

**SUPERANNUATION (AMENDMENT) ACT,  
1980, No. 50**

**New South Wales**



ANNO VICESIMO NONO

**ELIZABETHÆ II REGINÆ**

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**Act No. 50, 1980.**

An Act to amend the Superannuation Act, 1916, with respect to the constitution and powers of the Board, foreign contributors to the Fund and certain benefits payable under that Act and in certain other respects. [Assented to, 28th April, 1980.]

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See also Statutory and Other Offices Remuneration (Superannuation) Amendment Act, 1980; Building and Construction Industry Long Service Payments (Investment) Amendment Act, 1980.

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*Superannuation (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Superannuation (Amendment) Act, 1980". Short title.

2. The Superannuation Act, 1916, is referred to in this Act as the Principal Act. Principal Act.

3. This Act contains the following Schedules :— Schedules.

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE CONSTITUTION OF THE BOARD.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO INVESTMENT POWERS.

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT.

SCHEDULE 4.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER SCHEMES.

SCHEDULE 5.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN CONTRIBUTORS.

SCHEDULE 6.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

4. The Principal Act is amended in the manner set forth in Schedules 1–6. Amendment of Act No. 28, 1916.

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*Superannuation (Amendment).*

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Validation. **5.** Any act, matter or thing done or omitted before the date of assent to this Act which would have been lawful had the amendments contained in Schedules 3, 4 and 6 (1) and (3) been in force when the act, matter or thing was done or omitted, is hereby validated.

Transitional and savings. **6.** (1) The person who, immediately before the date of assent to this Act, was the member of the State Superannuation Board appointed by the Governor as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied shall be deemed to have been appointed on that date as the Vice-President of the Board under that section as amended by this Act and shall hold office as the Vice-President of the Board for the remainder of the term of office for which he was appointed as the full-time member of the Board to whom section 70 (2) (a) (ii) of the Principal Act applied.

(2) For the purpose of section 38A (3) of the Principal Act, any amount paid by an employer pursuant to section 37 (7) or (8) of the Principal Act, as in force immediately before the date of assent to this Act, in respect of retrenched employees who elected under section 38B of the Principal Act as so in force to take the benefit of section 38A of the Principal Act as so in force shall be deemed to be an amount paid pursuant to section 38A (2A) of the Principal Act, as amended by this Act.

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**Sec. 4.**

**SCHEDULE 1.**

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE BOARD.**

(1) (a) Section 69A, definition of "full-time member of the Board"—

Omit "the member of the Board referred to in section 70 (2) (a) (ii)", insert instead "the Vice-President".

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*Superannuation (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE BOARD—*continued.*

(b) Section 69A, definition of “union”—

Omit “Commonwealth.”, insert instead “Commonwealth;”.

(c) Section 69A, definition of “Vice-President”—

After the definition of “union”, insert :—

“Vice-President” means the Vice-President of the Board.

(2) Section 70 (2) (a) (ii)—

Omit “a full-time member of the Board to whom this subparagraph applies”, insert instead “the Vice-President of the Board”.

(3) (a) Section 73 (1)—

After “Board”, insert “(other than the President)”.

(b) Section 73 (3)–(7)—

After section 73 (2), insert :—

(3) In the case of the illness, suspension or absence of the President, the Vice-President shall act in his place and, while so acting, shall have all the powers and authority of the President.

(4) Where, pursuant to subsection (3), the Vice-President is acting in the place of the President, a deputy may be appointed under subsection (1) for the Vice-President as if the Vice-President were absent while so acting as President.

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*Superannuation (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
CONSTITUTION OF THE BOARD—*continued.*

(5) In the case of the illness, suspension or absence of either the President or Vice-President occurring at any time during the illness, suspension or absence of the other or of both the President and Vice-President occurring at the same time, subsections (3) and (4) shall apply to and in respect of the person acting in the place of the Vice-President at that time or, as the case may be, if there is no person so acting, the person next appointed after that time to so act, as if that person were the Vice-President.

(6) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Vice-President to act in the place of the President, or a deputy to act in the place of a member of the Board, or as to the necessity or propriety of any appointment of a deputy.

(7) Any act, matter or thing done or omitted to be done by the Vice-President when acting in the place of the President, or a deputy when acting in the place of a member of the Board, shall be as valid and effectual and shall have the same consequences as if the act, matter or thing was done or omitted to be done by the President or the member of the Board in whose place the deputy is acting, as the case may be.

