

First print



New South Wales

Superannuation Legislation Amendment Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend various Acts relating to public sector superannuation in relation to the provision of death or incapacity benefits, the transfer of benefits to other superannuation schemes, benefits payable to spouses, the payment of preserved benefits to senior executives and the adjustment of reserves, as well as in relation to other matters.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the Act, except for 2 amendments, which are to be taken to have commenced on 1 January 1996 and 1 March 1996, respectively.

Clause 3 is a formal provision giving effect to the amendments to the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*, the *First State Superannuation Act 1992*, the *Local Government and Other Authorities (Superannuation) Act 1927*, the *Parliamentary Contributory Superannuation Act 1971*, the *Police Association Employees (Superannuation) Act 1969*, the *Police Regulation (Superannuation) Act 1906*, the *Public Sector Executives Superannuation Act 1989*, the *State Authorities Superannuation Act 1987* and the *Superannuation Act 1916* set out in Schedule 1.

Clause 4 omits provisions relating to dependency tests for widowers from the *Police Superannuation Regulation 1995*, as a consequence of the repeal of such requirements by Schedule 1.6.

Schedule 1 Amendment of Acts

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

Item [1] amends section 19AC of the Act so as to require mine owners to provide an annual certificate by an auditor certifying that a sufficient amount has been contributed in respect of each mine worker employed by the owner concerned to fulfil the requirements under the Act. It will be an offence with a maximum penalty of 5 penalty units not to do so.

Item [3] inserts proposed clause 6A into Schedule 2. The provision clarifies that a person who was entitled to, and received, a lump sum benefit under section 14L of the Act, as in force before the reconstitution of the previous superannuation schemes under the Act, is entitled to the greater of the amounts of benefit referred to in that section. **Item [2]** enables regulations to be made as to further savings and transitional provisions, if required.

1.2 First State Superannuation Act 1992 No 100

Item [1] substitutes sections 13 and 14 relating to cover for basic death or invalidity benefits. Basic death or invalidity cover will no longer be

Superannuation Legislation Amendment Bill 1996

Explanatory note

automatic for full members whose accounts are less than an amount determined by the First State Trustee Corporation (FTC), the trustee of the First State Superannuation Scheme. Such members may elect to provide for the basic death or invalidity benefit. If a member is employed at the same time by two or more employers (as defined for the purposes of the Act), the member is covered for a basic or additional death or invalidity benefit in respect of one of those employers only. The provisions will exclude from cover for a basic invalidity or death benefit under the Act full members of the Fund who have previously received a total and permanent invalidity benefit under other State superannuation legislation. **Item [3]** makes a consequential amendment.

Item [2] substitutes section 36 relating to when benefits under the Act are payable. The new provision will enable part of a benefit under the Act in respect of a person to be paid if payment can be made without contravening Commonwealth superannuation standards for regulated superannuation funds and will allow benefits to be paid in additional circumstances other than death or ceasing to be an employee, if this will not contravene any Commonwealth superannuation standards for regulated superannuation funds. **Item [4]** makes a consequential amendment.

Item [5] enables the management costs associated with the provision of basic death or disability benefits to be paid from the Death or Invalidity Benefit Management Reserve. Currently, they are payable in the same way as other management costs, that is, from members' accounts, which may result in members who are not covered for the benefit having to pay costs for it.

Item [6] amends the section relating to the payment of management costs. The amendment prohibits the payment of management costs associated with the provision of death or disability cover from a member's account if the member is not covered. An employer may also be required to pay the management costs relating to a failure by the employer to provide information, or accurate information, required to be provided by the employer under the Act.

Item [7] enables savings and transitional regulations to be made as a consequence of the amendments made by the proposed Act.

Item [8] makes it clear that a person determined by the Board to have an entitlement to zero cover before the commencement of the amendments relating to the requirements for basic death or disability cover is taken not to have been liable to pay death or disability premiums during the relevant period.

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

The Act provides for the payment to former local government employees of benefits under the Local Government Pension Fund (which is now closed). One of the provisions of the Act provides for a gratuity paid to or in respect of a former local government employee to be deducted from the maximum superannuation benefit payable when the superannuation entitlements of the employee are determined. The amendments update old references to gratuities given under the *Local Government Act 1919* and also relieve the trustee for the scheme from a mandatory requirement to recover any excess benefits paid in the period after the repeal of the gratuity provision under the *Local Government Act 1919* and before the commencement of the amendment.

1.4 Parliamentary Contributory Superannuation Act 1971 No 53

Items [1]–[15] extend the application of provisions of the Act relating to benefits for widows and widowers of members of the Parliamentary Superannuation Scheme, as well as other provisions relating to widows and widowers, to de facto spouses of such members. **Item [19]** inserts a transitional provision to make it clear that the amendments do not enable a person to have a benefit in relation to a person who died before the amendment commenced.

Item [17] inserts proposed sections 26B and 26C. The proposed sections enable members who were formerly federal members of Parliament to pay benefits received from the Commonwealth Parliamentary Superannuation Scheme into the State Parliamentary Superannuation Fund and for any such person to receive credit for previous service as a federal member when service as a State member ends for the purpose of determining benefits under the State scheme. The provisions also provide for the determination of matters in relation to such members to be used for the purpose of calculating future benefits. **Item [16]** makes a consequential amendment.

Item [18] inserts proposed section 30B. The proposed section provides for the manner in which benefits are to be paid if a member is survived by more than one spouse.

1.5 Police Association Employees (Superannuation) Act 1969 No 33

Item [1] enables benefits paid under the Act (and not currently linked to benefits paid under the *Police Regulation (Superannuation) Act 1906*) to be preserved in the Police Superannuation Fund under the same conditions as equivalent benefits paid under that Act. The provisions also provide for the amount of benefit payable when the preserved benefit becomes payable.

Item [2] removes a provision restricting the circumstances when widowers of female former employees are entitled to a superannuation allowance under the Act. Section 3 (11D) of the Act currently imposes a dependency test on those widowers which precludes them from receiving the allowance unless the requirements of the test are satisfied.

1.6 Police Regulation (Superannuation) Act 1906 No 28

Item [1] prevents members of the senior executive service of the police service who are entitled to preserve benefits before they cease to be police employees from accessing preserved benefits while still employed as police officers. **Items [2], [3] and [4]** make consequential amendments.

Item [6] removes provisions restricting the circumstances when widowers of female former police officers are entitled to a superannuation allowance under the Act. Section 11C of the Act currently imposes a dependency test on those widowers which precludes them from receiving the allowance unless the requirements of the test are satisfied. **Item [5]** makes a consequential amendment. (Proposed section 4 makes a consequential amendment to the regulations under the Act.)

1.7 Public Sector Executives Superannuation Act 1989 No 105

Item [1] inserts a definition of *spouse* of a deceased member or deceased former member.

Item [2] inserts proposed section 52B. The proposed section provides for the manner in which benefits are to be paid if a member is survived by more than one spouse.

Item [3] inserts proposed section 58A. The proposed section prevents the application of provisions of the Act empowering FTC (the trustee) to determine applications for additional benefit cover, applications for benefits and other related matters if additional benefit cover is being arranged by another person or body by contract or arrangement with FTC. These matters will be dealt with under the contract or arrangement and generally determined by the other person or body, though the contract or arrangement may provide for the excluded provisions of the Act to apply.

1.8 State Authorities Superannuation Act 1987 No 211

Item [1] prevents contributors to the State Authorities Superannuation Scheme who are members of the senior executive service of the public service and who are entitled to preserve benefits before they cease to be employees from accessing preserved benefits while still employed in the public service. **Items [2], [3], [4] and [5]** make consequential amendments.

