

STATE AUTHORITIES SUPERANNUATION ACT 1987
No. 211

NEW SOUTH WALES



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STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211

NEW SOUTH WALES



Act No. 211, 1987

An Act to establish a superannuation scheme for certain employees in the public sector; and for other purposes. [Assented to 9 December 1987]

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The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the State Authorities Superannuation Act 1987.

Commencement

2. This Act shall commence on 1 April 1988.

Definitions

3. (1) In this Act—

“additional benefit” has the meaning given by section 36;

“additional benefit levy” means the levy that, in order to attract the additional benefit for a contributor, is paid to the Fund by transfer from the contributor’s account under section 22 (2) (b);

“applicable contribution period” has the meaning given by section 36;

“appointed day” means 1 April 1988;

“attributed salary”, in relation to a contributor at any time, means—

(a) where the contributor is a full-time employee at that time—the salary of the contributor at that time; or

(b) where the contributor is a part-time employee at that time—the salary that would be payable to the contributor at that time if employed as a full-time employee;

“benefit” means a benefit payable under this Act;

“Board” means the State Authorities Superannuation Board constituted by the Superannuation Administration Act 1987;

“contribution period” means a named month or such other period as may be prescribed;

“contributor” means an employee whose election to contribute to the Fund has taken effect;

“contributor-financed benefit”, in relation to a benefit payable to, or in relation to, a contributor, means the balance at credit in the contributor’s account at the time the benefit is paid;

“contributor’s account” means the account established and maintained under section 12 in respect of the contributor;

“discharge”, in relation to a contributor, means the cessation of the contributor’s employment expressed by the employer to be on the ground that the period, or successive periods, for which the contributor was employed has or have ended;

“early retirement age” means the age of 59 years or, if some lower age (but not lower than the age of 55) is prescribed, that lower age;

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“employee” means a person who is employed by an employer and who is the subject of a certificate by the employer to the effect that—

- (a) if the regulations prescribe any class of persons as not being employees—the person is not within any such class; and
- (b) if the regulations prescribe any requirement with which a person must comply in order to be an employee—the person complies with the requirement (specifying the requirement),

but does not include an excluded person referred to in Schedule 2;

“employer” means—

- (a) the Crown, the Government or a Minister of the Crown; or
- (b) an authority specified in Schedule 1,

and a reference to employment with an employer includes a reference to employment with successive employers;

“employer-financed benefit”, in relation to a benefit payable to, or in relation to, a contributor, means so much of the benefit as is paid from the reserve for that employer;

“employer reserve” means a reserve established and maintained under section 14;

“entry date”, in relation to a contributor, means the date as at which the contributor’s election to contribute to the Fund took effect, that election being—

- (a) the only such election made by the contributor; or
- (b) where the contributor has made more than one such election—the later or latest of those elections;

“exit date”, in relation to a contributor, means the date on which the contributor ceases employment with an employer, that cessation of employment being—

- (a) the only such cessation of employment of the contributor; or
- (b) where there has been more than one such cessation of employment of the contributor—the later or latest of those cessations of employment;

“full-time employee” means an employee whose salary ratio is equal to 1;

“Fund” means the State Authorities Superannuation Fund established under this Act;

“Management Account” means the State Authorities Superannuation Management Account established under the Superannuation Administration Act 1987;

“maximum benefit points” has the meaning given by section 36;

“part-time employee” means an employee whose salary ratio is less than 1 but at least 0.1;

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“preserved benefit”, in relation to a contributor, means a benefit for which the contributor has made provision under section 43;

“prospective benefit points” has the meaning given by section 36;

“retire” means cease (otherwise than by reason of death) in any manner to be employed by an employer on or after reaching the early retirement age;

“retrenchment”, in relation to a contributor, means the termination of the employment of the contributor 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 contributor’s services and, on termination of the contributor’s employment, does not propose to fill the contributor’s position;

(ii) the work that the contributor was engaged to perform has been completed; or

(iii) the amount of work that the employer requires to be performed has diminished and, due to that fact, it has become necessary to reduce the number of employees employed by the employer; or

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

“salary”, in relation to a contributor, means salary of the contributor, determined in accordance with section 4 and expressed as an annual rate;

“salary ratio”, in relation to a contributor at any time during a contribution period, means the number ascertained by dividing the salary of the contributor at the commencement of the contribution period by the attributed salary of the contributor at that commencement;

“spouse”, in relation to a deceased contributor, means—

(a) if the deceased contributor was survived by a widow or widower—the widow or widower, as the case may be, of the contributor; or

(b) if the deceased contributor was not survived by a widow or widower—

(i) where the contributor was a man and, at the time of his death, he was living with a woman as her husband on a bona fide domestic basis—the woman with whom he was so living; or

(ii) where the contributor was a woman and, at the time of her death, she was living with a man as his wife on a bona fide domestic basis—the man with whom she was so living;

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

“superannuation year” means the year commencing on 1 April 1988 and each subsequent year commencing on 1 April;

“this Act” includes the regulations.

(2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) A reference in this Act to an authority where used in or in connection with the definition of “employer” is a reference to an authority, organisation, corporation, person or other entity.

(4) If the inclusion of an employer in Schedule 1 is expressed to be limited in any respect, this Act has effect in relation to the employer subject to the limitation.

Salary

4. (1) For the purposes of this Act, “salary”, in relation to a contributor, means the remuneration, salary or wages payable in money to the contributor in the contributor’s capacity as an employee, as reported to the Board from time to time by the contributor’s employer, including—

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

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

but does not include the excluded amounts or allowances referred to in subsection (2).

(2) The excluded amounts or allowances are:

(a) an amount paid for overtime or as a bonus, or an allowance instead of overtime;

(b) except to the extent determined in accordance with the regulations, as referred to in subsection (1) (a)—an amount paid as shift allowance;

(c) except to the extent that this section otherwise provides—a relieving allowance;

(d) an expense allowance or an allowance for travelling, subsistence or other expenses;

(e) an equipment allowance; and

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- (f) an amount paid for rent or as a residence, housing or quarters allowance.

(3) If a contributor's employer, or a person authorised to do so on behalf of the employer, certifies in writing to the Board that a relieving allowance to be, or being, paid to the contributor in the contributor's capacity as an employee is likely to be paid for a continuous period of 1 year (whether or not the period is partly before the date of the certificate), the allowance is, as from—

- (a) the date on which the certificate is lodged with the Board; or
(b) the date from which the allowance becomes payable,

whichever is the later, salary for the purposes of this Act.

(4) If a relieving allowance has been paid to a contributor in the contributor's capacity as an employee for a continuous period of 1 year that ends after the appointed day and, during that period, the allowance has not been treated as part of the contributor's salary in accordance with subsection (3), the allowance shall, as from the expiration of that period of 1 year, be treated as part of the contributor's salary while its payment to the contributor continues.

(5) If a contributor is on secondment to another employer, the salary of the contributor for the purposes of this Act is the salary paid or payable to the contributor by the other employer.

(6) The Governor may, by order in writing, declare unconditionally, or subject to conditions, that subsection (7) applies—

- (a) to a contributor specified in the order who is on secondment but not to another employer; and
(b) generally during the period of that secondment, or during such period as is specified in the order, being, in either case, a period commencing before, on or after the date of the order.

(7) During the period in which this subsection is declared pursuant to subsection (6) to apply to a contributor on secondment, the contributor's salary shall, for the purposes of this Act, be that paid or payable in respect of the employment to which he or she is seconded.

(8) In this section, "shift allowance" means an allowance paid to an employee in respect of shift work performed by the employee, and includes amounts paid as penalty rates.

Secondment of employee otherwise than to employer

5. (1) The Governor may, by order in writing, declare unconditionally or subject to conditions that subsection (2) applies—

- (a) to a contributor specified in the order who is on secondment but not to another employer; and

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- (b) generally during the period of that secondment, or during such period as is specified in the order being, in either case, a period commencing before, on or after the date of the order.

(2) During the period in which this subsection is declared under subsection (1) to apply to a contributor, the employer specified in the declaration shall be deemed to be the employer from whose employment the contributor is seconded.

