

FIRST PRINT

SUPERANNUATION LEGISLATION (AMENDMENT) BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Coal and Oil Shale Mine Workers (Superannuation) Act 1941, the Local Government and Other Authorities (Superannuation) Act 1927, the Parliamentary Contributory Superannuation Act 1971, the Police Association Employees (Superannuation) Act 1969, the Police Regulation (Superannuation) Act 1906, the Public Authorities (Financial Arrangements) Act 1987, the Public Sector Executives Superannuation Act 1989, the State Authorities Non-contributory Superannuation Act 1987, the State Authorities Superannuation Act 1987 and the Superannuation Act 1916 so as:

- (a) to ensure that the superannuation schemes comply with the standards laid down by the Occupational Superannuation Standards Act 1987 of the Commonwealth ("COSSA"); and
- (b) to preserve the rights of certain mine workers under the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 in consequence of the closure of the Queensland Coal Mine Workers' Pensions Fund; and
- (c) to provide for the payment of an additional lump sum benefit to the spouse of a deceased mine worker who is accidentally killed in the course of employment as a mine worker; and
- (d) to provide for the reorganisation of the Parliamentary Contributory Superannuation Scheme; and
- (e) to provide for other miscellaneous matters.

The Bill will also repeal the Government Railways (Superannuation) Act 1912.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act. Most of the provisions relating to Commonwealth occupational superannuation standards are to be taken to have commenced on 1 July 1990. The provisions preserving the rights of certain mine workers in consequence of the closure of the Queensland Coal Mine

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Workers' Pension Fund are to be taken to have commenced on 4 December 1989, the date of closure of that scheme. The other provisions of the proposed Act are to commence, or are to be taken to have commenced, on the date of assent, 1 July 1991, 1 October 1991, 1 January 1992 or a day to be proclaimed.

Clause 3 gives effect to Schedules 1-10 to the proposed Act. The Schedules contain amendments to the Acts listed above.

Clause 4 will repeal the Government Railways (Superannuation) Act 1912 and certain related legislation. Railway employees who were formerly covered by that Act are now covered by the State Authorities Superannuation Act 1987. The clause formally abolishes the Railway Service Superannuation Board.

Clause 5 will give effect to Schedule 11, which contains savings and transitional provisions.

**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE MINE
WORKERS (SUPERANNUATION) ACT 1941**

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

Schedule 1 (1) (a) inserts in section 2 (Definitions) a definition of "Insurance and Superannuation Commissioner". Schedule 1 (1) (b) makes a minor consequential amendment to the definition of "Mine worker" in that section and Schedule 1 (1) (c) further amends that definition to provide that the expression does not include a person who ordinarily works in the coal or oil shale mining industries for less than 10 hours a week.

Schedule 1 (2) makes an amendment, similar to that made by Schedule 1 (1) (c), to the definition of "Mine worker" in section 2J (Further extension of the definition of "Mine worker").

Schedule 1 (3) amends section 8 (Hard luck cases) and is designed to ensure that the superannuation scheme established by the Act complies with the "sole purpose" test laid down by the COSSA.

Schedule 1 (4) amends section 10EA (Appropriate amounts of pensions and additions to pensions) in consequence of the repeal of section 13 (Deductions from pensions). The amendment is designed to ensure that the Act does not contravene the Commonwealth occupational superannuation standard which prohibits reductions in accrued superannuation benefits.

Schedule 1 (5) amends section 10F (Amendment of Schedule 1 following variation in Reference Rate). This amendment is also designed to ensure that the Act does not violate the Commonwealth occupational superannuation standard prohibiting the reduction of accrued superannuation benefits.

Schedule 1 (6) amends section 10H (Suspension of part of pension in certain circumstances) so as to ensure that the section does not contravene the standard referred to above and the minimum vesting standard prescribed by regulation 6 (1) of the Commonwealth Occupational Standards Regulations ("COSSR"). (The latter standard is designed to ensure that a person who is a member of a superannuation scheme does not receive benefits less than "the vested benefits". Broadly speaking, "vested benefits"

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are the amount of contributions made by the member of a superannuation scheme, "net earnings" on those contributions on and after 1 July 1990 and "member-financed benefits" accrued during the period beginning with that date and ending with the date on which the person ceases to be a member of the scheme.)

Schedule 1 (7) repeals section 13. (See Schedule 1 (4) above.)

Schedule 1 (8) amends section 14 (Applications for pensions). By requiring the Tribunal to make a decision where an entitlement to a benefit is clearly established, the amendment will ensure that the section does not contravene regulation 5AB (2) of the COSSR, which provides that the rights of members of a superannuation scheme and their dependants to receive benefits under the scheme must be fully secured.

Schedule 1 (9) amends section 14B (Prescribed amount for purposes of sections 14A and 14AA). The amendment is designed to ensure that a benefit to which the section applies cannot be reduced once it has accrued and thus will avoid contravening regulation 17 (1) (d) of the COSSR.

Schedule 1 (10) amends section 14FA (Lump sum benefit payable: from 3 July 1988). The amendment will preclude the Coal and Oil Shale Mine Workers' Superannuation Tribunal from being satisfied as to the incapacity of a mine worker who is seeking an incapacity benefit unless a certificate or certificates as to the mine worker's incapacity signed by at least 2 medical practitioners, is or are provided to the Tribunal.

Schedule 1 (11) amends section 14H (Applications for lump sum benefit payment) to ensure that the section does not contravene regulation 5AB (2) of the COSSR. (See Schedule 1 (8) above.)

Schedule 1 (12) amends section 15B (Power of the Tribunal to make orders declaring certain persons to be mine workers for the purposes of this Act) so as to ensure that the Tribunal cannot make orders under the section in respect of persons ordinarily engaged in the coal or oil shale mine working industries for less than 10 hours per week. (Also see Schedule 1 (1) (c) and (2) above.)

Schedule 1 (13) amends section 19 (Contributions to Fund). One of the amendments is designed to ensure that section 19 (2C) complies with the relevant Commonwealth occupational superannuation standards and the other repeals section 19 (4), whose operation is now spent.

Schedule 1 (14) amends section 19B (Amount of subsidy). The amendment is consequential on the repeal of section 13.

Schedule 1 (15) and (17) amend section 19J (Refund) and section 19L (Refund of contributions where mine worker ceases to be employed on or after 26.3.1978) so to ensure that a mine worker entitled to a refund under those sections does not receive an amount less than that which regulation 6 (1) of the COSSR requires to be treated as vested.

Schedule 1 (16) amends section 19K (Reduction of amount of refund). As a result of the amendment, a refund of mine worker's contributions under section 19J will no longer be reduced by the amount of any contributions that the mine worker has paid to the Coal and Oil Shale Mine Workers Superannuation Fund for a period before 25 May 1971, the date of commencement of section 10 of the Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1971.

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Schedule 1 (18) replaces section 19M (Reduction of amount of refund under section 19L). Under the substituted section, a refund of mine worker's contributions under section 19L will no longer be reduced by the amount of any contributions that the mine worker has paid to the Coal and Oil Shale Mine Workers Superannuation Fund for a period before 25 May 1971.

Schedule 1 (19) inserts proposed section 19MA which will ensure that a mine worker who is entitled to a pension or lump sum benefit under the Act, or a dependant of the mine worker, will in no circumstances receive a benefit that is less than the amount to be treated as vested in the mine worker, as required by regulation 6 (1) of the COSSR.

Schedule 1 (20) amends section 27 (Actuarial investigation and report) so as to ensure that actuarial reports under the section will comply with regulation 17 (1) (a) and (b) of the COSSR.

Schedule 1 (21) inserts proposed section 27B which will require the Tribunal to provide mine workers and certain former mine workers with details with respect to the superannuation scheme established by the Act and of the interests of the mine worker under the scheme. The Tribunal will also be required to provide mine workers with details of changes to the scheme. The amendments are designed to comply with the provisions of regulation 17 (1) (e)–(i) of the COSSR (which prescribe certain standards relating to the disclosure of relevant information).

Schedule 1 (22) repeals section 28 (Advances by Treasury). The section is inconsistent with the Public Authorities (Financial Arrangements) Act 1987 and so is now redundant.

PART 2—AMENDMENTS IN CONSEQUENCE OF THE CLOSURE OF THE QUEENSLAND COAL MINE WORKERS' PENSIONS FUND

Schedule 1 (23) inserts proposed section 4A, which provides that, for the purpose of certain provisions of the Act, service of a mine worker in the coal mining industry in Queensland is to be treated as if it were service in the coal or oil shale mining industries in New South Wales. Until 4 December 1989 there was a reciprocal agreement in existence for members of the New South Wales Coal and Oil Shale Mine Workers Superannuation Scheme and the Queensland Coal Mine Workers' Pensions Fund, but the agreement has been abrogated as a result of the closure of that Fund and the repeal of the corresponding Queensland legislation. Mine workers whose service includes service in the Queensland coal mining industry will, despite the abrogation of the agreement, be able to treat their service in that industry as service qualifying them for pensions and lump sum benefits under the Act. However, the service in the Queensland coal mining industry will not be counted for the purpose of computing the amounts of those pensions and benefits.

If a mine worker dies while employed in the coal mining industry in Queensland, the mine worker's dependants will be entitled to a benefit under section 14D. However, instead of the benefit prescribed by that section, the mine worker's dependants will be entitled to such lump sum benefit as would have been payable under section 14A or 14AA (both of which provide for the payment of lump sum benefits to retired mine workers) if the mine worker had reached the relevant retirement age on the last day on which he or she was actually engaged in the coal or oil shale mining industries in New South Wales and had retired on that day. Similarly, a mine worker who is incapacitated by injury while employed in the coal mining industry in Queensland will be entitled to

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an incapacity benefit under section 14E, 14FA or 14FB but, again, the entitlement will be to such lump sum benefit as would have been payable under section 14A or 14AA if the mine worker had reached the relevant retirement age on the last day on which he or she was actually engaged in the coal or oil shale mining industries in New South Wales and had retired on that day.

Schedule 1 (24) amends section 7 (Pension—permanent incapacity). The amendments are consequential on proposed section 4A and the closure of the Queensland Coal Mine Workers' Pensions Fund.

PART 3—FURTHER AMENDMENTS

Schedule 1 (25) amends section 14D (Lump sum benefit payment on death of mine worker) so as to provide for an additional lump sum benefit to be paid to the spouse of a mine worker who is accidentally killed in the course of his or her employment as a mine worker.

Schedule 1 (26) inserts proposed section 25A which will empower the Coal and Oil Shale Mine Workers' Superannuation Tribunal to award interest whenever a payment of a pension or lump sum benefit under the Act has been delayed for any reason. The proposed section is to apply to and in respect of any person who has ceased to be a mine worker on or after 4 December 1989.

SCHEDULE 2—AMENDMENT OF LOCAL GOVERNMENT AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927

Schedule 2 substitutes section 15Y (which provides for payment to be made to a contributor to the benefits fund established under the Act when the contributor resigns or is dismissed). Under the Act, accumulated employer contributions were, in the case of employees who resigned, required to be repaid to their employers because the benefits payable to those employees consisted only of their contributions and interest. Some amounts which were payable to certain hospital employers were in fact transferred to a suspense account pending payment to the appropriate employer reserve established under the State Authorities Superannuation Act 1987. The amendment validates the actions of the State Authorities Superannuation Board in respect of the money and authorises payment of the money to that reserve.

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971

PART 1—AMENDMENTS RELATING TO OCCUPATIONAL SUPERANNUATION STANDARDS

Schedule 3 (1) inserts in section 3 (Definitions) a number of new definitions. The expressions defined are "Commonwealth occupational superannuation standard", "Commonwealth taxation law", "Insurance and Superannuation Commissioner", "Parliamentary Contributory Superannuation Scheme" and "penalty" (in relation to a Commonwealth taxation law).

Schedule 3 (2) amends section 10 (Actuarial investigation) so as to ensure that the section complies with the provisions of regulation 17 (1) (a) and (b) of the COSSR, which prescribe standards for the conduct of actuarial investigations and the reports resulting from those investigations.

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Schedule 3 (3) amends section 22 (Pension on retirement on grounds of ill-health) so as to require that a certificate or certificates of at least 2 medical practitioners is or are to be produced before a member may be regarded as being incapable of performing the duties of a member of Parliament due to ill-health or physical or mental incapacity (and thus be entitled to a pension under the section).

Schedule 3 (4) amends section 23 (Pension for widows and widowers) so as to comply with regulation 4ZC of the COSSR (which requires pension benefits to be paid for the lives of the beneficiaries). As a result of the amendment a pension payable to the widow or widower of a member or former member will no longer cease if the widow or widower remarries.

Schedule 3 (5) inserts the following sections:

Proposed section 27A, which will empower the Trustees of the Parliamentary Superannuation Fund to adjust benefits under the Act to comply with the standards prescribed by the COSSA and the COSSR.

Proposed section 27B, which will confer on the trustees a discretion not to accept contributions in respect of a member who has reached 65 years of age, or to impose terms and conditions with respect to the payment of a benefit to or in respect of such a member, if, as a result of the trustees receiving those contributions or paying the benefit without imposing such terms and conditions, the trustees or the Fund would be in breach of a Commonwealth occupational superannuation standard.

Proposed section 27C, which prescribes the duties of the trustees when the Commonwealth Insurance and Superannuation Commissioner makes a determination under the COSSA in respect of a pension payable under the Act because the pension contravenes the reasonable benefit limits prescribed by the COSSR.

Under proposed section 27A, members are to be given a choice as to whether they wish to receive a pension that complies with all relevant Commonwealth occupational superannuation standards or one that is in accordance with the Act (apart from proposed sections 27A and 27C). If a member or former member adopts the latter course, he or she may be liable to a penalty under relevant Commonwealth tax legislation if the benefit, as assessed, would exceed the reasonable benefit limits prescribed by the COSSR for lump sum benefits, as compared with more favourable limits applying to complying pension benefits.

Schedule 3 (6) inserts proposed section 32A which will require the trustees to provide members with information with respect to the details of the Parliamentary Contributory Superannuation Scheme and the respective members' interests in the Scheme and information with respect to changes in the Scheme. The proposed section will comply with the provisions of regulation 17 (1) (e)–(i) of the COSSR (which prescribes standards with respect to the disclosure of information about superannuation schemes).

**PART 2—AMENDMENTS RELATING TO THE REORGANISATION OF
THE PARLIAMENTARY CONTRIBUTORY SUPERANNUATION SCHEME**

Schedule 3 (7) amends section 3 (Definitions). One amendment makes a minor alteration to the definition of "Fund" and the other amendment inserts in the section a definition of "trustees".

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Schedule 3 (8) substitutes section 5 (Parliamentary Contributory Superannuation Fund). Under the substituted section, the trustees of the Fund will be able to remove the Fund from the Treasury account (where it is now kept).

Schedule 3 (9) substitutes section 7 of the Act (Financial accommodation and investment). The substituted section is designed to confer on the trustees of the Parliamentary Contributory Superannuation Fund the investment powers set out in the Public Authorities (Financial Arrangements) Act 1987.

Schedule 3 (10) repeals section 8 (Uninvested moneys) and section 9 (Borrowing powers). Both sections are inconsistent with the provisions of the Public Authorities (Financial Arrangements) Act 1987.

Schedule 3 (11) amends section 14 (Trustees of the Fund). As a result of the amendment, the distinction between the managing trustees and the custodian trustee will be abolished. Under the new arrangements, the trustees will adopt a supervisory role rather than a managerial one.

Schedule 3 (12) inserts proposed section 14A, which will provide for the trustees to be incorporated.

Schedule 3 (13) substitutes section 15 (Functions of the trustees). Under the substituted section, the functions of the trustees include responsibility for the administration of the Parliamentary Contributory Superannuation Scheme and for ensuring that the Parliamentary Contributory Superannuation Fund is invested and managed in accordance with the Act. The trustees will be trustees for the purposes of the Trustee Act 1925 and will be required to hold the assets of the Fund in trust for members of Parliament and other persons entitled to receive benefits from the Fund.

Schedule 3 (14) inserts proposed sections 15A–15C, which will respectively enable the trustees:

- to delegate certain of their functions; and
- to arrange for the use of the services of staff employed in a Government department, an administrative office or a public or local authority; and
- to establish committees to assist it in the exercise of its functions.

Schedule 3 (15) and (16) amend section 16 (Meetings of trustees) and section 17 (Appointment of person to act in the absence of the Secretary of the Treasury). The amendments are consequential on the abolition of the distinction between managing trustees and the custodian trustee.

Schedule 3 (17) inserts proposed section 17A, which provides for the trustees to be indemnified against legal proceedings arising out of acts or omissions done or omitted to be done in good faith in the course of their duties as trustees. However, the proposed section will not absolve the trustees from liability in their capacity as a body corporate.

Schedule 3 (18)–(24) and (26) respectively amend sections 19, 20, 22, 23, 26, 28, 29 and 31. The amendments are consequential on the abolition of the distinction between the managing trustees and the custodian trustee.

Schedule 3 (25) repeals section 30 (Persons who elected not to contribute under former Act) since the operation of that section is now spent.

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**SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION EMPLOYEES
(SUPERANNUATION) ACT 1991**

Schedule 4 (1) amends section 2 (Definitions). The amendment inserts definitions of “executive officer” and “superannuation scheme” and replaces the definition of “salary of office”.

Schedule 4 (2) inserts proposed section 2B, which defines “salary of office” in relation to an executive officer. An executive officer’s salary of office will consist of the officer’s monetary remuneration and the cost to the Police Association of providing employment benefits other than superannuation.

Schedule 4 (3) amends section 3 (Employees of Association transferring from police force). Subsection (2) of the section is to be replaced by three new subsections, which, among other things, will require the Police Association to pay to the State Authorities Superannuation Board a contribution in respect of superannuation benefits to be provided to any employee of the Association to whom section 3 applies. The contribution is to be an amount determined by the Board on actuarial advice and will replace the existing provision which, in effect, requires the Association to pay an amount equal to 1.5 times the employee’s contributions to the Police Superannuation Fund. The amendments also remove references in the existing provision to notional promotion in the police force and to any rank that that employee would have attained as a result of the promotion.

Schedule 4 (4) repeals section 4 (Payment of superannuation allowance to F. C. Laut or his widow). The effect of the section is now spent.

**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906****PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

Schedule 5 (1) inserts in section 1 (Short title, commencement and definitions) definitions of the expressions “Commonwealth occupational superannuation standard”, “Insurance and Superannuation Commissioner” and “penalty” (in relation to a Commonwealth taxation law).

Schedule 5 (2) amends section 14AA (Power of the Board to reduce benefits to offset certain tax liabilities of the Fund) by replacing the reference to “member or former member of the police force” with a reference to “contributor or former contributor”. The amendment is designed to bring the wording of the section into conformity with related sections of the Act.

Schedule 5 (3) amends section 14AB (Power of the Board to reduce benefits to comply with certain standards relating to occupational superannuation). As a result of the amendments, the State Authorities Superannuation Board will have additional powers to adjust superannuation allowances payable under the Act so as to ensure that the allowances comply with the relevant Commonwealth occupational superannuation standards. If such an allowance does not comply with those standards, the contributor or former contributor who is entitled to the allowance will have the option of electing to receive the allowance either in a form that complies with those standards or in a form that is in accordance with the Act (apart from section 14AB and the proposed section 14AC). If the contributor or former contributor adopts the latter course, he or she may

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be liable to a penalty under relevant Commonwealth tax legislation if the benefit, as assessed, would exceed the reasonable benefit limits prescribed by the COSSR for lump sum benefits, as compared with more favourable limits applying to complying pension benefits.

Schedule 5 (4) inserts proposed section 14AC, which prescribes the duties of the Board when the Insurance and Superannuation Commissioner has made a determination under the COSSA with respect to a superannuation allowance payable under the Act because the allowance contravenes the reasonable benefit limits prescribed by the COSSR.

Schedule 5 (5) inserts proposed sections 23A and 23B.

Proposed section 23A will require the Board to provide contributors with information with respect to the details of the Police Superannuation Scheme and the respective contributors' interests in the Scheme and information with respect to changes in the Scheme. The proposed section will comply with the provisions of regulation 17 (1) (e)–(i) of the COSSR (which prescribes standards with respect to the disclosure of information about superannuation schemes).

Proposed section 23B will require the Board to appoint actuaries every 3 years to carry out an actuarial investigation into the state and sufficiency of the Police Superannuation Fund and will require the actuaries to make a report of its investigation to the Board. The proposed section also specifies the matters that are to be included in such a report so as to ensure that the section complies with the requirements of regulation 17 (1) (a) and (b) of the COSSR (which prescribes standards for the conduct of actuarial investigations and the reports resulting from those investigations).

PART 2—MISCELLANEOUS AMENDMENTS

Schedule 5 (6) (b) amends section 5B (Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme) so as to replace subsection (7) with a new provision which prescribes a formula for calculating the benefit payable to a contributor to the Police Superannuation Fund who, not having reached 55 years of age, elects to make provision for the benefit under subsection (6) (a) of the section on becoming a member of the Police Service Senior Executive Service. The amendment also inserts in the section proposed subsection (7A) which prescribes the benefit payable to a contributor who elects to make such provision after having reached that age. Schedule 5 (6) (a) makes a minor amendment to section 5B consequential on the amendment made by Schedule 5 (6) (b).

Schedule 5 (7) amends section 9B (Preserved benefit) so as to provide that, if a former member of the police force who has elected to preserve a benefit has, on appeal, been granted an incapacity benefit under section 7 or 14, any lump sum benefit that has been paid to the former member under section 9B (9) (which provides for a refund of contributions and interest) in conjunction with the preservation of a benefit is to be deducted from the incapacity benefit.

Schedule 5 (8) amends section 14J (Commutation on normal or early retirement of member). The section does not provide for the date on which an election to commute a superannuation allowance payable under section 7 or 7AA is to take effect. The amendment rectifies this omission by providing that the effective date for commuting such an allowance is to be the day following the last day of service of the relevant retired member of the police force.

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Schedule 5 (9) amends section 14K (Commutation on discharge of disabled member). Section 14K allows a member of the police force who is discharged because of disablement to commute his or her superannuation allowance. The amendment provides that the effective date for commutation of the allowance is to be the date on which a former member reaches 60 years of age or, if the former member is granted a hurt-on-duty allowance under section 10, the day on which he or she is granted that allowance. This is designed to ensure that any additions that are made to a superannuation allowance before a claim for a hurt-on-duty allowance is determined are taken into account when a commutation under section 14K is made.

Schedule 5 (10) amends section 17 (Refund of deductions) so as to provide that, if a former member of the police force who has received an amount by way of a refund of deductions under section 17 (1) subsequently becomes entitled to receive a superannuation allowance or a commuted superannuation allowance as a result of being hurt on duty or a superannuation allowance or a gratuity as a result of bodily or mental incapacity to perform his or her duties, the amount of the refund is to be deducted from the allowance, commuted allowance or gratuity.

**SCHEDULE 6—AMENDMENT OF PUBLIC AUTHORITIES (FINANCIAL
ARRANGEMENTS) ACT 1987**

Schedule 6 amends Schedule 1 to the Act (Authorities) by adding the name of the Trustees of the Parliamentary Contributory Superannuation Fund thus making the trustees subject to the Act.

**SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR EXECUTIVES
SUPERANNUATION ACT 1989**

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

Schedule 7 (1) inserts in section 3 (Definitions) a definition of "Insurance and Superannuation Commissioner".

Schedule 7 (2) substitutes section 32 (which specifies the information that is required to be disclosed to members of the Public Sector Executives Superannuation Scheme). The substituted section will require more comprehensive information to be provided to those members than the present section requires and is designed to ensure that the Scheme complies with the provisions of regulation 17 (1) (e)–(i) of the COSSR (which prescribes standards with respect to the disclosure of information about superannuation schemes).

Schedule 7 (3) amends section 33 (Actuarial investigation) so as to require reports of actuarial investigations carried out under the section to be completed and presented within 12 months after the date on which the investigation is required to start (and not 13 months as at present). The amendment also provides that an extension of time for reporting the result of such an investigation will be required to be sanctioned by the Insurance and Superannuation Commissioner as well as the Minister. Both amendments are designed to ensure that the Public Sector Executives Superannuation Scheme complies with the standards prescribed by regulation 17 (1) (a) and (b) of the COSSR.

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PART 2—OTHER AMENDMENTS

Schedule 7 (4) amends section 3 (Definitions). The amendment defines the expressions “discharged” and “retrenched” for the purposes of the Act.

Schedule 7 (5) inserts proposed section 49A, which will provide a retrenchment or discharge benefit for those members of the Public Sector Executives Superannuation Scheme who are retrenched or discharged from their employment. Retrenched or discharged members of the Scheme will have the option of being paid a cash benefit, having their benefits transferred to another superannuation scheme or having their benefits preserved until they reach the early retirement age or some other relevant contingency occurs. Retrenched or discharged members who do not exercise the option will be taken to have elected to preserve their benefits.

Schedule 7 (6) and (7) amend section 50 (Benefit on termination of employment before early retirement age) and section 53 (How does a member or other person apply for payment or preservation of a benefit?). The amendments are consequential on Schedule 7 (5).

**SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987**

Schedule 8 (1) amends section 3 (Definitions) by inserting a definition of “Insurance and Superannuation Commissioner”.

Schedule 8 (2) amends section 13 (Actuarial investigation) so as to require reports of actuarial investigations carried out under the section to be completed and presented within 12 months after the date on which the investigation is required to start (and not 13 months as at present). The amendment also specifies the contents required to be included in an actuarial report and provides that an extension of time for reporting the result of such an investigation will be required to be sanctioned by the Insurance and Superannuation Commissioner as well as the Minister. The amendments are designed to ensure that the State Authorities Non-contributory Superannuation Scheme complies with the standards prescribed by regulation 17 (1) (a) and (b) of the COSSR.

Schedule 8 (3) inserts proposed section 33A. The proposed section will require the State Authorities Superannuation Board to provide employees (as defined by the Act) with information with respect to the details of the State Authorities Non-contributory Superannuation Scheme and the respective employees’ interests in the Scheme and information with respect to changes in the Scheme. The proposed section will comply with the provisions of regulation 17 (1) (e)–(i) of the COSSR (which prescribes standards with respect to the disclosure of information about superannuation schemes).

**SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987**

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

Schedule 9 (1) inserts in section 3 (Definitions) definitions of the expressions “Commonwealth occupational superannuation standard”, “Insurance and Superannuation Commissioner” and “penalty” (in relation to a Commonwealth taxation law).

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Schedule 9 (2) amends section 18 (Actuarial investigation) so as to require reports of actuarial investigations carried out under the section to be completed and presented within 12 months after the date on which the investigation is required to start (and not 13 months as at present). The amendment also specifies the contents required to be included in an actuarial report and provides that an extension of time for reporting the result of such an investigation will be required to be sanctioned by the Insurance and Superannuation Commissioner as well as the Minister. The amendments are designed to ensure that the State Authorities Superannuation Scheme complies with the standards prescribed by regulation 17 (1) (a) and (b) of the COSSR.

Schedule 9 (3) amends section 45B (Power of the Board to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation) by replacing subsection (2). The amendment is consequential on the amendments being made by Schedule 9 (1).

Schedule 9 (4) inserts proposed section 45C, which prescribes the duties of the Board when the Insurance and Superannuation Commissioner has made a determination under the COSSA with respect to a pension payable under regulations made under the Act because the pension contravenes the reasonable benefit limits prescribed by the COSSR.

