

FIRST PRINT

**SUPERANNUATION LEGISLATION (FURTHER
AMENDMENT) BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend legislation relating to the public sector superannuation schemes for the purpose of compliance with Commonwealth occupational superannuation standards, to make administrative adjustments relating to payment of employer contributions and to amend the legislation for other miscellaneous purposes.

This Bill makes amendments to legislation relating to various public sector superannuation schemes in relation to contributions by employers, payments of benefits where beneficiaries are missing, benefits paid to spouses and children and various other matters.

An explanation follows the amendments proposed for each of the Acts.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the provisions of the proposed Act.

Clause 3 gives effect to Schedules 1-7 to the proposed Act which contain the amendments referred to above.

Clause 4 makes it clear that the explanatory notes and other notes contained in the proposed Act do not form part of the proposed Act.

**SCHEDULE 1—AMENDMENT OF FIRST STATE SUPERANNUATION
ACT 1992 No. 100**

This Schedule amends the First State Superannuation Act 1992 as set out in the explanation following the amendments.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28**

This Schedule amends the Police Regulation (Superannuation) Act 1906 as set out in the explanation following the amendments.

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR EXECUTIVES
SUPERANNUATION ACT 1989 No. 106**

This Schedule amends the Public Sector Executives Superannuation Act 1989 as set out in the explanation following the amendments.

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212**

This Schedule amends the State Authorities Non-contributory Superannuation Act 1987 as set out in the explanation following the amendments.

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211**

This Schedule amends the State Authorities Superannuation Act 1987 as set out in the explanation following the amendments.

SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT 1916 No. 28

This Schedule amends the Superannuation Act 1916 as set out in the explanation following the amendments.

SCHEDULE 7—AMENDMENT OF OTHER ACTS

This Schedule amends the following Acts as set out in the explanation following the amendments:

Local Government and Other Authorities (Superannuation) Act 1927 No. 35
New South Wales Retirement Benefits Act 1972 No. 70
Parliamentary Contributory Superannuation Act 1971 No. 53
Police Association Employees (Superannuation) Act 1969 No. 33
Public Authorities Superannuation Act 1985 No. 41
State Public Service Superannuation Act 1985 No. 45
Superannuation Administration Act 1991 No. 96
Superannuation Legislation (Amendment) Act 1992 No. 35
Transport Employees Retirement Benefits Act 1967 No. 96

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**SUPERANNUATION LEGISLATION (FURTHER
AMENDMENT) BILL 1993**

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend various public sector superannuation Acts in relation to contributions by employers, payments where beneficiaries are missing, payments of benefits to spouses and children; and for other purposes.

Superannuation Legislation (Further Amendment) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Superannuation Legislation (Further Amendment) Act 1993.

5 Commencement

2. A provision of a Schedule to this Act commences, or is taken to have commenced, as provided in the Schedule. The other provisions of this Act commence on the date of assent.

Amendment of Acts

10 3. The Acts specified in Schedules 1–7 are amended as set out in those Schedules.

Explanatory notes and notes

4. Matter appearing under the heading “Explanatory note” or “Note” in the Schedules does not form part of this Act.

15 **SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100**

(Sec. 3)

AMENDMENTS

20 (1) Section 22 (**Members eligible to apply for additional death or invalidity cover**):

In section 22 (1) and (2), after “full member” wherever occurring, insert “or an optional member”.

(2) Section 24 (**Board may request medical examinations**):

From section 24 (1), omit “full”.

25 (3) Section 26 (**Premiums payable for additional death or invalidity cover**):

From section 26 (1), omit “full”.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued***

- (4) Section 27 (**When additional death or invalidity cover ceases**):
- (a) From section 27 (1), omit “full” where firstly occurring.
 - (b) In section 27 (1), after “member” where lastly occurring, insert “or an optional member”. 5
 - (c) In section 27 (2), after “member” where firstly occurring, insert “or an optional member”.
- (5) Section 28 (**Board may revoke additional death or invalidity cover**): 10
- In section 28 (1) and (3), after “member” wherever occurring, insert “or former member”.
- (6) Section 29 (**Effect of revocation of an approval**):
- After “member” wherever occurring, insert “or former member”. 15
- (7) Section 30 (**Rules as to applications**):
- Omit “a member’s”.
- (8) Section 33 (**Amount of additional death or invalidity benefit**):
- From section 33 (1), omit “full”.
- (9) Section 37 (**When is a death or invalidity benefit payable under this Act?**): 20
- (a) In section 37 (2), after “full member”, insert “or an optional member”.
 - (b) Omit section 37 (3), insert instead:
 - (3) The basic death or invalidity benefit is not payable to or in respect of an optional member. 25
- (10) Section 46 (**Payment where beneficiary incapable**):
- In section 46 (1), before “dependent”, insert “wholly or partly”.
- (11) Section 46A: 30
- After section 46, insert:
- Payment where beneficiary is missing**
- 46A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued*

5 pay the benefit to someone else to be applied wholly for the
care, maintenance, benefit and support of any person wholly
or partly dependent on the person who would otherwise be
entitled to the benefit.

(2) Any payment made under this section is taken to have
been made to the person who, but for this section, would be
entitled to the benefit.

10 (12) Section 56 (**Other accounts and reserves and asset portfolios**):
Omit section 56 (2) and (3), insert instead:

(2) Without limiting subsection (1), the Board may
establish separate asset portfolios, comprising assets of the
Fund allocated by the Board, for the purposes of the
15 investment of the Fund.

(3) A member may elect to have the member's account
treated, for the purpose only of allocating Fund earnings, as
being invested as part of one or more particular asset
portfolios nominated by the Board to the member. The
20 member may elect to vary or revoke any such election.

(4) The Board may determine that a member's account is
to be treated, for the purpose only of allocating Fund
earnings, as being invested as part of one or more particular
asset portfolios if the member does not make an election or
25 revokes an election without making another election.

(5) The Board may treat an account (other than a
member's account) or a reserve, for the purpose only of
allocating Fund earnings, as being invested as part of one or
more particular asset portfolios.

30 (6) The Board is to determine, for the purpose only of
allocating Fund earnings, the parts of an account or a reserve
to be treated as being invested in a particular asset portfolio
or portfolios.

(13) Section 57 (**Adjustment of accounts and reserves for interest**):
35 (a) In section 57 (1), after "rate", insert "or rates".
(b) In section 57 (1), after "Fund", insert "and the earnings, as
determined by the Board, of any asset portfolio or portfolios
in which the accounts or reserves or parts of them are treated
as being invested".

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued***

- (c) Omit section 57 (3), insert instead:
- (3) In adjusting accounts or reserves under this section, the Board may fix different rates for accounts or reserves, or parts of accounts or reserves, that are treated as being invested in different asset portfolios. 5
- (4) For the purpose of adjusting accounts and reserves, the Board may allocate any income of the Fund, or any losses, as being attributable to a particular asset portfolio or portfolios, as it thinks fit. 10
- (14) Section 58 (**Accounts and reserves generally**):
- Omit “fund,” wherever occurring.
- (15) Schedule 3 (**Savings, transitional and other provisions**):
- (a) Clause 1 (**Regulations**): 15
- At the end of clause 1 (1), insert:
- Superannuation Legislation (Further Amendment) Act 1993
- (b) Clause 2 (**Application of Scheme to certain employees from 1 July 1992**):
- At the end of clause 2, insert: 20
- (2) Regulations may be made for or with respect to the adjustment of the contributions on behalf of any such member or any person formerly such a member in respect of the period from 1 July 1992 to 8 December 1992 for the purpose of complying with applicable Commonwealth occupational superannuation standards. 25
- (3) A provision of a regulation made under subclause (2) may, if the regulation so provides, take effect from 1 July 1992 or a later day.
- (4) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 30
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State or an employer), the rights of that person existing before the date of its publication; or 35

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued***

- 5 (b) to impose liabilities on any person (other than the State or an authority of the State or an employer) in respect of anything done or omitted to be done before the date of its publication.

COMMENCEMENT

Items (1)–(9) commence on 1 January 1994.

Items (10), (11) and (15) commence on the date of assent to this Act.

- 10 Items (12)–(14) are taken to have commenced on 8 December 1992.

EXPLANATORY NOTE

Additional death or invalidity benefits

- 15 Currently, a member who uses the First State Superannuation Scheme to top up superannuation benefits (an “optional member”) is not entitled to contribute for, or receive, a death or invalidity benefit of an additional kind. Items (1) and (9) enable an optional member to do so. Items (2)–(4) and (8) make consequential amendments.

- 20 Item (5) extends to former members the Board’s power to revoke an approval for a member to be covered for an additional death or invalidity benefit. Item (6) provides for the effect of revocation to be the same as it is for members. Item (7) makes a consequential amendment.

Payment of benefit when person missing

Item (11) inserts new section 46A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

- 25 Item (10) makes a consequential amendment.

Asset portfolios

- Members’ accounts may presently be treated as being part of particular investment funds. Item (12) will enable members to elect to have their accounts treated, for the purpose only of allocating Fund income, as being invested in particular asset portfolios.
- 30 The Board will also be able to treat reserves in the Fund as being invested in particular asset portfolios for that purpose and will be able to adjust accounts and reserves differently having regard to the income or losses of different asset portfolios in which they are treated as being invested (items (12) and (13)). The Board will determine the portions of accounts and reserves that are to be treated as being invested in particular
- 35 portfolios and allocate the Fund earnings accordingly.

Item (14) makes a consequential amendment.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued***

Adjustment of benefits and contributions for members transferred from closed non-contributory scheme

On the commencement of the First State Superannuation Scheme certain members under the State Authorities Non-contributory Superannuation Scheme were transferred to the new scheme as from 1 July 1992. Item (15) enables regulations to be made, having effect retrospectively, to adjust the contributions made on behalf of those members for the period from 1 July 1992 to 8 December 1992 (the date of assent to the First State Superannuation Act 1992), if it is necessary to do so for the purpose of any applicable Commonwealth occupational superannuation standard. 5 10

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28**

(Sec. 3)

AMENDMENTS 15

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

- (a) From section 1 (2), omit the definition of "executive officer", insert instead:

"executive officer" means a member of the Police Service who is: 20

- (a) a police executive officer; or
- (b) a member of the police force who is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975; or 25
- (c) a chief executive officer within the meaning of the Public Sector Executives Superannuation Act 1989; or
- (d) a senior executive officer within the meaning of the Public Sector Executives Superannuation Act 1989; 30

- (b) From section 1 (2), omit the definition of "member of the police force", insert instead:

"member of the police force" means a police officer within the meaning of the Police Service Act 1990 or a member of the Police Service who was a contributor immediately before being transferred to an administrative office under section 67 of that Act; 35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

- (c) From section 1 (2), omit the definition of “spouse”, insert instead:

- 5 “**spouse**” of a member or former member of the police
 force, who has died, means:
- (a) the widow or widower, as the case may be, of the
 member or former member; or
- 10 (b) if the member or former member was a man and,
 at the time of his death, he was living with a
 woman as her husband on a bona fide domestic
 basis—the woman with whom he was so living;
 or
- 15 (c) if the member or former member was a woman
 and, at the time of her death, she was living with a
 man as his wife on a bona fide domestic basis—
 the man with whom she was so living;

(2) Section 1AA (**Salary of office: executive officers**):

- 20 (a) From section 1AA (10) (a), omit “chief executive officer,
 senior executive officer”, insert instead “chief executive
 officer or senior executive officer, within the meaning of the
 Public Sector Management Act 1988,”.
- (b) Omit section 1AA (10) (b) and (c), insert instead:
- 25 (b) if the officer is an office holder nominated for the
 purposes of section 11A of the Statutory and Other
 Offices Remuneration Act 1975, the remuneration
 payable to the officer as reduced under that section by
 the cost of employment benefits provided to the
 officer; or
- 30 (c) if the officer is an employee of an employer listed in
 Schedule 1 to the Public Sector Executives
 Superannuation Act 1989, the monetary remuneration
 payable to the officer.

(3) Section 5A (**Leave without pay**):

- 35 (a) Omit section 5A (3) and (4), insert instead:
- (3) A member of the police force who takes special leave
 without pay must, in accordance with directions given by the

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

Board, pay to the Board for credit to the Fund the amounts that would have been deducted from the salary of office of the member in accordance with section 5 if the member had continued, while on leave, to receive salary of office at the rate payable to the member immediately before the commencement of the period of leave. 5

(3A) However, a contributor who takes a single period of special leave without pay that is sick leave, maternity leave or leave in respect of the adoption of a child is not liable to make payments to the Board in respect of any part of the period of special leave occurring more than 2 years after the period of special leave commences. 10

(4) Any part of a single period of leave without pay taken by a member of the police force for which amounts are not payable under subsection (2) or (3A) is not a period of service for the purposes of this Act. 15

(b) From section 5A (5) and (6), omit "subsection (2) or (4)" wherever occurring, insert instead "this section". 20

(4) Section 5AB:

After section 5A, insert:

Acceptance of contributions

5AB. (1) Despite any other provision of this Act, amounts are not to be deducted from the salary of office of a contributor during any period specified by the Board for which the Board determines that it must not accept contributions from the contributor. 25

(2) The Board may make such a determination only if it is of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard. 30

(3) Any period for which contributions are not payable under this section is not a period of service for the purposes of this Act. 35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

(5) Section 8A (**Disengagement benefit for members aged between 50–55**):

5 Omit section 8A (3), insert instead:

(3) A disengagement benefit under this section is payable as follows:

10 (a) the portion of the benefit that is equal to the amount of the employer-financed benefit that would be payable under section 15 is payable from the Fund;

(b) the portion of the benefit that is equal to the amount that would be payable if the member had resigned and was paid a benefit under section 17 is payable from the Fund;

15 (c) the remainder of the benefit is payable by the Commissioner of Police and is not payable from the Fund.

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

20 (a) In section 9B (1), before “payment”, insert “superannuation allowance under section 7 (Superannuation allowance except where member hurt on duty) or section 7AA (Superannuation allowance on early retirement) or a”.

(b) In section 9B (2), before “payment”, insert “benefit under section 7 or 7AA or any”.

25 (c) From section 9B (3), (5) and (6A), omit “or (6AA)” wherever occurring, insert instead “, (6AA), (6AB) or (6AC)”.

(d) In section 9B (4), after “subsection (6)”, insert “, (6AA), (6AB) or (6AC)”.

30 (e) After section 9B (6AA), insert:

(6AB) Subject to subsection (6A), the benefit provided by this subsection is payable to a former contributor who was entitled to a superannuation allowance under section 7 and who elected to make provision for a benefit under this section. The benefit is the lump sum benefit that would be payable if the former contributor had elected to commute the

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Superannuation Legislation (Further Amendment) 1993

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

allowance under section 14J, and is to be adjusted from time to time at the rate fixed by the Board under section 16 (1) of the State Authorities Superannuation Act 1987. 5

(6AC) Subject to subsection (6A), the benefit provided by this subsection is payable to a former contributor who was entitled to a superannuation allowance under section 7AA and who elected to make provision for a benefit under this section. The benefit is the lump sum benefit that would be payable if the former contributor had elected to commute the allowance under section 14J, and is to be adjusted from time to time at the rate fixed by the Board under section 16 (1) of the State Authorities Superannuation Act 1987. 10

(7) Section 10B (**Medical examination of disabled member and determination of whether hurt on duty**): 15

In section 10B (3) (a), after “be”, insert “, and the date or dates on which the member or former member was hurt on duty”.

(8) Section 12A (**Allowance in respect of certain children**): 20

(a) From section 12A (3), omit “subsection (4)”, insert instead “subsections (4) and (4A)”.

(b) From section 12A (4), omit “but an allowance continued or commenced under this subsection ceases, unless sooner discontinued, to be payable if the child ceases to be a student or sooner dies”. 25

(c) After section 12A (4), insert:

(4A) An allowance continued or commenced under subsection (4) is not payable in respect of any period after the child: 30

(a) dies; or

(b) ceases to be a student; or

(c) reaches 21 years.

(9) Section 14G (**Certain increases under section 7A or 10**): 35
After “7A”, insert “or 10”.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

(10) Section 17A:

After section 17, insert:

5 **Competing claims for spouses' benefits**

17A. (1) This section applies to a superannuation allowance or gratuity under this Act which is payable to the spouse of a member or former member of the police force who has died.

10 (2) If a superannuation allowance or gratuity would be payable to more than one person because a member or former member of the police force, who has died, has left more than one spouse then, despite any other provision of this Act:

15 (a) the allowance or gratuity is payable in accordance with a determination made by the Board, and not otherwise; and

20 (b) the total amount of allowance or gratuity payable to those persons at any time is not to exceed the amount of allowance or gratuity that would be payable if there were only one spouse.

(3) For the purposes of subsection (2) (a), the Board may determine in relation to a superannuation allowance or gratuity:

25 (a) that the allowance or gratuity is not payable to such of the persons concerned as it specifies; or

(b) that the amount of the allowance or gratuity is to be apportioned between the persons concerned in such manner as it specifies.

30 (4) The Board may withhold the payment of the whole or any part of a superannuation allowance or gratuity or, if any such allowance is commuted, withhold the payment of any part of the amount commuted:

35 (a) until 30 days after the death of the member or former member in respect of which the allowance or gratuity is payable; or

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

- (b) if an application has been made for the allowance or gratuity by more than one person, until it is satisfied that only one of those persons is entitled to the allowance or gratuity or until a determination is made in relation to the matter by the Board under this section. 5
- (5) If, after 30 days from the death of a member or former member, a superannuation allowance or gratuity is paid in respect of any period to a spouse of the member or former member, a superannuation allowance or gratuity is not payable to any other spouse of the member or former member in respect of that period. 10
- (6) If, after 30 days from the death of a member or former member, the whole or part of a superannuation allowance is commuted by a spouse of the member or former member: 15
- (a) a superannuation allowance is not payable to any other spouse of the member or former member if the whole of the allowance is commuted; or 20
- (b) so much of a superannuation allowance as is equal to the amount of the allowance so commuted is not payable to any other spouse of the member or former member if part of the allowance is commuted.
- (7) For the purposes of subsections (5) and (6), an amount paid in good faith by the Board to a person purporting to be the spouse of a member or former member is taken to have been paid to the spouse of the member or former member. 25
- (8) If, after 30 days from the death of a member or former member, any amount is paid under this Act to the member's personal representatives or to such other persons as the Board may determine, any superannuation allowance or gratuity which is payable to the spouse of the member or former member is to be reduced by the amount so paid. 30
- (11) Section 18A (**Payment to person other than beneficiary**): 35
- In section 18A (1), after "beneficiary" where secondly occurring, insert "or a person wholly or partly dependent on the beneficiary".

(12) Section 23A:

5 Information that must be disclosed to contributors

(13) Section 23B (Actuarial investigation):

(14) Section 25:

15 After section 24, insert:

Savings and transitional provisions

(15) Schedule 6:

After Schedule 5, insert:

20 **SCHEDULE 6—SAVINGS AND TRANSITIONAL**
PROVISIONS

(Sec. 25)

Part 1—Regulations

Regulations

25 1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

30 (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

35 (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

- (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; 5
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—Superannuation Legislation (Further Amendment) Act 1993 10

Leave without pay

- 2. Section 5A, as amended by the Superannuation Legislation (Further Amendment) Act 1993, applies to a period of leave without pay commenced before 1 January 1994 and not completed immediately before that date. 15

Disengagement benefits

- 3. Section 8A, as amended by the Superannuation Legislation (Further Amendment) Act 1993, does not apply to a person offered a disengagement benefit before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993. 20

Children's allowances

- 4. An allowance being paid or continued or commenced under section 12A, as in force before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993, is not payable in respect of any period after the child reaches 18 years or 25 years (if the allowance is continued or commenced under section 12A (4)) or dies or ceases to be a student. 25
30

Indexation of pension increases

- 5. Section 14G, as amended by the Superannuation Legislation (Further Amendment) Act 1993, is taken to have applied to any increase in a superannuation allowance under section 10 occurring after the commencement of Division 2 of Part 4. 35

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

Spouses' benefits

- 5 6. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a member or former member of the police force occurring before 1 January 1994.

COMMENCEMENT

- 10 Item (1) (b) is taken to have commenced on 1 July 1990.
Items (1) (c), (3), (4), (6), (10), (12) and (13) commence on 1 January 1994.
Items (1) (a), (2), (5), (7)–(9), (11), (14) and (15) commence on the date of assent to this Act.

15 **EXPLANATORY NOTE**

Executive officers

Items (1) (a) and (2) amend definitions and references to executive officers as a consequence of the reorganisation of employer and employee definitions in the Public Sector Executives Superannuation Act 1989 by Schedule 3 to this Act.

20 **Member of police force**

- Item (1) (b) includes as a member of the police force for the purposes of the Act a former member transferred to an administrative office in the police service who was a contributor immediately before the transfer. This confirms the position of those contributors before the commencement of the Police Service Act 1990 and is consequential on the enactment of that Act.

Definition of spouse

- Item (1) (c) substitutes the definition of spouse to enable a de facto partner living with a member or former member at the time of his or her death to be considered as a spouse even though the member may have been survived by a widow or widower. Power is given to the State Authorities Superannuation Board to settle, in its discretion, competing claims where the amendments result in more than one spouse of a deceased member or former member being entitled to a benefit (new section 17A, item (10)).

Contributions while on leave without pay

- Currently contributors who are on special leave without pay (this includes maternity leave, adoption leave and sick leave) must pay contributions for the period of the leave. However, under the Commonwealth occupational superannuation standards superannuation funds are required not to accept contributions from persons who have not been employed for 2 years. The amendment to section 5A (item (3)) limits the period for which contributions must be paid by a person who is on maternity leave, adoption leave or sick leave to 2 years so as to comply with the standards.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Police Superannuation Fund to comply with those standards, a new section 5AB is inserted to prohibit contributions from being deducted from the salary of office of a contributor for a specified period if the Board determines it is necessary for the purpose of compliance (item (4)). Any such period will not count as a period of service for the purpose of calculating benefits under the Act. 5 10

Payment of disengagement benefits

Currently the Commissioner of Police may offer an officer who is aged between 50 and 55 a disengagement benefit for retirement from the police service. This disengagement benefit is not payable from the Fund but is payable by the employer. Item (5) makes that portion of the disengagement benefit equivalent to the employee contributions and the employer-financed benefit required by superannuation guarantee legislation payable from the Fund rather than by the Commissioner. This reflects the vesting of employee contributions and that part of the benefit in the contributor. 15 20

Preservation of benefits

Item (6) provides for the preservation of a benefit in the Fund by a former member entitled to a superannuation allowance on retirement or an early retirement superannuation allowance. The benefit in each case will be payable in the same circumstances as other benefits preserved and will consist of a lump sum adjusted by the Board. 25

Hurt on duty allowances

Item (7) requires the Commissioner of Police to specify a date or dates when a police officer or former police officer was hurt on duty when certifying, for the purpose of qualifying the officer or former officer for the "hurt on duty" superannuation allowance, that the officer or former officer was hurt on duty. 30

Item (9) allows for the indexation of superannuation allowances granted to those hurt on duty. Currently similar provisions apply to other benefits under the Act.

Ages for child allowances

The Act provides for the payment of allowances to children of deceased members. The allowances cease once a child is 18 but can continue for students. Item (8) sets the maximum age at which a student can receive an allowance at 21 years. The new limit will not apply to students presently receiving allowances (see item (15)) and is consistent with workers compensation legislation. 35

Payment to person other than beneficiary

Item (11) enables the Board to pay a superannuation allowance or gratuity to a person to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit, if the Board is of the opinion that it should be paid to a person other than the beneficiary. 40

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

Information for contributors

- 5 Item (12) replaces the provisions relating to the provision of information to contributors by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former contributors.

Change of financial year of Board

- 10 The Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (13) amends a provision dealing with actuarial investigations to reflect those changes.

Savings and transitional provisions

- 15 Item (15) enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to leave without pay, disengagement benefits and other matters. Item (14) inserts new section 25 which gives effect to the Schedule of savings and transitional provisions.

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106**

(Sec. 3)

20 **AMENDMENTS**

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

- (a) From section 3 (1), omit the definition of "chief executive officer", insert instead:

"chief executive officer" means:

- 25 (a) a chief executive officer within the meaning of the Public Sector Management Act 1988; or
(b) an employee of an employer specified in Schedule 1, being an employee who holds an office designated by the Director-General of the Premier's Department as the office of a chief executive officer;
- 30

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

"deferred annuity" means a deferred annuity to which regulation 11 of the Occupational Superannuation Standards Regulations of the Commonwealth applies;

- 35 (c) In section 3 (1), from paragraph (c) of the definition of "employee", omit "section; or", insert instead "section;".

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued***

- (d) From section 3 (1), omit paragraph (d) of the definition of “employee”.
- (e) From section 3 (1), omit the definition of “employer”, insert 5
instead:
- “employer” means:**
- (a) the employer of an employee who is a chief executive officer or a senior executive officer within the meaning of the Public Sector Management Act 1988; or 10
- (b) the employer of an employee who is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975; or 15
- (c) an authority specified in Schedule 1;
- (f) From section 3 (1), omit the definition of “senior executive officer”, insert instead:
- “senior executive officer” means:**
- (a) a senior executive officer within the meaning of the Public Sector Management Act 1988; or 20
- (b) an employee of an authority specified in Schedule 1, being an employee who holds an office designated by the Director-General of the Premier’s Department as the office of a senior executive officer; 25
- (2) Section 32:
- Omit the section, insert instead:
- Information that 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 the information relating to the Fund that is required to be given to the member for the purpose of complying with any applicable Commonwealth occupational superannuation standard. 30 35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued*

5 (2) The Board must from time to time give to a member or other person such information relating to the Fund as the Board is required to give the member or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

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

From section 37 (3), omit “annual”.

(4) Section 44A:

After section 44, insert:

Acceptance of contributions

15 44A. (1) Despite any other provision of this Act, an employer is not required to make a contribution to the Fund in respect of an employee, and an employee may not contribute to the Fund, during any period specified by the Board for which the Board determines that it must not accept contributions in respect of the employee.

20 (2) The Board may make such a determination only if it is of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard.

25 (5) Section 51 (**Preserved benefit—employer-financed contributions**):

After section 51 (2) (c), insert:

; or

(d) to request the Board to pay the benefit by purchasing a deferred annuity.

30 (6) Section 58 (**Additional employers**):

(a) From section 58 (1) (a), omit “and the name of the position of an employee”.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued***

(b) From section 58 (1) (c), omit “corporation; or”, insert instead “corporation.”.

(c) Omit section 58 (1) (d). 5

(7) Schedule 1:

Omit the Schedule, insert instead:

SCHEDULE 1—ADDITIONAL EMPLOYERS

(Sec. 3 (1))

Broken Hill Electricity	10
Central West Electricity	
Council of the City of Maitland	
Hunter Water Corporation Limited	
Illawarra Electricity	
Judicial Commission of New South Wales	15
Monaro Electricity	
Murray River Electricity	
Murrumbidgee Electricity	
Namoi Valley Electricity	
New England Electricity	20
New South Wales Treasury Corporation	
North West Electricity	
Northern Riverina Electricity	
Northern Rivers Electricity	
Ophir Electricity	25
Oxley Electricity	
P-CCC Electricity	
Pricing Tribunal	
Prospect Electricity	
Shortland Electricity	30
South West Slopes Electricity	
Southern Mitchell Electricity	
Southern Riverina Electricity	
Southern Tablelands Electricity	
Tumut River Electricity	35
Ulan Electricity	
Western Power	

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued***

(8) Schedule 5 (Savings and transitional provisions):

At the end of clause 1 (1), insert:

5 Superannuation Legislation (Further Amendment) Act 1993

COMMENCEMENT

Items (1) (b), (2) and (4) commence on 1 January 1994.

Items (1) (a) and (c)–(f), (3) and (5)–(8) commence on the date of assent to this Act.

10 **EXPLANATORY NOTE**

Employees and employers

Items (1) (a) and (c)–(f), (6) and (7) reorganise the manner in which senior employees who are not employed in the public service are identified. Non-public service executive officers will be designated by the Director-General of the Premier's Department rather than being listed in Schedule 1 and Schedule 1 will now list only their employers.

Information for members

Item (2) replaces the provisions relating to the provision of information to members by the Public Sector Executives Superannuation Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former employees.

Elections to change contributions

Item (3) omits an outdated reference to annual elections as to contributions.

Limits on contributions

25 Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Board to comply with those standards, a new section 44A is inserted to prohibit contributions from being paid by employers and employees for a specified period if the Board determines it is necessary for the purpose of compliance (item (4)).

Deferred annuity

30 Items (1) (b) and (5) enable a member entitled to a benefit on early retirement to elect to purchase a deferred annuity, in addition to the other existing options available (preservation or rolling over into another scheme).

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—continued**

Savings and transitional provisions

Item (8) amends Schedule 5 to enable savings or transitional regulations to be made relating to the amendments made by this Act.

5

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212**

(Sec. 3)

AMENDMENTS

- (1) Section 3 (**Definitions**): 10
 - (a) In section 3 (1), from the definition of “chief executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”.
 - (b) In section 3 (1), insert in alphabetical order: 15
 - “**Commonwealth occupational superannuation standard**” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;
 - (c) In section 3 (1), from paragraph (d) of the definition of “executive officer”, omit “or”. 20
 - (d) From section 3 (1), omit paragraph (e) of the definition of “executive officer”.
 - (e) In section 3 (1), from the definition of “senior executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”. 25
 - (f) From section 3 (1), omit the definition of “spouse”, insert instead: 30
 - “**spouse**” of a deceased employee or deceased former employee means: 30
 - (a) the widow or widower, as the case may be, of the employee or former employee; or
 - (b) if the employee or former employee was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; 35

or

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

- 5 (c) if the employee or former employee was a woman
and, at the time of her death, she was living with a
man as his wife on a bona fide domestic basis—
the man with whom she was so living;

(2) Section 4A (**Salary of executive officers**):

- 10 (a) From section 4A (10) (a), omit “chief executive officer, a
senior executive officer”, insert instead “chief executive
officer or senior executive officer, within the meaning of the
Public Sector Management Act 1988,”.

(b) Omit section 4A (10) (b) and (c), insert instead:

- 15 (b) if the officer is an office holder nominated for the
purposes of section 11A of the Statutory and Other
Offices Remuneration Act 1975, the remuneration
payable to the officer as reduced under that section by
the cost of employment benefits provided to the
officer; or

- 20 (c) if the officer is an employee of an employer listed in
Schedule 1 to the Public Sector Executives
Superannuation Act 1989, the monetary remuneration
payable to the officer.

(3) Section 10 (**Reserves for employers**):

- 25 After section 10 (5), insert:

- (6) The Board may, with the concurrence of the Treasurer
and after obtaining actuarial advice, adjust the amount
credited to an employer reserve by crediting or debiting an
amount, if it appears to the Board appropriate to do so
because of a change in the constitution or nature of an
employer.

- (7) Subsection (6) does not apply to a change in the
constitution or nature of an employer because of a
Government privatisation initiative.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

(4) Section 10A:

After section 10, insert:

5

Additional payments by certain employers

10A. (1) If the amount credited to an employer's reserve maintained for an employer specified in Part 1 of Schedule 1 is insufficient to meet the amounts payable from the reserve in respect of the employer, the Board may require the employer to pay an amount into the fund that is equal to the deficiency.

10

(2) Any amount that is not paid by an employer within 14 days of written notice of the requirement to pay the amount being given by the Board to the employer is a debt owed to the Board and may be recovered by the Board accordingly.

15

(3) This section does not apply to a change in the constitution or nature of an employer because of a Government privatisation initiative.

(5) Section 13 (**Actuarial investigation**):

20

From section 13 (1), omit "31 March 1991", insert instead "30 June 1994".

(6) Section 15:

Omit the section, insert instead:

**Contributions by employer under Part 2 of Schedule 1
(Local government and other authorities)**

25

15. (1) If an employee is employed by an employer specified in Part 2 of Schedule 1, the employer must pay to a fund managed by the Board contributions at a rate determined by the Board.

30

(2) The rate is to be determined by the Board with the concurrence of the Treasurer and after obtaining actuarial advice.

(3) In determining the contributions payable by an employer specified in Part 2 of Schedule 1, the Board is to have regard to the amount required to meet the full costs of the liabilities under this Act of all employers specified in Part 2 of Schedule 1.

35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

5 (4) The Board may, with the concurrence of the Treasurer,
require any such employer to pay into the fund additional
contributions for a specified period if it appears to the Board
that there is insufficient money in the reserve for employers
specified in Part 2 of Schedule 1 to meet the employers'
liabilities under this Act.

