

**SUPERANNUATION LEGISLATION (MISCELLANEOUS  
AMENDMENTS) ACT 1993 No. 42**

NEW SOUTH WALES



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**SUPERANNUATION LEGISLATION (MISCELLANEOUS  
AMENDMENTS) ACT 1993 No. 42**

NEW SOUTH WALES



**Act No. 42, 1993**

An Act to amend various public sector superannuation Acts in relation to the privatisation of certain public sector employers, salary for superannuation purposes and as a consequence of the introduction of the First State Superannuation Scheme; and for other purposes. [Assented to 8 June 1993]

**The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Superannuation Legislation (Miscellaneous Amendments) 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 1–4 are amended as set out in those Schedules.

**Explanatory notes etc.**

4. The matter appearing under the Readings “Explanatory note” and “Note” in the Schedules does not form part of this Act.

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**SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION**

(Sec. 3)

**STATE AUTHORITIES NON-CONTRIBUTORY  
SUPERANNUATION ACT 1987 No. 212**

**AMENDMENT**

Part 4AA:

Before Part 5, insert:

**PART 4AA—PROVISIONS RELATING TO  
PRIVATISATION OF EMPLOYERS**

**Preservation of benefit for contributors affected by  
privatisation**

27AA. (1) The basic benefit in respect of a person must be preserved by the Board under section 24 if, as a consequence of a Government privatisation initiative affecting the relevant employer:

SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued*

- (a) the person is transferred or elects to transfer to employment other than with an employer and the Minister certifies that the transfer is a consequence of a Government privatisation initiative affecting the employer; or
- (b) the employer of the person ceases to be an employer under this Act and the Minister certifies that it is a consequence of a Government privatisation initiative affecting the employer.

(2) The basic benefit is not required to be preserved if the employee makes a request under section 23 (1) (d) and the Board pays the benefit in accordance with that provision.

**Adjustment of employer liability on privatisation**

27AB. (1) The Board must, on or before, or as soon as practicable after, an employer ceases to be an employer as a consequence of a Government privatisation initiative affecting the employer, determine the net liability of the employer in respect of employees of the employer who are affected by the initiative.

(2) The Board is to seek actuarial advice as to the net liability of the employer and is to consult with the Treasurer before determining the liability.

(3) The amount of the net liability of the employer, as certified by the Board, is a debt due for payment to the Board by the employer or the employer's successor, on and from the date the initiative takes effect, as so certified.

(4) The Board may whenever it thinks fit, with the concurrence of the Treasurer, adjust the amount that is currently standing to the credit or debit of an employer's reserve in the Fund to reflect the Board's determination of the net liability of the employer.

(5) For the purposes of this section, the "net liability" of an employer is the total liability of the employer for present and future benefits (accrued as at the date at which the liability is determined), contributions and administrative costs and any other liability under this Act in respect of the employees concerned, less the amount determined by the Board as being credited to the employer in the Fund.

SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued*

**Employer liabilities after privatisation**

27AC. (1) On and from a transfer of employees that the Minister certifies under this Part is a consequence of a Government privatisation initiative affecting an employer, the employer's liability with respect to the employees for present and future benefits, contributions and administrative costs and any other liability under this Act vests in the Crown.

(2) On and from the removal of an employer from Schedule 1 by virtue of an order under this Act as a consequence of a Government privatisation initiative, the employer's liability for present and future benefits, contributions and administrative costs and any other liability under this Act vests in the Crown.

(3) Any surplus after meeting any liability vested in the Crown by this section is vested in the Crown.

**COMMENCEMENT**

The amendment to the State Authorities Non-contributory Superannuation Act 1987 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The amendment sets out provisions applicable to employees and employers affected by a Government privatisation initiative. A new Part 4AA is inserted, containing provisions providing for the preservation of a benefit on privatisation (section 27AA), requiring the net liability of an employer to be determined on privatisation and to be a debt due to the Board (section 27AB) and vesting the continuing liabilities of the employer under the State Authorities Non-contributory Superannuation Scheme in the Crown on privatisation (section 27AC).

**STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211**

**AMENDMENTS**

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

Omit section 43 (9), insert instead:

(9) Part 1 of Schedule 5 has effect with respect to contributors who are transferred as a consequence of a Government initiative (other than a Government privatisation initiative) or who, while remaining with their existing employer, elect or are required to become contributors to another superannuation scheme.

**SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued***

(2) Section 43AA (**Preservation of benefit for contributors aged 55 years and over in certain circumstances**):

Omit “Part 2”, insert instead “Part 3”.

(3) Part 5A:

After Part 5, insert:

**PART 5A—PROVISIONS RELATING TO  
PRIVATISATION OF EMPLOYERS**

**Removal of employers from Act on privatisation**

46AA. (1) The Governor may, by order published in the Gazette, amend Schedule 1 by omitting the name of an employer if the Minister has certified that the removal is a consequence of a Government privatisation initiative affecting the employer.

(2) An order under this section, and any order revoking or varying such an order, may be made to take effect on and from a day specified in the order, whether or not the day specified is earlier than the day of publication of the order.

**Preservation of benefit for contributors affected by privatisation**

46AB. (1) Part 2 (Preservation of benefit on privatisation) of Schedule 5 has effect with respect to contributors if, as a consequence of a Government privatisation initiative affecting the relevant employer:

- (a) the contributors are transferred or elect to transfer to employment other than with an employer and the Minister certifies that the transfer is a consequence of a Government privatisation initiative affecting the employer; or
- (b) the employer of the contributors ceases to be an employer under this Act by virtue of an order under this Part.

(2) A benefit is not required to be preserved under this section if a benefit is payable under another provision of this Act because the contributor has been retrenched.

SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued*

(3) In this section and Schedule 5, “**contributor**” includes a participant in a superannuation scheme referred to in clause 1 (1) of Schedule 4 (which provides for the transfer of contributors to the scheme from closed schemes).

**Adjustment of employer liability on privatisation**

46AC. (1) The Board must, or or before, or as soon as practicable after, an order under this Part removing an employer takes effect, determine the net liability of the employer in respect of employees of the employer who are contributors and who are affected by the initiative.

(2) The Board is to seek actuarial advice as to the net liability of the employer and is to consult with the Treasurer before determining the liability.

(3) The amount of the net liability of the employer, as certified by the Board, is a debt due for payment to the Board by the employer or the employer’s successor, on and from the date the initiative takes effect, as so certified.

(4) The Board may whenever it thinks fit, with the concurrence of the Treasurer, adjust the amount that is currently standing to the credit or debit of an employer’s reserve in the Fund to reflect the Board’s determination of the net liability of the employer.

(5) For the purposes of this section, the “net liability” of an employer is the total liability of the employer for present and future employer-financed benefits (accrued as at the date at which the liability is determined), contributions and administrative costs and any other liability under this Act in respect of the employees concerned, less the amount determined by the Board as being credited to the employer in the Fund.

**Employer liabilities after privatisation**

46AD. (1) On and from a transfer of contributors that the Minister certifies under this Part is a consequence of a Government privatisation initiative affecting an employer, the employer’s liability with respect to the contributors for present and future employer-financed benefits, contributions and administrative costs and any other liability under this Act vests in the Crown.

**SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued***

(2) On and from the removal of an employer by virtue of an order under this Part, the employer's liability for present and future employer-financed benefits, contributions and administrative costs and any other liability under this Act vests in the Crown.

(3) Any surplus after meeting any liability vested in the Crown by this section is vested in the Crown.

**(4) Schedule 5 (Special provisions for preserving the benefits of certain contributors):**

**(a) Clause 1 (Transferred contributors to whom this Part applies):**

After clause 1 (3), insert:

(4) This Part does not apply to contributors transferred as a consequence of a Government privatisation initiative.

**(b) After clause 4, insert:**

**Part 2—Preservation of benefit on privatisation**

**Application of Part**

4A. By virtue of section 46AB, this Part applies to contributors referred to in that section and so applies on and from transfer, or an employer ceasing to be an employer, as referred to in that section.

**Contributor entitled to preserve benefit**

4B. Despite any provision of section 43, a contributor is taken to have made provision for a preserved benefit under that section on the date when this Schedule first applies to the contributor.

**Contributor entitled to immediate payment of preserved benefit after ceasing to contribute**

4C. (1) A contributor to whom this Part applies who has a preserved benefit is entitled to be paid a benefit under section 43 (6) when or at any time after the contributor ceases to contribute to the Fund if the Board is satisfied that the benefit is to be paid or applied in accordance with subclause (2).

SCHEDULE 1—AMENDMENTS ELATING TO  
PRIVATISATION—*continued*

(2) The benefit is to be paid or applied as follows:

- (a) to another superannuation fund approved by the Board;
- (b) to an approved deposit fund approved by the Board;
- (c) to purchase a deferred annuity.

(3) A contributor is entitled to be paid the benefit under this clause despite any provision of section 43.

(4) Nothing in this clause affects any other entitlement of a contributor to payment of a benefit under section 43 (6).

**Contributor only entitled to withdrawal benefit on or after ceasing to be employed by privatised employer**

4D. A contributor to whom this Part applies who has a preserved benefit may elect to take a benefit under section 43 (7) only if the election is made on or after the contributor ceases to be employed by the employer of the contributor as at the day on which this Part first applied to the contributor.

(c) Omit the heading before clause 5, insert instead:

**Part 3—Preservation of benefit for contributors aged 55 years and over in certain circumstances**

**COMMENCEMENT**

The amendments to the State Authorities Superannuation Act 1987 commence on the date of assent to this Act.

**EXPLANATORY NOTE,**

Items (3) and (4) set out provisions applicable to contributors and employers affected by a Government privatisation initiative. A new Part SA is inserted, containing provisions enabling Government employers to be removed from coverage under the Act on privatisation by an order of the Governor-in-Council (section 46AA), providing for the preservation of a benefit on privatisation (section 46AB and Part 2 of Schedule 5), requiring the net liability of an employer to be determined on privatisation and to be a debt due to the Board (section 46AC) and vesting the continuing liabilities of the employer under the State Authorities Superannuation Scheme in the Crown on Privatisation (section 46AD).

Items (1) and (2) make consequential amendments.

