

FIRST PRINT

**PUBLIC AUTHORITIES SUPERANNUATION
(RETRENCHMENT) AMENDMENT BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Superannuation (Retrenchment) Amendment Bill 1987.

The object of this Bill is to amend the Public Authorities Superannuation Act 1985 so as—

- (a) to provide that, where the employment of contributors under that Act is terminated as a result of their acceptance of an offer by their employer of retrenchment conditions, those contributors will be entitled to receive the retrenchment benefits under that Act; and
- (b) to provide for such benefits to be paid to contributors who are retrenched after being members of the Public Authorities Superannuation Fund for only 3 years instead of for 10 years as is currently the case.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act shall be deemed to have commenced on 13 February 1987.

Clause 3 is a formal provision which gives effect to the Schedule of amendments to the Principal Act.

Public Authorities Superannuation (Retrenchment) Amendment 1987

Schedule 1 (1) amends section 5 of the Principal Act, which defines certain expressions for the purposes of that Act by inserting a definition of "discharge" and substituting a definition of "retrenchment" for the existing definition of "retrench". "Discharge" is defined as the cessation of a contributor's employment because the period for which the contributor was originally employed has come to an end. The substituted definition of "retrenchment" will include not only compulsory retrenchment of a contributor's employment by the contributor's employer but also the termination of a contributor's employment as a result of the acceptance by the contributor of an offer by the contributor's employer of terms of retrenchment. The existing grounds for retrenchment will apply to both compulsory and voluntary termination of a contributor's employment.

Schedule 1 (2) amends section 29 of the Principal Act, which provides for the payment of a benefit to a contributor who retires from employment with an employer before reaching the normal retiring age on the ground of partial and permanent disablement. The amendments to the section are consequential on the amendments being made to section 31 of the Principal Act. (See Schedule 1 (3).)

Schedule 1 (3) amends section 31 of the Principal Act, which provides for the payment of retrenchment benefits to contributors who are retrenched by a public authority before they reach early retirement age. As a result of the amendment, the retrenchment benefit provided for by section 31 (2) of that Act will become payable to contributors who are retrenched on or after 13 February 1987 having been members of the Public Authorities Superannuation Fund for only 3 years. A contributor who is retrenched before that date is required to have been a member of that Fund for at least 10 years in order to qualify for receipt of that benefit.

Schedule 1 (4) amends section 32 of the Principal Act, which enables a contributor who is retrenched, resigns or is dismissed or discharged to elect to preserve a benefit to which he or she may be entitled under that Act. Subsection (3) of the section specifies the cases in which a preserved benefit becomes payable under that Act. As a result of the amendment, an additional case in which a preserved benefit will become payable will be when the contributor is retrenched after having become a contributor to the State Public Service Superannuation Fund. A preserved benefit will not however become payable in such a case unless the contributor's periods of contribution to the Public Authorities Superannuation Fund and to the State Public Service Superannuation Fund are continuous.

Further amendments to the section are consequential on the amendments being made to section 31 of the Principal Act. (See Schedule 1 (3).)