10 (7) Section 18A:

After section 18, insert:

Acceptance of contributions

15 18A. (1) Despite any other provision of this Act, an
employer is not required to make a contribution to the fund
in respect of an employee during any period specified by the
Board for which the Board determines that it must not accept
contributions in respect of the employee.

20 (2) The Board may make such a determination only if it is
of the opinion that it is necessary to do so in order to comply
with an applicable Commonwealth occupational
superannuation standard.

25 (3) A period in respect of which contributions may not be
made to the fund in respect of an employee under this section
is not included as eligible service for the purposes of
calculating the basic benefit.

(8) Section 19A:

After section 19, insert:

Variation of employer contributions

30 19A. (1) Despite any other provision of this Part, the
Board may determine that the contributions payable by an
employer specified in Part 1 of Schedule 1 in respect of an
employee are to be determined, or are payable, on a basis
other than that set out in this Part.

35 (2) The Board may make such a determination only with
the concurrence of the Treasurer.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

(9) Section 23 (**Benefit immediately payable**):

In section 23 (1) (g), after “benefit”, insert “(including any interest paid by the Board)”. 5

(10) Section 24B:

After section 24A, insert:

Competing claims for spouses’ benefits

24B. (1) This section applies to a benefit which is payable to the spouse of a deceased employee or deceased former employee. 10

(2) If a benefit would be payable to more than one person because a deceased employee or deceased former employee has left more than one spouse, then, despite any other provision of this Act: 15

(a) the benefit is payable in accordance with a determination made by the Board, and not otherwise; and

(b) the total amount of benefit payable to those persons at any time is not to exceed the amount of benefit that would be payable if there were only one spouse. 20

(3) For the purposes of subsection (2) (a), the Board may determine in relation to a benefit:

(a) that the benefit is not payable to such of the persons concerned as it specifies; or 25

(b) that the amount of the benefit is to be apportioned between the persons concerned in such manner as it specifies.

(4) The Board may withhold the payment of any part of a benefit: 30

(a) until 30 days after the death of the employee or former employee in respect of which it is payable; or

(b) if an application has been made for the benefit by more than one person, until it is satisfied that only one of those persons is entitled to the benefit or until a determination is made in relation to the matter by the Board under this section. 35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

5 (5) If, after 30 days from the death of an employee or
former employee, the whole or part of a benefit is paid to a
spouse of the deceased employee or deceased former
employee:

10 (a) a benefit is not payable to any other spouse of the
deceased employee or deceased former employee if the
whole of the benefit is paid; or

(b) so much of a benefit as is equal to the amount of the
benefit so paid is not payable to any other spouse of
the deceased employee or deceased former employee if
part of the benefit is paid.

15 (6) For the purposes of subsection (5), an amount paid in
good faith by the Board to a person purporting to be the
spouse of a deceased employee or deceased former employee
is taken to have been paid to the spouse of the employee or
former employee.

20 (7) If, after 30 days from the death of an employee or
former employee, any amount is paid under this Act to the
employee's personal representatives or to such other persons
as the Board may determine, any benefit which is payable to
the spouse of the employee or former employee is to be
25 reduced by the amount so paid.

(11) Section 32A:

After section 32, insert:

Payment where beneficiary is missing

30 32A. (1) If the Board is unable, after reasonable inquiry, to
find a person to whom a benefit is payable, the Board may
pay the benefit to someone else to be applied wholly for the
care, maintenance, benefit and support of any person wholly
or partly dependent on the person who would otherwise be
entitled to the benefit.

35 (2) Any payment made under this section is taken to have
been made to the person who, but for this section, would be
entitled to the benefit.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

- (12) Section 33 (**Payment where beneficiary incapable**):
In section 33 (1), before “dependent”, insert “wholly or partly”. 5
- (13) Section 33A:
Omit the section, insert instead:
Information that must be disclosed to employees
33A. The Board must from time to time give to an employee or other person such information relating to the superannuation scheme established under this Act as the Board is required to give the employee or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard. 10
15
- (14) Section 35:
After section 34, insert:
Savings and transitional provisions
35. Schedule 5 has effect.
- (15) Schedule 5: 20
After Schedule 4, insert:

**SCHEDULE 5—SAVINGS AND TRANSITIONAL
PROVISIONS**

(Sec. 35)

Part 1—Regulations 25

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act 1993 30

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

- 5 (3) To the extent to which any such provision 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;
10 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.

15 **Part 2—Superannuation Legislation (Further
Amendment) Act 1993**

Spouses' benefits

2. The amendments made by the Superannuation
Legislation (Further Amendment) Act 1993, do not entitle
any spouse to benefits in respect of the death of an employee
20 or former employee occurring before 1 January 1994.

COMMENCEMENT

Items (1) (f), (3)–(10) and (13) commence on 1 January 1994.

Items (1) (a)–(e), (2), (11), (12), (14) and (15) commence on the date of
assent to this Act.

25 **EXPLANATORY NOTE**

Executive officers

Items (1) (a), (c)–(e) and (2) amend definitions and references to executive officers as a
consequence of the reorganisation of employer and employee definitions in the Public
Sector Executives Superannuation Act 1989 by Schedule 3 to this Act.

30 **Definition of spouse**

- Item (1) (f) substitutes the definition of spouse to enable a de facto partner living with
an employee or former employee at the time of his or her death to be considered as a
spouse even though the employee or former employee may have been survived by a
widow or widower. Power is given to the State Authorities Superannuation Board to
35 settle, in its discretion, competing claims where the amendments result in more than one
spouse of a deceased employee or former employee being entitled to a benefit (new
section 24B, item (10)).

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

Employer reserves

Part 2 of the Act establishes employer reserves for the purposes of the Act. 5

Item (3) enables the Board, with the concurrence of the Treasurer, to adjust employer reserves if it is appropriate to do so because of a change in the constitution or nature of an employer.

Item (4) inserts new section 10A which enables the Board to require employers or former employers under Part 1 of Schedule 1 (The Crown and other employers) to pay amounts if employer reserves are insufficient to meet amounts payable. Any such outstanding amount is to be treated as a debt owed by the employer to the Board and may be recovered accordingly. 10

Change of financial year of Board

The Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (5) amends a provision dealing with actuarial investigations to reflect those changes. 15

Employer contributions

Employer contributions are specified in Part 3 of the Act.

Item (6) enables the Board, with the concurrence of the Treasurer, to specify the contribution rates for local government employers but only after obtaining actuarial advice. In determining the rate, the Board is to have regard to what is necessary to fully fund the obligations of all local government employers under the Act. For that purpose, the Board may require additional contributions. 20

The specified rate of contributions set out in the Part does not take account of other factors that might affect employers' contributions, such as differences in funding arrangements for different employees. Item (8) inserts new section 19A which enables the Board to vary contribution arrangements for an employer but only with the concurrence of the Treasurer. 25

Limits on contributions 30

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Board to comply with those standards, a new section 18A is inserted to prohibit contributions from being paid by employers for a specified period if the Board determines it is necessary for the purpose of compliance (item (7)). Any such period is not included as service for the purpose of calculating benefits under the Act. 35

Preservation of benefits

Item (9) makes it clear that interest paid by the Board on a benefit is to be taken into account in determining whether the amount paid exceeds the threshold above which a benefit must be preserved. 40

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

Payment of benefit when person missing

- 5 Item (11) inserts new section 32A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (12) makes a consequential amendment.

Information for employees

- 10 Item (13) replaces the provisions relating to the provision of information to employees by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former employees.

Item (1) (b) makes a consequential amendment.

15 **Savings and transitional provisions**

Item (15) inserts new Schedule 5 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to benefits for spouses. Item (14) inserts new section 35 which gives effect to the Schedule of savings and transitional provisions.

20 **SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211**

(Sec. 3)

AMENDMENTS

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

- 25 (a) In section 3 (1), from the definition of “chief executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”.
- (b) In section 3 (1), insert in alphabetical order:
- 30 **“dismissal”** means the termination by an employer of the employment of a contributor with the employer, but does not include retrenchment or discharge or a retirement on the grounds of incapacity in circumstances which entitle the employee to a benefit;

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

“resign” means cease to be employed by an employer, but does not include:

- (a) retrenchment, discharge or dismissal; or 5
- (b) ceasing to be employed because of death; or
- (c) ceasing to be employed on the privatisation of an employer; or
- (d) ceasing to be employed on the grounds of incapacity in circumstances which entitle the employee to a benefit; 10
- (c) In section 3 (1), from paragraph (d) of the definition of “executive officer”, omit “or”.
- (d) From section 3 (1), omit paragraph (e) of the definition of “executive officer”. 15
- (e) In section 3 (1), from the definition of “senior executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”.
- (f) From section 3 (1), omit the definition of “spouse”, insert instead: 20

“spouse” of a deceased contributor or deceased former contributor means:

 - (a) the widow or widower, as the case may be, of the contributor or former contributor; or 25
 - (b) if the contributor or former contributor was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or 30
 - (c) if the contributor or former contributor was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living; 35

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

(2) Section 4A (Salary of executive officers):

5 (a) From section 4A (10) (a), omit “chief executive officer, a senior executive officer”, insert instead “chief executive officer or senior executive officer, within the meaning of the Public Sector Management Act 1988,”.

 (b) Omit section 4A (10) (b) and (c), insert instead:

10 (b) if the officer is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or

15 (c) if the officer is an employee of an employer listed in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer.

20 **(3) Section 6 (Part-time employment with more than one employer):**

 Omit section 6 (2).

(4) Section 14 (Reserves for employers):

 After section 14 (5), insert:

25 (6) The Board may, with the concurrence of the Treasurer and after obtaining actuarial advice, adjust the amount credited to an employer reserve by crediting or debiting an amount, if it appears to the Board appropriate to do so because of a change in the constitution or nature of an employer.

30 (7) Subsection (6) does not apply to a change in the constitution or nature of an employer because of a Government privatisation initiative.

(5) Section 14A:

 After section 14, insert:

35 **Additional payments by certain employers**

 14A. (1) If the amount credited to an employer's reserve maintained for an employer specified in Part 1 of Schedule 1 is insufficient to meet the amounts payable from the reserve

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

in respect of the employer, the Board may require the employer to pay an amount into the Fund that is equal to the deficiency.

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(2) Any amount that is not paid by an employer within 14 days of written notice of the requirement to pay the amount being given by the Board to the employer is a debt owed to the Board and may be recovered by the Board accordingly.

(3) This section does not apply to a change in the constitution or nature of an employer because of a Government privatisation initiative.

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

From section 18 (1) (b), omit “31 March 1991”, insert instead “30 June 1994”.

15

(7) Section 25 (**Liability to contribute**):

From section 25 (1), omit “28 and 29”, insert instead “28, 29 and 35A”.

(8) Section 29 (**Contributions during leave without pay and other matters**):

20

(a) After section 29 (2), insert:

(2A) However, a contributor who takes a single period of prescribed leave that is sick leave or maternity leave is not liable to make contributions to the Fund in respect of any contribution periods during the period of leave occurring wholly or partly more than 2 years after the period of leave commences.

25

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

(3A) For the purposes of this Act, a contributor who is employed by an employer for less than 10 hours a week for a single period of more than 2 years is not liable to make contributions to the Fund in respect of any contribution periods occurring wholly or partly more than 2 years after the period commences and while the contributor is so employed for less than 10 hours a week.

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Superannuation Legislation (Further Amendment) 1993

SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

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

- (a) In section 30A (5) (a), after “benefit” where secondly occurring, insert “(including any interest paid by the Board)”.
- 10 (b) In section 30A (5) (d), after “Scheme”, insert “, if the contributor is a member or is eligible to become a member of the Scheme”.

- (10) Section 32:

Omit the section, insert instead:

15 **Contributions by employer under Part 2 of Schedule 1 (Local government and other authorities)**

32. (1) If a contributor is employed by an employer specified in Part 2 of Schedule 1, the employer must pay to the Fund contributions at a rate determined by the Board.

20 (2) The rate is to be determined by the Board with the concurrence of the Treasurer and after obtaining actuarial advice.

25 (3) In determining the contributions payable by an employer specified in Part 2 of Schedule 1, the Board is to have regard to the amount required to meet the full costs of the liabilities under this Act of all employers specified in Part 2 of Schedule 1.

30 (4) The Board may, with the concurrence of the Treasurer, require any such employer to pay into the Fund additional contributions for a specified period if it appears to the Board that there is insufficient money in the reserve for employers specified in Part 2 of Schedule 1 to meet the employers' liabilities under this Act.

- (11) Section 34A:

After section 34, insert:

35 **Variation of employer contributions**

34A. (1) Despite any other provision of this Part, the Board may determine that the contributions payable by an employer specified in Part 1 of Schedule 1 in respect of a

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

contributor are to be determined, or are payable, on a basis other than that set out in this Part.

(2) The Board may only make such a determination with the concurrence of the Treasurer. 5

(12) Section 35 (**Transfers of credits between employers of transferred contributors**):

Omit section 35 (3).

(13) Section 35A: 10

After section 35, insert:

Acceptance of contributions

35A. (1) Despite any other provision of this Act, an employer is not required to make a contribution to the Fund in respect of an employee, and an employee may not contribute to the Fund, during any period specified by the Board for which the Board determines that it must not accept contributions in respect of the employee. 15

(2) The Board may only make such a determination if it is of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard. 20

(3) A contribution period in respect of which a contributor may not contribute to the Fund under this section is not an applicable contribution period in relation to the contributor. 25

(14) Section 39 (**Benefit on total and permanent invalidity before early retirement age**):

In section 39 (1) (b), after “contributor is”, insert “, when the contributor ceases to be employed by the employer,”.

(15) Section 40 (**Benefit on partial and permanent invalidity before early retirement age**): 30

In section 40 (1) (b), after “contributor is”, insert “, when the contributor ceases to be employed by the employer,”.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

(16) Section 42A (**Benefit on attaining 65**):

Omit section 42A (3), insert instead:

- 5 (3) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 16.

(17) Section 42AA (**Preservation of benefit on retrenchment before early retirement age**):

- 10 (a) From section 42AA (1), omit "and for whom the period commencing on entry date and ending on exit date is 3 years or more".
- (b) From section 42AA (1) (b), omit "together with interest from the exit date to the date of payment".
- 15 (c) Omit section 42AA (3).

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

- (a) In section 43 (1), after "benefit" where secondly occurring, insert ", including any interest paid by the Board,".
- 20 (b) In section 43 (1A), after "benefit" where lastly occurring, insert ", including any interest paid by the Board,".
- (c) From section 43 (6), omit "together with interest thereon, from the exit date to the date of payment, at a rate determined by the Board", insert instead "as adjusted under subsection (7B)".
- 25 (d) Omit section 43 (7), insert instead:
- (7) The benefit provided by this subsection is an amount equal to the amount of the benefit under section 41 or 42 that would have been payable to the contributor at the contributor's exit date if the contributor had not made the election under subsection (1), as adjusted under subsection (7B).
- 30 (e) After section 43 (7A), insert:
- (7B) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 16.
- 35

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

(19) Section 43AAA (Preservation of minimum benefits under superannuation guarantee legislation):

From section 43AAA (2), omit “together with interest from the contributor’s exit date to the date of payment at a rate determined by the Board”, insert instead “and is to be adjusted, having regard to any adjustment of the contributor’s account under section 16”. 5

(20) Section 43AB: 10

After section 43A, insert:

Competing claims for spouses’ benefits

43AB. (1) This section applies to a benefit which is payable to the spouse of a deceased contributor or deceased former contributor. 15

(2) If a benefit would be payable to more than one person because a deceased contributor or deceased former contributor has left more than one spouse, then, despite any other provision of this Act:

(a) the benefit is payable in accordance with a determination made by the Board, and not otherwise; and 20

(b) the total amount of benefit payable to those persons at any time is not to exceed the amount of benefit that would be payable if there were only one spouse. 25

(3) For the purposes of subsection (2) (a), the Board may determine in relation to a benefit:

(a) that the benefit is not payable to such of the persons concerned as it specifies; or

(b) that the amount of the benefit is to be apportioned between the persons concerned in such manner as it specifies. 30

(4) The Board may withhold the payment of any part of a benefit:

(a) until after 30 days after the death of the contributor or former contributor in respect of which the benefit is payable; or 35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

5 (b) if an application has been made for the benefit by more than one person, until it is satisfied that only one of those persons is entitled to the benefit or until a determination is made in relation to the matter by the Board under this section.

10 (5) If, after 30 days from the death of a contributor or former contributor, the whole or part of a benefit is paid to a spouse of the deceased contributor or deceased former contributor:

(a) a benefit is not payable to any other spouse of the deceased contributor or deceased former contributor if the whole of the benefit is paid; or

15 (b) so much of a benefit as is equal to the amount of the benefit so paid is not payable to any other spouse of the deceased contributor or deceased former contributor if part of the benefit is paid.

20 (6) For the purposes of subsection (5), an amount paid in good faith by the Board to a person purporting to be the spouse of a deceased contributor or deceased former contributor is taken to have been paid to the spouse of the contributor or former contributor.

25 (7) If, after 30 days from the death of a contributor or former contributor, any amount is paid under this Act to the contributor's personal representatives or to such other persons as the Board may determine, any benefit which is payable to the spouse of the contributor or former contributor is to be reduced by the amount so paid.

30 (21) Section 53A:

After section 53, insert:

Payment where beneficiary is missing

35 53A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

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**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

- (2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit. 5
- (22) Section 54 (**Payment where beneficiary incapable**):
In section 54 (1), before “dependent”, insert “wholly or partly”.
- (23) Section 54A:
Omit the section, insert instead: 10
Information that must be disclosed to contributors
54A. The Board must from time to time give to a contributor or other person such information relating to the Fund as the Board is required to give the contributor or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard. 15
- (24) Section 56:
After section 55, insert:
Savings and transitional provisions
56. Schedule 6 has effect. 20
- (25) Schedule 1 (**Employers**):
(a) From Part 1, omit:
The Director-General of New South Wales Fire Brigades
New South Wales Meat Industry Authority 25
Forestry Commission of New South Wales
Public Trust Office
Royal Botanic Gardens and Domain Trust
(b) From Part 2, omit:
The employer of a servant, or class of servants, specified in a proclamation published under section 2 (4) of the Local Government and Other Authorities (Superannuation) Act 1927 30
A body or association of persons specified in a proclamation published under section 2 (5) of the Local Government and Other Authorities (Superannuation) Act 1927 35

(26) Schedule 6:

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(Sec. 56)

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

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(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

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(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.

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2. Section 6 (2), as in force before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993, applies to a contribution period commencing before that date but not completed on that commencement.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

Payment of contributions during leave without pay

3. Section 29, as amended by the Superannuation Legislation (Further Amendment) Act 1993, applies to a period of leave without pay commenced before 1 January 1994 and not completed immediately before that date. 5

Spouses' benefits

4. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a contributor or former contributor occurring before 1 January 1994. 10

COMMENCEMENT

Items (1) (a)–(e), (2), (3), (9) (b), (12), (14), (15), (21), (22) and (24)–(26) commence on the date of assent to this Act. 15

Items (1) (f), (4)–(9) (a), (10), (11), (13), (16)–(20) and (23) commence on 1 January 1994.

EXPLANATORY NOTE

Executive officers

Items (1) (a) and (c)–(e) and (2) amend definitions and references to executive officers as a consequence of the reorganisation of employer and employee definitions in the Public Sector Executives Superannuation Act 1989 by Schedule 3 to this Act. 20

Definitions

Item (1) (b) inserts new definitions of “dismissal” and “resign” to remove uncertainty as to the meanings of those terms in provisions for the payment of benefits. 25

Definition of spouse

Item (1) (f) substitutes the definition of spouse to enable a de facto partner living with a contributor or former contributor at the time of his or her death to be considered as a spouse even though the contributor or former contributor may have been survived by a widow or widower. Power is given to the State Authorities Superannuation Board to settle, in its discretion, competing claims where the amendments result in more than one spouse of a deceased contributor or former contributor being entitled to a benefit (new section 43AB, item (20)). 30

Benefit accrual of part-time employees

Item (3) removes the restriction on part-time employees with more than one part-time job from accruing more benefit points (used to calculate benefit entitlement) than full-time employees. 35

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

Employer reserves

- 5 Part 2 of the Act establishes employer reserves within the State Authorities Superannuation Fund.

Item (4) enables the Board, with the concurrence of the Treasurer, to adjust employer reserves if it is appropriate to do so because of a change in the constitution or nature of an employer.

- 10 Item (5) inserts new section 14A which enables the Board to require employers or former employers under Part 1 of Schedule 1 (The Crown and other employers) to pay amounts into the Fund if employer reserves are insufficient to meet amounts payable from the Fund. Any such outstanding amount is to be treated as a debt owed by the employer to the Board and may be recovered accordingly.

Change of financial year of Board

- 15 The Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (6) amends a provision dealing with actuarial investigations to reflect those changes.

Contributions while on leave without pay or working minimum hours

- 20 Currently contributors who are on special leave without pay (this includes maternity leave and sick leave) must pay contributions for the period of the leave. However, under the Commonwealth occupational superannuation standards superannuation funds are required not to accept contributions from persons who have not been employed full-time or part-time for more than 2 years. The amendment to section 29 (item (8)) limits the period for which contributions must be paid by a person who is on maternity leave or
- 25 sick leave to 2 years.

The amendments also provide that a person who has been employed for less than 10 hours a week for more than 2 years, and is therefore not employed part-time within the meaning of the Commonwealth standards, is not liable to make contributions.

Contributors who may join Public Sector Executives Superannuation Scheme

- 30 Item (9) (b) makes it clear that a contributor may only elect to have a preserved benefit paid into the Public Sector Executives Superannuation Scheme if the contributor is a member of or is eligible to join that Scheme.

Employer contributions

- 35 Employer contributions to the Fund are specified in Part 4 of the Act and are determined in relation to contributions paid by the contributor concerned.

- Item (10) enables the Board, with the concurrence of the Treasurer, to specify the contribution rates for local government employers, but only after obtaining actuarial advice. In determining the rate, the Board is to have regard to what is necessary to fully fund the obligations of the local government employers under the Act. For that purpose,
- 40 the Board may require additional contributions for a specified period.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

The specified rate of contributions set out in the Part does not take account of other factors that might affect employers' contributions, such as differences in funding arrangements for different employees. Item (11) inserts new section 34A which enables the Board, with the concurrence of the Treasurer, to vary contribution arrangements for an employer specified in Part 1 of Schedule 1 (The Crown and other employers).

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Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Fund to comply with those standards, a new section 35A is inserted to prohibit contributions from being paid by employers and employees for a specified period if the Board determines it is necessary for the purpose of compliance (item (13)). Any such period is not included as service for the purpose of calculating benefits under the Act.

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Item (7) makes a consequential amendment.

Incapacity benefits

Items (14) and (15) make it clear that a benefit for total or partial and permanent incapacity is payable to a former contributor only if the former contributor was unable to be employed because of incapacity when the former contributor ceased to be employed.

20

Adjustment of preserved benefits

Provisions for the payment of preserved benefits presently provide for the payment of interest on benefits for the period for which they have been preserved. Under section 45 of the Act, the Board has a general discretion to pay interest on any benefits under the Act. However, it may be that the payment of interest is not appropriate having regard to the earnings of the Fund. Under section 16 of the Act, the Board may adjust a contributor's account before payment from the Fund of a benefit. Items (16)–(19) amend the provisions relating to payment of benefits preserved in the Fund to make it clear that the Board is to adjust a benefit before payment, having regard to any adjustment of the contributor's account under section 16 to take into account the earnings of the Fund. The items also amend the benefit provisions to remove the mandatory requirement to pay interest on preserved benefits.

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Items (9) (a) and (18) also makes it clear that interest paid by the Board on a benefit is to be taken into account in determining whether the amount paid exceeds the threshold above which a benefit must be preserved.

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Payment of benefit when person missing

Item (21) inserts new section 53A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

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Item (22) makes a consequential amendment.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—continued**

Information for members

- 5 Item (23) replaces the provisions relating to the provision of information to contributors by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former contributors.

Employers

- 10 Item (25) updates the employers listed in Schedule 1 by removing references to employers covered elsewhere in the Schedule as a result of the amendment of the Schedule by orders made under the Act.

Savings and transitional provisions

- 15 Item (26) inserts new Schedule 6 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to contributions during leave without pay and other matters. Item (24) inserts new section 56 which gives effect to the Schedule of savings and transitional provisions.

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28**

(Sec. 3)

20 **AMENDMENTS**

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

- (a) In section 3 (1), from the definition of "Abandoned unit", omit "he" wherever occurring, insert instead "the employee".
- 25 (b) In section 3 (1), from paragraph (b) of the definition of "Abandoned unit", omit "his".
- (c) In section 3 (1), from paragraph (d) of the definition of "Abandoned unit", omit "him or his widow", insert instead "the employee or the employee's spouse".
- 30 (d) In section 3 (1), from the definition of "Chief executive officer", omit "Public Sector Management Act 1988", insert instead "Public Sector Executives Superannuation Act 1989".
- 35 (e) From section 3 (1), omit the definition of "Child" insert instead:
- "Child"** means a child who has not attained the age of 18 years and, without limiting the operation of the Children

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued***

- (Equality of Status) Act 1976, includes an ex-nuptial or adopted child (whether or not the adoption took place in Australia). 5
- (f) In section 3 (1), from paragraph (d) of the definition of "Executive officer", omit "or".
- (g) From section 3 (1), omit paragraph (e) of the definition of "Executive officer".
- (h) In section 3 (1), from the definition of "Senior executive officer", omit "Public Sector Management Act 1988", insert instead "Public Sector Executives Superannuation Act 1989". 10
- (i) In section 3 (1), insert in alphabetical order:
- "De facto relationship"** is the relationship described in paragraph (b) or (c) of the definition of "spouse" between a contributor or pensioner and a de facto spouse. 15
- "De facto spouse"** is a spouse referred to in paragraph (b) or (c) of the definition of "spouse". 20
- "Spouse"** of a deceased contributor or deceased pensioner means:
- (a) the widow or widower, as the case may be, of the contributor; or
- (b) if the contributor was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or 25
- (c) if the contributor was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living. 30
- (j) From section 3 (1), omit the definitions of "Widow" and "Widower".
- (k) Omit section 3 (10). 35
- (l) From section 3 (11), omit "widow or widower" wherever occurring, insert instead "spouse".
- (m) Omit section 3 (11A), (11B) and (11C).

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—continued**

(2) Section 3AAA (Financial dependency):

Omit the section.

5 (3) Section 3AA (Salary of executive officers):

(a) From section 3AA (10) (a), omit “chief executive officer, a senior executive officer”, insert instead “chief executive officer or senior executive officer, within the meaning of the Public Sector Management Act 1988,”.

10 (b) Omit section 3AA (10) (b) and (c), insert instead:

(b) if the officer is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or

15 (c) if the officer is an employee of an employer listed in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer.

20 (4) Section 10 (Actuary or actuaries to conduct periodic investigations into the Fund):

(a) From section 10 (2) (a), omit “31 March 1991”, insert instead “30 June 1994”.

25 (b) From section 10 (2) (b), omit “31 March”, insert instead “30 June”.

(5) Section 10D (Suppressed or misleading information):

(a) From section 10D (1), omit “he”, insert instead “the person”.

30 (b) From section 10D (3), omit “he” where firstly occurring, insert instead “the person”.

(c) From section 10D (3), omit “his widow”, insert instead “the person’s spouse”.

(d) From section 10D (3), omit “he, she or”.

35 (6) Section 10Q (Increase of contributions: annual review days):

(a) From section 10Q (1), omit “his” wherever occurring, insert instead “the contributor’s”.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

- (b) From section 10Q (1) and (3), omit “he” wherever occurring, insert instead “the contributor”.
 - (c) From section 10Q (3), omit “married”. 5
 - (d) From section 10Q (3), omit “his death”, insert instead “the contributor’s death”.
 - (e) From section 10Q (3), omit “his widow”, insert instead “the contributor’s spouse”.
- (7) Section 10R (**Increase of contributions: exit days**): 10
 - (a) From section 10R (1), omit “his” wherever occurring, insert instead “the contributor’s”.
 - (b) From section 10R (1) and (3), omit “he” wherever occurring, insert instead “the contributor”.
 - (c) From section 10R (1), omit “widow”, insert instead “spouse”. 15
 - (d) From section 10R (3), omit “married”.
 - (e) From section 10R (3), omit “his” where firstly occurring, insert instead “the contributor’s”.
 - (f) From section 10R (3), omit “his widow”, insert instead “the person’s spouse”. 20
 - (g) From section 10R (4) (a), omit “widow”, insert instead “spouse”.
- (8) Section 10T (**Exemptions from contributing**):
 - (a) From section 10T (2), omit “wife of a contributor”, insert instead “spouse of a male contributor”. 25
 - (b) After section 10T (6), insert:
 - (7) An exemption may not be granted or arise under this section after 1 July 1994. Any exemption in force under this section before that date continues in force. 30
- (9) Section 10U (**Applications for exemption**):
 - Omit the section.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—continued**

(10) Section 10WB (Decrease in unit entitlement on taking leave of absence):

- 5 (a) In section 10WB (1), after “absence,”, insert “or on the commencement of a period for which a deduction factor is applied under section 12B (3A), 12BA (1) or 12C (4).”.
- (b) In section 10WB (2), after “12B (1)”, insert “or (3A)”.
- 10 (c) In section 10WB (2), after “period” where lastly occurring, insert “or of a period in respect of which section 12BA (1) or 12C (4) applies”.
- (d) From section 10WB (3), omit “taking leave of absence or extending a period of leave of absence”.
- 15 (e) From section 10WB (3), omit “leave commences or is extended”, insert instead “period concerned commences”.
- (f) From section 10WB (3), omit “of leave”.

(11) Section 10Z (Elections to take up abandoned units at exit day):

- (a) From section 10Z (1), omit “his”, insert instead “the employee’s”.
- 20 (b) From section 10Z (1) and (2), omit “he” wherever occurring, insert instead “the employee”.
- (c) From section 10Z (2), omit “a married”, insert instead “an”.
- (d) From section 10Z (2), omit “his death”, insert instead “the employee’s death”.
- 25 (e) From section 10Z (2), omit “his widow”, insert instead “the employee’s spouse”.

(12) Section 10AF (Units taken up at exit day):

- (a) From section 10AF (1), omit “his”, insert instead “the former contributor’s”.
- 30 (b) From section 10AF (1), omit “he” wherever occurring, insert instead “the former contributor”.
- (c) From section 10AF (2) (a), omit “widow”, insert instead “spouse”.
- 35 (d) From section 10AF (2), omit “he” wherever occurring, insert instead “the former employee”.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

- (13) Section 10AH (**Employees who have reached the prescribed age**):
- (a) From section 10AH (1) and (2) (c), omit “his” wherever occurring, insert instead “the employee’s”. 5
 - (b) From section 10AH (1) and (5), omit “he” wherever occurring, insert instead “the employee”.
 - (c) From section 10AH (2) and (3), omit “widow” wherever occurring, insert instead “spouse”. 10
 - (d) From section 10AH (2) (c), omit “her”, insert instead “the spouse”.
 - (e) From section 10AH (5) (a) (i), omit “him”, insert instead “the employee”.
- (14) Section 10AI (**Units taken up at exit day**): 15
- (a) From section 10AI (1), omit “his”, insert instead “the contributor’s”.
 - (b) From section 10AI (1), omit “he”, insert instead “the contributor”.
 - (c) From section 10AI (2) (a), omit “widow”, insert instead “spouse”. 20
 - (d) From section 10AI (2) (b), omit “he”, insert instead “the former employee”.
- (15) Section 10AJ (**Contributions to be made by an employer listed in Schedule 3**): 25
- After section 10AJ (2), insert:
- (3) In determining the contributions payable by an employer specified in Part 2 of Schedule 3, the Board is to have regard to the amount required to meet the full costs of the liabilities under this Act of all employers specified in Part 2 of Schedule 3. 30
 - (4) The Board may, with the concurrence of the Treasurer, require an employer specified in Part 2 of Schedule 3 to pay into the Fund additional contributions for a specified period if it appears to the Board that there is insufficient money in the relevant employers’ reserves for employers specified in Part 2 of Schedule 3 to meet the employers’ liabilities under this Act. 35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

(16) Section 10AO:

After section 10AN, insert:

5 **Variation of employer contributions**

10AO. (1) Despite any other provision of this Division, the Board may determine that the contributions payable by an employer specified in Part 1 of Schedule 3 in respect of a contributor are to be determined, or are payable, on a basis other than that set out in this Division.