Schedule 9 (5) inserts proposed section 54A. The proposed section will require the State Authorities Superannuation Board to provide contributors under the Act with information with respect to the details of the State Authorities Superannuation Scheme and the respective contributors' interests in the Scheme and information with respect to changes in the Scheme. The proposed section will comply with the provisions of regulation 17 (1) (e)–(i) of the COSSR (which prescribes standards with respect to the disclosure of information about superannuation schemes).

PART 2—MISCELLANEOUS AMENDMENTS

Schedule 9 (6) amends section 21 (Medical examination) so as to make it clear that more than one medical examination can be ordered under that section.

Schedule 9 (7) amends section 29 (Contributions during leave without pay) so as to cure a problem that has arisen with respect to the operation of the section in relation to a contributor who takes leave without pay. The amendment will ensure that the employers and contributors will not be required to pay contributions in respect of a contribution period where the contributor concerned begins his or her leave on the first day of the period, or ends the leave on the last day of the period, and the period is less than the period of leave.

Schedule 9 (8) amends section 30A (Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme). The amendment is consequential on the substitution of section 43 (1). (See Schedule 9 (11) below.)

Schedule 9 (9) and (11) respectively amend section 41 (Benefit on resignation, dismissal or discharge before early retirement age) and section 43 (Preserved benefit) so as to provide that a contributor who resigns or is dismissed or discharged before early retirement and who does not elect within the prescribed period to take the benefit provided by section 41 will, unless the benefit is less than the prescribed amount (which is at present \$500), be taken to have elected to preserve the benefit under section 43.

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Schedule 9 (10) amends section 42 (Benefit on retrenchment before early retirement age). As a result of the amendment, employees who are members of, or are eligible to become members of, the Public Sector Executives Superannuation Scheme will be eligible for a retrenchment benefit under the section should they be retrenched from their employment.

Schedule 9 (12) amends section 44 (Application for payment of benefit). The amendment will enable the Board to require the production of all documents that it reasonably requires to process an application for a benefit payable under the Act. As presently worded, the Board can only require production of documents of the kinds specified in regulations in force under the Act. Other amendments to the section are consequential on the amendments effected by Schedule 9 (9) and (11). Since there will no longer be any need to make an application to preserve a benefit, it is inappropriate for the section to continue to apply to such an application.

Schedule 9 (13) amends section 48 (Employee or claimant to provide information) so as to make it clear that more than one medical examination can be ordered under that section.

SCHEDULE 10—AMENDMENT OF SUPERANNUATION ACT 1916

PART 1—AMENDMENTS RELATING TO OCCUPATIONAL SUPERANNUATION STANDARDS

Schedule 10 (1) inserts in section 3 (Definitions) definitions of the expressions "Commonwealth occupational superannuation standard", "Insurance and Superannuation Commissioner" and "Penalty" (in relation to a Commonwealth taxation law).

Schedule 10 (2) amends section 5 (Board required to establish certain reserves within the [State Superannuation] Fund). The amendment, which provides for the repeal of section 5 (1) (c), is consequential on the amendment being made by Schedule 10 (11).

Schedule 10 (3) amends section 10 (Actuary or actuaries to conduct periodic investigations into the Fund) so as to require reports of actuarial investigations carried out under the section to be completed and presented within 12 months after the date on which the investigation is required to start (and not 13 months as at present). The amendment also specifies the contents required to be included in an actuarial report and provides that an extension of time for reporting the result of such an investigation will be required to be sanctioned by the Insurance and Superannuation Commissioner as well as the Minister. The amendments are designed to ensure that the State Superannuation Scheme complies with the standards prescribed by regulation 17 (1) (a) and (b) of the COSSR.

Schedule 10 (4) amends section 15A (Reserve units). Contributors for reserve units under that section have at present a right to discontinue contributing for those units at any time. The amendment provides that after 1 January 1992 contributors will no longer have that right. The removal of the right is necessary because the right to cease contributing for superannuation and obtain a refund of contributions is inconsistent with the COSSR.

Superannuation Legislation (Amendment) 1991

Schedule 10 (5) replaces section 33B (Board to apportion benefit between the contributors' reserve and the appropriate employer reserve). As presently drafted section 33B provides for the portion of a benefit that is to be debited to the contributors' reserve to be tied to the withdrawal benefit payable under section 38A. The proposed section prescribes an interest component different from that provided for in section 38A and in consequence has the effect of providing that, when a benefit becomes payable under the Act to or in respect of a contributor, slightly more of the benefit will be apportioned to the contributors' reserve and slightly less to the appropriate employer reserve.

Schedule 10 (6), (7) and (15) respectively amend the following sections:

- section 38 (Refund of contributions);
- section 38A (Withdrawal benefit);
- section 99 (Pensions emerging during suspension period).

The amendments are consequential on the amendments made by Schedule 10 (4).

Schedule 10 (8) amends section 61 (Surrender of policies). The amendment is consequential on the repeal of Part 5. (See Schedule 10 (11).)

Schedule 10 (9) amends section 61RB (Power of the Board to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation). As a result of the amendments, the State Authorities Superannuation Board will have additional powers to adjust pensions payable under the Act so as to ensure that the pensions comply with the relevant Commonwealth occupational superannuation standards. If such a pension does not comply with those standards, the contributor or former contributor who is entitled to the pension will have the option of electing to receive the pension either in a form that complies with those standards or in a form that is in accordance with the Act (apart from section 61RB and the proposed section 61RC). If the contributor or former contributor adopts the latter course, he or she may be liable to a penalty under relevant Commonwealth tax legislation if the benefit, as assessed, would exceed the reasonable benefit limits prescribed by the COSSR for lump sum benefits, as compared with more favourable limits applying to complying pension benefits.

Schedule 10 (10) inserts proposed section 61RC which prescribes the duties of the Board when the Insurance and Superannuation Commissioner has made a determination under the COSSA with respect to a pension payable under the Act because the pension contravenes the reasonable benefit limits prescribed by the COSSR.

Schedule 10 (11) repeals Part 5, which provides for a voluntary saving scheme for public sector employees and certain other persons. The existence of the scheme is inconsistent with the "sole purpose test" prescribed by the COSSR and is therefore to be wound up. (Also see Part 3 of Schedule 11 to the proposed Act.)

Schedule 10 (12) inserts proposed section 85. The proposed section will require the State Authorities Superannuation Board to provide contributors under the Act with information with respect to the details of the State Superannuation Scheme and the respective contributors' interests in the Scheme and information with respect to changes in the Scheme. The proposed section will comply with the provisions of regulation 17 (1) (e)-(i) of the COSSR (which prescribes standards with respect to the disclosure of information about superannuation schemes).

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Schedule 10 (13) amends section 86A (Board empowered to fix interest rates for the purposes of this Act). The amendment is consequential on the repeal of Part 5. (See Schedule 10 (11).)

Schedule 10 (14) amends section 91 (Time for making elections, applications etc.). The amendment is consequential on Schedule 10 (9) and provides that the provisions of section 91 (1) (b) and (d) are not to apply to an election under section 61RB.

PART 2—MISCELLANEOUS AMENDMENTS

Schedule 10 (16) amends section 12B, which requires the Board to apply a deduction factor in respect of a contributor who takes leave of absence without pay, so as to make it clear that the reference in section 12B (1) to that kind of leave does not include (and has not since 1 July 1985 included) a reference to maternity leave.

Schedule 10 (17) and (18) (b) and (c) effect minor consequential amendments to the following sections of the Act:

- section 28AA (Pension on retirement before age 60—component pension);
- section 37 (Retrenchment benefits payable to an employee who is retrenched after completing 10 years' service).

Schedule 10 (18) (a) also amends section 37. As a result of the amendment, employees who are members, or who are eligible to be members, of the Public Sector Executives Superannuation Scheme will be eligible to receive retrenchment benefits under the section if they are retrenched from their employment.

Schedule 10 (19) amends section 37A (Retrenchment benefits payable to contributors having less than 3 years' contributory service) by repealing subsection (1). The amendment has, with respect to retrenchment benefits payable under the section, a similar effect to the amendment made by Schedule 10 (18) (a).

Schedule 10 (20) amends section 52B (Adjustment of pension components). The amendment replaces section 52B (4) with a new subsection which is intended to address two problems that have arisen with respect to the application of the formula specified in the existing subsection, which provides for the adjustment of preserved benefits (based on the movement of the Consumer Price Index) once the pension starts to be paid. One of the problems arises because the formula does not enable the employer-financed component to be adjusted in respect of the quarterly period in which it stops being a preserved benefit and starts to be paid as a pension. The amendment to the formula will allow the CPI adjustment to include whole quarters, including the one in which the benefit emerges as a pension. The second problem is that the subsection does not adequately deal with the situation that arises when a benefit is preserved and emerges as a pension in the same year. This problem is to be resolved by redefining the symbol "Q" in the existing formula.

SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS

Schedule 11 contains provisions of a savings and transitional nature that are consequential on the enactment of the proposed Act.

FIRST PRINT

**SUPERANNUATION LEGISLATION (AMENDMENT)
BILL 1991**

NEW SOUTH WALES



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SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS

**SUPERANNUATION LEGISLATION (AMENDMENT)
BILL 1991**

NEW SOUTH WALES



No. , 1991

A BILL FOR

An Act to amend various Acts relating to superannuation for the purpose of complying with the Occupational Superannuation Standards Act 1987 of the Commonwealth and for other purposes.

Superannuation Legislation (Amendment) 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Superannuation Legislation (Amendment) Act 1991.

Commencement

2. (1) This Act is taken to have commenced on 1 July 1990, except as provided by this section.

(2) Part 2 of Schedule 1 (amendment of the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 in consequence of the closure of the Queensland Coal Mine Workers' Pensions Fund) is taken to have commenced on 4 December 1989.

(3) The following provisions are taken to have commenced on 1 July 1991:

- (a) Schedule 4 (Amendment of Police Association Employees (Superannuation) Act 1969);
- (b) Part 2 of Schedule 7 (amendments to Public Sector Executives Superannuation Act 1989 relating to retrenchment and discharge benefits);
- (c) Schedule 9 (10) (amendment to State Authorities Superannuation Act 1987 relating to retrenchment benefits);
- (d) Schedule 10 (18) (a) and (19) (amendments to Superannuation Act 1916 relating to retrenchment benefits).

(4) The following provisions commence on the date of assent to this Act:

- (a) section 4 (Repeal of Government Railways (Superannuation) Act 1912 No. 30 and associated Acts etc.);
- (b) section 5 and Schedule 11 (Savings and transitional provisions);
- (c) Part 3 of Schedule 1 (further amendments to the Coal and Oil Shale Mine Workers (Superannuation) Act 1941);
- (d) Schedule 2 (Amendment of Local Government and Other Authorities (Superannuation) Act 1927);
- (e) Schedule 9 (6)–(9) and (11)–(13) (miscellaneous amendments to the State Authorities Superannuation Act 1987);
- (f) Schedule 10 (16), (17), (18) (b) and (c) and (20) (miscellaneous amendments to the Superannuation Act 1916).

Superannuation Legislation (Amendment) 1991

(5) The following provisions are taken to have commenced on 1 October 1991:

- (a) Part 2 of Schedule 3 (amendments to the Parliamentary Contributory Superannuation Act 1971 relating to the reorganisation of the Parliamentary Contributory Superannuation Scheme);
- (b) Schedule 6 (Amendment of Public Authorities (Financial Arrangements) Act 1987).

(6) The following provisions commence on 1 January 1992:

- (a) Schedule 5 (7) (e)–(10) (miscellaneous amendments to the Police Regulation (Superannuation) Act 1906);
- (b) Schedule 10 (2), (4), (6)–(8), (11), (13) and (15) (amendments to the Superannuation Act 1916 relating to reserve units and voluntary saving).

(7) Schedule 10 (5) (substitution of section 33B of the Superannuation Act 1916) commences on a day to be appointed by proclamation.

(8) Section 3 in its application to a provision of Schedules 1–10 commences or is taken to have commenced on the day on which the provision commences or is taken to have commenced.

Amendment of Acts

3. The Acts specified in Schedules 1–10 are amended as set out in those Schedules.

Repeal of Government Railways (Superannuation) Act 1912 No. 30 and associated Acts etc.

4. (1) The following Acts are repealed:

- (a) the Government Railways (Superannuation) Act 1912 No. 30;
- (b) the Government Railways (Amendment) Act 1979 No. 123;
- (c) the Government Railways (Amendment) Act 1980 No. 105.

(2) The board constituted under section 110 of the Government Railways (Superannuation) Act 1912 is abolished.

(3) A member of the board so constituted is not entitled to compensation for loss of office in consequence of the abolition of that board.

Superannuation Legislation (Amendment) 1991

Savings and transitional provisions

5. Schedule 11 has effect.
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**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 2 (**Definitions**):

- (a) After the definition of “Injury” in section 2 (1), insert:

“**Insurance and Superannuation Commissioner**” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

- (b) In paragraph (d) of the definition of “Mine worker” in section 2 (1), after “section 2E”, insert “authorising the person to be employed in some industry, other than the coal or oil shale mining industries, specified in the permit”.

- (c) From paragraph (e) of the definition of “Mine worker” in section 2 (1), omit “work.”, insert instead:

work,

but does not include such a person who is ordinarily so engaged or employed for less than 10 hours per week.

(2) Section 2J (**Further extension of the definition of “Mine worker”**):

In section 2J (7), after “provision of this Act”, insert “, but does not apply to a person who is ordinarily so engaged for less than 10 hours per week”.

(3) Section 8 (**Hard luck cases**):

From section 8 (1), omit “general scope and”.

(4) Section 10EA (**Appropriate amounts of pensions and additions to pensions**):

- (a) Omit section 10EA (2).

- (b) Omit section 10EA (3)–(6), insert instead:

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(3) If:

(a) a person referred to in subparagraph (ii) of subsection (1) (c); or

(b) the spouse of the person,

receives or becomes entitled to receive an invalid pension or a wife's pension under the Social Security Act 1947 of the Commonwealth before the day referred to in that subparagraph, the amount to which the person would be entitled under subsection (1) (c) but for this subsection is, for the period during which that pension is payable, to be reduced by the amount of that pension.

(5) Section 10F (**Amendment of Schedule 1 following variation in Reference Rate**):

After section 10F (2B), insert:

(3) If, but for this subsection, a variation in the amount of the Reference Rate would result in a decrease in the amount of pension payable to a person described in Column 3 of Schedule 1 to a level below that at which the pension was first paid to that person, the amount of pension payable to the person is in no case to be reduced below the level at which it was first so paid.

(6) Section 10H (**Suspension of part of pension in certain circumstances**):

From section 10H (1), omit "shall be", insert instead "is, if the person so directs, to be reduced to".

(7) Section 13 (**Deductions from pensions**):

Omit the section.

(8) Section 14 (**Applications for pensions**):

Omit section 14 (5), insert instead:

(5) If, after considering the application and report, the Tribunal is satisfied that the applicant is entitled to a pension under the provision of this Act specified in the application, the Tribunal must allow the application, but, if it is not so satisfied, it must disallow the application or adjourn its consideration of the application until the production of further information by the applicant.

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(9) Section 14B (**Prescribed amount for purposes of sections 14A and 14AA**):

After section 14B (6), insert:

(7) If:

- (a) a lump sum benefit has become payable under section 14A or 14AA; and
- (b) a variation under subsection (3) would, but for this subsection, result in a reduction in the amount of that benefit,

then, subject to section 19MA, the benefit is to be paid as if the variation under subsection (3) had not been made.

(10) Section 14FA (**Lump sum benefit payable: from 3 July 1988**):

After subsection (1), insert:

(1A) The Tribunal is not entitled to be satisfied as to the incapacity of a mine worker as referred to in subsection (1) unless, in addition to any other proof that it may require, it is provided with a certificate or certificates signed by at least 2 medical practitioners to the effect that the mine worker is in their opinion unlikely ever to be able to work again in employment for which the mine worker is reasonably qualified by education, training and experience.

(11) Section 14H (**Applications for lump sum benefit payment**):

Omit section 14H (5), insert instead:

(5) If, after considering the application and report, the Tribunal is satisfied that the applicant is entitled to a lump sum benefit under the provision of this Act specified in the application, the Tribunal must allow the application, but, if it is not so satisfied, it must disallow the application or adjourn its consideration of the application until the production of further information by the applicant.

(12) Section 15B (**Power of the Tribunal to make orders declaring certain persons to be mine workers for the purposes of this Act**):

After section 15B (4), insert:

- (5) The Tribunal may not make an order under subsection (1) (a) in respect of a person who is ordinarily engaged in the

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

coal or oil shale mining industries for less than 10 hours per week.

(13) Section 19 (**Contributions to Fund**):

- (a) From section 19 (2C), omit “anticipated”, insert instead “accrued”.
- (b) Omit section 19 (4).

(14) Section 19B (**Amount of subsidy**):

From section 19B (2) (a), omit “section 11A and section 13 (subsection (4) of which shall, for the purposes of this section, be deemed never to have been in force)”, insert instead “sections 10EA and 11A”.

(15) Section 19J (**Refund**):

After section 19J (1), insert:

(1A) If a mine worker is, or the personal representatives of a mine worker are, entitled to a refund under subsection (1) and the refund was not paid before 1 July 1990, there is to be paid to that mine worker or those personal representatives, in addition to the amount provided for by that subsection:

- (a) in respect of the period from the termination of the mine worker’s engagement until 1 July 1990—interest on that amount at the rate of 3 per cent per annum; and
- (b) in respect of the period beginning with 1 July 1990 and ending with the date on which that amount is paid under this section—interest on that amount as provided by section 19L (6).

(16) Section 19K (**Reduction of amount of refund**):

Omit section 19K (1), insert instead:

(1) The reference in section 19J (1) to the total amount of a mine worker’s contributions to the Fund is a reference to those contributions as reduced by an amount equal to so much of the mine worker’s contributions to the Fund as was previously refunded to or in respect of the mine worker under section 19J (excluding any of those contributions that have been repaid to the Fund).

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(17) Section 19L (**Refund of contributions where mine worker ceases to be employed on or after 26.3.1978**):

(a) Omit section 19L (6) (b), insert instead:

(b) in respect of a year ending on 30 June 1989 or on 30 June in any subsequent year—the rate per annum determined by the Tribunal in respect of that year on the basis of the net earnings of the Fund in that year.

(b) Omit section 19L (7) and (8).

(18) Omit section 19M, insert instead:

Reduction of amount of refund under section 19L

19M. The reference in section 19L (1) to the total amount of a mine worker's contributions to the Fund is a reference to those contributions as reduced by an amount equal to so much of the mine worker's contributions to the Fund as were previously refunded to or in respect of the mine worker under section 19J (excluding any of those contributions that have been repaid to the Fund, as referred to in section 10AA).

(19) Section 19MA:

After section 19M, insert in Part 4B:

Refund of shortfall where pension or lump sum payments are less than amount payable under section 19J or 19L

19MA. (1) If:

- (a) for any reason a pension payable under a provision of Division 2 of Part 2 to or in respect of a mine worker is cancelled or otherwise terminated; and
- (b) no dependant of the mine worker is entitled to a pension under any other provision of that Division; and
- (c) the total amount paid as pension under that Division is less than the amount of refund that would have been payable to or in respect of the mine worker under section 19J or 19L had either of those sections been applicable to or in respect of the mine worker,

the Tribunal must, on application by the appropriate person or persons, refund to the applicant or applicants the difference between those amounts.

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(2) For the purposes of subsection (1), the appropriate person or persons are:

- (a) the mine worker concerned; or
- (b) if that mine worker has died—a dependant of that mine worker; or
- (c) if that mine worker has no dependants—the personal representatives of that mine worker.

(3) The reference in subsection (1) to the total amount paid as pension is, in relation to a pension that has been reduced in accordance with a provision of Division 2 of Part 2, a reference to that total amount as so reduced.

(4) If for any reason the amount of a lump sum benefit payable under Division 3 of Part 2 would be less than the amount of refund that would have been payable to or in respect of the mine worker under section 19L had that section been applicable to or in respect of the mine worker, the mine worker is or, if the mine worker has died, the personal representatives of the mine worker are entitled to receive an amount equivalent to that amount of refund instead of the lump sum benefit.

(20) Section 27 (**Actuarial investigation and report**):

(a) Omit section 27 (3) (a), insert instead:

- (a) include a statement of the value of the assets of the Fund; and
- (a1) include a statement of the actuary's opinion on whether the value of the assets of the Fund is adequate to meet the liabilities of the Fund in respect of vested benefits in the Fund; and
- (a2) include a statement recommending, in respect of the 3-year period immediately following the period to which the report relates, the rate at which the actuary considers employer contributions should be made or, if the actuary considers employer contributions should be made at different rates in respect of 2 or more periods within that 3-year period, those different rates; and

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

- (a3) include a statement to the effect that employer contributions made at that recommended rate or those recommended rates, together with the assets of the Fund and the contributions made by members, will provide adequately for expected liabilities of the Fund during that 3-year period; and
 - (b) From section 27 (3A), omit “13 months”, insert instead “12 months”.
 - (c) After section 27 (3A), insert:
 - (3AA) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3A) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.
 - (d) Omit section 27 (3C), insert instead:
 - (3C) The Minister may, in relation to a particular report, extend or further extend the period referred to in subsection (3B) if the Minister considers that special circumstances justify an extension or further extension.
- (21) Section 27B:
- After section 27A, insert:
- What information must be disclosed to mine workers**
- 27B. (1) The Tribunal must, as soon as practicable after a mine worker becomes a contributor to the Fund, give to the mine worker a written statement specifying:
- (a) details of the kinds of benefits provided under this Act to mine workers, former mine workers and the dependants of the mine workers and former mine workers; and
 - (b) the conditions applicable to those benefits; and
 - (c) the method of determining entitlements to those benefits.
- (2) The Tribunal must, within 6 months after the end of each financial year of the Tribunal, give to each mine worker who is a contributor to the Fund a written statement specifying for that financial year the particulars required by

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the mine worker's interest in the Fund.

(3) If a person ceases to be a mine worker on a day other than the last day of a financial year of the Tribunal, the Tribunal must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Tribunal:

(a) the Tribunal may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and

(b) if the Tribunal does so:

(i) the Tribunal must, in relation to each succeeding financial year of the Tribunal, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and

(ii) the reference in subsection (3) to the last day of a financial year of the Tribunal is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Tribunal must, as soon as practicable after the amendment has been made, give to each mine worker a statement in writing which explains:

(a) the nature and purpose of the amendment; and

(b) the effect (if any) of the amendment on the entitlements of mine workers and their dependants to benefits under this Act or the regulations.

(6) The Tribunal must, on being requested to do so by a mine worker, give to the mine worker:

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 27; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.
- (7) The following statements contained in an actuary's report prepared under section 27 are specified for the purposes of subsection (6) (a):
- (a) a statement of the value of the assets of the Fund;
 - (b) a statement of the actuary's opinion on whether the value of the assets of the Fund is adequate to meet the liabilities of the Fund in respect of vested benefits in the Fund;
 - (c) a statement recommending, in respect of the 3-year period immediately following the period to which the report relates, the rate at which the actuary considers employer contributions should be made or, if the actuary considers employer contributions should be made at different rates in respect of 2 or more periods within that 3-year period, those different rates;
 - (d) a statement to the effect that employer contributions made at that recommended rate or those recommended rates, together with the assets of the Fund and the contributions made by members, will provide adequately for expected liabilities of the Fund during that 3-year period.
- (8) The Tribunal may, but is not obliged to, comply with more than one request made by a mine worker under subsection (6) during a financial year of the Tribunal.

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(22) Section 28 (**Advances by Treasury**):

Omit the section.

**PART 2—AMENDMENTS IN CONSEQUENCE OF
THE CLOSURE OF THE QUEENSLAND COAL
MINE WORKERS' PENSIONS FUND**

(23) Section 4A:

After section 4, insert in Part 1:

**Special provisions for persons engaged in the coal mining
industry in Queensland**

4A. (1) For the purposes only of a provision to which this section applies, a person is, subject to this section, taken to have been a mine worker engaged in the coal or oil shale mining industries if the person:

- (a) has (whether before, on or after 4 December 1989) been employed in the coal mining industry in Queensland; and
- (b) by virtue of the operation of section 2 (2), would be deemed to have been so engaged had the employment been in New South Wales.

(2) This section applies to sections 3 (8), 3A, 5AA, 7 (1A), 14A, 14AA, 14D, 14E, 14FA and 14FB.

(3) The provisions of section 3 (1), (3) and (4) apply to a person referred to in subsection (1) and so apply as if a reference in those provisions to New South Wales also included a reference to Queensland.

(4) Section 6 applies to a person referred to in subsection (1) and so applies as if:

- (a) a reference in that section to having been continuously resident, or resident, in New South Wales during a specified period included a reference to any period during which the person was continuously resident, or resident, in Queensland; and
- (b) a reference in that section to having been continuously engaged, or engaged, in the coal or oil shale mining industries in New South Wales during a specified period included a reference to any period during which

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

the person was continuously employed, or employed,
in the coal mining industry in Queensland; and

- (c) a reference in that section to having actually worked in or about a coal or oil shale mine in New South Wales for a specified period included a reference to any period during which the person worked in or about a coal mine in Queensland.

(5) For the purposes of applying section 14D to a person who has died while employed in the coal mining industry in Queensland, references in that section to the prescribed dependent amount are taken to be references to such amount as the person would have been entitled to be paid under section 14A or 14AA if the person:

- (a) had reached the relevant retirement age for the purposes of this Act on the last day on which the person was actually engaged in the coal or oil shale mining industries in New South Wales; and
- (b) had retired on that day.

(6) For the purposes of applying the provisions of section 14E, 14FA or 14FB to a person who is incapacitated by injury while employed in the coal mining industry in Queensland, references in those provisions to a lump sum benefit payable under any of those provisions are taken to be references to such lump sum benefit as the person would have been entitled to be paid under section 14A or 14AA if the person:

- (a) had reached the relevant retirement age for the purposes of this Act on the last day on which the person was actually engaged in the coal or oil shale mining industries in New South Wales; and
- (b) had retired on that day.

(24) Section 7 (**Pension—permanent incapacity**):

- (a) In section 7 (1A) (c), omit “in New South Wales”.
- (b) From section 7 (1A) (d), omit “and the Coal and Oil Shale Mine Workers Superannuation Fund”, insert instead “, the Coal and Oil Shale Mine Workers Superannuation Fund and the Queensland Coal Mine Workers’ Pensions Fund”.

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SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

PART 3—FURTHER AMENDMENTS

(25) Section 14D (**Lump sum benefit payment on death of mine worker**):

(a) From section 14D (7), omit “The”, insert instead “Subject to subsection (9), the”.

(b) After section 14D (8), insert:

(9) If:

(a) a mine worker:

(i) has, while actually engaged in performing work as a mine worker on or after 1 August 1990, sustained an injury that is wholly or partly the result of an accident; and

(ii) has died within 6 months after the day on which the injury was sustained; and

(b) the death resulted directly or indirectly from the injury; and

(c) the mine worker is survived by a spouse,

the spouse is entitled to receive a lump sum benefit of an amount equal to 90 times the prescribed amount (as referred to in section 14B) as at the date of the mine worker’s death.

(10) For the purposes of subsection (9), “**accident**” includes an event, act or omission that is the result of the negligence or misconduct of any person (including the deceased mine worker).

(11) A benefit is payable under subsection (9) in addition to any other benefit that is payable in respect of the mine worker under this Part.

(26) Section 25A:

After section 25, insert:

Interest payable where payment of benefit is delayed

25A. (1) Whenever there has been a delay in making payment of a pension or lump sum benefit under this Act (for whatever reason) to or in respect of a person who was a mine worker, the Tribunal may, in its discretion, award interest on the amount of pension or lump sum from the date on which

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**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued***

the person ceased to be a mine worker to the date of payment of the pension or lump sum benefit.