1.9 Superannuation Act 1916 No 28

Item [1] inserts proposed section 8B. The proposed section enables the trustee of the State Superannuation Scheme (STC) to adjust reserves within the State Superannuation Fund if an actuary (under section 10 or otherwise appointed by STC) recommends the adjustment be made. An adjustment can be made only with the Minister's consent and may be made as at a date before, on or after the commencement of the proposed section.

Item [2] prevents contributors to the State Superannuation Scheme who are members of the senior executive service of the public service and who are entitled to preserve benefits before they cease to be employees from accessing preserved benefits while still employed in the public service. **Items [3], [4], [5] and [6]** make consequential amendments.

Item [7] omits a provision under which new members could be admitted into the State Superannuation Scheme, even though the Scheme has been closed to new members since 1985. The amendment will not prevent existing or previous applications under the omitted provision from being determined and acted on (**Items [8] and [9]**).

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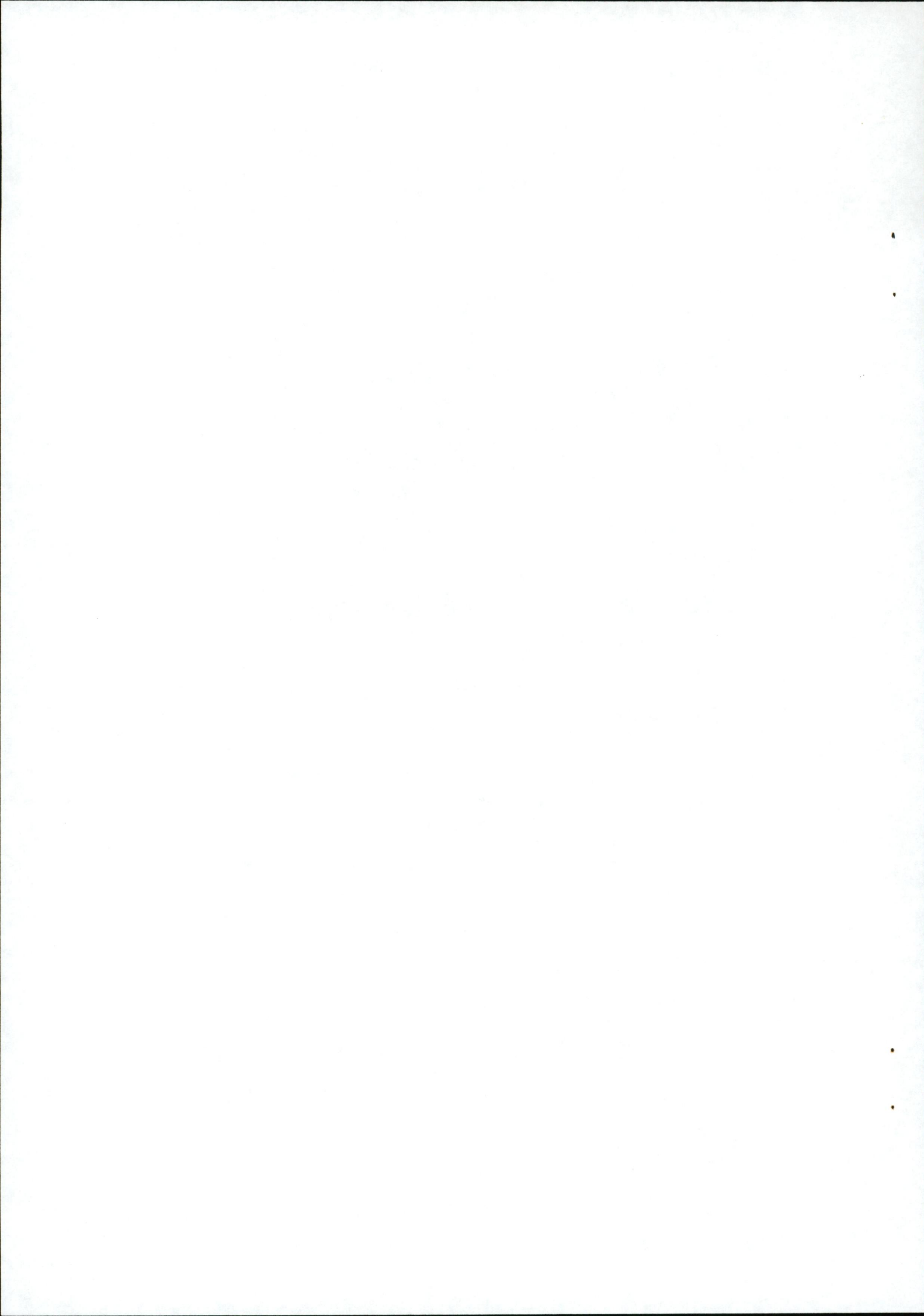


New South Wales

Superannuation Legislation Amendment Bill 1996

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Acts	2
4 Amendment of Police Superannuation Regulation 1995	2
Schedule 1 Amendment of Acts	3





New South Wales

Superannuation Legislation Amendment Bill 1996

No. , 1996

A Bill for

An Act to amend various public sector superannuation Acts and the *Police Superannuation Regulation 1995* in relation to the provision of death or invalidity or incapacity benefits, the transfer of benefits to or from other superannuation schemes, benefits payable to spouses, benefits paid to senior executives and the adjustment of reserves; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Superannuation Legislation Amendment Act 1996*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsections (2) and (3). 5
- (2) Schedule 1.2 [1] is taken to have commenced on 1 March 1996.
- (3) Schedule 1.4 [16] and [17] are taken to have commenced on 1 January 1996.

3 Amendment of Acts

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The Acts specified in Schedule 1 are amended as set out in Schedule 1.

4 Amendment of Police Superannuation Regulation 1995

The *Police Superannuation Regulation 1995* is amended by omitting Part 3.

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Schedule 1 Amendment of Acts

(Section 3)

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

[1] Section 19AC Information to be provided to Corporate Trustee 5

Insert at the end of the section:

- (2) Not later than 3 months after the end of the financial year applicable in respect of a coal or oil shale mine, the owner must provide to the Corporate Trustee a certificate by an auditor certifying that, in respect of each mine worker employed by the owner, the owner has contributed the amounts required under this Act (including under the COALSUPER Rules). 10

Maximum penalty: 5 penalty units.

[2] Schedule 2 Savings and transitional provisions 15

Insert at the end of clause 2 (1):

Superannuation Legislation Amendment Act 1996

[3] Schedule 2, clause 6A

Insert after clause 6:

6A Payments under section 14L (Lump sum benefit payable for incapacity of mine worker) 20

- (1) This clause applies to a person to whom a lump sum benefit was paid under section 14L (2) or (3) of this Act, as inserted by the *Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1992* and repealed by the *Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1994*. 25

Superannuation Legislation Amendment Bill 1996

Schedule 1 Amendment of Acts

- (2) Any such person is taken to be entitled to, and to have been entitled to be paid, a benefit equivalent to the greater amount of the amounts of benefit calculated in accordance with section 14L (4) and (5), as so inserted and repealed.