Part-time employment with more than one employer

6. (1) Where a contributor is in part-time employment with more than one employer at the same time, this Act applies to the contributor separately in relation to each such employment as if, in relation to each such employment, the contributor were a different person.

(2) The maximum benefit points for the contributor when taken into account in relation to all employments of the contributor shall not exceed in number the number that would have been the maximum number of the contributor's benefit points if the contributor had been a full-time employee.

Employees of Crown etc.

7. An employee of the Crown, the Government or a Minister of the Crown shall, for the purposes of this Act, be deemed to be employed by such person or organisation as may be prescribed.

Provisions respecting certain employees

8. (1) Members of the Police Force shall, for the purposes of this Act, be deemed to be employed by the Commissioner of Police.

(2) A person appointed by the Coal Industry Tribunal to be a Local Coal Authority in the State shall, for the purposes of this Act, be deemed to be, while holding office as such an Authority, a person employed by the Joint Coal Board.

Persons not subject to Act

9. Schedule 2 has effect.

Savings and transitional provisions

10. Schedules 3 and 4 have effect.

PART 2—THE STATE AUTHORITIES SUPERANNUATION FUND**Establishment of the Fund**

11. (1) The Board shall establish, and shall maintain and manage, the State Authorities Superannuation Fund.

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(2) The Public Authorities Superannuation Fund established under the Public Authorities Superannuation Act 1985 is amalgamated with, and forms part of, the Fund.

(3) The Board shall cause to be paid to the Fund—

- (a) contributions made by employers and employees;
- (b) income derived from investment of the Fund, and any profit made from realisation of any investment of the Fund;
- (c) money borrowed for the purposes of the Fund; and
- (d) any other amounts payable to the Fund.

(4) The Board shall cause to be paid from the Fund—

- (a) by transfer from the Fund to the Management Account—management costs calculated in accordance with the Superannuation Administration Act 1987;
- (b) the amount of any loss made from realisation of any investment of the Fund;
- (c) the benefits payable under this Act and any other prescribed superannuation scheme; and
- (d) any other amounts payable from the Fund.

Contributors' accounts

12. (1) The Board shall establish and maintain within the Fund a separate account for each contributor.

(2) There shall be credited to a contributor's account the contributions made by the contributor to the Fund.

(3) There shall be debited to a contributor's account—

- (a) where the contributor is covered for the additional benefit—the amount of the additional benefit levy;
- (b) such part of the amount of any benefit paid to the contributor as comprises the contributor-financed benefit; and
- (c) management costs calculated in accordance with the Superannuation Administration Act 1987 in relation to the contributor.

Additional Benefit Reserve Fund

13. (1) The Board shall establish and maintain an Additional Benefit Reserve Fund.

(2) There shall be credited to the Reserve Fund the amounts debited under section 12 (3) (a).

(3) There shall be debited to the Reserve Fund one-quarter of any payment of any additional benefits.

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Reserves for employers

14. (1) The Board shall, in relation to each employer specified in Part 1 of Schedule 1, establish and maintain within the Fund a separate employer reserve.

(2) The Board shall, in relation to each of Parts 2 and 3 of Schedule 1, establish and maintain within the Fund a separate employer reserve.

(3) There shall be credited to such an employer reserve the contributions made by the employer or employers to whom the reserve relates.

(4) There shall be debited to such an employer reserve—

(a) the amount of the employer-financed benefit (including three-quarters of any payment of any additional benefits) included in the amount of any benefit paid to, or in relation to, a contributor who, immediately before the benefit became payable, was an employee of the employer or an employer to whom the reserve relates; and

(b) management costs calculated in accordance with the Superannuation Administration Act 1987 in relation to the employer or an employer to whom the reserve relates.

(5) If the amount standing to the credit of the employer reserve established for Part 3 of Schedule 1 is insufficient to meet the amounts payable from the reserve, the deficiency shall be recouped from the Consolidated Fund which is, to the necessary extent, appropriated accordingly.

Other accounts and reserves

15. The Board may establish and maintain within the Fund such other accounts and reserves as, in the opinion of the Board, are necessary or convenient for the management of the Fund and the administration of this Act.

Adjustment of accounts and reserves for interest etc.

16. (1) The Board shall, from time to time, adjust each of the accounts and reserves established under this Part at a rate fixed by the Board, having regard to the income of the Fund and such other matters as the Board considers relevant.

(2) The Board may, for the purpose of adjusting a contributor's account before paying out the balance at credit in the account, fix a rate for that purpose only.

Funds, accounts and reserves generally

17. (1) There may be credited to any fund, account or reserve established by or under this Act any amount that is required or permitted by or under this or any other Act to be credited to it.

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(2) There may be debited to any fund, account or reserve established by or under this Act any amount that is required or permitted by or under this or any other Act to be debited to it.

Actuarial investigation

18. (1) An investigation as to the state and sufficiency of the funds established under this Act shall—

- (a) as at the appointed day; and
- (b) as at 31 March 1991 and at the end of each succeeding period of 3 years,

be made by an actuary or actuaries appointed by the Board.

(2) Actuaries appointed under this section shall complete their investigation, and shall report the result to the Board, not later than 13 months after the date as at which the investigation is made.

(3) The Board shall, not later than 2 months after it receives a report under this section, forward the report to the Minister with such comments as it thinks fit.

(4) The Minister may, in relation to a particular investigation, extend or further extend a period referred to in subsection (2) or (3) if the Minister considers that special circumstances exist to justify such an extension or further extension.

PART 3—CONTRIBUTIONS BY EMPLOYEES**Election to contribute to the Fund**

19. (1) An employee may at any time lodge with the Board an election to contribute to the Fund.

- (2) An election under subsection (1) shall—
 - (a) be in a form approved by the Board for the purposes of this section;
 - (b) specify the rate at which the employee desires, subject to this Act, to contribute to the Fund, being the rate of 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent of the employee's salary;
 - (c) be supported by the certificate by the employee's employer referred to in the definition of "employee" in section 3 (1); and
 - (d) be supported by a further certificate by the employee's employer that is in a form approved by the Board.
- (3) The further certificate must state—
 - (a) the date of birth of the employee;
 - (b) the salary (and, in the case of a part-time employee, the attributed salary) of the employee;

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- (c) that the employer has no reason to believe that the employee will not continue to be an employee within the meaning of this Act for at least 1 year from the date of the certificate; and
 - (d) such other matters as the Board considers necessary or convenient for the purposes of this section.
- (4) A failure to comply with subsection (2) (b) does not invalidate an election and, in the event of such a failure, the form of election shall be deemed to specify a rate of 1 per cent.
- (5) An election made by an employee under subsection (1) is ineffective if, at the time the election would take effect, the employee would be of or above the age of 65 years.
- (6) An election made by an employee under subsection (1) (other than an election referred to in subsection (5)) takes effect not later than the first day of the second contribution period after that in which the election is received in the office of the Board, but, if an employee makes a subsequent election under section 27 (Variations of contribution rate), ceases to be in force immediately before the subsequent election takes effect.
- (7) If the Board approves, an employee may, before an election made under this section takes effect, vary the election.
- (8) If a contributor to another superannuation scheme would become (but for being such a contributor) entitled to elect to contribute to the Fund by reason of a change of work category or for any other reason—
- (a) the contributor shall be deemed not to be a contributor to the other superannuation scheme for the purposes of making the election;
 - (b) the contributor may make the election on condition that the Board approves an application made by the person under section 20 to be covered for the additional benefit; and
 - (c) the election takes effect as at a date determined by the Board.

Additional benefit

20. (1) An employee under the early retirement age may lodge with the Board an application to be covered for the additional benefit.
- (2) Such an application may be made—
- (a) by an employee who is not a contributor—at the time the employee makes an election under section 19 (Election to contribute to the Fund); or
 - (b) except to the extent that section 23 or 24 (5) otherwise provides—at any time by a contributor.
- (3) Such an application shall—
- (a) be in a form approved by the Board for the purposes of this section; and

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- (b) be accompanied by such documents, evidence and information as the Board may require for the purposes of this section.