PUBLIC AUTHORITIES SUPERANNUATION (RETRENCHMENT) AMENDMENT BILL 1987

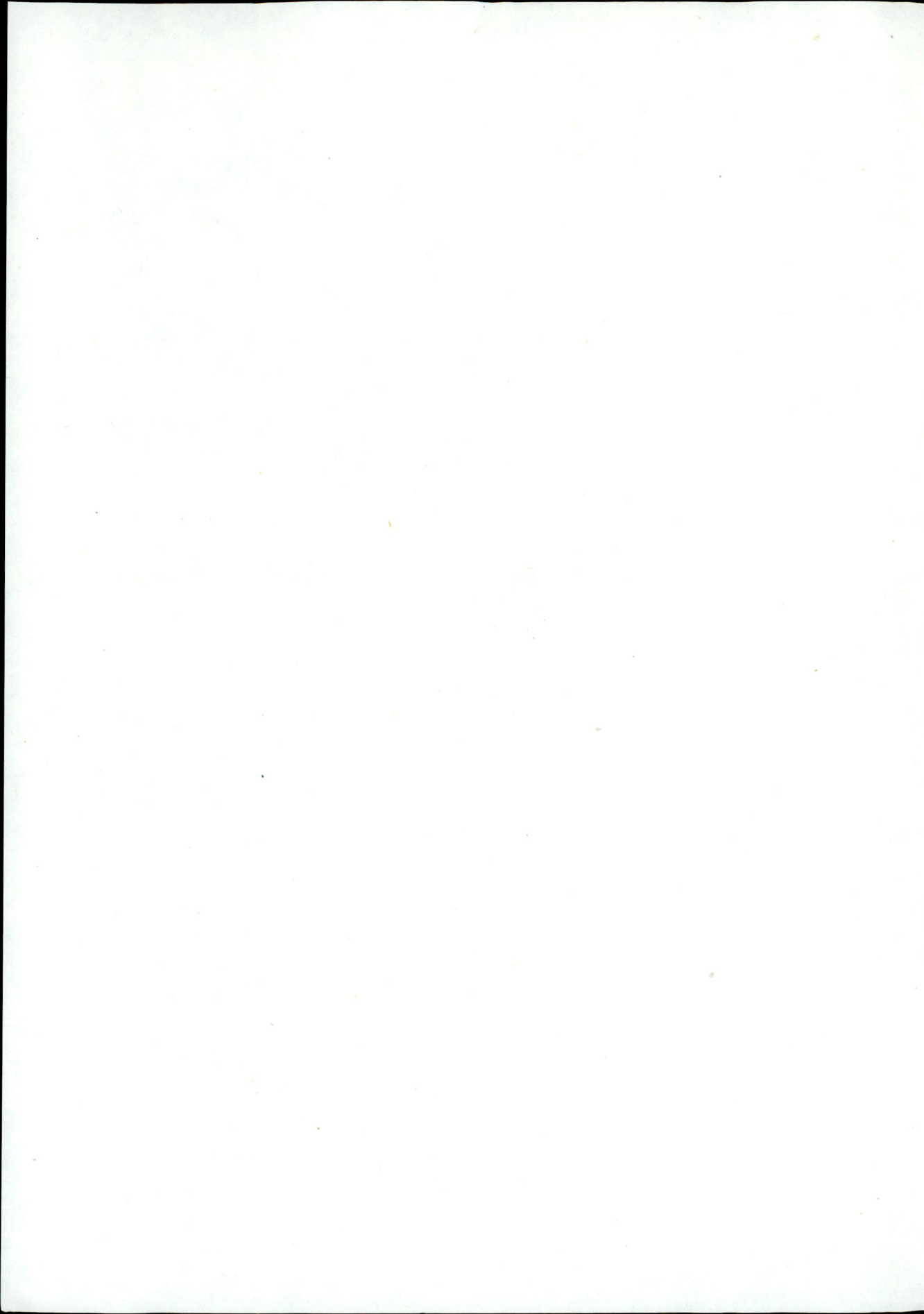
NEW SOUTH WALES



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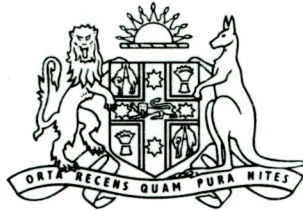
1. Short title
2. Commencement
3. Amendment of Act No. 41, 1985

SCHEDULE 1—AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985



**PUBLIC AUTHORITIES SUPERANNUATION
(RETRENCHMENT) AMENDMENT BILL 1987**

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Public Authorities Superannuation Act 1985 for the purpose of making further provision with respect to the payment of benefits to retrenched contributors and for related purposes.

Public Authorities Superannuation (Retrenchment) Amendment 1987

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 "Public Authorities Superannuation (Retrenchment) Amendment Act 1987".