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1.2 First State Superannuation Act 1992 No 100

[1] Sections 13 and 14

Omit the sections. Insert instead:

13 Basic death or invalidity cover

- (1) A full member is to be covered for the basic death or invalidity benefit if the balance of the member's account is equal to or greater than the amount determined by FTC for the purposes of this section. The cover is to commence on the first day of the month succeeding the month when the balance is first equal to or greater than that amount. 10 15
- (2) If the account balance of a full member is less than the amount determined by FTC under subsection (1), the member may elect to provide for the basic death or invalidity benefit and, on the election taking effect, the member is to be covered for the basic death or invalidity benefit. 20
- (3) A full member's cover for the basic death or invalidity benefit ceases to be in force on election made by the member to FTC that the member is to cease to provide for the cover or on the member ceasing to be a full member. 25
- (4) A full member who is covered for the basic death or invalidity benefit does not cease to be so covered merely because the balance of the member's account is less than the amount determined by FTC under subsection (1). 30

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- (5) Despite any other provision of this section, a full member is not entitled to be covered for the basic death or invalidity benefit:
- (a) in respect of the member's employment by more than one employer, or 5
 - (b) if the member has previously received an invalidity benefit of any kind under a superannuation scheme established under an Act in respect of a future period, or
 - (c) if the member has previously elected under this section not to be so covered. 10
- (6) FTC may make rules for or with respect to the following:
- (a) liability for payment of the basic death or invalidity premium after making an election under subsection (3), 15
 - (b) entitlement or otherwise to refunds of the basic death or invalidity premium after making an election under subsection (3).

14 Payment of basic death or invalidity premiums

- (1) Payment of the basic death or invalidity premium for a member covered for the basic death or invalidity benefit is to be made in respect of the member at such times as may be determined by FTC and is to be made by transfer from that part of the member's account attributable to compulsory employer contributions. 20
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- (2) Payment is not to be made from the account of a full member who is not covered, or who has ceased to be covered, under this Act for the basic death or invalidity benefit.

[2] Section 36

Omit the section. Insert instead:

36 When is a benefit or preserved benefit payable?

- (1) The benefit (including a preserved benefit) payable under this Act is payable by FTC to or in respect of a member: 5
 - (a) if the member dies, or
 - (b) if the member ceases to be employed in the circumstances in which a benefit is payable for the purpose of complying with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth for a regulated superannuation fund, or 10
 - (c) in any other circumstances in which a benefit is payable to comply with any such requirements. 15
- (2) The whole or part of a benefit may be paid under subsection (1), if such a payment is permitted under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth in the same circumstances in respect of a regulated superannuation fund. 20
- (3) The whole or part of a benefit must be paid by FTC under this section if it is required, under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, to be paid by a trustee in the same circumstances in respect of a regulated superannuation fund. 25

[3] Section 37 When is a death or invalidity benefit payable under this Act?

Insert "covered for the benefit" after "full member" in section 37 (1). 30

[4] Section 41 Rules to be made by FTC

Omit “, and the variation of the circumstances under this Act in which benefits may be paid or preserved, for the purpose only of compliance with applicable Commonwealth occupational superannuation standards”.

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[5] Section 55 Death or Invalidity Benefit Management Reserve

Insert “or any management costs associated with the provision of basic death or invalidity cover or additional death or invalidity cover” after “benefits” where secondly occurring in section 55 (3).

[6] Section 61 How other costs may be paid

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Insert at the end of the section:

(2) Management costs associated with the provision of basic death or invalidity cover or additional death or invalidity cover must not be paid from the accounts of members who are not covered for the benefit concerned.

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(3) FTC may require an employer to pay to the Fund the management costs, as determined by FTC, arising out of the failure of the employer to provide information or evidence required to be provided under this Act, or the failure of the employer to provide accurate information required to be provided under this Act.

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[7] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Superannuation Legislation Amendment Act 1996

[8] Schedule 3, clause 3

Insert after clause 2:

3 Basic death or invalidity premiums

A person who, before the commencement of sections 13 and 14, as replaced by the *Superannuation Legislation Amendment Act 1996*, was entitled to a zero amount of basic death or invalidity cover because of the balance of the person's account, is taken not to have been liable to pay basic death or invalidity premiums during any part of the period commencing on 1 March 1996 and ending on the date of assent to that Act. 5
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**1.3 Local Government and Other Authorities
(Superannuation) Act 1927 No 35**

[1] Section 15CDA Definitions

Omit the definition of *gratuity*. Insert instead: 15

gratuity, in relation to a servant of a council, means:

- (a) if the servant's service was terminated, or the servant died, before 1 July 1993—a gratuity under section 97 of the *Local Government Act 1919*, and
- (b) if the servant's service was terminated, or the servant died, on or after that date—a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of a servant of the council and calculated by reference to the period of the servant's service with the council. 20
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[2] Schedule H Savings and transitional provisions

Insert at the end of clause 1 (1):

Superannuation Legislation Amendment Act 1996

[3] Schedule H, Part 3

Insert after Part 2:

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Part 3 Superannuation Legislation Amendment Act 1996

3 Gratuities paid from 1 July 1993

Despite Division 7 of Part 3D, the board may, but need not:

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(a) recover any excess employer-financed benefit paid in respect of a person who received a gratuity after 1 July 1993 and before the commencement of Schedule 1.3 to the *Superannuation Legislation Amendment Act 1996*, or

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(b) pay the person's employer any amount under section 15CJ in respect of the excess benefit.

1.4 Parliamentary Contributory Superannuation Act 1971 No 53

[1] Section 3 Definitions

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Insert in alphabetical order in section 3 (1):

spouse of a member, or former member, who has died means:

(a) the widow or widower, as the case may be, of the member or former member, or

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(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

Superannuation Legislation Amendment Bill 1996

Schedule 1 Amendment of Acts

- (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 19A Variation of certain annual pensions** 5
Omit “widow or widower” wherever occurring in section 19A (2).
Insert instead “spouse”.
- [3] Section 22A Contributors not entitled to pension** 10
Insert “or, if that person died on or after the commencement of Schedule 1.4 [3] to the *Superannuation Legislation Amendment Act 1996*, by a spouse” after “widower” in section 22A (4) (b).
- [4] Section 22B Preservation of minimum benefits under superannuation guarantee legislation** 15
Omit “widow or widower” wherever occurring in section 22B (5).
Insert instead “spouse”.
- [5] Section 23 Pension for spouses**
Omit “widow or widower” wherever occurring (subsection (6) excepted).
Insert instead “spouse”.
- [6] Section 23 (1)** 20
Omit “married”. Insert instead “became the spouse of”.
- [7] Section 23 (6)**
Omit the subsection.

[8] Section 23 (7)

Omit “under subsection (6)”. Insert instead “under this section”.

[9] Section 23 (7)

Omit “(subsection (6) excepted)”.

[10] Section 23 (10)

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Insert “before the commencement of Schedule 1.4 [5] to the *Superannuation Legislation Amendment Act 1996*” after “dies” where secondly occurring.

[11] Section 23 (10) (a)

Omit “widow”. Insert instead “widower”.

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[12] Section 23 (10) (b)

Omit “that commencement”.

Insert instead “the commencement of the *Parliamentary Contributory Superannuation (Amendment) Act 1979*”.