Medical examination

21. (1) This section applies to an application made under section 20 by a person to be covered for the additional benefit.

(2) The Board may require the applicant—

- (a) to submit to such a medical examination as may be required by the Board; and
- (b) to provide such medical reports, evidence and information as are specified by the Board.

(3) Where the applicant—

- (a) fails, in the opinion of the Board, to pass a medical examination to which the applicant has submitted in accordance with a requirement under this section; or
- (b) fails to comply with a requirement under this section,

the Board shall refuse the application.

(4) For the purpose of deciding whether or not to approve the application, the Board—

- (a) may, under subsection (2), require the applicant to submit to further medical examinations or provide further medical reports; and
- (b) may obtain such evaluations of medical examinations or medical reports as it thinks fit.

Approval of application

22. (1) If the Board approves an application made under section 20—

- (a) the Board shall appoint the day on and from which the applicant's cover for the additional benefit is to commence and shall notify the applicant accordingly; and
- (b) the applicant becomes, and remains, liable for payment of the additional benefit levy in accordance with subsection (2).

(2) Payment by a contributor of the additional benefit levy—

- (a) shall commence on a date appointed by the Board and shall be made at a rate determined by the Board and at times so determined;
- (b) shall be effected by transfer from the contributor's account; and
- (c) shall cease when the contributor no longer has available to be taken into account any prospective benefit points.

Refusal of application

23. If an application made under section 20 is refused, the applicant may not again make such an application before the expiration of—

- (a) the period of 3 years that next succeeds the refusal; or
- (b) in a particular case—such shorter period as the Board may decide.

Revocation of approval

24. (1) If, after approving an application made under section 20, the Board forms the opinion that, in relation to the application, or to a medical examination of the applicant, an untrue statement within the meaning of section 48 was made and that its approval would not have been given had the untrue statement not been made, the Board shall, subject to this section, revoke the approval.

(2) For the purpose of deciding whether or not, in relation to an application or a medical examination of an applicant, it is of the opinion referred to in subsection (1), the Board may, if it thinks fit, require the applicant, within a time specified by the Board or within such further time as the Board may allow, to provide information, or to undergo a medical examination, or to provide medical reports, as specified by the Board.

(3) On the expiration of the time, or further time, referred to in subsection (2), the Board may, whether or not the requirement so referred to is complied with, proceed to decide whether or not it is of the opinion referred to in subsection (1).

(4) If the applicant fails to comply with a requirement under subsection (2), the Board may revoke the approval.

(5) If, under subsection (1) or (4), the Board revokes its approval of an application—

- (a) the applicant (if a contributor) ceases to be covered for the additional benefit and ceases to be liable to pay the additional benefit levy;
- (b) the applicant (if a contributor) is disqualified for 3 years from again applying to be covered for the additional benefit; and
- (c) the amount of any additional benefit levy paid by the applicant (whether a contributor or a former contributor) before revocation of the approval is not recoverable.

Liability to contribute following election by employee

25. (1) Where an election under section 19 takes effect, the person who made the election becomes, and remains, liable to pay to the Fund the contributions prescribed by this Part and, except as provided by sections 27, 28 and 29, to pay those contributions in respect of successive contribution periods—

- (a) commencing with the contribution period in which the contributor's entry date occurs; and
- (b) ending with the last complete contribution period ending on or before the contributor's exit date.

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(2) A contributor's contributions to the Fund shall be calculated on the basis of the contribution periods applicable to the contributor and a contribution payable in respect of a contribution period shall be paid to the Board within 7 days after the last day of that period.

(3) A contributor's contributions to the Fund are payable to the Board by the employer by which the contributor is employed and the employer is entitled to deduct those contributions from any amount or amounts that may become payable by the employer to the contributor, whether as salary or otherwise.

(4) The Board may, in a particular case, charge interest calculated on a daily basis at a rate determined by the Board on a contribution to the Fund for any period during which the contribution remains unpaid after the time allowed for payment under subsection (2) and any such interest—

- (a) shall be paid to the Board by the employer in default; and
- (b) is not chargeable against any employee.

Salary basis for contributions

26. A contributor's contributions to the Fund during a superannuation year shall be based on the salary paid to the contributor by his or her employer at the rate applicable as at—

- (a) 31 December last preceding the commencement of the superannuation year; or
- (b) the contributor's entry date,

whichever is the later.

Variations of contribution rate

27. (1) A contributor may, during the period that commences at the beginning of a superannuation year and ends on the next succeeding 31 December or such later date as the Board may approve, lodge with the Board an election to vary the rate per cent of the contributor's salary to be paid to the Fund.

(2) An election under subsection (1)—

- (a) shall be in a form approved by the Board for the purposes of this section;
- (b) shall specify the varied rate per cent (being 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent) of the contributor's salary to be paid to the Fund; and
- (c) takes effect on 1 April next succeeding receipt of the election in the office of the Board.

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(3) Where the nature of the employment of a contributor changes from full-time to part-time or from part-time to full-time, or the amount of time worked part-time by a contributor changes, the amount of the contributor's contribution to the Fund in respect of the contribution period during which the change operates, and each succeeding contribution period until varied in accordance with this Act, is the amount calculated by multiplying by the contributor's salary ratio at the commencement of the period the amount of the contribution that would be payable on the basis of the contributor's attributed salary last applicable for the purpose of calculating contributions to the Fund.

(4) Except as provided by subsection (3) or to the extent that the Board upon the application of a contributor otherwise directs, a reduction in the salary of the contributor below that upon which his or her contributions are based does not, until the beginning of the superannuation year that next succeeds the reduction, affect the amount of the contribution that the contributor is required to pay to the Fund.

(5) Except in the case of a contributor who applies for a direction of the Board under subsection (4), where a contributor's attributed salary is reduced as a consequence of the contributor's ill-health or in circumstances considered by the contributor to be special, the contributor may apply to the Board in a form that—

- (a) is approved by the Board for the purposes of this subsection; and
- (b) is accompanied by such evidence of the cause of the reduction in salary as the Board requires,

for the application of subsection (6) to the contributor.

(6) Where the Board approves an application by a contributor under subsection (5), the attributed salary of the contributor shall, for the purposes of this Act, be deemed to be the same as the contributor's attributed salary immediately before the reduction until—

- (a) the beginning of the superannuation year that next succeeds a 31 December as at which the contributor's attributed salary is equal to or greater than his or her attributed salary immediately before the reduction; or
- (b) the Board's approval is revoked on the application of the contributor,

whichever first occurs.

(7) Subject to section 28, an election that takes effect under this section remains in force until a further election made under this section takes effect.

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Variations of contribution rate: hardship

28. (1) Despite section 27 (1), the Board may, if it is satisfied that a continuation of a contributor's rate of contribution to the Fund would result in financial hardship for the contributor, accept at any time an election under that subsection to reduce, as from a date determined by the Board having regard to the circumstances of the contributor, the rate per cent of the contributor's salary to be paid to the Fund.

(2) Despite section 27 (1), an election referred to in subsection (1) may specify as the varied rate the rate of 0 per cent.

(3) During a period when a rate of 0 per cent is in force, no contributions are payable by the contributor.

(4) After an election referred to in subsection (1) is accepted by the Board, the Board shall refund any resulting excess of contributions made by the contributor to the Fund after the date determined by the Board for commencement of the new rate.

(5) The Board's acceptance of an election for a rate of 0 per cent shall be given for a limited period or periods.

Contributions during leave without pay

29. (1) In this section—

“leave without pay” means a period of leave from employment with an employer (otherwise than on secondment as referred to in section 4) during which the contributor is not entitled to receive payment of salary from the employer;

“prescribed leave” means leave without pay during which the contributor on leave is absent from employment with an employer—

- (a) pursuant to a grant of sick leave;
- (b) for a period during which the contributor receives periodic payments under an Act relating to workers' compensation;
- (c) pursuant to a grant of maternity leave;
- (d) pursuant to an agreement with the employer for the secondment of the contributor to employment that is not employment with an employer;
- (e) to enable the contributor to perform union duties unless, in a particular case, the employer certifies that this paragraph is not to apply;
- (f) to enable the contributor to perform duties that the employer certifies to be in the interests of the employer or the State;
- (g) on service with the naval, military or air forces of the Commonwealth; or

(h) in circumstances approved by the Board for the purposes of this section.