Commencement

2. This Act shall be deemed to have commenced on 13 February 1987.

10 Amendment of Act No. 41, 1985

3. The Public Authorities Superannuation Act 1985 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

15 **AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985**

(1) Section 5 (**Interpretation**)—

(a) Section 5 (1), definition of "discharge"—

After the definition of "death and disability levy", insert:

20 "discharge", in relation to a contributor, means the cessation of the contributor's employment with an employer expressed by the employer to be on the ground that the period, or successive periods, for which the contributor was employed has or have ended;

Public Authorities Superannuation (Retrenchment) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

(b) Section 5 (1), definition of “retrenchment”—

Omit the definition of “retrench”, insert instead:

5 “retrenchment”, in relation to a contributor, means the
termination of the employment of the contributor with an
employer where the employment is expressed by the
employer to be—

(a) compulsorily terminated by the employer on the ground
that—

10 (i) the employer no longer requires the contributor’s
services and, on termination of the contributor’s
employment, does not propose to fill the
contributor’s position;

(ii) the work which the contributor was engaged to
perform has been completed; or

15 (iii) the amount of work that the employer requires to
be performed has diminished and, due to that fact,
it has become necessary to reduce the number of
employees employed by the employer; or

20 (b) terminated as a result of the acceptance by the
contributor of an offer by the employer of terms of
retrenchment made on a ground specified in paragraph
(a);

(2) Section 29 (**Benefit on partial and permanent disablement before early
retirement age**)—

25 (a) Section 29 (2) (b)—

Omit “more than 2 years”, insert instead “2 or more years”.

(b) Section 29 (2) (b)—

Omit “but more than one year”, insert instead “but not less than
1 year”.

Public Authorities Superannuation (Retrenchment) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

(3) Section 31 (**Benefit on retrenchment before early retirement age**)—

Section 31 (2), (3)—

Omit the subsections, insert instead:

(2) If—

5 (a) a contributor's exit date was before 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was 10 years or more; or

10 (b) a contributor's exit date was on or after 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was 3 years or more,

the benefit provided by this section is an amount equal to the sum of—

(c) the contributor-financed benefit; and

15 (d) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = S \times A \times 0.018$$

where—

E represents the amount to be ascertained;

S represents—

20 (i) where the contributor's exit date is 2 or more years before the contributor would attain the early retirement age—the contributor's final salary;

25 (ii) where the contributor's exit date is less than 2 years, but not less than 1 year, before the contributor would attain the early retirement age—the average of the contributor's final salary and salary at the last preceding 31 December; or

Public Authorities Superannuation (Retrenchment) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

(iii) where the contributor's exit date is less than 1 year before the contributor would attain the early retirement age—the contributor's final average salary; and

5 A represents the accrued benefit points for the contributor at the contributor's exit date.

(3) If—

10 (a) a contributor's exit date was before 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was less than 10 years; or

(b) a contributor's exit date was on or after 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was less than 3 years,

15 the benefit provided by this section is the amount of the contributor-financed benefit.

(4) Section 32 (**Preserved benefit**)—

(a) Section 32 (3)—(3B)—

Omit section 32 (3), insert instead:

20 (3) Subject to subsection (3A), the benefit provided by subsection (5) is payable by the Board—

(a) when the contributor attains the early retirement age;

(b) if, before attaining that age—

(i) the contributor dies; or

25 (ii) having become a contributor to the State Public Service Superannuation Fund, the contributor is retrenched while contributing to that Fund; or

(c) on the Board's being satisfied as provided by section 28 (1) (benefit on total and permanent disablement before age 60).

Public Authorities Superannuation (Retrenchment) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

(3A) Subsection (3) does not apply to a contributor referred to in paragraph (b) (ii) of that subsection unless the periods during which the contributor contributed to the Fund and to the State Public Service Superannuation Fund were continuous.

5 (3B) Subject to subsection (3), the benefit provided by subsection (5) is payable—

(a) except where the contributor has died, to the contributor; or

10 (b) if the contributor has died and is survived by a spouse, to the spouse; or