[13] Section 23 (11)

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Insert after section 23 (10):

(11) Where a former member who had ceased to be a member before the commencement of the *Parliamentary Contributory Superannuation (Amendment) Act 1979* dies on or after the commencement of Schedule 1.4 [5] to the *Superannuation Legislation Amendment Act 1996*:

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(a) a pension is not payable under the preceding provisions of this section to the spouse of the former member, but

Superannuation Legislation Amendment Bill 1996

Schedule 1 Amendment of Acts

- (b) a pension is payable to the spouse if the spouse became the spouse of the former member before the former member became entitled to a pension, being the pension to which a widow of the former member was or would have been entitled under this section, as in force immediately before the commencement of the *Parliamentary Contributory Superannuation (Amendment) Act 1979*. 5
- [14] Section 23A Right of certain spouses to convert part of pension entitlement to lump sum entitlement** 10
- Omit "widow or widower" from section 23A (1).
Insert instead "spouse".
- [15] Sections 23B, 26 (1) and 27 (1)**
- Omit "widow or widower" wherever occurring.
Insert instead "spouse". 15
- [16] Section 26 Suspension of pension where another parliamentary pension received**
- Insert after section 26 (4):
- (5) This section does not apply so as to suspend a person's rights under this Part on account of the person's entitlement to a retiring allowance under the *Parliamentary Contributory Superannuation Act 1948* of the Commonwealth if the person pays an amount under section 26B in respect of the commuted value of the retiring allowance. 20
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[17] Sections 26B and 26C

Insert after section 26A:

26B Payment of benefit to Fund by former federal members

- (1) This section applies to a member:
 - (a) who is entitled to, or has received, a retiring allowance or other benefit under a superannuation scheme applicable to federal members, and 5
 - (b) who became a member on or after 1 January 1996.
- (2) A member may elect, not later than 3 months after the date of becoming a member, or within such further period as the trustees may determine in respect of the member, to pay to the Fund an amount of lump sum benefit received by the member as a federal member under a superannuation scheme applicable to federal members. The amount must be paid within the period of 3 months or the further period determined by the trustees. 10 15
- (3) A member who was a member on the commencement of this section may elect, not later than 3 months after that commencement, or within such further period as the trustees may determine in respect of the member, to pay to the Fund an amount of lump sum benefit received by the member as a federal member under a superannuation scheme applicable to federal members. The amount must be paid within the period of 3 months or the further period determined by the trustees. 20 25
- (4) The election must be in writing and given to the trustees.

26C Calculation of benefits for former federal members

- (1) On payment of an amount under section 26B, the trustees must determine, after receiving actuarial advice and, for the purposes of paragraph (b), after obtaining the advice of the trustees of the member's former superannuation scheme: 30

Superannuation Legislation Amendment Bill 1996

Schedule 1 Amendment of Acts

- (a) the additional period of service as a member attributable to the member in respect of the amount paid, and
 - (b) the amounts attributable to employee-financed and employer-financed components of the amount paid for the purposes of this Act. 5
- (2) For the purposes of this Act, the period of service of the member is taken to be increased by the additional period attributable to the member under this section.
- (3) For the purposes of section 19: 10
 - (a) the total salary of the member in respect of the additional period of service is taken to be the same as the total basic salary attributable to that member for that period, and
 - (b) the amount of total basic salary calculated in respect of a member under section 19 is to be increased by the amount of total basic salary under this subsection. 15
- (4) For the purposes of section 22A, a member to whom section 26B applies who is entitled to a benefit under section 22A or any other person to whom the benefit in respect of the member is payable: 20
 - (a) is not entitled to receive a supplementary benefit in respect of any amount paid under section 26B, but 25
 - (b) is entitled to be refunded the whole of any amount paid under section 26B.

[18] Section 30B

Insert after section 30A:

30B Competing claims for spouses' benefits 30

- (1) This section applies to a benefit (including a pension) under this Act that is payable to the spouse of a deceased person.

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- (2) Where, but for this subsection, a benefit to which this section applies would be payable to more than one person (because a deceased person has left more than one spouse):
- (a) the benefit is payable in accordance with a determination made by the trustees, and not otherwise, and 5
 - (b) the total amount of benefit payable to those persons at any time must not exceed the amount of a single benefit. 10
- (3) For the purposes of subsection (2) (a), the trustees may determine in relation to a benefit to which this section applies:
- (a) that the benefit is payable to such of the persons concerned as the trustees specify, or 15
 - (b) that, subject to subsection (2) (b), the amount of the benefit is to be apportioned between the persons concerned in such manner as the trustees specify.
- (4) The trustees may withhold the payment of the whole or any part of a pension to which this section applies by reason of the death of a person or, if any such pension is commuted, withhold the payment of the whole or any part of the amount commuted: 20
- (a) until the expiration of the period of 30 days after the death of the person, or 25
 - (b) if application has been made for the pension by more than one person, until the trustees are satisfied that only one of those persons is entitled to the pension or until a determination is made in relation to the matter by the trustees under this section. 30

Superannuation Legislation Amendment Bill 1996

Schedule 1 Amendment of Acts

- (5) If, after the expiration of 30 days following the death of a person, a pension to which this section applies is paid in respect of any period to a spouse of the deceased person, a pension to which this section applies is not payable to any other spouse of the deceased person in respect of that period. 5
- (6) If, after the expiration of 30 days following the death of a person, the whole or part of a pension to which this section applies is commuted by a spouse of the deceased person: 10
- (a) where the whole of the pension is commuted—a pension to which this section applies is not payable to any other spouse of the deceased person, or
- (b) where part of the pension is commuted—so much of a pension to which this section applies as is equal to the amount of the pension so commuted is not payable to any other spouse of the deceased person. 15
- (7) For the purposes of subsections (5) and (6), an amount paid in good faith by the trustees to a person purporting to be the spouse of a deceased person is taken to have been paid to such a spouse. 20
- (8) If, after the expiration of 30 days following the death of a person, any amount is paid under this Act to the person's personal representatives or to such other persons as the trustees may determine, any pension to which this section applies that is payable to the spouse of the deceased person is to be reduced, in the prescribed manner, by the amount so paid. 25 30

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- (9) For the purposes of subsection (8), the prescribed manner of reducing a pension to which this section applies by a particular amount is:
- (a) the manner prescribed by the regulations, or
 - (b) where no manner is prescribed by the regulations, such manner as the trustees determine. 5

[19] Section 34

Insert after section 33:

34 Savings and transitional provisions consequent on Superannuation Legislation Amendment Act 1996 10

The amendments made by Schedule 1.4 to the *Superannuation Legislation Amendment Act 1996* do not confer a right to a benefit under this Act on a person in relation to the death of a person that occurred before the commencement of this section. 15

1.5 Police Association Employees (Superannuation) Act 1969 No 33

[1] Section 3 Employees of Association transferring from employment as police officers

Insert after section 3 (7A): 20

(7B) Section 9B of the *Police Regulation (Superannuation) Act 1906* applies to a person who becomes entitled to a lump sum benefit under subsection (5) as if the person had been a member of the police force and:

- (a) in the case of a person who has reached the age of 55 years or more at the time of entitlement—as if the person had been entitled to a superannuation allowance under section 7AA of that Act, or 25

Superannuation Legislation Amendment Bill 1996

Schedule 1 Amendment of Acts

- (b) in the case of a person under the age of 55 years at the time of entitlement—as if the person had been entitled to a payment under section 17 of that Act.

[2] Section 3 (11D)

Omit the subsection.

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1.6 Police Regulation (Superannuation) Act 1906 No 28

[1] Section 5B Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 5B (5) (d). Insert instead:

- (d) is not entitled to be paid the benefit provided by section 9B (6) or (6AA) until on or after first ceasing to be employed in the police service after making the election and unless there exist the circumstances set out in section 9B (3) or paragraph (e), and

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- (e) may elect at any time before the benefit is paid to have the benefit paid to the credit of the contributor in the Public Sector Executives Superannuation Scheme.

[2] Section 5B (6) and (7)

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Omit “(5) (d)” wherever occurring. Insert instead “(5) (e)”.

[3] Section 5B (6) (a)

Insert “subsection (5) (d),” before “this subsection”.