(2) A contributor who takes leave without pay that is prescribed leave is liable to make contributions to the Fund in respect of the contribution periods occurring wholly or partly while on prescribed leave.

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

- (a) is liable to make contributions to the Fund in respect of the contribution period in which the leave that is not prescribed leave commences;
- (b) is liable to make contributions to the Fund in respect of the contribution period in which the leave that is not prescribed leave ceases (as determined by the Board); and
- (c) is not liable or entitled to make contributions to the Fund in respect of any contribution periods between those mentioned in paragraphs (a) and (b).

(4) A contributor liable to make contributions under subsection (2) or (3) shall pay to the Fund in accordance with directions given by the Board such contributions as would have been deducted from the salary of the contributor in accordance with section 25 if the contributor had continued to be paid salary by the employer during the contribution period or periods concerned at the rate at which the contributor would have been paid but for being on leave without pay.

(5) A contribution period in respect of which a contributor is not liable to make contributions to the Fund under this section is not an applicable contribution period in relation to the contributor.

Resumption of contributions after break in employment

30. (1) This section applies to a contributor where the employment of the contributor with an employer—

- (a) ceases in circumstances entitling the contributor to be paid a benefit under section 40 (Benefit on partial and permanent invalidity before early retirement age);
- (b) ceases in circumstances entitling the contributor to be paid a benefit under section 41 (Benefit on resignation, dismissal or discharge before early retirement age) but the contributor does not elect to make provision for a preserved benefit; or
- (c) ceases in circumstances entitling the contributor to be paid a benefit under section 42 (Benefit on retrenchment before early retirement age),

and the contributor has not made an application for payment of the benefit.

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(2) If a contributor to whom this section applies resumes employment as an employee (with the same or any other employer) before the end of the contribution period that next succeeds the contribution period in which the previous employment ceased, the contributor may apply to the Board to have those 2 contribution periods recognised as applicable contribution periods.

(3) If the Board approves an application under subsection (2), the 2 contribution periods shall be deemed to be applicable contribution periods in relation to the contributor as an employee of the employer with whom the contributor resumed employment.

(4) If a contributor to whom this section applies resumes employment as an employee (with the same or any other employer) before the end of the contribution period in which the previous employment ceased, the contributor may apply to the Board to have the contribution period recognised as an applicable contribution period.

(5) If the Board approves an application under subsection (4), the contribution period shall be deemed to be an applicable contribution period in relation to the contributor as an employee of the employer with whom the contributor resumed employment.

PART 4—CONTRIBUTIONS BY EMPLOYERS**Contributions by employer under Part 1 of Schedule 1 (The Crown and other employers)**

31. Where a contributor is employed by an employer specified in Part 1 of Schedule 1, the employer shall pay to the Fund an amount equal to a multiple of the contributions payable to the Fund by the contributor, being a multiple determined by the Board, in relation to the employer, with the concurrence of the Treasurer.

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

32. Where a contributor is employed by an employer specified in Part 2 of Schedule 1, the employer shall pay to the Fund an amount equal to 1.9 (or such other number as may be prescribed following an actuarial investigation of the Fund) times the contributions payable to the Fund by the contributor while employed by the employer.

Contributions by employer under Part 3 of Schedule 1 (Hospitals and other bodies)

33. Where a contributor is employed by an employer specified in Part 3 of Schedule 1, the employer shall pay to the Fund an amount equal to 1.0 (or such higher number as may be prescribed with the concurrence of the Treasurer) times the contributions payable to the Fund by the contributor while employed by the employer.

Basis and making of contributions

34. Contributions under this Part shall be calculated on the basis of contribution periods, and the contributions payable in respect of a contribution period shall be paid to the Board within 7 days after the last day of the contribution period to which they relate.

Transfers of credits between employers of transferred contributors

35. (1) In this section—

“transferred contributor” means a contributor who ceases to be employed by an employer and becomes employed by another employer and who does not apply for payment of a benefit under this Act in respect of the former employment;

“transfer value”, in relation to a transferred contributor, means an amount equal to the benefit that would have been payable if the transferred contributor, on becoming employed by the new employer, had elected to make provision for a preserved benefit under section 43 (1) and the benefit provided by section 43 (6) (b) had thereupon become payable.

(2) The Board shall debit the employer reserve of the former employer with the transfer value referable to a transferred contributor and shall credit the employer reserve of the new employer with that value.

(3) For the purposes of the definition of “transfer value” in subsection (1), the transferred contributor shall be deemed to have elected to make provision for a preserved benefit under section 43 (1), even though less than 3 years have elapsed since the transferred contributor’s entry date.

PART 5—BENEFITS**Definitions**

36. For the purposes of this Act—

“accrued benefit points”, in relation to a contributor at the contributor’s exit date, means—

- (a) the maximum benefit points for the contributor; or
- (b) if the number ascertained by adding together all the contributed points figures for the contributor is less than the maximum benefit points for the contributor—that lesser number;

“additional benefit”, in relation to a contributor, means the amount calculated in accordance with the formula—

$$L = S \times P \times 0.04$$

where—

L represents the amount to be ascertained;

S represents the final salary for the contributor; and

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P represents the prospective benefit points for the contributor at the contributor's exit date;

"applicable contribution period", in relation to a contributor, means a contribution period that occurs during the period that commences on the contributor's entry date and ends on the contributor's final contribution date, except where the contributor was not liable to contribute to the Fund in respect of that contribution period because it occurred during leave without pay;

"average contribution rate per cent", in relation to a contributor at the contributor's exit date, means the lesser of—

- (a) 6 per cent; and
- (b) the rate per cent calculated in accordance with the formula—

$$R = \frac{S}{N}$$

where—

R represents the rate per cent to be ascertained;

S represents the sum of the rates per cent of salary at which the contributor was liable to pay a contribution for each applicable contribution period for the contributor; and

N represents the number of those applicable contribution periods;

"contributed points figure", in relation to a contributor, means the figure that, in relation to each applicable contribution period for the contributor, is calculated in accordance with the formula—

$$F = \frac{P \times R}{N}$$

where—

F represents the figure to be ascertained;

P represents the rate per cent of salary at which the contributor elected to pay the contribution to the Fund for that contribution period;

R represents the salary ratio applicable to the contributor on the first day of that contribution period; and

N represents the number of contribution periods in a year;

"final average salary", in relation to a contributor, means the average of the attributed salaries paid or payable to the contributor at the rates applicable—

- (a) on the contributor's exit date;
- (b) on 31 December last preceding the contributor's exit date; and
- (c) on 31 December last preceding the 31 December referred to in paragraph (b);

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“final contribution date”, in relation to a contributor, means the last day in respect of which the contributor is liable to contribute to the Fund;

“final salary”, in relation to a contributor, means the rate of attributed salary paid or payable to the contributor on the contributor’s exit date;

“maximum benefit points”, in relation to a contributor at the contributor’s exit date, means—

(a) 180; or

(b) if the number ascertained by the formula—

$$M = \frac{6 \times S}{N}$$

where—

M represents the number to be ascertained;

S represents the sum of the salary ratios for the contributor in respect of each applicable contribution period for the contributor; and

N represents the number of contribution periods in a year, is less than 180—the number so ascertained;

“prospective benefit points”, in relation to a contributor at the contributor’s exit date, means—

(a) the number calculated in accordance with the formula—

$$P = \frac{C \times R \times S}{N}$$

where—

P represents the number to be ascertained;

C represents the contributor’s average contribution rate per cent;

R represents the salary ratio applicable to the contributor’s exit date;

S represents the number of applicable contribution periods for the contributor that would occur during the period that commences immediately after the contributor’s final contribution date and ends immediately before the early retirement age; and

N represents the number of contribution periods in a year; or

(b) if it is a lesser number than that calculated under paragraph (a)—the number of benefit points that, when added to the number of the contributor’s accrued benefit points at the exit date, would produce a number equal to the maximum benefit points that would have been attributable to the contributor if contributions had continued at the average contribution rate per cent, the salary ratio had remained constant until the exit date and the exit date had immediately preceded the early retirement age.