## (4) Section 78—

After "Board" where firstly occurring, insert "(one being the President or Vice-President)".

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*Superannuation (Amendment).*

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SCHEDULE 2.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS.

(1) (a) Section 5 (1) (b1)—

After section 5 (1) (b), insert :—

- (b1) in securities that are public securities as defined in section 6 (1) of the Income Tax Assessment Act 1936 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament;

(b) Section 5 (1) (c)—

Omit “and 5B”, insert instead “, 5B and 5C”.

(2) Section 5 (2)—

Omit “(a), (b) or (d)”.

(3) Section 5A—

Omit the section, insert instead :—

5A. (1) In this section, except in so far as the context or subject-matter otherwise indicates or requires—

Investment  
in shares,  
etc.

“company” means—

- (a) a company incorporated under the Companies Act, 1961, or under a law that corresponds to that Act, being a law of another State or of a Territory of the Commonwealth; or
- (b) a bank as defined in paragraph (a) or (b) of the definition of that expression in section 5c (1);

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

“co-operative society” means a society registered under the Co-operation Act, 1923, or under a law that corresponds to that Act, being a law of another State or of a Territory of the Commonwealth;

“corporate group” means a group of companies, or a group of companies and trusts, of which—

- (a) the assets exceed liabilities by at least \$3,000,000; and
- (b) the median earning rate is at least 7½ per cent;

“corporate partnership” means a partnership in respect of which—

- (a) the assets exceed liabilities (excluding any liability to a partner) by at least \$1,000,000; and
- (b) at least one of the members, or the management company (if any), is a prescribed company;

“debt security”, in relation to a prescribed body, means loan to, deposit with, convertible note or promissory note issued by, or bill of exchange drawn, endorsed or accepted by, that body on lease receivables payable by that body in respect of personal property, whether or not the property is vested in the Board;

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

“earning rate” for a year in relation to a company or corporate group means the amount of the operating profit of the company or group for that year divided by the amount of its shareholders’ funds at the close of that year, the result being expressed as a percentage;

“government” means the government of a State or of the Commonwealth or of a Territory of the Commonwealth;

“government agency” means—

- (a) a public authority constituted by the law of a State or of the Commonwealth;
- (b) a company of which at least 20 per cent of the issued ordinary share capital is beneficially owned by the government of a State or of the Commonwealth or by a public authority referred to in paragraph (a);
- (c) a partnership in which the government of a State or of the Commonwealth, or a public authority referred to in paragraph (a), has an interest entitling it to at least 20 per cent of the profits of the partnership;

“holding company” has the same meaning as it has in the Companies Act, 1961;



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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

“interest cover” for a year in relation to—

- (a) debt securities, being unsecured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—
  - (i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and
  - (ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,by that total amount of interest so charged; or
- (b) debt securities, being secured obligations of a company in which the Board proposes to invest, means the figure derived by dividing the sum of—
  - (i) the amount of the operating profit of the company or, where the company is a member of a corporate group, of the corporate group, for that year; and
  - (ii) the total amount of interest charged against the company or, where the company is a member of a corporate group, of the corporate group, for that year,

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

by such of that total amount of interest so charged as is interest charged on debt securities of the company that rank prior to, or *pari passu* with, the debt securities in which the Board proposes to invest;

“median earning rate” in relation to a company or corporate group is the earning rate that is third in sequence when the earning rates of the company or group for each of the latest 5 successive years for which audited accounts or audited group accounts of the company or group are available are arranged in the order of their magnitude;

“median interest cover” in relation to a company or corporate group is the figure that is third in sequence when the figures representing the interest cover of the company or group for each of the latest 5 successive years for which audited accounts or audited group accounts of the company or group are available are arranged in the order of their magnitude;

“prescribed body” means—

- (a) a prescribed company;
- (b) a company that is not a prescribed company but has assets that exceed its liabilities by at least \$1,000,000;
- (c) a corporate partnership;
- (d) a partnership of companies (not being a corporate partnership)—
  - (i) that has an excess of assets over liabilities of at least \$1,000,000;

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*Superannuation (Amendment).*


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 SCHEDULE 2—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
 INVESTMENT POWERS—*continued.*

- (ii) of which none of the members is a prescribed company; and
- (iii) at least one of the members of which is a company referred to in paragraph (b);
- (e) a corporation to which the Life Insurance Act 1945 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament, applies—if the corporation has an excess of assets over liabilities, as disclosed by its latest audited accounts, of at least \$3,000,000;
- (f) a company that holds a dealers licence under the Securities Industry Act, 1975, or a corresponding licence under the law of another State or of a Territory of the Commonwealth;
- (g) a trust;
- (h) a government agency or a co-operative society; or
- (i) a government;