[4] Section 9B Preserved benefit

Insert after section 9B (3):

(3A) The benefit provided by subsection (6) or (6AA) is not payable under subsection (3) to a person who elected to provide for the benefit under section 5B unless the additional requirements of section 5B (5) (d) are satisfied.

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[5] Section 11C Grant of superannuation allowance to widower whose spouse died before 20 March 1989

Omit "subsections (3), (4) and (7)" from subsection (1).
Insert instead "subsection (3)".

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[6] Section 11C (3)–(7)

Omit the subsections. Insert instead:

(3) A superannuation allowance under this section:

- (a) is not payable to a widower to whom a superannuation allowance is payable under section 12 or to whom a gratuity is payable under section 12 (1A), and 15
- (b) is not payable to a widower of a member of the police force who commuted her superannuation allowance under Division 3, and 20
- (c) is subject to section 23.

**1.7 Public Sector Executives Superannuation Act 1989
No 106**

[1] Section 3 Definitions

25

Omit the definition of *spouse* from section 3 (1). Insert instead:

spouse of a deceased member or deceased former member means:

Superannuation Legislation Amendment Bill 1996

Schedule 1 Amendment of Acts

- (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 5
- (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. 10

[2] Section 52B

Insert after section 52A:

52B Competing claims for spouses' benefits

- (1) This section applies to a benefit that is payable to the spouse of a deceased member or deceased former member. 15
- (2) If a benefit would be payable to more than one person because a deceased member or deceased former member has left more than one spouse, then, despite any other provision of this Act: 20
 - (a) the benefit is payable in accordance with a determination made by FTC, 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. 25
- (3) For the purposes of subsection (2) (a), FTC may determine in relation to a benefit:
 - (a) that the benefit is not payable to such of the persons concerned as it specifies, or 30

-
- (b) that the amount of the benefit is to be apportioned between the persons concerned in such manner as it specifies.
- (4) FTC may withhold the payment of any part of a benefit:
- (a) until 30 days after the death of the member or former member in respect of whom the benefit is payable, or 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 FTC under this section. 10
- (5) If, after 30 days from the death of a member or former member, the whole or part of a benefit is paid to a spouse of the deceased member or deceased former member: 15
- (a) a benefit is not payable to any other spouse of the deceased member or deceased former member 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 member or deceased former member if part of the benefit is paid. 20
- (6) For the purposes of subsection (5), an amount paid in good faith by FTC to a person purporting to be the spouse of a deceased member or deceased former member is taken to have been paid to the spouse of the member or former member. 25
- (7) 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 FTC may determine, any benefit which is payable to the spouse of the member or former member is to be reduced by the amount so paid. 30

[3] Section 58A

Insert after section 58:

58A Additional benefit cover provided by other persons

- (1) If FTC enters into a contract or an arrangement under sections 12 and 20 of the *Superannuation Administration Act 1996* with another person for the insurance by that person, or the arranging of insurance by that person, (on an individual or a group basis) of members for the purpose of coverage for additional benefits, sections 37-42, and 48 and 49 (but only in respect of the payment of the additional benefit), do not apply to a member for whom additional cover is, or is to be, arranged except as provided by the contract or arrangement. 5
- (2) The contract or arrangement relating to the provision of coverage for additional benefits may provide for the following: 10
- (a) approval of cover,
 - (b) premiums payable for cover,
 - (c) conditions of cover,
 - (d) revocation of cover, 20
 - (e) information relating to, or to be provided by, the insured person,
 - (f) circumstances when the benefit is payable and determination of benefit claims.

1.8 State Authorities Superannuation Act 1987 No 211 25

[1] Section 30A Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 30A (5) (d). Insert instead:

- (d) is not entitled to be paid the benefit provided by section 43 (6) until on or after first ceasing to be an employee after making the election and unless there exist the circumstances set out in section 43 (3) or paragraph (e), and 30

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- (e) may elect at any time before the benefit is paid to have the benefit paid to the credit of the contributor in the Public Sector Executives Superannuation Scheme, if the contributor is a member or is eligible to become a member of that scheme. 5
- [2] Section 30A (6)**
Omit “subsection (5) (d)”. Insert instead “subsection (5) (e)”.
- [3] Section 30A (6) (a)**
Insert “subsection (5) (d) or” before “this subsection”. 10
- [4] Section 43 Preserved benefit**
Insert “or section 30A” after “subsection (1)” in section 43 (3) (a) (i).
- [5] Section 43 (3A)**
Insert after section 43 (3): 15
- (3A) The benefit provided by subsection (6) is not payable under subsection (3) to a person who elected to provide for the benefit under section 30A unless the additional requirements of section 30A (5) (d) are satisfied.
- 1.9 Superannuation Act 1916 No 28** 20
- [1] Section 8B**
Insert after section 8A:
- 8B Adjustment of reserves resulting from actuarial investigation**
- (1) STC may adjust the reserves within the Fund if a report by an actuary under section 10, or by an actuary 25

otherwise appointed by STC, recommends that the adjustment be made. The adjustment may be made as at a date determined by STC, and may be a date before, on or after the commencement of this section.

- (2) STC may only make the adjustment with the consent of the Minister after the Minister has considered the relevant report of the actuary and with the advice of the actuary. 5
- (3) STC may adjust the contributors' reserve or an employer reserve under this section despite any other provision of this Act. 10
- (4) STC must publish in the Gazette a notice containing a description of any adjustments made to reserves under this section.
- (5) STC's decision to adjust a reserve under this section is binding on all contributors and employers, unless affected by a subsequent decision under this section. 15

[2] Section 20AB Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 20AB (5) (d). Insert instead: 20

- (d) is not entitled to be paid the benefit provided by Division 3A of Part 4 until on or after first ceasing to be an employee after making the election and unless there exist the circumstances in which a person referred to in section 52A (1) is entitled to be paid a benefit under that Division or the circumstances in which a benefit is payable under paragraph (e), and 25
- (e) may elect at any time before the benefit is paid to have the benefit paid to the credit of the contributor in the Public Sector Executives Superannuation Scheme, if the contributor is a member or is eligible to become a member of that Scheme. 30

[3] Section 20AB (6)

Omit "subsection (5) (d)". Insert instead "subsection (5) (e)"

[4] Section 20AB (6) (a)

Insert "subsection (5) (d)," before "this subsection".

[5] Section 52C Pensions at retiring age

5

Insert after section 52C (1):

(1A) The pension provided by this section is not payable under subsection (1) to a person who elected to provide for the benefit under section 20AB unless the requirements of section 20AB (5) (d) are satisfied.

10

[6] Section 52D Pensions at early retirement age

Insert after section 52D (1):

(1A) The pension provided by this section is not payable under subsection (1) to a person who elected to provide for the benefit under section 20AB unless the requirements of section 20AB (5) (d) are satisfied.

15

[7] Schedule 21 Provisions relating to the closure of the Fund

Omit clause 4.

[8] Schedule 25 Savings and transitional provisions

Insert at the end of clause 1 (1):

20

Superannuation Legislation Amendment Act 1996



New South Wales

Superannuation Legislation Amendment Act 1996 No 92

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Acts	2
4 Amendment of Police Superannuation Regulation 1995	2
Schedule 1 Amendment of Acts	3



New South Wales

Superannuation Legislation Amendment Act 1996 No 92

Act No 92, 1996

An Act to amend various public sector superannuation Acts and the *Police Superannuation Regulation 1995* in relation to the provision of death or invalidity or incapacity benefits, the transfer of benefits to or from other superannuation schemes, benefits payable to spouses, benefits paid to senior executives and the adjustment of reserves; and for other purposes. [Assented to 25 November 1996]

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Superannuation Legislation Amendment Act 1996*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsections (2) and (3).
- (2) Schedule 1.2 [1] is taken to have commenced on 1 March 1996.
- (3) Schedule 1.4 [16] and [17] are taken to have commenced on 1 January 1996.