(2) The Board may only make such a determination with the concurrence of the Treasurer.

(17) Section 12B (**Deduction factors in relation to certain periods of leave of absence**):

15 After section 12B (3), insert:

(3A) The Board must apply under section 12A, in relation to a contributor who takes a single period of leave without pay that is sick leave or maternity leave, a deduction factor equal to the length of that part of the period of leave that exceeds 2 years.

(3B) The deduction factor applied under subsection (3A) is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

25 (3C) The deduction factor applied under subsection (3A) is to be applied on and from the end of 2 years after the commencement of the single period of leave and is in addition to any other deduction factor that the Board is required to apply in relation to the contributor.

(18) Section 12BA:

30 After section 12B, insert:

Deduction factors for periods determined by the Board

12BA. (1) Despite any other provision of this Act, the Board may apply under section 12A, in relation to a contributor specified by the Board, a deduction factor equal to the length of the period for which the Board determines that the deduction factor is to apply.

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- (2) The deduction factor is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis. 5
- (3) The Board may only make such a determination if it is of the opinion that it is necessary to do so for the purposes of the application of an applicable Commonwealth occupational superannuation standard restricting the acceptance of contributions by a superannuation fund. 10
- (4) The deduction factor is to be applied on and from the commencement of the period specified by the Board and is in addition to any other deduction factor that the Board is required to apply in relation to the contributor.
- (19) Section 12C (**Deduction factors in relation to part-time employment**): 15
- After section 12C (3), insert:
- (4) The Board must apply under section 12A, in relation to a contributor who is employed for less than 10 hours a week for a single period of more than 2 years, a deduction factor equal to the length of that part of the period that the contributor is so employed that exceeds 2 years and ends on the date on which the contributor attains the maturity age. 20
- (5) The deduction factor applied under subsection (4) is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis. 25
- (6) The deduction factor applied under subsection (4) is to be applied on and from the end of 2 years after the commencement of the period of employment and is in addition to any other deduction factor that the Board is required to apply in relation to the contributor. 30
- (7) Subsections (1)–(3) do not apply in respect of a contributor during any period in which the Board is required to apply a deduction factor under subsection (4).
- (8) However, subsection (3) applies to a contributor who, at the end of the period, commences to be employed for more than 10 hours a week in the same way as it applies to any other employee whose salary ratio changes. 35

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(20) Section 20AB (**Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme**):

In section 20AB (5) (d), after “Scheme”, insert “, if the contributor is a member or is eligible to become a member of the Scheme”.

(21) Section 21A (**Commuting of pension**):

- (a) From section 21A (1) (a), omit “is married”, insert instead “has a spouse”.
- (b) From section 21A (1) (a), omit “his” where firstly occurring, insert instead “the employee’s or pensioner’s”.
- (c) From section 21A (1) (a), omit “husband and wife are both”, insert instead “both spouses are”.
- (d) From section 21A (1) (a), omit “married male person”, insert instead “male person who has a spouse”.
- (e) From section 21A (1) (a), (c) and (d), omit “widow” wherever occurring, insert instead “spouse”.
- (f) From section 21A (1) (a), omit “married woman”, insert instead “woman who has a spouse”.
- (g) From section 21A (1) (a), omit “widower”, insert instead “spouse”.
- (h) From section 21A (1) (b), omit “is a bachelor, widower, spinster, divorced person or widow”, insert instead “does not have a spouse”.
- (i) From section 21A (1) (c), omit “her”, insert instead “the spouse’s”.
- (j) From section 21A (1) (d), omit “she”, insert instead “the spouse”.
- (k) From section 21A (1) (d), omit “to her”.
- (l) From section 21A (1E), omit “widower”, insert instead “male spouse”.
- (m) From section 21A (3) and (5), omit “his” wherever occurring, insert instead “the person’s”.
- (n) From section 21A (5) (c) and (d), omit “who is a widow” wherever occurring.
- (o) From section 21A (5) (c) and (d), omit “to her” wherever occurring.

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- (p) From section 21A (5) (c) (i) and (d) (i), omit “her” wherever occurring.
- (q) From section 21A (5) (c) and (d), omit “husband” wherever occurring, insert instead “spouse”. 5
- (r) From section 21A (5) (c) and (d), omit “she” wherever occurring, insert instead “the person”.
- (s) From section 21A (7) (b), omit “him”, insert instead “the person”. 10
- (t) From section 21A (10) and (11), omit “he” wherever occurring, insert instead “the employee”.

- (22) **Section 21AA (Limitations on elections under sec. 21A):**
 - (a) From section 21AA (1), omit “he” wherever occurring, insert instead “the person”. 15
 - (b) From section 21AA (2), omit “widow”, insert instead “person”.
 - (c) From section 21AA (2), omit “her husband” wherever occurring, insert instead “the person’s spouse”.
 - (d) From section 21AA (2) and (3), omit “she” wherever occurring, insert instead “the person”. 20
 - (e) From section 21AA (3), omit “her” wherever occurring, insert instead “the person’s”.
 - (f) From section 21AA (4) and (5), omit “he” wherever occurring, insert instead “the person”. 25
 - (g) From section 21AA (6) (b), omit “his” wherever occurring, insert instead “the person’s”.

- (23) **Section 21B (Commutation of increases in pension by Superannuation (Amendment) Act 1971):**
 - (a) From section 21B (5), omit “married”. 30
 - (b) From section 21B (5), omit “widow”, insert instead “spouse”.

- (24) **Section 21C (Commuting of pension emerging after Superannuation (Amendment) Act 1985):**
 - From section 21C (18), omit “widow or widower”, insert instead “spouse”. 35

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(25) Section 23BA (Retrospective salary increases):

- 5 (a) From section 23BA (1), omit "his" where firstly, secondly, thirdly, fourthly and fifthly occurring, insert instead "the contributor's or pensioner's".
- (b) From section 23BA (1) and (3) (b), omit "him" wherever occurring, insert instead "the contributor or pensioner".
- 10 (c) From section 23BA (1), omit "he" wherever occurring, insert instead "the contributor or pensioner".
- (d) From section 23BA (1), omit "his widow", insert instead "the contributor's or pensioner's spouse".
- (e) From section 23BA (3) (b), omit "his" where firstly and secondly occurring, insert instead "the person's".
- 15 (f) From section 23BA (3), omit "his widow" wherever occurring, insert instead "the person's spouse".

(26) Section 30 (Pensions to spouse on death of contributor):

- (a) From section 30 (1), omit "widow", insert instead "spouse".
- 20 (b) From section 30 (2), omit "sections 31B and 46A", insert instead "section 46A".
- (c) From section 30 (2), omit "widower", insert instead "spouse".

(27) Section 31 (Pension to spouse on death of pensioner):

- 25 (a) From section 31 (1), omit "widow", insert instead "spouse".
- (b) From section 31 (1), omit "her husband", insert instead "the pensioner".
- (c) From section 31 (2), omit "31B,".
- (d) From section 31 (2), omit "widower", insert instead "spouse".
- 30 (e) From section 31 (2), omit "his wife", insert instead "the pensioner".
- (f) From section 31 (4), omit "widow or widower", insert instead "spouse".

(28) Section 31B (Restrictions and limitations on widowers' pensions):

Omit the section.

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- (29) Section 32A (**Death of employee before retirement**):
From section 32A (1), omit “widow or widower”, insert instead “spouse”. 5
- (30) Section 32AA (**Extension of sec. 32A to certain cases where spouses die contemporaneously**):
- (a) From section 32AA (1) (b), omit “wife”, insert instead “spouse”.
 - (b) From section 32AA, omit “been married” wherever occurring, insert instead “had a spouse”. 10
 - (c) From section 32AA (2) (b), omit “husband”, insert instead “spouse”.
- (31) Section 32B (**Death after retirement and before payment of pension**): 15
- (a) From section 32B (1), omit “widow”, insert instead “spouse”.
 - (b) From section 32B (2), omit “widower”, insert instead “spouse”.
- (32) Section 32C (**Refund in certain cases where spouse dies leaving children**): 20
- Omit “widow or widower” wherever occurring, insert instead “spouse”.
- (33) Section 32D (**Children’s pensions at sec. 61M rates**):
- (a) Omit section 32D (1), insert instead: 25
 - (1) A pension of the appropriate amount per fortnight under section 61M is payable on the death of a contributor or pensioner in respect of a child if the conditions set out in subsections (1A) and (1B) are satisfied.
 - (1A) The child must be a child of the contributor or pensioner or a child of a surviving spouse of the contributor or pensioner who is not eligible to receive a pension under section 33. 30
 - (1B) If the child is not a child of the contributor or pensioner, the child: 35
 - (a) must have been born or adopted before the death of the contributor or pensioner; and

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5 (b) must have been ordinarily part of the contributor's or pensioner's household at the time of the death of the contributor or pensioner.

(b) After section 32D (3), insert:

(4) Nothing in this section affects the operation of section 47.

(5) In this section:

10 "pensioner" means a person who received a pension because the person was a former contributor.

(34) Section 33 (**Children's pensions at sec. 61N rates**):

(a) Omit section 33 (1), insert instead:

15 (1) A pension of the appropriate amount per fortnight under section 61N is payable on the death of a contributor or pensioner in respect of a child if the conditions set out in subsections (1A)–(1C) are satisfied.

20 (1A) The child must be a child of the contributor or pensioner or a child of a spouse of the contributor or pensioner.

(1B) The other parent of the child or the spouse of the contributor or pensioner who was a parent of the child:

25 (a) must have died before the contributor's or pensioner's death; or

(b) must have been divorced from the contributor or pensioner; or

(c) must have been in a de facto relationship with the contributor or pensioner that ended before the contributor's or pensioner's death.

30 (1C) If the child is not a child of the contributor or pensioner:

35 (a) in a case where the spouse who is the parent of the child is divorced from or the former de facto spouse of the pensioner or contributor, the child must have been born or adopted before the divorce or end of the de facto relationship; and

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- (b) in any case, the child must have been ordinarily part of the contributor's or pensioner's household at the time of the death of the spouse, divorce or end of the de facto relationship. 5
- (1D) In this section:
- "pensioner"** means a person who received a pension because the person was a former contributor;
- "spouse"** includes a person previously married to the contributor or pensioner or a former de facto spouse. 10
- (b) After section 33 (2), insert:
- (3) Nothing in this section affects the operation of section 47.
- (35) Section 33AA: 15
- After section 33, insert:
- Board may determine to pay children's pensions in other cases**
- 33AA. The Board may, if it considers it appropriate, determine that a pension is payable under a provision of this Act to a child even though the child is not eligible under that provision to receive a pension. 20
- (36) Section 33A (**Variation of pension in certain circumstances**):
- (a) From section 33A (3) (a), omit "is married", insert instead "has a spouse". 25
- (b) From section 33A (3) (b), omit "is a bachelor, widower, spinster, divorced person or widow", insert instead "does not have a spouse".
- (c) From section 33A (4), omit "a husband and wife are both", insert instead "both spouses are". 30
- (37) Section 39 (**Desertion of spouse or child**):
- (a) From section 39 (1), omit "his wife", insert instead "his or her spouse".
- (b) From section 39 (1), omit "such wife", insert instead "the spouse". 35
- (c) From section 39 (1), omit "he" wherever occurring, insert instead "the magistrate".

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- (d) From section 39 (2), omit "his", insert instead "the pensioner's".
- 5 (e) From section 39 (2), omit "him", insert instead "the pensioner".
- (f) From section 39 (4) (a), omit "wife", insert instead "spouse".
- (38) Section 40 (**Pensioner sentenced to imprisonment**):
- 10 (a) In section 40 (1), before "pensioner" where firstly occurring, insert "male".
- (b) From section 40 (1) and (2), omit "wife" wherever occurring, insert instead "spouse".
- (39) Section 41 (**Woman pensioner sentenced to imprisonment**):
- 15 From section 41 (2) and (3), omit "widow" wherever occurring, insert instead "female spouse".
- (40) Section 42 (**Incapacity or absence of pensioner**):
- (a) From section 42 (1), omit "where by reason of a pensioner's incapacity from any cause or his absence from his usual place of abode", insert instead "if because of a pensioner's incapacity from any cause or because a pensioner cannot be found".
- 20 (b) In section 42 (1), after "beneficiary" where secondly occurring, insert ", or a person who is wholly or partly dependent on the pensioner or beneficiary".
- 25 (41) Section 43 (**Payments in respect of children**):
- Omit section 43 (4).
- (42) Section 46 (**Reduction of spouses' pensions**):
- (a) Omit "his widow", insert instead "the person's spouse".
- 30 (b) Omit "her", insert instead "the spouse's".
- (43) Section 46A (**Miscellaneous provisions as to spouses' pensions**):
- (a) From section 46A (4) (c), omit "husband", insert instead "spouse".
- 35 (b) From section 46A (4) (d), omit "wife", insert instead "spouse".

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- (44) Section 46B (**Competing claims for spouses' pensions**):
Omit "widow or widower" wherever occurring, insert instead "spouse". 5
- (45) Section 47 (**No pension for spouse or spouse's children in certain circumstances**):
- (a) Omit "widow or widower" wherever occurring, insert instead "spouse".
 - (b) Omit "pensioner was married to the person" wherever occurring, insert instead "person was the pensioner's spouse". 10
 - (c) Omit "pensioner remained married to the person", insert instead "person remained the pensioner's spouse".
- (46) Section 47C (**Allocation of reduced value units**): 15
- (a) From section 47C (1) (a), omit "his widow", insert instead "a contributor's spouse".
 - (b) From section 47C (1), omit "his" where secondly and thirdly occurring, insert instead "the contributor's".
 - (c) From section 47C (1), (6) and (7), omit "he" wherever occurring, insert instead "the contributor". 20
 - (d) From section 47C (1) and (2), omit "him" wherever occurring, insert instead "the contributor".
 - (e) From section 47C (2), (3) (c), (4), (5), (6) and (7), omit "his" wherever occurring, insert instead "the contributor's". 25
 - (f) From section 47C (3), omit "his widow", insert instead "the contributor's spouse".
 - (g) From section 47C (8) (a), omit "he or his widow", insert instead "the person or the person's spouse".
 - (h) From section 47C (8) (a), omit "his or the widow's", insert instead "the person or the person's spouse's". 30
- (47) Section 47D (**Benefits payable in respect of reduced value units**):
- (a) From section 47D (3), omit "him" wherever occurring, insert instead "the contributor". 35
 - (b) From section 47D (3), omit "he" wherever occurring, insert instead "the contributor".

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- (c) From section 47D (4), omit “his”, insert instead “the contributor’s”.
- 5 (d) From section 47D (5), omit “his widow”, insert instead “the former employee’s spouse”.
- (48) **Section 51 (Employee restored to health may be recalled to service):**
 - 10 (a) From section 51 (1), omit “him” wherever occurring, insert instead “the pensioner”.
 - (b) From section 51 (1), omit “his” wherever occurring, insert instead “the pensioner’s”.
 - (c) From section 51 (1), omit “he”, insert instead “the pensioner”.
 - 15 (d) From section 51 (2) and (3) (a), omit “his” wherever occurring, insert instead “the person’s”.
 - (e) From section 51 (2) and (3) (a), omit “he” wherever occurring, insert instead “the person”.
 - 20 (f) From section 51 (2) and (3), omit “him” wherever occurring, insert instead “the person”.
 - (g) From section 51 (3) (b), omit “his widow”, insert instead “the contributor’s spouse”.
 - (h) From section 51 (3) (b), omit “to her”, insert instead “to the contributor”.
 - 25 (i) From section 51 (3) (b), omit “her late husband”, insert instead “the contributor”.
 - (j) From section 51 (3) (b), omit “he” wherever occurring, insert instead “the contributor”.
 - 30 (k) From section 51 (3) (b), omit “his” where secondly, thirdly and fourthly occurring, insert instead “the contributor’s”.
- (49) **Section 52B (Adjustment of pension components):**
 - From section 52B (4), omit “widow or widower” wherever occurring, insert instead “spouse”.
- (50) **Section 52E (Disability pension):**
 - 35 Omit section 52E (1A).

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(51) Section 52EA:

After section 52E, insert:

Interim pension

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52EA. (1) The Board may grant an interim pension to a person who has attained the age of 55 years and who, on application, would be entitled to a pension under section 52D, pending the determination of an application under section 52E.

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(2) The pension which the Board may grant is a pension equal to the early retirement pension to which the person would be entitled on application under section 52D.

(3) This Act applies to and in respect of a person granted a pension under this section in the same way as it applies to a person entitled to a pension under section 28A and so applies as if a pension payable under this section were a pension payable under that section.

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(4) If an interim pension is granted, the amount of any pension payable to a person under section 52E is to be reduced by the amount of any interim pension paid.

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(5) Despite section 52E (1), the grant of an interim pension under this section does not make a person ineligible for a pension under section 52E or affect any other right of a person granted a pension under that section.

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(6) However, a person who commutes an interim pension before the determination of an application under section 52E is not entitled to a pension under section 52E.

(52) Section 52F (**Pensions for spouses**):

Omit "widow or widower" wherever occurring, insert instead "spouse".

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(53) Section 52FA:

After section 52F, insert:

Children's pensions at sec. 61M rates

52FA. (1) A pension of the appropriate amount per fortnight under section 61M is payable in respect of a child on the death of a person referred to in section 52A (1) ("**the former employee**") who has not received a benefit under

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this Division if the conditions set out in subsections (2) and (3) are satisfied.

5 (2) The child must be a child of the former employee or a child of a surviving spouse of the former employee who is not eligible to receive a pension under section 52G.

 (3) If the child is not a child of the former employee, the child:

10 (a) must have been born or adopted before the death of the former employee; and

 (b) must have been ordinarily part of the former employee's household at the time of the death of the former employee.

15 (4) A pension under this section ceases to be payable in respect of a child if the surviving parent dies, but continues to be payable even though the surviving parent marries or remarries.

20 (5) This Act applies to and in respect of a child in respect of whom a pension is payable under this section in the same way as it applies to and in respect of a child in respect of whom a pension is payable under Division 2, and so applies as if the pension payable under this section were a pension payable under Division 2 by virtue of the death of a contributor.

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(54) Section 52G (**Children's pensions**):

(a) Omit section 52G (1)–(3), insert instead:

30 (1) A pension of the appropriate amount per fortnight under section 61N is payable in respect of a child on the death of a person referred to in section 52A (1) ("**the former employee**") who has not received a benefit under this section if the conditions set out in subsections (2)–(3A) are satisfied.

 (2) The child must be a child of the former employee or a child of a spouse of the former employee.

35 (3) The other parent of the child or the spouse of the former employee who was a parent of the child:

 (a) must have died before the former employee's death; or

 (b) must have been divorced from the former employee; or

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- (c) must have been in a de facto relationship with the former employee that ended before the former employee's death. 5
- (3A) If the child is not a child of the former employee:
 - (a) in a case where the spouse who is the parent of the child is divorced from or the former de facto spouse of the former employee, the child must have been born or adopted before the divorce or end of the de facto relationship; and 10
 - (b) in any case, the child must have been ordinarily part of the former employee's household at the time of the death of the spouse, divorce or end of the de facto relationship. 15
- (b) From section 52G (4), omit "subsection (1)", insert instead "section 52FA".
- (c) After section 52G (5), insert:
 - (6) In this section:
 - "spouse" includes a person previously married to the former employee or a former de facto spouse. 20
- (55) Section 52I (**Cash termination benefit**):
 - (a) From section 52I (2), omit ", plus, if the application is made more than 3 months after the retrenchment, resignation, dismissal or discharge, interest on that amount in respect of the period commencing on the retrenchment, resignation, dismissal or discharge and ending on the date of payment, compounded on 31 March in each year and at the prescribed rate for the purposes of section 38A". 25
 - (b) After section 52I (2), insert: 30
 - (2A) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 8.
 - (c) From section 52I (3) and (4), omit "widow or widower" wherever occurring, insert instead "spouse". 35
 - (d) From section 52I (5), omit "or section 52G", insert instead ", or section 52FA or 52G".

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(56) Section 52R (Adjustment of deferred benefit):

Omit section 52R (b), insert instead:

- 5 (b) as to the commuted component of the benefit—in accordance with section 8.

(57) Section 52W (Benefit on attaining 65):

(a) Omit section 52W (3), insert instead:

- 10 (3) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 8.

(b) From section 52W (5), omit "widow or widower" wherever occurring, insert instead "spouse".

(58) Section 52Y (Preservation of minimum benefits under superannuation guarantee legislation):

- 15 From section 52Y (2), omit "together with interest from the contributor's exit date to the date of payment at a rate determined by the Board", insert instead "and is to be adjusted, having regard to any adjustment of the contributor's account under section 8".
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(59) Section 61A (Surrender of policies generally):

(a) From section 61A, omit "husband or wife" wherever occurring, insert instead "spouse".

- 25 (b) From section 61A (4), omit "him", insert instead "the person".

(60) Section 61D (Adjustment of pensions: general cases):

(a) From section 61D (2), omit "widow" wherever occurring, insert instead "spouse".

- 30 (b) From section 61D (3), omit "him", insert instead "the person".

(61) Section 61E (Adjustment of pensions: partial adjustment):

(a) From section 61E (2), omit "widow" wherever occurring, insert instead "spouse".

- 35 (b) From section 61E (3), omit "her late pensioner husband", insert instead "the person's late pensioner spouse".

(c) From section 61E (3), omit "her late husband" wherever occurring, insert instead "the person's late spouse".

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- (62) Section 61H (**Minimum amount to which pensions may be reduced**):
- (a) From section 61H, omit “widow” wherever occurring, insert instead “spouse”. 5
 - (b) From section 61H (a), omit “her”, insert instead “the person”.
 - (c) From section 61H (b), omit “her” where firstly and secondly occurring, insert instead “the person”. 10
 - (d) From section 61H (b), omit “her late husband”, insert instead “the pensioner”.
- (63) Section 61RD (**Reduction of benefit**):
- From section 61RD (1) (e), omit “widow or widower”, insert instead “spouse”. 15
- (64) Section 85:
- Omit the section, insert instead:
- Information that must be disclosed to contributors**
85. The Board must from time to time give to a contributor or other person such information relating to the Fund as the Board is required to give the contributor or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard. 20
- (65) Section 91A (**Recovery of money payable to the Board**):
- (a) From section 91A (1), omit “widow or widower” wherever occurring, insert instead “spouse”. 25
 - (b) From section 91A (2) (a) (ii), omit “widow”, insert instead “spouse”.
- (66) Section 94C:
- After section 94B, insert: 30
- Savings and transitional**
- 94C. Schedule 25 has effect.
- (67) Schedule 3 (**List of employers**):
- From Part 1, omit:
- Board of Fire Commissioners of New South Wales 35
 - New South Wales Meat Industry Authority

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Forestry Commission of New South Wales

Public Trust Office

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WorkCover Authority of New South Wales

Royal Botanic Gardens and Domain Trust

(68) Schedule 23 (**Special provisions for preserving benefits of certain contributors**):

After Part 2, insert:

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Part 3—Special provisions relating to certain employees

Employees affected by privatisation of GIO and GrainCorp

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10. (1) This Part applies to former employees who are or were employed by New South Wales Grain Corporation Limited or GIO:

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(a) whose benefits were taken to have been preserved under Division 3A of Part 4 on the day appointed under section 10 of the NSW Grain Corporation Holdings Limited Act 1992 or on the conversion of GIO into a public company, as applicable; and

25

(b) who had reached the age of 55 years on or before that day or the conversion (the "**preservation day**"); and
(c) who had not had the benefits paid to another superannuation scheme, before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993.

30

(2) A former employee is entitled to elect to take the benefit of Division 3A or Division 3B of Part 4. Any such election is taken to have had effect on and from the preservation day.

35

(3) A former employee is entitled to take the benefit of Division 3A or 3B of Part 4, despite any provision of those Divisions or of the Government Insurance Office (Privatisation) Act 1991, the NSW Grain Corporation Holdings Limited Act 1992 or the Statute Law (Miscellaneous Provisions) Act (No. 2) 1992.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—continued**

Application of Division 3B of Part 4

11. (1) For the purposes of the application of Division 3B of Part 4 to a former employee, the “exit day” for the former employee is the preservation day. 5

(2) Sections 52L and 52N (3) do not apply to a former employee to which this Part applies.

Payment of preserved benefit

12. A benefit preserved under this Part may only be paid in accordance with Division 3A or Division 3B of Part 4, as applicable. 10

(69) Schedule 25:

After Schedule 24, insert:

**SCHEDULE 25—SAVINGS AND TRANSITIONAL
PROVISIONS** 15

(Sec. 94C)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: 20

Superannuation Legislation (Further Amendment) Act
1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day. 25

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 30

(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. 35

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued***

**Part 2—Superannuation Legislation (Further
Amendment) Act 1993**

**5 Contributions while on leave without pay or working
minimum hours**

2. Sections 10WB, 12B and 12C, as amended by the
Superannuation Legislation (Further Amendment) Act 1993,
10 apply to a period of leave without pay or part-time work
commenced before 1 January 1994 and not completed
immediately before that date.

Disability pensions

3. Sections 52E and 52EA, as amended or inserted by the
Superannuation Legislation (Further Amendment) Act 1993,
15 apply to applications for pensions under section 52E made
after the date of assent to the Superannuation Legislation
(Further Amendment) Act 1993.

Children's benefits

4. The amendments made to this Act by the
Superannuation Legislation (Further Amendment) Act 1993
20 do not entitle any child or student to benefits in respect of the
death of a contributor or pensioner occurring before 1
January 1994.

Spouse's benefits

5. The amendments made to this Act by the
Superannuation Legislation (Further Amendment) Act 1993
25 do not entitle any spouse to benefits in respect of the death of
a contributor or pensioner occurring before 1 January 1994.

COMMENCEMENT

30 Items (1) (d) and (f)–(h), (3), (20), (40), (50), (51), (64) and (66)–(69)
commence on the date of assent to this Act.

Items (8) (b) and (9) commence on 1 July 1994.

Items (1) (a)–(c), (e) and (i)–(m), (2), (4)–(7), (8) (a), (10)–(19),
35 (21)–(39), (41)–(49) and (52)–(63) and (65) commence on 1 January
1994.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued***

EXPLANATORY NOTE

Executive officers

Items (1) (d) and (f)–(h) and (3) amend definitions and references to executive officers as a consequence of the reorganisation of employer and employee definitions in the Public Sector Executives Superannuation Act 1989 by Schedule 3 to this Act.

5

Definition of spouse

Item (1) (i) substitutes the definition of spouse to enable a de facto partner living with a contributor or pensioner at the time of his or her death to be considered as a spouse even though the contributor or pensioner may have been survived by a widow or widower.

10

Items (1) (a)–(c) and (j)–(l), (5)–(7), (8) (a), (11)–(14), (21)–(32), (36)–(39), (42)–(49), (52), (55) (c), (57) (b), (59)–(63) and (65) make consequential amendments.

Dependent spouse tests

At present, certain benefits are payable to de facto spouses if they can satisfy a financial dependency test. Items (1) (m) and (2) remove the provisions relating to the financial dependency tests.

15

Change of financial year of Board

The State Authorities Superannuation Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (4) amends a provision dealing with actuarial investigations to reflect those changes.

20

Removal of exemption provisions

The Board's power to exempt employees from contributing to the Fund under the scheme is ended from the date of assent to this Act but existing exemptions are to continue in force (item (8) (b)).

25

Item (9) removes the provisions relating to applications for exemptions.

Employer contributions

Employer contributions to the Fund are specified in Division 7 of Part 3 of the Act and are determined in relation to contributions paid by the contributor concerned. The specified rate of contributions set out in the Part does not take account of other factors that might affect employers' contributions, such as differences in funding arrangements for different employees.

30

Item (15) requires the Board, in determining the contribution rate for local government employers, to have regard to what is necessary to fully fund the obligations of all local government employers under the Act. For that purpose, the Board may require additional contributions for a specified purpose.

35

Item (16) inserts new section 10AO which enables the Board to vary contribution arrangements for an employer specified in Part 1 of Schedule 3 to the Act but only with the concurrence of the Treasurer.

40

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued***

Contributions while on leave without pay or working minimum hours

- 5 Currently contributors who are on leave without pay (this includes maternity leave and sick leave) must pay contributions for the period of the leave. However, under the Commonwealth occupational superannuation standards superannuation funds are required not to accept contributions from persons who have not been employed full-time or part-time for a specified period. The amendment to section 12B (item (17)) applies deduction factors having the effect of limiting the number of units of pension for which
- 10 contributions must be paid by a person who is on maternity leave or sick leave for more than 2 years. The amendment to section 12C (item (19)) applies deduction factors having the effect of limiting the number of units of pension for which contributions must be paid by a person who has been employed for less than 10 hours a week for more than 2 years.
- 15 Item (10) makes a consequential amendment.

Limits on contributions

- Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Board to
- 20 adjust benefits in accordance with those standards, a new section 12BA is inserted to limit the periods during which contributions must be made, in relation to contributors and periods specified by the Board (item (18)).

Contributors who may join Public Sector Executives Superannuation Scheme

- Item (20) makes it clear that a contributor may only elect to have a preserved benefit paid into the Public Sector Executives Superannuation Scheme if the contributor is a
- 25 member of or is eligible to join that Scheme.

Children's benefits

- Higher benefits are payable to orphans of contributors and pensioners. Items (1) (e), (33), (34), (53) and (54) broaden the categories of children that are entitled to receive
- 30 those higher benefits so as to include cases where there is a surviving parent but that parent was in a de facto relationship with the contributor or pensioner and the relationship ended prior to the death of the contributor or pensioner.

The Board is given power to determine, in its discretion, other cases where a person should be treated as a child for the purposes of receiving a benefit (item (35)).

- 35 Items (41) and (55) (d) make consequential amendments.

Payment of benefit when person incapable or missing

Item (40) enables the Board to pay a benefit to a person to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit, if the person entitled cannot be found or is suffering from some incapacity.

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued***

Interim pensions

Item (51) inserts new section 52EA which enables the Board to grant interim pensions to certain eligible former contributors who are awaiting the determination of an application to have preserved benefits paid as a disability pension. The amendment makes it clear that a person is still entitled to a disability pension even though an interim pension has been paid. However, the disability pension is to be reduced by the amount of the interim pension and cannot be paid if the interim pension is commuted before the application is determined. 5
10

Item (50) makes a consequential amendment.

Adjustment of preserved benefits

Provisions for the payment of deferred benefits and preserved employer financed benefits presently provide for the payment of interest on the benefits for the period for which they have been preserved. Under section 86A of the Act, the State Authorities Superannuation Board has a general discretion to pay interest on any benefits under the Act. However, it may be that the payment of interest is not appropriate having regard to the earnings of the State Superannuation Fund. Under section 8 of the Act, the Board must adjust a contributor's account before payment from the Fund of a benefit. Items (55) (a) and (b), (57) (a) and (58) provide for the Board to adjust a benefit before payment, having regard to the earnings of the Fund. Items (55), (56), (57) (a) and (58) also amend preserved benefit provisions to remove mandatory requirements to pay interest on preserved benefits. 15
20

Information for contributors

Item (64) replaces the provisions relating to the provision of information to contributors by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former contributors. 25

Employers

Item (67) updates the employers listed in Schedule 3 by removing references to employers covered elsewhere in the Schedule as a result of the amendment of the Schedule by orders. 30

Employees of GIO and GrainCorp

Item (68) enables former contributors whose benefits were preserved by statute on the privatisation of GIO or the NSW Grain Corporation Limited, and who had reached the age of 55 years, to elect (as from that privatisation) to take the benefit of the usual preservation provisions or to elect to take the benefit of special provisions relating to preservation of benefits after early retirement age. The effect of those provisions is that for contributors who are aged 55 or over the benefit preserved is calculated as if the former contributor had retired. 35
40

Superannuation Legislation (Further Amendment) 1993

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—continued**

Savings and transitional provisions

- 5 Item (69) inserts new Schedule 25 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to contributions during leave without pay and other matters. Item (66) inserts new section 94C which gives effect to the Schedule of savings and transitional provisions.