(2) This section applies to or in respect of any person who ceased to be a mine worker on or after 4 December 1989.

**SCHEDULE 2—AMENDMENT OF LOCAL GOVERNMENT
AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927**

(Sec. 3)

Section 15Y:

Omit the section, insert instead:

Payment to be made to contributor on resignation or dismissal

15Y. (1) If a person who is a contributor resigns or is dismissed from the employment of a prescribed employer, the board must:

(a) pay to the person:

- (i) any amount credited to the person's account in accordance with section 15K (3) or section 15L (9) (as the case requires) together with so much of any interest credited to the person's account under section 15U (2) as is attributable to any such amount; and
- (ii) in respect of the balance of the amount in the person's account after deduction of the amount and interest (if any) referred to in subparagraph (i) that relates to contributions paid or payable before 1 July 1988—40 per cent of that amount; and
- (iii) in respect of the balance of the amount and interest (if any) referred to in subparagraph (i) that relates to contributions paid or payable on or after 1 July 1988—43.96 per cent of that amount; and

(b) pay any amount remaining in the person's account after making the payment under paragraph (a):

- (i) in the case of a prescribed employer who is an incorporated hospital, a separate institution or an

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**SCHEDULE 2—AMENDMENT OF LOCAL GOVERNMENT AND
OTHER AUTHORITIES (SUPERANNUATION) ACT 1927—
*continued***

associated organisation specified in the Second, Third or Fourth Schedule to the Public Hospitals Act 1929—to the appropriate employer reserve or reserves established under the State Authorities Superannuation Act 1987; or

(ii) in the case of any other prescribed employer—to that employer.

(2) This section is subject to section 15Z and does not apply to a person who is a contributor referred to in section 15V or 15X.

(3) The board must not make a payment under this section until at least 28 days after the date on which the person concerned resigned or was dismissed, unless the person has applied to the board within that period for the payment to be made.

(4) Any payment of a kind referred to in subsection (1) (b) that the board has made before the commencement of Schedule 2 to the Superannuation Legislation (Amendment) Act 1991 is validated and declared to have been as lawfully made as if this section (as substituted by that Schedule) had then been in force.

(5) In this section, a reference to a prescribed employer is a reference to a council, body or association that is the subject of a proclamation published under section 2 (4).

**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 3 (Definitions):

Insert in alphabetical order:

“Commonwealth occupational superannuation standard” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

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**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued***

“Commonwealth taxation law” means a law of the Commonwealth that provides for the levying and collection of a tax;

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

“Parliamentary Contributory Superannuation Scheme” means the contributory superannuation scheme established by this Act;

“penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 10 (Actuarial investigation):

(a) After section 10 (2), insert:

(2A) The actuary must complete the investigation, and report the result to the trustees, not later than 12 months after the date as at which the investigation is made.

(2B) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2A) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(b) Omit section 10 (3), insert instead:

(3) The actuary must certify to the Treasurer the amount that, in addition to any other money payable into the Fund, should, in the actuary's opinion, be paid into the Fund in respect of each financial year during the period of 25 years following the completion of the investigation to enable the Fund to meet its liabilities.

(3A) In subsection (3), the reference to money payable into the Fund includes a reference to any interim advances:

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) that were paid into the Fund before completion of the investigation; or
 - (b) that the actuary has, under subsection (4), certified should be paid into the Fund.
- (3B) The report referred to in subsection (2A) must:
 - (a) include a statement of the value of the assets of the Fund; and
 - (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.
- (3) Section 22 (**Pension on retirement on grounds of ill-health**):

After section 22 (1), insert:

(1A) The medical evidence referred to in subsection (1) must include a certificate or certificates acceptable to the trustees, signed by 2 medical practitioners, certifying that the member is incapable of performing the duties of a member due to ill-health or physical or mental incapacity.
- (4) Section 23 (**Pension for widows and widowers**):

From section 23 (3A), omit “or remarriage”.
- (5) Sections 27A–27C:

After section 27, insert:

Power of the trustees to adjust benefits to comply with certain standards relating to occupational superannuation):

27A. (1) If:

 - (a) a member or former member becomes entitled to receive a pension under this Act, other than a pension under section 22; and

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (b) payment of the pension to the member or former member would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,

the member or former member may, by notice in writing given to the trustees before the pension starts to be paid, elect to receive the pension:

- (c) in a form that complies with those standards; or
(d) in a form that is in accordance with this Act (apart from this section and section 27C).

(2) Even after such a pension has started to be paid to a member or former member in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the member or former member is, by notice in writing given to the trustees at any time before the trustees are required to take the action referred to in section 27C (1), entitled to make an election or a further election to receive payment of the pension in a form that complies with the relevant Commonwealth occupational superannuation standards.

(3) An election made and notified to the trustees in accordance with this section is sufficient authority for the trustees to pay a pension in accordance with the election of the member or former member concerned.

(4) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(5) A member or former member who does not notify the trustees of an election made by the member or former member under this section before the pension concerned starts to be paid is, subject to subsection (2), to be regarded as having elected to receive payment of the pension in the form provided by this Act (apart from this section and section 27C).

(6) If a member or former member makes an election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the trustees must ensure that the

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

pension is varied only to the extent necessary to comply with those standards.

(7) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the member or former member who made the election but also on any person claiming a benefit under this Act through that member or former member.

(8) If an election is made under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the pension is payable in that form despite any other provision of this Act to the contrary.

Special provisions applicable to members who have reached 65 years of age

27B. (1) If:

- (a) the receipt by the trustees of contributions in respect of a member who has reached 65 years of age, or starting to pay a benefit to or in respect of such a member, would result in the trustees or the Fund being in breach of a Commonwealth occupational superannuation standard; and
- (b) as a result of the breach, the Fund would be liable to a penalty under a Commonwealth taxation law,

the trustees may make a determination under this section to ensure that neither the trustees nor the Fund is in breach of the standard.

(2) Such a determination may be:

- (a) a determination not to accept further contributions in respect of the member concerned; or
- (b) a determination to pay a benefit to or in respect of that member subject to specified terms and conditions (including terms and conditions as to time of payment).

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act

27C. (1) If the Insurance and Superannuation Commissioner:

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) determines that a pension payable to a member or former member under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the member or former member; and
- (b) in consequence of that determination advises the trustees by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that they must treat the pension as if the member or former member had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the trustees must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that they have so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the trustees:

- (a) receive from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or
- (b) are satisfied as a result of information provided by the member or former member concerned that the member or former member has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the trustees must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the trustees are required to commute a pension payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the trustees on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factor applicable when a member or former member exercises the right to convert part of a pension to a lump sum benefit as provided by section 20.

(6) Section 32A:

After section 32, insert:

What information must be disclosed to members

32A. (1) The trustees must, as soon as practicable after the person becomes a member, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to members, former members and the dependants of members and former members; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The trustees must, within 6 months after the end of each financial year of the Fund, give to each member a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the member's interest in the Fund.

(3) If a person ceases to be a member on a day other than the last day of a financial year of the Fund, the trustees must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Fund:

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) the trustees may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
 - (b) if the trustees do so:
 - (i) they must, in relation to each succeeding financial year of the Fund, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Fund is to be read as a reference to the last day of the period beginning during that financial year.
- (5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the trustees must, as soon as practicable after the amendment has been made, give to each member a statement in writing which explains:
- (a) the nature and purpose of the amendment; and
 - (b) the effect (if any) of the amendment on the entitlements of members and their dependants to benefits under this Act or the regulations.
- (6) The trustees must, on being requested to do so by a member, give to the member:
- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 10; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

(7) The following statements contained in an actuary's report prepared under section 10 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(8) The trustees may, but are not obliged to, comply with more than one request made by a member under subsection (6) during a financial year of the Fund.

**PART 2—AMENDMENTS RELATING TO THE
REORGANISATION OF THE PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION SCHEME**

(7) Section 3 (**Definitions**):

- (a) From the definition of "the Fund", omit "established", insert instead "maintained".
- (b) Omit the definition of "trustees", insert instead:

"trustees" means the Trustees of the Parliamentary Contributory Superannuation Fund constituted by this Act.

(8) Section 5:

Omit the section, insert instead:

Parliamentary Contributory Superannuation Fund

5. The trustees must maintain in the Treasury, or in such other place as the trustees determine, a fund to be called the Parliamentary Contributory Superannuation Fund.

(9) Section 7:

Omit the section, insert instead:

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

Financial accommodation and investment

7. (1) The trustees may, under and subject to the Public Authorities (Financial Arrangements) Act 1987:

- (a) obtain financial accommodation; and
- (b) make financial arrangements; and
- (c) make investments.

(2) The trustees must invest money standing to the credit of the Fund that is available for investment through an investment manager or managers who undertake to invest and manage that money on behalf of the trustees.

(3) The trustees may appoint one or more investment managers for the purposes of this section.

(10) Sections 8 (**Uninvested moneys**), 9 (**Borrowing powers**):

Omit the sections.

(11) Section 14 (**Trustees of the Fund**):

Omit section 14 (2)–(6), insert instead:

(2) A person holding office as trustee vacates that office on ceasing to be a member.

(12) Section 14A:

After section 14, insert:

Trustees to be a body corporate

14A. (1) There is constituted by this Act a body corporate with the corporate name of the Trustees of the Parliamentary Contributory Superannuation Fund.

(2) The body corporate is to consist of the trustees who are holding office under section 14.

(13) Section 15:

Omit the section, insert instead:

Functions of the trustees

15. (1) The functions of the trustees are:

- (a) to administer the Parliamentary Contributory Superannuation Scheme; and
- (b) to ensure that the Fund is invested and managed in accordance with this Act; and

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

(c) to pay benefits to or in respect of members and former members; and

(d) to make such other payments as are provided for by this Act.

(2) The trustees are trustees for the purposes of the Trustee Act 1925 and are required to hold in trust for the persons entitled to benefits under this Act all contributions and other money paid or payable to the trustees.

(3) The trustees must use the assets of the Fund to pay benefits to or in respect of the members and former members and to pay the costs and expenses of the investment and management of the Fund.

(4) The trustees have power in New South Wales and elsewhere to do all things necessary or convenient to be done for, or in connection with, the exercise of the functions specified in subsection (1) and, in particular, may:

(a) engage investment advisers and other kinds of consultants; and

(b) appoint agents and attorneys and act as agent for others; and

(c) take action to control or manage, or to enhance or protect, the value of any investment made out of the Fund, or to enhance or protect the return on any such investment.

(5) In exercising their functions, the trustees must:

(a) have regard to the interests of members and other persons entitled to benefits under this Act; and

(b) comply with the standards prescribed by or under the Occupational Superannuation Standards Act 1987 of the Commonwealth.

(14) Sections 15A–15C:

After section 15, insert:

Trustees may delegate their functions

15A. The trustees may delegate to:

(a) a trustee; or

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (b) a committee that consists of or includes one or more trustees; or
- (c) a person whose services are made use of under section 15B,

any of their functions, other than this power of delegation.

Staff of the trustees

15B. The trustees may, with the approval of the Minister or authority concerned, arrange for the use of the services of any staff, or the facilities, of a Government department, an administrative office or a public or local authority.

Trustees may establish committees

15C. (1) The trustees may establish committees to assist them in exercising their functions.

(2) A person may be appointed as a member of such a committee even though he or she may not be a trustee.

(3) The procedure for calling meetings of such a committee and for the conduct of business at those meetings may be decided by the trustees or, subject to any decision of the trustees, by the committee.

(15) Section 16 (**Meetings of trustees**):

Omit “managing” wherever occurring.

(16) Section 17 (**Appointment of person to act in absence of Secretary of the Treasury**):

- (a) Omit “custodian” where firstly occurring.
- (b) Omit “the custodian trustee and shall be deemed to be the corporation sole constituted under subsection (3) of section 14”, insert instead “a trustee”.

(17) Section 17A:

After section 17, insert:

Indemnification of trustees etc.

17A. (1) Any matter or thing done, or omitted to be done, in good faith by:

- (a) a trustee in the exercise of the trustee’s functions under this Act; or

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (b) a person acting in accordance with the directions of the trustees,
does not subject the trustee or person personally to any action, liability, claim or demand.
 - (2) Subsection (1) does not preclude the trustees from being subject to any action, liability, claim or demand.
- (18) Section 19 (**Members' superannuation benefit**):
From section 19 (9), omit "managing" wherever occurring.
- (19) Section 20 (**Right to convert part of entitlement to lump sum entitlement**):
 - (a) From section 20 (1), (2) and (4), omit "custodian trustee" wherever occurring, insert instead "trustees".
 - (b) From section 20 (2) (c) and (5), omit "managing" wherever occurring.
- (20) Section 22 (**Pension on retirement on grounds of ill-health**):
Omit "managing" wherever occurring.
- (21) Section 23 (**Pension for widows and widowers**):
From section 23 (8) and (9), omit "managing" wherever occurring.
- (22) Section 26 (**Suspension of pension where another parliamentary pension received**):
From section 26 (2) and (3), omit "managing" wherever occurring.
- (23) Section 28 (**Pensions to be paid by instalments**):
Omit "managing".
- (24) Section 29 (**Continuation of former Act in certain circumstances**):
 - (a) From section 29 (1) (d) (iv), omit "custodian trustee", insert "relevant person".
 - (b) From section 29 (3), omit "the trustees, the custodian trustee and the managing trustees" where secondly occurring, insert instead "the relevant persons".

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**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued***

(c) After section 29 (3), insert:

(4) The reference in subsection (1) (d) (iv) to the relevant person is a reference:

(a) during the period beginning on 1 January 1972 and ending with 30 September 1991—to the custodian trustee within the meaning of this Act as then in force; and

(b) on and after 1 October 1991—to the trustees.

(5) The reference in subsection (3) to the relevant persons is a reference:

(a) during the period beginning on 1 January 1972 and ending with 30 September 1991—to the trustees and to the custodian trustee and the managing trustees within the meaning of this Act as then in force; and

(b) on and after 1 October 1991—to the trustees.

(25) Section 30 (**Persons who elected not to contribute under former Act**):

Omit the section.

(26) Section 31 (**Exemption from stamp duty**):

(a) Omit “custodian trustee”, insert instead “trustees”.

(b) Omit “person”, insert instead “persons”.

**SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969**

(Sec. 3)

(1) Section 2 (**Definitions**):

(a) In section 2 (1), after the definition of “Board”, insert:

“**executive officer**” means an employee of the Association whom the Association has appointed or designated as an executive officer of the Association;

(b) From section 2 (1), omit the definition of “salary of office”, insert instead;

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SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—*continued*

“salary of office”:

- (a) in relation to an employee of the Association who is not an executive officer—has the meaning set out in section 1 (2) of the Police Regulation (Superannuation) Act 1906; or
- (b) in relation to an executive officer—has the meaning set out in section 2B;

“superannuation scheme” means a scheme, fund or arrangement (whether established by an Act or not) under which any superannuation or retirement benefits are provided.

(2) After section 2A, insert:

Salary of office: executive officers

2B. (1) For the purposes of this Act, the salary of office of an executive officer is the aggregate of:

- (a) the monetary remuneration payable to the officer; and
- (b) the cost to the Association of providing the officer with employment benefits or, if the officer has, in accordance with subsection (2), elected to have treated as salary of office 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 the officer.

(2) An executive officer may elect to have treated as salary of office for the purposes of this Act:

- (a) none of the cost to the Association of providing the officer with employment benefits referred to in subsection (1) (b); or
- (b) only a specified proportion of that cost.

(3) An executive officer may, from time to time:

- (a) elect to reduce the proportion of the cost of providing the officer’s employment benefits that is treated as salary of office for the purposes of this Act; or

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SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—*continued*

- (b) elect to increase that proportion or, if none of the cost to the Association of providing the officer with employment benefits is currently treated as part of the officer's salary of office for the purposes of this Act, to nominate a proportion of that cost, but so that the percentage increase in the salary of the officer for the purposes of this Act is not greater than the percentage of any increase in the remuneration package of the officer since the last occasion on which the officer had an opportunity to make an election under this paragraph.
 - (4) The qualification in subsection (3) (b) does not apply when the executive officer is appointed to another position as an executive officer with the Association.
 - (5) For the purposes of this section, "**employment benefits**", in relation to an executive officer, means any components of the remuneration package of an executive officer that are not subject to the payment of personal income tax, except a component of that package that consists of:
 - (a) payments of contributions payable to a superannuation scheme by the Association in respect of the officer; and
 - (b) payments by the Association of any approved costs associated with the officer's membership of the scheme.
 - (3) Section 3 (**Employees of Association transferring from police force**):
 - (a) Omit section 3 (2), insert instead:
 - (2) The Board may, subject to this section, approve the payment of:
 - (a) such annual superannuation allowance to the prescribed person; or
 - (b) such gratuity to the prescribed person, or to or on behalf of some other person,
- (as the case requires) out of the Fund as would be payable to the prescribed person or to that other person under section 7, 7AA, 8A, 9B, 13 or 14 of the Police Regulation (Superannuation) Act 1906 if the prescribed person had been a member of the police force and if the prescribed person or

Superannuation Legislation (Amendment) 1991

**SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—*continued***

that other person had been eligible for that allowance or gratuity.

(2AA) The granting of approval under subsection (2) is subject to:

- (a) the payment, in such manner as the Board may direct, by the prescribed person into the Fund of sums equivalent to the deductions that would have been made from that person's salary of office under section 5 of the Police Regulation (Superannuation) Act 1906 and the amounts that would have been required to be paid into the Fund under section 5A of that Act if that person had not resigned office as a member of the police force; and
- (b) the payment, in such manner as the Board directs, by the Association into the Fund of employer contributions in respect of that person.

(2AB) In subsection (2AA) (b), the reference to employer contributions is a reference to the amounts that the Board, on actuarial advice, determines to be the Association's liability, for the period to which the payment relates, to contribute towards the provision of superannuation benefits for the prescribed person.

- (4) Section 4 (**Payment of superannuation allowance to F. C. Laut or his widow**):

Omit the section.

**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

- (1) Section 1 (**Short title, commencement and definitions**):

In section 1 (2), insert in alphabetical order:

“**Commonwealth occupational superannuation standard**” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

“penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

- (2) Section 14AA (**Power of the Board to reduce benefits to offset certain tax liabilities of the Fund**):

From section 14AA (1) (a), omit “member or former member of the police force”, insert instead “contributor or former contributor”.

- (3) Section 14AB (**Power of the Board to adjust benefits to comply with certain standards relating to occupational superannuation**):

Omit section 14AB (2) and (3), insert instead:

(2) If:

- (a) a contributor or former contributor becomes entitled to receive a superannuation allowance under this Act, other than a superannuation allowance under section 7 or 10 arising from the incapacity of the contributor or former contributor; and
- (b) payment of the allowance to the contributor or former contributor would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,

the contributor or former contributor may, by notice in writing given to the Board before the allowance starts to be paid, elect to receive the allowance:

- (c) in a form that complies with those standards; or
- (d) in a form that is in accordance with this Act (apart from this section and section 14AC).

Superannuation Legislation (Amendment) 1991

SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(3) Even after such a superannuation allowance has started to be paid in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the contributor or former contributor concerned is, by notice in writing given to the Board at any time before the Board is required to take the action referred to in section 14AC (1), entitled to make an election or a further election to receive payment of the allowance in a form that complies with the relevant Commonwealth occupational superannuation standards.

(4) An election made and notified to the Board in accordance with this section is sufficient authority for the Board to pay a superannuation allowance in accordance with the election of the contributor or former contributor concerned.

(5) An election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(6) A contributor or former contributor who does not notify the Board of the election of the contributor or former contributor under this section before the superannuation allowance concerned starts to be paid is, subject to subsection (3), to be regarded as having elected to receive payment of the allowance in the form provided by this Act (apart from this section and section 14AC).

(7) If a contributor or former contributor makes an election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards, the Board must ensure that the allowance is varied only to the extent necessary to comply with those standards.

(8) An election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the contributor or former contributor who made the election but also on any person claiming a benefit under this Act through that contributor or former contributor.

Superannuation Legislation (Amendment) 1991

SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(9) If an election is made under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards, the superannuation allowance is payable in that form despite any other provision of this Act to the contrary.

(10) In this section:

- (a) a reference to a benefit or superannuation allowance is a reference to a benefit or superannuation allowance after it has been reduced in accordance with section 14AA if appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(11) This section does not apply to a benefit payable under section 8A.

(4) Section 14AC:

After section 14AB, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a superannuation allowance payable under this Act

14AC. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a superannuation allowance payable to a contributor or former contributor under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor; and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the superannuation allowance as if the contributor or former contributor concerned had commuted to a lump sum benefit so much of the allowance as is required to comply with the notice,

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has done so.

(2) However, if, in relation to a superannuation allowance referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or
- (b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the allowance,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the allowance.

(3) Whenever the Board is required to commute a superannuation allowance payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the allowance is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factors prescribed in Schedule 3; and
- (c) if the allowance is payable under section 7 as a result of the contributor or former contributor concerned having been certified under section 8 or 10B as being incapable of discharging the duties of office—other commutation factors relevant to the nature of the pension and the circumstances of the contributor or former contributor (including the factor prescribed by section 14K (4)).

Superannuation Legislation (Amendment) 1991

SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(5) In this section, a reference to a superannuation allowance is a reference to a superannuation allowance after it has been reduced in accordance with section 14AA if appropriate.

(5) Sections 23A, 23B:

After section 23, insert:

What information must be disclosed to members of the police force to whom this Act applies

23A. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the prescribed particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

months beginning on a day during that financial year;
and

(b) if the Board does so:

- (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
- (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 23B; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 23B are specified for the purposes of subsection (6) (a):

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(SUPERANNUATION) ACT 1906—*continued*

- (a) a statement of the value of the assets of the Fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, that Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.

Actuarial investigation

23B. (1) An investigation as to the state and sufficiency of the Fund is, as at 31 March 1991, and at the end of each succeeding period of 3 years, to be made by an actuary or actuaries appointed by the Board.

(2) Actuaries appointed under this section must complete their investigation, and report the result to the Board, not later than 12 months after the date as at which the investigation is made.

(3) The report referred to in subsection (2) must:

- (a) include a statement of the value of the assets of the Fund; and
- (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(4) The Board must, not later than 2 months after it receives a report under subsection (2), forward the report to the Minister with such comments as it thinks fit.

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**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued***

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(6) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (4) if the Minister considers that special circumstances exist to justify an extension or further extension.

PART 2—MISCELLANEOUS AMENDMENTS

(6) Section 5B (Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme):

(a) After “section 9B (6)” wherever occurring, insert “or (6AA)”.

(b) Omit section 5B (7), insert instead:

(7) If the contributor referred to in subsection (6) (a) has not attained the age of 55 years on electing to become a member of the Public Sector Executives Superannuation Scheme, the benefit to which the contributor is entitled is the greater of the amounts calculated in accordance with the following formulae:

$$(a) L = 2.5 \times B \times 0.97^{(55 - A)}$$

$$(b) L = E \times \left(\frac{S}{S + P} \right) \times 0.94^{(55 - A)}$$

where:

L represents the amount to be calculated;

B represents the amount that would be payable under section 17 if, at the date of the election under subsection (5) (d), the contributor had resigned (but without interest as provided by that section);

E represents the lump sum that would have been payable if the contributor:

(a) were to continue as a member of the police force until attaining the age of 55 years at the same salary of office; and

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(b) were to commute the superannuation allowance otherwise payable to the contributor;

S represents the number of months of service that has been completed by the contributor;

P represents the additional months of service that the contributor would have completed if he or she were to continue as a member of the police force until the age of 55 years;

A represents the age in years of the contributor (including fractions of a year on the basis of completed months) at the date on which the contributor becomes a member of the Public Sector Executives Superannuation Scheme.

(7A) If the contributor referred to in subsection (6) (a) has attained the age of 55 years on electing to become a member of the Public Sector Executives Superannuation Scheme, the benefit to which the contributor is entitled is the lump sum benefit that would be payable if the contributor:

(a) had become entitled to the allowance prescribed by section 7 (1) or section 7AA (2) (whichever is applicable); and

(b) had elected to commute the allowance in accordance with section 14J (3).

(7) Section 9B (**Preserved benefit**):

(a) In section 9B (3), after “subsection (6)”, insert “or (6AA)”.

(b) Omit section 9B (3) (a), insert instead:

(a) when the former member, having attained the age of 55 years, makes an application to the Board in writing for the benefit;

(c) In section 9B (5) (b), after “subsection (6)”, insert “or (6AA)”.

(d) After section 9B (6), insert:

(6AA) Subject to subsection (6A), the benefit provided by this subsection is, in the case of a former member of the police force who:

(a) was eligible to become, or was, a member of the Public Sector Executives Superannuation Scheme; and

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

- (b) elected to make provision for a benefit under this section in accordance with section 5B (1) (b); and
 - (c) has attained the age of 55 years,
- the lump sum benefit that would be payable if the former member:
- (d) had become entitled to the allowance prescribed by section 7 (1) or section 7AA (2) (whichever is applicable); and
 - (e) had elected to commute the allowance in accordance with section 14J (3).
- (d) In section 9B (6A), after “subsection (6)”, insert “or (6AA)”.
- (e) After section 9B (12), insert:
- (13) If, as a result of the invalidity of a former member of the police force, the former member becomes entitled to be paid a superannuation allowance under section 7, or a gratuity under section 14, before a gratuity is paid under this section, then:
- (a) a gratuity under this section ceases to be payable; and
 - (b) the Board must pay to or in respect of the former member such a superannuation allowance or, if the case requires, a gratuity under section 14.
- (14) If, as a result of the invalidity of a former member of the police force, the former member becomes entitled to be paid:
- (a) a superannuation allowance under section 7; or
 - (b) a gratuity under section 14,
- after a gratuity has been paid under this section, the Board must deduct the amount of the gratuity paid under this section from that allowance or, as the case may be, from the gratuity under section 14, in such instalments and at such times as it may determine.
- (8) Section 14J (Commutation on normal or early retirement of member):
- After section 14J (3), insert:

Superannuation Legislation (Amendment) 1991

SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(3A) The date on which such an election is to take effect is to be the day after the date on which the person retires, irrespective of the date on which the election is made.

(9) Section 14K (**Commutation on discharge of disabled member**):

After section 14K (3), insert:

(3A) The date on which such an election is to take effect is to be:

- (a) the day on which the person attains 60 years of age; or
- (b) if the person (being a person to whom subsection (3B) applies) has been granted a superannuation allowance under section 10 after having attained the age of 60 years—the date on which the election is made.

(3B) If a disabled member of the police force, having been paid a superannuation allowance under section 7 or a gratuity under section 14, is granted a hurt-on-duty allowance under section 10, the member may, as the case requires, commute to a lump sum:

- (a) the difference (if any) between the allowance granted under section 10 (1A) (a) and the superannuation allowance paid to that member under section 7; or
- (b) the balance (if any) of the allowance granted under section 10 (1A) (a) after an appropriate adjustment has been made for the repayment of the gratuity that has been paid to that member under section 14.

(3C) If a disabled member of the police force, having been granted an additional amount of allowance under section 10 (1A) (b) or (c), elects to commute to a lump sum an allowance under section 10 (1A) in accordance with subsection (3B), the member must commute the additional amount to the extent that it has not already been commuted to a lump sum under section 10C.

(3D) If a disabled member of the police force makes no election to commute to a lump sum an allowance granted under section 10 (1A) because the member has already elected to commute an equivalent allowance payable under section 7, the member is, for the purposes of subsection (3C), to be treated as having elected to commute the first-mentioned allowance in accordance with subsection (3B).