*State Authorities Superannuation 1987***Benefit at or after early retirement or on death at or after early retirement age**

37. (1) The benefit provided by this section is payable by the Board on a contributor retiring from employment with an employer or, on or after attaining the early retirement age, a contributor dies during employment with an employer and is so payable—

- (a) where the benefit becomes payable on the contributor retiring—to the contributor;
- (b) where the benefit becomes payable on the death of the contributor and the contributor is survived by a spouse—to the contributor's spouse; or
- (c) where the benefit becomes payable on the death of the contributor and the contributor is not survived by a spouse—to the personal representatives of the contributor or, if appropriate, in accordance with section 51 (Payment without grant of probate etc.).

(2) The benefit provided by this section is an amount equal to the sum of—

- (a) the amount of the contributor-financed benefit; and
- (b) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = F \times A \times 0.025$$

where—

E represents the amount to be ascertained;

F represents the contributor's final average salary; and

A represents the accrued benefit points for the contributor at the contributor's exit date.

Benefit on death before early retirement age

38. (1) The benefit provided by this section is payable by the Board where a contributor dies before attaining the early retirement age during employment with an employer and is so payable—

- (a) where the contributor is survived by a spouse—to the contributor's spouse; or
- (b) where the contributor is not survived by a spouse—to the personal representatives of the contributor or, if appropriate, in accordance with section 51 (Payment without grant of probate etc.).

(2) The benefit provided by this section in relation to a contributor is an amount equal to the sum of—

- (a) the amount of the contributor-financed benefit;

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- (b) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = S \times A \times 0.025$$

where—

E represents the amount to be ascertained;

S represents the contributor's final salary; and

A represents the accrued benefit points for the contributor at the contributor's exit date; and

- (c) where an approval under section 20 (Additional benefit) is in force—the amount of the additional benefit.

Benefit on total and permanent invalidity before early retirement age

39. (1) The benefit provided by this section is payable by the Board to a contributor where, before attaining the early retirement age, the contributor retires from employment with an employer and the Board is satisfied—

- (a) that the retirement of the contributor was due, directly or indirectly, to the permanent physical or mental incapacity of the contributor (not caused by any act or default of the contributor intended to produce that incapacity); and
- (b) that the contributor is permanently unable, by reason of that incapacity, to be engaged, or to be employed, in any remunerative occupation in which, in the opinion of the Board, it would otherwise be reasonable to expect the contributor to engage.

(2) The benefit provided by this section is an amount equal to the sum of—

- (a) the amount of the contributor-financed benefit;
- (b) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = S \times A \times 0.025$$

where—

E represents the amount to be ascertained;

S represents the contributor's final salary; and

A represents the accrued benefit points for the contributor at the contributor's exit date; and

- (c) where an approval under section 20 (Additional benefit) is in force—the amount of the additional benefit.

(3) The Board is entitled to rely on a certificate by an employer as to any matter mentioned in subsection (1) (a) if it thinks fit.

*State Authorities Superannuation 1987***Benefit on partial and permanent invalidity before early retirement age**

40. (1) The benefit provided by this section is payable by the Board to a contributor where, before attaining the early retirement age, the contributor retires from employment with an employer and the Board is satisfied—

- (a) that the retirement of the contributor was due, directly or indirectly, to the permanent physical or mental incapacity of the contributor (not caused by any act or default of the contributor intended to produce that incapacity); and
- (b) that the contributor is permanently unable, by reason of that incapacity, to perform the duties that the contributor was required to perform before the contributor suffered the incapacity.

(2) The benefit provided by this section for a contributor is an amount equal to the sum of—

- (a) the amount of the contributor-financed benefit; and
- (b) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = S \times A \times 0.025$$

where—

E represents the amount to be ascertained;

S represents the contributor's final salary; and

A represents the accrued benefit points for the contributor at the contributor's exit date.

(3) The Board is entitled to rely on a certificate by an employer as to any matter mentioned in subsection (1) (a) if it thinks fit.

Benefit on resignation, dismissal or discharge before early retirement age

41. (1) The benefit provided by this section is payable by the Board to a contributor where, before attaining the early retirement age, the contributor resigns, or is dismissed or discharged, from employment with an employer and no other benefit is payable under this Act.

(2) The benefit provided by this section for a contributor for whom the period commencing on entry date and ending on exit date is 10 years or more is an amount equal to the sum of—

- (a) the amount of the contributor-financed benefit; and
- (b) an amount of employer-financed benefit calculated in accordance with the formula—

$$W = V \times R \times \frac{A}{Y} \times 0.025$$

where—

W represents the amount to be ascertained;

- V represents the period (expressed in years with any fractional part of a year being calculated on a basis of complete contribution periods) that commenced on the contributor's entry date and ended on the contributor's exit date;
- R represents the amount of the contributor-financed benefit;
- A represents the accrued benefit points for the contributor at the contributor's exit date; and
- Y represents the number ascertained by adding together all the contributor's contributed points figures calculated in relation to the contributor for the applicable contribution periods for the contributor.

(3) The benefit provided by this section for a contributor for whom the period commencing on entry date and ending on exit date is less than 10 years is the amount of the contributor-financed benefit.

Benefit on retrenchment before early retirement age

42. (1) The benefit provided by this section is payable by the Board to a contributor where, before attaining the early retirement age, the contributor is retrenched, no other benefit is payable under this Act and the Board is provided with a statutory declaration by a person, duly authorised for the purpose by the employer, confirming that the contributor has been retrenched and specifying the ground on which the retrenchment was justified.

(2) The benefit provided by this section for a contributor for whom the period commencing on entry date and ending on exit date is 3 years or more is an amount equal to the sum of—

- (a) the contributor-financed benefit; and
- (b) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = S \times A \times 0.025$$

where—

- E represents the amount to be ascertained;
- S represents the contributor's final salary; and
- A represents the accrued benefit points for the contributor at the contributor's exit date.

(3) The benefit provided by this section for a contributor for whom the period commencing on entry date and ending on exit date is less than 3 years is the amount of the contributor-financed benefit.

Preserved benefit

43. (1) A contributor who becomes entitled not less than 3 years after his or her entry date to be paid a benefit under section 41 may elect to make provision for a benefit provided by this section.

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(2) Where an election made by a contributor under subsection (1) takes effect, a benefit is not payable to, or in relation to, the contributor under any provision of this Act other than this section.

(3) The benefit provided by subsection (6) is payable by the Board—

- (a) when the contributor attains the early retirement age;
- (b) if, before attaining that age, the contributor dies; or
- (c) on the Board's being satisfied as provided by section 39 (1) (Benefit on total and permanent invalidity before early retirement age).

(4) Subject to subsection (3), the benefit provided by subsection (6) is payable—

- (a) except where the contributor has died, to the contributor;
- (b) if the contributor has died and is survived by a spouse, to the spouse; or
- (c) if the contributor has died but is not survived by a spouse—
 - (i) to the contributor's personal representatives; or
 - (ii) where section 51 (Payment without grant of probate etc.) applies and the Board has made a decision under subsection (1) of that section, in accordance with subsection (2) of that section.

(5) The benefit provided by subsection (7) is payable by the Board to the contributor on the contributor electing to take that benefit and the election taking effect—

- (a) after the election made under subsection (1) takes effect; and
- (b) before the benefit provided by subsection (6) becomes payable to, or in relation to, the contributor.