SCHEDULE 1—AMENDMENTS RELATING TO  
 PRIVATISATION—*continued*

**SUPERANNUATION ACT 1916 No. 28**

**AMENDMENTS**

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

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

“**Approved deposit fund**” has the same meaning as it has in section 3 of the Occupational Superannuation Standards Act 1987 of the Commonwealth.

“**Deferred annuity**” means a deferred annuity to which regulation 11 of the Occupational Superannuation Standards Regulations of the Commonwealth applies.

(2) Part 5:

After Part 4, insert:

**PART 5—PROVISIONS RELATING TO  
 PRIVATISATION OF EMPLOYERS**

**Removal of employers from Act on privatisation**

62. (1) The Governor may, by order published in the Gazette, amend Schedule 3 by omitting the name of an employer if the Minister has certified that the removal is a consequence of a Government privatisation initiative affecting the employer.

(2) An order under this section, and any order revoking or varying such an order, may be made to take effect on and from a day specified in the order, whether or not the day specified is earlier than the day of publication of the order.

**Preservation of benefit or contributors affected by privatisation**

63. (1) Part 2 (Preservation of benefit on privatisation) of Schedule 23 has effect with respect to contributors if, as a consequence of a Government privatisation initiative affecting the relevant employer:

- (a) the contributors are transferred or elect to transfer to employment other than with an employer and the Minister certifies that the transfer is a consequence of a Government privatisation initiative affecting the employer; or

SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued*

(b) the employer of the contributors ceases to be an employer under this Act by virtue of an order under this Part,

(2) A benefit is not required to be preserved under this section if a benefit is payable under another provision of this Act because the contributor has been retrenched.

**Adjustment of employer liability on privatisation**

64. (1) The Board must, on or before, or as soon as practicable after, an order under this Part removing an employer takes effect, determine the net liability of the employer in respect of employees of the employer who are contributors and who are affected by the initiative.

(2) The Board is to seek actuarial advice as to the net liability of the employer and is to consult with the Treasurer before determining the liability.

(3) The amount of the net liability of an employer, as certified by the Board, is a debt due for payment to the Board by the employer or the employer's successor, on and from the date the initiative takes effect, as so certified.

(4) The Board may whenever it thinks fit, with the concurrence of the Treasurer, adjust the amount that is currently standing to the credit or debit of an employer's reserve in the Fund to reflect the Board's determination of the net liability of the employer.

(5) For the purposes of this section, the "net liability" of an employer is the total liability of the employer for present and future employer-financed pensions or other benefits (accrued as at the date at which the liability is determined) and administrative costs and any other liability under this Act in respect of the employees concerned, less the amount determined by the Board as being credited to the employer in the Fund.

**Employer liabilities after privatisation**

65. (1) On and from a transfer of contributors that the Minister certifies under this Part is a consequence of a Government privatisation initiative affecting an employer, the employer's liability with respect to the contributors for present and future pensions or other benefits financed by the

SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued*

employer and administrative costs and any other liability under this Act vests in the Crown.

(2) On and from the removal of an employer by virtue of an order under this Part, the employer's liability for present and future pensions or other benefits financed by the employer and administrative costs and any other liability under this Act vests in the Crown.

(3) Any surplus after meeting any liability vested in the Crown by this section is vested in the Crown.

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

(a) Before clause 1, insert:

**Part 1—Transferred contributors or contributors electing or required to join another superannuation scheme**

(b) Clause 1 (**Transferred contributors to whom this Part applies**):

After clause 1 (2), insert:

(3) This Part does not apply to contributors transferred as a consequence of a Government privatisation initiative.

(c) After clause 4, insert:

**Part 2—Preservation of benefit on privatisation**

**Application of Part**

5. By virtue of section 63, this Part applies to contributors referred to in that section and so applies on and from transfer, or an employer ceasing to be an employer, as referred to in that section.

**Contributor entitled to preserve benefit**

6. (1) A contributor is taken to have elected to take the benefit of Division 3A of Part 4 on the date that this Part first applies to the contributor, unless the contributor is otherwise entitled to a pension under section 27, 28, 28A or 28AA.

(2) A contributor who is entitled to a pension under section 27, 28, 28A or 28AA on the date when this Schedule first applies to the contributor may instead elect to take the benefit of Division 3B of Part 4.

SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued*

(3) A contributor is entitled to elect to take the benefit of Division 3A or 3B of Part 4, despite any provision of those Divisions.

**Application of Division 3B of Part 4**

7. (1) For the purposes of the application of Division 3B of Part 4 to a contributor, the “exit day” for the contributor is the date when this Part first applied to the contributor.

(2) Sections 52L and 52N (3) do not apply to a contributor to whom this Part applies.

**Contributor entitled to immediate payment of preserved benefit after ceasing to contribute**

8. (1) A contributor to whom this Part applies who has a preserved benefit under Division 3A or 3B of Part 4 is entitled to be paid the actuarially calculated lump sum value of the benefit provided by Division 3A or 3B of Part 4 when or at any time after the contributor ceases to contribute to the Fund if the Board is satisfied that the benefit is to be paid or applied in accordance with subclause (2).

(2) The benefit is to be paid or applied as follows:

- (a) to another superannuation fund approved by the Board;
- (b) to an approved deposit fund approved by the Board;
- (c) to purchase a deferred annuity.

(3) A contributor is entitled to be paid the benefit under this clause despite any provision of Division 3A or 3B of Part 4.

(4) Nothing in this clause affects any other entitlement of a contributor to payment of a benefit under Division 3A or 3B of Part 4.

**Contributor entitled to cash termination benefit only on or after ceasing to be employed by privatised employer**

9. A contributor to whom this Part applies who has a preserved benefit under Division 3A of Part 4 may apply for a benefit under section 52I only on or after ceasing to be employed by the employer of the contributor as at the day on which this Part first applied to the contributor.

**SCHEDULE 1—AMENDMENTS RELATING TO  
PRIVATISATION—*continued***

**COMMENCEMENT**

The amendments to the Superannuation Act 1916 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

Item (1) inserts definitions of “approved deposit fund” and “deferred annuity”.

Items (2) and (3) set out provisions applicable to contributors and employers affected by a Government privatisation initiative. A new Part 5 is inserted, containing provisions enabling Government employers to be removed from coverage under the Act on privatisation by an order of the Governor-in-Council (section 62), providing for the preservation of a benefit on privatisation (section 63 and Part 2 of Schedule 23), requiring the net liability of an employer to be determined on privatisation and to be a debt due to the Board (section 64) and vesting the continuing liabilities of the employer under the State Authorities Superannuation Scheme in the Crown on privatisation (section 65).

**SCHEDULE 2—AMENDMENTS RELATING TO SALARY**

(Sec. 3)

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

**AMENDMENT**

## Section 2B:

Omit the section, insert instead:

**Salary of office: executive officers**

2B. (1) **Definition of salary.** For the purposes of this Act, the “**salary of office**” of an executive officer is the salary as last nominated or changed in accordance with this section.

(2) **Nomination of salary on initial and subsequent appointments.** An amount of salary for the purposes of this Act must be nominated to the Association by an executive officer, on, or as soon as practicable after, being appointed or designated as an executive officer. An amount may also be nominated to the Association by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an executive officer.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(3) **Amount of salary.** The amount nominated is to be not less than the monetary remuneration payable to the executive officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing employer's contributions to superannuation and any performance—related incentive payment), expressed as an annual rate.

(4) **Failure to nominate salary.** If the executive officer fails to nominate an amount of salary within 28 days of first being appointed or designated as an executive officer or within such further period as the Board may allow, the officer is taken to have nominated an amount of salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(5) **Reduction in nominated salary.** An executive officer may, from time to time, by notice to the Association elect to reduce the amount of salary nominated under this section, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

(6) **Increase in nominated salary.** An executive officer may, from time to time, by notice to the Association elect to increase the amount of salary nominated under this section, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of salary was last nominated or changed.

(7) **Nominations and elections.** The Association must notify the Board of a nomination or election under this section. Any such nomination or election takes effect on the date of notification to the Board or on such other date as the Board may determine with the consent of the executive officer concerned.

(8) **Effect of changes in packages.** Nothing in this section requires the nominated amount of salary to be increased if, because of a variation in the remuneration package of an executive officer or in the proportions of the remuneration package comprising monetary remuneration and employment benefits of the officer, the amount of salary as last nominated or changed for the purposes of this section is less than the monetary remuneration of the officer.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(9) **Transitional provision relating to nomination of salary by executive officers.** An executive officer may, within 3 months after the commencement of this subsection, nominate to the Association a new amount of salary in accordance with this section if, immediately before the commencement of this subsection, the officer was an executive officer.

**COMMENCEMENT**

The amendment to the Police Association Employees (Superannuation) Act 1969 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

The amendment substitutes section 2B and replaces the definition of salary of office of executive officers with a definition that requires such officers to nominate an amount of salary for the purposes of the Act. The amount nominated must not be less than the money paid to the officer as at the nomination and must not be more than the amount of the officer's remuneration package (excluding the cost of employer contributions to superannuation and any performance—related incentive payment). The amount may not be increased by more than the equivalent of any percentage increase in the remuneration package unless the executive officer is reappointed or appointed to another position.

In the existing definition of salary, the amount may be varied only by varying the amount of employment benefits included in the amount of salary. This has had the effect that the amount of salary has been able to be increased by more than the percentage increase in the remuneration package by increasing the amount of money payable to the contributor.