3 Amendment of Acts

The Acts specified in Schedule 1 are amended as set out in Schedule 1.

4 Amendment of Police Superannuation Regulation 1995

The *Police Superannuation Regulation 1995* is amended by omitting Part 3.

Schedule 1 Amendment of Acts

(Section 3)

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

[1] Section 19AC Information to be provided to Corporate Trustee

Insert at the end of the section:

- (2) Not later than 3 months after the end of the financial year applicable in respect of a coal or oil shale mine, the owner must provide to the Corporate Trustee a certificate by an auditor certifying that, in respect of each mine worker employed by the owner, the owner has contributed the amounts required under this Act (including under the COALSUPER Rules).

Maximum penalty: 5 penalty units.

[2] Schedule 2 Savings and transitional provisions

Insert at the end of clause 2 (1):

Superannuation Legislation Amendment Act 1996

[3] Schedule 2, clause 6A

Insert after clause 6:

6A Payments under section 14L (Lump sum benefit payable for incapacity of mine worker)

- (1) This clause applies to a person to whom a lump sum benefit was paid under section 14L (2) or (3) of this Act, as inserted by the *Coal and Oil Shale Mine Workers (Superannuation) Amendment Act 1992* and repealed by the *Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1994*.

- (2) Any such person is taken to be entitled to, and to have been entitled to be paid, a benefit equivalent to the greater amount of the amounts of benefit calculated in accordance with section 14L (4) and (5), as so inserted and repealed.

1.2 First State Superannuation Act 1992 No 100

[1] Sections 13 and 14

Omit the sections. Insert instead:

13 Basic death or invalidity cover

- (1) A full member is to be covered for the basic death or invalidity benefit if the balance of the member's account is equal to or greater than the amount determined by FTC for the purposes of this section. The cover is to commence on the first day of the month succeeding the month when the balance is first equal to or greater than that amount.
- (2) If the account balance of a full member is less than the amount determined by FTC under subsection (1), the member may elect to provide for the basic death or invalidity benefit and, on the election taking effect, the member is to be covered for the basic death or invalidity benefit.
- (3) A full member's cover for the basic death or invalidity benefit ceases to be in force on election made by the member to FTC that the member is to cease to provide for the cover or on the member ceasing to be a full member.
- (4) A full member who is covered for the basic death or invalidity benefit does not cease to be so covered merely because the balance of the member's account is less than the amount determined by FTC under subsection (1).

- (5) Despite any other provision of this section, a full member is not entitled to be covered for the basic death or invalidity benefit:
- (a) in respect of the member's employment by more than one employer, or
 - (b) if the member has previously received an invalidity benefit of any kind under a superannuation scheme established under an Act in respect of a future period, or
 - (c) if the member has previously elected under this section not to be so covered.
- (6) FTC may make rules for or with respect to the following:
- (a) liability for payment of the basic death or invalidity premium after making an election under subsection (3),
 - (b) entitlement or otherwise to refunds of the basic death or invalidity premium after making an election under subsection (3).

14 Payment of basic death or invalidity premiums

- (1) Payment of the basic death or invalidity premium for a member covered for the basic death or invalidity benefit is to be made in respect of the member at such times as may be determined by FTC and is to be made by transfer from that part of the member's account attributable to compulsory employer contributions.
- (2) Payment is not to be made from the account of a full member who is not covered, or who has ceased to be covered, under this Act for the basic death or invalidity benefit.

[2] Section 36

Omit the section. Insert instead:

36 When is a benefit or preserved benefit payable?

- (1) The benefit (including a preserved benefit) payable under this Act is payable by FTC to or in respect of a member:
 - (a) if the member dies, or
 - (b) if the member ceases to be employed in the circumstances in which a benefit is payable for the purpose of complying with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth for a regulated superannuation fund, or
 - (c) in any other circumstances in which a benefit is payable to comply with any such requirements.
- (2) The whole or part of a benefit may be paid under subsection (1), if such a payment is permitted under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth in the same circumstances in respect of a regulated superannuation fund.
- (3) The whole or part of a benefit must be paid by FTC under this section if it is required, under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, to be paid by a trustee in the same circumstances in respect of a regulated superannuation fund.

[3] Section 37 When is a death or invalidity benefit payable under this Act?

Insert "covered for the benefit" after "full member" in section 37 (1).

[4] Section 41 Rules to be made by FTC

Omit “, and the variation of the circumstances under this Act in which benefits may be paid or preserved, for the purpose only of compliance with applicable Commonwealth occupational superannuation standards”.

[5] Section 55 Death or Invalidity Benefit Management Reserve

Insert “or any management costs associated with the provision of basic death or invalidity cover or additional death or invalidity cover” after “benefits” where secondly occurring in section 55 (3).

[6] Section 61 How other costs may be paid

Insert at the end of the section:

- (2) Management costs associated with the provision of basic death or invalidity cover or additional death or invalidity cover must not be paid from the accounts of members who are not covered for the benefit concerned.
- (3) FTC may require an employer to pay to the Fund the management costs, as determined by FTC, arising out of the failure of the employer to provide information or evidence required to be provided under this Act, or the failure of the employer to provide accurate information required to be provided under this Act.

[7] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Superannuation Legislation Amendment Act 1996

[8] Schedule 3, clause 3

Insert after clause 2:

3 Basic death or invalidity premiums

A person who, before the commencement of sections 13 and 14, as replaced by the *Superannuation Legislation Amendment Act 1996*, was entitled to a zero amount of basic death or invalidity cover because of the balance of the person's account, is taken not to have been liable to pay basic death or invalidity premiums during any part of the period commencing on 1 March 1996 and ending on the date of assent to that Act.

**1.3 Local Government and Other Authorities
(Superannuation) Act 1927 No 35**

[1] Section 15CDA Definitions

Omit the definition of *gratuity*. Insert instead:

gratuity, in relation to a servant of a council, means:

- (a) if the servant's service was terminated, or the servant died, before 1 July 1993—a gratuity under section 97 of the *Local Government Act 1919*, and
- (b) if the servant's service was terminated, or the servant died, on or after that date—a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of a servant of the council and calculated by reference to the period of the servant's service with the council.

[2] Schedule H Savings and transitional provisions

Insert at the end of clause 1 (1):

Superannuation Legislation Amendment Act 1996

[3] Schedule H, Part 3

Insert after Part 2:

**Part 3 Superannuation Legislation Amendment Act
1996**

3 Gratuities paid from 1 July 1993

Despite Division 7 of Part 3D, the board may, but need not:

- (a) recover any excess employer-financed benefit paid in respect of a person who received a gratuity after 1 July 1993 and before the commencement of Schedule 1.3 to the *Superannuation Legislation Amendment Act 1996*, or
- (b) pay the person's employer any amount under section 15CJ in respect of the excess benefit.

**1.4 Parliamentary Contributory Superannuation Act 1971
No 53**

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

spouse of a member, or former member, 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 19A Variation of certain annual pensions

Omit “widow or widower” wherever occurring in section 19A (2).
Insert instead “spouse”.

[3] Section 22A Contributors not entitled to pension

Insert “or, if that person died on or after the commencement of Schedule 1.4 [3] to the *Superannuation Legislation Amendment Act 1996*, by a spouse” after “widower” in section 22A (4) (b).