(6) The benefit provided by this subsection is an amount equal to the sum of—

- (a) the contributor-financed benefit at exit date; and
- (b) an amount of employer-financed benefit calculated in accordance with the formula—

$$E = F \times A \times 0.025 \times K^n$$

where—

- E represents the amount to be ascertained;
- F represents the contributor's final average salary;
- A represents the accrued benefit points for the contributor at the contributor's exit date;
- K represents a discount factor determined by the Board after seeking actuarial advice; and

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n represents the period (expressed in years with any fractional part of a year being calculated on the basis of complete contribution periods) between the contributor's age at exit date and the early retirement age,

together with interest thereon, from the exit date to the date of payment, at a rate determined by the Board.

(7) The benefit provided by this subsection is an amount equal to the sum of—

- (a) the amount of the benefit under section 41 that would have been payable to the contributor at the contributor's exit date if the contributor had not made the election under subsection (1); and
- (b) interest on the amount referred to in paragraph (a), from the contributor's exit date, at a rate determined from time to time by the Board.

(8) A contributor who becomes a contributor to another superannuation scheme while employed by the same employer—

- (a) is required to make provision for a benefit provided by this section despite anything to the contrary in subsection (1);
- (b) shall be deemed to have elected under subsection (1) to make provision for that benefit on becoming a contributor to that other superannuation scheme; and
- (c) is not entitled to elect to take the benefit provided by subsection (7) while employed by that same employer.

(9) Schedule 5 has effect with respect to contributors transferred as a result of Government initiatives.

Application for payment or preservation of benefit

44. (1) An application for payment of a benefit to, or in relation to, a contributor, or for preservation of a benefit under section 43, shall be made in writing in a form approved by the Board for the purpose, shall be signed by the applicant and shall be accompanied by—

- (a) except in the case of a benefit payable under section 43—a certificate by the contributor's employer at the contributor's exit date, specifying the exit date and the manner of cessation of the contributor's employment and such other particulars as may be prescribed; and
- (b) such other documents as may be prescribed.

(2) A benefit shall not be paid or preserved by the Board before subsection (1) has been complied with.

(3) The Board is entitled to act on the information provided pursuant to subsection (1).

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Interest

45. The Board may, when paying a benefit under this Act, pay interest at such rates, for such periods and in such circumstances as in its absolute discretion it thinks appropriate.

PART 6—MISCELLANEOUS**Employers and employees**

46. (1) The Governor may, by order published in the Gazette—

- (a) amend Schedule 1 by inserting the name of an organisation or corporation or a description of a class of organisations or corporations, or by transferring such a name or description from one Part of that Schedule to another Part;
- (b) amend Schedule 1 by omitting the name of an employer that has changed its name and inserting instead the new name of the employer;
- (c) amend Schedule 1 by omitting the name of an employer that has ceased to exist but has been replaced as an employer by another organisation or corporation and by inserting instead the name of that other organisation or corporation;
- (d) amend Schedule 1 by omitting the name of an employer that has ceased to exist and is not referred to in paragraph (c);
- (e) amend Schedule 1 by adding a Part for the purposes of paragraph (a); or
- (f) amend Schedule 2.

(2) An order under subsection (1), and any other order revoking or varying such an order, may be made—

- (a) 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; and
- (b) to effect the amendment to which it relates with such limitations as are specified in the amendment, being limitations that do not operate to the prejudice of an existing contributor.

Employer to provide information

47. (1) An employer shall submit to the Board such information or evidence relating to employees of the employer who may elect to become, or are, contributors as the Board requires.

(2) Where an employer fails to comply with subsection (1) in relation to an employee or contributor, the Board may—

- (a) refuse an application by an employee to contribute for the additional benefit if the information sought is relevant to such an application;
or

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- (b) defer payment of a benefit to, or in relation to, a contributor where the information sought is relevant to the right to receive the benefit.

Employee or claimant to provide information

48. (1) The Board may require an employee or a claimant for payment of a benefit under this Act—

- (a) to provide the Board with specified information or evidence referred to in subsection (2);
- (b) to provide the Board with an authority to obtain from a third person any such information or evidence; or
- (c) in the case of a claimant for a benefit under section 39 or 40—to undergo a medical examination.

(2) A requirement under subsection (1) may be made only—

- (a) in the case of an employee—in relation to information or evidence that is relevant to the assessment of an application by the employee to be covered for the additional benefit; or
- (b) in the case of a claimant for payment of a benefit—in relation to information, evidence or a medical examination that is relevant to the assessment of an application made by the claimant for payment of the benefit.

(3) Where—

- (a) the employee or claimant to whom a requirement under subsection (1) relates fails to comply with the requirement or, in purported compliance with the requirement, makes or provides an untrue statement; or
- (b) a person referred to in subsection (1) (b) fails to provide information or evidence that the Board has been authorised to obtain from the person or, in purported compliance with the request by the Board for the information or evidence, makes or provides an untrue statement,

the Board may—

- (c) where the information or evidence is required in relation to an application to contribute for the additional benefit—refuse the application; or
- (d) where the information is required in relation to a claim for a benefit—take such action in relation to the benefit as, in the opinion of the Board, would place the claimant as nearly as possible in the same position as the claimant would be if the information or evidence had been provided or the medical examination made or if the statement had not been untrue.

(4) For the purposes of this section, “untrue”, in relation to a statement, includes—

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- (a) misleading in the form and context in which the statement appears; and
- (b) misleading by reason of the omission from the statement of matter that is material.

Making of elections and applications

49. (1) An election or application under this Act shall be in writing signed by the person entitled to make the election or application.

(2) An election or application under this Act is not, subject to this section, validly made unless it is received in the office of the Board—

- (a) where, by or under this Act (paragraph (b) excepted), a day is specifically prescribed for the receipt in the office of the Board of an election or application of that class—not later than that day; or
- (b) in any other case—not later than the expiration of the period of 2 months that next succeeds the vesting of the right to make the election or application.

(3) An election or application under this Act takes effect—

- (a) where, by or under this Act (paragraph (b) excepted), a day is specifically prescribed for the taking effect of an election of the same class—on that day; or
- (b) in any other case—on a day determined by the Board, being a day that is not earlier than the date of receipt of the election or application in the office of the Board.

(4) An election or application under this Act may, with the approval of the Board, be amended or revoked subject to such conditions as the Board may impose, which may include—

- (a) in the case of an amendment of an election—conditions as to the day or days on which, or the manner in which, the election is to take effect; and
- (b) in the case of revocation of an election—the day on which the revocation takes effect.

(5) Where—

- (a) an election or application is not received in the office of the Board within the time prescribed by subsection (2) for the receipt of the election or application; and
- (b) the Board is satisfied that, in all the circumstances of the case, it is desirable that the election or application should be accepted,

the Board may, subject to such terms and conditions as it may impose, accept the election or application and deal with it as if it had been received within the time so prescribed.

(6) Where the Board is satisfied that, in all the circumstances of the case, it is desirable that an election or application should take effect on a day that is earlier than the date of receipt of the election or application in the office of the Board—

- (a) the Board may, subject to such terms and conditions as it may impose, determine that the election or application shall be deemed to have taken effect on such an earlier day determined by the Board; and
- (b) the election or application takes effect accordingly.

Assignment etc. of benefit

50. (1) A purported assignment of, or purported charge over, a benefit is void.

(2) Where, but for this subsection, a benefit would pass by operation of law to a person other than a person to whom the benefit is payable under this Act, the benefit does not so pass.

(3) A benefit payable on the death of a contributor is not an asset in the contributor's estate that is applicable in payment of the debts and liabilities of the deceased.

(4) Nothing in this section prevents the Board from making, at the request of a person to whom an amount by way of a benefit is payable, a payment of the whole or a part of the amount on behalf of the person.

(5) Any payment made under subsection (4) shall be deemed to have been made to the person entitled to the benefit.

Payment without grant of probate etc.

51. (1) Where a person dies and—

- (a) a benefit is or becomes payable from the Fund in relation to the deceased;
- (b) production to the Board of probate of the will, or letters of administration of the estate, of the deceased has not been arranged; and
- (c) the Board has not, within the period of 3 months that next succeeds the death of the deceased, received a notice of intention to apply for a grant of probate of the will, or letters of administration of the estate, of the deceased,

the Board may, if it so decides, make a payment of the whole or any part of the benefit in accordance with subsection (2), being a payment that does not exceed \$50,000 or, where some other amount is prescribed for the purposes of this section, that other amount.