SCHEDULE 7—AMENDMENT OF OTHER ACTS

10

(Sec. 3)

**LOCAL GOVERNMENT AND OTHER AUTHORITIES
(SUPERANNUATION) ACT 1927 No. 35**

AMENDMENTS

- 15 (1) Section 15BM (**Death during service leaving widow or widower**):
- (a) From section 15BM (1) and (2), omit “dependent” wherever occurring.
 - (b) From section 15BM (3), omit “15BOA,”.
 - 20 (c) From section 15BM (3), omit “dependent” where firstly occurring.
 - (d) From section 15BM (3), omit “, or the widower while he is a dependent widower,”, insert instead “or the widower”.
- (2) Section 15BN (**Death during service where no benefit under sec. 15BM**):
- 25 From section 15BN (1), omit “or who dies leaving a widower who is not a dependent widower”.
- (3) Section 15BO (**Pension payable to widow or widower of pensioner**):
- 30 (a) Omit “sections 15BOA and 15BOB”, insert instead “section 15BOB”.
 - (b) Omit “dependent” where firstly and secondly occurring.
 - (c) Omit “while he is a dependent widower”.
 - (d) At the end of the section, insert:
 - 35 (2) If a person marries after becoming entitled to a pension under section 15BF, 15BG or 15BH and dies while a party to

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

that marriage, a pension under this section is not payable to the widow or widower as such.

(3) Subsection (2) does not apply in respect of a pensioner who, after marrying as referred to in that subsection, again becomes a contributor.

5

(4) Section 15BOA (Restrictions in payment of pension to widow or widower):

Omit the section.

(5) Section 15BUE (Election by widower to be paid lump sum instead of pension under sec. 15BM):

10

Omit "dependent" wherever occurring.

(6) Section 15BUF (Minimum lump sum benefit payable to widow or widower):

Omit "dependent" wherever occurring.

15

(7) Section 15BV (Commutation of certain pensions):

From section 15BV (14), omit "dependent" wherever occurring.

(8) Section 15BY (Payment where beneficiary incapable):

In section 15BY (1), before "dependent", insert "wholly or partly".

20

(9) Section 15BYA:

After section 15BY, insert:

Payment where beneficiary is missing

15BYA. (1) If the board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

25

30

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(10) Section 17P (**Contingent account**):

Omit the section.

(11) Section 21:

5

After section 20, insert:

Savings and transitional provisions

21. Schedule H has effect.

(12) Schedule H:

After Schedule G, insert:

10

**SCHEDULE H—SAVINGS AND TRANSITIONAL
PROVISIONS**

(Sec. 21)

Part 1—Regulations

Regulations

15

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

20

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

25

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

30

- (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.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

Part 2—Superannuation Legislation (Further Amendment) Act 1993

Dependency tests for widowers

2. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a contributor or pensioner occurring before 1 January 1994. 5

COMMENCEMENT

Items (1)–(7) and (10) commence on 1 January 1994. 10

Items (8), (9), (11) and (12) commence on the date of assent to this Act.

EXPLANATORY NOTE

Dependent widower tests

At present, certain benefits are payable to widows of contributors and dependent widowers of contributors. Items (1)–(7) remove the dependency tests applicable to widower benefits. 15

Payment of benefit when person missing

Item (9) inserts new section 15BYA which enables the State Authorities Superannuation Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit. 20

Item (8) makes a consequential amendment.

Contingent account

Item (10) omits the provisions relating to the establishment of a contingent account to pay sickness benefits and other related payments. The account is no longer used. 25

Savings and transitional provisions

Item (12) inserts new Schedule H which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to the removal of dependency provisions for widowers. Item (11) inserts new section 21 which gives effect to the Schedule of savings and transitional provisions. 30

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

**NEW SOUTH WALES RETIREMENT BENEFITS
ACT 1972 No. 70**

AMENDMENTS

5 (1) Section 60 (**Payment where beneficiary incapable**):

In section 60 (1), before “dependent”, insert “wholly or partly”.

(2) Section 60A:

After section 60, insert:

10 **Payment where beneficiary is missing**

60A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

20 **COMMENCEMENT**

The amendments commence on the date of assent to this Act.

EXPLANATORY NOTE

Payment of benefit when person missing

25 Item (2) inserts new section 60A which enables the State Authorities Superannuation Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (1) makes a consequential amendment.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

**PARLIAMENTARY CONTRIBUTORY SUPERANNUATION
ACT 1971 No. 53**

AMENDMENTS

- | | |
|--|----|
| (1) Section 3 (Definitions): | 5 |
| In section 3 (1), insert in alphabetical order: | |
| <p align="center">“superannuation guarantee shortfall” has the same meaning as it has in the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth;</p> | |
| (2) Section 18A: | 10 |
| After section 18, insert: | |
| Acceptance of contributions | |
| 18A. (1) Despite any other provision of this Act, deductions from a member’s salary are not required to be made during any period specified by the trustees for which the trustees determine that they must not accept contributions in respect of the member. | 15 |
| (2) The trustees may make such a determination only if they are of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard. | 20 |
| (3) A period in respect of which deductions are not made under this section is not to be taken into account when determining the member’s superannuation benefit under section 19. | 25 |
| (3) Section 21B (Calculation of pensions following conversion to lump sum): | |
| From section 21B (4) (a), omit “subsection (2)”, insert instead “subsection (2) (a), in the case of a member referred to in subsection (2) (a), or subsection (2) (b), in the case of a member referred to in subsection (2) (b)”. | 30 |

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(4) Section 22B:

After section 22A, insert:

5 **Preservation of minimum benefits under superannuation
guarantee legislation**

22B. (1) **Benefit to be preserved.** Despite any other
provision of this Act, the trustees may, when a pension or
lump sum (including a supplementary benefit under section
22A) becomes payable under this Act, preserve all or part of
10 so much of the pension or lump sum as is determined by the
trustees to be employer-financed for the purpose of
complying with an applicable Commonwealth occupational
superannuation standard. The amount of the allowance or
lump sum to be preserved in respect of a former member for
15 the purpose of this section is as determined by the trustees
after obtaining actuarial advice.

Note. The relevant standards as proposed will require an amount
equivalent to the employer contribution to superannuation to meet
requirements under the Commonwealth superannuation guarantee charge
20 legislation to be preserved from 1 July 1994.

(2) **Preservation in Fund.** The amount is to be preserved
in the Fund and adjusted at a rate determined by the trustees.

(3) **Pension may be commuted.** For the purpose of
preserving a benefit under this section, the trustees may
convert to a lump sum so much of the pension as is
25 employer-financed, up to the amount determined by the
trustees to be equal to the amount that is required to be
preserved. The remainder of the pension is to be dealt with as
otherwise required or permitted by this Act.

(4) **Payment of preserved benefit.** A benefit preserved
under this section is payable by the trustees on the death of
the former member or in the circumstances in which it is
specified in an applicable Commonwealth occupational
superannuation standard that a preserved benefit must or may
30 be paid.

(5) **Persons to whom benefit is payable.** A benefit
provided by subsection (4) is payable:

(a) unless the former member has died—to the former
member; or

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(b) if the former member has died and is survived by a widow or widower—to the surviving widow or widower; or

(c) if the former member has died and is not survived by a widow or widower—to the personal representatives of the former member or such other person as the trustees direct.

5

(5) Sections 30, 30A:

Before section 31, insert:

10

Compliance with superannuation guarantee legislation

30. (1) **Minimum benefits.** The trustees must, after obtaining actuarial advice, determine what the minimum **employer-financed benefit** would have to be to ensure that there is no **superannuation guarantee shortfall**.

15

(2) **Increase in benefits.** So much of a pension or lump sum as is employer-financed is, despite any other provision of this or any other Act, not to be less than the minimum benefit determined under subsection (1). The pension or lump sum that would otherwise be payable under this Act is increased to the extent necessary for the purpose of complying with this section.

20

(3) **Increase in benefit to be paid from Fund.** The amount of any increase in benefit is to be debited by the trustees from the Fund.

25

(4) **Definition.** In this section, “**employer-financed benefit**” means the sum of so much of a pension or lump sum as is determined by the trustees to be employer-financed under this Act.

Application of section 30 to period from 1.7.1992

30

30A. A benefit that is paid after 1 July 1992 and before the commencement of section 30 is to be adjusted by the trustees in accordance with that section.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(6) Section 32A:

Omit the section, insert instead:

Information that must be disclosed to contributors

5 32A. (1) The trustees must, as soon as practicable after a
person becomes a member, give to the person a written
statement specifying the information relating to the Fund that
is required to be given for the purpose of complying with any
10 applicable Commonwealth occupational superannuation
standard.

 (2) The trustees must from time to time give to a member
or other person such information relating to the Fund as the
trustees are required to give the member or other person for
the purpose of complying with any applicable
15 Commonwealth occupational superannuation standard.

COMMENCEMENT

Items (1), (3), (4) and (5) commence on the date of assent to this Act.

Items (2) and (6) commence on 1 January 1994.

EXPLANATORY NOTE

20 **Limits on contributions**

Under the Commonwealth occupational superannuation standards superannuation funds
are required not to accept deductible contributions in a year of income exceeding the
amount determined in accordance with the standards. In order to enable the
Parliamentary Contributory Superannuation Fund to comply with those standards, a new
25 section 18A is inserted to enable the trustees of the Fund to determine that deductions
are not to be made from members' salaries for specified periods for the purpose of
compliance (item (2)). Any such period is not to be taken into account for the purpose
of determining a member's superannuation benefit.

Commutation of pensions

30 Currently, members or former members of the scheme who were members before the
commencement of the Parliamentary Contributory Superannuation (Amendment) Act
1989 are entitled to a lesser reduction in pension than other members when an election
is made to commute part of a pension to a lump sum. Item (3) makes it clear that the
lesser reduction also applies when subsequent elections are made by such members.

35 **Preservation of benefits (delayed entitlement to certain benefits)**

Under the Commonwealth occupational superannuation standards superannuation funds
will be required to preserve, from 1 July 1994, that part of the benefits payable to

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

former members (and financed by employer contributions) that is equal to the minimum employer contribution for the purposes of Commonwealth superannuation guarantee legislation. Those standards also require that the contributions vest in members when they become payable. To meet these requirements new sections 30 and 30A are inserted by item (5). Similar provisions have previously been inserted in other public sector superannuation Acts. Item (1) makes a consequential amendment. The effect of the amendments is that any benefits so preserved will not be paid until they are payable under the Commonwealth standards. 5

Information for contributors 10

Item (6) replaces the provisions relating to the provision of information to contributors by the trustees of the Fund. The trustees will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards.

**POLICE ASSOCIATION EMPLOYEES (SUPERANNUATION)
ACT 1969 No. 33** 15

AMENDMENTS

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

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

“**spouse**” of a prescribed person (within the meaning of section 3) who has died means: 20

- (a) the widow or widower, as the case may be, of the prescribed person; or
- (b) if the prescribed person was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or 25
- (c) if the prescribed person was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living; 30

(2) Section 3 (**Employees of Association transferring from employment as police officers**):

(a) Omit section 3 (9) and (10), insert instead:

(9) If the prescribed person dies:

- (a) after attaining the age of 60 years but before the person's employment by the Association ceases; or 35

*Superannuation Legislation (Further Amendment) 1993*SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

- (b) after the person's employment by the Association ceases but before an annual superannuation allowance is granted to the person under subsection (2),
 5 an annual superannuation allowance equivalent to 62.5 per cent of the annual superannuation allowance which would have been payable to the person is payable to the person's surviving spouse.
- (9A) A person's spouse is entitled to an allowance under subsection (9) only if he or she was the person's spouse when the person attained the age of 60 years or when the person died (whichever occurred first).
- (10) If the prescribed person dies after an annual superannuation allowance has been granted to the person under subsection (2) and he or she is survived by a spouse who was his or her spouse at:
 15 (a) the date when the allowance was granted if the allowance was granted to the prescribed person before he or she attained the age of 60 years; or
 20 (b) the date when the prescribed person attained the age of 60 years if the allowance was granted to the prescribed person after he or she attained that age,
 an annual superannuation allowance equivalent to 62.5 per cent of the annual superannuation allowance received by or payable to the prescribed person is payable to the surviving spouse.
 25
- (b) From section 3 (10A), omit "his" where firstly occurring, insert instead "the person's".
- (c) From section 3 (10A), omit "his widow", insert instead "the person's spouse".
 30
- (d) From section 3 (10A), omit "he", insert instead "the person".
- (e) From section 3 (11), omit "widow", insert instead "spouse".
- (f) In section 3 (11), before "she", insert "he or".
- (g) From section 3 (11B), omit "widow" wherever occurring, insert instead "spouse".
 35
- (h) Omit section 3 (11C).
- (i) From section 3 (11D), omit "subsection (11C)", insert instead "the other provisions of this section".

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

- (j) From section 3 (11D), omit “that subsection” wherever occurring, insert instead “this section”.
 - (k) From section 3 (11D) (a), omit “a widower”, insert instead “a male spouse”. 5
 - (l) From section 3 (11D) (a), omit “the widower”, insert instead “the spouse”.
 - (m) From section 3 (11D) (b), omit “a widower”, insert instead “a male spouse”.
 - (n) From section 3 (11D) (c), omit “a widower”, insert instead “a male spouse”. 10
 - (o) From section 3 (12), omit “he”, insert instead “the person”.
- (3) Sections 4, 5:
- After section 3, insert:
- Competing claims for spouses’ benefits** 15
4. (1) This section applies to a superannuation allowance under this Act which is payable to the spouse of a prescribed person (within the meaning of section 3) who has died.
- (2) If a superannuation allowance would be payable to more than one person because a prescribed person, who has died, has left more than one spouse, then, despite any other provision of this Act: 20
- (a) the allowance is payable in accordance with a determination made by the Board, and not otherwise; and 25
 - (b) the total amount of allowance payable to those persons at any time is not to exceed the amount of allowance or gratuity that would be payable if there were only one spouse.
- (3) For the purposes of subsection (2) (a), the Board may determine in relation to a superannuation allowance: 30
- (a) that the allowance is not payable to such of the persons concerned as it specifies; or

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(b) that the amount of the allowance is to be apportioned between the persons concerned in such manner as it specifies.

5 (4) The Board may withhold the payment of any part of a superannuation allowance:

(a) until 30 days after the death of the prescribed person in respect of which the allowance is payable; or

10 (b) if an application has been made for the allowance by more than one person, until it is satisfied that only one of those persons is entitled to the allowance or until a determination is made in relation to the matter by the Board under this section.

15 (5) If, after 30 days from the death of a prescribed person, a superannuation allowance is paid in respect of any period to the spouse of the prescribed person, a superannuation allowance is not payable to any other spouse of the prescribed person in respect of that period.

20 (6) For the purposes of subsection (5), an amount paid in good faith by the Board to a person purporting to be the spouse of a prescribed person is taken to have been paid to the spouse of the prescribed person.

25 (7) If, after 30 days from the death of a prescribed person, any amount is paid under this Act to the person's personal representatives or to such other persons as the Board may determine, any superannuation allowance which is payable to the spouse of the prescribed person is to be reduced by the amount so paid.

Savings and transitional provisions

30 5. Schedule 1 has effect.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(4) Schedule 1:

At the end of the Act, insert:

**SCHEDULE 1—SAVINGS AND TRANSITIONAL
PROVISIONS**

5

(Sec. 5)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: 10

Superannuation Legislation (Further Amendment) Act 1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day. 15

(3) To the extent to which any such provision 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 20

(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. 25

**Part 2—Superannuation Legislation (Further
Amendment) Act 1993**

Spouses' benefits

2. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a prescribed person occurring before 1 January 1994. 30

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

COMMENCEMENT

The amendments commence on 1 January 1994.

EXPLANATORY NOTE

5 Definition of spouse

Item (1) substitutes the definition of spouse to enable a de facto partner living with a member or former member of the superannuation scheme under the Act at the time of his or her death to be considered as a spouse even though the member may have been survived by a widow or widower.

- 10** Power is given to the State Authorities Superannuation Board to settle, in its discretion, competing claims where the amendments result in more than one spouse of a member or former member being entitled to a benefit (new section 4, item (3)).

Item (2) makes consequential amendments.

Savings and transitional provisions

- 15** Item (4) inserts new Schedule 1 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to spouses' benefits. Item (3) inserts new section 5 which gives effect to the Schedule of savings and transitional provisions.

PUBLIC AUTHORITIES SUPERANNUATION ACT 1985 No. 41

20 AMENDMENTS

- (1) Section 62 (**Payment where beneficiary incapable**):

In section 62 (1), before "dependent", insert "wholly or partly".

- (2) Section 62A:

- 25** After section 62, insert:

Payment where beneficiary is missing

- 30** 62A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

- 35** (2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

COMMENCEMENT

The amendments commence on the date of assent to this Act.

EXPLANATORY NOTE

Payment of benefit when person missing

5

Item (2) inserts new section 62A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (1) makes a consequential amendment.

**STATE PUBLIC SERVICE SUPERANNUATION
ACT 1985 No. 45**

10

AMENDMENT

Sections 57A, 57B:

After section 57, insert:

Payment where beneficiary incapable

15

57A. (1) If the Board is of the opinion that a person to whom a benefit is payable is incapable of administering his or her affairs because of illness, imprisonment or for any other cause, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of the person otherwise entitled to the benefit, or any person wholly or partly dependent on the person.

20

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

25

Payment where beneficiary is missing

57B. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

30

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

COMMENCEMENT

The amendment commences on the date of assent to this Act.

EXPLANATORY NOTE

- 5 The amendment inserts new section 57A which enables the State Authorities Superannuation Board to pay a benefit to someone else, if the person entitled to the benefit is incapable of managing his or her own affairs, for the benefit of the person entitled to the benefit or a dependent of that person. The amendment also inserts new section 57B which enables the Board, if the person entitled to a benefit cannot be found,
10 to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

SUPERANNUATION ADMINISTRATION ACT 1991 No. 96

AMENDMENTS

- (1) Sections 22, 23:

- 15 Omit the sections, insert instead:

Administration costs of the Board generally

22. (1) The Board must charge administration costs that it incurs (including the remuneration or allowances of the trustees and any expense incurred by the New South Wales Superannuation Office in providing services directly to the Board) against the Administration Account.
20

- (2) The administration costs (including administration costs relating to preserved benefits) that the Board incurs in relation to the administration of the associated superannuation schemes are to be paid in accordance with this section to the Administration Account.
25

- (3) The administration costs (including administration costs relating to preserved benefits) that the Board incurs in relation to the administration of the associated superannuation schemes are payable by employers and contributors or members and former contributors or former members under the associated superannuation schemes.
30

- (4) If employees are employed by a group of employers, the costs are payable by the group of employers. If a contributor or member belongs or a former contributor or former member belonged to a group of contributors or
35

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

members which contributes to a scheme, the costs are payable by the group of contributors or members.

(5) The amount, the rate and the basis on which an employer, group of employers or contributor or member or former contributor or former member or group of contributors or members is required to pay is to be determined by the Board from time to time. 5

(6) After calculating the appropriate amount or rate payable, the Board may debit the appropriate account, fund or reserve in the relevant associated superannuation fund in accordance with this Division. 10

Source of administration costs payments—non-contributory Fund

23. (1) The administration costs payable in respect of the superannuation scheme established under the State Authorities Non-contributory Superannuation Act 1987 are to be paid from employer reserves established in accordance with that Act. 15

(2) The administration costs payable in respect of preserved benefits provided under the State Authorities Non-contributory Superannuation Act 1987 are to be paid from employees' accounts established in accordance with that Act. 20

Source of administration costs payments—police fund 25

23A. The administration costs payable in respect of the Police Superannuation Fund are to be paid from that Fund.

Source of administration costs payments—SASS fund

23B. (1) The administration costs payable in respect of the State Authorities Superannuation Fund are to be paid from employer reserves and contributors' accounts in the State Authorities Superannuation Fund. 30

(2) The administration costs payable in respect of preserved benefits provided under the State Authorities Superannuation Act 1987 are to be paid from contributors' accounts in the State Authorities Superannuation Fund. 35

(3) The administration costs payable in respect of pensions provided under the State Authorities Superannuation Act

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

1987 are to be paid from employer reserves in the State Authorities Superannuation Fund.

Source of administration costs payments—SSF fund

5 23C. (1) The administration costs payable in respect of the State Superannuation Fund are to be paid from employer reserves and the contributors' reserve in the State Superannuation Fund.

10 (2) The administration costs payable in respect of preserved benefits provided under the Superannuation Act 1916 are to be paid from employer reserves in the State Superannuation Fund.

15 (3) The administration costs payable in respect of pensions provided under the Superannuation Act 1916 are to be paid from employer reserves in the State Superannuation Fund.

Source of administration costs payments—other funds

20 23D. The administration costs (including administration costs relating to preserved benefits) payable in respect of an associated superannuation fund, other than a fund referred to in sections 23–23C, are to be paid from the reserves or accounts established in the relevant associated fund determined for the purposes of this section by the Board.

(2) Section 46A:

After section 46, insert:

25 **Exemption from stamp duty**

46A. The Board is not liable for stamp duty under the Stamp Duties Act 1920 in respect of anything done by the Board for the purposes of this Act or its functions under the associated Acts.

30 (3) Schedule 5 (**Savings, transitional and other provisions**):

(a) In clause 2 (1), after "Act", insert "or the Superannuation Legislation (Further Amendment) Act 1993".

(b) From clause 2 (2), omit "this Act", insert instead "the Act concerned".

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(c) After clause 16, insert:

**PART 3—PROVISIONS CONSEQUENT ON THE
ENACTMENT OF THE SUPERANNUATION
LEGISLATION (FURTHER AMENDMENT)
ACT 1993**

5

Actions by Board relating to administration costs

17. The Board is, in relation to anything done before the commencement of sections 22–23D, as inserted by the Superannuation Legislation (Further Amendment) Act 1993, taken to have had power to do anything relating to the calculation and payment of its administration costs that it has power to do under those sections as so inserted.

10

COMMENCEMENT

The amendments commence on the date of assent to this Act.

15

EXPLANATORY NOTE

Administration costs and charges

Presently, administration costs of the Board are payable from the associated superannuation schemes (that is, the public sector statutory superannuation schemes) according to specific formulas set out in section 22. Item (1) replaces this method of determining the amount of costs payable by employers and contributors with a power of the Board to determine the costs and the basis of payment.

20

The administrative charges of the Board in relation to preserved benefits are presently payable from the relevant contributor's account. This does not take into account that the amount of the benefit preserved already contains some allowance for administrative charges. Item (1) replaces this provision with a power of the Board to determine the charges and the basis of payment.

25

Item (3) validates things done by the Board in relation to obtaining its administrative costs before the commencement of the amendment.

Exemption from stamp duty

30

Currently the Board is exempted by the Public Authorities (Financial Arrangements) Act 1987 from liability for stamp duty for investment purposes. Item (2) inserts new section 46A which exempts the Board from liability for stamp duty in respect of anything done for the purposes of its functions under the Act or the other Acts relating to public sector superannuation schemes.

35

Savings and transitional provisions

Item (3) amends Schedule 5 to enable savings or transitional regulations to be made relating to the amendments made by this Act.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

**SUPERANNUATION LEGISLATION (AMENDMENT) ACT
1992 No. 35**

AMENDMENT

5 Schedule 2 (**Other amendments**):

Omit item (4) of the amendments relating to the State Authorities Superannuation Act 1987.

COMMENCEMENT

The amendment commences on the date of assent to this Act.

10 **EXPLANATORY NOTE**

The item being repealed proposed to insert sections 42AA–42AC into the State Authorities Superannuation Act 1987. Section 42AA has commenced but it is not proposed to commence sections 42AB and 42AC.

15 **TRANSPORT EMPLOYEES RETIREMENT BENEFITS ACT
1967 No. 96**

AMENDMENTS

(1) Section 62 (**Payment where beneficiary incapable**):

In section 62 (1), before “dependent”, insert “wholly or partly”.

20 (2) Section 62A:

After section 62, insert:

Payment where beneficiary is missing

25 62A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

30 (2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

COMMENCEMENT

The amendments commence on the date of assent to this Act.

Superannuation Legislation (Further Amendment) 1993

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

EXPLANATORY NOTE

Payment of benefit when person missing

Item (2) inserts new section 62A which enables the State Authorities Superannuation Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

5

Item (1) makes a consequential amendment.

LEGISLATIVE COUNCIL
SUPERANNUATION LEGISLATION
(FURTHER AMENDMENT) BILL 1993

THE HON VIRGINIA CHADWICK, MLC

MINISTER FOR EDUCATION, TRAINING, AND YOUTH AFFAIRS
MINISTER FOR TOURISM AND MINISTER ASSISTING THE PREMIER

MR PRESIDENT,

THIS BILL CONTAINS AMENDMENTS TO THE NSW PUBLIC SECTOR SUPERANNUATION ACTS TO ACHIEVE REGULATORY COMPLIANCE WITH COMMONWEALTH STANDARDS AND TO MAKE ASSORTED ADMINISTRATIVE AND TECHNICAL CHANGES WITHIN THE SCHEMES. THE CHANGES CONTINUE THE GOVERNMENT'S COMMITMENT TO PROVIDING PUBLIC SECTOR EMPLOYEES IN NEW SOUTH WALES WITH COST EFFECTIVE AND FLEXIBLE SUPERANNUATION ARRANGEMENTS AND PROVIDING THEM IN A PROFESSIONAL AND COMPETITIVE MANNER.

CONSULTATION WAS UNDERTAKEN ON THE MATTERS CONTAINED IN THE BILL WITH THE LABOR COUNCIL OF NEW SOUTH WALES, THE POLICE ASSOCIATION, THE COMMISSIONED POLICE OFFICER'S ASSOCIATION AND THE LOCAL GOVERNMENT AND SHIRES ASSOCIATIONS. THE PROPOSALS AFFECTING THEIR CONSTITUENTS HAVE RECEIVED THE ENDORSEMENT OF EACH OF THOSE BODIES.

THE AMENDMENTS IN THIS BILL ARE IN THREE AREAS - FIRSTLY, COMMONWEALTH REGULATORY COMPLIANCE MATTERS; SECONDLY CHANGES AIMED AT ACHIEVING MORE EFFECTIVE AND UNIFORM ADMINISTRATION ACROSS SCHEMES; AND FINALLY, AMENDMENTS TO ADDRESS PARTICULAR NEEDS IN INDIVIDUAL SCHEMES.

I WILL DEAL FIRSTLY WITH THE CHANGES REQUIRED FOR COMPLIANCE WITH REGULATIONS UNDER THE COMMONWEALTH SUPERANNUATION STANDARDS. THESE MEASURES ARE NECESSARY TO ENSURE PUBLIC SECTOR FUNDS AND BENEFICIARIES CONTINUE TO RECEIVE THE CONCESSIONAL TAX TREATMENT AVAILABLE IN RETURN FOR COMPLIANCE WITH THE STANDARDS SPECIFIED IN THE COMMONWEALTH OCCUPATIONAL SUPERANNUATION STANDARDS ACT 1987 AND REGULATIONS.

THE MAJOR AMENDMENTS TO BE MADE ACROSS THE SCHEMES WILL BE IN THE CESSATION OF CONTRIBUTIONS AND BENEFIT ACCRUAL WHERE A PERSON HAS NOT BEEN EMPLOYED FULL-TIME OR PART-TIME FOR OVER 2 ° YEARS.

THE INTENTION OF THE COMMONWEALTH IS TO KEEP SUPERANNUATION EMPLOYMENT-BASED, AND SO ATTEMPT TO LIMIT THE SCOPE FOR PERSONS GENUINELY OUTSIDE THE WORKFORCE TO MAINTAIN SUPERANNUATION COVERAGE.

THE NSW GOVERNMENT WILL IMPLEMENT THE PROPOSED AMENDMENTS IN THE RELEVANT SCHEMES SO AS TO ACHIEVE COMPLIANCE WITH THE TWO YEAR LIMIT, HOWEVER APPROACHES HAVE BEEN MADE TO THE COMMONWEALTH TO EXTEND THIS PERIOD TO 5 YEARS BECAUSE OF THE SIGNIFICANT IMPACT WHICH THE 2 YEAR LIMIT MAY HAVE ON WOMEN'S SUPERANNUATION COVERAGE.

FURTHER MEASURES TO ENSURE COMMONWEALTH COMPLIANCE WILL BE MADE IN THE AREAS OF MAXIMUM CONTRIBUTION LEVELS, THE PROVISION OF INFORMATION TO MEMBERS, THE COMPULSORY PRESERVATION OF CERTAIN BENEFIT ELEMENTS, AND ONGOING COMPLIANCE WITH NECESSARY FUND EARNINGS STANDARDS AND VESTING STANDARDS IN PARTICULAR SCHEMES. THE SCHEMES TO BE AMENDED FOR THESE PURPOSES ARE:

- THE LOCAL GOVERNMENT AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927;
- THE PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971;
- THE POLICE REGULATION (SUPERANNUATION) ACT 1906;
- THE PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT 1989;
- THE STATE AUTHORITIES SUPERANNUATION ACT 1987;
- THE STATE AUTHORITIES NON-CONTRIBUTORY SUPERANNUATION ACT 1987; AND
- THE SUPERANNUATION ACT 1916.

MR PRESIDENT, THE SECOND MAIN GROUP OF PROPOSALS IN THE BILL ARE AMENDMENTS IMPLEMENTING IMPORTANT ADMINISTRATIVE REQUIREMENTS IN NEW SOUTH WALES PUBLIC SECTOR SUPERANNUATION. THESE CHANGES WILL ACHIEVE MORE FLEXIBLE AND EFFECTIVE EMPLOYER FINANCING AND ADMINISTRATIVE COST PROVISIONS IN THE SCHEMES ADMINISTERED BY THE STATE AUTHORITIES SUPERANNUATION BOARD.

THE EXISTING EMPLOYER FINANCING PROVISIONS WITHIN THE NSW PUBLIC SECTOR SUPERANNUATION SCHEMES ARE REQUIRED TO ADDRESS A VARIETY OF SCHEME AND BENEFIT STRUCTURES AND TO DEAL WITH A RANGE OF FUNDING CONSTRAINTS AMONGST INNER AND OUTER SECTOR EMPLOYERS AND SELF FUNDING AGENCIES THAT NOW MAKE UP THE NEW SOUTH WALES PUBLIC SECTOR.

THE CURRENT ARRANGEMENTS ARE TOO INFLEXIBLE TO ADEQUATELY MEET BOTH THE EMPLOYER'S NEEDS AND THE DESIRED FUNDING APPROACH OF THE TREASURY AND THE STATE AUTHORITIES SUPERANNUATION BOARD. THE PROPOSED AMENDMENTS WILL THEREFORE REMOVE THE RIGID APPROACH CURRENTLY APPLIED WHICH LIMITS EMPLOYERS TO CONTRIBUTING ON A MULTIPLE OF EMPLOYEE CONTRIBUTIONS BASIS.

EMPLOYERS WILL BE ABLE TO MAKE CONTRIBUTIONS ON VARYING BASES, SUCH AS PERCENTAGES OF PAYROLL OR CONTRIBUTIONS, OR HAVE DIFFERENT ARRANGEMENTS FOR SELF-FUNDING COST CENTRES. THESE ARRANGEMENTS WILL BE DETERMINED BY THE BOARD WITH THE CONCURRENCE OF TREASURY. TO ESTABLISH NEEDS OF INDIVIDUAL EMPLOYERS, THE BOARD WILL CONTINUE ITS PREVIOUS INFORMAL CONSULTATION PRACTICES.

LOCAL GOVERNMENT EMPLOYERS WILL CONTINUE TO FULLY FUND ACCRUING LIABILITIES AND MEET ANY UNFUNDED LIABILITIES IN A REGULAR

FASHION. HOWEVER THE BOARD WILL NOW BE ABLE TO DETERMINE, AFTER SEEKING ACTUARIAL ADVICE, THE APPROPRIATE RATES OF PAYMENT, RATHER THAN APPLYING THE CURRENT UNIFORM LEGISLATED RATES ACROSS THE BOARD.

OTHER CHANGES TO THE FUNDING ARRANGEMENTS WILL ENSURE THAT THE EMPLOYER LISTINGS IN EACH ACT ACCURATELY REFLECT SCHEME COVERAGE AND THAT DEBTS OF DEFAULTING EMPLOYERS IN THE STATE AUTHORITIES SUPERANNUATION SCHEME AND THE BASIC BENEFIT SCHEME CAN BE RECOVERED BY THE BOARD IN A SIMILAR MANNER TO RECOVERY UNDER THE STATE SUPERANNUATION FUND.