**POLICE REGULATION (SUPERANNUATION) ACT 1906**  
**No. 28**

**AMENDMENTS**

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

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

**“approved employment benefit”** means a benefit provided to a member of the police service at the cost of the member's employer (being a benefit of a private nature) that is approved by the Minister, with the concurrence of the Treasurer, for the purposes of this section in relation to the member or a class of employees of which the member is a member;

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

**“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 Management Act 1988; or
  - (d) a senior executive officer within the meaning of the Public Sector Management Act 1988; or
  - (e) a person who occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989;
- (b) From section 1 (2), omit the definition of “prescribed employment benefit”.
- (c) From section 1 (2), omit the definition of “salary of office”, insert instead:

**“salary of office”** in relation to a member of the police service other than an executive officer, means the sum of:

- (a) the remuneration ordinarily received by the member as the ordinary pay of the member’s rank and position, not including:
  - (i) an amount paid for overtime or as a bonus; or
  - (ii) a relieving allowance; or
  - (iii) an allowance paid instead of the supply of a uniform; or
  - (iv) an expense allowance or an allowance for travelling, subsistence or other similar expenses; or
  - (v) a climatic, disability or living allowance paid when stationed or residing at a particular place; or

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

- (vi) an allowance for equipment; or
- (vii) remuneration of a kind prescribed by the regulations as exempt for the purposes of this paragraph,

unless the regulations otherwise provide; and

- (b) if approved employment benefits are provided to the member, the cost of providing the approved employment benefits, as determined by the Minister, with the concurrence of the Treasurer, expressed as an annual rate;

“**salary of office**”, in relation to an executive officer, has the meaning set out in section 1AA;

(2) Section 1AA:

Omit the section, insert instead:

**Salary of office: executive officers**

1 AA. (1) **Definition of salary.** For the purposes of this Act, the “**salary of office**” of an executive officer is the salary as last nominated or changed in accordance with this section.

(2) **Nomination of salary on initial and subsequent appointments.** An amount of salary for the purposes of this Act must be nominated to the Commissioner by an executive officer, on, or as soon as practicable after, being appointed as an executive officer. An amount may also be nominated to the Commissioner by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an executive officer.

(3) **Amount of salary.** The amount nominated is to be not less than the monetary remuneration payable to the executive officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing employer’s contributions to superannuation and any performance-related incentive payment), expressed as an annual rate.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(4) **Failure to nominate salary.** If an executive officer fails to nominate an amount of salary within 28 days of first being appointed as an executive officer or within such further period as the Board may allow, the officer is taken to have nominated an amount of salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(5) **Reduction in nominated salary.** An executive officer may, from time to time, by notice to the Commissioner elect to reduce the amount of salary nominated under this section, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

(6) **Increase in nominated salary.** An executive officer may, from time to time, by notice to the Commissioner elect to increase the amount of salary nominated under this section, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of salary was last nominated or changed.

(7) **Nominations and elections.** The Commissioner must notify the Board of a nomination or election under this section. Any such nomination or election takes effect on the date of notification to the Board or on such other date as the Board may determine with the consent of the executive officer concerned.

(8) **Effect of changes in packages.** Nothing in this section requires the nominated amount of salary to be increased if, because of a variation in the remuneration package of an executive officer or in the proportions of the remuneration package comprising monetary remuneration and employment benefits of the officer, the amount of salary as last nominated or changed for the purposes of this section is less than the monetary remuneration of the officer.

(9) **Transitional provision relating to nomination of salary by executive officers.** An executive officer may, within 3 months after the commencement of this subsection, nominate a new amount of salary in accordance with this section if, immediately before the commencement of this subsection, the officer was an executive officer.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(10) **Monetary remuneration.** In this section, the “**monetary remuneration**” payable to an executive officer is:

- (a) if the officer is a chief executive officer, senior executive officer or a police executive officer, the monetary remuneration payable in accordance with the Public Sector Management Act 1988 or the Police Service Act 1990, as the case requires; or
- (b) if the officer occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer as the occupant of the position.  
or
- (c) 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 member as reduced under that section by the cost of employment benefits provided to the officer.

**COMMENCEMENT**

The amendments to the Police Regulation (Superannuation) Act 1906 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

**Salary of non-executive officers**

Item (1)(a) inserts a definition of “approved employment benefit”, requiring benefits to be approved by the Minister with the concurrence of the Treasurer.

Item (1) (c) substitutes a definition of the salary of members of the police service who are not executive officers. The new definition includes as salary monetary remuneration and the cost of any approved employment benefits forming part of a member’s remuneration package. These are benefits acquired by an employee in exchange for salary sacrifice, usually as a result of an enterprise agreement.

**Salary of executive officers**

Item (2) substitutes section 1AA and replaces the definition of salary of office of police executive officers with a provision that requires executive officers in the police service to nominate an amount of salary for the purposes of the Act. The amount nominated must not be less than the money paid to the officer as at the nomination and must not be more than the amount of the officer’s remuneration package (excluding the cost of

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

employer contributions to superannuation and any performance-related incentive payment). The amount may not be increased by more than the equivalent of any percentage increase in the remuneration package unless the officer is reappointed or appointed to another position.

In the existing definition of salary, the amount may be varied only by varying the amount of employment benefits included in the amount of salary. This has had the effect that the amount of salary has been able to be increased by more than the percentage increase in the remuneration package by increasing the amount of money payable to the contributor.

Item (1) (a) also inserts a definition of “executive officer”.

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

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT  
1989 No. 106**

**AMENDMENTS**

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

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

**“monetary remuneration”** payable to a member means:

- (a) if the member is a chief executive officer, a senior executive officer or a police executive officer, the monetary remuneration payable in accordance with the Public Sector Management Act 1988 or the Police Service Act 1990, as the case requires; or
- (b) if the member occupies a position referred to in Schedule 1, the monetary remuneration payable to the member as the occupant of the position; or
- (c) if the member 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 member as reduced under that section by the cost of employment benefits provided to the member;

(b) From section 3 (1), omit the definition of “prescribed employment benefit”.

(c) From section 3 (1), omit the definition of “salary”.

(d) Omit section 3 (4)–(6).

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(2) Section 4A:

After section 4, insert:

**Salary of members**

4A. (1) **Definition of salary.** For the purposes of this Act, the “salary” of a member is the salary as last nominated or changed in accordance with this section.

(2) **Nomination of salary on initial and subsequent appointments.** An amount of salary for the purposes of this Act must be nominated to the employer of an employee by the employee on, or as soon as practicable after, or before becoming a member. An amount may also be nominated to the employer by the member on, or as soon as practicable after, being reappointed, or appointed to another position, as an employee.

(3) **Amount of salary.** The amount nominated is to be not less than the monetary remuneration payable to the member at the date of nomination and not more than the total value of the remuneration package paid to the member (less the cost of providing employer’s contributions to superannuation and any performance-related incentive payment), expressed as an annual rate.

(4) **Failure to nominate salary.** If the member fails to nominate an amount of salary within 28 days of first becoming a member or within such further period as the Board may allow, the member is taken to have nominated an amount of salary that is equal to the monetary remuneration payable to the member at the end of the applicable period.

(5) **Reduction in nominated salary.** A member may, from time to time, by notice to the member’s employer elect to reduce the amount of salary nominated under this section, but not so that the amount is less than the monetary remuneration payable to the member at the date of the election.

(6) **Increase in nominated salary.** A member may, from time to time, by notice to the member’s employer elect to increase the amount of salary nominated under this section, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the member has increased since the amount of salary was last nominated or changed.

SCHEDULE 2—AMENDMENTS ELATING TO SALARY—  
*continued*

(7) **Nominations and elections.** An employer must notify the Board of a nomination or election under this section. Any such nomination or election takes effect on the date of notification to the Board or on such other date as the Board may determine with the consent of the member concerned.

(8) **Effect of changes in packages.** Nothing in this section requires the nominated amount of salary to be increased if, because of a variation in the remuneration package of a member or in the proportions of the remuneration package comprising monetary remuneration and employment benefits of the member, the amount of salary as last nominated or changed for the purposes of this section is less than the monetary remuneration of the member.

(9) **Transitional provision relating to nomination of salary by members.** A member may, within 3 months after the commencement of this subsection, nominate a new amount of salary in accordance with this section if, immediately before the commencement of this subsection, the member was a member of the Fund.

(3) Section 34 (**How does an employee become a member of the Fund?**):

(a) Omit section 34 (2) (c), insert instead:

(c) specify the salary nominated by the employee under section 4A; and

(b) Omit section 34 (3) (b), insert instead:

(b) the value of the remuneration package of, and the amount of monetary remuneration payable to, the employee; and

(4) Section 35 (**Contributions may be varied**):

(a) Omit section 35 (2) (c), insert instead:

(c) specify the salary nominated by the member under section 4A; and

(b) Omit section 35 (3) (a), insert instead:

(a) the value of the remuneration package of, and the amount of monetary remuneration payable to, the member; and

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

- (5) Section 36 (**Contributions may be varied in special circumstances**):
- (a) Omit section 36 (3) (c), insert instead:
    - (c) specify the salary nominated by the member under section 4A; and
  - (b) Omit section 36 (4) (a), insert instead:
    - (a) the value of the remuneration package of, and the amount of monetary remuneration payable to, the member; and

**COMMENCEMENT**

The amendments to the Public Sector Executives Superannuation Act 1989 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

Item (2) inserts new section 4A and replaces the definition of salary with a provision that requires employees to nominate an amount of salary for the purposes of the Act. The amount nominated must not be less than the money paid to the employee as at the nomination and must not be more than the amount of the employee's remuneration package (excluding the cost of employer contributions to superannuation and any performance-related incentive payment). The amount may not be increased by more than the equivalent of any percentage increase in the remuneration package unless the employee is reappointed or appointed to another position.

In the existing definition of salary, the amount may be varied only by varying the amount of employment benefits included in the amount of salary. This has had the effect that the amount of salary has been able to be increased by more than the percentage increase in the remuneration package by increasing the amount of money payable to the employee.

Item (1) omits unnecessary definitions and makes consequential amendments, including inserting a definition of "monetary remuneration".

Items (3)–(5) make other consequential amendments.

**STATE AUTHORITIES NON-CONTRIBUTORY  
SUPERANNUATION ACT 1987 No. 212**

**AMENDMENTS**

- (1) Section 3 (**Definitions**):
- (a) In section 3 (1), insert, in alphabetical order:
    - “executive officer”** means an employee who is:
      - (a) a chief executive officer; or

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

- (b) a senior executive officer; or
  - (c) a police executive officer; or
  - (d) an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975; or
  - (e) a person who occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989;
- (b) From section 3 (1), omit the definition of “prescribed employment benefit”.

