

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION
(AMENDMENT) ACT 1989 No. 228**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Public Sector Executives Superannuation Act 1989 No. 106

SCHEDULE 1 - AMENDMENTS

INSTITUTION FOR FEMALE REFORMATION
(AMERICAN ALMS HOUSE)

NEW YORK

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THE INSTITUTION FOR FEMALE REFORMATION
AND THE ALMS HOUSE
SCHEDULE OF DONATIONS

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION
(AMENDMENT) ACT 1989 No. 228**

NEW SOUTH WALES



Act No. 228, 1989

An Act to amend the Public Sector Executives Superannuation Act 1989 so as to redefine the expression "salary" for the purposes of that Act and to remove restrictions on coverage for additional benefits and for other purposes. [Assented to 21 December 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Sector Executives Superannuation (Amendment) Act 1989.

Commencement

2. This Act is to be taken to have commenced on 1 October 1989.

Amendment of Public Sector Executives Superannuation Act 1989 No. 106

3. The Public Sector Executives Superannuation Act 1989 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

(a) After the definition of "member's account" in section 3 (1), insert:

"prescribed employment benefit" means an employment benefit of a kind referred to in paragraph (b), (c) or (e) of the definition of "employment benefit" in section 42K (1) of the Public Sector Management Act 1988;

(b) Omit the definition of "salary" in section 3 (1), insert instead:

"salary":

(a) in the case of an employee or a member who is a chief executive officer or senior executive officer, means the aggregate of:

SCHEDULE 1 - AMENDMENTS - *continued*

- (i) the monetary remuneration payable to the employee or member in accordance with a contract of employment under the Public Sector Management Act 1988 or, if there is no such contract, the monetary remuneration payable to the employee or member in accordance with subsection (8) of section 42L of that Act after making appropriate adjustments as provided for by that subsection; and
 - (ii) the cost of providing prescribed employment benefits under any such contract or, if the employee or member has, in accordance with subsection (4), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost - none of that cost or, as the case may be, the specified proportion of that cost, expressed as an annual rate, but does not include any performance-related incentive payment made to that employee or member; or
- (b) in the case of an employee or a member who is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, means the aggregate of:
- (i) the remuneration payable to the employee or member as reduced under that section by the cost of employment benefits provided to the employee or member; and
 - (ii) the cost of providing prescribed employment benefits to the employee or member under that section or, if the employee or member has, in accordance with subsection (4), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost - none of that cost

SCHEDULE 1 - AMENDMENTS - *continued*

or, as the case may be, the specified proportion of that cost,

expressed as an annual rate; or

- (c) in the case of any other kind of employee or member, means the amount determined in accordance with the regulations;

- (c) After section 3 (3), insert:

- (4) For the purposes of paragraphs (a) and (b) of the definition of "salary" in subsection (1), an employee or member referred to in either of those paragraphs may elect to have treated as salary for the purposes of this Act:

- (a) none of the cost to the employer of that employee or member of providing him or her with prescribed employment benefits; or

- (b) only a specified proportion of that cost.

- (5) If an employee or member is appointed to a position as a chief executive officer or senior executive officer, or is nominated as an office holder for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the employee or member may, from time to time, elect:

- (a) to reduce the proportion of the cost of providing the prescribed employment benefits of the employee or member that is treated as salary for the purposes of this Act; or

- (b) to increase that proportion or, if none of the cost of providing the employee or member with prescribed employment benefits is currently treated as part of the salary of the employee or member for the purposes of this Act, to nominate a proportion of that cost, but so that the percentage increase in the salary of the employee or member for the purposes of this Act is not greater than the percentage of any increase in the remuneration package of the employee or member since the last occasion on which the employee or member had an opportunity to make an election under this paragraph.

SCHEDULE 1 - AMENDMENTS - *continued*

(6) The qualification in subsection (5) (b) does not apply when the employee or member is appointed to another position as a chief executive officer or senior executive officer or becomes the holder of another office nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975.

(2) Section 10 (**Provision of additional benefits**):

Omit section 10 (2).

(3) Section 37 (**Who may apply to be covered for an additional benefit?**):

Omit "under the early retirement age" wherever occurring.

(4) Section 44:

Omit the section, insert instead:

Liability of employers to contribute

44. (1) If an election by an employee who is a member specifying an amount of contributions to be paid by the employee's employer takes effect, the employer must pay to the Fund an amount equal to the contributions specified in the election.