Superannuation Legislation (Amendment) 1991

**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued***

(10) Section 17 (Refund of deductions):

Omit section 17 (4), insert:

(4) If a former member of the police force who has resigned has received a lump sum under subsection (1) and subsequently there becomes payable to the former member:

(a) a superannuation allowance under section 10, or a commuted superannuation allowance under section 10C or 14K, as a result of having been hurt on duty while a member of the police force; or

(b) a superannuation allowance under section 7, or a gratuity under section 14, as a result of the former member having been discharged under section 8,

the lump sum is to be deducted from that allowance, commuted allowance or gratuity in such instalments and at such times as the Board determines.

**SCHEDULE 6—AMENDMENT OF PUBLIC AUTHORITIES
(FINANCIAL ARRANGEMENTS) ACT 1987**

(Sec. 3)

Schedule 1 (Authorities):

After "Tow Truck Industry Council of New South Wales.", insert:

Trustees of the Parliamentary Contributory Superannuation Fund.

**SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 3 (Definitions):

In section 3 (1), after the definition of "Fund", insert:

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

(2) Section 32:

Omit the section, insert instead:

What information must be disclosed to members

32. (1) The Board must, as soon as practicable after a person becomes a member, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to members, former members and the dependants of members and former members; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each member a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the member's interest in the Fund.

(3) If a person ceases to be a member on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(b) if the Board does so:

- (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
- (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each member a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of members and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a member, give to the member:

- (a) a copy of, or extract from, any specified statement contained in an actuary's report prepared under section 33; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The Board may, but is not obliged to, comply with more than one request made by a member under subsection (6) during a financial year of the Board.

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(3) Section 33 (**Actuarial investigation**):

(a) From section 33 (2), omit “13 months”, insert instead “12 months”.

(b) Omit section 33 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

PART 2—OTHER AMENDMENTS

(4) Section 4 (**Definitions**):

In section 3 (1), insert in alphabetical order:

“**discharged**”, in relation to a member, means that the member’s employment is terminated:

(a) because the period, or the successive periods, for which the member was employed has or have ended; or

(b) because, before the end of a period for which the member was employed, the employment of the member is terminated by the member’s employer,

but does not include a termination of the member’s employment for a breach by the member of the member’s contract of employment or because the member is retrenched;

“**retrenched**”, in relation to a member, means that the member’s employment:

(a) is compulsorily terminated by the member’s employer on the ground that:

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

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

- (ii) the work that the member 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) is terminated as a result of the acceptance by the member of an offer by the member's employer of terms of retrenchment made on a ground specified in paragraph (a);

(5) Section 49A:

After section 49, insert:

Benefit on retrenchment or discharge

49A. (1) The benefit provided by this section is payable by the Board to a member where, before attaining the early retirement age:

- (a) the member is retrenched or discharged; and
- (b) no other benefit is payable under this Act (section 50 excepted); and
- (c) the Board is provided with a certificate from the member's employer confirming that the member has been retrenched or discharged and specifying the ground for the retrenchment or discharge.

(2) A member who becomes entitled to be paid a benefit under this section may:

- (a) elect to be paid a benefit provided by subsection (4) or to have the benefit transferred to the credit of the member in another superannuation scheme; or
- (b) elect to make provision for a benefit provided by subsection (5).

(3) A member who, being entitled to make an election under this section, fails to make the election within 90 days after being retrenched or discharged, is taken to have made an election under subsection (2) (b).

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(4) The benefit provided by this subsection is an amount equal to the balance at credit in the member's account at the time when the benefit is paid.

(5) The benefit provided by this subsection is an amount equal to the balance at credit in the member's account at the member's exit date, together with interest on that balance, from the exit date to the date of payment, at a rate determined by the Board.

(6) The benefit provided by subsection (5) is payable by the Board:

- (a) when the member attains the early retirement age; or
- (b) if, before attaining that age, the member dies; or
- (c) when the Board is satisfied as provided by section 49;
or
- (d) in any other prescribed circumstances,

and is so payable in accordance with subsection (7).

(7) A benefit provided by subsection (6) is payable:

- (a) except where the member has died—to the member; or
- (b) if the member has died and is survived by a spouse—to the member's spouse; or
- (c) if the member has died and is not survived by a spouse—to the personal representatives of the member or, if appropriate, in accordance with section 64 (Payment without grant of probate etc.).

(8) If the Board makes a determination under section 55 in relation to a benefit to be provided by this section, the amount of that benefit is reduced by the amount specified in the Board's determination.

(6) Section 50 (**Benefit on termination of employment before early retirement age**):

- (a) From section 50 (1), omit “, or is dismissed or discharged”, insert instead “or is dismissed”.
- (b) After section 50 (1), insert:
 - (1A) Subsection (1) does not apply to a member who is retrenched or discharged.

Superannuation Legislation (Amendment) 1991

**SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued***

- (7) Section 53 (**How does a member or other person apply for payment or preservation of a benefit?**):

Before “51 or 52”, wherever occurring, insert “49A,”.

**SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987**

(Sec. 3)

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

After the definition of “full-time employee” in section 3 (1), insert:

“**Insurance and Superannuation Commissioner**” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

- (2) Section 13 (**Actuarial investigation**):

- (a) From section 13 (2), omit “13 months”, insert instead “12 months”.

- (b) After section 13 (2), insert:

(2A) The report referred to in subsection (2) must:

- (a) include a statement of the value of the assets of the funds established under section 9; and

- (b) include a statement of any liability for benefit payments that are not expected to be covered by:

(i) the assets of those funds; or

(ii) any future contributions to, or earnings of, those funds; or

(iii) any guarantee by the Government or by any of its agencies; or

(iv) an appropriation in respect of those funds.

- (c) Omit section 13 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued*

extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

(3) Section 33A:

After section 33, insert:

What information must be disclosed to employees

33A. (1) The Board must, as soon as practicable after a person becomes an employee, give the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to employees, former employees, the dependants of employees and former employees; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each employee a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the employee's interest in the appropriate fund.

(3) If a person ceases to be an employee on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the appropriate fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued*

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.
- (5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each employee a statement in writing which explains:
 - (a) the nature and purpose of the amendment; and
 - (b) the effect (if any) of the amendment on the entitlements of employees and their dependants to benefits under this Act or the regulations.
- (6) The Board must, on being requested to do so by an employee, give to the employee:
 - (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 13; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the appropriate fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued*

(7) The following statements contained in an actuary's report prepared under section 13 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the appropriate fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of that fund; or
 - (ii) any future contributions to, or earnings of, that fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of that fund.

(8) The Board may, but is not obliged to, comply with more than one request made by an employee under subsection (6) during a financial year of the Board.

(9) In this section, a reference to the appropriate fund, in relation to an employee, is a reference to the fund maintained under section 9 in which is kept the reserve of the employee's employer.

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987

(Sec. 3)

PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS

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

In section 3 (1), insert in alphabetical order:

“Commonwealth occupational superannuation standard” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

“**penalty**”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 18 (**Actuarial investigation**):

(a) From section 18 (2), omit “13 months”, insert instead “12 months”.

(b) After section 18 (2), insert:

(2A) The report referred to in subsection (2) must:

(a) include a statement of the value of the assets of the Fund; and

(b) include a statement of any liability for benefit payments that are not expected to be covered by:

(i) the assets of the Fund; or

(ii) any future contributions to, or earnings of, the Fund; or

(iii) any guarantee by the Government or by any of its agencies; or

(iv) an appropriation in respect of the Fund.

(c) Omit section 18 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

(3) Section 45B (**Power of the Board to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation**):

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

Omit section 45B (2), insert instead:

(2) In this section:

- (a) a reference to a benefit is a reference to the benefit after reducing it in accordance with section 45A if appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(4) Section 45C:

After section 45B, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under the regulations

45C. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a pension payable under the regulations to a contributor or former contributor exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor; and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the pension as if the contributor or former contributor had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

- (b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the Board is required to commute a pension payable under the regulations to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factors prescribed by the relevant regulations; and
- (c) if the pension becomes payable under the regulations as a result of the total and permanent, or the partial and permanent, physical or mental incapacity of the contributor or former contributor concerned—other factors relevant to the nature of the pension and the circumstances of that contributor or former contributor.

(5) In this section, a reference to a pension is a reference to a pension after it has been reduced in accordance with section 45A if appropriate.

(5) Section 54A:

After section 54, insert:

What information must be disclosed to contributors

54A. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations 1987 of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 18; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 18 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund; and
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

(8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.

PART 2—MISCELLANEOUS AMENDMENTS

(6) Section 21 (**Medical examination**):

From section 21 (2) (a), omit “a medical examination”, insert instead “medical examinations”.

(7) Section 29 (**Contributions during leave without pay**):

Omit section 29 (3), insert instead:

(3) A contributor who takes leave without pay that is not prescribed leave:

(a) is liable to make contributions to the Fund in respect of:

(i) a contribution period that begins before but finishes after the start of that leave; and

(ii) a contribution period that begins before but finishes after the end of that leave; and

(b) is not liable or entitled to make contributions to the Fund in respect of:

(i) a contribution period that begins on the first day of that leave and finishes before the end of that leave; or

(ii) a contribution period that, having begun after the start of that leave, finishes on the last day of that leave; or

(iii) a contribution period that falls between a contribution period referred to in paragraph (a) (i) or subparagraph (i) and a contribution period referred to in paragraph (a) (ii) or subparagraph (ii) (whichever is relevant).

(8) Section 30A (**Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme**):

From section 30A (5) (a), omit “section 43 (1) (b)”, insert instead “section 43 (1)”.

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

(9) Section 41 (**Benefit on resignation, dismissal or discharge before early retirement age**):

Omit section 41 (1), insert instead:

(1) The benefit provided by this section is payable by the Board to a contributor:

(a) if, before attaining the early retirement age, the contributor, having resigned, or having been dismissed or discharged, from employment with an employer, elects under section 43 (1) to take that benefit and no other benefit is payable under this Act; or

(b) if the amount of that benefit is less than the prescribed amount referred to in section 43 (1).

(10) Section 42 (**Benefit on retrenchment before early retiring age**):

(a) From section 42 (2), omit “(other than a contributor who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme)”.

(b) From section 42 (3), omit “or who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme”.

(11) Section 43 (**Preserved benefit**):

(a) Omit section 43 (1), insert instead:

(1) A contributor who resigns, or is dismissed or discharged, from employment with an employer before attaining the early retirement age may elect to take the benefit provided by section 41 or (if that benefit is not less than the prescribed amount) to make provision for a benefit provided by this section.

(b) In section 43 (2), after “election”, insert “to make provision for a benefit provided by this section”.

(c) After section 43 (2), insert:

(2A) A contributor who, being entitled to make an election under subsection (1), does not make such an election before the end of the prescribed period is taken to have elected to have made provision for a benefit provided by this section.

Superannuation Legislation (Amendment) 1991

**SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued***

(c) Omit section 43 (5), insert instead:

(5) The benefit provided by subsection (7) is payable to a contributor by the Board if:

- (a) the contributor has elected to take that benefit; and
- (b) the election takes effect before the benefit provided by subsection (6) becomes payable to or in respect of the contributor.

(12) Section 44 (**Application for payment of benefit**):

(a) From section 44 (1), omit “, or for preservation of a benefit under section 43,”.

(b) Omit section 44 (1) (b), insert instead:

(b) such other documents as the Board reasonably requires in order to determine the application.

(c) From section 44 (2), omit “or preserved”.

(13) Section 48 (**Employee or claimant to provide information**):

From section 48 (1) (c), omit “a medical examination”, insert instead “one or more medical examinations”.

**SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

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

In section 3 (1), insert in alphabetical order:

“Commonwealth occupational superannuation standard” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth.

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office.

Superannuation Legislation (Amendment) 1991

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

“Penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law.

- (2) Section 5 (**Board required to establish certain reserves within the Fund**):

Omit section 5 (1) (c).

- (3) Section 10 (**Actuary or actuaries to conduct periodic investigations into the Fund**):

(a) From section 10 (3) (b), omit “report”, insert instead “submit a report of”.

(b) From section 10 (3), omit “13 months”, insert instead “12 months”.

(c) After section 10 (3), insert:

(3A) The report referred to in subsection (3) must:

(a) include a statement of the value of the assets of the Fund; and

(b) include a statement of any liability for benefit payments that are not expected to be covered by:

(i) the assets of the Fund; or

(ii) any future contributions to, or earnings of, the Fund; or

(iii) any guarantee by the Government or by any of its agencies; or

(iv) an appropriation in respect of the Fund.

(d) Omit section 10 (5), insert instead:

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(6) The Minister may, in relation to a particular investigation, extend or further extend the period referred to

Superannuation Legislation (Amendment) 1991

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

in subsection (4) if the Minister considers that special circumstances exist to justify an extension or further extension.

(4) Section 15A (**Reserve units**):

(a) Omit section 15A (6), insert instead:

(6) A contributor who, on 1 January 1992, is contributing for any reserve units may, by notice in writing lodged with the Board within 60 days after that date, elect to discontinue paying contributions in respect of those units.

(6AA) The Board must pay to a contributor who, in accordance with subsection (6), elects to discontinue the payment of contributions for reserve units the amount paid in respect of those units, together with any interest payable under subsection (6AD).

(6AB) If a contributor who is contributing for reserve units ceases to be an employee, the Board must pay to the contributor or, as the case may be, to the contributor's personal representatives the amount of the contributor's contributions paid in respect of those units, together with any interest payable under subsection (6AD).

(6AC) In subsection (6AB), the reference to personal representatives includes a reference to a person referred to in section 88A (2).

(6AD) If a contributor:

- (a) has contributed for reserve units for not less than 10 years; or
- (b) having contributed for reserve units for less than 10 years, ceases to be an employee because of death or retirement,

interest is payable in respect of those contributions, compounded annually, at the rate fixed by the Board in accordance with section 86A and is so payable from the respective dates of payment.

(6AE) Payments under subsections (6AA) and (6AB) are to be made from the appropriate reserve.

- (b) From section 15A (6A), omit "subsection (6)", insert instead "subsections (6)–(6AE)".

Superannuation Legislation (Amendment) 1991

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(5) Section 33B:

Omit the section, insert instead:

Board to apportion benefit between the contributors' reserve and the appropriate employer reserve

33B. (1) Whenever:

- (a) a benefit under this Act becomes payable to a contributor (other than a benefit under Division 3A of Part 4); or
- (b) a contributor elects to take the benefit of that Division; or
- (c) if a contributor has died without having received a benefit under this Act—the benefit becomes payable to another person in consequence of that death,

the Board must ascertain the portion of the benefit that is payable from the contributors' reserve and the portion that is payable from the appropriate employer reserve.

(2) For the purposes of subsection (1):

- (a) the portion of the benefit payable to or in respect of a contributor from the contributors' reserve is an amount equal to the lesser of the amount calculated according to subsection (4) and the relevant amount; and
- (b) the portion of the benefit payable to or in respect of the contributor from the appropriate employer reserve is equal to the relevant amount, less the amount ascertained under paragraph (a).

(3) For the purposes of subsection (2), the relevant amount is:

- (a) if a lump sum benefit (other than a commutation of pension) is to be paid to or in respect of the contributor—the amount of the benefit payable to or in respect of the contributor; or
- (b) if a pension or a commutation of a pension is to be paid to or in respect of the contributor—the amount calculated by the Board as the capitalised value of the benefits payable to or in respect of the contributor.

(4) For the purposes of subsection (2), the amount to be calculated is:

Superannuation Legislation (Amendment) 1991

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(a) the amount that would have been payable if the contributor had elected to take the benefit of section 38; and

(b) interest:

(i) compounded on 30 June in each year in respect of the period beginning with the day on which the contributor first became liable to make contributions under this Act and ending with the day on which the contributor ceased to be employed by an employer; and

(ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subsection (5).

(5) For the purposes of subsection (4) (b), the formula is as follows:

$$\frac{A + B}{2}$$

where:

A represents the total amount of contributions (excluding contributions refundable under section 15A (6AA) or (6AB)) that the contributor had paid to the Fund from the beginning of the contributor's contributory service to the beginning of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period;

B represents the total amount of those contributions from the beginning of the contributor's contributory service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated as at 30 June immediately preceding that period.

(6) For the purposes of this section, "prescribed rate" means:

(a) in respect of any relevant period ending before 1 July 1972—3.5 per cent per year; and

Superannuation Legislation (Amendment) 1991

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (b) in respect of any relevant period beginning on or after 1 July 1972—the rate as fixed by the Board from time to time, having regard to the earnings of the Fund and such other matters as the Board considers relevant.
- (6) Section 38 (**Refund of contributions**):
From section 38 (1), omit “section 15A (6) (b)” insert instead “section 15A (6AB)”.
- (7) Section 38A (**Withdrawal benefit**):
From the definition of the symbol “A” in section 38A (5), omit “section 15A (6) (b)”, insert instead “section 15A (6AB)”.
- (8) Section 61 (**Surrender of policies**):
From section 61 (1), omit “, and may pay the surrender value to the Board under the provisions of Part 5 relating to voluntary saving,”.
- (9) Section 61RB (**Power of the Board to adjust benefits to comply with certain Commonwealth standards relating to occupational superannuation**):
Omit section 61RB (2), insert instead:
 - (2) If:
 - (a) a contributor or former contributor becomes entitled to receive a pension under this Act, other than a pension under section 29; and
 - (b) payment of the pension to the contributor or former contributor would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,
 the contributor or former contributor may, by notice in writing given to the Board before the pension starts to be paid, elect to receive the pension:
 - (c) in a form that complies with those standards; or
 - (d) in a form that is in accordance with this Act (apart from this section and section 61RC).

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(3) Even after such a pension has started to be paid in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the contributor or former contributor concerned is, by notice in writing given to the Board at any time before the Board is required to take the action referred to in section 61RC (1), entitled to make an election or a further election to receive payment of the pension in a form that complies with the relevant Commonwealth occupational superannuation standards.

(4) An election made and notified to the Board in accordance with this section is sufficient authority for the Board to pay a pension in accordance with the election of the contributor or former contributor concerned.

(5) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(6) A contributor or former contributor who does not notify the Board of the election of the contributor or former contributor under this section before the pension concerned starts to be paid is, subject to subsection (3), to be regarded as having elected to receive payment of that pension in the form provided by this Act (apart from this section and section 61RC).

(7) If a contributor or former contributor makes an election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the Board must ensure that the pension is varied only to the extent necessary to comply with those standards.

(8) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the contributor or former contributor who made the election but also on any person claiming a benefit under this Act through that contributor or former contributor.

(9) If an election is made under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the pension is payable in that form despite any other provision of this Act to the contrary.

Superannuation Legislation (Amendment) 1991

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(10) In this section:

- (a) a reference to a benefit or pension is a reference to the benefit or pension after reducing it in accordance with section 61RA where appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(10) Section 61RC:

After section 61RB, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act

61RC. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a pension payable to a contributor or former contributor under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor; and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the pension as if the contributor or former contributor had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the Board is required to commute a pension payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factor prescribed by section 21C; and
- (c) if the pension becomes payable under section 29—other factors relevant to the nature of the pension and the circumstances of the member.

(5) In this section, a reference to a pension is a reference to a pension after it has been reduced in accordance with section 61RA where appropriate.

(11) Part 5 (**Voluntary Saving**):

Omit the Part.

(12) Section 85:

After section 84A, insert:

What information must be disclosed to contributors

85. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the Board does so:

- (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and

- (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 10; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 10 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund; and
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

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**SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—continued**

- (8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.
- (13) **Section 86A (Board empowered to fix interest rates for the purposes of this Act):**
 (a) From section 86A (1), omit “, 64”.
 (b) From section 86A (3), omit “, 21E or 64”, insert instead “or 21E”.
- (14) **Section 91 (Time for making elections, applications etc.):**
 After section 91 (1), insert:
 (1A) The provisions of subsection (1) (c) and (d) do not apply to an election under section 61RB.
- (15) **Section 99 (Pensions emerging during suspension period):**
 From section 99 (6), omit “section 15A (6) (b)”, insert instead “section 15A (6AB)”.

PART 2—MISCELLANEOUS AMENDMENTS

- (16) **Section 12B (Deduction factors in relation to certain periods of leave of absence):**
 After section 12B (2), insert:
 (2A) The reference to a prescribed form of leave in subsection (2) (a) includes (but is not limited to) a reference to maternity leave and is to be taken to have included such a reference from and including 1 July 1985.
- (17) **Section 28AA (Pension on retirement before age 60—component pension):**
 From section 28AA (2) (b), omit “28A (2)”, insert instead “28A (5)”.
- (18) **Section 37 (Retrenchment benefits payable to an employee who is retrenched after completing 10 years’ service):**
 (a) From section 37 (1AA), omit “or to an employee who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme”.
 (b) From section 37 (12) (b), omit “are continuous”.
 (c) In section 37 (12), before “the Board”, insert “are continuous”.

Superannuation Legislation (Amendment) 1991

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (19) Section 37A (**Retrenchment benefits payable to contributors having not less than 3 years' contributory service**):

Omit section 37A (1A).

- (20) Section 52B (**Adjustment of pension components**):

Omit section 52B (4), insert instead:

(4) Where:

- (a) a pension under this Division, or a pension that is calculated by reference to a pension that is payable under this Division, has become payable to or in respect of a person referred to in section 52A; and
- (b) pensions are adjusted under Division 6 by a percentage for a year beginning before and ending after the date on which that pension became so payable,

the pension, as from the adjustment date for that year, is, in addition to any adjustment of the pension under Division 6, adjusted by the amount calculated in accordance with the following formula:

$$A = C_2 \times P \times \frac{Q}{4}$$

where:

A represents the amount of the pension as adjusted;

C₂ represents:

- (a) in the case of a pension payable under section 52C or 52E to a person—the amount of the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of this section before the pension became payable; or
- (b) in the case of a pension payable under section 52D to a person—the amount obtained in relation to the person from the calculation, under that section, of the formula $P2 (1 - 0.04 \times TM)$; or
- (c) in the case of a pension payable under this Division to the widow or widower of a person referred to in section 52A (1)—an amount equal to two-thirds of the amount of the

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**SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued***

employer-financed pension component
calculated in relation to that person and as
adjusted by the operation (if any) of this section
before the pension became payable; or

- (d) in the case of a pension of a widow or widower
that is calculated by reference to a pension that
was payable to a person under this Division—an
amount equal to two-thirds of the amount
referred to in paragraph (a) or (b), as the case
may be, in relation to that person;

P represents the percentage for the year by which
pensions are adjusted;

Q represents the number derived by adding together the
following:

- (a) except when paragraph (b) applies—"1"
(representing the quarter of the year during
which the pension became payable);
- (b) if the pension became payable on the first day of
a quarter, "0";
- (c) the smaller of:
 - (i) the number of whole quarters in that year
that have occurred before the day on
which the pension became payable; and
 - (ii) the number of whole quarters that have
occurred since the exit day of the person to
or in respect of whom the pension is
payable and before the day on which the
pension became payable.

SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 5)

PART 1—GENERAL

Savings and transitional regulations

1. (1) The Governor may make regulations containing provisions of a savings or
transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take
effect from the date of commencement of this Act or a later date.

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SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—TRANSITIONAL AND SAVINGS PROVISIONS
CONSEQUENT ON THE AMENDMENT BY THIS ACT OF THE
PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971**

Definitions

2. In this Part:

“body corporate” means the Trustees of the Parliamentary Contributory Superannuation Fund constituted as a body corporate under section 14A of the Principal Act, as inserted by this Act;

“custodian trustee” means the custodian trustee constituted as a corporation sole under section 14 (3) of the Principal Act, as in force on 30 September 1991;

“managing trustees” means the trustees (other than the custodian trustee) holding office as trustees under section 14 (1) of the Principal Act, as in force on 30 September 1991;

“Principal Act” means the Parliamentary Contributory Superannuation Act 1971.

Parliamentary Contributory Superannuation Fund

3. The Parliamentary Contributory Superannuation Fund referred to in section 5 of the Principal Act, as in force on 1 October 1991, is the same Fund as that established under that section on 30 September 1991.

Trustees of the Fund

4. (1) The persons holding office as custodian trustee and as managing trustees on 30 September 1991 continue to hold office as trustees of the Parliamentary Contributory Superannuation Fund for the remainder of the terms for which they were originally appointed to hold that office, subject to the Principal Act (as amended by this Act).

(2) A reference in any Act (other than this Act and the Principal Act), in any instrument made under an Act or in any other document of any kind to the trustees of the Parliamentary Contributory Superannuation Fund is, on and after 1 October 1991, to be read as a reference to the body corporate.

Superannuation Legislation (Amendment) 1991

SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

Decisions of the trustees

5. Any decisions of the management trustees or the custodian trustee made under the Principal Act are to be treated as decisions of the body corporate.

Assets of the Fund etc.

6. On 1 October 1991:
- (a) all property that, immediately before that date, was vested in the custodian trustee is taken to have vested in the body corporate; and
 - (b) the body corporate is taken to have assumed responsibility for the custody of all securities and documents of title relating to the property of the Parliamentary Contributory Superannuation Fund; and
 - (c) responsibility for the management of that Fund is vested in the body corporate; and
 - (d) all money that, immediately before that date, was payable to the custodian trustee is taken to have become payable to the body corporate; and
 - (e) any liquidated or unliquidated claim that, immediately before that date, was enforceable by or against the custodian trustee is taken to have become enforceable by or against the body corporate; and
 - (f) any proceeding pending immediately before that date at the suit of or against the custodian trustee or the managing trustees is taken to have become a proceeding pending at the suit of or against the body corporate; and
 - (g) any contract or arrangement entered into with the custodian trustee or the managing trustees and in force immediately before that date is taken to have become a contract or arrangement entered into with the body corporate; and
 - (h) any security or charge given to or by the custodian trustee and in force immediately before that date is taken to have become a security or charge given to or by the body corporate; and
 - (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the custodian trustee or the managing trustees is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the body corporate.

**PART 3—TRANSITIONAL PROVISION CONSEQUENT ON THE REPEAL
BY THIS ACT OF PART 5 OF THE SUPERANNUATION ACT 1916**

Closure of voluntary saving accounts etc.

7. (1) The State Authorities Superannuation Board is required, as soon as practicable after 1 January 1992:

- (a) to pay all money that is credited to an account under Part 5 of the Superannuation Act 1916, or a reserve referred to in section 5 (1) (c) of that Act, immediately before that date to the person to whose credit the money is held or, where appropriate, to that person's personal representatives; and
- (b) to close the account or reserve.

Superannuation Legislation (Amendment) 1991

SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(2) In subclause (1), the reference to personal representatives includes a reference to a person referred to in section 88A (2) of the Superannuation Act 1916.

LEGISLATIVE COUNCIL
SUPERANNUATION LEGISLATION (AMENDMENT) BILL 1991

SECOND READING SPEECH
BY
THE HON EP PICKERING MLC

MINISTER FOR POLICE AND EMERGENCY SERVICES
AND VICE PRESIDENT OF THE EXECUTIVE COUNCIL

MR PRESIDENT

THE BILL BEFORE THE HOUSE ADDRESSES PRINCIPALLY THE ISSUE OF COMPLIANCE OF NSW STATUTORY SCHEMES, WITH THE TAXATION AND REGULATORY REGIMEN IMPOSED BY THE COMMONWEALTH THROUGH ITS OCCUPATIONAL SUPERANNUATION STANDARDS ACT 1987 OR OSSA AS IT IS EUPHEMISTICALLY KNOWN. THERE ARE ALSO A NUMBER OF MINOR AMENDMENTS WHICH I WILL REFER TO SEPARATELY.