SIMILAR ADMINISTRATIVE EFFICIENCY IS SOUGHT IN THE PROPOSED ADMINISTRATION COST PROVISIONS. THE CURRENT SCHEME PROVISIONS REQUIRE STRINGENT APPORTIONMENT OF COSTS IRRESPECTIVE OF THE DIFFERENCES BETWEEN SCHEMES AND BENEFITS. THE TRUE ADMINISTRATIVE COSTS INCURRED BY THE BOARD IN PRACTICE CANNOT UNDER THE CURRENT STRUCTURE BE RECOGNISED OR APPLIED. AS WITH THE PROPOSALS RELATING TO EMPLOYER FUNDING, THE BOARD WILL ENSURE THAT INFORMALLY A PROCESS OF EMPLOYER CONSULTATION TAKES PLACE IN SETTING THE APPORTIONED COSTS APPLICABLE UNDER THE NEW PROVISIONS.

AMENDMENTS TO THE SUPERANNUATION ADMINISTRATION ACT 1991 WILL ADDRESS THIS NEED FOR A MORE FLEXIBLE SYSTEM OF ALLOCATION AND RECOVERY OF COSTS BY ALLOWING THE BOARD TO ASCERTAIN THE LEVEL OF ADMINISTRATIVE COSTS INCURRED, AND TO APPORTION THESE COSTS TO THE RESPECTIVE RESERVES IN THE PARTICULAR SCHEMES. THIS PROCESS WILL ENSURE A FAIRER DISTRIBUTION OF THE ADMINISTRATION COSTS ACROSS SCHEMES AND REFLECTS INDUSTRY WIDE SUPERANNUATION PRACTICES.

MR PRESIDENT, THIS SERIES OF ADMINISTRATIVE AMENDMENTS ALSO CONTAINS PROVISIONS TO ENSURE UNIFORM AND NON-DISCRIMINATORY TREATMENT OF SPOUSES AND CHILDREN UNDER PUBLIC SECTOR SUPERANNUATION SCHEME RULES. CURRENTLY, VARYING DEFINITIONS OF 'SPOUSE' APPLY ACROSS THE SCHEMES AND THE TREATMENT OF LEGAL AND DE FACTO SPOUSES IS INCONSISTENT.

THE PROPOSED AMENDMENTS WILL APPLY A UNIFORM DEFINITION OF SPOUSE ACROSS THE STATE SUPERANNUATION FUND, POLICE, SASS AND BASIC BENEFIT SCHEMES. EQUAL PRIORITY WILL BE AFFORDED TO LEGAL AND DE FACTO SPOUSES, AND, AS CURRENTLY PROVIDED FOR IN THE STATE SUPERANNUATION SCHEME, THE BOARD WILL HAVE THE POWER TO RESOLVE ANY COMPETING CLAIMS FOR BENEFITS. THE ANACHRONISTIC AND LITTLE-USED 'DEPENDENCY TEST' PROVISIONS STILL REMAINING IN THE STATE SUPERANNUATION FUND AND CLOSED LOCAL GOVERNMENT

SCHEMES WILL BE REMOVED. IT SHOULD BE NOTED THAT THE PROPOSED AMENDMENTS WILL NOT EXTEND SPOUSE BENEFITS IN ANY SCHEME TO A RELATIONSHIP FORMED AFTER THE RETIREMENT OF THE CONTRIBUTOR.

PROVISIONS IN THE SUPERANNUATION ACT 1916 CONCERNING CHILDREN AND ORPHAN BENEFITS WILL BE CLARIFIED TO ELIMINATE POSSIBLE DISCRIMINATION AGAINST CHILDREN OF DE FACTO RELATIONSHIPS AND ADOPTED CHILDREN. ISOLATED INSTANCES HAVE OCCURRED IN RECENT YEARS WHERE THE STRICT WORDING OF THE EXISTING PROVISIONS HAS EXCLUDED CHILDREN WHO, BY THE SPIRIT OF THE LEGISLATION AS WELL AS BY GENERAL COMMUNITY STANDARDS SHOULD HAVE BEEN ENTITLED TO A BENEFIT. THE PROVISIONS WILL BE AMENDED TO REMEDY THESE FLAWS.

FINALLY IN THIS SECTION OF AMENDMENTS, PROVISIONS WILL BE INSERTED INTO VARIOUS SCHEMES TO ADDRESS THE PROBLEM OF BENEFIT PAYMENT TO A DEPENDENT OF A PRIMARY BENEFICIARY WHEN THAT PRIMARY BENEFICIARY IS MISSING OR CANNOT BE LOCATED. THE SCHEMES CURRENTLY MAKE PROVISION FOR THE PAYMENT TO ANOTHER PERSON WHEN A BENEFICIARY IS INCAPABLE. IT IS PROPOSED TO EXTEND THESE PROVISIONS TO ENSURE THAT DEPENDANTS OF THE PRIMARY BENEFICIARY WHO IS MISSING ARE ABLE TO RECEIVE THE BENEFIT.

SUCH CIRCUMSTANCES ARISE ONLY IN ISOLATED INSTANCES, AND THE STATE AUTHORITIES SUPERANNUATION BOARD WILL BE REQUIRED TO MAKE

A DETERMINATION FIRSTLY, THAT THE BENEFICIARY CANNOT BE LOCATED TO RECEIVE PAYMENT, AND THEN TO ENSURE THAT THE PAYMENT IS MADE WHOLLY FOR THE CARE, MAINTENANCE, BENEFIT AND SUPPORT OF A DEPENDANT OF THAT MISSING BENEFICIARY. IN THE EVENT OF A BENEFICIARY BEING LOCATED AND BEING CAPABLE, THE PAYMENTS WILL OF COURSE REVERT TO THAT PERSON.

THE THIRD AND FINAL GROUP OF PROPOSED AMENDMENTS CONTAINED IN THE BILL ARE AMENDMENTS TO SPECIFIC ACTS FOR TECHNICAL AND ADMINISTRATIVE PURPOSES. THESE AMENDMENTS ARISE FROM THE CONTINUAL REVIEW PROCESS UNDERTAKEN BY THE STATE AUTHORITIES SUPERANNUATION BOARD TO ENSURE THAT THE GOVERNING LEGISLATION OF ALL SCHEMES REFLECTS CONTEMPORARY SUPERANNUATION PRACTICES.

I WILL OUTLINE THE MAIN AMENDMENTS PROPOSED FOR EACH ACT AND WOULD DIRECT HONOURABLE MEMBERS TO THE EXPLANATORY MEMORANDA CONTAINED WITHIN THE BILL FOR THE DETAIL OF THE MINOR CHANGES.

PROPOSED CHANGES TO THE FIRST STATE SUPERANNUATION ACT 1992 WILL ENABLE OPTIONAL MEMBERS OF THAT SCHEME TO APPLY FOR ADDITIONAL DEATH AND INVALIDITY COVER. CURRENTLY THIS IS AVAILABLE ONLY TO MEMBERS WHO ARE HAVING THEIR COMMONWEALTH SUPERANNUATION

GUARANTEE AMOUNTS PROVIDED THROUGH THE SCHEME. PROVIDED THAT APPROPRIATE MEDICAL SCREENING IS APPLIED TO PREVENT ADVERSE SELECTION AGAINST THE FUND, THERE IS NO REASON TO EXCLUDE OPTIONAL MEMBERS FROM THIS BENEFIT. THESE AMENDMENTS HAVE BEEN INCLUDED AT THE REQUEST OF THE LABOR COUNCIL OF NEW SOUTH WALES.

ALSO IN THE FIRST STATE SUPERANNUATION SCHEME, THE RIGHTS OF CERTAIN GROUPS OF MEMBERS TRANSFERRED FOLLOWING THE CLOSURE OF THE BASIC BENEFIT SCHEME FROM 1 JULY 1992 WILL BE CLARIFIED TO ENSURE THESE MEMBERS RECEIVE THEIR FULL ACCRUED ENTITLEMENT.

FINALLY, CERTAIN PROVISIONS IN THE ACT WHICH PROVIDE FOR VARYING INVESTMENT OPTIONS BY MEMBERS WILL BE REFRAMED TO ENSURE THAT SUCH INVESTMENT VEHICLES ARE NOT TREATED AS SEPARATE FUNDS FOR TAX OR OTHER REGULATORY PURPOSES. AT ALL TIMES IT HAS BEEN THE INTENTION OF THE GOVERNMENT THAT THE FIRST STATE SUPERANNUATION FUND BE TREATED AS ONE TRUST FUND AND THE PROPOSED AMENDMENTS WILL CLARIFY THIS.

CHANGES TO THE STATE AUTHORITIES SUPERANNUATION ACT 1987 WILL REMOVE RESTRICTIONS ON MAXIMUM BENEFIT ACCRUAL FOR PART-TIME EMPLOYEES. THE CURRENT RESTRICTIONS WERE BASED ON A STANDARD FULL-TIME EMPLOYEE'S MAXIMUM ACCRUAL, AND DO NOT ALLOW FOR THE

GREATER NUMBER OF HOURS WHICH PERSONS WITH MORE THAN ONE PART-TIME POSITION, OR THOSE HOLDING A FULL-TIME AND PART-TIME POSITION, CAN WORK. THE NEW ARRANGEMENTS WILL THEREFORE ALLOW FOR BENEFITS THAT ACCURATELY REFLECT CHANGING WORK PRACTICES.

CHANGES TO THE PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971 WILL CLARIFY PROVISIONS INSERTED INTO THE ACT IN 1989 CONCERNING THE COMMUTATION OF BENEFITS.

A NUMBER OF AMENDMENTS ARE PROPOSED TO THE POLICE (REGULATION) SUPERANNUATION ACT 1906. THIS SCHEME WAS CLOSED TO NEW MEMBERS FROM 1 APRIL 1988 AND COVERS POLICE OFFICERS WHO JOINED THE SERVICE PRIOR TO THAT DATE.

AMENDMENTS PROPOSED WILL RESOLVE COMPLEXITIES IN THE ADMINISTRATION OF THE HURT ON DUTY BENEFIT PROVISIONS WITHIN THE SCHEME.

PAYMENT OF CERTAIN STUDENT BENEFITS WITHIN THE SCHEME WILL BE ALIGNED WITH SIMILAR WORKERS COMPENSATION PAYMENTS WHICH THE SUPERANNUATION SCHEME PROVISIONS ARE INTENDED TO RECIPROCATATE.

AMENDMENTS MADE TO THE ACT IN 1990, CONSEQUENT ON THE ESTABLISHMENT OF THE POLICE SERVICE, WILL BE CLARIFIED. THIS WILL

ENSURE THAT CURRENT MEMBERS OF THE POLICE SUPERANNUATION SCHEME WHO TRANSFER TO AN ADMINISTRATIVE POSITION WITHIN THE SERVICE ARE ABLE TO RETAIN THEIR MEMBERSHIP AND ENTITLEMENTS UNDER THE POLICE SCHEME.

LASTLY IN REGARD TO THE POLICE SCHEME, AMENDMENTS TO THE PRESERVED BENEFIT PROVISIONS WILL EXTEND THE OPTION TO PRESERVE TO MEMBERS WHO ARE ABOVE THE EARLY RETIREMENT AGE. ORIGINALLY, ALL NSW PUBLIC SECTOR SCHEMES PROVIDED THIS OPTION ONLY PRIOR TO THE EARLY RETIREMENT AGE. THIS WAS APPROPRIATE BECAUSE THE BENEFIT STRUCTURE ELIMINATED ANY INCENTIVE TO PRESERVE AFTER THE TIME WHEN A PERSON WOULD BE ENTITLED TO A NORMAL OR EARLY RETIREMENT BENEFIT ANYWAY. WITH CHANGES TO THE COMMONWEALTH REGULATORY REQUIREMENTS IN RECENT YEARS, THE POSSIBILITY OF PERSONS LEAVING A FULLY VESTED BENEFIT WITHIN THE SCHEMES HAS BECOME NOT ONLY A VIABLE ALTERNATIVE BUT A POSITIVE REQUIREMENT IN SOME INSTANCES. CHANGES SIMILAR TO THOSE MADE TO THE STATE AUTHORITIES SUPERANNUATION SCHEME AND THE STATE SUPERANNUATION FUND IN THE PREVIOUS PARLIAMENTARY SESSION, ARE THEREFORE ALSO PROPOSED HERE FOR THE POLICE SUPERANNUATION SCHEME.

THE REMAINING AMENDMENTS CONTAINED IN THE BILL WILL CLARIFY AND ADJUST EXISTING SCHEME PROVISIONS.

THESE INCLUDE :

- AMENDMENTS TO THE PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT 1989 TO RATIONALISE THE ADMINISTRATION OF ACCESS TO THE SCHEME AND, IN ACCORDANCE WITH COMMONWEALTH STANDARDS ENABLE TRANSFERRED PRESERVED BENEFITS TO BE USED TO PURCHASE A DEFERRED ANNUITY;
- AMENDMENTS TO THE SUPERANNUATION ADMINISTRATION ACT 1991 TO REFLECT THE STAMP DUTY EXEMPTION APPLYING TO THE STATE AUTHORITIES SUPERANNUATION BOARD; AND
- AMENDMENTS TO THE SUPERANNUATION ACT 1916 TO REMOVE AMBIGUITY IN THE PROVISIONS DEALING WITH THE INTERIM PAYMENT OF A PRESERVED BENEFIT.

MR PRESIDENT, THE BULK OF THE CHANGES CONTAINED IN THIS BILL ARE TO ADDRESS ADMINISTRATIVE COMPLEXITIES IDENTIFIED BY THE STATE AUTHORITIES SUPERANNUATION BOARD. THE PROCEDURAL CHANGES PROPOSED WILL RESULT IN LITTLE COST TO THE GOVERNMENT OR SCHEME EMPLOYERS, INDEED THE REMOVAL OF MANY COMPLEXITIES IN THE PAYMENT AND DETERMINATION OF BENEFITS IS LIKELY TO RESULT IN SAVINGS IN SCHEME ADMINISTRATION.

COSTS WILL ARISE IN RESPECT OF THE CHANGES TO THE SPOUSE AND CHILDREN'S BENEFITS IN THE STATE SUPERANNUATION FUND. COSTS ARISING FROM THE REMOVAL OF THE DE FACTO SPOUSE CRITERIA AND THE DEPENDENCY TEST ARE DIFFICULT TO ESTIMATE AS NO RECORDS AS TO THE NATURE OF DE FACTO RELATIONSHIPS AMONGST STATE SUPERANNUATION FUND MEMBERS ARE AVAILABLE. A CONSERVATIVE ESTIMATE OF AN ADDITIONAL 25 SPOUSE BENEFITS PER YEAR WILL LEAD TO A MAXIMUM COST OF APPROXIMATELY \$400,000 PER ANNUM. REMOVAL OF THE WIDOWER DEPENDENCY PROVISIONS IN THE STATE SUPERANNUATION FUND AND CLOSED LOCAL GOVERNMENT SCHEMES MAY LEAD TO AN ADDITIONAL 1 TO 2 PENSIONS PER YEAR, AT A COST OF APPROXIMATELY \$15,000 PER ANNUM.

EXPERIENCE OF THE STATE AUTHORITIES SUPERANNUATION BOARD INDICATES THAT THE CHANGE TO THE CHILD BENEFIT PROVISIONS IN THE SSF WILL LEAD TO A MAXIMUM 2-3 ADDITIONAL PENSIONS OVER THE NEXT 5 YEARS. THIS WILL AMOUNT TO A MAXIMUM COST OF APPROXIMATELY \$6,000 PER ANNUM.

MR PRESIDENT, THIS BILL WILL MAKE IMPORTANT CHANGES TO ENSURE CONFORMITY WITH COMMONWEALTH REGULATORY REQUIREMENTS AND TO IMPROVE THE ADMINISTRATION OF THE NSW PUBLIC SECTOR SCHEMES.

I COMMEND THE BILL TO THE HOUSE.

SUPERANNUATION LEGISLATION (FURTHER AMENDMENT) ACT 1993 No. 111

NEW SOUTH WALES



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**SUPERANNUATION LEGISLATION (FURTHER
AMENDMENT) ACT 1993 No. 111**

NEW SOUTH WALES



Act No. 111, 1993

An Act to amend various public sector superannuation Acts in relation to contributions by employers, payments where beneficiaries are missing, payments of benefits to spouses and children; and for other purposes.
[Assented to 3 December 1993]

Superannuation Legislation (Further Amendment) Act 1993 No. 111

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Superannuation Legislation (Further Amendment) Act 1993.

Commencement

2. A provision of a Schedule to this Act commences, or is taken to have commenced, as provided in the Schedule. The other provisions of this Act commence on the date of assent.

Amendment of Acts

3. The Acts specified in Schedules 1-7 are amended as set out in those Schedules.

Explanatory notes and notes

4. Matter appearing under the heading "Explanatory note" or "Note" in the Schedules does not form part of this Act.

**SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100**

(Sec. 3)

AMENDMENTS

- (1) Section 22 (**Members eligible to apply for additional death or invalidity cover**):

In section 22 (1) and (2), after "full member" wherever occurring, insert "or an optional member".

- (2) Section 24 (**Board may request medical examinations**):

From section 24 (1), omit "full".

- (3) Section 26 (**Premiums payable for additional death or invalidity cover**):

From section 26 (1), omit "full".

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued*

- (4) Section 27 (**When additional death or invalidity cover ceases**):
 - (a) From section 27 (1), omit “full” where firstly occurring.
 - (b) In section 27 (1), after “member” where lastly occurring, insert “or an optional member”.
 - (c) In section 27 (2), after “member” where firstly occurring, insert “or an optional member”.
- (5) Section 28 (**Board may revoke additional death or invalidity cover**):

In section 28 (1) and (3), after “member” wherever occurring, insert “or former member”.
- (6) Section 29 (**Effect of revocation of an approval**):

After “member” wherever occurring, insert “or former member”.
- (7) Section 30 (**Rules as to applications**):

Omit “a member’s”.
- (8) Section 33 (**Amount of additional death or invalidity benefit**):

From section 33 (1), omit “full”.
- (9) Section 37 (**When is a death or invalidity benefit payable under this Act?**):
 - (a) In section 37 (2), after “full member”, insert “or an optional member”.
 - (b) Omit section 37 (3), insert instead:
 - (3) The basic death or invalidity benefit is not payable to or in respect of an optional member.
- (10) Section 46 (**Payment where beneficiary incapable**):

In section 46 (1), before “dependent”, insert “wholly or partly”.
- (11) Section 46A:

After section 46, insert:

Payment where beneficiary is missing

46A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued*

pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

(12) Section 56 (**Other accounts and reserves and asset portfolios**):

Omit section 56 (2) and (3), insert instead:

(2) Without limiting subsection (1), the Board may establish separate asset portfolios, comprising assets of the Fund allocated by the Board, for the purposes of the investment of the Fund.

(3) A member may elect to have the member's account treated, for the purpose only of allocating Fund earnings, as being invested as part of one or more particular asset portfolios nominated by the Board to the member. The member may elect to vary or revoke any such election.

(4) The Board may determine that a member's account is to be treated, for the purpose only of allocating Fund earnings, as being invested as part of one or more particular asset portfolios if the member does not make an election or revokes an election without making another election.

(5) The Board may treat an account (other than a member's account) or a reserve, for the purpose only of allocating Fund earnings, as being invested as part of one or more particular asset portfolios.

(6) The Board is to determine, for the purpose only of allocating Fund earnings, the parts of an account or a reserve to be treated as being invested in a particular asset portfolio or portfolios.

(13) Section 57 (**Adjustment of accounts and reserves for interest**):

(a) In section 57 (1), after "rate", insert "or rates".

(b) In section 57 (1), after "Fund", insert "and the earnings, as determined by the Board, of any asset portfolio or portfolios in which the accounts or reserves or parts of them are treated as being invested".

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued*

(c) Omit section 57 (3), insert instead:

(3) In adjusting accounts or reserves under this section, the Board may fix different rates for accounts or reserves, or parts of accounts or reserves, that are treated as being invested in different asset portfolios.

(4) For the purpose of adjusting accounts and reserves, the Board may allocate any income of the Fund, or any losses, as being attributable to a particular asset portfolio or portfolios, as it thinks fit.

(14) Section 58 (**Accounts and reserves generally**):

Omit “fund,” wherever occurring.

(15) Schedule 3 (**Savings, transitional and other provisions**):

(a) Clause 1 (**Regulations**):

At the end of clause 1 (1), insert:

Superannuation Legislation (Further Amendment) Act 1993

(b) Clause 2 (**Application of Scheme to certain employees from 1 July 1992**):

At the end of clause 2, insert:

(2) Regulations may be made for or with respect to the adjustment of the contributions on behalf of any such member or any person formerly such a member in respect of the period from 1 July 1992 to 8 December 1992 for the purpose of complying with applicable Commonwealth occupational superannuation standards.

(3) A provision of a regulation made under subclause (2) may, if the regulation so provides, take effect from 1 July 1992 or a later day.

(4) To the extent to which any such provision 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 or an employer), the rights of that person existing before the date of its publication; or

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued***

- (b) to impose liabilities on any person (other than the State or an authority of the State or an employer) in respect of anything done or omitted to be done before the date of its publication.

COMMENCEMENT

Items (1)–(9) commence on 1 January 1994.

Items (10), (11) and (15) commence on the date of assent to this Act.

Items (12)–(14) are taken to have commenced on 8 December 1992.

EXPLANATORY NOTE

Additional death or invalidity benefits

Currently, a member who uses the First State Superannuation Scheme to top up superannuation benefits (an “optional member”) is not entitled to contribute for, or receive, a death or invalidity benefit of an additional kind. Items (1) and (9) enable an optional member to do so. Items (2)–(4) and (8) make consequential amendments.

Item (5) extends to former members the Board’s power to revoke an approval for a member to be covered for an additional death or invalidity benefit. Item (6) provides for the effect of revocation to be the same as it is for members. Item (7) makes a consequential amendment.

Payment of benefit when person missing

Item (11) inserts new section 46A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (10) makes a consequential amendment.

Asset portfolios

Members’ accounts may presently be treated as being part of particular investment funds. Item (12) will enable members to elect to have their accounts treated, for the purpose only of allocating Fund income, as being invested in particular asset portfolios. The Board will also be able to treat reserves in the Fund as being invested in particular asset portfolios for that purpose and will be able to adjust accounts and reserves differently having regard to the income or losses of different asset portfolios in which they are treated as being invested (items (12) and (13)). The Board will determine the portions of accounts and reserves that are to be treated as being invested in particular portfolios and allocate the Fund earnings accordingly.

Item (14) makes a consequential amendment.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 1—AMENDMENT OF FIRST STATE
SUPERANNUATION ACT 1992 No. 100—*continued***

Adjustment of benefits and contributions for members transferred from closed non-contributory scheme

On the commencement of the First State Superannuation Scheme certain members under the State Authorities Non-contributory Superannuation Scheme were transferred to the new scheme as from 1 July 1992. Item (15) enables regulations to be made, having effect retrospectively, to adjust the contributions made on behalf of those members for the period from 1 July 1992 to 8 December 1992 (the date of assent to the First State Superannuation Act 1992), if it is necessary to do so for the purpose of any applicable Commonwealth occupational superannuation standard.

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28**

(Sec. 3)

AMENDMENTS

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

- (a) From section 1 (2), omit the definition of “executive officer”, insert instead:

“**executive officer**” means a member of the Police Service who is:

- (a) a police executive officer; or
- (b) a member of the police force who is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975; or
- (c) a chief executive officer within the meaning of the Public Sector Executives Superannuation Act 1989; or
- (d) a senior executive officer within the meaning of the Public Sector Executives Superannuation Act 1989;

- (b) From section 1 (2), omit the definition of “member of the police force”, insert instead:

“**member of the police force**” means a police officer within the meaning of the Police Service Act 1990 or a member of the Police Service who was a contributor immediately before being transferred to an administrative office under section 67 of that Act;

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

- (c) From section 1 (2), omit the definition of “spouse”, insert instead:

“**spouse**” of a member or former member of the police force, who has died, means:

- (a) the widow or widower, as the case may be, of the member or former member; or
- (b) if the member or former member was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or
- (c) if the member or former member was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living;

(2) Section 1AA (**Salary of office: executive officers**):

- (a) From section 1AA (10) (a), omit “chief executive officer, senior executive officer”, insert instead “chief executive officer or senior executive officer, within the meaning of the Public Sector Management Act 1988,”.
- (b) Omit section 1AA (10) (b) and (c), insert instead:
 - (b) if the officer is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or
 - (c) if the officer is an employee of an employer listed in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer.

(3) Section 5A (**Leave without pay**):

- (a) Omit section 5A (3) and (4), insert instead:
 - (3) A member of the police force who takes special leave without pay must, in accordance with directions given by the

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

Board, pay to the Board for credit to the Fund the amounts that would have been deducted from the salary of office of the member in accordance with section 5 if the member had continued, while on leave, to receive salary of office at the rate payable to the member immediately before the commencement of the period of leave.

(3A) However, a contributor who takes a single period of special leave without pay that is sick leave, maternity leave or leave in respect of the adoption of a child is not liable to make payments to the Board in respect of any part of the period of special leave occurring more than 2 years after the period of special leave commences.

(4) Any part of a single period of leave without pay taken by a member of the police force for which amounts are not payable under subsection (2) or (3A) is not a period of service for the purposes of this Act.

(b) From section 5A (5) and (6), omit “subsection (2) or (4)” wherever occurring, insert instead “this section”.

(4) Section 5AB:

After section 5A, insert:

Acceptance of contributions

5AB. (1) Despite any other provision of this Act, amounts are not to be deducted from the salary of office of a contributor during any period specified by the Board for which the Board determines that it must not accept contributions from the contributor.

(2) The Board may make such a determination only if it is of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard.

(3) Any period for which contributions are not payable under this section is not a period of service for the purposes of this Act.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

(5) Section 8A (**Disengagement benefit for members aged between 50–55**):

Omit section 8A (3), insert instead:

(3) A disengagement benefit under this section is payable as follows:

- (a) the portion of the benefit that is equal to the amount of the employer-financed benefit that would be payable under section 15 is payable from the Fund;
- (b) the portion of the benefit that is equal to the amount that would be payable if the member had resigned and was paid a benefit under section 17 is payable from the Fund;
- (c) the remainder of the benefit is payable by the Commissioner of Police and is not payable from the Fund.

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

- (a) In section 9B (1), before “payment”, insert “superannuation allowance under section 7 (Superannuation allowance except where member hurt on duty) or section 7AA (Superannuation allowance on early retirement) or a”.
- (b) In section 9B (2), before “payment”, insert “benefit under section 7 or 7AA or any”.
- (c) From section 9B (3), (5) and (6A), omit “or (6AA)” wherever occurring, insert instead “, (6AA), (6AB) or (6AC)”.
- (d) In section 9B (4), after “subsection (6)”, insert “, (6AA), (6AB) or (6AC)”.
- (e) After section 9B (6AA), insert:

(6AB) Subject to subsection (6A), the benefit provided by this subsection is payable to a former contributor who was entitled to a superannuation allowance under section 7 and who elected to make provision for a benefit under this section. The benefit is the lump sum benefit that would be payable if the former contributor had elected to commute the allowance under section 14J, and is to be adjusted from time to time at the rate fixed by the Board under section 16 (1) of the State Authorities Superannuation Act 1987.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

(6AC) Subject to subsection (6A), the benefit provided by this subsection is payable to a former contributor who was entitled to a superannuation allowance under section 7AA and who elected to make provision for a benefit under this section. The benefit is the lump sum benefit that would be payable if the former contributor had elected to commute the allowance under section 14J, and is to be adjusted from time to time at the rate fixed by the Board under section 16 (1) of the State Authorities Superannuation Act 1987.

(7) Section 10B (**Medical examination of disabled member and determination of whether hurt on duty**):

In section 10B (3) (a), after “be”, insert “, and the date or dates on which the member or former member was hurt on duty”.

(8) Section 12A (**Allowance in respect of certain children**):

(a) From section 12A (3), omit “subsection (4)”, insert instead “subsections (4) and (4A)”.

(b) From section 12A (4), omit “but an allowance continued or commenced under this subsection ceases, unless sooner discontinued, to be payable if the child ceases to be a student or sooner dies”.

(c) After section 12A (4), insert:

(4A) An allowance continued or commenced under subsection (4) is not payable in respect of any period after the child:

(a) dies; or

(b) ceases to be a student; or

(c) reaches 21 years.

(9) Section 14G (**Certain increases under section 7A or 10**):

After “7A”, insert “or 10”.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

(10) Section 17A:

After section 17, insert:

Competing claims for spouses' benefits

17A. (1) This section applies to a superannuation allowance or gratuity under this Act which is payable to the spouse of a member or former member of the police force who has died.

(2) If a superannuation allowance or gratuity would be payable to more than one person because a member or former member of the police force, who has died, has left more than one spouse then, despite any other provision of this Act:

(a) the allowance or gratuity is payable in accordance with a determination made by the Board, and not otherwise; and

(b) the total amount of allowance or gratuity payable to those persons at any time is not to exceed the amount of allowance or gratuity that would be payable if there were only one spouse.

(3) For the purposes of subsection (2) (a), the Board may determine in relation to a superannuation allowance or gratuity:

(a) that the allowance or gratuity is not payable to such of the persons concerned as it specifies; or

(b) that the amount of the allowance or gratuity is to be apportioned between the persons concerned in such manner as it specifies.

(4) The Board may withhold the payment of the whole or any part of a superannuation allowance or gratuity or, if any such allowance is commuted, withhold the payment of any part of the amount commuted:

(a) until 30 days after the death of the member or former member in respect of which the allowance or gratuity is payable; or

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued*

(b) if an application has been made for the allowance or gratuity by more than one person, until it is satisfied that only one of those persons is entitled to the allowance or gratuity or until a determination is made in relation to the matter by the Board under this section.

(5) If, after 30 days from the death of a member or former member, a superannuation allowance or gratuity is paid in respect of any period to a spouse of the member or former member, a superannuation allowance or gratuity is not payable to any other spouse of the member or former member in respect of that period.

(6) If, after 30 days from the death of a member or former member, the whole or part of a superannuation allowance is commuted by a spouse of the member or former member:

(a) a superannuation allowance is not payable to any other spouse of the member or former member if the whole of the allowance is commuted; or

(b) so much of a superannuation allowance as is equal to the amount of the allowance so commuted is not payable to any other spouse of the member or former member if part of the allowance is commuted.

(7) For the purposes of subsections (5) and (6), an amount paid in good faith by the Board to a person purporting to be the spouse of a member or former member is taken to have been paid to the spouse of the member or former member.

(8) If, after 30 days from the death of a member or former member, any amount is paid under this Act to the member's personal representatives or to such other persons as the Board may determine, any superannuation allowance or gratuity which is payable to the spouse of the member or former member is to be reduced by the amount so paid.

(11) Section 18A (**Payment to person other than beneficiary**):

In section 18A (1), after "beneficiary" where secondly occurring, insert "or a person wholly or partly dependent on the beneficiary".

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

(12) Section 23A:

Omit the section, insert instead:

Information that must be disclosed to contributors

23A. The Board must from time to time give to a contributor or other person such information relating to the Fund as the Board is required to give the contributor or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

(13) Section 23B (**Actuarial investigation**):

From section 23B (1), omit "31 March 1991", insert instead "30 June 1994".

(14) Section 25:

After section 24, insert:

Savings and transitional provisions

25. Schedule 6 has effect.

(15) Schedule 6:

After Schedule 5, insert:

**SCHEDULE 6—SAVINGS AND TRANSITIONAL
PROVISIONS**

(Sec. 25)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

- (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—Superannuation Legislation (Further
Amendment) Act 1993**

Leave without pay

2. Section 5A, as amended by the Superannuation Legislation (Further Amendment) Act 1993, applies to a period of leave without pay commenced before 1 January 1994 and not completed immediately before that date.

Disengagement benefits

3. Section 8A, as amended by the Superannuation Legislation (Further Amendment) Act 1993, does not apply to a person offered a disengagement benefit before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993.

Children's allowances

4. An allowance being paid or continued or commenced under section 12A, as in force before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993, is not payable in respect of any period after the child reaches 18 years or 25 years (if the allowance is continued or commenced under section 12A (4)) or dies or ceases to be a student.

Indexation of pension increases

5. Section 14G, as amended by the Superannuation Legislation (Further Amendment) Act 1993, is taken to have applied to any increase in a superannuation allowance under section 10 occurring after the commencement of Division 2 of Part 4.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

Spouses' benefits

6. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a member or former member of the police force occurring before 1 January 1994.

COMMENCEMENT

Item (1) (b) is taken to have commenced on 1 July 1990.

Items (1) (c), (3), (4), (6), (10), (12) and (13) commence on 1 January 1994.

Items (1) (a), (2), (5), (7)–(9), (11), (14) and (15) commence on the date of assent to this Act.