“prescribed company” means—

- (a) a company that is not a holding company or a subsidiary of a holding company and of which—
  - (i) the assets exceed liabilities by at least \$1,000,000; and
  - (ii) the median earning rate is at least 7½ per cent; or

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

(b) a company that is a member of a corporate group and is—

(i) a holding company of which the subsidiary companies are also members of the corporate group;

(ii) a subsidiary company of a holding company that is also a member of a corporate group;  
or

(iii) an associated company of another member of the corporate group,

and has assets that exceed its liabilities by at least \$1,000,000;

“share” includes stock, ordinary share, preference share, bonus share, right to subscribe for a share, option to subscribe for a share and any other right or option to acquire a share in the share capital of a company;

“stock exchange” means a stock exchange within the meaning of the Securities Industry Act, 1975, or a corresponding law of another State or of a Territory of the Commonwealth;

“subsidiary company” in relation to a holding company has the same meaning as it has in the Companies Act, 1961;

“trust” means—

(a) a trust that is a member of a corporate group;

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

- (b) a trust of which the trustee is a corporation incorporated in Australia that is authorised to obtain a grant of probate; or
- (c) a company that is a subsidiary of a corporation referred to in paragraph (b).

(2) Calculations for the purposes of this section are to be made on the basis of the most recent publicly available accounts of the company, partners or group concerned and—

- (a) in the case of an operating profit—on an historical cost basis before tax and including minority interests but excluding extraordinary items; and
- (b) in any other case—on an historical cost basis and including minority interests.

(3) For the purposes of this section, a company is an associated company of another company in a corporate group if—

- (a) at least 20 per cent of its issued ordinary share capital is held by the other company; and
- (b) the companies are not related within the meaning of the Companies Act, 1961.

(4) For the purposes of this section, and without prejudice to any other method of investment in shares, debt securities or beneficial interests in a trust, the Board invests in shares, debt securities or beneficial interests in a trust if it does so as underwriter, co-underwriter or sub-underwriter.

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

(5) Subject to this section, the fund or any part thereof, whether in a state of investment or not, may be invested by the Board in—

- (a) shares of a prescribed company;
- (b) debt securities of a prescribed body;
- (c) the purchase of an interest as a beneficiary under a trust;
- (d) subscribing for the shares or debt securities of a company, or a beneficial interest in a trust, if the company or trust was formed for the purpose of acquiring the shares in, or assets of, a prescribed company or a beneficial interest in, or assets of, a trust;
- (e) accepting an offer to exchange, with or without a cash payment, shares or debt securities, or shares and debt securities, held by it in a company for shares in, or debt securities of, another company (whether or not that other company is a prescribed company) where, in the case of shares or debt securities held by the Board that other company has made a take-over offer under the Companies Act, 1961, for shares in the first-mentioned company or is required by law or by the rules of a stock exchange—
  - (i) to make an offer to buy;
  - (ii) to accept an offer to sell to it; or
  - (iii) to limit the rate at which it acquires, shares in the first-mentioned company;

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

- (f) accepting an offer to exchange, with or without a cash payment, beneficial interests held by it in a trust—for shares in, or debt securities of, a company or for shares in, and debt securities of, a company (whether or not, in either case, the company is a prescribed company) where the company has made an offer to make such an exchange or is required by law or by the rules of a stock exchange—
  - (i) to make an offer to buy;
  - (ii) to accept an offer to sell to it; or
  - (iii) to limit the rate at which it acquires, beneficial interests in the trust;
- (g) debt securities of a prescribed body pursuant to an agreement to do so when called upon;
- (h) contracts or options, to purchase or sell, for immediate or forward delivery, shares in a prescribed company or debt securities of a prescribed body; or
- (i) the purchase of personal property where lease receivables in respect of the property are payable to the Board by a prescribed body.

(6) A company that has acquired another company is, for the purposes of this section, a prescribed company—

- (a) if the acquired company is a prescribed company; or
- (b) where accounts sufficient to determine the median earning rate or median interest cover of the company or, where the company is a member of a corporate group, of the corporate group, are not publicly available—if the acquiring company

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

would be a prescribed company if the accounts of the acquired company so available were regarded as accounts of the acquiring company for those years in respect of which the accounts of the acquiring company or, as the case may be, of the corporate group of which it is a member, are not so available.