[4] Section 22B Preservation of minimum benefits under superannuation guarantee legislation

Omit “widow or widower” wherever occurring in section 22B (5).
Insert instead “spouse”.

[5] Section 23 Pension for spouses

Omit “widow or widower” wherever occurring (subsection (6) excepted).
Insert instead “spouse”.

[6] Section 23 (1)

Omit “married”. Insert instead “became the spouse of”.

[7] Section 23 (6)

Omit the subsection.

[8] Section 23 (7)

Omit "under subsection (6)". Insert instead "under this section".

[9] Section 23 (7)

Omit "(subsection (6) excepted)".

[10] Section 23 (10)

Insert "before the commencement of Schedule 1.4 [5] to the *Superannuation Legislation Amendment Act 1996*" after "dies" where secondly occurring.

[11] Section 23 (10) (a)

Omit "widow". Insert instead "widower".

[12] Section 23 (10) (b)

Omit "that commencement".

Insert instead "the commencement of the *Parliamentary Contributory Superannuation (Amendment) Act 1979*".

[13] Section 23 (11)

Insert after section 23 (10):

(11) Where a former member who had ceased to be a member before the commencement of the *Parliamentary Contributory Superannuation (Amendment) Act 1979* dies on or after the commencement of Schedule 1.4 [5] to the *Superannuation Legislation Amendment Act 1996*:

(a) a pension is not payable under the preceding provisions of this section to the spouse of the former member, but

- (b) a pension is payable to the spouse if the spouse became the spouse of the former member before the former member became entitled to a pension, being the pension to which a widow of the former member was or would have been entitled under this section, as in force immediately before the commencement of the *Parliamentary Contributory Superannuation (Amendment) Act 1979*.

[14] Section 23A Right of certain spouses to convert part of pension entitlement to lump sum entitlement

Omit "widow or widower" from section 23A (1).
Insert instead "spouse".

[15] Sections 23B, 26 (1) and 27 (1)

Omit "widow or widower" wherever occurring.
Insert instead "spouse".

[16] Section 26 Suspension of pension where another parliamentary pension received

Insert after section 26 (4):

- (5) This section does not apply so as to suspend a person's rights under this Part on account of the person's entitlement to a retiring allowance under the *Parliamentary Contributory Superannuation Act 1948* of the Commonwealth if the person pays an amount under section 26B in respect of the commuted value of the retiring allowance.

[17] Sections 26B and 26C

Insert after section 26A:

26B Payment of benefit to Fund by former federal members

- (1) This section applies to a member:
 - (a) who is entitled to, or has received, a retiring allowance or other benefit under a superannuation scheme applicable to federal members, and
 - (b) who became a member on or after 1 January 1996.
- (2) A member may elect, not later than 3 months after the date of becoming a member, or within such further period as the trustees may determine in respect of the member, to pay to the Fund an amount of lump sum benefit received by the member as a federal member under a superannuation scheme applicable to federal members. The amount must be paid within the period of 3 months or the further period determined by the trustees.
- (3) A member who was a member on the commencement of this section may elect, not later than 3 months after that commencement, or within such further period as the trustees may determine in respect of the member, to pay to the Fund an amount of lump sum benefit received by the member as a federal member under a superannuation scheme applicable to federal members. The amount must be paid within the period of 3 months or the further period determined by the trustees.
- (4) The election must be in writing and given to the trustees.

26C Calculation of benefits for former federal members

- (1) On payment of an amount under section 26B, the trustees must determine, after receiving actuarial advice and, for the purposes of paragraph (b), after obtaining the advice of the trustees of the member's former superannuation scheme:

- (a) the additional period of service as a member attributable to the member in respect of the amount paid, and
 - (b) the amounts attributable to employee-financed and employer-financed components of the amount paid for the purposes of this Act.
- (2) For the purposes of this Act, the period of service of the member is taken to be increased by the additional period attributable to the member under this section.
- (3) For the purposes of section 19:
- (a) the total salary of the member in respect of the additional period of service is taken to be the same as the total basic salary attributable to that member for that period, and
 - (b) the amount of total basic salary calculated in respect of a member under section 19 is to be increased by the amount of total basic salary under this subsection.
- (4) For the purposes of section 22A, a member to whom section 26B applies who is entitled to a benefit under section 22A or any other person to whom the benefit in respect of the member is payable:
- (a) is not entitled to receive a supplementary benefit in respect of any amount paid under section 26B, but
 - (b) is entitled to be refunded the whole of any amount paid under section 26B.

[18] Section 30B

Insert after section 30A:

30B Competing claims for spouses' benefits

- (1) This section applies to a benefit (including a pension) under this Act that is payable to the spouse of a deceased person.

- (2) Where, but for this subsection, a benefit to which this section applies would be payable to more than one person (because a deceased person has left more than one spouse):
 - (a) the benefit is payable in accordance with a determination made by the trustees, and not otherwise, and
 - (b) the total amount of benefit payable to those persons at any time must not exceed the amount of a single benefit.
- (3) For the purposes of subsection (2) (a), the trustees may determine in relation to a benefit to which this section applies:
 - (a) that the benefit is payable to such of the persons concerned as the trustees specify, or
 - (b) that, subject to subsection (2) (b), the amount of the benefit is to be apportioned between the persons concerned in such manner as the trustees specify.
- (4) The trustees may withhold the payment of the whole or any part of a pension to which this section applies by reason of the death of a person or, if any such pension is commuted, withhold the payment of the whole or any part of the amount commuted:
 - (a) until the expiration of the period of 30 days after the death of the person, or
 - (b) if application has been made for the pension by more than one person, until the trustees are satisfied that only one of those persons is entitled to the pension or until a determination is made in relation to the matter by the trustees under this section.

- (5) If, after the expiration of 30 days following the death of a person, a pension to which this section applies is paid in respect of any period to a spouse of the deceased person, a pension to which this section applies is not payable to any other spouse of the deceased person in respect of that period.
- (6) If, after the expiration of 30 days following the death of a person, the whole or part of a pension to which this section applies is commuted by a spouse of the deceased person:
 - (a) where the whole of the pension is commuted—a pension to which this section applies is not payable to any other spouse of the deceased person, or
 - (b) where part of the pension is commuted—so much of a pension to which this section applies as is equal to the amount of the pension so commuted is not payable to any other spouse of the deceased person.
- (7) For the purposes of subsections (5) and (6), an amount paid in good faith by the trustees to a person purporting to be the spouse of a deceased person is taken to have been paid to such a spouse.
- (8) If, after the expiration of 30 days following the death of a person, any amount is paid under this Act to the person's personal representatives or to such other persons as the trustees may determine, any pension to which this section applies that is payable to the spouse of the deceased person is to be reduced, in the prescribed manner, by the amount so paid.

- (9) For the purposes of subsection (8), the prescribed manner of reducing a pension to which this section applies by a particular amount is:
- (a) the manner prescribed by the regulations, or
 - (b) where no manner is prescribed by the regulations, such manner as the trustees determine.

[19] Section 34

Insert after section 33:

34 Savings and transitional provisions consequent on Superannuation Legislation Amendment Act 1996

The amendments made by Schedule 1.4 to the *Superannuation Legislation Amendment Act 1996* do not confer a right to a benefit under this Act on a person in relation to the death of a person that occurred before the commencement of this section.