MR PRESIDENT I THINK IT IS APPROPRIATE THAT I SAY SOMETHING ABOUT THE STANDARDS INTRODUCED BY THE COMMONWEALTH IN 1987 AS, UNLIKE OUR COLLEAGUES IN ANOTHER PLACE, THIS HOUSE HAS NOT PREVIOUSLY HAD THE OPPORTUNITY OF HEARING DETAILS OF THESE PROVISIONS AND THE COMMONWEALTH'S ADMINISTRATION OF THEM.

THE COMMONWEALTH OCCUPATIONAL SUPERANNUATION STANDARDS ACT 1987 AND REGULATIONS INTRODUCED PURSUANT TO THAT ACT WAS AN ATTEMPT TO REGULATE THE PROVISION OF SUPERANNUATION TO PERSONS IN EMPLOYMENT THROUGHOUT AUSTRALIA. LACKING THE CONSTITUTIONAL POWER TO LEGISLATE DIRECTLY, THE COMMONWEALTH TIED ITS REGULATORY PROVISIONS TO THE TAX POWER. HENCE THESE REGULATIONS RELY FOR THEIR EFFECTIVENESS IN BRINGING RECALCITRANT TRUSTEES AND SCHEME ADMINISTRATORS TO BOOK, UPON THE GRANTING AND THUS THE WITHDRAWAL OF TAX CONCESSIONS TO SCHEME BENEFICIARIES, AN EXCEEDINGLY STRANGE AND MISGUIDED ARRANGEMENT IF I MAY SAY. THE PEOPLE THE SYSTEM IS SUPPOSED TO PROTECT ARE THE ONES WHO SUFFER THE PENALTY WHEN THE TRUSTEES DO THE WRONG THING. THE REGULATIONS WERE MADE TO APPLY TO PUBLIC SECTOR STATUTORY SCHEMES FROM 1 JULY 1990.

SO COMPLEX, SO LAYERED, AND SO FREQUENTLY AMENDED, HAVE BEEN THE COMMONWEALTH PROVISIONS THAT A WHOLE NEW INDUSTRY HAS NOW GROWN UP THROUGHOUT AUSTRALIA JUST PROVIDING ADVICE ON HOW THE

REGULATIONS WORK. THERE IS A WHOLE NEW GOVERNMENT DEPARTMENT IN CANBERRA SPENDING SOME \$13M PER ANNUM OF TAXPAYERS MONEY SUPERVISING THIS SYSTEM OF REGULATION. WORSE THAN THIS, HOWEVER, AS EARLY AS 1 YEAR AFTER THE INTRODUCTION OF THE REGULATORY FRAMEWORK IN 1987, THE REGULATIONS THEMSELVES HAD BECOME THE VEHICLE, THE VICTIM OF THE POWER ON WHICH THEY DEPENDED - THEY HAD BECOME THE MEANS FOR NEW COMMONWEALTH REVENUE-RAISING INITIATIVES WHICH APPLIED TO PUBLIC SECTOR FUNDS FROM 1 JULY 1988.

I MENTION THIS HISTORICAL BACKGROUND SO THAT MEMBERS CAN PUT IN PERSPECTIVE THE SHEER COMPLEXITY AND PERVASIVENESS OF THESE SO CALLED IMPROVEMENTS, THAT HAVE RESULTED IN NSW AMENDING PROVISIONS BEING DELAYED IN THEIR DEVELOPMENT AND INTRODUCTION THREE TIMES TO COPE WITH NEW UNFORESEEN COMPLICATIONS AFFECTING THE NSW SCHEMES. IN NOVEMBER LAST YEAR WHEN THE MINISTER IN ANOTHER PLACE THE HON JOHN FAHEY WAS SPEAKING ON THIS NEW REGULATORY REGIME, PROPHETICALLY, HE SAID THAT IT WAS AN ADMINISTRATIVE DISASTER CLAMOURING FOR DISMANTLING. THE TRUTH OF THIS IS NOW BEGINNING TO EMERGE WITH THE ISSUE OF THE FIRST 'INTERIM' ASSESSMENTS BEING MADE BY THE COMMONWEALTH INSURANCE AND SUPERANNUATION COMMISSION, FOR SO CALLED REASONABLE BENEFIT LIMITS. BECAUSE THE AUSTRALIAN TAXATION OFFICE IS NOT CO-OPERATING IN PROVIDING ESSENTIAL SALARY INFORMATION TO THE ISC, THE FIRST ASSESSMENTS ARE BEING BASED ON A NOTIONAL FIGURE, WHICH IS VERY LOW, IN EVERY CASE, IRRESPECTIVE OF THE ACTUAL SALARY FIGURE.

THE OUTCOME OF COURSE IS CHAOS, AND CONFUSION WITH PEOPLE RECEIVING STUPENDOUS TAX LIABILITY ASSESSMENTS. THIS SYSTEM IS BUREAUCRACY GONE MAD AND I AND THIS GOVERNMENT BELIEVE THAT THE AUSTRALIAN PEOPLE WILL JUST NOT STAND FOR SUCH NONSENSE. THAT IS WHY THE STATE GOVERNMENTS LED BY MY COLLEAGUE HON JOHN FAHEY, AND SUPPORTED BY REPRESENTATIVES OF COMMERCE AND INDUSTRY

STRENUOUSLY PUT TO THE COMMONWEALTH UNDER ITS NEW TREASURER AT A RECENT CONFERENCE IN CANBERRA, THE FOLLY OF THIS SYSTEM AND THE PROPOSED NEW SUPERANNUATION LEVY. THEY TRIED TO MAKE THE COMMONWEALTH SEE THE NEED FOR DEALING WITH SUPERANNUATION ON A NATIONAL BASIS IN A RATIONAL EQUITABLE AND AFFORDABLE WAY. I AM SURE THAT THE BUREAUCRATIC JUNGLE THAT CURRENTLY EXISTS MUST REMAIN HIGH ON THE AGENDA TO BE URGENTLY DEALT WITH. AT THIS STAGE, HOWEVER, THERE HAS BEEN NO CHANGE IN CANBERRA'S POSITION AND THIS LEGISLATION MUST PROCEED.

THE COMMONWEALTH'S REGULATORY REGIMEN AS I HAVE SAID WAS INTRODUCED IN 1987. THE STANDARDS INTRODUCED SOUGHT TO GOVERN THE FAIR AND EQUITABLE PROVISION OF SUPERANNUATION BENEFITS IN SCHEMES FOR EMPLOYEES. THEY REGULATED AMONG OTHER THINGS:

- . WHO MAY CONTRIBUTE TO SUPERANNUATION;
- . THE VESTING OF BENEFITS IN MEMBERS;
- . THE PRESERVATION OF BENEFITS;
- . THE CIRCUMSTANCES IN WHICH BENEFITS ARE PAYABLE;
- . THE PORTABILITY OF BENEFITS;
- . THE LEVEL OF BENEFITS PROVIDED;
- . THE ALLOCATION OF SURPLUS FUNDS;
- . THE INVESTMENT OF THE FUNDS;
- . COMPOSITION OF TRUSTEE BOARDS;
- . THE DECISION MAKING OF TRUSTEES;
- . REPORTING INVESTIGATION AND DISCLOSURE OF INFORMATION;
- . MATTERS TO BE COVERED IN GOVERNING DOCUMENTS.

TO GOVERN THE PLETHORA OF SUPERANNUATION ARRANGEMENTS IN PLACE IN AUSTRALIA THE COMMONWEALTH WENT TO EXTRAORDINARY LENGTHS AND THIS MAY ACCOUNT FOR SOME OF THE REGULATORY COMPLEXITY. IN

ADDITION TO THAT THE COMMONWEALTH IN 1990 INTRODUCED AN EXCEEDINGLY COMPLEX NEW SYSTEM OF LIMITATIONS ON THE LEVEL OF BENEFITS THAT COULD BE PAID FROM EMPLOYEE SUPERANNUATION SCHEMES.

ALTHOUGH SCHEMES WERE GIVEN UP TO 2 YEARS (30 JUNE 1992) TO ALTER THEIR RULING DOCUMENTS, COMPLIANCE WAS REQUIRED MUCH EARLIER - FOR PUBLIC SECTOR SCHEMES ON 1 JULY 1990. AT THIS STAGE AMENDMENT OF NSW STATUTORY SCHEMES IS AIMED SOLELY AT ACHIEVING BROAD OPERATIONAL COMPLIANCE.

THE ACTS AMENDED FOR THESE PURPOSES ARE:

- . COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION) ACT 1941;
- . PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971;
- . POLICE ASSOCIATION EMPLOYEES (SUPERANNUATION) ACT 1969;
- . POLICE REGULATION (SUPERANNUATION) ACT 1906;
- . PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT 1989;
- . STATE AUTHORITIES NON-CONTRIBUTORY SUPERANNUATION ACT 1987;
- . STATE AUTHORITIES SUPERANNUATION ACT 1987;
- . SUPERANNUATION ACT 1916.

MR PRESIDENT, THE MATTERS COVERED IN THESE AMENDMENTS, ADDRESS THE COMMONWEALTH STANDARDS APPLYING TO:-

- . ACTUARIAL INVESTIGATION AND THE TIMING AND CONTENT OF ACTUARIAL REPORTS;

- . PROVISION OF INFORMATION TO MEMBERS;
- . TREATMENT OF EXCESSIVE AND NON-COMPLYING PENSION BENEFITS;
- . THE SOLE PURPOSE REQUIREMENT OF PROVIDING SUPERANNUATION BENEFITS FOR MEMBERS;
- . INCORPORATION OF STANDARDS IN GOVERNING RULES.

THERE IS CONSIDERABLE FINE-TUNING WHICH IS STILL NECESSARY TO ENSURE THAT FULL AND DETAILED COMPLIANCE OF ALL OF THE NSW SUPERANNUATION STATUTES IS ACHIEVED AND FURTHER LEGISLATION WILL BE NEEDED ON THESE MATTERS.

I WILL EXPLAIN WHAT IS BEING DONE UNDER EACH OF THESE HEADS FOR THE BENEFIT OF MEMBERS.

ACTUARIAL INVESTIGATION IS PROVIDED FOR IN EACH NSW STATUTORY SCHEME. THE COMMONWEALTH STANDARD REQUIRES THIS EVERY 3 YEARS AND THE REPORT TO BE AVAILABLE AFTER 12 MONTHS FROM THE END OF THE PERIOD THE REPORT RELATES TO. FOR MOST OF THE NSW STATUTORY SCHEMES THE REPORT MUST INCLUDE A STATEMENT OF THE VALUE OF THE ASSETS OF THE FUND AND ANY LIABILITY FOR BENEFIT THAT IS NOT EXPECTED TO BE COVERED BY THE ASSETS OF THE FUND, FUTURE CONTRIBUTIONS OR EARNINGS, ANY GUARANTEE OF THE GOVERNMENT OR ITS AGENCIES, OR AN APPROPRIATION IN RESPECT OF THE FUND. PROVISIONS REFLECTING THIS STANDARD ARE BEING INCORPORATED IN THE PRINCIPAL ACTS GOVERNING THE SCHEMES.

MEMBERS ARE REQUIRED BY THE COMMONWEALTH STANDARDS TO BE PROVIDED WITH PRESCRIBED INFORMATION:

- (a) WHEN THEY JOIN A SCHEME;
- (b) EACH FINANCIAL YEAR OF THE SCHEME;

- (c) WHENEVER THE RULES ARE CHANGED;
- (d) WHEN A PERSON LEAVES A SCHEME; AND
- (e) DURING THE COURSE OF THE YEAR, ON REQUEST, A PERSON MAY BE PROVIDED WITH PRESCRIBED DOCUMENTATION ABOUT THE SCHEME.

THIS STANDARD IS BEING WRITTEN INTO THE PRINCIPAL ACTS GOVERNING NSW STATUTORY SCHEMES.

SEVERAL SCHEMES PROVIDE PENSION BENEFITS. THESE ARE THE PARLIAMENTARY SCHEME, THE OLD STATE SUPERANNUATION FUND, AND THE OLD POLICE SCHEME. SOME PEOPLE IN THE STATE AUTHORITIES SCHEME HAVE RIGHTS TO PENSIONS. IN MANY INSTANCES THE PENSIONS PROVIDED DO NOT COMPLY WITH THE COMMONWEALTH'S STANDARDS. RATHER THAN TAKE RIGHTS AWAY - FOR EXAMPLE ENABLING A WIDOW REVERSIONER TO COMMUTE HER ENTITLEMENT, THE GOVERNMENT DECIDED TO CREATE A NEW RIGHT FOR A MEMBER TO ELECT TO TAKE A BENEFIT THAT COMPLIES WITH THE STANDARD OR A NON-COMPLYING BENEFIT IN ACCORDANCE WITH THE SCHEMES RULES. THE DOWN SIDE FOR A PERSON TAKING A NON-COMPLYING PENSION IS THAT IT WOULD BE ASSESSED AGAINST LESS FAVOURABLE COMMONWEALTH LIMITS APPLYING TO LUMP SUMS. IN MANY INSTANCES: EVEN A NON-COMPLYING PENSION WILL NOT COME OUT AS EXCESSIVE - BUT IF IT DOES, MARGINAL TAX RATES APPLY TO THE EXCESSIVE AMOUNT WHICH MUST BE COMMUTED UNDER THE STANDARDS.

PROVISIONS FOR THESE PURPOSES ARE PUT IN PLACE IN THE 4 SCHEMES AFFECTED.

THE SOLE PURPOSE TEST UNDER THE COMMONWEALTH STANDARDS REQUIRES A FUND TO BE ESTABLISHED SOLELY TO PROVIDE RETIREMENT BENEFITS FOR MEMBERS AND THEIR DEPENDANTS. ANCILLARY PURPOSES SUCH AS THE STATE SUPERANNUATION FUND'S VOLUNTARY SAVINGS AND RESERVE UNITS SYSTEMS MUST BE REMOVED OR MODIFIED.

THE COMMONWEALTH REGULATIONS REQUIRE INCORPORATION OF THE STANDARDS IN GOVERNING RULES - IN THE CASE OF NSW STATUTORY SCHEMES, THE GOVERNING STATUTES. THERE ARE IN THIS LEGISLATION, IN ADDITION TO THE MATTERS I HAVE MENTIONED, A NUMBER OF RELATIVELY LESS SIGNIFICANT AMENDMENTS MADE FOR THE PURPOSE OF COMPLIANCE WITH THE COMMONWEALTH'S STANDARDS. THERE ARE MANY MORE THAT NEED TO BE MADE FOR FULL COMPLIANCE BY THE 30 JUNE 1992. AT PRESENT THE NSW LEGISLATION IS BEING FURTHER AND MORE EXHAUSTIVELY EXAMINED TO ENSURE FULL COMPLIANCE. AND SO I MUST AS MY COLLEAGUE DID IN ANOTHER PLACE, FORESHADOW THE NEED OF FURTHER LEGISLATION FOR THIS PURPOSE.

AS I HAVE MENTIONED MR PRESIDENT, THE LEGISLATION BEFORE THE HOUSE ALSO COVERS A NUMBER OF ANCILLARY MATTERS AFFECTING SEVERAL SCHEMES.

THERE ARE TWO CHANGES TO THE COAL MINE WORKERS SCHEME ARISING FROM RECENT, AND IN SOME RESPECTS TRAGIC, EVENTS AFFECTING THE NEW SOUTH WALES COAL MINES. THE FIRST OF THESE RESPONDS TO THE UNPLANNED REPUDIATION OF THE RECIPROCAL AGREEMENT BETWEEN NSW AND QUEENSLAND AFFECTING BENEFIT ENTITLEMENT OF MINeworkERS. THE SECOND RELATES TO AN ADDITIONAL GRANT TO THE WIDOW OR SPOUSE OF A MINE WORKER WHO IS KILLED ON THE JOB. BOTH CHANGES WILL ALLEVIATE HARDSHIP WHICH IS PRESENTLY BEING EXPERIENCED THROUGH NO FAULT OF THE PARTIES CONCERNED.

I WILL DEAL WITH THE RECIPROCAL AGREEMENT FIRST. THE AGREEMENT BETWEEN NSW AND QUEENSLAND RELATED TO SUPERANNUATION BENEFIT ENTITLEMENT OF COAL MINE WORKERS WHO HAD SERVICE IN BOTH STATES. THE AGREEMENT ENDED ON 4 DECEMBER 1989 AFTER MANY YEARS OF OPERATION FOLLOWING CLOSURE OF THE QUEENSLAND MINE WORKERS' SCHEME. IT WAS ONE OF SEVERAL THIS STATE HAS WITH OTHER STATES (TASMANIA AND WESTERN AUSTRALIA ARE THE OTHERS), AND WAS MADE UNDER THE PROVISIONS OF THE COAL AND OIL SHALE MINE WORKERS (SUPERANNUATION) ACT 1941. THESE AGREEMENTS ARE DESIGNED TO MAKE SUPERANNUATION COVER MORE PORTABLE WITHIN THE COAL INDUSTRY BY PRESERVING ENTITLEMENTS TO SUPERANNUATION BENEFITS FOR MINE WORKERS WHO HAVE MOVED FROM ONE STATE TO ANOTHER AND HAVE SERVICE IN THE COAL MINING INDUSTRY IN BOTH STATES.

ON 4 DECEMBER 1989, HOWEVER THE COAL AND OIL SHALE MINE WORKERS PENSION FUND (QUEENSLAND) WAS CLOSED AND REPLACED WITH AN ACCUMULATION SCHEME. AS A RESULT OF THIS ACTION THE RECIPROCAL AGREEMENT LAPSED AND IT IS NOT NOW POSSIBLE TO PAY BENEFITS TO RETIRED COAL MINE WORKERS, WHO WOULD OTHERWISE HAVE QUALIFIED FOR A BENEFIT FROM THE NSW SCHEME HAD THE RECIPROCAL AGREEMENT STILL BEEN IN FORCE.

AMENDMENTS TO THE MINERS' SUPERANNUATION SCHEME ARE THEREFORE NECESSARY TO ENABLE THE RECOGNITION OF QUEENSLAND SERVICE TO ESTABLISH ELIGIBILITY FOR NSW BENEFITS WHERE LENGTH OF SERVICE IS A QUALIFYING REQUIREMENT. THE PROPOSED AMENDMENTS DO NOT AFFECT BENEFIT CALCULATION WHICH IS BASED ON NSW SERVICE. THESE AMENDMENTS WILL BE BACKDATED TO 4 DECEMBER 1989 SO THAT NO COAL MINER IS DISADVANTAGED BY THE LAPSING OF THE AGREEMENT.

MR PRESIDENT, I HAVE ALREADY MENTIONED THAT THE SECOND OF THESE MATTERS RELATES TO THE PROPOSAL TO INTRODUCE A SPECIAL BENEFIT

PROVISION TO THE SPOUSE WHEN A COAL MINER IS KILLED AS A RESULT OF ACCIDENT ON THE JOB.

THE COAL AND OIL SHALE MINE WORKERS SUPERANNUATION ACT 1941 MAKES PROVISION FOR THE SPOUSE OF A MINE WORKER WHO DIES, TO BE PAID A BENEFIT OF 240 TIMES THE PRESCRIBED AMOUNT (AMOUNTING TO AROUND \$56 000). UP TO 240 TIMES THE PRESCRIBED AMOUNT (IE, A FURTHER \$56 000) IS PAID IN RESPECT OF CHILDREN OR SOME OTHER DEPENDANTS. THE SUPERANNUATION SCHEME IN MAKING THIS PAYMENT IN RESPECT OF ALL DEATHS, DOES NOT DISCRIMINATE BETWEEN WORK RELATED AND NON WORK RELATED DEATHS.

TRADITIONALLY, THE COAL MINE PROPRIETORS HAVE, IN ADDITION, MADE A GRATUITOUS PAYMENT TO THE SPOUSE OF A MINE WORKER WHEN HE OR SHE IS KILLED AS A RESULT OF AN ACCIDENT AT WORK. THIS PAYMENT IS IN ADDITION TO THE PAYMENT FROM THE SUPERANNUATION FUND. THE AMOUNT OF THE GRATUITY PAYMENTS VARIES CONSIDERABLY BETWEEN PROPRIETORS BUT RANGES FROM ABOUT \$10,000 TO THE ORDER OF \$20,000 - \$25,000. TRADITIONALLY, ALSO, THERE HAS BEEN IN THE PAST A PRACTICE FOR THE PIT TO CLOSE, AS A MARK OF RESPECT, FOR THE REMAINDER OF THE DAY ON WHICH A DEATH OCCURS AS A RESULT OF A WORK ACCIDENT. TO SOME EXTENT THE GRATUITY PAYMENTS STEMMING FROM THE EARLY 80's, WERE INTENDED AS AN INCENTIVE TO STOP WIDESPREAD PIT CLOSURES AT LARGER PITS.

RECENTLY A COAL MINE PROPRIETOR DEDUCTED FROM THE GRATUITY PAYMENT TO THE WIDOW OF A MINE WORKER KILLED ON THE JOB, AN AMOUNT REPRESENTING THE LOST PRODUCTION RESULTING FROM CLOSURE

OF THE PIT ON THE DAY OF HIS DEATH. THE COAL AND OIL SHALE MINE WORKERS SUPERANNUATION TRIBUNAL, CONCERNED AT THE POTENTIAL FOR INDUSTRIAL CONFRONTATION ARISING FROM THIS EMERGING CHANGE IN THE PRACTICE, PROPOSED THAT AN ADDITIONAL PAYMENT BE MADE FROM THE SUPERANNUATION SCHEME IN THESE CIRCUMSTANCES RATHER THAN UNDER INDIVIDUAL SITE AGREEMENTS.

THE LEGISLATION IS THEREFORE BEING AMENDED TO PROVIDE THAT, WHERE A MINE WORKER IS KILLED AS A RESULT OF AN ACCIDENT AT WORK, INCLUDING WHERE HE OR SHE DIES WITHIN 6 MONTHS OF THE DATE OF THE ACCIDENT, A BENEFIT IN THE ORDER OF \$20,000 SHOULD BE PAID FROM THE MINE WORKERS SUPERANNUATION SCHEME. THE AMENDMENT WILL BRING CONSISTENCY AND CERTAINTY TO THE PAYMENTS MADE IN THE CASE OF THE DEATH ON THE JOB AND WILL REDUCE THE POTENTIAL HARDSHIP BROUGHT TO THE FAMILY IN THESE TRAGIC CIRCUMSTANCES.

UNFORTUNATELY THIS IS A VERY DANGEROUS INDUSTRY AND THERE IS NORMALLY AN AVERAGE OF BETWEEN 4 AND 5 WORK RELATED DEATHS IN NSW EACH YEAR. BUT HONOURABLE MEMBERS WILL BE AWARE THAT THERE HAVE BEEN A NUMBER OF MINING TRAGEDIES THIS YEAR THAT HAVE CLAIMED THE LIVES OF OVER 6 MINE WORKERS.

THE ORDER OF COST TO THE SCHEME WOULD BE APPROXIMATELY \$20,000 PER PAYMENT. NO ADDITIONAL CONTRIBUTIONS FROM THE MEMBERS OF THE

SCHEME WILL BE REQUIRED AS THE ADDITIONAL COST WILL BE MET BY THE FUND.

SOME DELAY HAS OCCURRED IN REINTRODUCING THIS LEGISLATION WHICH WAS DEBATED IN THE LEGISLATIVE ASSEMBLY BEFORE THE ELECTION. THE MINISTER IN THAT OTHER PLACE, THE HON JJ FAHEY, WAS CONCERNED TO ENSURE THAT ADEQUATE CONSIDERATION WAS GIVEN BY THE PARTIES TO THE REVIEW OF MINE SITE AGREEMENTS BEFORE THESE LEGISLATIVE AMENDMENTS WERE INTRODUCED. OF PARTICULAR IMPORTANCE WAS HIS CONCERN THAT THE INTRODUCTION OF THIS LEGISLATION WILL REPLACE, AND NOT BE IN ADDITION TO, ANY GRATUITY PAYMENTS MADE BY INDIVIDUAL EMPLOYERS PURSUANT TO LOCAL MINE SITE AGREEMENTS. THE MINISTER HAS SAID THAT RECENT INDICATIONS FROM THE NSW COAL ASSOCIATION ARE THAT THE EXISTING MINE SITE AGREEMENTS WILL BE RENEGOTIATED.

MR PRESIDENT, BOTH THESE CHANGES TO THE LEGISLATION ARE MADE ON HUMANITARIAN GROUNDS TO RELIEVE HARDSHIP AND ANXIETY FOR BENEFICIARIES OF THE SUPERANNUATION SCHEME IN A TIME OF GREAT STRESS FOR THOSE CONCERNED, ESPECIALLY WITH THE ADDED DISTRESS OF THE FAMILIES OF MINE WORKERS KILLED AT THE WORK PLACE. FUNDING OF THE NEW SPOUSE GRATUITY WILL BE MET BY THE FUND AND IS NOT EXPECTED TO ADD MORE THAN ABOUT 0.3%PA TO THE COST OF FUNDING OF THE SUPERANNUATION SCHEME.

MOVING ON MR PRESIDENT, IN OCTOBER 1990 THE PREMIER AND TREASURER DECIDED THAT THE PARLIAMENTARY SCHEME SHOULD BE TRANSFERRED TO THE ADMINISTRATION OF OUR COLLEAGUE THE HON JOHN FAHEY, MINISTER FOR INDUSTRIAL RELATIONS. SOME AMENDMENTS ARE THEREFORE PROPOSED IN THIS LEGISLATION TO THE PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971 TO ACCOMMODATE THIS CHANGE. THESE ARE MAINLY STRUCTURAL CHANGES OF AN ADMINISTRATIVE CHARACTER, AND ARE IN ADDITION TO AMENDMENTS NECESSARY TO ACHIEVE OPERATIONAL COMPLIANCE WITH THE COMMONWEALTH OCCUPATIONAL SUPERANNUATION STANDARDS ACT 1987, WHICH I HAVE ALREADY OUTLINED.

IN LIGHT OF THE CHANGING SUPERANNUATION ENVIRONMENT THE PREMIER HAS DIRECTED THAT THE STRUCTURE AND OPERATIONS OF THE SCHEME BE BROUGHT INTO LINE WITH CONTEMPORARY SUPERANNUATION STANDARDS AND PRACTICES. THE IMPORTANCE IN THE NEW ENVIRONMENT OF RECEIVING PROPER PROFESSIONAL ADVICE, ESPECIALLY IN REGARD TO EFFICIENT TAX STRATEGIES AND OSSA COMPLIANCE, HAVE BEEN THE PRIMARY MOTIVATING FORCES BEHIND THIS DECISION.

THE ACTUAL MANAGEMENT OF THE SCHEME WILL BE TRANSFERRED FROM TREASURY TO THE NEW SOUTH WALES SUPERANNUATION OFFICE. THE EXISTING TRUSTEE AND FUND STRUCTURE WILL BE SLIGHTLY MODIFIED SO THAT THE TRUSTEE BOARD WILL BE ABLE TO CONTRACT OUT THE ADMINISTRATION AND INVESTMENT FUNCTIONS OF THE SCHEME TO EXTERNAL

BODIES IF IT IS SO DESIRED. AT PRESENT THE FUND IS SIMPLY HELD AS TREASURY BONDS. THE PROPOSED NEW SET UP IS SIMILAR TO THAT OF THE PUBLIC SECTOR EXECUTIVES SUPERANNUATION BOARD WHICH COMMENCED OPERATION ON 1 SEPTEMBER 1989.