(2) An employer's contributions to the Fund are to be calculated on the basis of the contribution periods applicable to the members in relation to whom those contributions are to be made, and a contribution payable by an employer in respect of a contribution period must be paid to the Board within 7 days after the last day of that period.

(5) Section 47 (**Benefit at or after early retirement**):

Omit section 47 (1), insert instead:

(1) The benefit provided by this section is payable to a member by the Board when the member retires from employment with an employer on or after reaching the early retirement age.

SCHEDULE 1 - AMENDMENTS - *continued*

(6) Section 48 (**Benefit on death before retirement**):

From section 48 (1), omit "attaining the early retirement age during", insert instead "retiring from".

(7) Section 49 (**Benefit on total and permanent invalidity before retirement**):

From section 49 (1), omit ", before attaining the early retirement age,".

(8) Section 52A:

After section 52, insert:

Power of the Board to purchase annuities etc.

52A. Whenever a benefit has become payable to or in respect of a member under this Part, the Board must, if requested to do so:

(a) by the member; or

(b) if the member has died, by the member's spouse or personal representatives, as the case requires,

apply the benefit, or such part of the benefit as is specified by the member, spouse or personal representatives, in purchasing for the member or, as the case may be, the spouse or the beneficiaries of the member's estate, a right to an annuity or other form of pension from a person nominated by the member, spouse or personal representatives.

[*Minister's second reading speech made in -
Legislative Assembly on 29 November 1989
Legislative Council on 8 December 1989*]

FIRST PRINT

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION
(AMENDMENT) BILL 1989**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Superannuation Administration (Amendment) Bill 1989.

The object of this Bill is to amend the Public Sector Executives Superannuation Act 1989 so as:

- (a) to redefine the expression "salary" for the purposes of that Act;
- (b) to confer on members of the Public Sector Executives Superannuation Scheme ("the Scheme") a right to treat only a proportion of their employment benefits (excluding superannuation) as salary for the purposes of that Act;
- (c) to repeal a provision which restricts the power of the Public Sector Executives Superannuation Board ("the Board") to enter into a contract or arrangement under section 49 (1) of that Act (which relates to the determination of benefit entitlements);
- (d) to remove age limitations on the entitlements of members of the Scheme to obtain additional benefits under that Act;
- (e) to require employers to pay their contributions at the same time as members of the Scheme; and
- (f) to enable members of the Scheme, or the spouses or personal representatives of members who have died, to require the Board to purchase annuities or some other form of pension for the benefit of those members or their spouses or the beneficiaries of their estates.

The Bill also provides for ancillary and consequential matters.

Public Sector Executives Superannuation (Amendment) 1989

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to be taken to have commenced on 1 October 1989.

Clause 3 gives effect to Schedule 1, which contains amendments to the Public Sector Executives Superannuation Act 1989.

Schedule 1 (1) amends section 3 of the Principal Act (Definitions). A definition of "prescribed employment benefit" is being inserted in section 3 (1). Among the benefits available are the right to the use of a motor vehicle and the right of return to the "public sector" conferred by section 42R of the Public Sector Management Act 1988.

The definition of "salary" is to be replaced by a definition which is intended to make it clear that a member of the Scheme can elect to have either none of the cost to his or her employer of providing employment benefits (other than superannuation) treated as salary for superannuation purposes or only a specified proportion of that cost. A member of the Scheme will be able to elect to reduce that proportion but will be able to increase it only to the extent that the percentage increase in salary for superannuation purposes does not exceed the percentage by which his or her remuneration package is increased.

Schedule 1 (2) will omit section 10 (2) of the Principal Act, which prevents the Board from entering into a contract or arrangement for a person to carry out the Board's functions under section 49 (1) of the Principal Act. (Section 49 (1) provides for the determination of an entitlement to a benefit where a member is totally and permanently incapacitated.)

Schedule 1 (3) amends section 37 of the Principal Act (Who may apply to be covered for an additional benefit?) by removing the restriction that an employee (as defined by the Principal Act) may make an application to the Board to be covered for an additional benefit only if the employee is under the early retirement age of 55 years.

Schedule 1 (4) replaces section 44 of the Principal Act (Liability of employer to contribute). Members of the Scheme are required to pay their contributions to the Board within 7 days of the end of each contribution period (as determined under the Principal Act). The substituted section 44 will require employers of members to pay their contributions to the Board on a similar basis.