(2) Where the Board makes a decision under subsection (1), the Board may—

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- (a) pay the whole or any part of the amount of the benefit to an eligible person within the meaning of the Family Provision Act 1982;
- (b) after paying the funeral expenses of the deceased or reimbursing a person who has paid those expenses—pay the whole or any part of the balance to any person referred to in paragraph (a); or
- (c) in special circumstances, pay the whole or any part of the amount of the benefit, or the balance referred to in paragraph (b), to some other person.

(3) Where a contributor or former contributor dies and the Board is of the opinion that proceedings might be instituted under the Family Provision Act 1982 in relation to the estate, or notional estate, of the deceased, the Board may, despite any other provision of this Act, pay to the personal representatives of the deceased any benefit that, but for this subsection, would have been paid to some other person.

Recovery of money owing to Fund

52. (1) The Board may recover any money owing to the Fund by a contributor, employer or other person, together with interest thereon as provided by subsection (3)—

- (a) except in the case of unpaid contributions—as a debt in a court of competent jurisdiction;
- (b) where any amount is, or becomes, payable from the Fund to the contributor, employer or other person—by deduction from that amount; or
- (c) in the case of a contributor who is an employee—by deduction from the contributor's salary in accordance with subsection (2) by such instalments and at such times as the Board determines.

(2) An employer shall, at the written request of the Board, make deductions from a contributor's salary as referred to in subsection (1) (c) and pay the amount thereof to the Board, and an amount so deducted and paid shall be deemed to have been paid to the Fund by the contributor from whose salary the deduction was made.

(3) Interest at a rate from time to time determined by the Board is payable on any amount owing to the Fund calculated from the date on which the amount became due for payment until the date on which the amount is recovered under subsection (1) or is otherwise paid.

Restoration of lost right etc. under Act

53. (1) Where a person is entitled to exercise a right or enjoy a privilege or benefit under this Act and, without having exercised the right or enjoyed the privilege or benefit, the person ceases to be entitled to do so, the person may exercise the right or enjoy the privilege or benefit if—

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- (a) the Board, being satisfied that it is just and equitable that it should do so, gives its consent to the exercise by the person of the right or the enjoyment by the person of the privilege or benefit; and
- (b) the person fulfils any conditions imposed, and complies with any requirements made, by the Board in giving its consent.

(2) Where pursuant to subsection (1) the Board consents to an election, or an application to the Board, being made after the time before which, but for that consent, it should have been made, the Board may, if it thinks fit, deal with the election or application as if it had been made before that time.

Payment where beneficiary incapable

54. (1) Where a contributor to whom a benefit under this Act is payable is, in the opinion of the Board, incapable of administering his or her own affairs by reason of illness, imprisonment or any other cause, the Board may pay the benefit to some other person to be applied wholly for the care, maintenance, benefit and support of the person to whom, but for this section, the benefit would be payable, or of any person dependent on him or her.

(2) Any payment made under this section shall be deemed to have been made to the person entitled to the benefit.

Regulations

55. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE 1—EMPLOYERS

(Secs. 3, 46)

Part 1—The Crown and other employers

A Government Department or Administrative Office

The Commissioner of Police

Health Administration Corporation

State Bank of New South Wales (limited to persons who were, immediately before the appointed day, contributors within the meaning of the Public Authorities Superannuation Act 1985)

The Maritime Services Board of New South Wales

Water Administration Ministerial Corporation

Water Board

The Hunter District Water Board

Board of Fire Commissioners of New South Wales

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SCHEDULE 1—EMPLOYERS—*continued*

- Western Lands Commissioner
- Australian Museum Trust
- The Commissioner for Main Roads
- The Electricity Commission of New South Wales
 - Grain Handling Authority of New South Wales
 - State Authorities Superannuation Board
 - New South Wales Investment Corporation
 - Judicial Commission of New South Wales
 - Bathurst-Orange Development Corporation
- The Broken Hill Water Board
 - Building Services Corporation
 - Clann Limited
- The Commissioner for Motor Transport
 - Fish Marketing Authority
 - Government Insurance Office of New South Wales (limited to persons who were, immediately before the appointed day, contributors within the meaning of the Public Authorities Superannuation Act 1985)
 - Greyhound Racing Control Board
 - Harness Racing Authority of New South Wales
 - Homebush Abattoir Corporation
 - Hunter Valley Conservation Trust
 - Justice and Police Museum Limited
 - Metropolitan Waste Disposal Authority
 - New South Wales Film Corporation
 - New South Wales Meat Industry Authority
 - State Rail Authority of New South Wales
 - Sydney Cove Redevelopment Authority
 - Sydney Market Authority
 - Traffic Authority of New South Wales
- The Trustees of the Anzac Memorial Building
 - Urban Transit Authority of New South Wales
- The University of Sydney
- The University of New England
- The University of New South Wales
- The Macquarie University
- The University of Newcastle
- The University of Wollongong
 - Mitchell College of Advanced Education
- The New South Wales Institute of Technology
 - Northern Rivers College of Advanced Education

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SCHEDULE 1—EMPLOYERS—*continued*

- Newcastle College of Advanced Education
- Cumberland College of Health Sciences
- Kuring-gai College of Advanced Education
- Nepean College of Advanced Education
- Riverina-Murray Institute of Higher Education
- Macarthur Institute of Higher Education
- Sydney College of the Arts
- Armidale College of Advanced Education
- Sydney College of Advanced Education
- New South Wales Institute of the Arts
- Children's Medical Research Foundation (limited to persons who were, immediately before the appointed day, contributors within the meaning of the Public Authorities Superannuation Act 1985)
- Garvan Institute of Medical Research
- St. Luke's Hospital (limited to persons who were, immediately before the appointed day, contributors within the meaning of the Public Authorities Superannuation Act 1985)
- Hawkesbury Agricultural College
- Orange Agricultural College
- The New South Wales Teachers' Federation
- Public Service Association of New South Wales
- Joint Coal Board
- The River Murray Commission (limited to—
 - (a) persons who were, immediately before the appointed day, contributors within the meaning of the Public Authorities Superannuation Act 1985; and
 - (b) persons who were contributing to the State Authorities Superannuation Fund immediately before becoming officers of the River Murray Commission and in respect of whom provision is made by the River Murray Commission for superannuation in accordance with this Act)
- Australian Transport Officers Federation (New South Wales Division)
- The Water and Sewerage Employees Union (Salaried Division and Wages Division)
- Australian Railways Union
- The Australian Tramway and Motor Omnibus Employees' Association
- Australian Federated Union of Locomotive Enginemen
- The Operative Plasterers' and Plaster Workers' Federation of Australia (limited to persons who were, immediately before the appointed day, contributors within the meaning of the Public Authorities Superannuation Act 1985)

*State Authorities Superannuation 1987*SCHEDULE 1—EMPLOYERS—*continued*

The Police Association of New South Wales

Forestry Commission of New South Wales

Government Printing Office

Public Trust Office

State Compensation Board

State Lotteries Office

Trustees of state recreation areas

The Sydney Opera House Trust

Department of Co-operative Societies

Part 2—Local government and other authorities

A body corporate constituted under the Local Government Act 1919 as a council or a county council

A committee constituted under the Local Government Act 1919 as an urban committee or a joint committee of 2 or more councils

A pastures protection board constituted under the Pastures Protection Act 1934

The employer of a servant, or class of servants, specified in a proclamation published under section 2 (4) of the Local Government and Other Authorities (Superannuation) Act 1927

A body or association of persons specified in a proclamation published under section 2 (5) of the Local Government and Other Authorities (Superannuation) Act 1927

Part 3—Hospitals and other bodies

An incorporated hospital specified in the Second Schedule to the Public Hospitals Act 1929

A separate institution specified in the Third Schedule to the Public Hospitals Act 1929

An associated organisation specified in the Fourth Schedule to the Public Hospitals Act 1929

An area health service constituted under the Area Health Services Act 1986

SCHEDULE 2—EXCLUDED PERSONS

(Secs. 3, 9, 46)

General exclusion

1. For the purposes of the definition of “employee” in section 3 (1), a person is an excluded person if he or she—

- (a) is a full-time employee and is a contributor to a superannuation scheme other than the superannuation scheme established by this Act;
- (b) has received a benefit under, or is in receipt of periodic payments under, such a superannuation scheme as a consequence of ill health, not being a benefit or payment based on an elapsed period;

*State Authorities Superannuation 1987***SCHEDULE 2—EXCLUDED PERSONS—*continued***

- (c) is a person who was a contributor and received a benefit under this Act where prospective benefit points were a factor in the calculation of the amount of the benefits; or
- (d) 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.