(2) Section 4 (**Salary**):

- (a) Omit section 4 (1), insert instead:

(1) For the purposes of this Act, “**salary**”, in relation to an employee (other than an executive officer) means the sum of:

(a) the remuneration, salary or wages payable in money to the employee in the employee’s capacity as an employee, as reported to the Board from time to time by the employee’s employer, including:

(i) a loading in respect of any shift allowance, as determined in accordance with the regulations; and

(ii) other allowances payable in money that are of a kind included within the value of leave paid on termination of employment; and

(iii) weekly workers compensation paid to the employee as from a date determined by the Board under subsection (1B),

but not including the excluded amounts or allowances referred to in subsection (2); and

(b) if approved employment benefits are provided to the employee, the cost of providing the approved employment benefits, as determined by the Minister, with the concurrence of the Treasurer.

- (b) In section 4 (8), insert, in alphabetical order:

“**approved employment benefit**” means a benefit provided to an employee at the cost of the employee’s employer (being a benefit of a private nature) that is

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

approved by the Minister, with the concurrence of the Treasurer, for the purposes of this section in relation to the employee or a class of employees of which the employee is a member;

## (3) Section 4A:

Omit the section, insert instead:

**Salary of executive officers**

4A. (1) **Definition of salary.** For the purposes of this Act, the “salary” of an executive officer is the salary as last nominated or changed in accordance with this section.

(2) **Nomination of salary on initial and subsequent appointments.** An amount of salary for the purposes of this Act must be nominated to an executive officer’s employer by the officer, on, or as soon as practicable after, being appointed as an executive officer. An amount may also be nominated to the employer by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an executive officer.

(3) **Amount of salary.** The amount nominated is to be not less than the monetary remuneration payable to the executive officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing employer’s contributions to superannuation and any performance—related incentive payment).

(4) **Failure to nominate salary.** If an executive officer fails to nominate an amount of salary within 28 days of first being appointed as an executive officer or within such further period as the Board may allow, the officer is taken to have nominated an amount of salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(5) **Reduction in nominated salary.** An executive officer may, from time to time, by notice to the officer’s employer elect to reduce the amount of salary nominated under this section, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(6) **Increase in nominated salary.** An executive officer may, from time to time, by notice to the officer's employer elect to increase the amount of salary nominated under this section, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of salary was last nominated or changed.

(7) **Nominations and elections.** An employer must notify the Board of a nomination or election under this section. Any such nomination or election takes effect on the date of notification to the Board or on such other date as the Board may determine with the consent of the executive officer concerned.

(8) **Effect of changes in packages.** Nothing in this section requires the nominated amount of salary to be increased if, because of a variation in the remuneration package of an executive officer or in the proportions of the remuneration package comprising monetary remuneration and employment benefits of the officer, the amount of salary as last nominated or changed for the purposes of this section is less than the monetary remuneration of the officer.

(9) **Transitional provision relating to nomination of salary by executive officers.** An executive officer may, within 3 months after the commencement of this subsection, nominate a new amount of salary in accordance with this section if, immediately before the commencement of this subsection, the officer was an executive officer.

(10) **Monetary remuneration.** In this section, the “**monetary remuneration**” payable to an executive officer is:

- (a) if the officer is a chief executive officer, a senior executive officer or a police executive officer, the monetary remuneration payable in accordance with the Public Sector Management Act 1988 or the Police Service Act 1990, as the case requires; or

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

- (b) if the officer occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer as the occupant of the position; or
- (c) 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.

**COMMENCEMENT**

The amendments to the State Authorities Non-contributory Superannuation Act 1987 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

**Salary under enterprise agreements**

Item (2) inserts a definition of the salary of employees who are not executive officers. The new definition includes as salary monetary remuneration and the cost of any approved employment benefits forming part of an employee's remuneration package. These are benefits acquired by an employee in exchange for salary sacrifice, usually as a result of an enterprise agreement.

**Salary of executive officers**

Item (3) substitutes section 4A and replaces the definition of salary of executive officers with a provision that requires such officers to nominate an amount of salary for the purposes of the Act. The amount nominated must not be less than the money paid to the officer as at the nomination and must not be more than the amount of the officer's remuneration package (excluding the cost of employer contributions to superannuation and any performance-related incentive payment). The amount may not be increased by more than the equivalent of any percentage increase in the remuneration package unless the officer is reappointed or appointed to another position.

In the existing definition of salary for executives, the amount may be varied only by varying the amount of employment benefits included in the amount of salary. This has had the effect that the amount of salary has been able to be increased by more than the percentage increase in the remuneration package by increasing the amount of money payable to the officer.

Item (1) inserts a definition of "executive officer" and omits an unnecessary definition.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

**STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211**

**AMENDMENTS**

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

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

**“executive offices”** means a contributor who is:

- (a) a chief executive officer; or
- (b) a senior executive officer; or
- (c) a police executive officer; or
- (d) an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975; or
- (e) a person who occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989;

(b) From section 3 (1), omit the definition of “prescribed employment benefit”.

(2) Section 4 (**Salary**):

(a) Omit section 4 (1), insert instead:

(1) For the purposes of this Act, **“salary”**, in relation to a contributor (other than an executive officer) means the sum of:

- (a) the remuneration, salary or wages payable in money to the contributor in the contributor’s capacity as a contributor, as reported to the Board from time to time by the contributor’s employer, including:
  - (i) a loading in respect of any shift allowance, as determined in accordance with the regulations; and
  - (ii) other allowances payable in money that are of a kind included within the value of leave paid on termination of employment; and
  - (iii) weekly workers compensation paid to the contributor as from a date determined by the Board under subsection (1B),

but not including the excluded amounts or allowances referred to in subsection (2); and

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(b) if approved employment benefits are provided to the contributor, the cost of providing the approved employment benefits, as determined by the Minister, with the concurrence of the Treasurer.

(b) In section 4 (8), insert, in alphabetical order:

**“approved employment benefit”** means a benefit provided to a contributor at the cost of the contributor’s employer (being a benefit of a private nature) that is approved by the Minister; with the concurrence of the Treasurer, for the purposes of this section in relation to the contributor or a class of employees of which the contributor is a member;

(3) Section 4A:

Omit the section, insert instead:

**Salary of executive officers**

4A. (1) **Definition of salary.** For the purposes of this Act, the “salary” of an executive officer is the salary as last nominated or changed in accordance with this section.

(2) **Nomination of salary on initial and subsequent appointments.** An amount of salary for the purposes of this Act must be nominated to an executive officer’s employer by the officer, on, or as soon as practicable after, being appointed as an executive officer. An amount may also be nominated to the officer’s employer by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an executive officer.

(3) **Amount of salary.** The amount nominated is to be not less than the monetary remuneration payable to the executive officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing employer’s contributions to superannuation and any performance-related incentive payment).

(4) **Failure to nominate salary.** If an executive officer fails to nominate an amount of salary within 28 days of first being appointed as an executive officer or within such further

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

period as the Board may allow, the officer is taken to have nominated an amount of salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(5) **Reduction in nominated salary.** An executive officer may, from time to time, by notice to the officer's employer elect to reduce the amount of salary nominated under this section, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

(6) **Increase in nominated salary.** An executive officer may, from time to time, by notice to the officer's employer elect to increase the amount of salary nominated under this section, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of salary was last nominated or changed.

(7) **Nominations and elections.** An employer must notify the Board of a nomination or election under this section. Any such nomination or election takes effect on the date of notification to the Board or on such other date as the Board may determine with the consent of the executive officer concerned.

(8) **Effect of changes in packages.** Nothing in this section requires the nominated amount of salary to be increased if, because of a variation in the remuneration package of an executive officer or in the proportions of the remuneration package comprising monetary remuneration and employment benefits of the officer, the amount of salary as last nominated or changed for the purposes of this section is less than the monetary remuneration of the officer.

(9) **Transitional provision relating to nomination of salary by executive officers.** An executive officer may, within 3 months after the commencement of this subsection, nominate a new amount of salary in accordance with this section if, immediately before the commencement of this subsection, the officer was an executive officer.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

(10) **Monetary remuneration.** In this section, the “**monetary remuneration**” payable to an executive officer is:

- (a) if the officer is a chief executive officer, a senior executive officer or a police executive officer, the monetary remuneration payable in accordance with the Public Sector Management Act 1988 or the Police Service Act 1990, as the case requires; or
- (b) if the officer occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer as the occupant of the position; or
- (c) 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.

**COMMENCEMENT**

The amendments to the State Authorities Superannuation Act 1987 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

**Salary under enterprise agreements**

Item (2) inserts a definition of the salary of contributors who are not executive officers. The new definition defines as salary monetary remuneration and the cost of any approved employment benefits forming part of a contributor’s remuneration package. These are benefits acquired by a contributor in exchange for salary sacrifice, usually as a result of an enterprise agreement.

**Salary of executive officers**

Item (3) substitutes section 4A and replaces the definition of salary of executive officers with a provision that requires such officers to nominate an amount of salary for the purposes of the Act. The amount nominated must not be less than the money paid to the officer as at the nomination and must not be more than the amount of the officer’s remuneration package (excluding the cost of employer contributions to superannuation and any performance-related incentive payment). The amount may not be increased by more than the equivalent of any percentage increase in the remuneration package unless the officer is reappointed or appointed to another position.

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

In the existing definition of salary for executives, the amount may be varied only by varying the amount of employment benefits included in the amount of salary. This has had the effect that the amount of salary has been able to be increased by more than the percentage increase in the remuneration package by increasing the amount of money payable to the officer.

Item (1) inserts a definition of “executive officer” and omits an unnecessary definition.

**SUPERANNUATION ACT 1916 No. 28**

**AMENDMENTS**

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

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

**“Executive officer”** means a contributor who is:

- (a) a chief executive officer; or
- (b) a senior executive officer; or
- (c) a police executive officer; or
- (d) an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975; or
- (e) a person who occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989.

(b) From section 3 (1), omit the definition of “Prescribed employment benefit”.

(2) Section 3AA:

Omit the section, insert instead:

**Salary of executive officers**

3AA. (1) **Definition of salary.** For the purposes of this Act, the “salary” of an executive officer is the salary as last nominated or changed in accordance with this section.

(2) **Nomination of salary on initial and subsequent appointments.** An amount of salary for the purposes of this Act must be nominated to an executive officer’s employer by the officer, on, or as soon as practicable after, being appointed as an executive officer. An amount may also be

**SCHEDULE 2—AMENDMENTS RELATING TO SALARY—**  
*continued*

nominated to the officer's employer by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an executive officer.