Schedule 1 (5), (6) and (7) respectively amend sections 47, 48 and 49 of the Principal Act, all of which relate to the provision of benefits. The amendments are consequential on the amendment to section 37 of the Principal Act effected by Schedule 1 (3).

Schedule 1 (8) inserts into the Principal Act a proposed new section 52A, which will enable a member of the Scheme or, if the member has died, the member's spouse or personal representatives to require the Board to purchase for the member or the member's spouse or the beneficiaries of the member's estate an annuity or other form of pension.

FIRST PRINT

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION
(AMENDMENT) BILL 1989**

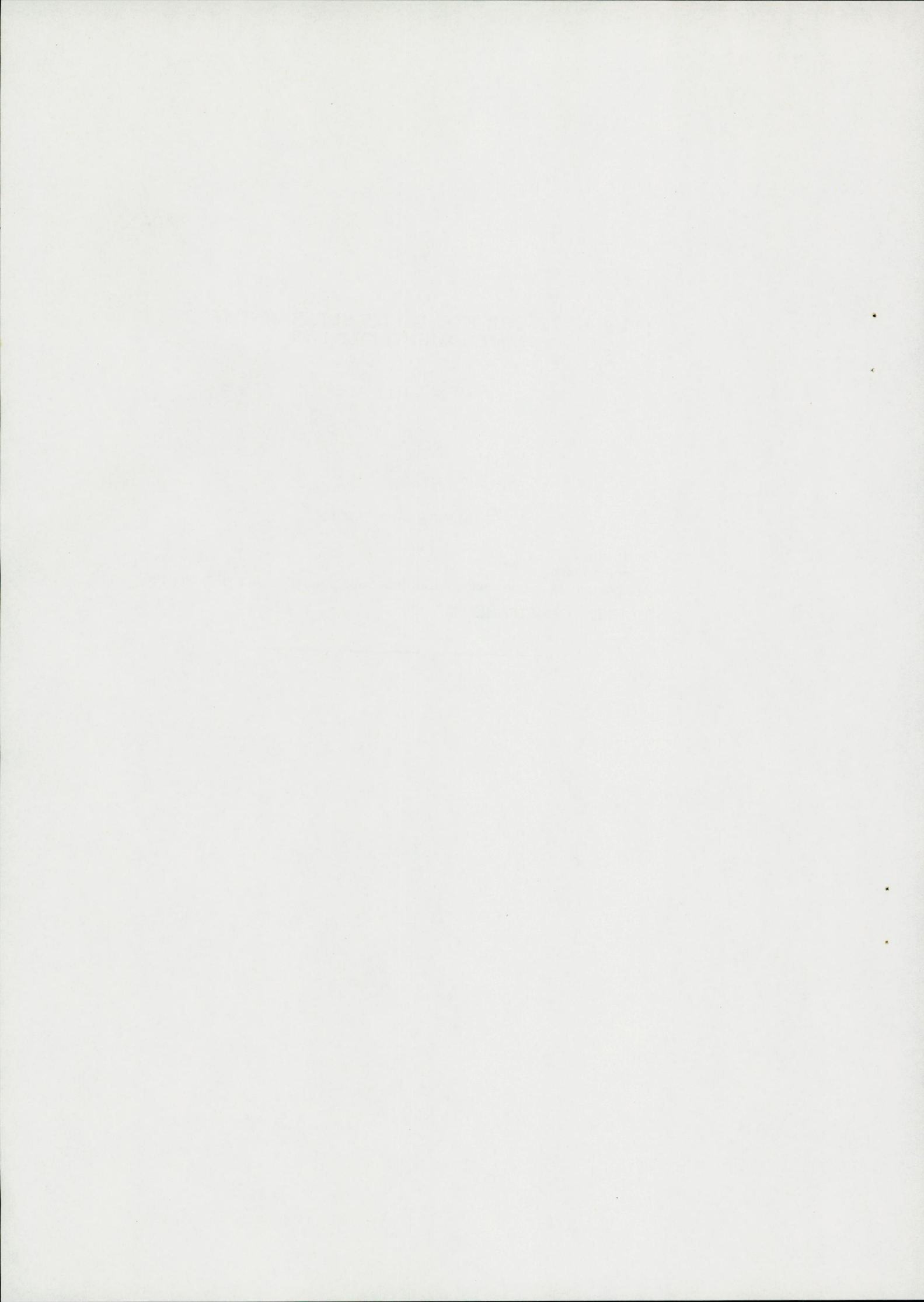
NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Public Sector Executives Superannuation Act 1989 No. 106

SCHEDULE 1 - AMENDMENTS



**PUBLIC SECTOR EXECUTIVES SUPERANNUATION
(AMENDMENT) BILL 1989**

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Public Sector Executives Superannuation Act 1989 so as to redefine the expression "salary" for the purposes of that Act and to remove restrictions on coverage for additional benefits and for other purposes.