A FURTHER AMENDMENT TO THE PARLIAMENTARY SCHEME WHICH AFFECTS SOME OF OUR COLLEAGUES, MR PRESIDENT, IS THE NEED TO MAKE PROVISION FOR THE UPPER AGE A MEMBER OF PARLIAMENT CAN CONTRIBUTE TO THE PARLIAMENTARY SUPERANNUATION SCHEME. AT PRESENT THERE ARE NO LIMITATIONS. THE NEED FOR CHANGE COMES ABOUT AS A RESULT OF RECENT COMMONWEALTH CHANGES TO THE UPPER AGE THAT A MEMBER OF A SCHEME CAN MAKE CONTRIBUTIONS, REDUCING THE AGE FROM 70 TO 65. UNFORTUNATELY, MR PRESIDENT, ONE MEMBER OF THIS HOUSE TURNS 70 THIS YEAR AND IS DIRECTLY AFFECTED BY THE COMMONWEALTH PROVISIONS BEFORE THEY WERE CHANGED. FOUR OTHER MEMBERS OF PARLIAMENT ARE ALREADY 65. AS IT TURNS OUT, TRANSITIONAL PROVISIONS PREVENT THOSE OVER 65 BEING IMMEDIATELY AFFECTED AS THE COMMONWEALTH HAS ASSURED THE SUPERANNUATION ADMINISTRATION THAT THE NEW UPPER AGE OF 65 WILL BE PHASED IN BY ALLOWING THE PREVIOUS AGE OF 70 TO APPLY TO PEOPLE WHO WERE ALREADY 60 ON 1 JULY 1990. HOWEVER ONE MEMBER WHO TURNS 70 THIS YEAR IS IMMEDIATELY AFFECTED AND IT IS THEREFORE NECESSARY TO LEGISLATE.

THE PROPOSED AMENDMENT WILL ALLOW THE SCHEME TRUSTEES TO HAVE

THE DISCRETION TO REFUSE TO ACCEPT CONTRIBUTIONS AFTER THE AGE OF 65 AND THIS FLEXIBILITY WILL ALLOW THE TRUSTEES TO CATER FOR THE PHASE-IN PERIOD BETWEEN AGES 65 AND 70. I HASTEN TO ASSURE HONOURABLE MEMBERS THAT, ALTHOUGH CONTRIBUTIONS MUST CEASE AT A CERTAIN AGE, UNDER THE PROPOSALS THE BENEFIT CAN REMAIN IN THE SCHEME AND WILL CONTINUE TO ACCRUE.

A FURTHER MATTER INCLUDED IN THIS PROPOSED LEGISLATIVE PACKAGE, MR PRESIDENT, SPRINGS FROM THIS GOVERNMENT'S RESPONSE TO THE COMMONWEALTH GOVERNMENT'S 'RECESSION WE HAD TO HAVE'. HONOURABLE MEMBERS WILL BE AWARE THAT THIS GOVERNMENT HAS TAKEN RESPONSIBLE MEASURES IN DEALING WITH THESE DIFFICULT TIMES. THE GOVERNMENT HAS INTRODUCED A PROGRAM OF CUTTING PUBLIC SPENDING INCLUDING LARGE-SCALE RETRENCHMENTS IN THE PUBLIC SECTOR FROM WHICH OFFICERS OF THE CHIEF EXECUTIVE AND SENIOR EXECUTIVE SERVICE ARE NOT EXEMPT. THIS HAS BEEN DEMONSTRATED RECENTLY BY THE LARGE SES LOSSES FROM THE DEPARTMENT OF EDUCATION.

THIS INITIATIVE HAS HIGHLIGHTED THE ANOMALY THAT EXISTS IN SUPERANNUATION RETRENCHMENT BENEFITS, THERE BEING NO SUPERANNUATION RETRENCHMENT BENEFITS FOR SES OFFICERS COMPARED WITH DISCRETE RETRENCHMENT BENEFITS PAYABLE TO THEIR NON-SES CONTEMPORARIES. THE SUPERANNUATION RETRENCHMENT BENEFITS TO SES OFFICERS WERE REMOVED AT THE TIME OF THE INTRODUCTION OF THE SES IN

THIS STATE FOR REASONS OF PERCEIVED COMPLIANCE WITH THE THEN OSSA REQUIREMENTS. THAT PERCEPTION HAS NOW PROVED TO BE INCORRECT ON THE ADVICE OF THE COMMONWEALTH AND THE PROPOSED LEGISLATION BEFORE THE HOUSE TODAY CORRECTS THE POSITION. THE GOVERNMENT HAS DECIDED TO RESTORE THE RETRENCHMENT BENEFITS FOR SES OFFICERS IN THE STATE SUPERANNUATION FUND AND STATE AUTHORITIES SCHEME. WITH RESPECT TO THE PUBLIC SECTOR EXECUTIVES SCHEME A RETRENCHMENT OR DISCHARGE BENEFIT IS TO BE MADE AVAILABLE AND MAY BE PRESERVED AT THE OPTION OF THE MEMBER.

A NUMBER OF AMENDMENTS ARE BEING MADE TO THE POLICE REGULATION (SUPERANNUATION) ACT 1906, TO OVERCOME DIFFICULTIES THAT HAVE ARISEN IN RELATION TO THE INTRODUCTION OF THE POLICE SERVICE SENIOR EXECUTIVE SERVICE, AND THE AVAILABILITY OF A TRANSFER OPTION FOR APPOINTEES TO THAT SERVICE. AMENDMENTS ARE ALSO BEING MADE TO CLARIFY PROVISIONS FOR COMMUTATION OF PENSION BENEFITS TO LUMP SUMS.

AMENDMENTS ARE BEING MADE TO THE POLICE ASSOCIATION EMPLOYEES (SUPERANNUATION) ACT 1969 FOR THE PURPOSE OF SEVERING THE NEXUS BETWEEN SALARY OF ASSOCIATION EMPLOYEES AND THE RANK AND PAY OF SERVING POLICE. THIS ACT PROVIDES FOR CARRIAGE OF COVER IN THE POLICE SCHEME OF POLICE, WHO, WITHOUT BREAK IN SERVICE, CEASE DUTIES AS SERVING POLICE AND BECOME EMPLOYED BY THE ASSOCIATION. THE

CHANGE HAS THE BLESSING OF THE PREVIOUS COMMISSIONER FOR POLICE AS WELL AS MY OFFICE. AS PART OF THE CHANGE THE ASSOCIATION WILL HAVE THE CAPACITY TO SUPERANNUATE PACKAGED REMUNERATIONS WHICH WILL BRING THOSE EMPLOYEES INTO LINE WITH OTHER SES OFFICERS INCLUDING THOSE IN THE POLICE FORCE. THE FULL LIABILITY FOR EMPLOYER COSTS OF THE ASSOCIATION'S COVERAGE UNDER THE POLICE SCHEME WILL BE MET BY THE ASSOCIATION.

MR PRESIDENT, A FURTHER AMENDMENT THAT BEARS EXPLANATION TO MEMBERS AFFECTS THE SUPERANNUATION ACT 1916 WHERE CHANGES ARE BEING MADE TO PROVISIONS FOR DEBITING OF BENEFITS TO THE CONTRIBUTORS', AND TO THE EMPLOYERS' RESERVES. AT PRESENT THE PROVISIONS ARE INCORRECT FOR TWO REASONS: THE DEBIT TO THE CONTRIBUTORS' RESERVE DOES NOT PROPERLY TAKE ACCOUNT OF EARNINGS ON CONTRIBUTORS' FUNDS. TO CORRECT THIS PROBLEM AMENDMENTS FIX THE DEBIT TO CONTRIBUTORS' RESERVES BY REFERENCE TO FUND EARNING RATES FROM 1972. THIS WOULD ALSO ALIGN MORE CLOSELY WITH 1988 LEGISLATION PROVIDING FOR THE DESEGREGATION OF THE FUND BETWEEN CONTRIBUTORS' AND EMPLOYERS' RESERVES.

MR PRESIDENT, THERE ARE A NUMBER OF OTHER MINOR AMENDMENTS WHICH ARE MAINLY REFINING PROVISIONS AND OF A STATUTE LAW NATURE. BUT IMPORTANTLY, THE MAJOR AMENDMENTS IN THIS BILL CONCERN THE FUTURE FUNCTIONING OF PUBLIC SECTOR SUPERANNUATION IN THIS STATE. THE BILL

CONTAINS THE ESSENTIAL KERNEL OF AMENDMENTS WHICH MUST BE MADE TO ENSURE COMPLIANCE OF THIS STATE'S PUBLIC SECTOR SUPERANNUATION WITH COMMONWEALTH REGULATIONS.

THE COST IMPLICATIONS OF THESE AMENDMENTS MR PRESIDENT, WILL, IN RESPECT OF THE RETRENCHMENT BENEFITS TO CEO/SES APPOINTEES, MAINLY BE OF A SHORT TERM CASH FLOW EFFECT IN THAT THE FULLY VESTED EMPLOYER FUNDED PAYOUTS WILL BE BROUGHT FORWARD. THE ESTIMATED COST BROUGHT FORWARD IS IN THE ORDER OF \$9.0M IN 1991 DOLLAR TERMS, BUT WOULD BE MET FROM EXISTING EMPLOYER RESERVES IN THE SUPERANNUATION FUNDS OPERATED BY THE SASB.

WITH RESPECT TO THE OSSA AMENDMENTS, THERE IS NOT EXPECTED TO BE ANY FINANCIAL IMPACT ARISING FROM AMENDMENTS FOR COMPLIANCE APART FROM COSTS OF IMPLEMENTATION MET BY THE FUNDS. WITH RESPECT TO THE TWO AMENDMENTS RELATING TO THE COAL AND OIL SHALE MINE WORKERS SCHEME, THE RECIPROCAL AGREEMENT AMENDMENTS WILL NOT IMPACT ON COST AT ALL. AS I HAVE ALREADY SAID THE NEW SPOUSE BENEFIT WILL BE MET BY THE FUND AND IS NOT EXPECTED TO ADD MORE THAN ABOUT 0.3% TO THE COST OF FUNDING OF THE SUPERANNUATION SCHEME.

I COMMEND THE BILL.

**SUPERANNUATION LEGISLATION (AMENDMENT)
ACT 1991 No. 95**

NEW SOUTH WALES



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**SUPERANNUATION LEGISLATION (AMENDMENT)
ACT 1991 No. 95**

NEW SOUTH WALES



Act No. 95, 1991

An Act to amend various Acts relating to superannuation for the purpose of complying with the Occupational Superannuation Standards Act 1987 of the Commonwealth and for other purposes. [Assented to 17 December 1991]

Superannuation Legislation (Amendment) 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Superannuation Legislation (Amendment) Act 1991.

Commencement

2. (1) This Act is taken to have commenced on 1 July 1990, except as provided by this section.

(2) Part 2 of Schedule 1 (amendment of the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 in consequence of the closure of the Queensland Coal Mine Workers' Pensions Fund) is taken to have commenced on 4 December 1989.

(3) The following provisions are taken to have commenced on 1 July 1991:

- (a) Schedule 4 (Amendment of Police Association Employees (Superannuation) Act 1969);
- (b) Part 2 of Schedule 7 (amendments to Public Sector Executives Superannuation Act 1989 relating to retrenchment and discharge benefits);
- (c) Schedule 9 (10) (amendment to State Authorities Superannuation Act 1987 relating to retrenchment benefits);
- (d) Schedule 10 (18) (a) and (19) (amendments to Superannuation Act 1916 relating to retrenchment benefits).

(4) The following provisions commence on the date of assent to this Act:

- (a) section 4 (Repeal of Government Railways (Superannuation) Act 1912 No. 30 and associated Acts etc.);
- (b) section 5 and Schedule 11 (Savings and transitional provisions);
- (c) Part 3 of Schedule 1 (further amendments to the Coal and Oil Shale Mine Workers (Superannuation) Act 1941);
- (d) Schedule 2 (Amendment of Local Government and Other Authorities (Superannuation) Act 1927);
- (e) Schedule 9 (6)–(9) and (11)–(13) (miscellaneous amendments to the State Authorities Superannuation Act 1987);
- (f) Schedule 10 (16), (17), (18) (b) and (c) and (20) (miscellaneous amendments to the Superannuation Act 1916).

Superannuation Legislation (Amendment) 1991

(5) The following provisions are taken to have commenced on 1 October 1991:

- (a) Part 2 of Schedule 3 (amendments to the Parliamentary Contributory Superannuation Act 1971 relating to the reorganisation of the Parliamentary Contributory Superannuation Scheme);
- (b) Schedule 6 (Amendment of Public Authorities (Financial Arrangements) Act 1987).

(6) The following provisions commence on 1 January 1992:

- (a) Schedule 5 (7) (e)–(10) (miscellaneous amendments to the Police Regulation (Superannuation) Act 1906);
- (b) Schedule 10 (2), (4), (6)–(8), (11), (13) and (15) (amendments to the Superannuation Act 1916 relating to reserve units and voluntary saving).

(7) Schedule 10 (5) (substitution of section 33B of the Superannuation Act 1916) commences on a day to be appointed by proclamation.

(8) Section 3 in its application to a provision of Schedules 1–10 commences or is taken to have commenced on the day on which the provision commences or is taken to have commenced.

Amendment of Acts

3. The Acts specified in Schedules 1–10 are amended as set out in those Schedules.

Repeal of Government Railways (Superannuation) Act 1912 No. 30 and associated Acts etc.

4. (1) The following Acts are repealed:

- (a) the Government Railways (Superannuation) Act 1912 No. 30;
- (b) the Government Railways (Amendment) Act 1979 No. 123;
- (c) the Government Railways (Amendment) Act 1980 No. 105.

(2) The board constituted under section 110 of the Government Railways (Superannuation) Act 1912 is abolished.

(3) A member of the board so constituted is not entitled to compensation for loss of office in consequence of the abolition of that board.

Superannuation Legislation (Amendment) 1991

Savings and transitional provisions

5. Schedule 11 has effect.
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**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 2 (**Definitions**):

- (a) After the definition of "Injury" in section 2 (1), insert:

"Insurance and Superannuation Commissioner" means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

- (b) In paragraph (d) of the definition of "Mine worker" in section 2 (1), after "section 2E", insert "authorising the person to be employed in some industry, other than the coal or oil shale mining industries, specified in the permit".

- (c) From paragraph (e) of the definition of "Mine worker" in section 2 (1), omit "work.", insert instead:

work,

but does not include such a person who is ordinarily so engaged or employed for less than 10 hours per week.

(2) Section 2J (**Further extension of the definition of "Mine worker"**):

In section 2J (7), after "provision of this Act", insert ", but does not apply to a person who is ordinarily so engaged for less than 10 hours per week".

(3) Section 8 (**Hard luck cases**):

From section 8 (1), omit "general scope and".

(4) Section 10EA (**Appropriate amounts of pensions and additions to pensions**):

- (a) Omit section 10EA (2).

- (b) Omit section 10EA (3)–(6), insert instead:

Superannuation Legislation (Amendment) 1991

**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued***

(3) If:

(a) a person referred to in subparagraph (ii) of subsection (1) (c); or

(b) the spouse of the person,

receives or becomes entitled to receive an invalid pension or a wife's pension under the Social Security Act 1947 of the Commonwealth before the day referred to in that subparagraph, the amount to which the person would be entitled under subsection (1) (c) but for this subsection is, for the period during which that pension is payable, to be reduced by the amount of that pension.

(5) **Section 10F (Amendment of Schedule 1 following variation in Reference Rate):**

After section 10F (2B), insert:

(3) If, but for this subsection, a variation in the amount of the Reference Rate would result in a decrease in the amount of pension payable to a person described in Column 3 of Schedule 1 to a level below that at which the pension was first paid to that person, the amount of pension payable to the person is in no case to be reduced below the level at which it was first so paid.

(6) **Section 10H (Suspension of part of pension in certain circumstances):**

From section 10H (1), omit "shall be", insert instead "is, if the person so directs, to be reduced to".

(7) **Section 13 (Deductions from pensions):**

Omit the section.

(8) **Section 14 (Applications for pensions):**

Omit section 14 (5), insert instead:

(5) If, after considering the application and report, the Tribunal is satisfied that the applicant is entitled to a pension under the provision of this Act specified in the application, the Tribunal must allow the application, but, if it is not so satisfied, it must disallow the application or adjourn its consideration of the application until the production of further information by the applicant.

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(9) Section 14B (**Prescribed amount for purposes of sections 14A and 14AA**):

After section 14B (6), insert:

(7) If:

- (a) a lump sum benefit has become payable under section 14A or 14AA; and
- (b) a variation under subsection (3) would, but for this subsection, result in a reduction in the amount of that benefit,

then, subject to section 19MA, the benefit is to be paid as if the variation under subsection (3) had not been made.

(10) Section 14FA (**Lump sum benefit payable: from 3 July 1988**):

After subsection (1), insert:

(1A) The Tribunal is not entitled to be satisfied as to the incapacity of a mine worker as referred to in subsection (1) unless, in addition to any other proof that it may require, it is provided with a certificate or certificates signed by at least 2 medical practitioners to the effect that the mine worker is in their opinion unlikely ever to be able to work again in employment for which the mine worker is reasonably qualified by education, training and experience.

(11) Section 14H (**Applications for lump sum benefit payment**):

Omit section 14H (5), insert instead:

(5) If, after considering the application and report, the Tribunal is satisfied that the applicant is entitled to a lump sum benefit under the provision of this Act specified in the application, the Tribunal must allow the application, but, if it is not so satisfied, it must disallow the application or adjourn its consideration of the application until the production of further information by the applicant.

(12) Section 15B (**Power of the Tribunal to make orders declaring certain persons to be mine workers for the purposes of this Act**):

After section 15B (4), insert:

- (5) The Tribunal may not make an order under subsection (1) (a) in respect of a person who is ordinarily engaged in the

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

coal or oil shale mining industries for less than 10 hours per week.

(13) Section 19 (**Contributions to Fund**):

- (a) From section 19 (2C), omit “anticipated”, insert instead “accrued”.
- (b) Omit section 19 (4).

(14) Section 19B (**Amount of subsidy**):

From section 19B (2) (a), omit “section 11A and section 13 (subsection (4) of which shall, for the purposes of this section, be deemed never to have been in force)”, insert instead “sections 10EA and 11A”.

(15) Section 19J (**Refund**):

After section 19J (1), insert:

(1A) If a mine worker is, or the personal representatives of a mine worker are, entitled to a refund under subsection (1) and the refund was not paid before 1 July 1990, there is to be paid to that mine worker or those personal representatives, in addition to the amount provided for by that subsection:

- (a) in respect of the period from the termination of the mine worker’s engagement until 1 July 1990—interest on that amount at the rate of 3 per cent per annum; and
- (b) in respect of the period beginning with 1 July 1990 and ending with the date on which that amount is paid under this section—interest on that amount as provided by section 19L (6).

(16) Section 19K (**Reduction of amount of refund**):

Omit section 19K (1), insert instead:

(1) The reference in section 19J (1) to the total amount of a mine worker’s contributions to the Fund is a reference to those contributions as reduced by an amount equal to so much of the mine worker’s contributions to the Fund as was previously refunded to or in respect of the mine worker under section 19J (excluding any of those contributions that have been repaid to the Fund).

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(17) Section 19L (**Refund of contributions where mine worker ceases to be employed on or after 26.3.1978**):

(a) Omit section 19L (6) (b), insert instead:

(b) in respect of a year ending on 30 June 1989 or on 30 June in any subsequent year—the rate per annum determined by the Tribunal in respect of that year on the basis of the net earnings of the Fund in that year.

(b) Omit section 19L (7) and (8).

(18) Omit section 19M, insert instead:

Reduction of amount of refund under section 19L

19M. The reference in section 19L (1) to the total amount of a mine worker's contributions to the Fund is a reference to those contributions as reduced by an amount equal to so much of the mine worker's contributions to the Fund as were previously refunded to or in respect of the mine worker under section 19J (excluding any of those contributions that have been repaid to the Fund, as referred to in section 10AA).

(19) Section 19MA:

After section 19M, insert in Part 4B:

Refund of shortfall where pension or lump sum payments are less than amount payable under section 19J or 19L

19MA. (1) If:

- (a) for any reason a pension payable under a provision of Division 2 of Part 2 to or in respect of a mine worker is cancelled or otherwise terminated; and
- (b) no dependant of the mine worker is entitled to a pension under any other provision of that Division; and
- (c) the total amount paid as pension under that Division is less than the amount of refund that would have been payable to or in respect of the mine worker under section 19J or 19L had either of those sections been applicable to or in respect of the mine worker,

the Tribunal must, on application by the appropriate person or persons, refund to the applicant or applicants the difference between those amounts.

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(2) For the purposes of subsection (1), the appropriate person or persons are:

- (a) the mine worker concerned; or
- (b) if that mine worker has died—a dependant of that mine worker; or
- (c) if that mine worker has no dependants—the personal representatives of that mine worker.

(3) The reference in subsection (1) to the total amount paid as pension is, in relation to a pension that has been reduced in accordance with a provision of Division 2 of Part 2, a reference to that total amount as so reduced.

(4) If for any reason the amount of a lump sum benefit payable under Division 3 of Part 2 would be less than the amount of refund that would have been payable to or in respect of the mine worker under section 19L had that section been applicable to or in respect of the mine worker, the mine worker is or, if the mine worker has died, the personal representatives of the mine worker are entitled to receive an amount equivalent to that amount of refund instead of the lump sum benefit.

(20) Section 27 (**Actuarial investigation and report**):

(a) Omit section 27 (3) (a), insert instead:

- (a) include a statement of the value of the assets of the Fund; and
- (a1) include a statement of the actuary's opinion on whether the value of the assets of the Fund is adequate to meet the liabilities of the Fund in respect of vested benefits in the Fund; and
- (a2) include a statement recommending, in respect of the 3-year period immediately following the period to which the report relates, the rate at which the actuary considers employer contributions should be made or, if the actuary considers employer contributions should be made at different rates in respect of 2 or more periods within that 3-year period, those different rates; and

*Superannuation Legislation (Amendment) 1991***SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—continued**

- (a3) include a statement to the effect that employer contributions made at that recommended rate or those recommended rates, together with the assets of the Fund and the contributions made by members, will provide adequately for expected liabilities of the Fund during that 3-year period; and
 - (b) From section 27 (3A), omit “13 months”, insert instead “12 months”.
 - (c) After section 27 (3A), insert:
 - (3AA) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3A) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.
 - (d) Omit section 27 (3C), insert instead:
 - (3C) The Minister may, in relation to a particular report, extend or further extend the period referred to in subsection (3B) if the Minister considers that special circumstances justify an extension or further extension.
- (21) Section 27B:
- After section 27A, insert:
- What information must be disclosed to mine workers**
- 27B. (1) The Tribunal must, as soon as practicable after a mine worker becomes a contributor to the Fund, give to the mine worker a written statement specifying:
- (a) details of the kinds of benefits provided under this Act to mine workers, former mine workers and the dependants of the mine workers and former mine workers; and
 - (b) the conditions applicable to those benefits; and
 - (c) the method of determining entitlements to those benefits.
- (2) The Tribunal must, within 6 months after the end of each financial year of the Tribunal, give to each mine worker who is a contributor to the Fund a written statement specifying for that financial year the particulars required by

Superannuation Legislation (Amendment) 1991

**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued***

regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the mine worker's interest in the Fund.

(3) If a person ceases to be a mine worker on a day other than the last day of a financial year of the Tribunal, the Tribunal must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Tribunal:

(a) the Tribunal may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and

(b) if the Tribunal does so:

(i) the Tribunal must, in relation to each succeeding financial year of the Tribunal, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and

(ii) the reference in subsection (3) to the last day of a financial year of the Tribunal is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Tribunal must, as soon as practicable after the amendment has been made, give to each mine worker a statement in writing which explains:

(a) the nature and purpose of the amendment; and

(b) the effect (if any) of the amendment on the entitlements of mine workers and their dependants to benefits under this Act or the regulations.

(6) The Tribunal must, on being requested to do so by a mine worker, give to the mine worker:

Superannuation Legislation (Amendment) 1991

**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued***

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 27; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.
- (7) The following statements contained in an actuary's report prepared under section 27 are specified for the purposes of subsection (6) (a):
- (a) a statement of the value of the assets of the Fund;
 - (b) a statement of the actuary's opinion on whether the value of the assets of the Fund is adequate to meet the liabilities of the Fund in respect of vested benefits in the Fund;
 - (c) a statement recommending, in respect of the 3-year period immediately following the period to which the report relates, the rate at which the actuary considers employer contributions should be made or, if the actuary considers employer contributions should be made at different rates in respect of 2 or more periods within that 3-year period, those different rates;
 - (d) a statement to the effect that employer contributions made at that recommended rate or those recommended rates, together with the assets of the Fund and the contributions made by members, will provide adequately for expected liabilities of the Fund during that 3-year period.
- (8) The Tribunal may, but is not obliged to, comply with more than one request made by a mine worker under subsection (6) during a financial year of the Tribunal.

*Superannuation Legislation (Amendment) 1991*SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*(22) Section 28 (**Advances by Treasury**):

Omit the section.

**PART 2—AMENDMENTS IN CONSEQUENCE OF
THE CLOSURE OF THE QUEENSLAND COAL
MINE WORKERS' PENSIONS FUND**

(23) Section 4A:

After section 4, insert in Part 1:

**Special provisions for persons engaged in the coal mining
industry in Queensland**

4A. (1) For the purposes only of a provision to which this section applies, a person is, subject to this section, taken to have been a mine worker engaged in the coal or oil shale mining industries if the person:

- (a) has (whether before, on or after 4 December 1989) been employed in the coal mining industry in Queensland; and
- (b) by virtue of the operation of section 2 (2), would be deemed to have been so engaged had the employment been in New South Wales.

(2) This section applies to sections 3 (8), 3A, 5AA, 7 (1A), 14A, 14AA, 14D, 14E, 14FA and 14FB.

(3) The provisions of section 3 (1), (3) and (4) apply to a person referred to in subsection (1) and so apply as if a reference in those provisions to New South Wales also included a reference to Queensland.

(4) Section 6 applies to a person referred to in subsection (1) and so applies as if:

- (a) a reference in that section to having been continuously resident, or resident, in New South Wales during a specified period included a reference to any period during which the person was continuously resident, or resident, in Queensland; and
- (b) a reference in that section to having been continuously engaged, or engaged, in the coal or oil shale mining industries in New South Wales during a specified period included a reference to any period during which

*Superannuation Legislation (Amendment) 1991***SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued***

the person was continuously employed, or employed, in the coal mining industry in Queensland; and

- (c) a reference in that section to having actually worked in or about a coal or oil shale mine in New South Wales for a specified period included a reference to any period during which the person worked in or about a coal mine in Queensland.

(5) For the purposes of applying section 14D to a person who has died while employed in the coal mining industry in Queensland, references in that section to the prescribed dependent amount are taken to be references to such amount as the person would have been entitled to be paid under section 14A or 14AA if the person:

- (a) had reached the relevant retirement age for the purposes of this Act on the last day on which the person was actually engaged in the coal or oil shale mining industries in New South Wales; and
- (b) had retired on that day.

(6) For the purposes of applying the provisions of section 14E, 14FA or 14FB to a person who is incapacitated by injury while employed in the coal mining industry in Queensland, references in those provisions to a lump sum benefit payable under any of those provisions are taken to be references to such lump sum benefit as the person would have been entitled to be paid under section 14A or 14AA if the person:

- (a) had reached the relevant retirement age for the purposes of this Act on the last day on which the person was actually engaged in the coal or oil shale mining industries in New South Wales; and
- (b) had retired on that day.

(24) Section 7 (Pension—permanent incapacity):

- (a) In section 7 (1A) (c), omit “in New South Wales”.
- (b) From section 7 (1A) (d), omit “and the Coal and Oil Shale Mine Workers Superannuation Fund”, insert instead “, the Coal and Oil Shale Mine Workers Superannuation Fund and the Queensland Coal Mine Workers’ Pensions Fund”.