(3) **Amount of salary.** The amount nominated is to be not less than the monetary remuneration payable to the executive officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing employer's contributions to superannuation and any performance-related incentive payment).

(4) **Failure to nominate salary.** If an executive officer fails to nominate an amount of salary within 28 days of first being appointed as an executive officer or within such further period as the Board may allow, the officer is taken to have nominated an amount of salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(5) **Reduction in nominated salary.** An executive officer may, from time to time, by notice to the officer's employer elect to reduce the amount of salary nominated under this section, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

(6) **Increase in nominated salary.** An executive officer may, from time to time, by notice to the officer's employer elect to increase the amount of salary nominated under this section, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of salary was last nominated or changed.

(7) **Nominations and elections.** An employer must notify the Board of a nomination or election under this section. Any such nomination or election takes effect on the date of notification to the Board or on such other date as the Board may determine with the consent of the executive officer concerned.

(8) **Effect of changes in packages.** Nothing in this section requires the nominated amount of salary to be increased if, because of a variation in the remuneration package of an executive officer or in the proportions of the remuneration

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

package comprising monetary remuneration and employment benefits of the officer, the amount of salary as last nominated or changed for the purposes of this section is less than the monetary remuneration of the officer.

(9) **Transitional provision relating to nomination of salary by executive officers.** An executive officer may, within 3 months after the commencement of this subsection, nominate a new amount of salary in accordance with this section if, immediately before the commencement of this subsection, the officer was an executive officer.

(10) **Monetary remuneration.** In this section, the “**monetary remuneration**” payable to an executive officer is:

- (a) if the officer is a chief executive officer, a senior executive officer or a police executive officer, the monetary remuneration payable in accordance with the Public Sector Management Act 1988 or the Police Service Act 1990, as the case requires; or
- (b) if the officer occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the monetary remuneration payable to the officer as the occupant of the position; or
- (c) 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.

(3) Section 3A (**Salary**):

(a) Omit section 3A (1), insert instead:

(1) For the purposes of this Act, “**Salary**”, in relation to a contributor (other than an executive officer) means the sum of:

- (a) the remuneration, salary or wages payable in money to the contributor in the contributor’s capacity as a contributor, as reported to the Board from time to time by the contributor’s employer, including:

SCHEDULE 2—AMENDMENTS RELATING TO SALARY—  
*continued*

- (i) a loading in respect of any shift allowance, as determined by or under this Act; and
  - (ii) other allowances payable in money that are of a kind included within the value of leave paid on termination of employment; and
  - (iii) weekly workers compensation paid to the contributor as from a date determined by the Board under subsection (1B),  
but not including the excluded amounts or allowances referred to in subsection (2); and
- (b) if approved employment benefits are provided to the contributor, the cost of providing the approved employment benefits, as determined by the Minister, with the concurrence of the Treasurer.
- (b) In section 3A (5), insert, in alphabetical order:  
**“approved employment benefit”** means a benefit provided to a contributor at the cost of the contributor’s employer (being a benefit of a private nature) that is approved by the Minister, with the concurrence of the Treasurer, for the purposes of this section in relation to the contributor or a class of employees of which the contributor is a member;

**COMMENCEMENT**

The amendments to the Superannuation Act 1916 commence on the date of assent to this Act.

**EXPLANATORY NOTE****Salary of executive officers**

Item (2) substitutes section 3AA and replaces the definition of salary of executive officers with a provision that requires such officers to nominate an amount of salary for the purposes of the Act. The amount nominated must not be less than the money paid to the officer as at the nomination and must not be more than the amount of the officer’s remuneration package (excluding the cost of employer contributions to superannuation and any performance-related incentive payment). The amount may not be increased by more than the equivalent of any percentage increase in the remuneration package unless the officer is reappointed or appointed to another position.

**SCHEDULE 2—AMENDMENTS RELATING TO SALARY—**  
*continued*

In the existing definition of salary, the amount may be varied only by varying the amount of employment benefits included in the amount of salary. This has had the effect that the amount of salary has been able to be increased by more than the percentage increase in the remuneration package by increasing the amount of money payable to the officer.

Item (1) inserts a definition of “executive officer” and omits an unnecessary definition.

**Salary under enterprise agreements**

Item (3) inserts a definition of the salary of contributors who are not executive officers. The new definition defines as salary monetary remuneration and the cost of any approved employment benefits forming part of a contributor’s remuneration package. These are benefits acquired by a contributor in exchange for salary sacrifice, usually as a result of an enterprise agreement.

**SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME**

(Sec. 3)

**FIRST STATE SUPERANNUATION ACT 1992 No. 100**

**AMENDMENTS**

(1) Omit section 5, insert instead:

**Members of the Fund**

5.(1) An employee of an employer is a **full member** of the Fund, unless the employee is excluded from full membership under section 8 or elects to make other arrangements under section 10,

(2) An employee of an employer who is not a full member may become an **optional member** of the Fund by making an election under section 18 and, on making such an election, continues to be such a member while the election is in force.

(3) A person who has ceased to be a full member or an optional member of the Fund and who has a preserved benefit in the Fund, or being a full or optional member is prevented by Division 5 of Part 3 from contributing to the Fund, is an **inactive member** of the Fund.

SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued*

(2) Section 8 (**Employees who are excluded from being full members of Fund**):

Omit section 8 (1), insert instead:

(1) **Employees who are not full members.** The employees set out in Schedule 2 are not eligible to be full members of the Fund.

(3) Section 9 (**Application of Act to persons 65 or over**):

Omit the section.

(4) Section 10 (**Members may make other arrangements**):

(a) Omit section 10 (1) and (2), insert instead:

(1) A full member may notify the member's employer that the employer is to meet the employer's obligations in respect of the member under the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth by contributing to another complying superannuation scheme. The member ceases to be a full member of the Fund on the date written notice is given to the Board by the employer of the contributions to that other fund, or on the date of commencement of those contributions, whichever is the later.

(2) However, the member may elect to make contributions under section 18 and is an optional member of the fund on any such election taking effect and while the election is in force.

(b) From section 10 (3), omit "member", insert instead "full member".

(5) Section 12 (**Compulsory employer contributions**):

(a) From section 12 (1), omit "member", insert instead "full member".

(b) Omit section 12 (2) and (3), insert instead:

(2) An employer's liability under this section to make contributions in respect of a full member commences when the member becomes a full member and ceases when the member ceases to be a full member.

(6) Section 13 (**Premiums for basic death or invalidity benefit**):

(a) In section 13 (1), after "made", insert "in respect of a full member".

**SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued***

- (b) Omit section 13 (2), insert instead:  
 (2) Payment is not to be made from the account of a full member who has ceased under this Act to be liable for payment of the basic death or invalidity premium.
- (7) Section 14 (**When basic death or invalidity cover ceases**):  
 Omit section 14 (1), insert instead:  
 (1) A full member's cover for the basic death or invalidity benefit ceases to be in force on notification by the member to the Board that the member is to cease to provide for the cover or on the member ceasing to be a full member.
- (8) Section 15 (**Amount of basic death or invalidity premium**):  
 Omit "member", insert instead "full member".
- (9) Section 16 (**Optional employer contributions**):  
 (a) From section 16(1), omit "member", insert instead "full member".  
 (b) Omit section 16 (2), insert instead:  
 (2) An employer may not make contributions to the Fund in respect of an optional member.
- (10) Section 18 (**Optional employee contributions**):  
 (a) From section 18 (1) and (2), omit "member" wherever occurring, insert instead "full member".  
 (b) In section 18 (2), after "Fund", insert "and on any such election taking effect, and while it is in force, is an optional member of the Fund".  
 (c) After section 18 (3), insert:  
 (4) An employee who is a Judge within the meaning of the Judges' Pensions Act 1953, a master within the meaning of the Supreme Court Act 1970, the Solicitor General or the Director of Public Prosecutions may not make an election under subsection (2).
- (11) Section 19 (**When does an election to contribute take effect?**):  
 From section 19 (1), omit "member", insert instead "full member".

**SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued***

(12) Omit section 22, insert instead:

**Members eligible to apply for additional death or  
invalidity cover**

22. (1) A full member may apply to the Board to contribute to the Fund for the additional death or invalidity benefit.

(2) A full member who has been previously covered for the additional death or invalidity benefit may apply under this section.

(3) This section does not apply to a full member who has ceased to provide for the basic death or invalidity benefit.

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

From section 24 (1), omit “member”, insert instead “full member”.

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

From section 26 (1), omit “member”, insert instead “full member”.

(15) Section 27 (**When additional death or invalidity cover ceases**):

(a) Omit section 27 (1), insert instead:

(1) A full member’s cover for the additional death or invalidity benefit ceases to be in force on notification by the member to the Board that the member is to cease to provide for the cover or on the member ceasing to be a full member.

(b) In section 27 (2), after “notification”, insert “, or on ceasing to be a full member”.

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

(3) A member who ceases to be covered for the additional death or invalidity benefit is taken, on ceasing to be so covered, to have never been entitled to the cover and is not entitled to a refund of any premiums paid for the cover.

SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued*

(16) Part 3, Division 5:

After Division 4, insert:

**Division 5—Acceptance of contributions**

**Acceptance of contributions**

30A. Despite any other provision of this Act, an employer is not required to make a contribution in respect of an employee, and an employee may not elect or continue to make contributions to the Fund, if in order to comply with any applicable Commonwealth occupational superannuation standard a superannuation fund must not accept contributions from that employee.

**Rules as to acceptance of contributions etc.**

30B. (1) The Board may make rules for or with respect to persons in respect of whom a superannuation fund must not accept contributions under any applicable Commonwealth occupational superannuation standard.

(2) The Board may make rules for or with respect to the application of this Division to employees who contributed to the Fund, or employees in respect of whom contributions are made or who contributed to the Fund, before the date of assent to the Superannuation Legislation (Miscellaneous Amendments) Act 1993.

(17) Section 32 (**Amount of basis death or invalidity benefit**):

From section 32 (1), omit “member”, insert instead “full member”.

(18) Section 33 (**Amount of additional death or invalidity benefit**):

From section 33 (1), omit “a member”, insert instead “a full member”.