(c) if the contributor has died but is not survived by a spouse—

(i) to the contributor's legal personal representatives; or

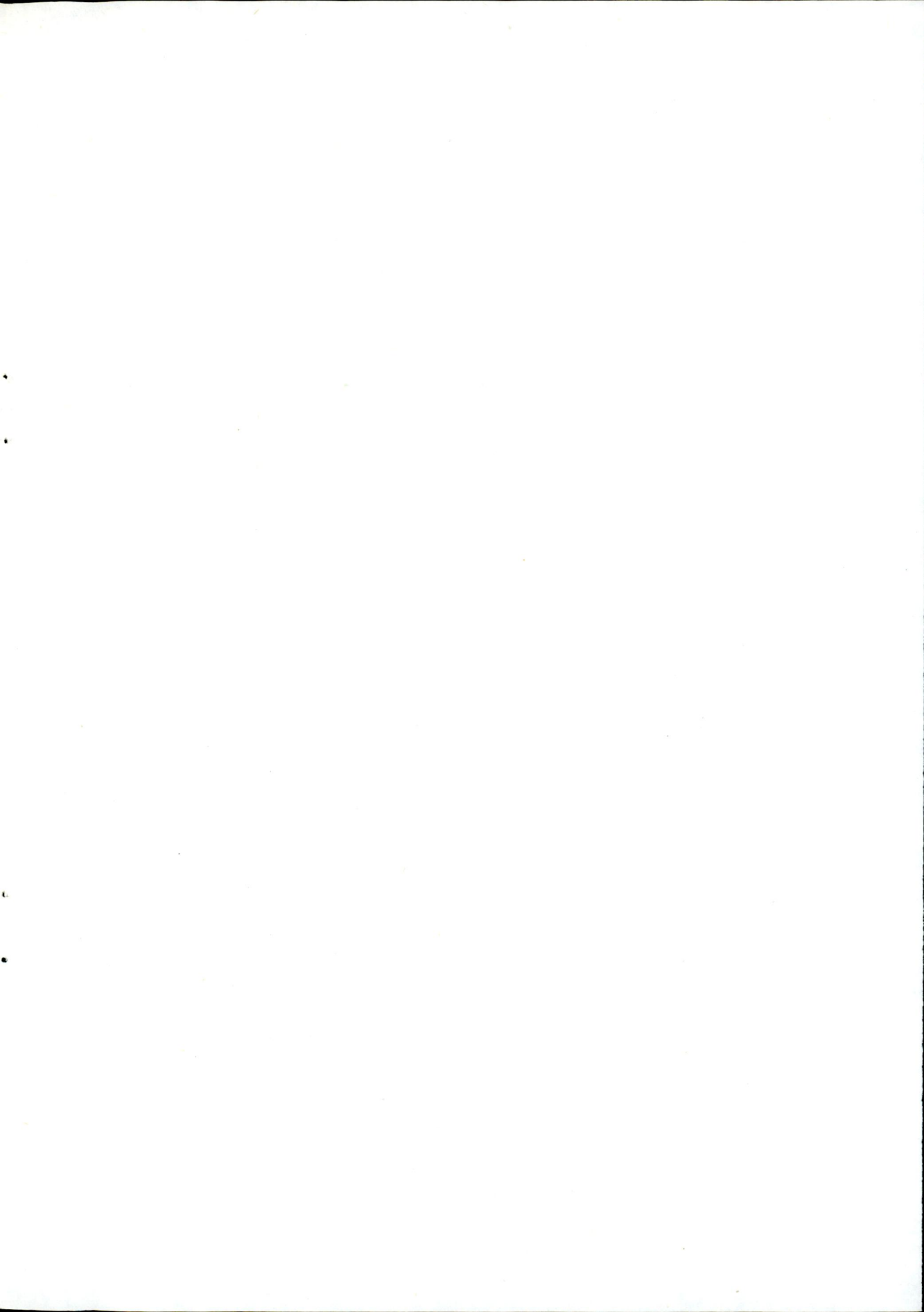
15 (ii) where section 58 applies (payment without grant of probate, etc.) and the Board has made a decision under subsection (1) of that section, in accordance with subsection (2) of that section.