(7) Where the Board has invested in shares in, or debt securities of, a company, the Board may concur in any scheme or arrangement—

- (a) for the reconstruction of the company;
- (b) for the restructuring of the company into a trust or into a company and a trust;
- (c) for the amalgamation of the company with another company;
- (d) for the sale of all or any part of the property and undertaking of the company to another company or to a trust; or
- (e) for the release, modification or variation of any rights, privileges or liabilities attached to the shares or debt securities,

and, instead of, or in exchange for, the shares or debt securities, the Board may accept any shares, debt securities, or beneficial interests in a trust, of any denomination or description, in the reconstructed, restructured, new or purchasing company.



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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

- (8) Except as provided in subsection (5) (d), (e) and (f), this section does not authorise investment—
- (a) in the debt securities of a prescribed body referred to in paragraph (b), (d) or (h) of the definition of that expression in subsection (1)—unless repayment is guaranteed by—
    - (i) a government;
    - (ii) a prescribed company in the unsecured debt securities of which the Board is authorised to invest; or
    - (iii) a bank as defined in section 5C (1);
  - (b) the debt securities of a prescribed company unless—
    - (i) where the company is not a member of a corporate group—the median interest cover of the company is at least 1.5; or
    - (ii) where the company is a member of a corporate group—the median interest cover of the corporate group is at least 1.5; or
  - (c) where the Board proposes to invest in the debt securities of a corporate partnership—unless the median interest cover—
    - (i) of a prescribed company that is a member of the partnership; or
    - (ii) if the members of the partnership do not include a prescribed company—of the management company of the partnership,

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

is at least 1.5 calculated as if the investment to be made by the Board in the partnership were an investment in debt securities that represent unsecured obligations of that company; or

- (d) if, by making the investment, the total amount invested by the Board pursuant to this section would exceed one-quarter of the total amount of the fund.

(9) If the Board so approves, a member of the Board, or of the staff of the Board, may, as part of the duties of his office as such a member, hold office as a director of a company.

(10) Where property is vested in the Board and a company has been formed to manage the property (whether with or without other property) the Board may take such action as may be necessary to qualify it to nominate a person for appointment as a director of the company.

(11) For the purposes of this section, the Board may accept, as sufficient evidence of matters disclosed by—

- (a) the accounts of a company that is not a member of a corporate group—statements in a statutory declaration purporting to be made by the secretary of the company;
- (b) the group accounts of a corporate group—statements in a statutory declaration purporting to be made by—
  - (i) the secretary of a holding company that is a member of the corporate group; or

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*Superannuation (Amendment).*


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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

- (ii) where there is no holding company in the corporate group—the secretary of a company with which another company in the group is associated; or
  - (c) the accounts of the partners in a corporate partnership—statements in a statutory declaration purporting to be made by the secretary of a prescribed company that is—
    - (i) a member of the partnership; or
    - (ii) the management company of the partnership.
- (4) Section 5B (3)—  
Omit the subsection.
- (5) (a) Section 5c (1), definition of “bank”—  
Omit “and” where firstly occurring.
- (b) Section 5c (1), definition of “bank”—  
After “prescribed;”, insert :—  
and
- (c) a bank (whether or not it carries on business in Australia) that the Minister declares by order published in the Gazette with the approval of the Treasurer to be a bank within the meaning of this section;

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*Superannuation (Amendment).*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT WITH RESPECT TO  
INVESTMENT POWERS—*continued.*

(c) Section 5C (3)—

After “not”, insert “, except in the case of a provision of the Local Government and Other Authorities (Superannuation) Act, 1927, and the New South Wales Retirement Benefits Act, 1972,”.

(d) Section 5C (4) (i)—

Omit “confirmed”, insert instead “issued or confirmed”.

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SCHEDULE 3.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT.

(1) Heading before section 37—

Omit the heading, insert instead :—

*Retrenchment, resignation, dismissal or discharge.*

(2) (a) Section 37 (1), (2)—

Omit “instead of section 38A” wherever occurring.

(b) Section 37 (7), (8)—

Omit “or elects under section 38B to take the benefit of section 38A instead of this section” wherever occurring.

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*Superannuation (Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—  
*continued.*

## (3) Heading before section 38—

Omit the heading.

## (4) (a) Section 38 (1)—

After “contributor” where firstly occurring, insert “is  
retrenched or”.