(19) Section 36 (**When is a benefit or a preserved benefit payable?**):

(a) In section 36 (1), after “benefit” where firstly occurring, insert “(including a preserved benefit)”.

(b) In section 36 (1), after “employed”, insert “by an employer”.

SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued*

- (20) Section 37 (**When is a death or invalidity benefit payable under this Act?**):
- (a) From section 37 (1), omit “a member”, insert instead “a full member”.
  - (b) Omit section 37 (2) and (3), insert instead:
    - (2) The additional death or invalidity benefit payable under this Act is payable to or in respect of a full member if:
      - (a) the member dies or ceases to be employed and the Board is satisfied that the cessation of employment is on the ground of permanent incapacity or permanent invalidity (not caused by any act or default of the member intended to produce that incapacity or invalidity); and
      - (b) an approval of an application for additional death or invalidity cover is in force in relation to the member.
    - (3) The basic death or invalidity benefit and the additional death or invalidity benefit are not payable to or in respect of an optional member.
- (21) Section 39:  
Omit the section, insert instead:
- Benefits to be preserved**
39. A benefit of a member is to be preserved by the Board if the benefit is not otherwise payable under this Act.
- (22) Section 40 (**When is a preserved benefit payable?**):  
Omit the section.
- (23) Section 41 (**Rules to be made by Board**):  
Omit “other than full-time employees”.
- (24) Section 45 (**Payment without grant of probate etc.**):  
From section 45 (3), omit “or former member”.
- (25) Section 52 (**Members’ accounts**):  
At the end of section 52, insert:
- (2) The Board need not establish more than one account for a person who is an inactive member and who

SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued*

subsequently becomes a full member or an optional member. Any such account may contain any benefit previously preserved.

(26) Section 56 (**Other accounts and reserves and investment funds**):

- (a) From section 56 (3, omit “with the consent of a member”, insert instead “if a member so elects”.
- (b) After section 56 (2), insert:
  - (3) The Board may make rules for or with respect to:
    - (a) treating a member’s account as belonging to a particular investment fund; and
    - (b) the investment of a member’s account, if the member has not made an election under subsection (2); and
    - (c) elections under that subsection.

(27) Schedule 2 (**Employees who are not full members of the Fund**):

- (a) In the heading to Schedule 2, after “NOT”, insert “FULL”.
- (b) From clause 1, omit “members”, insert instead “full members”.
- (c) After clause 1 (b), insert:
  - (c) an employee who has not contributed to the Fund, or whose employer has not contributed to the Fund in respect of the employee, and who is an employee in respect of whom the Board must not accept contributions under section 30A.
- (d) At the end of clause 1, insert:
  - (2) Subclause (1) does not apply to an employee who has preserved a benefit in an associated superannuation scheme, or is entitled to a deferred accrued benefit under the State Authorities Non-contributory Superannuation Act 1987, and who is not otherwise a participant in any such scheme.

(28) **Dictionary:**

- (a) Definition of “**basic death or invalidity premium**”:  
Omit “additional”, insert instead “basic”.

SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued*

(b) Insert the following definitions, in alphabetical order:

**full member** means an employee who is, by virtue of section 5, a full member of the Fund.

**inactive member** means a person:

- (a) who has ceased to be a full member or an optional member of the Fund and who has a preserved benefit in the Fund; or
- (b) who is a full member or an optional member who is prevented by section 30A from contributing to the Fund.

**optional member** means an employee who is not a full member and who has made an election under section 18 that is still in force to contribute to the Fund.

(c) Omit the definition of “member”, insert instead:

**member** means a full member, an optional member or an inactive member.

**COMMENCEMENT**

The amendments to the First State Superannuation Act 1992 are taken to have commenced on 8 December 1992.

**EXPLANATORY NOTE**

**Classification of members**

Currently the members of the First State Superannuation Scheme consist of members whose employers contribute on their behalf and who may or may not make contributions themselves and members who contribute but whose employers do not contribute on their behalf. The first group of members are entitled to contribute for both the basic death or invalidity benefit and the additional death or invalidity benefit and to a specified level of contributions from their employers.

The amendments formalise the distinction between these groups by classifying the first group as “full members” and the second as “optional members”.

The amendments also create a category of “inactive members”. This will consist of people who have ceased to be full members or optional members and who retain a preserved benefit in the Fund, or full members or optional members who are prevented from contributing to the Fund or having contributions made on their behalf.

Item (1) sets out the categories of members of the Fund as described above. It provides that every employee is to be a full member of the Fund unless the employee is excluded from full membership or has directed his or her employer to make other arrangements as to employer superannuation contributions.

**SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued***

Items (2), (5)–(11), (13), (14), (17), (18), (24), (27) (a), (b) and (c) and (28) (b) and (c) make consequential amendments.

**Other arrangements for contributions**

Item (4) enables a full member to require the employer to meet the employer's obligations under the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth by contributing to another complying superannuation scheme. On written notice being given to the State Authorities Superannuation Board by the employer, or on the commencement of the other contributions, whichever is the later, the employee concerned ceases to be a full member.

**Death or invalidity cover**

Item (12) substitutes section 22 which provides for the persons who may apply to contribute for the additional death or invalidity benefit. Only full members will be able to apply but any such member who has ceased to provide for the basis death or invalidity benefit may not apply.

Item (15) provides that a member's coverage for the additional death or invalidity benefit ceases if the member ceases to be a full member.

Item (20) sets out in full the circumstances when an additional death or invalidity benefit is payable, rather than linking it to the payment of the basic death or invalidity benefit.

**Contributions which may not be accepted**

Item (16) inserts proposed Division 5 of Part 3 (sections 30A and 30B) which prevents the Board from accepting contributions when a superannuation fund can not do so under an applicable Commonwealth occupational superannuation standard. The Board may also make rules for or with respect to such persons.

Item (3) makes a consequential amendment, omitting section 9 which applies to circumstances now covered by the proposed Division.

**Payment of benefits**

Items (19) and (21) revise the provisions relating to payment and preservation of benefits as a result of the creation of the new class of inactive members. Section 36 will now apply to the payment of benefits (including preserved benefits) to members and section 40, being now unnecessary, is repealed by item (22). Proposed section 39 contains the preservation standard which requires benefits to be preserved in the Fund.

Item (24) extends the Board's power to make rules about the cessation of employment to full-time employees as well as other employees.

Item (25) provides that more than one account need not be established for an inactive member who becomes a full member or an optional member.

Item (26) enables the Board to make rules for or with respect to treating a member's account as belonging to a particular investment fund, if a member has not made an election to do so. The item also replaces the requirement for consent to any such treatment of a member's account with a requirement for the making of an election.

**SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued***

**Excluded employees**

Schedule 2 lists employees who are not eligible to be full members of the Fund. Item (27) (d) makes it clear that the prohibition on full membership for contributors to other public sector superannuation schemes does not apply to an employee who is not a current contributor and who has a preserved benefit in such a scheme or who is entitled to a deferred accrued benefit under the State Authorities Non-contributory Superannuation Act 1987.

**Statute law revision**

Item (28) (a) corrects a reference to the basic death or invalidity benefit.

**STATE AUTHORITIES NON-CONTRIBUTORY  
SUPERANNUATION ACT 1987 No. 212**

**AMENDMENTS**

(1) Omit section 20A, insert instead:

**Scheme closed for new employees**

20A. (1) On and from the commencement of the First State Superannuation Act 1992 (8 December 1992) there is to be no benefit provided by this Act for an employee who ceases to be an employee on or after that commencement, unless the employee is within one of the following categories:

- (a) non-contributing employees who commenced employment before 1 July 1992;
- (b) employees who were contributing employees immediately before 8 December 1992;
- (c) employees who elect to become, are taken to have elected or who become contributing employees on or after 8 December 1992 by virtue of section 2A, 2B or 2C of the State Authorities Superannuation Act 1987.

(2) The expressions “**contributing employee**” and “**non-contributing employee**” have the meanings given in Part 4A.

(3) Any determination of the Board under section 19 (Transfer of employees) is to be taken into account in determining for the purposes of this section whether an employee was employed on a particular date.

SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued*

(4) An irregular employee who commenced employment before 1 July 1992 is taken for the purposes of this Act to have ceased to be an employee on 30 June 1992. If the employee carries out any duties after that date, the employee is taken to have commenced to be an employee for the purposes of the First State Superannuation Act 1992 on the first date on which those duties were carried out after 30 June 1992.

(2) Section 26C (**Definitions**):

Omit paragraph (b) of the definition of “contributing employee”, insert instead:

(b) elects or is taken to have elected under section 2A, 2B or 2C of the State Authorities Superannuation Act 1987 to contribute to the Fund under that Act.

**COMMENCEMENT**

The amendments to the State Authorities Non-contributory Superannuation Act 1987 are taken to have commenced on 8 December 1992.

**EXPLANATORY**

Item (1) replaces section 20A. Like the section it replaces, the new section closes benefits under the State Authorities Non-contributory Superannuation Scheme to employees who cease to be employees after the commencement of the First State Superannuation Act 1992. The new provision clarifies the provision and the provision will now except from this closure:

- employees who contributed to other superannuation schemes (other than the First State Superannuation Scheme) immediately before the commencement of that Scheme (8 December 1992)
- employees who are not members of other State superannuation schemes and who became employees before 1 July 1992
- employees who have elected or elect to contribute, or became contributors to, the State Authorities Superannuation Fund in accordance with section 2A, 2B or 2C of the State Authorities Superannuation Act 1987 after the commencement of the First State Superannuation Scheme.

For the purposes of the Act, irregular (casual) employees who commenced work before 1 July 1992 are taken to have ceased to be employed on 30 June 1992. The effect of this is that cover for these employees after that date will be provided in the First State Superannuation Scheme as from the first date they carry out duties.

Item (2) makes a consequential amendment.

SCHEDULE 3—AMENDMENTS RELATING TO FIRST STATE  
SUPERANNUATION SCHEME—*continued*

**STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211**

**AMENDMENT**

**Section 2C (Employee over 55 years may contribute after election to preserve benefit after salary reduction):**

After section 2C (2), insert:

(3) The election to contribute to the Fund must be made when the employee elects to make provision for a preserved benefit or to defer or preserve a benefit.