1.5 Police Association Employees (Superannuation) Act 1969 No 33

[1] Section 3 Employees of Association transferring from employment as police officers

Insert after section 3 (7A):

- (7B) Section 9B of the *Police Regulation (Superannuation) Act 1906* applies to a person who becomes entitled to a lump sum benefit under subsection (5) as if the person had been a member of the police force and:
- (a) in the case of a person who has reached the age of 55 years or more at the time of entitlement—as if the person had been entitled to a superannuation allowance under section 7AA of that Act, or

- (b) in the case of a person under the age of 55 years at the time of entitlement—as if the person had been entitled to a payment under section 17 of that Act.

[2] Section 3 (11D)

Omit the subsection.

1.6 Police Regulation (Superannuation) Act 1906 No 28

[1] Section 5B Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 5B (5) (d). Insert instead:

- (d) is not entitled to be paid the benefit provided by section 9B (6) or (6AA) until on or after first ceasing to be employed in the police service after making the election and unless there exist the circumstances set out in section 9B (3) or paragraph (e), and
- (e) may elect at any time before the benefit is paid to have the benefit paid to the credit of the contributor in the Public Sector Executives Superannuation Scheme.

[2] Section 5B (6) and (7)

Omit “(5) (d)” wherever occurring. Insert instead “(5) (e)”.

[3] Section 5B (6) (a)

Insert “subsection (5) (d),” before “this subsection”.

[4] Section 9B Preserved benefit

Insert after section 9B (3):

- (3A) The benefit provided by subsection (6) or (6AA) is not payable under subsection (3) to a person who elected to provide for the benefit under section 5B unless the additional requirements of section 5B (5) (d) are satisfied.

[5] Section 11C Grant of superannuation allowance to widower whose spouse died before 20 March 1989

Omit "subsections (3), (4) and (7)" from subsection (1).
Insert instead "subsection (3)".

[6] Section 11C (3)-(7)

Omit the subsections. Insert instead:

- (3) A superannuation allowance under this section:
- (a) is not payable to a widower to whom a superannuation allowance is payable under section 12 or to whom a gratuity is payable under section 12 (1A), and
 - (b) is not payable to a widower of a member of the police force who commuted her superannuation allowance under Division 3, and
 - (c) is subject to section 23.

**1.7 Public Sector Executives Superannuation Act 1989
No 106**

[1] Section 3 Definitions

Omit the definition of *spouse* from section 3 (1). Insert instead:

spouse of a deceased member or deceased former member 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 52B

Insert after section 52A:

52B Competing claims for spouses' benefits

- (1) This section applies to a benefit that is payable to the spouse of a deceased member or deceased former member.
- (2) If a benefit would be payable to more than one person because a deceased member or deceased former member 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 FTC, 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), FTC 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) FTC may withhold the payment of any part of a benefit:
 - (a) until 30 days after the death of the member or former member in respect of whom the benefit 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 FTC under this section.
- (5) If, after 30 days from the death of a member or former member, the whole or part of a benefit is paid to a spouse of the deceased member or deceased former member:
 - (a) a benefit is not payable to any other spouse of the deceased member or deceased former member 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 member or deceased former member if part of the benefit is paid.
- (6) For the purposes of subsection (5), an amount paid in good faith by FTC to a person purporting to be the spouse of a deceased member or deceased former member is taken to have been paid to the spouse of the member or former member.
- (7) 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 FTC may determine, any benefit which is payable to the spouse of the member or former member is to be reduced by the amount so paid.

[3] Section 58A

Insert after section 58:

58A Additional benefit cover provided by other persons

- (1) If FTC enters into a contract or an arrangement under sections 12 and 20 of the *Superannuation Administration Act 1996* with another person for the insurance by that person, or the arranging of insurance by that person, (on an individual or a group basis) of members for the purpose of coverage for additional benefits, sections 37–42, and 48 and 49 (but only in respect of the payment of the additional benefit), do not apply to a member for whom additional cover is, or is to be, arranged except as provided by the contract or arrangement.
- (2) The contract or arrangement relating to the provision of coverage for additional benefits may provide for the following:
 - (a) approval of cover,
 - (b) premiums payable for cover,
 - (c) conditions of cover,
 - (d) revocation of cover,
 - (e) information relating to, or to be provided by, the insured person,
 - (f) circumstances when the benefit is payable and determination of benefit claims.

1.8 State Authorities Superannuation Act 1987 No 211

[1] Section 30A Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 30A (5) (d). Insert instead:

- (d) is not entitled to be paid the benefit provided by section 43 (6) until on or after first ceasing to be an employee after making the election and unless there exist the circumstances set out in section 43 (3) or paragraph (e), and

- (e) may elect at any time before the benefit is paid to have the benefit paid to the credit of the contributor in the Public Sector Executives Superannuation Scheme, if the contributor is a member or is eligible to become a member of that scheme.

[2] Section 30A (6)

Omit "subsection (5) (d)". Insert instead "subsection (5) (e)".

[3] Section 30A (6) (a)

Insert "subsection (5) (d) or" before "this subsection".

[4] Section 43 Preserved benefit

Insert "or section 30A" after "subsection (1)" in section 43 (3) (a) (i).

[5] Section 43 (3A)

Insert after section 43 (3):

- (3A) The benefit provided by subsection (6) is not payable under subsection (3) to a person who elected to provide for the benefit under section 30A unless the additional requirements of section 30A (5) (d) are satisfied.

1.9 Superannuation Act 1916 No 28

[1] Section 8B

Insert after section 8A:

8B Adjustment of reserves resulting from actuarial investigation

- (1) STC may adjust the reserves within the Fund if a report by an actuary under section 10, or by an actuary

otherwise appointed by STC, recommends that the adjustment be made. The adjustment may be made as at a date determined by STC, and may be a date before, on or after the commencement of this section.

- (2) STC may only make the adjustment with the consent of the Minister after the Minister has considered the relevant report of the actuary and with the advice of the actuary.
- (3) STC may adjust the contributors' reserve or an employer reserve under this section despite any other provision of this Act.
- (4) STC must publish in the Gazette a notice containing a description of any adjustments made to reserves under this section.
- (5) STC's decision to adjust a reserve under this section is binding on all contributors and employers, unless affected by a subsequent decision under this section.

[2] Section 20AB Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 20AB (5) (d). Insert instead:

- (d) is not entitled to be paid the benefit provided by Division 3A of Part 4 until on or after first ceasing to be an employee after making the election and unless there exist the circumstances in which a person referred to in section 52A (1) is entitled to be paid a benefit under that Division or the circumstances in which a benefit is payable under paragraph (e), and
- (e) may elect at any time before the benefit is paid to have the benefit paid to the credit of the contributor in the Public Sector Executives Superannuation Scheme, if the contributor is a member or is eligible to become a member of that Scheme.

[3] Section 20AB (6)

Omit "subsection (5) (d)". Insert instead "subsection (5) (e)"

[4] Section 20AB (6) (a)

Insert "subsection (5) (d)," before "this subsection".

[5] Section 52C Pensions at retiring age

Insert after section 52C (1):

(1A) The pension provided by this section is not payable under subsection (1) to a person who elected to provide for the benefit under section 20AB unless the requirements of section 20AB (5) (d) are satisfied.

[6] Section 52D Pensions at early retirement age

Insert after section 52D (1):

(1A) The pension provided by this section is not payable under subsection (1) to a person who elected to provide for the benefit under section 20AB unless the requirements of section 20AB (5) (d) are satisfied.

[7] Schedule 21 Provisions relating to the closure of the Fund

Omit clause 4.

[8] Schedule 25 Savings and transitional provisions

Insert at the end of clause 1 (1):

Superannuation Legislation Amendment Act 1996