The Legislature of New South Wales enacts:

Short title

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Commencement

2. This Act is to be taken to have commenced on 1 October 1989.

Amendment of Public Sector Executives Superannuation Act 1989 No. 106

3. The Public Sector Executives Superannuation Act 1989 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

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(b) Omit the definition of "salary" in section 3 (1), insert instead:

"salary":

(a) in the case of an employee or a member who is a chief executive officer or senior executive officer, means the aggregate of:

SCHEDULE 1 - AMENDMENTS - *continued*

- (i) the monetary remuneration payable to the employee or member in accordance with a contract of employment under the Public Sector Management Act 1988 or, if there is no such contract, the monetary remuneration payable to the employee or member in accordance with subsection (8) of section 42L of that Act after making appropriate adjustments as provided for by that subsection; and
 - (ii) the cost of providing prescribed employment benefits under any such contract or, if the employee or member has, in accordance with subsection (4), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost - none of that cost or, as the case may be, the specified proportion of that cost, expressed as an annual rate, but does not include any performance-related incentive payment made to that employee or member; or
- (b) in the case of an employee or a member who is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, means the aggregate of:
- (i) the remuneration payable to the employee or member as reduced under that section by the cost of employment benefits provided to the employee or member; and
 - (ii) the cost of providing prescribed employment benefits to the employee or member under that section or, if the employee or member has, in accordance with subsection (4), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost - none of that cost

SCHEDULE 1 - AMENDMENTS - *continued*

- or, as the case may be, the specified proportion of that cost,
expressed as an annual rate; or
- (c) in the case of any other kind of employee or member, means the amount determined in accordance with the regulations;
- (c) After section 3 (3), insert:
- (4) For the purposes of paragraphs (a) and (b) of the definition of "salary" in subsection (1), an employee or member referred to in either of those paragraphs may elect to have treated as salary for the purposes of this Act:
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- (b) only a specified proportion of that cost.
- (5) If an employee or member is appointed to a position as a chief executive officer or senior executive officer, or is nominated as an office holder for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the employee or member may, from time to time, elect:
- (a) to reduce the proportion of the cost of providing the prescribed employment benefits of the employee or member that is treated as salary for the purposes of this Act; or
- (b) to increase that proportion or, if none of the cost of providing the employee or member with prescribed employment benefits is currently treated as part of the salary of the employee or member for the purposes of this Act, to nominate a proportion of that cost, but so that the percentage increase in the salary of the employee or member for the purposes of this Act is not greater than the percentage of any increase in the remuneration package of the employee or member since the last occasion on which the employee or member had an opportunity to make an election under this paragraph.

SCHEDULE 1 - AMENDMENTS - *continued*

(6) The qualification in subsection (5) (b) does not apply when the employee or member is appointed to another position as a chief executive officer or senior executive officer or becomes the holder of another office nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975.

(2) Section 10 (**Provision of additional benefits**):

Omit section 10 (2).

(3) Section 37 (**Who may apply to be covered for an additional benefit?**):

Omit "under the early retirement age" wherever occurring.

(4) Section 44:

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44. (1) If an election by an employee who is a member specifying an amount of contributions to be paid by the employee's employer takes effect, the employer must pay to the Fund an amount equal to the contributions specified in the election.

(2) An employer's contributions to the Fund are to be calculated on the basis of the contribution periods applicable to the members in relation to whom those contributions are to be made, and a contribution payable by an employer in respect of a contribution period must be paid to the Board within 7 days after the last day of that period.

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- (b) if the member has died, by the member's spouse or personal representatives, as the case requires,

apply the benefit, or such part of the benefit as is specified by the member, spouse or personal representatives, in purchasing for the member or, as the case may be, the spouse or the beneficiaries of the member's estate, a right to an annuity or other form of pension from a person nominated by the member, spouse or personal representatives.