Disqualification of contributor

2. (1) In this clause, "university" means a university established by an Act.

(2) A person who is appointed on or after the appointed day as a professor of a university and becomes a contributor ceases to be a contributor if he or she becomes a party to any scheme or arrangement to which the university is also a party and under which he or she is, or may become, entitled to any pension, annuity, lump sum or other payment on retirement from professorship.

(3) A person—

- (a) who is an employee of a university and a contributor; and
- (b) who becomes a party to any scheme or arrangement to which the university is also a party and under which he or she is, or may become, entitled to any pension, annuity, lump sum or other payment on retirement as such an employee,

ceases to be a contributor on becoming a party to that scheme or arrangement.

(4) Subclauses (2) and (3) have effect in relation to a person who ceases to be a contributor as if the person had ceased to be a contributor by reason of resignation from the service of an employer.

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 10)

Definitions

1. (1) In this Schedule—

"earlier Act" means the Public Authorities Superannuation Act 1985;

"earlier Fund" means the Public Authorities Superannuation Fund;

"transferred contributor" means—

- (a) an employee who becomes a contributor pursuant to an election referred to in clause 2; or
- (b) an employee who becomes a contributor pursuant to clause 3.

(2) This Schedule operates in addition to, and has effect despite, the other provisions of this Act.

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SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—continued

Elections under earlier Act

2. (1) Where an employee who, before the appointed day, made an election under the earlier Act to contribute to the earlier Fund had not, before that day, become a contributor to the earlier Fund, the election shall be deemed to have been an election under section 19 (Election to contribute to the Fund) that—

(a) specifies under section 19 (2) (b) a rate per cent of salary determined by the Board having regard to the level of contribution to the earlier Fund selected by the employee; and

(b) takes effect on a date determined by the Board.

(2) An employee referred to in subclause (1) may, before becoming a contributor, make an application under section 20 (Additional benefit) but, subject to that section, this subclause does not operate to prevent an employee so referred to from making such an application after becoming a contributor.

(3) An election referred to in subclause (1) is ineffective for the purposes of the earlier Act.

Transfer of contributors under earlier Act

3. (1) An employee who, immediately before the appointed day, was a contributor to the earlier Fund shall be deemed to have made an election under section 19 (Election to contribute to the Fund) which took effect on the appointed day and to which section 19 (2) did not apply.

(2) Where, pursuant to subclause (1), an employee becomes a contributor—

(a) the employee ceases to be a contributor to the earlier Fund; and

(b) a benefit under the earlier Act is not payable to or in relation to the contributor.

(3) An application under section 20 (Additional benefit) may, subject to that section, be made at any time by an employee who, pursuant to this clause, becomes a contributor.

Transitional regulations may be made

4. (1) The regulations may make provision for or with respect to the rights and obligations of transferred contributors and, without affecting the generality of the foregoing, may affect or preserve rights and obligations accrued or accruing before the appointed day.

(2) A provision referred to in subclause (1) may not restrict or remove any rights a transferred contributor has as a contributor under this Act (other than this Schedule), but may confer additional rights, having regard to the rights and obligations under any previous superannuation scheme to which the transferred contributor was a party.

(3) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later day.

(4) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

*State Authorities Superannuation 1987***SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS—*continued***

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

Actuarial investigation

5. The actuarial investigation required to be made under section 8 of the Public Authorities Superannuation Act 1985 as at 31 March 1988 in relation to the Public Authorities Superannuation Fund shall be deemed to be that required to be made under section 18 of this Act as at the appointed day in relation to the State Authorities Superannuation Fund.

SCHEDULE 4—TRANSITIONAL PROVISIONS FOR CERTAIN OTHER SCHEMES

(Sec. 10)

Transfers from certain other superannuation schemes

1. (1) The regulations may make provision for or with respect to the transfer to the superannuation scheme constituted by this Act of participants in any superannuation scheme constituted by the Local Government and Other Authorities (Superannuation) Act 1927 (Part III^D excepted), or the participants in any other superannuation scheme, and the consequential termination of those schemes.

(2) A regulation made pursuant to subclause (1) has effect despite any of the provisions of the Local Government and Other Authorities (Superannuation) Act 1927 or any other Act.

Transitional regulations may be made

2. (1) The regulations may make provision for or with respect to the rights and obligations of any such participants and, without affecting the generality of the foregoing, may affect or preserve rights and obligations accrued or accruing before the publication of the provision.

(2) A provision referred to in subclause (1) may not restrict or remove any rights any such participant has as a contributor under this Act (other than this Schedule), but may confer additional rights, having regard to the rights and obligations under any previous superannuation scheme to which the participant was a party.

(3) A provision referred to in subclause (1) may, if the regulations so provide, take effect from a day that is earlier than the date of its publication or a later day.

(4) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

*State Authorities Superannuation 1987***SCHEDULE 5—PRESERVED BENEFIT—CONTRIBUTORS TRANSFERRED AS
A RESULT OF GOVERNMENT INITIATIVES**

(Sec. 43 (9))

Transferred contributors to whom this Schedule applies

1. (1) This Schedule applies to a contributor—

- (a) who is employed in an area of an employer's activities that is, or is to be, transferred to another employer who is not, in respect of the contributor, an employer under this Act;
- (b) who elected or is required to transfer to the employment of that other employer; and
- (c) whose transfer of employment is declared by the regulations to be a transfer of employment to which this Schedule applies.

(2) The regulations may, for the purposes of subclause (1) (c), declare that the transfer of employment of any specified contributors or former contributors is a transfer of employment to which this Schedule applies if the Minister has certified that the transfer is a consequence of a Government initiative.

(3) A reference in section 43 (9) and this clause to a contributor includes a reference to a participant in a superannuation scheme referred to in clause 1 (1) of Schedule 4.

Transferred contributor entitled to preserved benefit despite having less than 3 years' service

2. A transferred contributor to whom this Schedule applies is entitled to make provision for a preserved benefit even though less than 3 years have elapsed since the transferred contributor's entry date.

Transferred contributor entitled to immediate payment of preserved benefit (including employer-financed component)

3. (1) A transferred contributor to whom this Schedule applies and who elects to make provision for a preserved benefit is entitled to be paid the benefit provided by section 43 (6) on ceasing to be a contributor, despite anything to the contrary in section 43.

(2) A preserved benefit is payable under this clause if, and only if—

- (a) the Board is satisfied that the benefit will be applied to the credit of the transferred contributor in another superannuation scheme; and
- (b) any requirements made by the regulations with respect to the payment of the benefit are complied with.

Regulations

4. (1) The Governor may make regulations for the purposes of this Schedule and, in particular, for or with respect to—

- (a) the application of a preserved benefit payable under clause 3; and
- (b) the entitlements and obligations of a transferred contributor under any superannuation scheme to which any such preserved benefit is credited.

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**SCHEDULE 5—PRESERVED BENEFIT—CONTRIBUTORS TRANSFERRED AS
A RESULT OF GOVERNMENT INITIATIVES—*continued***

(2) Where a transferred contributor to whom this schedule applies is a participant in a superannuation scheme referred to in clause 1 (1) of Schedule 4 but is not a contributor to the superannuation scheme constituted by this Act, the regulations under this Schedule may make provision for or with respect to the transfer of the participant to the superannuation scheme constituted by this Act and may, for that purpose, apply (with or without modifications) the provisions of or made under Schedule 4.