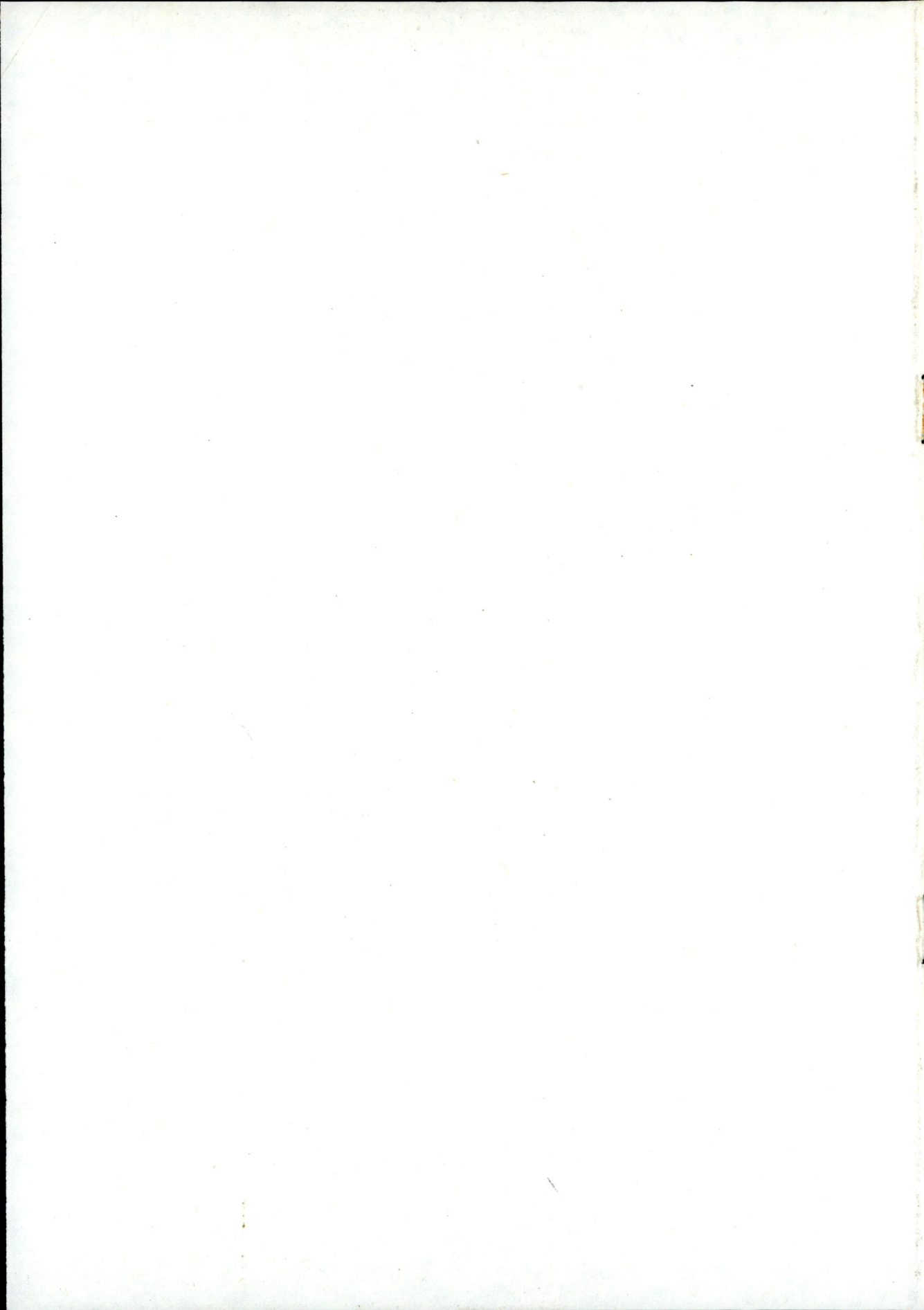
(b) Section 32 (5) (b)—

Omit "more than 2 years", insert instead "2 or more years".

20 (c) Section 32 (5) (b)—

Omit "but more than one year", insert instead "but not less than 1 year".