## (b) Section 38 (1)—

Omit “instead of section 38A”.

## (c) Section 38 (1)—

Omit “such resignation” wherever occurring, insert  
instead “his retrenchment, resignation”.

## (d) Section 38 (2)—

Omit “discharged”, insert instead “retrenched,  
discharged”.

## (5) (a) Section 38A (2)—

Omit “instead of section 37 or 38, as the case may  
require”.

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*Superannuation (Amendment).*

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SCHEDULE 3—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—  
*continued.*

(b) Section 38A (2) (a), (b)—

Omit “(not being a contributor who has been retrenched)” wherever occurring.

(c) Section 38A (2) (c)—

Omit “(whether or not he is a contributor who has been retrenched)”.

(d) Section 38A (2) (c) (i)—

Omit “, a contributor who has been retrenched being deemed, for the purposes of this subparagraph, to have resigned from the service of his employer”.

(e) Section 38A (2A)—

After section 38A (2), insert :—

(2A) Where a contributor who has been retrenched elects under section 38B to take the benefit of this section and the amount payable to that contributor under subsection (2) exceeds the sum of the contributions paid or payable under this Act (apart from this subsection) to the Fund by and in respect of the contributor, the employer from whose service the contributor has been retrenched shall pay to the Fund, on requisition by the Board, a lump sum equal to the amount by which the amount payable under subsection (2) exceeds the sum of those contributions.

(f) Section 38A (3)—

Omit “section 37 (7) or (8) in respect of retrenched employees who elected under section 38B to take the benefit of section 38A”, insert instead “subsection (2A)”.

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*Superannuation (Amendment).*

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SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO  
ALTERNATIVE BENEFITS PAYABLE ON RETRENCHMENT—  
*continued.*

## (6) (a) Section 38B (1)—

Omit the subsection, insert instead :—

(1) A contributor who is retrenched or resigns or is dismissed or discharged from the service of an employer may, within 3 months after his retrenchment, resignation, dismissal or discharge, elect—

(a) in the case of a contributor who is retrenched—between taking the benefit of section 37, 38 or 38A; or

(b) in any other case—between taking the benefit of section 38 or 38A.

## (b) Section 38B (2)—

Omit “resigns”, insert instead “is retrenched or resigns”.

## (c) Section 38B (3)—

After “section 37”, insert “, 38”.

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*Superannuation (Amendment).*

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SCHEDULE 4.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER SCHEMES.

(1) Section 92A (2)—

Omit the subsection, insert instead :—

(2) The Minister may determine terms and conditions which shall relate to persons who—

- (a) are in the service of an employer; and
- (b) are participants in a retirement scheme, fund or arrangement to or in respect of which the employer made or makes, or was or is liable to make, payments in respect of those persons.

(2) Section 92A (7), (8)—

After section 92A (6), insert :—

(7) Notwithstanding the provisions of this or any other Act, a person who, after withdrawing from the scheme in accordance with terms and conditions referred to in subsection (2) is treated by the Board under section 10C (1) or 10D (3) as if he were not and had not, since the date of commencement of his employment, been an employee shall be deemed, as long as the Board so treats him, never to have withdrawn from the scheme.

(8) The provisions of Part IIIA shall apply to and in respect of a person who, immediately before he becomes an employee, was a participant in a scheme and who, in order to comply with terms and conditions referred to in subsection (2), directs that any benefit payable to him on withdrawal from the scheme be applied towards the purchase of fully paid up units in the same way as they



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*Superannuation (Amendment).*


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SCHEDULE 4—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO THE  
TRANSFER TO THE FUND OF PARTICIPANTS IN OTHER  
SCHEMES—*continued.*

apply to and in respect of a person who, immediately before he becomes an employee, was a participant in a Public Service Superannuation Fund (as defined in section 20B), and who elects to take the benefit of section 20c.

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SCHEDULE 5.

Sec. 4.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN  
CONTRIBUTORS.

## (1) Section 2—

After the matter relating to Part VIII, insert :—

PART IX.—PROVISIONS APPLICABLE IN RESPECT OF  
FOREIGN CONTRIBUTORS—*ss.* 104–108.

## (2) Part IX—

After section 103, insert :—

## PART IX.

PROVISIONS APPLICABLE IN RESPECT OF FOREIGN  
CONTRIBUTORS.