EXPLANATORY NOTE

Executive officers

Items (1) (a) and (2) amend definitions and references to executive officers as a consequence of the reorganisation of employer and employee definitions in the Public Sector Executives Superannuation Act 1989 by Schedule 3 to this Act.

Member of police force

Item (1) (b) includes as a member of the police force for the purposes of the Act a former member transferred to an administrative office in the police service who was a contributor immediately before the transfer. This confirms the position of those contributors before the commencement of the Police Service Act 1990 and is consequential on the enactment of that Act.

Definition of spouse

Item (1) (c) substitutes the definition of spouse to enable a de facto partner living with a member or former member at the time of his or her death to be considered as a spouse even though the member may have been survived by a widow or widower. Power is given to the State Authorities Superannuation Board to settle, in its discretion, competing claims where the amendments result in more than one spouse of a deceased member or former member being entitled to a benefit (new section 17A, item (10)).

Contributions while on leave without pay

Currently contributors who are on special leave without pay (this includes maternity leave, adoption leave and sick leave) must pay contributions for the period of the leave. However, under the Commonwealth occupational superannuation standards superannuation funds are required not to accept contributions from persons who have not been employed for 2 years. The amendment to section 5A (item (3)) limits the period for which contributions must be paid by a person who is on maternity leave, adoption leave or sick leave to 2 years so as to comply with the standards.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Police Superannuation Fund to comply with those standards, a new section 5AB is inserted to prohibit contributions from being deducted from the salary of office of a contributor for a specified period if the Board determines it is necessary for the purpose of compliance (item (4)). Any such period will not count as a period of service for the purpose of calculating benefits under the Act.

Payment of disengagement benefits

Currently the Commissioner of Police may offer an officer who is aged between 50 and 55 a disengagement benefit for retirement from the police service. This disengagement benefit is not payable from the Fund but is payable by the employer. Item (5) makes that portion of the disengagement benefit equivalent to the employee contributions and the employer-financed benefit required by superannuation guarantee legislation payable from the Fund rather than by the Commissioner. This reflects the vesting of employee contributions and that part of the benefit in the contributor.

Preservation of benefits

Item (6) provides for the preservation of a benefit in the Fund by a former member entitled to a superannuation allowance on retirement or an early retirement superannuation allowance. The benefit in each case will be payable in the same circumstances as other benefits preserved and will consist of a lump sum adjusted by the Board.

Hurt on duty allowances

Item (7) requires the Commissioner of Police to specify a date or dates when a police officer or former police officer was hurt on duty when certifying, for the purpose of qualifying the officer or former officer for the "hurt on duty" superannuation allowance, that the officer or former officer was hurt on duty.

Item (9) allows for the indexation of superannuation allowances granted to those hurt on duty. Currently similar provisions apply to other benefits under the Act.

Ages for child allowances

The Act provides for the payment of allowances to children of deceased members. The allowances cease once a child is 18 but can continue for students. Item (8) sets the maximum age at which a student can receive an allowance at 21 years. The new limit will not apply to students presently receiving allowances (see item (15)) and is consistent with workers compensation legislation.

Payment to person other than beneficiary

Item (11) enables the Board to pay a superannuation allowance or gratuity to a person to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit, if the Board is of the opinion that it should be paid to a person other than the beneficiary.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 2—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906 No. 28—*continued***

Information for contributors

Item (12) replaces the provisions relating to the provision of information to contributors by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former contributors.

Change of financial year of Board

The Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (13) amends a provision dealing with actuarial investigations to reflect those changes.

Savings and transitional provisions

Item (15) enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to leave without pay, disengagement benefits and other matters. Item (14) inserts new section 25 which gives effect to the Schedule of savings and transitional provisions.

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106**

(Sec. 3)

AMENDMENTS

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

- (a) From section 3 (1), omit the definition of “chief executive officer”, insert instead:

“**chief executive officer**” means:

- (a) a chief executive officer within the meaning of the Public Sector Management Act 1988; or
- (b) an employee of an employer specified in Schedule 1, being an employee who holds an office designated by the Director-General of the Premier’s Department as the office of a chief executive officer;

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

“**deferred annuity**” means a deferred annuity to which regulation 11 of the Occupational Superannuation Standards Regulations of the Commonwealth applies;

- (c) In section 3 (1), from paragraph (c) of the definition of “employee”, omit “section; or”, insert instead “section;”.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued*

- (d) From section 3 (1), omit paragraph (d) of the definition of “employee”.
- (e) From section 3 (1), omit the definition of “employer”, insert instead:

“**employer**” means:

- (a) the employer of an employee who is a chief executive officer or a senior executive officer within the meaning of the Public Sector Management Act 1988; or
- (b) the employer of an employee who is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975; or
- (c) an authority specified in Schedule 1;
- (f) From section 3 (1), omit the definition of “senior executive officer”, insert instead:

“**senior executive officer**” means:

- (a) a senior executive officer within the meaning of the Public Sector Management Act 1988; or
- (b) an employee of an authority specified in Schedule 1, being an employee who holds an office designated by the Director-General of the Premier’s Department as the office of a senior executive officer;

(2) Section 32:

Omit the section, insert instead:

Information that 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 the information relating to the Fund that is required to be given to the member for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued*

(2) The Board must from time to time give to a member or other person such information relating to the Fund as the Board is required to give the member or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

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

From section 37 (3), omit “annual”.

- (4) Section 44A:

After section 44, insert:

Acceptance of contributions

44A. (1) Despite any other provision of this Act, an employer is not required to make a contribution to the Fund in respect of an employee, and an employee may not contribute to the Fund, during any period specified by the Board for which the Board determines that it must not accept contributions in respect of the employee.

(2) The Board may make such a determination only if it is of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard.

- (5) Section 51 (**Preserved benefit—employer-financed contributions**):

After section 51 (2) (c), insert:

; or

- (d) to request the Board to pay the benefit by purchasing a deferred annuity.

- (6) Section 58 (**Additional employers**):

(a) From section 58 (1) (a), omit “and the name of the position of an employee”.

(b) From section 58 (1) (c), omit “corporation; or”, insert instead “corporation.”.

(c) Omit section 58 (1) (d).

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued*

(7) Schedule 1:

Omit the Schedule, insert instead:

SCHEDULE 1—ADDITIONAL EMPLOYERS

(Sec. 3 (1))

Broken Hill Electricity
Central West Electricity
Council of the City of Maitland
Hunter Water Corporation Limited
Illawarra Electricity
Judicial Commission of New South Wales
Monaro Electricity
Murray River Electricity
Murrumbidgee Electricity
Namoi Valley Electricity
New England Electricity
New South Wales Treasury Corporation
North West Electricity
Northern Riverina Electricity
Northern Rivers Electricity
Ophir Electricity
Oxley Electricity
P-CCC Electricity
Pricing Tribunal
Prospect Electricity
Shortland Electricity
South West Slopes Electricity
Southern Mitchell Electricity
Southern Riverina Electricity
Southern Tablelands Electricity
Tumut River Electricity
Ulan Electricity
Western Power

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—*continued***

(8) Schedule 5 (Savings and transitional provisions):

At the end of clause 1 (1), insert:

Superannuation Legislation (Further Amendment) Act 1993

COMMENCEMENT

Items (1) (b), (2) and (4) commence on 1 January 1994.

Items (1) (a) and (c)–(f), (3) and (5)–(8) commence on the date of assent to this Act.

EXPLANATORY NOTE

Employees and employers

Items (1) (a) and (c)–(f), (6) and (7) reorganise the manner in which senior employees who are not employed in the public service are identified. Non-public service executive officers will be designated by the Director-General of the Premier's Department rather than being listed in Schedule 1 and Schedule 1 will now list only their employers.

Information for members

Item (2) replaces the provisions relating to the provision of information to members by the Public Sector Executives Superannuation Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former employees.

Elections to change contributions

Item (3) omits an outdated reference to annual elections as to contributions.

Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Board to comply with those standards, a new section 44A is inserted to prohibit contributions from being paid by employers and employees for a specified period if the Board determines it is necessary for the purpose of compliance (item (4)).

Deferred annuity

Items (1) (b) and (5) enable a member entitled to a benefit on early retirement to elect to purchase a deferred annuity, in addition to the other existing options available (preservation or rolling over into another scheme).

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 3—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989 No. 106—continued**

Savings and transitional provisions

Item (8) amends Schedule 5 to enable savings or transitional regulations to be made relating to the amendments made by this Act.

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212**

(Sec. 3)

AMENDMENTS

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

- (a) In section 3 (1), from the definition of “chief executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”.
- (b) 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;
- (c) In section 3 (1), from paragraph (d) of the definition of “executive officer”, omit “or”.
- (d) From section 3 (1), omit paragraph (e) of the definition of “executive officer”.
- (e) In section 3 (1), from the definition of “senior executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”.
- (f) From section 3 (1), omit the definition of “spouse”, insert instead:

“spouse” of a deceased employee or deceased former employee means:

 - (a) the widow or widower, as the case may be, of the employee or former employee; or
 - (b) if the employee or former employee was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living;
or

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

- (c) if the employee or former employee was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living;

(2) Section 4A (**Salary of executive officers**):

- (a) From section 4A (10) (a), omit “chief executive officer, a senior executive officer”, insert instead “chief executive officer or senior executive officer, within the meaning of the Public Sector Management Act 1988,”.
- (b) Omit section 4A (10) (b) and (c), insert instead:
 - (b) if the officer is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or
 - (c) if the officer is an employee of an employer listed in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer.

(3) Section 10 (**Reserves for employers**):

After section 10 (5), insert:

- (6) The Board may, with the concurrence of the Treasurer and after obtaining actuarial advice, adjust the amount credited to an employer reserve by crediting or debiting an amount, if it appears to the Board appropriate to do so because of a change in the constitution or nature of an employer.

(7) Subsection (6) does not apply to a change in the constitution or nature of an employer because of a Government privatisation initiative.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

(4) Section 10A:

After section 10, insert:

Additional payments by certain employers

10A. (1) If the amount credited to an employer's reserve maintained for an employer specified in Part 1 of Schedule 1 is insufficient to meet the amounts payable from the reserve in respect of the employer, the Board may require the employer to pay an amount into the fund that is equal to the deficiency.

(2) Any amount that is not paid by an employer within 14 days of written notice of the requirement to pay the amount being given by the Board to the employer is a debt owed to the Board and may be recovered by the Board accordingly.

(3) This section does not apply to a change in the constitution or nature of an employer because of a Government privatisation initiative.

(5) Section 13 (**Actuarial investigation**):

From section 13 (1), omit "31 March 1991", insert instead "30 June 1994".

(6) Section 15:

Omit the section, insert instead:

**Contributions by employer under Part 2 of Schedule 1
(Local government and other authorities)**

15. (1) If an employee is employed by an employer specified in Part 2 of Schedule 1, the employer must pay to a fund managed by the Board contributions at a rate determined by the Board.

(2) The rate is to be determined by the Board with the concurrence of the Treasurer and after obtaining actuarial advice.

(3) In determining the contributions payable by an employer specified in Part 2 of Schedule 1, the Board is to have regard to the amount required to meet the full costs of the liabilities under this Act of all employers specified in Part 2 of Schedule 1.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

(4) The Board may, with the concurrence of the Treasurer, require any such employer to pay into the fund additional contributions for a specified period if it appears to the Board that there is insufficient money in the reserve for employers specified in Part 2 of Schedule 1 to meet the employers' liabilities under this Act.

(7) Section 18A:

After section 18, insert:

Acceptance of contributions

18A. (1) Despite any other provision of this Act, an employer is not required to make a contribution to the fund in respect of an employee during any period specified by the Board for which the Board determines that it must not accept contributions in respect of the employee.

(2) The Board may make such a determination only if it is of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard.

(3) A period in respect of which contributions may not be made to the fund in respect of an employee under this section is not included as eligible service for the purposes of calculating the basic benefit.

(8) Section 19A:

After section 19, insert:

Variation of employer contributions

19A. (1) Despite any other provision of this Part, the Board may determine that the contributions payable by an employer specified in Part 1 of Schedule 1 in respect of an employee are to be determined, or are payable, on a basis other than that set out in this Part.

(2) The Board may make such a determination only with the concurrence of the Treasurer.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

(9) Section 23 (**Benefit immediately payable**):

In section 23 (1) (g), after “benefit”, insert “(including any interest paid by the Board)”.

(10) Section 24B:

After section 24A, insert:

Competing claims for spouses’ benefits

24B. (1) This section applies to a benefit which is payable to the spouse of a deceased employee or deceased former employee.

(2) If a benefit would be payable to more than one person because a deceased employee or deceased former employee has left more than one spouse, then, despite any other provision of this Act:

(a) the benefit is payable in accordance with a determination made by the Board, and not otherwise; and

(b) the total amount of benefit payable to those persons at any time is not to exceed the amount of benefit that would be payable if there were only one spouse.

(3) For the purposes of subsection (2) (a), the Board may determine in relation to a benefit:

(a) that the benefit is not payable to such of the persons concerned as it specifies; or

(b) that the amount of the benefit is to be apportioned between the persons concerned in such manner as it specifies.

(4) The Board may withhold the payment of any part of a benefit:

(a) until 30 days after the death of the employee or former employee in respect of which it is payable; or

(b) if an application has been made for the benefit by more than one person, until it is satisfied that only one of those persons is entitled to the benefit or until a determination is made in relation to the matter by the Board under this section.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
continued

(5) If, after 30 days from the death of an employee or former employee, the whole or part of a benefit is paid to a spouse of the deceased employee or deceased former employee:

- (a) a benefit is not payable to any other spouse of the deceased employee or deceased former employee if the whole of the benefit is paid; or
- (b) so much of a benefit as is equal to the amount of the benefit so paid is not payable to any other spouse of the deceased employee or deceased former employee if part of the benefit is paid.

(6) For the purposes of subsection (5), an amount paid in good faith by the Board to a person purporting to be the spouse of a deceased employee or deceased former employee is taken to have been paid to the spouse of the employee or former employee.

(7) If, after 30 days from the death of an employee or former employee, any amount is paid under this Act to the employee's personal representatives or to such other persons as the Board may determine, any benefit which is payable to the spouse of the employee or former employee is to be reduced by the amount so paid.

(11) Section 32A:

After section 32, insert:

Payment where beneficiary is missing

32A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

- (12) Section 33 (**Payment where beneficiary incapable**):
In section 33 (1), before “dependent”, insert “wholly or partly”.

- (13) Section 33A:
Omit the section, insert instead:

Information that must be disclosed to employees

33A. The Board must from time to time give to an employee or other person such information relating to the superannuation scheme established under this Act as the Board is required to give the employee or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

- (14) Section 35:
After section 34, insert:

Savings and transitional provisions

35. Schedule 5 has effect.

- (15) Schedule 5:
After Schedule 4, insert:

**SCHEDULE 5—SAVINGS AND TRANSITIONAL
PROVISIONS**

(Sec. 35)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

(3) To the extent to which any such provision 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—Superannuation Legislation (Further
Amendment) Act 1993**

Spouses' benefits

2. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993, do not entitle any spouse to benefits in respect of the death of an employee or former employee occurring before 1 January 1994.

COMMENCEMENT

Items (1) (f), (3)–(10) and (13) commence on 1 January 1994.

Items (1) (a)–(e), (2), (11), (12), (14) and (15) commence on the date of assent to this Act.

EXPLANATORY NOTE

Executive officers

Items (1) (a), (c)–(e) and (2) amend definitions and references to executive officers as a consequence of the reorganisation of employer and employee definitions in the Public Sector Executives Superannuation Act 1989 by Schedule 3 to this Act.

Definition of spouse

Item (1) (f) substitutes the definition of spouse to enable a de facto partner living with an employee or former employee at the time of his or her death to be considered as a spouse even though the employee or former employee may have been survived by a widow or widower. Power is given to the State Authorities Superannuation Board to settle, in its discretion, competing claims where the amendments result in more than one spouse of a deceased employee or former employee being entitled to a benefit (new section 24B, item (10)).

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

Employer reserves

Part 2 of the Act establishes employer reserves for the purposes of the Act.

Item (3) enables the Board, with the concurrence of the Treasurer, to adjust employer reserves if it is appropriate to do so because of a change in the constitution or nature of an employer.

Item (4) inserts new section 10A which enables the Board to require employers or former employers under Part 1 of Schedule 1 (The Crown and other employers) to pay amounts if employer reserves are insufficient to meet amounts payable. Any such outstanding amount is to be treated as a debt owed by the employer to the Board and may be recovered accordingly.

Change of financial year of Board

The Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (5) amends a provision dealing with actuarial investigations to reflect those changes.

Employer contributions

Employer contributions are specified in Part 3 of the Act.

Item (6) enables the Board, with the concurrence of the Treasurer, to specify the contribution rates for local government employers but only after obtaining actuarial advice. In determining the rate, the Board is to have regard to what is necessary to fully fund the obligations of all local government employers under the Act. For that purpose, the Board may require additional contributions.

The specified rate of contributions set out in the Part does not take account of other factors that might affect employers' contributions, such as differences in funding arrangements for different employees. Item (8) inserts new section 19A which enables the Board to vary contribution arrangements for an employer but only with the concurrence of the Treasurer.

Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Board to comply with those standards, a new section 18A is inserted to prohibit contributions from being paid by employers for a specified period if the Board determines it is necessary for the purpose of compliance (item (7)). Any such period is not included as service for the purpose of calculating benefits under the Act.

Preservation of benefits

Item (9) makes it clear that interest paid by the Board on a benefit is to be taken into account in determining whether the amount paid exceeds the threshold above which a benefit must be preserved.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 4—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 No. 212—
*continued***

Payment of benefit when person missing

Item (11) inserts new section 32A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (12) makes a consequential amendment.

Information for employees

Item (13) replaces the provisions relating to the provision of information to employees by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former employees.

Item (1) (b) makes a consequential amendment.

Savings and transitional provisions

Item (15) inserts new Schedule 5 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to benefits for spouses. Item (14) inserts new section 35 which gives effect to the Schedule of savings and transitional provisions.

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211**

(Sec. 3)

AMENDMENTS

(1) Section 3 (Definitions):

(a) In section 3 (1), from the definition of “chief executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”.

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

“**dismissal**” means the termination by an employer of the employment of a contributor with the employer, but does not include retrenchment or discharge or a retirement on the grounds of incapacity in circumstances which entitle the employee to a benefit;

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

“resign” means cease to be employed by an employer, but does not include:

- (a) retrenchment, discharge or dismissal; or
- (b) ceasing to be employed because of death; or
- (c) ceasing to be employed on the privatisation of an employer; or
- (d) ceasing to be employed on the grounds of incapacity in circumstances which entitle the employee to a benefit;

- (c) In section 3 (1), from paragraph (d) of the definition of “executive officer”, omit “or”.
- (d) From section 3 (1), omit paragraph (e) of the definition of “executive officer”.
- (e) In section 3 (1), from the definition of “senior executive officer”, omit “Public Sector Management Act 1988”, insert instead “Public Sector Executives Superannuation Act 1989”.
- (f) From section 3 (1), omit the definition of “spouse”, insert instead:

“spouse” of a deceased contributor or deceased former contributor means:

- (a) the widow or widower, as the case may be, of the contributor or former contributor; or
- (b) if the contributor or former contributor was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or
- (c) if the contributor or former contributor was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living;

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—continued**

(2) Section 4A (Salary of executive officers):

(a) From section 4A (10) (a), omit “chief executive officer, a senior executive officer”, insert instead “chief executive officer or senior executive officer, within the meaning of the Public Sector Management Act 1988,”.

(b) Omit section 4A (10) (b) and (c), insert instead:

(b) if the officer is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or

(c) if the officer is an employee of an employer listed in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer.

(3) Section 6 (Part-time employment with more than one employer):

Omit section 6 (2).

(4) Section 14 (Reserves for employers):

After section 14 (5), insert:

(6) The Board may, with the concurrence of the Treasurer and after obtaining actuarial advice, adjust the amount credited to an employer reserve by crediting or debiting an amount, if it appears to the Board appropriate to do so because of a change in the constitution or nature of an employer.

(7) Subsection (6) does not apply to a change in the constitution or nature of an employer because of a Government privatisation initiative.

(5) Section 14A:

After section 14, insert:

Additional payments by certain employers

14A. (1) If the amount credited to an employer's reserve maintained for an employer specified in Part 1 of Schedule 1 is insufficient to meet the amounts payable from the reserve

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SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

in respect of the employer, the Board may require the employer to pay an amount into the Fund that is equal to the deficiency.

(2) Any amount that is not paid by an employer within 14 days of written notice of the requirement to pay the amount being given by the Board to the employer is a debt owed to the Board and may be recovered by the Board accordingly.

(3) This section does not apply to a change in the constitution or nature of an employer because of a Government privatisation initiative.

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

From section 18 (1) (b), omit "31 March 1991", insert instead "30 June 1994".

(7) Section 25 (**Liability to contribute**):

From section 25 (1), omit "28 and 29", insert instead "28, 29 and 35A".

(8) Section 29 (**Contributions during leave without pay and other matters**):

(a) After section 29 (2), insert:

(2A) However, a contributor who takes a single period of prescribed leave that is sick leave or maternity leave is not liable to make contributions to the Fund in respect of any contribution periods during the period of leave occurring wholly or partly more than 2 years after the period of leave commences.

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

(3A) For the purposes of this Act, a contributor who is employed by an employer for less than 10 hours a week for a single period of more than 2 years is not liable to make contributions to the Fund in respect of any contribution periods occurring wholly or partly more than 2 years after the period commences and while the contributor is so employed for less than 10 hours a week.

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SUPERANNUATION ACT 1987 No. 211—*continued*

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

(a) In section 30A (5) (a), after “benefit” where secondly occurring, insert “(including any interest paid by the Board)”.

(b) In section 30A (5) (d), after “Scheme”, insert “, if the contributor is a member or is eligible to become a member of the Scheme”.

(10) Section 32:

Omit the section, insert instead:

**Contributions by employer under Part 2 of Schedule 1
(Local government and other authorities)**

32. (1) If a contributor is employed by an employer specified in Part 2 of Schedule 1, the employer must pay to the Fund contributions at a rate determined by the Board.

(2) The rate is to be determined by the Board with the concurrence of the Treasurer and after obtaining actuarial advice.

(3) In determining the contributions payable by an employer specified in Part 2 of Schedule 1, the Board is to have regard to the amount required to meet the full costs of the liabilities under this Act of all employers specified in Part 2 of Schedule 1.

(4) The Board may, with the concurrence of the Treasurer, require any such employer to pay into the Fund additional contributions for a specified period if it appears to the Board that there is insufficient money in the reserve for employers specified in Part 2 of Schedule 1 to meet the employers' liabilities under this Act.

(11) Section 34A:

After section 34, insert:

Variation of employer contributions

34A. (1) Despite any other provision of this Part, the Board may determine that the contributions payable by an employer specified in Part 1 of Schedule 1 in respect of a

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**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

contributor are to be determined, or are payable, on a basis other than that set out in this Part.

(2) The Board may only make such a determination with the concurrence of the Treasurer.

- (12) Section 35 (**Transfers of credits between employers of transferred contributors**):

Omit section 35 (3).

- (13) Section 35A:

After section 35, insert:

Acceptance of contributions

35A. (1) Despite any other provision of this Act, an employer is not required to make a contribution to the Fund in respect of an employee, and an employee may not contribute to the Fund, during any period specified by the Board for which the Board determines that it must not accept contributions in respect of the employee.

(2) The Board may only make such a determination if it is of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard.

(3) A contribution period in respect of which a contributor may not contribute to the Fund under this section is not an applicable contribution period in relation to the contributor.

- (14) Section 39 (**Benefit on total and permanent invalidity before early retirement age**):

In section 39 (1) (b), after “contributor is”, insert “, when the contributor ceases to be employed by the employer,”.

- (15) Section 40 (**Benefit on partial and permanent invalidity before early retirement age**):

In section 40 (1) (b), after “contributor is”, insert “, when the contributor ceases to be employed by the employer,”.

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SUPERANNUATION ACT 1987 No. 211—*continued*

(16) Section 42A (**Benefit on attaining 65**):

Omit section 42A (3), insert instead:

(3) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 16.

(17) Section 42AA (**Preservation of benefit on retrenchment before early retirement age**):

(a) From section 42AA (1), omit "and for whom the period commencing on entry date and ending on exit date is 3 years or more".

(b) From section 42AA (1) (b), omit "together with interest from the exit date to the date of payment".

(c) Omit section 42AA (3).

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

(a) In section 43 (1), after "benefit" where secondly occurring, insert ", including any interest paid by the Board,".

(b) In section 43 (1A), after "benefit" where lastly occurring, insert ", including any interest paid by the Board,".

(c) From section 43 (6), omit "together with interest thereon, from the exit date to the date of payment, at a rate determined by the Board", insert instead "as adjusted under subsection (7B)".

(d) Omit section 43 (7), insert instead:

(7) The benefit provided by this subsection is an amount equal to the amount of the benefit under section 41 or 42 that would have been payable to the contributor at the contributor's exit date if the contributor had not made the election under subsection (1), as adjusted under subsection (7B).

(e) After section 43 (7A), insert:

(7B) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 16.

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SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

(19) Section 43AAA (**Preservation of minimum benefits under superannuation guarantee legislation**):

From section 43AAA (2), omit “together with interest from the contributor’s exit date to the date of payment at a rate determined by the Board”, insert instead “and is to be adjusted, having regard to any adjustment of the contributor’s account under section 16”.

(20) Section 43AB:

After section 43A, insert:

Competing claims for spouses’ benefits

43AB. (1) This section applies to a benefit which is payable to the spouse of a deceased contributor or deceased former contributor.

(2) If a benefit would be payable to more than one person because a deceased contributor or deceased former contributor has left more than one spouse, then, despite any other provision of this Act:

(a) the benefit is payable in accordance with a determination made by the Board, and not otherwise; and

(b) the total amount of benefit payable to those persons at any time is not to exceed the amount of benefit that would be payable if there were only one spouse.

(3) For the purposes of subsection (2) (a), the Board may determine in relation to a benefit:

(a) that the benefit is not payable to such of the persons concerned as it specifies; or

(b) that the amount of the benefit is to be apportioned between the persons concerned in such manner as it specifies.

(4) The Board may withhold the payment of any part of a benefit:

(a) until after 30 days after the death of the contributor or former contributor in respect of which the benefit is payable; or

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SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued*

(b) if an application has been made for the benefit by more than one person, until it is satisfied that only one of those persons is entitled to the benefit or until a determination is made in relation to the matter by the Board under this section.

(5) If, after 30 days from the death of a contributor or former contributor, the whole or part of a benefit is paid to a spouse of the deceased contributor or deceased former contributor:

- (a) a benefit is not payable to any other spouse of the deceased contributor or deceased former contributor if the whole of the benefit is paid; or
- (b) so much of a benefit as is equal to the amount of the benefit so paid is not payable to any other spouse of the deceased contributor or deceased former contributor if part of the benefit is paid.

(6) For the purposes of subsection (5), an amount paid in good faith by the Board to a person purporting to be the spouse of a deceased contributor or deceased former contributor is taken to have been paid to the spouse of the contributor or former contributor.

(7) If, after 30 days from the death of a contributor or former contributor, any amount is paid under this Act to the contributor's personal representatives or to such other persons as the Board may determine, any benefit which is payable to the spouse of the contributor or former contributor is to be reduced by the amount so paid.

(21) Section 53A:

After section 53, insert:

Payment where beneficiary is missing

53A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

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SUPERANNUATION ACT 1987 No. 211—*continued***

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

(22) Section 54 (**Payment where beneficiary incapable**):

In section 54 (1), before “dependent”, insert “wholly or partly”.

(23) Section 54A:

Omit the section, insert instead:

Information that must be disclosed to contributors

54A. The Board must from time to time give to a contributor or other person such information relating to the Fund as the Board is required to give the contributor or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

(24) Section 56:

After section 55, insert:

Savings and transitional provisions

56. Schedule 6 has effect.

(25) Schedule 1 (**Employers**):

(a) From Part 1, omit:

The Director-General of New South Wales Fire
Brigades
New South Wales Meat Industry Authority
Forestry Commission of New South Wales
Public Trust Office
Royal Botanic Gardens and Domain Trust

(b) From Part 2, omit:

The employer of a servant, or class of servants,
specified in a proclamation published under section 2
(4) of the Local Government and Other Authorities
(Superannuation) Act 1927

A body or association of persons specified in a
proclamation published under section 2 (5) of the Local
Government and Other Authorities (Superannuation)
Act 1927

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**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

(26) Schedule 6:

After Schedule 5, insert:

**SCHEDULE 6—SAVINGS AND TRANSITIONAL
PROVISIONS**

(Sec. 56)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision 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—Superannuation Legislation (Further
Amendment) Act 1993**

Part-time employment

2. Section 6 (2), as in force before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993, applies to a contribution period commencing before that date but not completed on that commencement.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

Payment of contributions during leave without pay

3. Section 29, as amended by the Superannuation Legislation (Further Amendment) Act 1993, applies to a period of leave without pay commenced before 1 January 1994 and not completed immediately before that date.

Spouses' benefits

4. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a contributor or former contributor occurring before 1 January 1994.

COMMENCEMENT

Items (1) (a)–(e), (2), (3), (9) (b), (12), (14), (15), (21), (22) and (24)–(26) commence on the date of assent to this Act.

Items (1) (f), (4)–(9) (a), (10), (11), (13), (16)–(20) and (23) commence on 1 January 1994.

EXPLANATORY NOTE

Executive officers

Items (1) (a) and (c)–(e) and (2) amend definitions and references to executive officers as a consequence of the reorganisation of employer and employee definitions in the Public Sector Executives Superannuation Act 1989 by Schedule 3 to this Act.

Definitions

Item (1) (b) inserts new definitions of “dismissal” and “resign” to remove uncertainty as to the meanings of those terms in provisions for the payment of benefits.

Definition of spouse

Item (1) (f) substitutes the definition of spouse to enable a de facto partner living with a contributor or former contributor at the time of his or her death to be considered as a spouse even though the contributor or former contributor may have been survived by a widow or widower. Power is given to the State Authorities Superannuation Board to settle, in its discretion, competing claims where the amendments result in more than one spouse of a deceased contributor or former contributor being entitled to a benefit (new section 43AB, item (20)).

Benefit accrual of part-time employees

Item (3) removes the restriction on part-time employees with more than one part-time job from accruing more benefit points (used to calculate benefit entitlement) than full-time employees.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

Employer reserves

Part 2 of the Act establishes employer reserves within the State Authorities Superannuation Fund.

Item (4) enables the Board, with the concurrence of the Treasurer, to adjust employer reserves if it is appropriate to do so because of a change in the constitution or nature of an employer.

Item (5) inserts new section 14A which enables the Board to require employers or former employers under Part 1 of Schedule 1 (The Crown and other employers) to pay amounts into the Fund if employer reserves are insufficient to meet amounts payable from the Fund. Any such outstanding amount is to be treated as a debt owed by the employer to the Board and may be recovered accordingly.

Change of financial year of Board

The Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (6) amends a provision dealing with actuarial investigations to reflect those changes.

Contributions while on leave without pay or working minimum hours

Currently contributors who are on special leave without pay (this includes maternity leave and sick leave) must pay contributions for the period of the leave. However, under the Commonwealth occupational superannuation standards superannuation funds are required not to accept contributions from persons who have not been employed full-time or part-time for more than 2 years. The amendment to section 29 (item (8)) limits the period for which contributions must be paid by a person who is on maternity leave or sick leave to 2 years.

The amendments also provide that a person who has been employed for less than 10 hours a week for more than 2 years, and is therefore not employed part-time within the meaning of the Commonwealth standards, is not liable to make contributions.

Contributors who may join Public Sector Executives Superannuation Scheme

Item (9) (b) makes it clear that a contributor may only elect to have a preserved benefit paid into the Public Sector Executives Superannuation Scheme if the contributor is a member of or is eligible to join that Scheme.

Employer contributions

Employer contributions to the Fund are specified in Part 4 of the Act and are determined in relation to contributions paid by the contributor concerned.

Item (10) enables the Board, with the concurrence of the Treasurer, to specify the contribution rates for local government employers, but only after obtaining actuarial advice. In determining the rate, the Board is to have regard to what is necessary to fully fund the obligations of the local government employers under the Act. For that purpose, the Board may require additional contributions for a specified period.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

The specified rate of contributions set out in the Part does not take account of other factors that might affect employers' contributions, such as differences in funding arrangements for different employees. Item (11) inserts new section 34A which enables the Board, with the concurrence of the Treasurer, to vary contribution arrangements for an employer specified in Part 1 of Schedule 1 (The Crown and other employers).

Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Fund to comply with those standards, a new section 35A is inserted to prohibit contributions from being paid by employers and employees for a specified period if the Board determines it is necessary for the purpose of compliance (item (13)). Any such period is not included as service for the purpose of calculating benefits under the Act.

Item (7) makes a consequential amendment.

Incapacity benefits

Items (14) and (15) make it clear that a benefit for total or partial and permanent incapacity is payable to a former contributor only if the former contributor was unable to be employed because of incapacity when the former contributor ceased to be employed.

Adjustment of preserved benefits

Provisions for the payment of preserved benefits presently provide for the payment of interest on benefits for the period for which they have been preserved. Under section 45 of the Act, the Board has a general discretion to pay interest on any benefits under the Act. However, it may be that the payment of interest is not appropriate having regard to the earnings of the Fund. Under section 16 of the Act, the Board may adjust a contributor's account before payment from the Fund of a benefit. Items (16)–(19) amend the provisions relating to payment of benefits preserved in the Fund to make it clear that the Board is to adjust a benefit before payment, having regard to any adjustment of the contributor's account under section 16 to take into account the earnings of the Fund. The items also amend the benefit provisions to remove the mandatory requirement to pay interest on preserved benefits.

Items (9) (a) and (18) also makes it clear that interest paid by the Board on a benefit is to be taken into account in determining whether the amount paid exceeds the threshold above which a benefit must be preserved.

Payment of benefit when person missing

Item (21) inserts new section 53A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (22) makes a consequential amendment.

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**SCHEDULE 5—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987 No. 211—*continued***

Information for members

Item (23) replaces the provisions relating to the provision of information to contributors by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former contributors.

Employers

Item (25) updates the employers listed in Schedule 1 by removing references to employers covered elsewhere in the Schedule as a result of the amendment of the Schedule by orders made under the Act.

Savings and transitional provisions

Item (26) inserts new Schedule 6 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to contributions during leave without pay and other matters. Item (24) inserts new section 56 which gives effect to the Schedule of savings and transitional provisions.

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28**

(Sec. 3)

AMENDMENTS

(1) Section 3 (Definitions):

- (a) In section 3 (1), from the definition of "Abandoned unit", omit "he" wherever occurring, insert instead "the employee".
- (b) In section 3 (1), from paragraph (b) of the definition of "Abandoned unit", omit "his".
- (c) In section 3 (1), from paragraph (d) of the definition of "Abandoned unit", omit "him or his widow", insert instead "the employee or the employee's spouse".
- (d) In section 3 (1), from the definition of "Chief executive officer", omit "Public Sector Management Act 1988", insert instead "Public Sector Executives Superannuation Act 1989".
- (e) From section 3 (1), omit the definition of "Child" insert instead:

"Child" means a child who has not attained the age of 18 years and, without limiting the operation of the Children

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SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

(Equality of Status) Act 1976, includes an ex-nuptial or adopted child (whether or not the adoption took place in Australia).

- (f) In section 3 (1), from paragraph (d) of the definition of "Executive officer", omit "or".
- (g) From section 3 (1), omit paragraph (e) of the definition of "Executive officer".
- (h) In section 3 (1), from the definition of "Senior executive officer", omit "Public Sector Management Act 1988", insert instead "Public Sector Executives Superannuation Act 1989".
- (i) In section 3 (1), insert in alphabetical order:
 - "De facto relationship"** is the relationship described in paragraph (b) or (c) of the definition of "spouse" between a contributor or pensioner and a de facto spouse.
 - "De facto spouse"** is a spouse referred to in paragraph (b) or (c) of the definition of "spouse".
 - "Spouse"** of a deceased contributor or deceased pensioner means:
 - (a) the widow or widower, as the case may be, of the contributor; or
 - (b) if the contributor was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or
 - (c) if the contributor was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living.
- (j) From section 3 (1), omit the definitions of "Widow" and "Widower".
- (k) Omit section 3 (10).
- (l) From section 3 (11), omit "widow or widower" wherever occurring, insert instead "spouse".
- (m) Omit section 3 (11A), (11B) and (11C).

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SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

(2) Section 3AAA (**Financial dependency**):

Omit the section.

(3) Section 3AA (**Salary of executive officers**):

(a) From section 3AA (10) (a), omit “chief executive officer, a senior executive officer”, insert instead “chief executive officer or senior executive officer, within the meaning of the Public Sector Management Act 1988,”.

(b) Omit section 3AA (10) (b) and (c), insert instead:

(b) if the officer is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or

(c) if the officer is an employee of an employer listed in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer.

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

(a) From section 10 (2) (a), omit “31 March 1991”, insert instead “30 June 1994”.

(b) From section 10 (2) (b), omit “31 March”, insert instead “30 June”.

(5) Section 10D (**Suppressed or misleading information**):

(a) From section 10D (1), omit “he”, insert instead “the person”.

(b) From section 10D (3), omit “he” where firstly occurring, insert instead “the person”.

(c) From section 10D (3), omit “his widow”, insert instead “the person’s spouse”.

(d) From section 10D (3), omit “he, she or”.

(6) Section 10Q (**Increase of contributions: annual review days**):

(a) From section 10Q (1), omit “his” wherever occurring, insert instead “the contributor’s”.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

- (b) From section 10Q (1) and (3), omit “he” wherever occurring, insert instead “the contributor”.
 - (c) From section 10Q (3), omit “married”.
 - (d) From section 10Q (3), omit “his death”, insert instead “the contributor’s death”.
 - (e) From section 10Q (3), omit “his widow”, insert instead “the contributor’s spouse”.
- (7) Section 10R (**Increase of contributions: exit days**):
- (a) From section 10R (1), omit “his” wherever occurring, insert instead “the contributor’s”.
 - (b) From section 10R (1) and (3), omit “he” wherever occurring, insert instead “the contributor”.
 - (c) From section 10R (1), omit “widow”, insert instead “spouse”.
 - (d) From section 10R (3), omit “married”.
 - (e) From section 10R (3), omit “his” where firstly occurring, insert instead “the contributor’s”.
 - (f) From section 10R (3), omit “his widow”, insert instead “the person’s spouse”.
 - (g) From section 10R (4) (a), omit “widow”, insert instead “spouse”.
- (8) Section 10T (**Exemptions from contributing**):
- (a) From section 10T (2), omit “wife of a contributor”, insert instead “spouse of a male contributor”.
 - (b) After section 10T (6), insert:
 - (7) An exemption may not be granted or arise under this section after 1 July 1994. Any exemption in force under this section before that date continues in force.
- (9) Section 10U (**Applications for exemption**):
- Omit the section.

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SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

(10) Section 10WB (**Decrease in unit entitlement on taking leave of absence**):

- (a) In section 10WB (1), after “absence,”, insert “or on the commencement of a period for which a deduction factor is applied under section 12B (3A), 12BA (1) or 12C (4),”.
- (b) In section 10WB (2), after “12B (1)”, insert “or (3A)”.
- (c) In section 10WB (2), after “period” where lastly occurring, insert “or of a period in respect of which section 12BA (1) or 12C (4) applies”.
- (d) From section 10WB (3), omit “taking leave of absence or extending a period of leave of absence”.
- (e) From section 10WB (3), omit “leave commences or is extended”, insert instead “period concerned commences”.
- (f) From section 10WB (3), omit “of leave”.

(11) Section 10Z (**Elections to take up abandoned units at exit day**):

- (a) From section 10Z (1), omit “his”, insert instead “the employee’s”.
- (b) From section 10Z (1) and (2), omit “he” wherever occurring, insert instead “the employee”.
- (c) From section 10Z (2), omit “a married”, insert instead “an”.
- (d) From section 10Z (2), omit “his death”, insert instead “the employee’s death”.
- (e) From section 10Z (2), omit “his widow”, insert instead “the employee’s spouse”.

(12) Section 10AF (**Units taken up at exit day**):

- (a) From section 10AF (1), omit “his”, insert instead “the former contributor’s”.
- (b) From section 10AF (1), omit “he” wherever occurring, insert instead “the former contributor”.
- (c) From section 10AF (2) (a), omit “widow”, insert instead “spouse”.
- (d) From section 10AF (2), omit “he” wherever occurring, insert instead “the former employee”.

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SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

(13) Section 10AH (**Employees who have reached the prescribed age**):

- (a) From section 10AH (1) and (2) (c), omit “his” wherever occurring, insert instead “the employee’s”.
- (b) From section 10AH (1) and (5), omit “he” wherever occurring, insert instead “the employee”.
- (c) From section 10AH (2) and (3), omit “widow” wherever occurring, insert instead “spouse”.
- (d) From section 10AH (2) (c), omit “her”, insert instead “the spouse”.
- (e) From section 10AH (5) (a) (i), omit “him”, insert instead “the employee”.

(14) Section 10AI (**Units taken up at exit day**):

- (a) From section 10AI (1), omit “his”, insert instead “the contributor’s”.
- (b) From section 10AI (1), omit “he”, insert instead “the contributor”.
- (c) From section 10AI (2) (a), omit “widow”, insert instead “spouse”.
- (d) From section 10AI (2) (b), omit “he”, insert instead “the former employee”.

(15) Section 10AJ (**Contributions to be made by an employer listed in Schedule 3**):

After section 10AJ (2), insert:

(3) In determining the contributions payable by an employer specified in Part 2 of Schedule 3, the Board is to have regard to the amount required to meet the full costs of the liabilities under this Act of all employers specified in Part 2 of Schedule 3.

(4) The Board may, with the concurrence of the Treasurer, require an employer specified in Part 2 of Schedule 3 to pay into the Fund additional contributions for a specified period if it appears to the Board that there is insufficient money in the relevant employers’ reserves for employers specified in Part 2 of Schedule 3 to meet the employers’ liabilities under this Act.

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(16) Section 10AO:

After section 10AN, insert:

Variation of employer contributions

10AO. (1) Despite any other provision of this Division, the Board may determine that the contributions payable by an employer specified in Part 1 of Schedule 3 in respect of a contributor are to be determined, or are payable, on a basis other than that set out in this Division.

(2) The Board may only make such a determination with the concurrence of the Treasurer.

(17) Section 12B (**Deduction factors in relation to certain periods of leave of absence**):

After section 12B (3), insert:

(3A) The Board must apply under section 12A, in relation to a contributor who takes a single period of leave without pay that is sick leave or maternity leave, a deduction factor equal to the length of that part of the period of leave that exceeds 2 years.

(3B) The deduction factor applied under subsection (3A) is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

(3C) The deduction factor applied under subsection (3A) is to be applied on and from the end of 2 years after the commencement of the single period of leave and is in addition to any other deduction factor that the Board is required to apply in relation to the contributor.

(18) Section 12BA:

After section 12B, insert:

Deduction factors for periods determined by the Board

12BA. (1) Despite any other provision of this Act, the Board may apply under section 12A, in relation to a contributor specified by the Board, a deduction factor equal to the length of the period for which the Board determines that the deduction factor is to apply.

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(2) The deduction factor is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

(3) The Board may only make such a determination if it is of the opinion that it is necessary to do so for the purposes of the application of an applicable Commonwealth occupational superannuation standard restricting the acceptance of contributions by a superannuation fund.

(4) The deduction factor is to be applied on and from the commencement of the period specified by the Board and is in addition to any other deduction factor that the Board is required to apply in relation to the contributor.

(19) Section 12C (**Deduction factors in relation to part-time employment**):

After section 12C (3), insert:

(4) The Board must apply under section 12A, in relation to a contributor who is employed for less than 10 hours a week for a single period of more than 2 years, a deduction factor equal to the length of that part of the period that the contributor is so employed that exceeds 2 years and ends on the date on which the contributor attains the maturity age.

(5) The deduction factor applied under subsection (4) is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

(6) The deduction factor applied under subsection (4) is to be applied on and from the end of 2 years after the commencement of the period of employment and is in addition to any other deduction factor that the Board is required to apply in relation to the contributor.

(7) Subsections (1)–(3) do not apply in respect of a contributor during any period in which the Board is required to apply a deduction factor under subsection (4).

(8) However, subsection (3) applies to a contributor who, at the end of the period, commences to be employed for more than 10 hours a week in the same way as it applies to any other employee whose salary ratio changes.

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- (20) Section 20AB (**Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme**):

In section 20AB (5) (d), after “Scheme”, insert “, if the contributor is a member or is eligible to become a member of the Scheme”.

- (21) Section 21A (**Commuting of pension**):

- (a) From section 21A (1) (a), omit “is married”, insert instead “has a spouse”.
- (b) From section 21A (1) (a), omit “his” where firstly occurring, insert instead “the employee’s or pensioner’s”.
- (c) From section 21A (1) (a), omit “husband and wife are both”, insert instead “both spouses are”.
- (d) From section 21A (1) (a), omit “married male person”, insert instead “male person who has a spouse”.
- (e) From section 21A (1) (a), (c) and (d), omit “widow” wherever occurring, insert instead “spouse”.
- (f) From section 21A (1) (a), omit “married woman”, insert instead “woman who has a spouse”.
- (g) From section 21A (1) (a), omit “widower”, insert instead “spouse”.
- (h) From section 21A (1) (b), omit “is a bachelor, widower, spinster, divorced person or widow”, insert instead “does not have a spouse”.
- (i) From section 21A (1) (c), omit “her”, insert instead “the spouse’s”.
- (j) From section 21A (1) (d), omit “she”, insert instead “the spouse”.
- (k) From section 21A (1) (d), omit “to her”.
- (l) From section 21A (1E), omit “widower”, insert instead “male spouse”.
- (m) From section 21A (3) and (5), omit “his” wherever occurring, insert instead “the person’s”.
- (n) From section 21A (5) (c) and (d), omit “who is a widow” wherever occurring.
- (o) From section 21A (5) (c) and (d), omit “to her” wherever occurring.

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- (p) From section 21A (5) (c) (i) and (d) (i), omit “her” wherever occurring.
 - (q) From section 21A (5) (c) and (d), omit “husband” wherever occurring, insert instead “spouse”.
 - (r) From section 21A (5) (c) and (d), omit “she” wherever occurring, insert instead “the person”.
 - (s) From section 21A (7) (b), omit “him”, insert instead “the person”.
 - (t) From section 21A (10) and (11), omit “he” wherever occurring, insert instead “the employee”.
- (22) Section 21AA (**Limitations on elections under sec. 21A**):
- (a) From section 21AA (1), omit “he” wherever occurring, insert instead “the person”.
 - (b) From section 21AA (2), omit “widow”, insert instead “person”.
 - (c) From section 21AA (2), omit “her husband” wherever occurring, insert instead “the person’s spouse”.
 - (d) From section 21AA (2) and (3), omit “she” wherever occurring, insert instead “the person”.
 - (e) From section 21AA (3), omit “her” wherever occurring, insert instead “the person’s”.
 - (f) From section 21AA (4) and (5), omit “he” wherever occurring, insert instead “the person”.
 - (g) From section 21AA (6) (b), omit “his” wherever occurring, insert instead “the person’s”.
- (23) Section 21B (**Commutation of increases in pension by Superannuation (Amendment) Act 1971**):
- (a) From section 21B (5), omit “married”.
 - (b) From section 21B (5), omit “widow”, insert instead “spouse”.
- (24) Section 21C (**Commuting of pension emerging after Superannuation (Amendment) Act 1985**):
- From section 21C (18), omit “widow or widower”, insert instead “spouse”.

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(25) Section 23BA (**Retrospective salary increases**):

- (a) From section 23BA (1), omit "his" where firstly, secondly, thirdly, fourthly and fifthly occurring, insert instead "the contributor's or pensioner's".
- (b) From section 23BA (1) and (3) (b), omit "him" wherever occurring, insert instead "the contributor or pensioner".
- (c) From section 23BA (1), omit "he" wherever occurring, insert instead "the contributor or pensioner".
- (d) From section 23BA (1), omit "his widow", insert instead "the contributor's or pensioner's spouse".
- (e) From section 23BA (3) (b), omit "his" where firstly and secondly occurring, insert instead "the person's".
- (f) From section 23BA (3), omit "his widow" wherever occurring, insert instead "the person's spouse".

(26) Section 30 (**Pensions to spouse on death of contributor**):

- (a) From section 30 (1), omit "widow", insert instead "spouse".
- (b) From section 30 (2), omit "sections 31B and 46A", insert instead "section 46A".
- (c) From section 30 (2), omit "widower", insert instead "spouse".

(27) Section 31 (**Pension to spouse on death of pensioner**):

- (a) From section 31 (1), omit "widow", insert instead "spouse".
- (b) From section 31 (1), omit "her husband", insert instead "the pensioner".
- (c) From section 31 (2), omit "31B,".
- (d) From section 31 (2), omit "widower", insert instead "spouse".
- (e) From section 31 (2), omit "his wife", insert instead "the pensioner".
- (f) From section 31 (4), omit "widow or widower", insert instead "spouse".

(28) Section 31B (**Restrictions and limitations on widowers' pensions**):

Omit the section.

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- (29) Section 32A (**Death of employee before retirement**):
From section 32A (1), omit “widow or widower”, insert instead “spouse”.
- (30) Section 32AA (**Extension of sec. 32A to certain cases where spouses die contemporaneously**):
- (a) From section 32AA (1) (b), omit “wife”, insert instead “spouse”.
 - (b) From section 32AA, omit “been married” wherever occurring, insert instead “had a spouse”.
 - (c) From section 32AA (2) (b), omit “husband”, insert instead “spouse”.
- (31) Section 32B (**Death after retirement and before payment of pension**):
- (a) From section 32B (1), omit “widow”, insert instead “spouse”.
 - (b) From section 32B (2), omit “widower”, insert instead “spouse”.
- (32) Section 32C (**Refund in certain cases where spouse dies leaving children**):
Omit “widow or widower” wherever occurring, insert instead “spouse”.
- (33) Section 32D (**Children’s pensions at sec. 61M rates**):
- (a) Omit section 32D (1), insert instead:
 - (1) A pension of the appropriate amount per fortnight under section 61M is payable on the death of a contributor or pensioner in respect of a child if the conditions set out in subsections (1A) and (1B) are satisfied.
 - (1A) The child must be a child of the contributor or pensioner or a child of a surviving spouse of the contributor or pensioner who is not eligible to receive a pension under section 33.
 - (1B) If the child is not a child of the contributor or pensioner, the child:
 - (a) must have been born or adopted before the death of the contributor or pensioner; and

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(b) must have been ordinarily part of the contributor's or pensioner's household at the time of the death of the contributor or pensioner.

(b) After section 32D (3), insert:

(4) Nothing in this section affects the operation of section 47.

(5) In this section:

"pensioner" means a person who received a pension because the person was a former contributor.

(34) Section 33 (**Children's pensions at sec. 61N rates**):

(a) Omit section 33 (1), insert instead:

(1) A pension of the appropriate amount per fortnight under section 61N is payable on the death of a contributor or pensioner in respect of a child if the conditions set out in subsections (1A)–(1C) are satisfied.

(1A) The child must be a child of the contributor or pensioner or a child of a spouse of the contributor or pensioner.

(1B) The other parent of the child or the spouse of the contributor or pensioner who was a parent of the child:

(a) must have died before the contributor's or pensioner's death; or

(b) must have been divorced from the contributor or pensioner; or

(c) must have been in a de facto relationship with the contributor or pensioner that ended before the contributor's or pensioner's death.

(1C) If the child is not a child of the contributor or pensioner:

(a) in a case where the spouse who is the parent of the child is divorced from or the former de facto spouse of the pensioner or contributor, the child must have been born or adopted before the divorce or end of the de facto relationship; and

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- (b) in any case, the child must have been ordinarily part of the contributor's or pensioner's household at the time of the death of the spouse, divorce or end of the de facto relationship.

(1D) In this section:

“**pensioner**” means a person who received a pension because the person was a former contributor;

“**spouse**” includes a person previously married to the contributor or pensioner or a former de facto spouse.

- (b) After section 33 (2), insert:

(3) Nothing in this section affects the operation of section 47.

- (35) Section 33AA:

After section 33, insert:

Board may determine to pay children's pensions in other cases

33AA. The Board may, if it considers it appropriate, determine that a pension is payable under a provision of this Act to a child even though the child is not eligible under that provision to receive a pension.

- (36) Section 33A (**Variation of pension in certain circumstances**):

- (a) From section 33A (3) (a), omit “is married”, insert instead “has a spouse”.
- (b) From section 33A (3) (b), omit “is a bachelor, widower, spinster, divorced person or widow”, insert instead “does not have a spouse”.
- (c) From section 33A (4), omit “a husband and wife are both”, insert instead “both spouses are”.

- (37) Section 39 (**Desertion of spouse or child**):

- (a) From section 39 (1), omit “his wife”, insert instead “his or her spouse”.
- (b) From section 39 (1), omit “such wife”, insert instead “the spouse”.
- (c) From section 39 (1), omit “he” wherever occurring, insert instead “the magistrate”.

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- (d) From section 39 (2), omit “his”, insert instead “the pensioner’s”.
 - (e) From section 39 (2), omit “him”, insert instead “the pensioner”.
 - (f) From section 39 (4) (a), omit “wife”, insert instead “spouse”.
- (38) Section 40 (**Pensioner sentenced to imprisonment**):
- (a) In section 40 (1), before “pensioner” where firstly occurring, insert “male”.
 - (b) From section 40 (1) and (2), omit “wife” wherever occurring, insert instead “spouse”.
- (39) Section 41 (**Woman pensioner sentenced to imprisonment**):
- From section 41 (2) and (3), omit “widow” wherever occurring, insert instead “female spouse”.
- (40) Section 42 (**Incapacity or absence of pensioner**):
- (a) From section 42 (1), omit “where by reason of a pensioner’s incapacity from any cause or his absence from his usual place of abode”, insert instead “if because of a pensioner’s incapacity from any cause or because a pensioner cannot be found”.
 - (b) In section 42 (1), after “beneficiary” where secondly occurring, insert “, or a person who is wholly or partly dependent on the pensioner or beneficiary”.
- (41) Section 43 (**Payments in respect of children**):
- Omit section 43 (4).
- (42) Section 46 (**Reduction of spouses’ pensions**):
- (a) Omit “his widow”, insert instead “the person’s spouse”.
 - (b) Omit “her”, insert instead “the spouse’s”.
- (43) Section 46A (**Miscellaneous provisions as to spouses’ pensions**):
- (a) From section 46A (4) (c), omit “husband”, insert instead “spouse”.
 - (b) From section 46A (4) (d), omit “wife”, insert instead “spouse”.

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(44) Section 46B (**Competing claims for spouses' pensions**):

Omit "widow or widower" wherever occurring, insert instead "spouse".

(45) Section 47 (**No pension for spouse or spouse's children in certain circumstances**):

(a) Omit "widow or widower" wherever occurring, insert instead "spouse".

(b) Omit "pensioner was married to the person" wherever occurring, insert instead "person was the pensioner's spouse".

(c) Omit "pensioner remained married to the person", insert instead "person remained the pensioner's spouse".

(46) Section 47C (**Allocation of reduced value units**):

(a) From section 47C (1) (a), omit "his widow", insert instead "a contributor's spouse".

(b) From section 47C (1), omit "his" where secondly and thirdly occurring, insert instead "the contributor's".

(c) From section 47C (1), (6) and (7), omit "he" wherever occurring, insert instead "the contributor".

(d) From section 47C (1) and (2), omit "him" wherever occurring, insert instead "the contributor".

(e) From section 47C (2), (3) (c), (4), (5), (6) and (7), omit "his" wherever occurring, insert instead "the contributor's".

(f) From section 47C (3), omit "his widow", insert instead "the contributor's spouse".

(g) From section 47C (8) (a), omit "he or his widow", insert instead "the person or the person's spouse".

(h) From section 47C (8) (a), omit "his or the widow's", insert instead "the person or the person's spouse's".

(47) Section 47D (**Benefits payable in respect of reduced value units**):

(a) From section 47D (3), omit "him" wherever occurring, insert instead "the contributor".

(b) From section 47D (3), omit "he" wherever occurring, insert instead "the contributor".

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- (c) From section 47D (4), omit "his", insert instead "the contributor's".
- (d) From section 47D (5), omit "his widow", insert instead "the former employee's spouse".
- (48) **Section 51 (Employee restored to health may be recalled to service):**
 - (a) From section 51 (1), omit "him" wherever occurring, insert instead "the pensioner".
 - (b) From section 51 (1), omit "his" wherever occurring, insert instead "the pensioner's".
 - (c) From section 51 (1), omit "he", insert instead "the pensioner".
 - (d) From section 51 (2) and (3) (a), omit "his" wherever occurring, insert instead "the person's".
 - (e) From section 51 (2) and (3) (a), omit "he" wherever occurring, insert instead "the person".
 - (f) From section 51 (2) and (3), omit "him" wherever occurring, insert instead "the person".
 - (g) From section 51 (3) (b), omit "his widow", insert instead "the contributor's spouse".
 - (h) From section 51 (3) (b), omit "to her", insert instead "to the contributor".
 - (i) From section 51 (3) (b), omit "her late husband", insert instead "the contributor".
 - (j) From section 51 (3) (b), omit "he" wherever occurring, insert instead "the contributor".
 - (k) From section 51 (3) (b), omit "his" where secondly, thirdly and fourthly occurring, insert instead "the contributor's".
- (49) **Section 52B (Adjustment of pension components):**
From section 52B (4), omit "widow or widower" wherever occurring, insert instead "spouse".
- (50) **Section 52E (Disability pension):**
Omit section 52E (1A).

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(51) Section 52EA:

After section 52E, insert:

Interim pension

52EA. (1) The Board may grant an interim pension to a person who has attained the age of 55 years and who, on application, would be entitled to a pension under section 52D, pending the determination of an application under section 52E.

(2) The pension which the Board may grant is a pension equal to the early retirement pension to which the person would be entitled on application under section 52D.

(3) This Act applies to and in respect of a person granted a pension under this section in the same way as it applies to a person entitled to a pension under section 28A and so applies as if a pension payable under this section were a pension payable under that section.

(4) If an interim pension is granted, the amount of any pension payable to a person under section 52E is to be reduced by the amount of any interim pension paid.

(5) Despite section 52E (1), the grant of an interim pension under this section does not make a person ineligible for a pension under section 52E or affect any other right of a person granted a pension under that section.

(6) However, a person who commutes an interim pension before the determination of an application under section 52E is not entitled to a pension under section 52E.

(52) Section 52F (**Pensions for spouses**):

Omit "widow or widower" wherever occurring, insert instead "spouse".

(53) Section 52FA:

After section 52F, insert:

Children's pensions at sec. 61M rates

52FA. (1) A pension of the appropriate amount per fortnight under section 61M is payable in respect of a child on the death of a person referred to in section 52A (1) ("**the former employee**") who has not received a benefit under

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this Division if the conditions set out in subsections (2) and (3) are satisfied.

(2) The child must be a child of the former employee or a child of a surviving spouse of the former employee who is not eligible to receive a pension under section 52G.

(3) If the child is not a child of the former employee, the child:

(a) must have been born or adopted before the death of the former employee; and

(b) must have been ordinarily part of the former employee's household at the time of the death of the former employee.

(4) A pension under this section ceases to be payable in respect of a child if the surviving parent dies, but continues to be payable even though the surviving parent marries or remarries.

(5) This Act applies to and in respect of a child in respect of whom a pension is payable under this section in the same way as it applies to and in respect of a child in respect of whom a pension is payable under Division 2, and so applies as if the pension payable under this section were a pension payable under Division 2 by virtue of the death of a contributor.

(54) Section 52G (**Children's pensions**):

(a) Omit section 52G (1)–(3), insert instead:

(1) A pension of the appropriate amount per fortnight under section 61N is payable in respect of a child on the death of a person referred to in section 52A (1) ("**the former employee**") who has not received a benefit under this section if the conditions set out in subsections (2)–(3A) are satisfied.

(2) The child must be a child of the former employee or a child of a spouse of the former employee.

(3) The other parent of the child or the spouse of the former employee who was a parent of the child:

(a) must have died before the former employee's death; or

(b) must have been divorced from the former employee; or

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- (c) must have been in a de facto relationship with the former employee that ended before the former employee's death.
- (3A) If the child is not a child of the former employee:
 - (a) in a case where the spouse who is the parent of the child is divorced from or the former de facto spouse of the former employee, the child must have been born or adopted before the divorce or end of the de facto relationship; and
 - (b) in any case, the child must have been ordinarily part of the former employee's household at the time of the death of the spouse, divorce or end of the de facto relationship.
- (b) From section 52G (4), omit "subsection (1)", insert instead "section 52FA".
- (c) After section 52G (5), insert:
 - (6) In this section:
 - "**spouse**" includes a person previously married to the former employee or a former de facto spouse.
- (55) Section 52I (**Cash termination benefit**):
 - (a) From section 52I (2), omit " , plus, if the application is made more than 3 months after the retrenchment, resignation, dismissal or discharge, interest on that amount in respect of the period commencing on the retrenchment, resignation, dismissal or discharge and ending on the date of payment, compounded on 31 March in each year and at the prescribed rate for the purposes of section 38A".
 - (b) After section 52I (2), insert:
 - (2A) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 8.
 - (c) From section 52I (3) and (4), omit "widow or widower" wherever occurring, insert instead "spouse".
 - (d) From section 52I (5), omit "or section 52G", insert instead " , or section 52FA or 52G".

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(56) Section 52R (**Adjustment of deferred benefit**):

Omit section 52R (b), insert instead:

- (b) as to the commuted component of the benefit—in accordance with section 8.

(57) Section 52W (**Benefit on attaining 65**):

(a) Omit section 52W (3), insert instead:

(3) The Board is to adjust the amount of a benefit payable under this section, having regard to any adjustment of a contributor's account under section 8.

- (b) From section 52W (5), omit "widow or widower" wherever occurring, insert instead "spouse".

(58) Section 52Y (**Preservation of minimum benefits under superannuation guarantee legislation**):

From section 52Y (2), omit "together with interest from the contributor's exit date to the date of payment at a rate determined by the Board", insert instead "and is to be adjusted, having regard to any adjustment of the contributor's account under section 8".

(59) Section 61A (**Surrender of policies generally**):

- (a) From section 61A, omit "husband or wife" wherever occurring, insert instead "spouse".

- (b) From section 61A (4), omit "him", insert instead "the person".

(60) Section 61D (**Adjustment of pensions: general cases**):

- (a) From section 61D (2), omit "widow" wherever occurring, insert instead "spouse".

- (b) From section 61D (3), omit "him", insert instead "the person".

(61) Section 61E (**Adjustment of pensions: partial adjustment**):

- (a) From section 61E (2), omit "widow" wherever occurring, insert instead "spouse".

- (b) From section 61E (3), omit "her late pensioner husband", insert instead "the person's late pensioner spouse".

- (c) From section 61E (3), omit "her late husband" wherever occurring, insert instead "the person's late spouse".

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(62) Section 61H (**Minimum amount to which pensions may be reduced**):

- (a) From section 61H, omit “widow” wherever occurring, insert instead “spouse”.
- (b) From section 61H (a), omit “her”, insert instead “the person”.
- (c) From section 61H (b), omit “her” where firstly and secondly occurring, insert instead “the person”.
- (d) From section 61H (b), omit “her late husband”, insert instead “the pensioner”.

(63) Section 61RD (**Reduction of benefit**):

From section 61RD (1) (e), omit “widow or widower”, insert instead “spouse”.

(64) Section 85:

Omit the section, insert instead:

Information that must be disclosed to contributors

85. The Board must from time to time give to a contributor or other person such information relating to the Fund as the Board is required to give the contributor or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

(65) Section 91A (**Recovery of money payable to the Board**):

- (a) From section 91A (1), omit “widow or widower” wherever occurring, insert instead “spouse”.
- (b) From section 91A (2) (a) (ii), omit “widow”, insert instead “spouse”.

(66) Section 94C:

After section 94B, insert:

Savings and transitional

94C. Schedule 25 has effect.

(67) Schedule 3 (**List of employers**):

From Part 1, omit:

Board of Fire Commissioners of New South Wales
New South Wales Meat Industry Authority

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Forestry Commission of New South Wales
Public Trust Office
WorkCover Authority of New South Wales
Royal Botanic Gardens and Domain Trust

(68) Schedule 23 (**Special provisions for preserving benefits of certain contributors**):

After Part 2, insert:

Part 3—Special provisions relating to certain employees

Employees affected by privatisation of GIO and GrainCorp

10. (1) This Part applies to former employees who are or were employed by New South Wales Grain Corporation Limited or GIO:

- (a) whose benefits were taken to have been preserved under Division 3A of Part 4 on the day appointed under section 10 of the NSW Grain Corporation Holdings Limited Act 1992 or on the conversion of GIO into a public company, as applicable; and
- (b) who had reached the age of 55 years on or before that day or the conversion (the “**preservation day**”); and
- (c) who had not had the benefits paid to another superannuation scheme, before the date of assent to the Superannuation Legislation (Further Amendment) Act 1993.