**PUBLIC AUTHORITIES SUPERANNUATION
(RETRENCHMENT) AMENDMENT ACT 1987 No. 41**

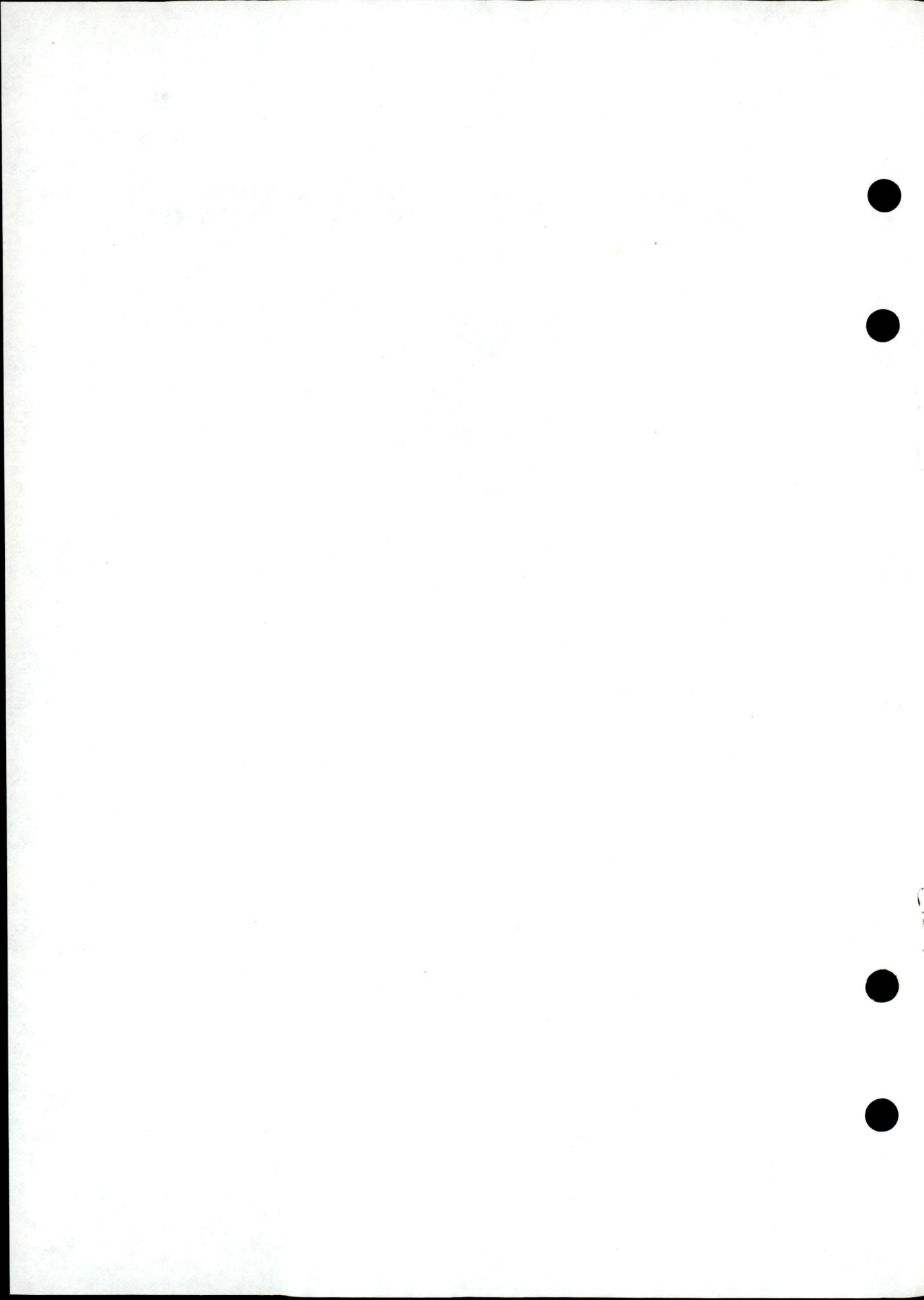
NEW SOUTH WALES



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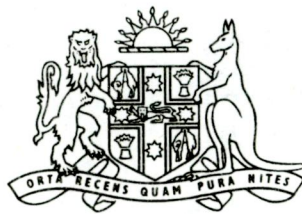
1. Short title
2. Commencement
3. Amendment of Act No. 41, 1985

SCHEDULE 1—AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985



**PUBLIC AUTHORITIES SUPERANNUATION (RETRENCHMENT)
AMENDMENT ACT 1987 No. 41**

NEW SOUTH WALES



Act No. 41, 1987

An Act to amend the Public Authorities Superannuation Act 1985 for the purpose of making further provision with respect to the payment of benefits to retrenched contributors and for related purposes. [Assented to 21 May 1987]

Public Authorities Superannuation (Retrenchment) Amendment 1987

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 "Public Authorities Superannuation (Retrenchment) Amendment Act 1987".