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

PART 3—FURTHER AMENDMENTS

(25) Section 14D (**Lump sum benefit payment on death of mine worker**):

(a) From section 14D (7), omit “The”, insert instead “Subject to subsection (9), the”.

(b) After section 14D (8), insert:

(9) If:

(a) a mine worker:

(i) has, while actually engaged in performing work as a mine worker on or after 1 August 1990, sustained an injury that is wholly or partly the result of an accident; and

(ii) has died within 6 months after the day on which the injury was sustained; and

(b) the death resulted directly or indirectly from the injury; and

(c) the mine worker is survived by a spouse,

the spouse is entitled to receive a lump sum benefit of an amount equal to 90 times the prescribed amount (as referred to in section 14B) as at the date of the mine worker’s death.

(10) For the purposes of subsection (9), “**accident**” includes an event, act or omission that is the result of the negligence or misconduct of any person (including the deceased mine worker).

(11) A benefit is payable under subsection (9) in addition to any other benefit that is payable in respect of the mine worker under this Part.

(26) Section 25A:

After section 25, insert:

Interest payable where payment of benefit is delayed

25A. (1) Whenever there has been a delay in making payment of a pension or lump sum benefit under this Act (for whatever reason) to or in respect of a person who was a mine worker, the Tribunal may, in its discretion, award interest on the amount of pension or lump sum from the date on which

Superannuation Legislation (Amendment) 1991

**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued***

the person ceased to be a mine worker to the date of payment of the pension or lump sum benefit.

(2) This section applies to or in respect of any person who ceased to be a mine worker on or after 4 December 1989.

**SCHEDULE 2—AMENDMENT OF LOCAL GOVERNMENT
AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927**

(Sec. 3)

Section 15Y:

Omit the section, insert instead:

Payment to be made to contributor on resignation or dismissal

15Y. (1) If a person who is a contributor resigns or is dismissed from the employment of a prescribed employer, the board must:

(a) pay to the person:

(i) any amount credited to the person's account in accordance with section 15K (3) or section 15L (9) (as the case requires) together with so much of any interest credited to the person's account under section 15U (2) as is attributable to any such amount; and

(ii) in respect of the balance of the amount in the person's account after deduction of the amount and interest (if any) referred to in subparagraph (i) that relates to contributions paid or payable before 1 July 1988—40 per cent of that amount; and

(iii) in respect of the balance of the amount and interest (if any) referred to in subparagraph (i) that relates to contributions paid or payable on or after 1 July 1988—43.96 per cent of that amount; and

(b) pay any amount remaining in the person's account after making the payment under paragraph (a):

(i) in the case of a prescribed employer who is an incorporated hospital, a separate institution or an

Superannuation Legislation (Amendment) 1991

**SCHEDULE 2—AMENDMENT OF LOCAL GOVERNMENT AND
OTHER AUTHORITIES (SUPERANNUATION) ACT 1927—
*continued***

associated organisation specified in the Second, Third or Fourth Schedule to the Public Hospitals Act 1929—to the appropriate employer reserve or reserves established under the State Authorities Superannuation Act 1987; or

(ii) in the case of any other prescribed employer—to that employer.

(2) This section is subject to section 15Z and does not apply to a person who is a contributor referred to in section 15V or 15X.

(3) The board must not make a payment under this section until at least 28 days after the date on which the person concerned resigned or was dismissed, unless the person has applied to the board within that period for the payment to be made.

(4) Any payment of a kind referred to in subsection (1) (b) that the board has made before the commencement of Schedule 2 to the Superannuation Legislation (Amendment) Act 1991 is validated and declared to have been as lawfully made as if this section (as substituted by that Schedule) had then been in force.

(5) In this section, a reference to a prescribed employer is a reference to a council, body or association that is the subject of a proclamation published under section 2 (4).

**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

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

Insert in alphabetical order:

“**Commonwealth occupational superannuation standard**” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

“**Commonwealth taxation law**” means a law of the Commonwealth that provides for the levying and collection of a tax;

“**Insurance and Superannuation Commissioner**” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

“**Parliamentary Contributory Superannuation Scheme**” means the contributory superannuation scheme established by this Act;

“**penalty**”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 10 (**Actuarial investigation**):

(a) After section 10 (2), insert:

(2A) The actuary must complete the investigation, and report the result to the trustees, not later than 12 months after the date as at which the investigation is made.

(2B) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2A) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(b) Omit section 10 (3), insert instead:

(3) The actuary must certify to the Treasurer the amount that, in addition to any other money payable into the Fund, should, in the actuary's opinion, be paid into the Fund in respect of each financial year during the period of 25 years following the completion of the investigation to enable the Fund to meet its liabilities.

(3A) In subsection (3), the reference to money payable into the Fund includes a reference to any interim advances:

Superannuation Legislation (Amendment) 1991

**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued***

- (a) that were paid into the Fund before completion of the investigation; or
 - (b) that the actuary has, under subsection (4), certified should be paid into the Fund.
- (3B) The report referred to in subsection (2A) must:
 - (a) include a statement of the value of the assets of the Fund; and
 - (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.
- (3) Section 22 (**Pension on retirement on grounds of ill-health**):
After section 22 (1), insert:
 - (1A) The medical evidence referred to in subsection (1) must include a certificate or certificates acceptable to the trustees, signed by 2 medical practitioners, certifying that the member is incapable of performing the duties of a member due to ill-health or physical or mental incapacity.
- (4) Section 23 (**Pension for widows and widowers**):
From section 23 (3A), omit “or remarriage”.
- (5) Sections 27A–27C:
After section 27, insert:
Power of the trustees to adjust benefits to comply with certain standards relating to occupational superannuation):
 - 27A. (1) If:
 - (a) a member or former member becomes entitled to receive a pension under this Act, other than a pension under section 22; and

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (b) payment of the pension to the member or former member would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,

the member or former member may, by notice in writing given to the trustees before the pension starts to be paid, elect to receive the pension:

- (c) in a form that complies with those standards; or
- (d) in a form that is in accordance with this Act (apart from this section and section 27C).

(2) Even after such a pension has started to be paid to a member or former member in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the member or former member is, by notice in writing given to the trustees at any time before the trustees are required to take the action referred to in section 27C (1), entitled to make an election or a further election to receive payment of the pension in a form that complies with the relevant Commonwealth occupational superannuation standards.

(3) An election made and notified to the trustees in accordance with this section is sufficient authority for the trustees to pay a pension in accordance with the election of the member or former member concerned.

(4) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(5) A member or former member who does not notify the trustees of an election made by the member or former member under this section before the pension concerned starts to be paid is, subject to subsection (2), to be regarded as having elected to receive payment of the pension in the form provided by this Act (apart from this section and section 27C).

(6) If a member or former member makes an election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the trustees must ensure that the

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

pension is varied only to the extent necessary to comply with those standards.

(7) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the member or former member who made the election but also on any person claiming a benefit under this Act through that member or former member.

(8) If an election is made under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the pension is payable in that form despite any other provision of this Act to the contrary.

Special provisions applicable to members who have reached 65 years of age

27B. (1) If:

(a) the receipt by the trustees of contributions in respect of a member who has reached 65 years of age, or starting to pay a benefit to or in respect of such a member, would result in the trustees or the Fund being in breach of a Commonwealth occupational superannuation standard; and

(b) as a result of the breach, the Fund would be liable to a penalty under a Commonwealth taxation law,

the trustees may make a determination under this section to ensure that neither the trustees nor the Fund is in breach of the standard.

(2) Such a determination may be:

(a) a determination not to accept further contributions in respect of the member concerned; or

(b) a determination to pay a benefit to or in respect of that member subject to specified terms and conditions (including terms and conditions as to time of payment).

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act

27C. (1) If the Insurance and Superannuation Commissioner:

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) determines that a pension payable to a member or former member under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the member or former member; and
- (b) in consequence of that determination advises the trustees by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that they must treat the pension as if the member or former member had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the trustees must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that they have so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the trustees:

- (a) receive from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or
- (b) are satisfied as a result of information provided by the member or former member concerned that the member or former member has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the trustees must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the trustees are required to commute a pension payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the trustees on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

Superannuation Legislation (Amendment) 1991

**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued***

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factor applicable when a member or former member exercises the right to convert part of a pension to a lump sum benefit as provided by section 20.

(6) Section 32A:

After section 32, insert:

What information must be disclosed to members

32A. (1) The trustees must, as soon as practicable after the person becomes a member, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to members, former members and the dependants of members and former members; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The trustees must, within 6 months after the end of each financial year of the Fund, give to each member a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the member's interest in the Fund.

(3) If a person ceases to be a member on a day other than the last day of a financial year of the Fund, the trustees must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Fund:

Superannuation Legislation (Amendment) 1991

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) the trustees may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
 - (b) if the trustees do so:
 - (i) they must, in relation to each succeeding financial year of the Fund, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Fund is to be read as a reference to the last day of the period beginning during that financial year.
- (5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the trustees must, as soon as practicable after the amendment has been made, give to each member a statement in writing which explains:
- (a) the nature and purpose of the amendment; and
 - (b) the effect (if any) of the amendment on the entitlements of members and their dependants to benefits under this Act or the regulations.
- (6) The trustees must, on being requested to do so by a member, give to the member:
- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 10; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued***

(7) The following statements contained in an actuary's report prepared under section 10 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(8) The trustees may, but are not obliged to, comply with more than one request made by a member under subsection (6) during a financial year of the Fund.

**PART 2—AMENDMENTS RELATING TO THE
REORGANISATION OF THE PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION SCHEME**

(7) Section 3 (**Definitions**):

- (a) From the definition of "the Fund", omit "established", insert instead "maintained".
- (b) Omit the definition of "trustees", insert instead:
 "trustees" means the Trustees of the Parliamentary
 Contributory Superannuation Fund constituted by this
 Act.

(8) Section 5:

Omit the section, insert instead:

Parliamentary Contributory Superannuation Fund

5. The trustees must maintain in the Treasury, or in such other place as the trustees determine, a fund to be called the Parliamentary Contributory Superannuation Fund.

(9) Section 7:

Omit the section, insert instead:

Superannuation Legislation (Amendment) 1991

**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued***

Financial accommodation and investment

7. (1) The trustees may, under and subject to the Public Authorities (Financial Arrangements) Act 1987:

- (a) obtain financial accommodation; and
- (b) make financial arrangements; and
- (c) make investments.

(2) The trustees must invest money standing to the credit of the Fund that is available for investment through an investment manager or managers who undertake to invest and manage that money on behalf of the trustees.

(3) The trustees may appoint one or more investment managers for the purposes of this section.

- (10) Sections 8 (**Uninvested moneys**), 9 (**Borrowing powers**):
Omit the sections.

- (11) Section 14 (**Trustees of the Fund**):

Omit section 14 (2)–(6), insert instead:

(2) A person holding office as trustee vacates that office on ceasing to be a member.

- (12) Section 14A:

After section 14, insert:

Trustees to be a body corporate

14A. (1) There is constituted by this Act a body corporate with the corporate name of the Trustees of the Parliamentary Contributory Superannuation Fund.

(2) The body corporate is to consist of the trustees who are holding office under section 14.

- (13) Section 15:

Omit the section, insert instead:

Functions of the trustees

15. (1) The functions of the trustees are:

- (a) to administer the Parliamentary Contributory Superannuation Scheme; and
- (b) to ensure that the Fund is invested and managed in accordance with this Act; and

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

(c) to pay benefits to or in respect of members and former members; and

(d) to make such other payments as are provided for by this Act.

(2) The trustees are trustees for the purposes of the Trustee Act 1925 and are required to hold in trust for the persons entitled to benefits under this Act all contributions and other money paid or payable to the trustees.

(3) The trustees must use the assets of the Fund to pay benefits to or in respect of the members and former members and to pay the costs and expenses of the investment and management of the Fund.

(4) The trustees have power in New South Wales and elsewhere to do all things necessary or convenient to be done for, or in connection with, the exercise of the functions specified in subsection (1) and, in particular, may:

(a) engage investment advisers and other kinds of consultants; and

(b) appoint agents and attorneys and act as agent for others; and

(c) take action to control or manage, or to enhance or protect, the value of any investment made out of the Fund, or to enhance or protect the return on any such investment.

(5) In exercising their functions, the trustees must:

(a) have regard to the interests of members and other persons entitled to benefits under this Act; and

(b) comply with the standards prescribed by or under the Occupational Superannuation Standards Act 1987 of the Commonwealth.

(14) Sections 15A–15C:

After section 15, insert:

Trustees may delegate their functions

15A. The trustees may delegate to:

(a) a trustee; or

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**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued***

(b) a committee that consists of or includes one or more trustees; or

(c) a person whose services are made use of under section 15B,

any of their functions, other than this power of delegation.

Staff of the trustees

15B. The trustees may, with the approval of the Minister or authority concerned, arrange for the use of the services of any staff, or the facilities, of a Government department, an administrative office or a public or local authority.

Trustees may establish committees

15C. (1) The trustees may establish committees to assist them in exercising their functions.

(2) A person may be appointed as a member of such a committee even though he or she may not be a trustee.

(3) The procedure for calling meetings of such a committee and for the conduct of business at those meetings may be decided by the trustees or, subject to any decision of the trustees, by the committee.

(15) Section 16 (**Meetings of trustees**):

Omit “managing” wherever occurring.

(16) Section 17 (**Appointment of person to act in absence of Secretary of the Treasury**):

(a) Omit “custodian” where firstly occurring.

(b) Omit “the custodian trustee and shall be deemed to be the corporation sole constituted under subsection (3) of section 14”, insert instead “a trustee”.

(17) Section 17A:

After section 17, insert:

Indemnification of trustees etc.

17A. (1) Any matter or thing done, or omitted to be done, in good faith by:

(a) a trustee in the exercise of the trustee’s functions under this Act; or

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- (b) a person acting in accordance with the directions of the trustees,
does not subject the trustee or person personally to any action, liability, claim or demand.
 - (2) Subsection (1) does not preclude the trustees from being subject to any action, liability, claim or demand.
- (18) Section 19 (**Members' superannuation benefit**):
From section 19 (9), omit "managing" wherever occurring.
- (19) Section 20 (**Right to convert part of entitlement to lump sum entitlement**):
 - (a) From section 20 (1), (2) and (4), omit "custodian trustee" wherever occurring, insert instead "trustees".
 - (b) From section 20 (2) (c) and (5), omit "managing" wherever occurring.
- (20) Section 22 (**Pension on retirement on grounds of ill-health**):
Omit "managing" wherever occurring.
- (21) Section 23 (**Pension for widows and widowers**):
From section 23 (8) and (9), omit "managing" wherever occurring.
- (22) Section 26 (**Suspension of pension where another parliamentary pension received**):
From section 26 (2) and (3), omit "managing" wherever occurring.
- (23) Section 28 (**Pensions to be paid by instalments**):
Omit "managing".
- (24) Section 29 (**Continuation of former Act in certain circumstances**):
 - (a) From section 29 (1) (d) (iv), omit "custodian trustee", insert "relevant person".
 - (b) From section 29 (3), omit "the trustees, the custodian trustee and the managing trustees" where secondly occurring, insert instead "the relevant persons".

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(c) After section 29 (3), insert:

(4) The reference in subsection (1) (d) (iv) to the relevant person is a reference:

(a) during the period beginning on 1 January 1972 and ending with 30 September 1991—to the custodian trustee within the meaning of this Act as then in force; and

(b) on and after 1 October 1991—to the trustees.

(5) The reference in subsection (3) to the relevant persons is a reference:

(a) during the period beginning on 1 January 1972 and ending with 30 September 1991—to the trustees and to the custodian trustee and the managing trustees within the meaning of this Act as then in force; and

(b) on and after 1 October 1991—to the trustees.

(25) Section 30 (**Persons who elected not to contribute under former Act**):

Omit the section.

(26) Section 31 (**Exemption from stamp duty**):

(a) Omit “custodian trustee”, insert instead “trustees”.

(b) Omit “person”, insert instead “persons”.

**SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969**

(Sec. 3)

(1) Section 2 (**Definitions**):

(a) In section 2 (1), after the definition of “Board”, insert:

“**executive officer**” means an employee of the Association whom the Association has appointed or designated as an executive officer of the Association;

(b) From section 2 (1), omit the definition of “salary of office”, insert instead;

*Superannuation Legislation (Amendment) 1991***SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—continued****“salary of office”:**

- (a) in relation to an employee of the Association who is not an executive officer—has the meaning set out in section 1 (2) of the Police Regulation (Superannuation) Act 1906; or
- (b) in relation to an executive officer—has the meaning set out in section 2B;

“superannuation scheme” means a scheme, fund or arrangement (whether established by an Act or not) under which any superannuation or retirement benefits are provided.

(2) After section 2A, insert:

Salary of office: executive officers

2B. (1) For the purposes of this Act, the salary of office of an executive officer is the aggregate of:

- (a) the monetary remuneration payable to the officer; and
- (b) the cost to the Association of providing the officer with employment benefits or, if the officer has, in accordance with subsection (2), elected to have treated as salary of office 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 the officer.

(2) An executive officer may elect to have treated as salary of office for the purposes of this Act:

- (a) none of the cost to the Association of providing the officer with employment benefits referred to in subsection (1) (b); or
- (b) only a specified proportion of that cost.

(3) An executive officer may, from time to time:

- (a) elect to reduce the proportion of the cost of providing the officer’s employment benefits that is treated as salary of office for the purposes of this Act; or

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**SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—*continued***

- (b) elect to increase that proportion or, if none of the cost to the Association of providing the officer with employment benefits is currently treated as part of the officer's salary of office for the purposes of this Act, to nominate a proportion of that cost, but so that the percentage increase in the salary of the officer for the purposes of this Act is not greater than the percentage of any increase in the remuneration package of the officer since the last occasion on which the officer had an opportunity to make an election under this paragraph.
- (4) The qualification in subsection (3) (b) does not apply when the executive officer is appointed to another position as an executive officer with the Association.
- (5) For the purposes of this section, **"employment benefits"**, in relation to an executive officer, means any components of the remuneration package of an executive officer that are not subject to the payment of personal income tax, except a component of that package that consists of:
 - (a) payments of contributions payable to a superannuation scheme by the Association in respect of the officer; and
 - (b) payments by the Association of any approved costs associated with the officer's membership of the scheme.
- (3) Section 3 (**Employees of Association transferring from police force**):
 - (a) Omit section 3 (2), insert instead:
 - (2) The Board may, subject to this section, approve the payment of:
 - (a) such annual superannuation allowance to the prescribed person; or
 - (b) such gratuity to the prescribed person, or to or on behalf of some other person,
 (as the case requires) out of the Fund as would be payable to the prescribed person or to that other person under section 7, 7AA, 8A, 9B, 13 or 14 of the Police Regulation (Superannuation) Act 1906 if the prescribed person had been a member of the police force and if the prescribed person or

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**SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—*continued***

that other person had been eligible for that allowance or gratuity.

(2AA) The granting of approval under subsection (2) is subject to:

- (a) the payment, in such manner as the Board may direct, by the prescribed person into the Fund of sums equivalent to the deductions that would have been made from that person's salary of office under section 5 of the Police Regulation (Superannuation) Act 1906 and the amounts that would have been required to be paid into the Fund under section 5A of that Act if that person had not resigned office as a member of the police force; and
- (b) the payment, in such manner as the Board directs, by the Association into the Fund of employer contributions in respect of that person.

(2AB) In subsection (2AA) (b), the reference to employer contributions is a reference to the amounts that the Board, on actuarial advice, determines to be the Association's liability, for the period to which the payment relates, to contribute towards the provision of superannuation benefits for the prescribed person.

- (4) Section 4 (**Payment of superannuation allowance to F. C. Laut or his widow**):

Omit the section.

**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

- (1) Section 1 (**Short title, commencement and definitions**):

In section 1 (2), insert in alphabetical order:

“Commonwealth occupational superannuation standard” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

“penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 14AA (**Power of the Board to reduce benefits to offset certain tax liabilities of the Fund**):

From section 14AA (1) (a), omit “member or former member of the police force”, insert instead “contributor or former contributor”.

(3) Section 14AB (**Power of the Board to adjust benefits to comply with certain standards relating to occupational superannuation**):

Omit section 14AB (2) and (3), insert instead:

(2) If:

- (a) a contributor or former contributor becomes entitled to receive a superannuation allowance under this Act, other than a superannuation allowance under section 7 or 10 arising from the incapacity of the contributor or former contributor; and
- (b) payment of the allowance to the contributor or former contributor would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,

the contributor or former contributor may, by notice in writing given to the Board before the allowance starts to be paid, elect to receive the allowance:

- (c) in a form that complies with those standards; or
- (d) in a form that is in accordance with this Act (apart from this section and section 14AC).

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(3) Even after such a superannuation allowance has started to be paid in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the contributor or former contributor concerned is, by notice in writing given to the Board at any time before the Board is required to take the action referred to in section 14AC (1), entitled to make an election or a further election to receive payment of the allowance in a form that complies with the relevant Commonwealth occupational superannuation standards.

(4) An election made and notified to the Board in accordance with this section is sufficient authority for the Board to pay a superannuation allowance in accordance with the election of the contributor or former contributor concerned.

(5) An election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(6) A contributor or former contributor who does not notify the Board of the election of the contributor or former contributor under this section before the superannuation allowance concerned starts to be paid is, subject to subsection (3), to be regarded as having elected to receive payment of the allowance in the form provided by this Act (apart from this section and section 14AC).

(7) If a contributor or former contributor makes an election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards, the Board must ensure that the allowance is varied only to the extent necessary to comply with those standards.

(8) An election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the contributor or former contributor who made the election but also on any person claiming a benefit under this Act through that contributor or former contributor.

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(9) If an election is made under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards, the superannuation allowance is payable in that form despite any other provision of this Act to the contrary.

(10) In this section:

- (a) a reference to a benefit or superannuation allowance is a reference to a benefit or superannuation allowance after it has been reduced in accordance with section 14AA if appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(11) This section does not apply to a benefit payable under section 8A.

(4) Section 14AC:

After section 14AB, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a superannuation allowance payable under this Act

14AC. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a superannuation allowance payable to a contributor or former contributor under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor; and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the superannuation allowance as if the contributor or former contributor concerned had commuted to a lump sum benefit so much of the allowance as is required to comply with the notice,

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(SUPERANNUATION) ACT 1906—*continued*

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has done so.

(2) However, if, in relation to a superannuation allowance referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or
- (b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the allowance,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the allowance.

(3) Whenever the Board is required to commute a superannuation allowance payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the allowance is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factors prescribed in Schedule 3; and
- (c) if the allowance is payable under section 7 as a result of the contributor or former contributor concerned having been certified under section 8 or 10B as being incapable of discharging the duties of office—other commutation factors relevant to the nature of the pension and the circumstances of the contributor or former contributor (including the factor prescribed by section 14K (4)).

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(SUPERANNUATION) ACT 1906—*continued*

(5) In this section, a reference to a superannuation allowance is a reference to a superannuation allowance after it has been reduced in accordance with section 14AA if appropriate.

(5) Sections 23A, 23B:

After section 23, insert:

What information must be disclosed to members of the police force to whom this Act applies

23A. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the prescribed particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12

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(SUPERANNUATION) ACT 1906—*continued*

months beginning on a day during that financial year;
and

(b) if the Board does so:

(i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and

(ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

(a) the nature and purpose of the amendment; and

(b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

(a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 23B; and

(b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and

(c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 23B are specified for the purposes of subsection (6) (a):

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(SUPERANNUATION) ACT 1906—*continued*

- (a) a statement of the value of the assets of the Fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, that Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.

Actuarial investigation

23B. (1) An investigation as to the state and sufficiency of the Fund is, as at 31 March 1991, and at the end of each succeeding period of 3 years, to be made by an actuary or actuaries appointed by the Board.

(2) Actuaries appointed under this section must complete their investigation, and report the result to the Board, not later than 12 months after the date as at which the investigation is made.

(3) The report referred to in subsection (2) must:

- (a) include a statement of the value of the assets of the Fund; and
- (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(4) The Board must, not later than 2 months after it receives a report under subsection (2), forward the report to the Minister with such comments as it thinks fit.

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(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(6) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (4) if the Minister considers that special circumstances exist to justify an extension or further extension.

PART 2—MISCELLANEOUS AMENDMENTS

(6) Section 5B (Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme):

(a) After “section 9B (6)” wherever occurring, insert “or (6AA)”.

(b) Omit section 5B (7), insert instead:

(7) If the contributor referred to in subsection (6) (a) has not attained the age of 55 years on electing to become a member of the Public Sector Executives Superannuation Scheme, the benefit to which the contributor is entitled is the greater of the amounts calculated in accordance with the following formulae:

$$(a) L = 2.5 \times B \times 0.97^{(55 - A)}$$

$$(b) L = E \times \left(\frac{S}{S + P} \right) \times 0.94^{(55 - A)}$$

where:

L represents the amount to be calculated;

B represents the amount that would be payable under section 17 if, at the date of the election under subsection (5) (d), the contributor had resigned (but without interest as provided by that section);

E represents the lump sum that would have been payable if the contributor:

(a) were to continue as a member of the police force until attaining the age of 55 years at the same salary of office; and

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(SUPERANNUATION) ACT 1906—*continued*

(b) were to commute the superannuation allowance otherwise payable to the contributor;

S represents the number of months of service that has been completed by the contributor;

P represents the additional months of service that the contributor would have completed if he or she were to continue as a member of the police force until the age of 55 years;

A represents the age in years of the contributor (including fractions of a year on the basis of completed months) at the date on which the contributor becomes a member of the Public Sector Executives Superannuation Scheme.

(7A) If the contributor referred to in subsection (6) (a) has attained the age of 55 years on electing to become a member of the Public Sector Executives Superannuation Scheme, the benefit to which the contributor is entitled is the lump sum benefit that would be payable if the contributor:

(a) had become entitled to the allowance prescribed by section 7 (1) or section 7AA (2) (whichever is applicable); and

(b) had elected to commute the allowance in accordance with section 14J (3).

(7) Section 9B (**Preserved benefit**):

(a) In section 9B (3), after “subsection (6)”, insert “or (6AA)”.

(b) Omit section 9B (3) (a), insert instead:

(a) when the former member, having attained the age of 55 years, makes an application to the Board in writing for the benefit;

(c) In section 9B (5) (b), after “subsection (6)”, insert “or (6AA)”.

(d) After section 9B (6), insert:

(6AA) Subject to subsection (6A), the benefit provided by this subsection is, in the case of a former member of the police force who:

(a) was eligible to become, or was, a member of the Public Sector Executives Superannuation Scheme; and

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**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued***

- (b) elected to make provision for a benefit under this section in accordance with section 5B (1) (b); and
 - (c) has attained the age of 55 years,
- the lump sum benefit that would be payable if the former member:
- (d) had become entitled to the allowance prescribed by section 7 (1) or section 7AA (2) (whichever is applicable); and
 - (e) had elected to commute the allowance in accordance with section 14J (3).
- (d) In section 9B (6A), after “subsection (6)”, insert “or (6AA)”.
- (e) After section 9B (12), insert:
- (13) If, as a result of the invalidity of a former member of the police force, the former member becomes entitled to be paid a superannuation allowance under section 7, or a gratuity under section 14, before a gratuity is paid under this section, then:
- (a) a gratuity under this section ceases to be payable; and
 - (b) the Board must pay to or in respect of the former member such a superannuation allowance or, if the case requires, a gratuity under section 14.
- (14) If, as a result of the invalidity of a former member of the police force, the former member becomes entitled to be paid:
- (a) a superannuation allowance under section 7; or
 - (b) a gratuity under section 14,
- after a gratuity has been paid under this section, the Board must deduct the amount of the gratuity paid under this section from that allowance or, as the case may be, from the gratuity under section 14, in such instalments and at such times as it may determine.
- (8) **Section 14J (Commutation on normal or early retirement of member):**
- After section 14J (3), insert:

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(3A) The date on which such an election is to take effect is to be the day after the date on which the person retires, irrespective of the date on which the election is made.