(4) Despite subsection (3), an employee who elected to make provision for a preserved benefit or to defer or preserve a benefit before the commencement of that subsection may elect to contribute to the Fund at any time within 3 months after the commencement of that subsection.

**COMMENCEMENT**

The amendment to the State Authorities Superannuation Act 1987 commences on the date of assent to this Act.

**EXPLANATORY NOTE**

Section 2C entitles employees who have elected to preserve benefits under the State Authorities Superannuation Act 1987 or the Superannuation Act 1916 because of a drop in salary after age 55 to elect to become contributors to the State Authorities Superannuation Fund, despite the closure of the Fund. The amendment provides that the election to contribute must be made when the election to preserve the benefit is made. Employees who so elected before the amendment commences must make the election to contribute at any time within 3 months after the commencement of the provision.

**SCHEDULE 4—OTHER AMENDMENTS**

(Sec. 3)

**POLICE REGULATION (SUPERANNUATION) ACT 1906  
No. 28**

**AMENDMENTS**

(1) Section 14M (**Benefit on attaining 65**):

After section 14M (4), insert:

(4A) Despite subsections (1) and (4), a contributor who was aged 60 years or more on 1 July 1990 is entitled (at any time on or after attaining 65 years and before attaining 70

SCHEDULE 4—OTHER AMENDMENTS—*continued*

years) to be paid any superannuation allowance to which the contributor is entitled at the time under section 7 but:

- (a) may elect under section 14J to commute the whole of the allowance to a lump sum; and
- (b) if such an election is made, may also elect to preserve the lump sum in the Fund,

even though the contributor is not retired.

## (2) Section 18D:

After section 18C, insert:

**Restriction on manner of payment of benefit**

18B. The Board must not pay, in cash or by a cheque which authorises payment in cash on presentation, a benefit or part of a benefit payable under this Act.

**COMMENCEMENT**

The amendments to the Police Regulation (Superannuation) Act 1906 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

Item (1) amends section 14M to give a contributor who was aged 60 years or more on 1 July 1990 the option to make an election, at any time after attaining the age of 65 years and before attaining 70 years, to take a superannuation allowance, commute the allowance to a lump sum or to preserve the lump sum, even though the contributor is not retired.

Item (2) inserts new section 18D which prohibits payment of any benefit under the Police Regulation (Superannuation) Act 1906 from being made in cash or by a cheque which authorises payment in cash on presentation.

**POLICE SERVICE ACT 1990 No. 47****AMENDMENT****Section 46 (Monetary remuneration and employment benefits for executive officers):**

After section 46 (1), insert:

(1A) Contributions payable to a superannuation scheme by an executive officer's employer in respect of the officer that are required to be made by the employer under a law of the

SCHEDULE 4—OTHER AMENDMENTS—*continued*

State relating to superannuation are, until provided for by the officer's contract of employment, taken to be an employment benefit provided in the contract.

**COMMENCEMENT**

The amendment to the Police Service Act 1990 is taken to have commenced on 1 July 1992.

**EXPLANATORY NOTE**

Under the superannuation guarantee legislation of the Commonwealth, employers (including State government employers) are required to make minimum superannuation contributions for employees. Provision enabling contributions to be made, and benefits to be adjusted accordingly, is made by the First State Superannuation Act 1992 and the Superannuation Legislation (Superannuation Guarantee Charge) Amendment Act 1992.

As a result of this provision being made, it is proposed to adjust provisions relating to remuneration of executive officers in the police service to enable the contributions to be made on a salary sacrifice basis, consistent with the treatment of other employer contributions to executive superannuation made under contracts of employment.

The amendment to section 46 includes as an employment benefit employer contributions for superannuation provided for a police executive officer under any State superannuation law in the officer's contract of employment until such time as the contributions are provided for under the officer's contract.

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT  
1989 No. 106**

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

From section 3 (1), omit the definition of "approved deposit fund", insert instead:

**"approved deposit fund"** has the same meaning as it has in section 3 of the Occupational Superannuation Standards Act 1987 of the Commonwealth;

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

(a) At the end of section 51 (2) (b), insert:

; or

(c) to request the Board to pay the benefit to an approved deposit fund.

SCHEDULE 4—OTHER AMENDMENTS— *continued*

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

(2A) The Board must not take the action referred to in subsection (2) (b) or (c) unless it is satisfied that the benefit will be preserved in accordance with the Occupational Superannuation Standards Regulations of the Commonwealth.

**COMMENCEMENT**

The amendments to the Public Sector Executives Superannuation Act 1989 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

The Public Sector Executives Superannuation Act 1989 currently provides that a member who leaves the Public Sector Executives Superannuation Scheme before qualifying for a benefit must elect either to preserve the employer-financed benefit in the Fund or request the Board to transfer the benefit to another superannuation scheme.

The purpose of the proposed amendments is to allow the member to have a further option of electing to have the benefit paid to an approved deposit fund. The transfer of the benefit to another superannuation scheme or the payment of the benefit to an approved deposit fund may only be made if the Board is satisfied that the benefit will be preserved in accordance with Commonwealth occupational superannuation standards.

**PUBLIC SECTOR MANAGEMENT ACT 1988 No. 33****AMENDMENT****Section 42L (Monetary remuneration and employment benefits for executive officers):**

After section 42L (1), insert:

(1A) Contributions payable to a superannuation scheme by an executive officer's employer in respect of the officer that are required to be made by the employer under a law of the State relating to superannuation are, until provided for by the officer's contract of employment, taken to be an employment benefit provided in the contract.

**COMMENCEMENT**

The amendment to the Public Sector Management Act 1988 is taken to have commenced on 1 July 1992.

**SCHEDULE 4—OTHER AMENDMENTS—*continued*****EXPLANATORY NOTE**

Under the superannuation guarantee legislation of the Commonwealth, employers (including State government employers) are required to make minimum superannuation contributions for employees. Provision enabling contributions to be made, and benefits to be adjusted accordingly, is made by the First State Superannuation Act 1992 and the Superannuation Legislation (Superannuation Guarantee Charge) Amendment Act 1992.

As a result of this provision being made, it is proposed to adjust provisions relating to remuneration of executive officers to enable the contributions to be made on a salary sacrifice basis, consistent with the treatment of other employer contributions to executive superannuation made under contracts of employment.

The amendment to section 42L includes as an employment benefit employer contributions for superannuation provided for an executive officer under any State superannuation law in the officer's contract of employment until such time as the contributions are provided for under the officer's contract.

**STATE AUTHORITIES NON-CONTRIBUTORY  
SUPERANNUATION ACT 1987 No. 212**

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

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

**“retrenchment”**, in relation to an employee, means the termination of the employment of the employee with an employer where the employment is expressed by the employer to be:

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

- (i) the employer no longer requires the employee's services and, on termination of the employee's employment, does not propose to fill the employee's position; or
- (ii) the work that the employee was engaged to perform has been completed; or
- (iii) the amount of work that the employer requires to be performed has diminished and, due to that fact, it has become necessary to reduce the number of employees employed by the employer; or

SCHEDULE 4—OTHER AMENDMENTS—*continued*

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

(2) Section 22 (**Basic benefit**):

From section 22 (1), omit the following matter

F represents:

- (a) in the case of the employee's resignation or retirement or the employee's death on or after reaching the age of 55 years—the employee's final average salary; or
- (b) in any other case—the employee's final salary; and

Insert instead:

F represents:

- (a) in the case of the employee's death or retrenchment, or the employee ceasing to be employed because of physical or mental incapacity, before reaching the age of 55 years—the employee's final salary; or
- (b) in any other case—the employee's final average salary; and

## (3) Section 23A:

After section 23, insert:

**Benefit on attaining 65**

23A. (1) A person who attains 65 years of age may be paid the basic benefit to which the person would be entitled on retirement at that age or may elect to preserve the whole of the benefit.

(2) If on 1 July 1990 a person was aged 60 years or more, this section applies to the person as if the reference in subsection (1) to 65 years of age were a reference to 70 years of age.

(3) Despite subsections (1) and (2), a person who was aged 60 years or more on 1 July 1990 may elect, at any time on or after attaining 65 years and before attaining 70 years, to be paid the basic benefit to which the person is entitled on

**SCHEDULE 4—OTHER AMENDMENTS—*continued***

retirement at that age at the time or to preserve the benefit under section 24, even though the person has not ceased to be an employee.

(4) If an amount is preserved under this section, it is payable in the same way as a benefit under section 24.

(5) A person to whom this section applies is not entitled to any other benefit under this Act in respect of the same period of service, or to be paid or preserve a benefit under, this section more than once.

(4) Section 31A:

After section 31, insert:

**Restriction on manner of payment of benefit**

31A. The Board must not pay, in cash or by a cheque which authorises payment in cash on presentation, a benefit or part of a benefit payable under this Act.

**COMMENCEMENT**

The amendments to the State Authorities Non-contributory Superannuation Act 1987 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

Item (1) inserts in section 3 (Definitions) a definition of the expression “retrenchment” for the purposes of the amended section 22 (item 2).

Item (2) replaces the definition of symbol “F” in the formula used in section 22 to determine the basic benefit of an employee. The effect of this amendment is that if an employee involuntarily ceases to be employed by reason of death, incapacity or retrenchment, before reaching 55 years the employee’s final salary will be used to calculate his or her basic benefit. In all other cases, the employee’s final average salary will be used.

Item (3) inserts new section 23A to allow a person who attains 65 years of age to be paid the benefit to which the person is entitled on retirement at that age or to elect to preserve the benefit. If however a person was aged 60 years or more on 1 July 1990, that person may instead be paid the benefit or elect to preserve the benefit on attaining 70 years of age.

A person who was aged 60 years or more on 1 July 1990 is also given the option to make an election, at any time after attaining the age of 65 years and before attaining 70 years, to be paid any benefit to which the person is entitled or to preserve his or her benefit, even though the person has not ceased to be an employee.

**SCHEDULE 4—OTHER AMENDMENTS—*continued***

Item (4) inserts new section 31A which prohibits payment of any benefit under the State Authorities Non-contributory Superannuation Act 1987 from being made in cash or by a cheque which authorises payment in cash on presentation.

**STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211****AMENDMENTS****(1) Section 24 (Revocation of approval):**

In section 24 (4A), after “contributor” where secondly occurring, insert “and the revocation has effect as if the contributor or former contributor had never been entitled to the cover”.

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

After section 42A (a), insert:

(2A) Despite subsections (1) and (2), an employee who was aged 60 years or more on 1 July 1990 may elect, at any time on or after attaining 65 years and before attaining 70 years:

- (a) to be paid any benefit to which the employee is entitled at the time of the election; or
- (b) to preserve the whole of the benefit, even though the employee is not retired.

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

(a) After section 43(1), insert:

(IA) A contributor who is under 65 years of age may, instead of taking the benefit payable under section 37, elect to make provision for a benefit provided by this section (but only if that benefit is not less than the prescribed amount).

- (b) In section 43 (2) and (2A), after “subsection (1)” wherever occurring, insert “or (1A)”.
- (c) In section 43 (3) (b) (i) and (d), before “section 42A” wherever occurring, insert “subsection(1A)or”.
- (d) In section 43 (6), omit “The”, insert instead “Subject to subsection (6A), the”.

SCHEDULE 4—OTHER AMENDMENTS—*continued*

(e) After section 43 (6), insert:

(6A) For the purposes of calculating the benefit provided under subsection (6) in the case of a contributor who has attained the early retirement age, “K” in the formula in subsection (6) is to equal 1.

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

After section 48 (3), insert:

(3A) Nothing in this section prevents the Board from deferring, for such time as it thinks fit, consideration of an application to contribute for a benefit or a claim for payment of a benefit if it has not received the information or evidence required by the Board under subsection (1).

(5) Section 51A:

After section 51, insert:

**Restriction on manner of payment of benefit**

51A. The Board must not pay, in cash or by a cheque which authorises payment in cash on presentation, a benefit or part of a benefit payable under this Act.

**COMMENCEMENT**

The amendments to the State Authorities Superannuation Act 1987 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

Section 24 allows the State Authorities Superannuation Board to revoke an approval for an additional benefit if an untrue statement was made in relation to the application for the benefit or in relation to a medical examination conducted in connection with the application. Item (1) makes it clear that revocation has effect as if the contributor or former contributor concerned had never been entitled to cover for the additional benefit.

Item (2) amends section 42A to give a person who was aged 60 years or more on 1 July 1990 the option to make an election, at any time after attaining the age of 65 years and before attaining 70 years, to be paid any benefit to which the person is entitled or to preserve the benefit, even though the person is not retired.

Item (3) amends section 43 to allow contributors who have attained the early retirement age but who are under 65 years to elect to preserve their benefit.

Item (4) amends section 48 to give the Board the option of deferring consideration of an application or a claim for a benefit until it has received information or evidence it has requested from an applicant or claimant.

SCHEDULE 4—OTHER AMENDMENTS—*continued*

Item (5) inserts new section 51A which prohibits payment of any benefit under the State Authorities Superannuation Act 1987 from being made in cash or by a cheque which authorises payment in cash on presentation.

**STATUTORY AND OTHER OFFICES REMUNERATION ACT  
1975 (1976 No. 4)**

**AMENDMENT**

**Section 11A (Employment benefits for non-judicial office holders):**

After section 11A (3), insert:

(3A) Contributions to a superannuation scheme by an employer (for superannuation purposes) in respect of an office holder who has made an election under subsection (3) that are required to be made by the employer under a law of the State relating to superannuation are, until provided for by an election under that subsection, taken to be an employment benefit for which there is an election in force under that subsection.

**COMMENCEMENT**

The amendment to the Statutory and Other Offices Remuneration Act 1975 is taken to have commenced on 1 July 1992.

**EXPLANATORY NOTE**

Under the superannuation guarantee legislation of the Commonwealth, employers (including State government employers) are required to make minimum superannuation contributions for employees. Provision enabling contributions to be made, and benefits to be adjusted accordingly, is made by the First State Superannuation Act 1992 and the Superannuation Legislation (Superannuation Guarantee Charge) Amendment Act 1992.

As a result of this provision being made, it is proposed to adjust provisions relating to remuneration of statutory office holders to enable the contributions to be made on a salary sacrifice basis, consistent with other employer contributions to office holders' superannuation.

SCHEDULE 4—OTHER AMENDMENTS—*continued***SUPERANNUATION ACT 1916 No. 28****AMENDMENTS****(1) Section 15A (Reserve units):**

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

(6AD) A contributor is entitled to interest on contributions for reserve units paid for by the contributor, compounded annually, at the rate fixed by the Board in accordance with section 86A and payable from the respective dates of payment.

**(2) Section 52P (Calculation of value of deferred benefit):**

After “retired”, insert “and may be adjusted or reduced in the same way as any other benefit payable to a person on retirement”.

**(3) Section 52R (Adjustment of deferred benefit):**

Omit section 52R (b), insert instead:

(b) as to the commuted component of the benefit—by adding an amount of interest, at a rate fixed by the Board from time to time having regard to the earnings of the Fund and such other matters as the Board considers relevant.

**(4) Section 52W (Benefit on attaining 65):**

After section 52W (2), insert:

(2A) Despite subsections (1) and (2), an employee who was aged 60 years or more on 1 July 1990 may elect at any time on or after attaining 65 years and before attaining 70 years to be paid any pension to which the employee is entitled at the time but:

(a) may elect under section 21C to commute to a lump sum all or part of the pension; and

(b) if such an election is made, may also elect to preserve the whole of the lump sum in the Fund,

even though the employee is not retired.

SCHEDULE 4—OTHER AMENDMENTS—*continued*

## (5) Section 89:

After section 88A, insert:

**Restriction on manner of payment of benefit**

89. The Board must not pay, in cash or by a cheque which authorises payment in cash on presentation, a benefit or part of a benefit payable under this Act.

**COMMENCEMENT**

Item (1) of the amendments to the Superannuation Act 1916 is taken to have commenced on 1 January 1992. The other amendments to that Act commence on the date of assent to this Act.

**EXPLANATORY NOTE**

Item (1) amends section 1% to enable interest to be paid on contributions made by an employee for reserve units in the Fund, removing previous restrictions on payment of interest to contributors who had contributed to reserve units for less than 10 years.

Item (2) amends section 52P to make it clear that the value of a deferred benefit may be adjusted in the same way as any other benefit on retirement.

Item (3) amends section 52R to make the rate of interest payable on a deferred benefit a rate to be determined by the Board, having regard to the earnings of the Fund and such other matters as it considers relevant.

Item (4) amends section 52W to give a person who was aged 60 years or more on 1 July 1990 the option to make an election, at any time after attaining the age of 65 years and before attaining 70 years, to be paid any benefit to which the person is entitled or to preserve all or part of so much of the benefit as comprises a lump sum, even though the person is not retired.

Item (5) inserts new section 89 which prohibits payment of any benefit under the Superannuation Act 1916 from being made in cash or by a cheque which authorises payment in cash on presentation.

**SUPERANNUATION ADMINISTRATION ACT 1991 No. 96****AMENDMENTS**(1) Section 6 (**General functions of the Board**):

(a) Omit section 6 (1) (b), insert instead:

(b) to invest and manage the associated superannuation funds;

SCHEDULE 4—OTHER AMENDMENTS—*continued*

(b) After section 6 (1), insert:

(1A) The Board's function of investing and managing the associated superannuation funds is to be exercised for the Board by the Corporation, except to the extent to which the Board appoints another person or persons under section 9 to carry out that function.

(2) Section 9 (**Board may appoint investment managers etc.**):

After section 9 (1), insert:

(1A) A person who enters into a contract or arrangement to invest and manage any part of, or any one or more of, of the associated superannuation funds on behalf of the Board has, while acting in accordance with the terms of the contract or arrangement, the same powers as the Corporation as to investment. However, the contract or arrangement may provide that the person is not to have or to exercise any specified power as to investment.

(1B) Subsection (1A) applies to an agreement whether entered into before or after the commencement of that subsection.

(3) Section 29 (**Functions of the Corporation relating to associated superannuation schemes**):

(a) Omit section 29 (1) (b), insert instead:

(b) subject to the terms of any contract or arrangement entered into under section 9, to exercise the Board's function of investing and managing the associated superannuation funds in accordance with the directions of the Board.

(b) From section 29 (3), omit "under this section".

(c) After section 29 (4), insert:

(5) For the purpose of carrying out its function under section 29 (1) (b), the Corporation may use its own powers of investment as well as the Board's powers of investment.

SCHEDULE 4—OTHER AMENDMENTS—*continued*

(6) The Corporation is, while carrying out function under this section, taken to have duly exercised those functions, until the contrary is proved.

(4) Section 35 (**Delegation**):

(a) **Omit** section 35 (1) (a), insert instead:

(a) the managing director or another director; or

(b) **After** section 35 (2), insert:

(3) The managing director may delegate to:

(a) another director; or

(b) an employee of the Corporation; or

(c) a person whose services the Corporation makes use of under this Act,

any of the functions delegated to the managing director by the Corporation, subject to any conditions to which the delegation to the managing director is subject.

**COMMENCEMENT**

The amendments to the Superannuation Administration Act 1991 commence on the date of assent to this Act.

**EXPLANATORY NOTE**

Items (1)–(3) clarify the investment powers of the Board and its relationship to the Superannuation Investment and Management Corporation.

Item (1) makes it clear that it is the Board's function to invest and manage the associated superannuation funds and that the Corporation, or a person appointed under section 9, is to carry out the function.

Item (2) confers on a person with whom the Board enters an agreement to carry out the Board's investment functions, the same investment powers as the Corporation has with respect to investment.

Item (3) makes it clear that the Corporation's function to exercise the Board's powers invest the associated superannuation funds are subject to any agreement entered into under section 9 by the Board with another person and are to be carried out in accordance with the directions of the Board.

The item also provides that the Corporation, while exercising functions under section 29, is taken to have duly exercised those functions, until the contrary is proved.

SCHEDULE 4—OTHER AMENDMENTS— *continued*

Item (4) enables the managing director of the Corporation to delegate to other directors, employees of the Corporation and people whose services are made use of by the Corporation, functions delegated to the managing director by the Corporation.

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*[Minister's second reading speech made in—  
Legislative Assembly on 19 May 1993  
Legislative Council on 21 May 1993]*