Commencement

2. This Act shall be deemed to have commenced on 13 February 1987.

Amendment of Act No. 41, 1985

3. The Public Authorities Superannuation Act 1985 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985

(1) Section 5 (**Interpretation**)—

(a) Section 5 (1), definition of "discharge"—

After the definition of "death and disability levy", insert:

"discharge", in relation to a contributor, means the cessation of the contributor's employment with an employer expressed by the employer to be on the ground that the period, or successive periods, for which the contributor was employed has or have ended;

Public Authorities Superannuation (Retrenchment) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

(b) Section 5 (1), definition of “retrenchment”—

Omit the definition of “retrench”, insert instead:

“retrenchment”, in relation to a contributor, means the termination of the employment of the contributor with an employer where the employment is expressed by the employer to be—

(a) compulsorily terminated by the employer on the ground that—

(i) the employer no longer requires the contributor’s services and, on termination of the contributor’s employment, does not propose to fill the contributor’s position;

(ii) the work which the contributor was engaged to perform has been completed; or

(iii) the amount of work that the employer requires to be performed has diminished and, due to that fact, it has become necessary to reduce the number of employees employed by the employer; or

(b) terminated as a result of the acceptance by the contributor of an offer by the employer of terms of retrenchment made on a ground specified in paragraph (a);

(2) Section 29 (**Benefit on partial and permanent disablement before early retirement age**)—

(a) Section 29 (2) (b)—

Omit “more than 2 years”, insert instead “2 or more years”.

(b) Section 29 (2) (b)—

Omit “but more than one year”, insert instead “but not less than 1 year”.

Public Authorities Superannuation (Retrenchment) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

(3) Section 31 (**Benefit on retrenchment before early retirement age**)—

Section 31 (2), (3)—

Omit the subsections, insert instead:

(2) If—

- (a) a contributor's exit date was before 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was 10 years or more; or
- (b) a contributor's exit date was on or after 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was 3 years or more,

the benefit provided by this section is an amount equal to the sum of—

- (c) the contributor-financed benefit; and
- (d) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = S \times A \times 0.018$$

where—

E represents the amount to be ascertained;

S represents—

- (i) where the contributor's exit date is 2 or more years before the contributor would attain the early retirement age—the contributor's final salary;
- (ii) where the contributor's exit date is less than 2 years, but not less than 1 year, before the contributor would attain the early retirement age—the average of the contributor's final salary and salary at the last preceding 31 December; or

*Public Authorities Superannuation (Retrenchment) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

- (iii) where the contributor's exit date is less than 1 year before the contributor would attain the early retirement age—the contributor's final average salary; and

A represents the accrued benefit points for the contributor at the contributor's exit date.

(3) If—

- (a) a contributor's exit date was before 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was less than 10 years; or
- (b) a contributor's exit date was on or after 13 February 1987 and the period commencing on the contributor's entry date and ending on that exit date was less than 3 years,

the benefit provided by this section is the amount of the contributor-financed benefit.

(4) Section 32 (**Preserved benefit**)—

(a) Section 32 (3)–(3B)—

Omit section 32 (3), insert instead:

(3) Subject to subsection (3A), the benefit provided by subsection (5) is payable by the Board—

- (a) when the contributor attains the early retirement age;
- (b) if, before attaining that age—
 - (i) the contributor dies; or
 - (ii) having become a contributor to the State Public Service Superannuation Fund, the contributor is retrenched while contributing to that Fund; or
- (c) on the Board's being satisfied as provided by section 28 (1) (benefit on total and permanent disablement before age 60).

Public Authorities Superannuation (Retrenchment) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PUBLIC AUTHORITIES
SUPERANNUATION ACT 1985—*continued*

(3A) Subsection (3) does not apply to a contributor referred to in paragraph (b) (ii) of that subsection unless the periods during which the contributor contributed to the Fund and to the State Public Service Superannuation Fund were continuous.

(3B) Subject to subsection (3), the benefit provided by subsection (5) is payable—

- (a) except where the contributor has died, to the contributor;
or
- (b) if the contributor has died and is survived by a spouse, to the spouse; or
- (c) if the contributor has died but is not survived by a spouse—
 - (i) to the contributor's legal personal representatives; or
 - (ii) where section 58 applies (payment without grant of probate, etc.) and the Board has made a decision under subsection (1) of that section, in accordance with subsection (2) of that section.

(b) Section 32 (5) (b)—

Omit "more than 2 years", insert instead "2 or more years".

(c) Section 32 (5) (b)—

Omit "but more than one year", insert instead "but not less than 1 year".