(2) A former employee is entitled to elect to take the benefit of Division 3A or Division 3B of Part 4. Any such election is taken to have had effect on and from the preservation day.

(3) A former employee is entitled to take the benefit of Division 3A or 3B of Part 4, despite any provision of those Divisions or of the Government Insurance Office (Privatisation) Act 1991, the NSW Grain Corporation Holdings Limited Act 1992 or the Statute Law (Miscellaneous Provisions) Act (No. 2) 1992.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

Application of Division 3B of Part 4

11. (1) For the purposes of the application of Division 3B of Part 4 to a former employee, the “**exit day**” for the former employee is the preservation day.

(2) Sections 52L and 52N (3) do not apply to a former employee to which this Part applies.

Payment of preserved benefit

12. A benefit preserved under this Part may only be paid in accordance with Division 3A or Division 3B of Part 4, as applicable.

(69) Schedule 25:

After Schedule 24, insert:

SCHEDULE 25—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 94C)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision 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.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—continued**

**Part 2—Superannuation Legislation (Further
Amendment) Act 1993**

**Contributions while on leave without pay or working
minimum hours**

2. Sections 10WB, 12B and 12C, as amended by the Superannuation Legislation (Further Amendment) Act 1993, apply to a period of leave without pay or part-time work commenced before 1 January 1994 and not completed immediately before that date.

Disability pensions

3. Sections 52E and 52EA, as amended or inserted by the Superannuation Legislation (Further Amendment) Act 1993, apply to applications for pensions under section 52E made after the date of assent to the Superannuation Legislation (Further Amendment) Act 1993.

Children's benefits

4. The amendments made to this Act by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any child or student to benefits in respect of the death of a contributor or pensioner occurring before 1 January 1994.

Spouse's benefits

5. The amendments made to this Act by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a contributor or pensioner occurring before 1 January 1994.

COMMENCEMENT

Items (1) (d) and (f)–(h), (3), (20), (40), (50), (51), (64) and (66)–(69) commence on the date of assent to this Act.

Items (8) (b) and (9) commence on 1 July 1994.

Items (1) (a)–(c), (e) and (i)–(m), (2), (4)–(7), (8) (a), (10)–(19), (21)–(39), (41)–(49) and (52)–(63) and (65) commence on 1 January 1994.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued***

EXPLANATORY NOTE

Executive officers

Items (1) (d) and (f)–(h) and (3) amend definitions and references to executive officers as a consequence of the reorganisation of employer and employee definitions in the Public Sector Executives Superannuation Act 1989 by Schedule 3 to this Act.

Definition of spouse

Item (1) (i) substitutes the definition of spouse to enable a de facto partner living with a contributor or pensioner at the time of his or her death to be considered as a spouse even though the contributor or pensioner may have been survived by a widow or widower.

Items (1) (a)–(c) and (j)–(l), (5)–(7), (8) (a), (11)–(14), (21)–(32), (36)–(39), (42)–(49), (52), (55) (c), (57) (b), (59)–(63) and (65) make consequential amendments.

Dependent spouse tests

At present, certain benefits are payable to de facto spouses if they can satisfy a financial dependency test. Items (1) (m) and (2) remove the provisions relating to the financial dependency tests.

Change of financial year of Board

The State Authorities Superannuation Board has received approval from the Treasurer to change its financial year from a year ending on 31 March to a year ending on 30 June. Item (4) amends a provision dealing with actuarial investigations to reflect those changes.

Removal of exemption provisions

The Board's power to exempt employees from contributing to the Fund under the scheme is ended from the date of assent to this Act but existing exemptions are to continue in force (item (8) (b)).

Item (9) removes the provisions relating to applications for exemptions.

Employer contributions

Employer contributions to the Fund are specified in Division 7 of Part 3 of the Act and are determined in relation to contributions paid by the contributor concerned. The specified rate of contributions set out in the Part does not take account of other factors that might affect employers' contributions, such as differences in funding arrangements for different employees.

Item (15) requires the Board, in determining the contribution rate for local government employers, to have regard to what is necessary to fully fund the obligations of all local government employers under the Act. For that purpose, the Board may require additional contributions for a specified purpose.

Item (16) inserts new section 10AO which enables the Board to vary contribution arrangements for an employer specified in Part 1 of Schedule 3 to the Act but only with the concurrence of the Treasurer.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—continued**

Contributions while on leave without pay or working minimum hours

Currently contributors who are on leave without pay (this includes maternity leave and sick leave) must pay contributions for the period of the leave. However, under the Commonwealth occupational superannuation standards superannuation funds are required not to accept contributions from persons who have not been employed full-time or part-time for a specified period. The amendment to section 12B (item (17)) applies deduction factors having the effect of limiting the number of units of pension for which contributions must be paid by a person who is on maternity leave or sick leave for more than 2 years. The amendment to section 12C (item (19)) applies deduction factors having the effect of limiting the number of units of pension for which contributions must be paid by a person who has been employed for less than 10 hours a week for more than 2 years.

Item (10) makes a consequential amendment.

Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Board to adjust benefits in accordance with those standards, a new section 12BA is inserted to limit the periods during which contributions must be made, in relation to contributors and periods specified by the Board (item (18)).

Contributors who may join Public Sector Executives Superannuation Scheme

Item (20) makes it clear that a contributor may only elect to have a preserved benefit paid into the Public Sector Executives Superannuation Scheme if the contributor is a member of or is eligible to join that Scheme.

Children's benefits

Higher benefits are payable to orphans of contributors and pensioners. Items (1) (e), (33), (34), (53) and (54) broaden the categories of children that are entitled to receive those higher benefits so as to include cases where there is a surviving parent but that parent was in a de facto relationship with the contributor or pensioner and the relationship ended prior to the death of the contributor or pensioner.

The Board is given power to determine, in its discretion, other cases where a person should be treated as a child for the purposes of receiving a benefit (item (35)).

Items (41) and (55) (d) make consequential amendments.

Payment of benefit when person incapable or missing

Item (40) enables the Board to pay a benefit to a person to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit, if the person entitled cannot be found or is suffering from some incapacity.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—*continued*

Interim pensions

Item (51) inserts new section 52EA which enables the Board to grant interim pensions to certain eligible former contributors who are awaiting the determination of an application to have preserved benefits paid as a disability pension. The amendment makes it clear that a person is still entitled to a disability pension even though an interim pension has been paid. However, the disability pension is to be reduced by the amount of the interim pension and cannot be paid if the interim pension is commuted before the application is determined.

Item (50) makes a consequential amendment.

Adjustment of preserved benefits

Provisions for the payment of deferred benefits and preserved employer financed benefits presently provide for the payment of interest on the benefits for the period for which they have been preserved. Under section 86A of the Act, the State Authorities Superannuation Board has a general discretion to pay interest on any benefits under the Act. However, it may be that the payment of interest is not appropriate having regard to the earnings of the State Superannuation Fund. Under section 8 of the Act, the Board must adjust a contributor's account before payment from the Fund of a benefit. Items (55) (a) and (b), (57) (a) and (58) provide for the Board to adjust a benefit before payment, having regard to the earnings of the Fund. Items (55), (56), (57) (a) and (58) also amend preserved benefit provisions to remove mandatory requirements to pay interest on preserved benefits.

Information for contributors

Item (64) replaces the provisions relating to the provision of information to contributors by the Board. The Board will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards. Such information must also currently be given to certain former contributors.

Employers

Item (67) updates the employers listed in Schedule 3 by removing references to employers covered elsewhere in the Schedule as a result of the amendment of the Schedule by orders.

Employees of GIO and GrainCorp

Item (68) enables former contributors whose benefits were preserved by statute on the privatisation of GIO or the NSW Grain Corporation Limited, and who had reached the age of 55 years, to elect (as from that privatisation) to take the benefit of the usual preservation provisions or to elect to take the benefit of special provisions relating to preservation of benefits after early retirement age. The effect of those provisions is that for contributors who are aged 55 or over the benefit preserved is calculated as if the former contributor had retired.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

**SCHEDULE 6—AMENDMENT OF SUPERANNUATION ACT
1916 No. 28—continued**

Savings and transitional provisions

Item (69) inserts new Schedule 25 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to contributions during leave without pay and other matters. Item (66) inserts new section 94C which gives effect to the Schedule of savings and transitional provisions.

SCHEDULE 7—AMENDMENT OF OTHER ACTS

(Sec. 3)

**LOCAL GOVERNMENT AND OTHER AUTHORITIES
(SUPERANNUATION) ACT 1927 No. 35**

AMENDMENTS

- (1) Section 15BM (**Death during service leaving widow or widower**):
 - (a) From section 15BM (1) and (2), omit “dependent” wherever occurring.
 - (b) From section 15BM (3), omit “15BOA,”.
 - (c) From section 15BM (3), omit “dependent” where firstly occurring.
 - (d) From section 15BM (3), omit “, or the widower while he is a dependent widower,”, insert instead “or the widower”.
- (2) Section 15BN (**Death during service where no benefit under sec. 15BM**):

From section 15BN (1), omit “or who dies leaving a widower who is not a dependent widower”.
- (3) Section 15BO (**Pension payable to widow or widower of pensioner**):
 - (a) Omit “sections 15BOA and 15BOB”, insert instead “section 15BOB”.
 - (b) Omit “dependent” where firstly and secondly occurring.
 - (c) Omit “while he is a dependent widower”.
 - (d) At the end of the section, insert:
 - (2) If a person marries after becoming entitled to a pension under section 15BF, 15BG or 15BH and dies while a party to

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

that marriage, a pension under this section is not payable to the widow or widower as such.

(3) Subsection (2) does not apply in respect of a pensioner who, after marrying as referred to in that subsection, again becomes a contributor.

- (4) Section 15BOA (**Restrictions in payment of pension to widow or widower**):

Omit the section.

- (5) Section 15BUE (**Election by widower to be paid lump sum instead of pension under sec. 15BM**):

Omit “dependent” wherever occurring.

- (6) Section 15BUF (**Minimum lump sum benefit payable to widow or widower**):

Omit “dependent” wherever occurring.

- (7) Section 15BV (**Commutation of certain pensions**):

From section 15BV (14), omit “dependent” wherever occurring.

- (8) Section 15BY (**Payment where beneficiary incapable**):

In section 15BY (1), before “dependent”, insert “wholly or partly”.

- (9) Section 15BYA:

After section 15BY, insert:

Payment where beneficiary is missing

15BYA. (1) If the board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(10) Section 17P (**Contingent account**):

Omit the section.

(11) Section 21:

After section 20, insert:

Savings and transitional provisions

21. Schedule H has effect.

(12) Schedule H:

After Schedule G, insert:

SCHEDULE H—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 21)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision 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.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

Part 2—Superannuation Legislation (Further Amendment) Act 1993

Dependency tests for widowers

2. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a contributor or pensioner occurring before 1 January 1994.

COMMENCEMENT

Items (1)–(7) and (10) commence on 1 January 1994.

Items (8), (9), (11) and (12) commence on the date of assent to this Act.

EXPLANATORY NOTE

Dependent widower tests

At present, certain benefits are payable to widows of contributors and dependent widowers of contributors. Items (1)–(7) remove the dependency tests applicable to widower benefits.

Payment of benefit when person missing

Item (9) inserts new section 15BYA which enables the State Authorities Superannuation Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (8) makes a consequential amendment.

Contingent account

Item (10) omits the provisions relating to the establishment of a contingent account to pay sickness benefits and other related payments. The account is no longer used.

Savings and transitional provisions

Item (12) inserts new Schedule H which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to the removal of dependency provisions for widowers. Item (11) inserts new section 21 which gives effect to the Schedule of savings and transitional provisions.

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*NEW SOUTH WALES RETIREMENT BENEFITS
ACT 1972 No. 70

AMENDMENTS

(1) Section 60 (**Payment where beneficiary incapable**):

In section 60 (1), before “dependent”, insert “wholly or partly”.

(2) Section 60A:

After section 60, insert:

Payment where beneficiary is missing

60A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

COMMENCEMENT

The amendments commence on the date of assent to this Act.

EXPLANATORY NOTE

Payment of benefit when person missing

Item (2) inserts new section 60A which enables the State Authorities Superannuation Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (1) makes a consequential amendment.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

**PARLIAMENTARY CONTRIBUTORY SUPERANNUATION
ACT 1971 No. 53**

AMENDMENTS

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

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

“**superannuation guarantee shortfall**” has the same meaning as it has in the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth;

(2) Section 18A:

After section 18, insert:

Acceptance of contributions

18A. (1) Despite any other provision of this Act, deductions from a member's salary are not required to be made during any period specified by the trustees for which the trustees determine that they must not accept contributions in respect of the member.

(2) The trustees may make such a determination only if they are of the opinion that it is necessary to do so in order to comply with an applicable Commonwealth occupational superannuation standard.

(3) A period in respect of which deductions are not made under this section is not to be taken into account when determining the member's superannuation benefit under section 19.

(3) Section 21B (**Calculation of pensions following conversion to lump sum**):

From section 21B (4) (a), omit “subsection (2)”, insert instead “subsection (2) (a), in the case of a member referred to in subsection (2) (a), or subsection (2) (b), in the case of a member referred to in subsection (2) (b)”.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(4) Section 22B:

After section 22A, insert:

Preservation of minimum benefits under superannuation guarantee legislation

22B. (1) **Benefit to be preserved.** Despite any other provision of this Act, the trustees may, when a pension or lump sum (including a supplementary benefit under section 22A) becomes payable under this Act, preserve all or part of so much of the pension or lump sum as is determined by the trustees to be employer-financed for the purpose of complying with an applicable Commonwealth occupational superannuation standard. The amount of the allowance or lump sum to be preserved in respect of a former member for the purpose of this section is as determined by the trustees after obtaining actuarial advice.

Note. The relevant standards as proposed will require an amount equivalent to the employer contribution to superannuation to meet requirements under the Commonwealth superannuation guarantee charge legislation to be preserved from 1 July 1994.

(2) **Preservation in Fund.** The amount is to be preserved in the Fund and adjusted at a rate determined by the trustees.

(3) **Pension may be commuted.** For the purpose of preserving a benefit under this section, the trustees may convert to a lump sum so much of the pension as is employer-financed, up to the amount determined by the trustees to be equal to the amount that is required to be preserved. The remainder of the pension is to be dealt with as otherwise required or permitted by this Act.

(4) **Payment of preserved benefit.** A benefit preserved under this section is payable by the trustees on the death of the former member or in the circumstances in which it is specified in an applicable Commonwealth occupational superannuation standard that a preserved benefit must or may be paid.

(5) **Persons to whom benefit is payable.** A benefit provided by subsection (4) is payable:

- (a) unless the former member has died—to the former member; or

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

- (b) if the former member has died and is survived by a widow or widower—to the surviving widow or widower; or
- (c) if the former member has died and is not survived by a widow or widower—to the personal representatives of the former member or such other person as the trustees direct.

(5) Sections 30, 30A:

Before section 31, insert:

Compliance with superannuation guarantee legislation

30. (1) **Minimum benefits.** The trustees must, after obtaining actuarial advice, determine what the minimum **employer-financed benefit** would have to be to ensure that there is no **superannuation guarantee shortfall**.

(2) **Increase in benefits.** So much of a pension or lump sum as is employer-financed is, despite any other provision of this or any other Act, not to be less than the minimum benefit determined under subsection (1). The pension or lump sum that would otherwise be payable under this Act is increased to the extent necessary for the purpose of complying with this section.

(3) **Increase in benefit to be paid from Fund.** The amount of any increase in benefit is to be debited by the trustees from the Fund.

(4) **Definition.** In this section, “**employer-financed benefit**” means the sum of so much of a pension or lump sum as is determined by the trustees to be employer-financed under this Act.

Application of section 30 to period from 1.7.1992

30A. A benefit that is paid after 1 July 1992 and before the commencement of section 30 is to be adjusted by the trustees in accordance with that section.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(6) Section 32A:

Omit the section, insert instead:

Information that must be disclosed to contributors

32A. (1) The trustees must, as soon as practicable after a person becomes a member, give to the person a written statement specifying the information relating to the Fund that is required to be given for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

(2) The trustees must from time to time give to a member or other person such information relating to the Fund as the trustees are required to give the member or other person for the purpose of complying with any applicable Commonwealth occupational superannuation standard.

COMMENCEMENT

Items (1), (3), (4) and (5) commence on the date of assent to this Act.

Items (2) and (6) commence on 1 January 1994.

EXPLANATORY NOTE

Limits on contributions

Under the Commonwealth occupational superannuation standards superannuation funds are required not to accept deductible contributions in a year of income exceeding the amount determined in accordance with the standards. In order to enable the Parliamentary Contributory Superannuation Fund to comply with those standards, a new section 18A is inserted to enable the trustees of the Fund to determine that deductions are not to be made from members' salaries for specified periods for the purpose of compliance (item (2)). Any such period is not to be taken into account for the purpose of determining a member's superannuation benefit.

Commutation of pensions

Currently, members or former members of the scheme who were members before the commencement of the Parliamentary Contributory Superannuation (Amendment) Act 1989 are entitled to a lesser reduction in pension than other members when an election is made to commute part of a pension to a lump sum. Item (3) makes it clear that the lesser reduction also applies when subsequent elections are made by such members.

Preservation of benefits (delayed entitlement to certain benefits)

Under the Commonwealth occupational superannuation standards superannuation funds will be required to preserve, from 1 July 1994, that part of the benefits payable to

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

former members (and financed by employer contributions) that is equal to the minimum employer contribution for the purposes of Commonwealth superannuation guarantee legislation. Those standards also require that the contributions vest in members when they become payable. To meet these requirements new sections 30 and 30A are inserted by item (5). Similar provisions have previously been inserted in other public sector superannuation Acts. Item (1) makes a consequential amendment. The effect of the amendments is that any benefits so preserved will not be paid until they are payable under the Commonwealth standards.

Information for contributors

Item (6) replaces the provisions relating to the provision of information to contributors by the trustees of the Fund. The trustees will now be required to give information in accordance with applicable Commonwealth occupational superannuation standards.

**POLICE ASSOCIATION EMPLOYEES (SUPERANNUATION)
ACT 1969 No. 33**

AMENDMENTS

(1) Section 2 (Definitions):

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

“**spouse**” of a prescribed person (within the meaning of section 3) who has died means:

- (a) the widow or widower, as the case may be, of the prescribed person; or
- (b) if the prescribed person was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or
- (c) if the prescribed person was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living;

(2) Section 3 (Employees of Association transferring from employment as police officers):

(a) Omit section 3 (9) and (10), insert instead:

(9) If the prescribed person dies:

- (a) after attaining the age of 60 years but before the person’s employment by the Association ceases; or

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

- (b) after the person's employment by the Association ceases but before an annual superannuation allowance is granted to the person under subsection (2),

an annual superannuation allowance equivalent to 62.5 per cent of the annual superannuation allowance which would have been payable to the person is payable to the person's surviving spouse.

(9A) A person's spouse is entitled to an allowance under subsection (9) only if he or she was the person's spouse when the person attained the age of 60 years or when the person died (whichever occurred first).

(10) If the prescribed person dies after an annual superannuation allowance has been granted to the person under subsection (2) and he or she is survived by a spouse who was his or her spouse at:

- (a) the date when the allowance was granted if the allowance was granted to the prescribed person before he or she attained the age of 60 years; or

- (b) the date when the prescribed person attained the age of 60 years if the allowance was granted to the prescribed person after he or she attained that age,

an annual superannuation allowance equivalent to 62.5 per cent of the annual superannuation allowance received by or payable to the prescribed person is payable to the surviving spouse.

- (b) From section 3 (10A), omit "his" where firstly occurring, insert instead "the person's".
- (c) From section 3 (10A), omit "his widow", insert instead "the person's spouse".
- (d) From section 3 (10A), omit "he", insert instead "the person".
- (e) From section 3 (11), omit "widow", insert instead "spouse".
- (f) In section 3 (11), before "she", insert "he or".
- (g) From section 3 (11B), omit "widow" wherever occurring, insert instead "spouse".
- (h) Omit section 3 (11C).
- (i) From section 3 (11D), omit "subsection (11C)", insert instead "the other provisions of this section".

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

- (j) From section 3 (11D), omit “that subsection” wherever occurring, insert instead “this section”.
 - (k) From section 3 (11D) (a), omit “a widower”, insert instead “a male spouse”.
 - (l) From section 3 (11D) (a), omit “the widower”, insert instead “the spouse”.
 - (m) From section 3 (11D) (b), omit “a widower”, insert instead “a male spouse”.
 - (n) From section 3 (11D) (c), omit “a widower”, insert instead “a male spouse”.
 - (o) From section 3 (12), omit “he”, insert instead “the person”.
- (3) Sections 4, 5:

After section 3, insert:

Competing claims for spouses’ benefits

4. (1) This section applies to a superannuation allowance under this Act which is payable to the spouse of a prescribed person (within the meaning of section 3) who has died.

(2) If a superannuation allowance would be payable to more than one person because a prescribed person, who has died, has left more than one spouse, then, despite any other provision of this Act:

(a) the allowance is payable in accordance with a determination made by the Board, and not otherwise; and

(b) the total amount of allowance payable to those persons at any time is not to exceed the amount of allowance or gratuity that would be payable if there were only one spouse.

(3) For the purposes of subsection (2) (a), the Board may determine in relation to a superannuation allowance:

(a) that the allowance is not payable to such of the persons concerned as it specifies; or

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(b) that the amount of the allowance is to be apportioned between the persons concerned in such manner as it specifies.

(4) The Board may withhold the payment of any part of a superannuation allowance:

(a) until 30 days after the death of the prescribed person in respect of which the allowance is payable; or

(b) if an application has been made for the allowance by more than one person, until it is satisfied that only one of those persons is entitled to the allowance or until a determination is made in relation to the matter by the Board under this section.

(5) If, after 30 days from the death of a prescribed person, a superannuation allowance is paid in respect of any period to the spouse of the prescribed person, a superannuation allowance is not payable to any other spouse of the prescribed person in respect of that period.

(6) For the purposes of subsection (5), an amount paid in good faith by the Board to a person purporting to be the spouse of a prescribed person is taken to have been paid to the spouse of the prescribed person.

(7) If, after 30 days from the death of a prescribed person, any amount is paid under this Act to the person's personal representatives or to such other persons as the Board may determine, any superannuation allowance which is payable to the spouse of the prescribed person is to be reduced by the amount so paid.

Savings and transitional provisions

5. Schedule 1 has effect.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(4) Schedule 1:

At the end of the Act, insert:

**SCHEDULE 1—SAVINGS AND TRANSITIONAL
PROVISIONS**

(Sec. 5)

Part 1—Regulations

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Superannuation Legislation (Further Amendment) Act
1993

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later day.

(3) To the extent to which any such provision 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—Superannuation Legislation (Further
Amendment) Act 1993**

Spouses' benefits

2. The amendments made by the Superannuation Legislation (Further Amendment) Act 1993 do not entitle any spouse to benefits in respect of the death of a prescribed person occurring before 1 January 1994.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

COMMENCEMENT

The amendments commence on 1 January 1994.

EXPLANATORY NOTE

Definition of spouse

Item (1) substitutes the definition of spouse to enable a de facto partner living with a member or former member of the superannuation scheme under the Act at the time of his or her death to be considered as a spouse even though the member may have been survived by a widow or widower.

Power is given to the State Authorities Superannuation Board to settle, in its discretion, competing claims where the amendments result in more than one spouse of a member or former member being entitled to a benefit (new section 4, item (3)).

Item (2) makes consequential amendments.

Savings and transitional provisions

Item (4) inserts new Schedule 1 which enables savings or transitional regulations to be made in relation to amendments made by this Act. It also inserts transitional provisions relating to spouses' benefits. Item (3) inserts new section 5 which gives effect to the Schedule of savings and transitional provisions.

PUBLIC AUTHORITIES SUPERANNUATION ACT 1985 No. 41

AMENDMENTS

(1) Section 62 (**Payment where beneficiary incapable**):

In section 62 (1), before "dependent", insert "wholly or partly".

(2) Section 62A:

After section 62, insert:

Payment where beneficiary is missing

62A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

COMMENCEMENT

The amendments commence on the date of assent to this Act.

EXPLANATORY NOTE

Payment of benefit when person missing

Item (2) inserts new section 62A which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (1) makes a consequential amendment.

**STATE PUBLIC SERVICE SUPERANNUATION
ACT 1985 No. 45**

AMENDMENT

Sections 57A, 57B:

After section 57, insert:

Payment where beneficiary incapable

57A. (1) If the Board is of the opinion that a person to whom a benefit is payable is incapable of administering his or her affairs because of illness, imprisonment or for any other cause, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of the person otherwise entitled to the benefit, or any person wholly or partly dependent on the person.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

Payment where beneficiary is missing

57B. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

COMMENCEMENT

The amendment commences on the date of assent to this Act.

EXPLANATORY NOTE

The amendment inserts new section 57A which enables the State Authorities Superannuation Board to pay a benefit to someone else, if the person entitled to the benefit is incapable of managing his or her own affairs, for the benefit of the person entitled to the benefit or a dependent of that person. The amendment also inserts new section 57B which enables the Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

SUPERANNUATION ADMINISTRATION ACT 1991 No. 96

AMENDMENTS

(1) Sections 22, 23:

Omit the sections, insert instead:

Administration costs of the Board generally

22. (1) The Board must charge administration costs that it incurs (including the remuneration or allowances of the trustees and any expense incurred by the New South Wales Superannuation Office in providing services directly to the Board) against the Administration Account.

(2) The administration costs (including administration costs relating to preserved benefits) that the Board incurs in relation to the administration of the associated superannuation schemes are to be paid in accordance with this section to the Administration Account.

(3) The administration costs (including administration costs relating to preserved benefits) that the Board incurs in relation to the administration of the associated superannuation schemes are payable by employers and contributors or members and former contributors or former members under the associated superannuation schemes.

(4) If employees are employed by a group of employers, the costs are payable by the group of employers. If a contributor or member belongs or a former contributor or former member belonged to a group of contributors or

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

members which contributes to a scheme, the costs are payable by the group of contributors or members.

(5) The amount, the rate and the basis on which an employer, group of employers or contributor or member or former contributor or former member or group of contributors or members is required to pay is to be determined by the Board from time to time.

(6) After calculating the appropriate amount or rate payable, the Board may debit the appropriate account, fund or reserve in the relevant associated superannuation fund in accordance with this Division.

Source of administration costs payments—non-contributory Fund

23. (1) The administration costs payable in respect of the superannuation scheme established under the State Authorities Non-contributory Superannuation Act 1987 are to be paid from employer reserves established in accordance with that Act.

(2) The administration costs payable in respect of preserved benefits provided under the State Authorities Non-contributory Superannuation Act 1987 are to be paid from employees' accounts established in accordance with that Act.

Source of administration costs payments—police fund

23A. The administration costs payable in respect of the Police Superannuation Fund are to be paid from that Fund.

Source of administration costs payments—SASS fund

23B. (1) The administration costs payable in respect of the State Authorities Superannuation Fund are to be paid from employer reserves and contributors' accounts in the State Authorities Superannuation Fund.

(2) The administration costs payable in respect of preserved benefits provided under the State Authorities Superannuation Act 1987 are to be paid from contributors' accounts in the State Authorities Superannuation Fund.

(3) The administration costs payable in respect of pensions provided under the State Authorities Superannuation Act

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

1987 are to be paid from employer reserves in the State Authorities Superannuation Fund.

Source of administration costs payments—SSF fund

23C. (1) The administration costs payable in respect of the State Superannuation Fund are to be paid from employer reserves and the contributors' reserve in the State Superannuation Fund.

(2) The administration costs payable in respect of preserved benefits provided under the Superannuation Act 1916 are to be paid from employer reserves in the State Superannuation Fund.

(3) The administration costs payable in respect of pensions provided under the Superannuation Act 1916 are to be paid from employer reserves in the State Superannuation Fund.

Source of administration costs payments—other funds

23D. The administration costs (including administration costs relating to preserved benefits) payable in respect of an associated superannuation fund, other than a fund referred to in sections 23–23C, are to be paid from the reserves or accounts established in the relevant associated fund determined for the purposes of this section by the Board.

(2) Section 46A:

After section 46, insert:

Exemption from stamp duty

46A. The Board is not liable for stamp duty under the Stamp Duties Act 1920 in respect of anything done by the Board for the purposes of this Act or its functions under the associated Acts.

(3) Schedule 5 (**Savings, transitional and other provisions**):

- (a) In clause 2 (1), after “Act”, insert “or the Superannuation Legislation (Further Amendment) Act 1993”.
- (b) From clause 2 (2), omit “this Act”, insert instead “the Act concerned”.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

(c) After clause 16, insert:

**PART 3—PROVISIONS CONSEQUENT ON THE
ENACTMENT OF THE SUPERANNUATION
LEGISLATION (FURTHER AMENDMENT)
ACT 1993**

Actions by Board relating to administration costs

17. The Board is, in relation to anything done before the commencement of sections 22–23D, as inserted by the Superannuation Legislation (Further Amendment) Act 1993, taken to have had power to do anything relating to the calculation and payment of its administration costs that it has power to do under those sections as so inserted.

COMMENCEMENT

The amendments commence on the date of assent to this Act.

EXPLANATORY NOTE

Administration costs and charges

Presently, administration costs of the Board are payable from the associated superannuation schemes (that is, the public sector statutory superannuation schemes) according to specific formulas set out in section 22. Item (1) replaces this method of determining the amount of costs payable by employers and contributors with a power of the Board to determine the costs and the basis of payment.

The administrative charges of the Board in relation to preserved benefits are presently payable from the relevant contributor's account. This does not take into account that the amount of the benefit preserved already contains some allowance for administrative charges. Item (1) replaces this provision with a power of the Board to determine the charges and the basis of payment.

Item (3) validates things done by the Board in relation to obtaining its administrative costs before the commencement of the amendment.

Exemption from stamp duty

Currently the Board is exempted by the Public Authorities (Financial Arrangements) Act 1987 from liability for stamp duty for investment purposes. Item (2) inserts new section 46A which exempts the Board from liability for stamp duty in respect of anything done for the purposes of its functions under the Act or the other Acts relating to public sector superannuation schemes.

Savings and transitional provisions

Item (3) amends Schedule 5 to enable savings or transitional regulations to be made relating to the amendments made by this Act.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

**SUPERANNUATION LEGISLATION (AMENDMENT) ACT
1992 No. 35**

AMENDMENT

Schedule 2 (Other amendments):

Omit item (4) of the amendments relating to the State Authorities Superannuation Act 1987.

COMMENCEMENT

The amendment commences on the date of assent to this Act.

EXPLANATORY NOTE

The item being repealed proposed to insert sections 42AA–42AC into the State Authorities Superannuation Act 1987. Section 42AA has commenced but it is not proposed to commence sections 42AB and 42AC.

**TRANSPORT EMPLOYEES RETIREMENT BENEFITS ACT
1967 No. 96**

AMENDMENTS

(1) Section 62 (**Payment where beneficiary incapable**):

In section 62 (1), before “dependent”, insert “wholly or partly”.

(2) Section 62A:

After section 62, insert:

Payment where beneficiary is missing

62A. (1) If the Board is unable, after reasonable inquiry, to find a person to whom a benefit is payable, the Board may pay the benefit to someone else to be applied wholly for the care, maintenance, benefit and support of any person wholly or partly dependent on the person who would otherwise be entitled to the benefit.

(2) Any payment made under this section is taken to have been made to the person who, but for this section, would be entitled to the benefit.

COMMENCEMENT

The amendments commence on the date of assent to this Act.

Superannuation Legislation (Further Amendment) Act 1993 No. 111

SCHEDULE 7—AMENDMENT OF OTHER ACTS—*continued*

EXPLANATORY NOTE

Payment of benefit when person missing

Item (2) inserts new section 62A which enables the State Authorities Superannuation Board, if the person entitled to a benefit cannot be found, to pay a benefit to someone else to be used for the care, maintenance, benefit and support of a dependent of the person entitled to the benefit.

Item (1) makes a consequential amendment.

[Minister's second reading speech made in—
Legislative Assembly on 10 November 1993
Legislative Council on 18 November 1993]