(9) Section 14K (**Commutation on discharge of disabled member**):

After section 14K (3), insert:

(3A) The date on which such an election is to take effect is to be:

- (a) the day on which the person attains 60 years of age; or
- (b) if the person (being a person to whom subsection (3B) applies) has been granted a superannuation allowance under section 10 after having attained the age of 60 years—the date on which the election is made.

(3B) If a disabled member of the police force, having been paid a superannuation allowance under section 7 or a gratuity under section 14, is granted a hurt-on-duty allowance under section 10, the member may, as the case requires, commute to a lump sum:

- (a) the difference (if any) between the allowance granted under section 10 (1A) (a) and the superannuation allowance paid to that member under section 7; or
- (b) the balance (if any) of the allowance granted under section 10 (1A) (a) after an appropriate adjustment has been made for the repayment of the gratuity that has been paid to that member under section 14.

(3C) If a disabled member of the police force, having been granted an additional amount of allowance under section 10 (1A) (b) or (c), elects to commute to a lump sum an allowance under section 10 (1A) in accordance with subsection (3B), the member must commute the additional amount to the extent that it has not already been commuted to a lump sum under section 10C.

(3D) If a disabled member of the police force makes no election to commute to a lump sum an allowance granted under section 10 (1A) because the member has already elected to commute an equivalent allowance payable under section 7, the member is, for the purposes of subsection (3C), to be treated as having elected to commute the first-mentioned allowance in accordance with subsection (3B).

Superannuation Legislation (Amendment) 1991

**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued***

(10) Section 17 (Refund of deductions):

Omit section 17 (4), insert:

(4) If a former member of the police force who has resigned has received a lump sum under subsection (1) and subsequently there becomes payable to the former member:

(a) a superannuation allowance under section 10, or a commuted superannuation allowance under section 10C or 14K, as a result of having been hurt on duty while a member of the police force; or

(b) a superannuation allowance under section 7, or a gratuity under section 14, as a result of the former member having been discharged under section 8,

the lump sum is to be deducted from that allowance, commuted allowance or gratuity in such instalments and at such times as the Board determines.

**SCHEDULE 6—AMENDMENT OF PUBLIC AUTHORITIES
(FINANCIAL ARRANGEMENTS) ACT 1987**

(Sec. 3)

Schedule 1 (Authorities):

After "Tow Truck Industry Council of New South Wales.", insert:

Trustees of the Parliamentary Contributory Superannuation Fund.

**SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 3 (Definitions):

In section 3 (1), after the definition of "Fund", insert:

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

(2) Section 32:

Omit the section, insert instead:

What information must be disclosed to members

32. (1) The Board must, as soon as practicable after a person becomes a member, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to members, former members and the dependants of members and former members; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each member a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the member's interest in the Fund.

(3) If a person ceases to be a member on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(b) if the Board does so:

- (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
- (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each member a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of members and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a member, give to the member:

- (a) a copy of, or extract from, any specified statement contained in an actuary's report prepared under section 33; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The Board may, but is not obliged to, comply with more than one request made by a member under subsection (6) during a financial year of the Board.

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(3) Section 33 (**Actuarial investigation**):

(a) From section 33 (2), omit “13 months”, insert instead “12 months”.

(b) Omit section 33 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

PART 2—OTHER AMENDMENTS

(4) Section 4 (**Definitions**):

In section 3 (1), insert in alphabetical order:

“**discharged**”, in relation to a member, means that the member’s employment is terminated:

(a) because the period, or the successive periods, for which the member was employed has or have ended; or

(b) because, before the end of a period for which the member was employed, the employment of the member is terminated by the member’s employer,

but does not include a termination of the member’s employment for a breach by the member of the member’s contract of employment or because the member is retrenched;

“**retrenched**”, in relation to a member, means that the member’s employment:

(a) is compulsorily terminated by the member’s employer on the ground that:

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

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

- (ii) the work that the member 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) is terminated as a result of the acceptance by the member of an offer by the member's employer of terms of retrenchment made on a ground specified in paragraph (a);

(5) Section 49A:

After section 49, insert:

Benefit on retrenchment or discharge

49A. (1) The benefit provided by this section is payable by the Board to a member where, before attaining the early retirement age:

- (a) the member is retrenched or discharged; and
- (b) no other benefit is payable under this Act (section 50 excepted); and
- (c) the Board is provided with a certificate from the member's employer confirming that the member has been retrenched or discharged and specifying the ground for the retrenchment or discharge.

(2) A member who becomes entitled to be paid a benefit under this section may:

- (a) elect to be paid a benefit provided by subsection (4) or to have the benefit transferred to the credit of the member in another superannuation scheme; or
- (b) elect to make provision for a benefit provided by subsection (5).

(3) A member who, being entitled to make an election under this section, fails to make the election within 90 days after being retrenched or discharged, is taken to have made an election under subsection (2) (b).

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(4) The benefit provided by this subsection is an amount equal to the balance at credit in the member's account at the time when the benefit is paid.

(5) The benefit provided by this subsection is an amount equal to the balance at credit in the member's account at the member's exit date, together with interest on that balance, from the exit date to the date of payment, at a rate determined by the Board.

(6) The benefit provided by subsection (5) is payable by the Board:

- (a) when the member attains the early retirement age; or
- (b) if, before attaining that age, the member dies; or
- (c) when the Board is satisfied as provided by section 49;
or
- (d) in any other prescribed circumstances,

and is so payable in accordance with subsection (7).

(7) A benefit provided by subsection (6) is payable:

- (a) except where the member has died—to the member; or
- (b) if the member has died and is survived by a spouse—to the member's spouse; or
- (c) if the member has died and is not survived by a spouse—to the personal representatives of the member or, if appropriate, in accordance with section 64 (Payment without grant of probate etc.).

(8) If the Board makes a determination under section 55 in relation to a benefit to be provided by this section, the amount of that benefit is reduced by the amount specified in the Board's determination.

(6) Section 50 (**Benefit on termination of employment before early retirement age**):

- (a) From section 50 (1), omit “, or is dismissed or discharged”, insert instead “or is dismissed”.
- (b) After section 50 (1), insert:

(1A) Subsection (1) does not apply to a member who is retrenched or discharged.

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

- (7) Section 53 (How does a member or other person apply for payment or preservation of a benefit?):

Before “51 or 52”, wherever occurring, insert “49A,”.

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987

(Sec. 3)

- (1) Section 3 (Definitions):

After the definition of “full-time employee” in section 3 (1), insert:

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

- (2) Section 13 (Actuarial investigation):

- (a) From section 13 (2), omit “13 months”, insert instead “12 months”.

- (b) After section 13 (2), insert:

(2A) The report referred to in subsection (2) must:

- (a) include a statement of the value of the assets of the funds established under section 9; and
- (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of those funds; or
 - (ii) any future contributions to, or earnings of, those funds; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of those funds.

- (c) Omit section 13 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued*

extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

(3) Section 33A:

After section 33, insert:

What information must be disclosed to employees

33A. (1) The Board must, as soon as practicable after a person becomes an employee, give the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to employees, former employees, the dependants of employees and former employees; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each employee a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the employee's interest in the appropriate fund.

(3) If a person ceases to be an employee on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the appropriate fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued*

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.
- (5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each employee a statement in writing which explains:
 - (a) the nature and purpose of the amendment; and
 - (b) the effect (if any) of the amendment on the entitlements of employees and their dependants to benefits under this Act or the regulations.
- (6) The Board must, on being requested to do so by an employee, give to the employee:
 - (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 13; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the appropriate fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

Superannuation Legislation (Amendment) 1991

**SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued***

(7) The following statements contained in an actuary's report prepared under section 13 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the appropriate fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of that fund; or
 - (ii) any future contributions to, or earnings of, that fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of that fund.

(8) The Board may, but is not obliged to, comply with more than one request made by an employee under subsection (6) during a financial year of the Board.

(9) In this section, a reference to the appropriate fund, in relation to an employee, is a reference to the fund maintained under section 9 in which is kept the reserve of the employee's employer.

**SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 3 (Definitions):

In section 3 (1), insert in alphabetical order:

“Commonwealth occupational superannuation standard” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

Superannuation Legislation (Amendment) 1991

**SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued***

“penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 18 (Actuarial investigation):

(a) From section 18 (2), omit “13 months”, insert instead “12 months”.

(b) After section 18 (2), insert:

(2A) The report referred to in subsection (2) must:

- (a) include a statement of the value of the assets of the Fund; and
- (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(c) Omit section 18 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

(3) Section 45B (Power of the Board to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation):

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

Omit section 45B (2), insert instead:

(2) In this section:

- (a) a reference to a benefit is a reference to the benefit after reducing it in accordance with section 45A if appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(4) Section 45C:

After section 45B, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under the regulations

45C. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a pension payable under the regulations to a contributor or former contributor exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor; and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the pension as if the contributor or former contributor had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

- (b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the Board is required to commute a pension payable under the regulations to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factors prescribed by the relevant regulations; and
- (c) if the pension becomes payable under the regulations as a result of the total and permanent, or the partial and permanent, physical or mental incapacity of the contributor or former contributor concerned—other factors relevant to the nature of the pension and the circumstances of that contributor or former contributor.

(5) In this section, a reference to a pension is a reference to a pension after it has been reduced in accordance with section 45A if appropriate.

(5) Section 54A:

After section 54, insert:

What information must be disclosed to contributors

54A. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations 1987 of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 18; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 18 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund; and
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

Superannuation Legislation (Amendment) 1991

**SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued***

(8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.

PART 2—MISCELLANEOUS AMENDMENTS

(6) Section 21 (Medical examination):

From section 21 (2) (a), omit “a medical examination”, insert instead “medical examinations”.

(7) Section 29 (Contributions during leave without pay):

Omit section 29 (3), insert instead:

(3) A contributor who takes leave without pay that is not prescribed leave:

(a) is liable to make contributions to the Fund in respect of:

(i) a contribution period that begins before but finishes after the start of that leave; and

(ii) a contribution period that begins before but finishes after the end of that leave; and

(b) is not liable or entitled to make contributions to the Fund in respect of:

(i) a contribution period that begins on the first day of that leave and finishes before the end of that leave; or

(ii) a contribution period that, having begun after the start of that leave, finishes on the last day of that leave; or

(iii) a contribution period that falls between a contribution period referred to in paragraph (a) (i) or subparagraph (i) and a contribution period referred to in paragraph (a) (ii) or subparagraph (ii) (whichever is relevant).

(8) Section 30A (Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme):

From section 30A (5) (a), omit “section 43 (1) (b)”, insert instead “section 43 (1)”.

Superannuation Legislation (Amendment) 1991

SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

(9) Section 41 (**Benefit on resignation, dismissal or discharge before early retirement age**):

Omit section 41 (1), insert instead:

(1) The benefit provided by this section is payable by the Board to a contributor:

(a) if, before attaining the early retirement age, the contributor, having resigned, or having been dismissed or discharged, from employment with an employer, elects under section 43 (1) to take that benefit and no other benefit is payable under this Act; or

(b) if the amount of that benefit is less than the prescribed amount referred to in section 43 (1).

(10) Section 42 (**Benefit on retrenchment before early retiring age**):

(a) From section 42 (2), omit “(other than a contributor who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme)”.

(b) From section 42 (3), omit “or who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme”.

(11) Section 43 (**Preserved benefit**):

(a) Omit section 43 (1), insert instead:

(1) A contributor who resigns, or is dismissed or discharged, from employment with an employer before attaining the early retirement age may elect to take the benefit provided by section 41 or (if that benefit is not less than the prescribed amount) to make provision for a benefit provided by this section.

(b) In section 43 (2), after “election”, insert “to make provision for a benefit provided by this section”.

(c) After section 43 (2), insert:

(2A) A contributor who, being entitled to make an election under subsection (1), does not make such an election before the end of the prescribed period is taken to have elected to have made provision for a benefit provided by this section.

Superannuation Legislation (Amendment) 1991

**SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued***

- (c) Omit section 43 (5), insert instead:
 - (5) The benefit provided by subsection (7) is payable to a contributor by the Board if:
 - (a) the contributor has elected to take that benefit; and
 - (b) the election takes effect before the benefit provided by subsection (6) becomes payable to or in respect of the contributor.
- (12) Section 44 (**Application for payment of benefit**):
 - (a) From section 44 (1), omit “, or for preservation of a benefit under section 43,”.
 - (b) Omit section 44 (1) (b), insert instead:
 - (b) such other documents as the Board reasonably requires in order to determine the application.
 - (c) From section 44 (2), omit “or preserved”.
- (13) Section 48 (**Employee or claimant to provide information**):
 - From section 48 (1) (c), omit “a medical examination”, insert instead “one or more medical examinations”.

**SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

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

In section 3 (1), insert in alphabetical order:

“**Commonwealth occupational superannuation standard**” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth.

“**Insurance and Superannuation Commissioner**” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office.

*Superannuation Legislation (Amendment) 1991***SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—continued**

“Penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law.

(2) Section 5 (Board required to establish certain reserves within the Fund):

Omit section 5 (1) (c).

(3) Section 10 (Actuary or actuaries to conduct periodic investigations into the Fund):

- (a) From section 10 (3) (b), omit “report”, insert instead “submit a report of”.
- (b) From section 10 (3), omit “13 months”, insert instead “12 months”.

(c) After section 10 (3), insert:

(3A) The report referred to in subsection (3) must:

- (a) include a statement of the value of the assets of the Fund; and
- (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(d) Omit section 10 (5), insert instead:

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(6) The Minister may, in relation to a particular investigation, extend or further extend the period referred to

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

in subsection (4) if the Minister considers that special circumstances exist to justify an extension or further extension.

(4) Section 15A (**Reserve units**):

(a) Omit section 15A (6), insert instead:

(6) A contributor who, on 1 January 1992, is contributing for any reserve units may, by notice in writing lodged with the Board within 60 days after that date, elect to discontinue paying contributions in respect of those units.

(6AA) The Board must pay to a contributor who, in accordance with subsection (6), elects to discontinue the payment of contributions for reserve units the amount paid in respect of those units, together with any interest payable under subsection (6AD).

(6AB) If a contributor who is contributing for reserve units ceases to be an employee, the Board must pay to the contributor or, as the case may be, to the contributor's personal representatives the amount of the contributor's contributions paid in respect of those units, together with any interest payable under subsection (6AD).

(6AC) In subsection (6AB), the reference to personal representatives includes a reference to a person referred to in section 88A (2).

(6AD) If a contributor:

- (a) has contributed for reserve units for not less than 10 years; or
- (b) having contributed for reserve units for less than 10 years, ceases to be an employee because of death or retirement,

interest is payable in respect of those contributions, compounded annually, at the rate fixed by the Board in accordance with section 86A and is so payable from the respective dates of payment.

(6AE) Payments under subsections (6AA) and (6AB) are to be made from the appropriate reserve.

- (b) From section 15A (6A), omit "subsection (6)", insert instead "subsections (6)–(6AE)".

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**SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—continued****(5) Section 33B:**

Omit the section, insert instead:

Board to apportion benefit between the contributors' reserve and the appropriate employer reserve

33B. (1) Whenever:

- (a) a benefit under this Act becomes payable to a contributor (other than a benefit under Division 3A of Part 4); or
- (b) a contributor elects to take the benefit of that Division; or
- (c) if a contributor has died without having received a benefit under this Act—the benefit becomes payable to another person in consequence of that death,

the Board must ascertain the portion of the benefit that is payable from the contributors' reserve and the portion that is payable from the appropriate employer reserve.

(2) For the purposes of subsection (1):

- (a) the portion of the benefit payable to or in respect of a contributor from the contributors' reserve is an amount equal to the lesser of the amount calculated according to subsection (4) and the relevant amount; and
- (b) the portion of the benefit payable to or in respect of the contributor from the appropriate employer reserve is equal to the relevant amount, less the amount ascertained under paragraph (a).

(3) For the purposes of subsection (2), the relevant amount is:

- (a) if a lump sum benefit (other than a commutation of pension) is to be paid to or in respect of the contributor—the amount of the benefit payable to or in respect of the contributor; or
- (b) if a pension or a commutation of a pension is to be paid to or in respect of the contributor—the amount calculated by the Board as the capitalised value of the benefits payable to or in respect of the contributor.

(4) For the purposes of subsection (2), the amount to be calculated is:

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ACT 1916—*continued*

(a) the amount that would have been payable if the contributor had elected to take the benefit of section 38; and

(b) interest:

(i) compounded on 30 June in each year in respect of the period beginning with the day on which the contributor first became liable to make contributions under this Act and ending with the day on which the contributor ceased to be employed by an employer; and

(ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subsection (5).

(5) For the purposes of subsection (4) (b), the formula is as follows:

$$\frac{A + B}{2}$$

where:

A represents the total amount of contributions (excluding contributions refundable under section 15A (6AA) or (6AB)) that the contributor had paid to the Fund from the beginning of the contributor's contributory service to the beginning of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period;

B represents the total amount of those contributions from the beginning of the contributor's contributory service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated as at 30 June immediately preceding that period.

(6) For the purposes of this section, "**prescribed rate**" means:

(a) in respect of any relevant period ending before 1 July 1972—3.5 per cent per year; and

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (b) in respect of any relevant period beginning on or after 1 July 1972—the rate as fixed by the Board from time to time, having regard to the earnings of the Fund and such other matters as the Board considers relevant.

(6) Section 38 (**Refund of contributions**):

From section 38 (1), omit “section 15A (6) (b)” insert instead “section 15A (6AB)”.

(7) Section 38A (**Withdrawal benefit**):

From the definition of the symbol “A” in section 38A (5), omit “section 15A (6) (b)”, insert instead “section 15A (6AB)”.

(8) Section 61 (**Surrender of policies**):

From section 61 (1), omit “, and may pay the surrender value to the Board under the provisions of Part 5 relating to voluntary saving,”.

(9) Section 61RB (**Power of the Board to adjust benefits to comply with certain Commonwealth standards relating to occupational superannuation**):

Omit section 61RB (2), insert instead:

(2) If:

- (a) a contributor or former contributor becomes entitled to receive a pension under this Act, other than a pension under section 29; and
- (b) payment of the pension to the contributor or former contributor would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,

the contributor or former contributor may, by notice in writing given to the Board before the pension starts to be paid, elect to receive the pension:

- (c) in a form that complies with those standards; or
- (d) in a form that is in accordance with this Act (apart from this section and section 61RC).

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(3) Even after such a pension has started to be paid in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the contributor or former contributor concerned is, by notice in writing given to the Board at any time before the Board is required to take the action referred to in section 61RC (1), entitled to make an election or a further election to receive payment of the pension in a form that complies with the relevant Commonwealth occupational superannuation standards.

(4) An election made and notified to the Board in accordance with this section is sufficient authority for the Board to pay a pension in accordance with the election of the contributor or former contributor concerned.

(5) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(6) A contributor or former contributor who does not notify the Board of the election of the contributor or former contributor under this section before the pension concerned starts to be paid is, subject to subsection (3), to be regarded as having elected to receive payment of that pension in the form provided by this Act (apart from this section and section 61RC).

(7) If a contributor or former contributor makes an election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the Board must ensure that the pension is varied only to the extent necessary to comply with those standards.

(8) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the contributor or former contributor who made the election but also on any person claiming a benefit under this Act through that contributor or former contributor.

(9) If an election is made under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the pension is payable in that form despite any other provision of this Act to the contrary.

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(10) In this section:

- (a) a reference to a benefit or pension is a reference to the benefit or pension after reducing it in accordance with section 61RA where appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(10) Section 61RC:

After section 61RB, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act

61RC. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a pension payable to a contributor or former contributor under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor; and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the pension as if the contributor or former contributor had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the Board is required to commute a pension payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factor prescribed by section 21C; and
- (c) if the pension becomes payable under section 29—other factors relevant to the nature of the pension and the circumstances of the member.

(5) In this section, a reference to a pension is a reference to a pension after it has been reduced in accordance with section 61RA where appropriate.

(11) Part 5 (Voluntary Saving):

Omit the Part.

(12) Section 85:

After section 84A, insert:

What information must be disclosed to contributors

85. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 10; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 10 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund; and
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
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- (8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.
- (13) Section 86A (**Board empowered to fix interest rates for the purposes of this Act**):
- (a) From section 86A (1), omit “, 64”.
 - (b) From section 86A (3), omit “, 21E or 64”, insert instead “or 21E”.
- (14) Section 91 (**Time for making elections, applications etc.**):
- After section 91 (1), insert:
- (1A) The provisions of subsection (1) (c) and (d) do not apply to an election under section 61RB.
- (15) Section 99 (**Pensions emerging during suspension period**):
- From section 99 (6), omit “section 15A (6) (b)”, insert instead “section 15A (6AB)”.

PART 2—MISCELLANEOUS AMENDMENTS

- (16) Section 12B (**Deduction factors in relation to certain periods of leave of absence**):
- After section 12B (2), insert:
- (2A) The reference to a prescribed form of leave in subsection (2) (a) includes (but is not limited to) a reference to maternity leave and is to be taken to have included such a reference from and including 1 July 1985.
- (17) Section 28AA (**Pension on retirement before age 60—component pension**):
- From section 28AA (2) (b), omit “28A (2)”, insert instead “28A (5)”.
- (18) Section 37 (**Retrenchment benefits payable to an employee who is retrenched after completing 10 years’ service**):
- (a) From section 37 (1AA), omit “or to an employee who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme”.
 - (b) From section 37 (12) (b), omit “are continuous”.
 - (c) In section 37 (12), before “the Board”, insert “are continuous”.

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (19) Section 37A (**Retrenchment benefits payable to contributors having not less than 3 years' contributory service**):

Omit section 37A (1A).

- (20) Section 52B (**Adjustment of pension components**):

Omit section 52B (4), insert instead:

(4) Where:

- (a) a pension under this Division, or a pension that is calculated by reference to a pension that is payable under this Division, has become payable to or in respect of a person referred to in section 52A; and
- (b) pensions are adjusted under Division 6 by a percentage for a year beginning before and ending after the date on which that pension became so payable,

the pension, as from the adjustment date for that year, is, in addition to any adjustment of the pension under Division 6, adjusted by the amount calculated in accordance with the following formula:

$$A = C_2 \times P \times \frac{Q}{4}$$

where:

A represents the amount of the pension as adjusted;

C₂ represents:

- (a) in the case of a pension payable under section 52C or 52E to a person—the amount of the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of this section before the pension became payable; or
- (b) in the case of a pension payable under section 52D to a person—the amount obtained in relation to the person from the calculation, under that section, of the formula $P2 (1 - 0.04 \times TM)$; or
- (c) in the case of a pension payable under this Division to the widow or widower of a person referred to in section 52A (1)—an amount equal to two-thirds of the amount of the

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**SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued***

employer-financed pension component calculated in relation to that person and as adjusted by the operation (if any) of this section before the pension became payable; or

- (d) in the case of a pension of a widow or widower that is calculated by reference to a pension that was payable to a person under this Division—an amount equal to two-thirds of the amount referred to in paragraph (a) or (b), as the case may be, in relation to that person;

P represents the percentage for the year by which pensions are adjusted;

Q represents the number derived by adding together the following:

- (a) except when paragraph (b) applies—"1" (representing the quarter of the year during which the pension became payable);
- (b) if the pension became payable on the first day of a quarter, "0";
- (c) the smaller of:
 - (i) the number of whole quarters in that year that have occurred before the day on which the pension became payable; and
 - (ii) the number of whole quarters that have occurred since the exit day of the person to or in respect of whom the pension is payable and before the day on which the pension became payable.

SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 5)

PART 1—GENERAL

Savings and transitional regulations

1. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of commencement of this Act or a later date.

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SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**PART 2—TRANSITIONAL AND SAVINGS PROVISIONS
CONSEQUENT ON THE AMENDMENT BY THIS ACT OF THE
PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971**

Definitions

2. In this Part:

“body corporate” means the Trustees of the Parliamentary Contributory Superannuation Fund constituted as a body corporate under section 14A of the Principal Act, as inserted by this Act;

“custodian trustee” means the custodian trustee constituted as a corporation sole under section 14 (3) of the Principal Act, as in force on 30 September 1991;

“managing trustees” means the trustees (other than the custodian trustee) holding office as trustees under section 14 (1) of the Principal Act, as in force on 30 September 1991;

“Principal Act” means the Parliamentary Contributory Superannuation Act 1971.

Parliamentary Contributory Superannuation Fund

3. The Parliamentary Contributory Superannuation Fund referred to in section 5 of the Principal Act, as in force on 1 October 1991, is the same Fund as that established under that section on 30 September 1991.

Trustees of the Fund

4. (1) The persons holding office as custodian trustee and as managing trustees on 30 September 1991 continue to hold office as trustees of the Parliamentary Contributory Superannuation Fund for the remainder of the terms for which they were originally appointed to hold that office, subject to the Principal Act (as amended by this Act).

(2) A reference in any Act (other than this Act and the Principal Act), in any instrument made under an Act or in any other document of any kind to the trustees of the Parliamentary Contributory Superannuation Fund is, on and after 1 October 1991, to be read as a reference to the body corporate.

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SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

Decisions of the trustees

5. Any decisions of the management trustees or the custodian trustee made under the Principal Act are to be treated as decisions of the body corporate.

Assets of the Fund etc.

6. On 1 October 1991:

- (a) all property that, immediately before that date, was vested in the custodian trustee is taken to have vested in the body corporate; and
- (b) the body corporate is taken to have assumed responsibility for the custody of all securities and documents of title relating to the property of the Parliamentary Contributory Superannuation Fund; and
- (c) responsibility for the management of that Fund is vested in the body corporate; and
- (d) all money that, immediately before that date, was payable to the custodian trustee is taken to have become payable to the body corporate; and
- (e) any liquidated or unliquidated claim that, immediately before that date, was enforceable by or against the custodian trustee is taken to have become enforceable by or against the body corporate; and
- (f) any proceeding pending immediately before that date at the suit of or against the custodian trustee or the managing trustees is taken to have become a proceeding pending at the suit of or against the body corporate; and
- (g) any contract or arrangement entered into with the custodian trustee or the managing trustees and in force immediately before that date is taken to have become a contract or arrangement entered into with the body corporate; and
- (h) any security or charge given to or by the custodian trustee and in force immediately before that date is taken to have become a security or charge given to or by the body corporate; and
- (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the custodian trustee or the managing trustees is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the body corporate.

**PART 3—TRANSITIONAL PROVISION CONSEQUENT ON THE REPEAL
BY THIS ACT OF PART 5 OF THE SUPERANNUATION ACT 1916**

Closure of voluntary saving accounts etc.

7. (1) The State Authorities Superannuation Board is required, as soon as practicable after 1 January 1992:

- (a) to pay all money that is credited to an account under Part 5 of the Superannuation Act 1916, or a reserve referred to in section 5 (1) (c) of that Act, immediately before that date to the person to whose credit the money is held or, where appropriate, to that person's personal representatives; and
- (b) to close the account or reserve.

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SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(2) In subclause (1), the reference to personal representatives includes a reference to a person referred to in section 88A (2) of the Superannuation Act 1916.

[Minister's second reading speech made in—
Legislative Assembly on 17 October 1991
Legislative Council on 9 December 1991]