appeal against the determination to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

Police Association Employees (Superannuation) Act 1969 No. 33—

Section 5—

After section 4, insert:

Appeals

5. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) A person aggrieved by a determination of the Board may appeal against the determination to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the determination or within such further period as the Commission may allow.

Police Regulation (Superannuation) Act 1906 No. 28—

Sections 20A, 20B—

After section 20, insert:

Determination of disputes

20A. Subject to sections 20B and 21, a dispute under this Act shall be determined by the Board or the Commissioner of Police, as the case requires.

Appeals—other than hurt on duty cases

20B. (1) A person aggrieved by—

(a) a decision made by the Board (not being a decision referred to in section 21 (1) (a)); or

(b) a decision made by the Commissioner of Police under section 10 (6) (g),

may appeal against the decision to the Industrial Commission of New South Wales.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

(2) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

Public Authorities Superannuation Act 1985 No. 41—

Section 60 (Appeals)—

Section 60 (2)-(4)—

Omit the subsections, insert instead:

(2) The Board may, in determining a dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

(3) A person aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(4) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

State Public Service Superannuation Act 1985 No.45—

Section 59 (Appeals)—

Section 59 (2)-(4)—

Omit the subsections, insert instead:

(2) The Board may, in determining a dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

(3) A person aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(4) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

Superannuation Act 1916 No. 28—

Section 85—

Omit the section, insert instead:

Settlement of disputes

85. (1) Subject to this section, a dispute under this Act shall be determined by the Board.

(2) The Board may, in determining a dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

(3) A person aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(4) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

Transport Act 1930 No. 18—

Section 132C—

After section 132B, insert:

Appeals

132C. (1) Subject to this section, a dispute under this Part shall be determined by the Trust.

(2) A person aggrieved by a decision of the Trust may appeal against the decision to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

Transport Employees Retirement Benefits Act 1967 No. 96—

Section 60 (**Disputes**)—

Section 60 (2), (3)—

Omit the subsections, insert instead:

(2) A person or employer aggrieved by a decision of the Board may appeal against the decision to the Industrial Commission of New South Wales.

(3) The appeal shall be made within 6 months after the date of the decision or within such further period as the Commission may allow.

SCHEDULE 2

(Sec. 4)

TRANSITIONAL PROVISIONS

Interpretation

1. (1) In this Schedule—

“date of amendment” means the day appointed and notified under section 2 (2) of the Industrial Arbitration (Superannuation Appeals) Amendment Act 1986.

(2) In this Schedule, a reference to the bringing of an appeal includes—

- (a) a reference to the referring of a question; and
- (b) a reference to the applying for of a determination.

Miscellaneous Acts (Superannuation Appeals) Amendment 1986

SCHEDULE 2—*continued*

TRANSITIONAL PROVISIONS—*continued*

Application of amendments

2. The amendments made by this Act to the following Acts, namely:

Coal and Oil Shale Mine Workers (Superannuation) Act 1941;

Government Railways Act 1912;

Local Government and Other Authorities (Superannuation) Act 1927;

Police Association Employees (Superannuation) Act 1969;

Police Regulation (Superannuation) Act 1906 in so far as those amendments apply to decisions which were not subject to any appeal under that Act before the date of amendment;

Transport Act 1930,

apply only to decisions or determinations made under those Acts on or after the date of amendment.

Appeals current at date of amendment

3. Where, immediately before the date of amendment, an appeal had been brought but had not been determined under an Act amended by this Act, the appeal shall be continued and determined as if this Act had not been enacted.

Rights of appeal current at date of amendment

4. Where, immediately before the date of amendment, an appeal could have (but had not) been brought in respect of a decision or determination under an Act amended by this Act, the amendments made by this Act shall apply to and in respect of the decision or determination as if those amendments had been in force at the date of the decision or determination.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986