## 104. (1) In this Part—

“conversion ratio” in relation to a foreign currency  
means such ratio as may be prescribed;

Interpre-  
tation:  
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*Superannuation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN  
CONTRIBUTORS—*continued.*

“foreign contributor” means a contributor who is—

- (a) an employee of a prescribed class;
- (b) employed in a country other than Australia; and
- (c) paid salary at a rate expressed in a currency other than Australian currency;

“foreign currency” in relation to a foreign contributor means the currency in which his rate of salary is expressed.

(2) A reference in this Part—

- (a) to a foreign contributor shall be construed as including a reference to a former foreign contributor; and
- (b) to an employer of a foreign contributor shall be construed as including a reference to the person who was the employer of the former foreign contributor.

105. Where—

- (a) an amount expressed in a foreign currency is required for the purposes of this Act to be expressed in Australian currency—that amount expressed in Australian currency; or
- (b) an amount expressed in Australian currency is required for the purposes of this Act to be expressed in a foreign currency—that amount expressed in the foreign currency.

Certain calculations to be made by means of a conversion ratio.

shall be calculated by means of the conversion ratio in relation to that foreign currency.

*Superannuation (Amendment).*SCHEDULE 5—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN CONTRIBUTORS—*continued.*

Certain amounts to be expressed in foreign currency.

106. (1) This section shall not apply in respect of a foreign contributor unless a conversion ratio applies in relation to the currency of the country in which the foreign contributor is employed.

(2) For the purpose of determining the number of units of pension that, pursuant to section 12 (1), is appropriate for the salary actually being paid to a foreign contributor, the amount of the salary shall be expressed in Australian currency in accordance with section 105.

(3) Any amount payable under this Act by or to a foreign contributor shall be expressed in foreign currency in accordance with section 105.

Employer to pay to or receive from the Fund any difference between actual amount paid under this Part and amount otherwise payable.

107. (1) Where—

- (a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is greater than the amount that is paid by him; or
- (b) an amount that, but for section 106 (3), would be payable under this Act to a foreign contributor is less than the amount that is paid to him,

the employer of the foreign contributor shall pay to the Fund an amount equal to the difference between the amount that, but for section 106 (3), would be payable and the amount that is paid.

(2) Where—

- (a) an amount that, but for section 106 (3), would be payable under this Act by a foreign contributor is less than the amount that is paid by him; or

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*Superannuation (Amendment).*

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SCHEDULE 5—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO FOREIGN  
CONTRIBUTORS—*continued.*

- (b) an amount that, but for section 106 (3), would be payable under this Act to a foreign contributor is greater than the amount that is paid to him,

the Board shall pay from the Fund to the employer of the foreign contributor an amount equal to the difference between the amount that, but for section 106 (3), would be payable and the amount that is paid.

108. Where a conversion ratio is prescribed in relation to the currency of a country in which immediately prior to the prescription of the conversion ratio there was employed a foreign contributor to whom section 106 did not apply—

Payments to be made as if conversion ratio always applied.

- (a) the Board may pay to the foreign contributor such amount or make such allowance in respect of future contributions payable by the contributor;
- (b) the employer shall pay to the Fund such amount;  
and
- (c) the foreign contributor shall pay to the Fund such amount,

as in the opinion of the Board would place the Fund, the foreign contributor and the employer of the foreign contributor in the financial position in which they would have been if the conversion ratio had always applied.

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*Superannuation (Amendment).*


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Sec. 4.

## SCHEDULE 6.

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 21 (1B)—

Omit “may retire”, insert instead “shall be entitled to elect to retire”.

## (2) Section 23 (a)—

Omit “such employer”, insert instead “any 1 or more employers”.

## (3) Section 25—

Omit the section, insert instead :—

**Resignation.**

25. Voluntary termination of service (however expressed)—

- (a) by a contributor who is not entitled to retire on pension shall be deemed to be resignation; and
- (b) by a contributor who is entitled to elect to retire on pension under the provisions of section 21 (1B) shall be deemed to be resignation unless the contributor so elects.

## (4) Section 51 (1)—

Omit “of his salary at the time of his retirement”, insert instead “of the salary of a person who is employed in a position which is, in the opinion of the Board, a corresponding position to that in which the pensioner was employed immediately before his retirement”.

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*Superannuation (Amendment).*

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SCHEDULE 6—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued.*

(5) Section 92A (2A)—

After section 92A (2), insert :—

(2A) The Minister may, at any time before a person has complied with terms and conditions which relate to the person, vary or waive any of those terms and conditions if, in his opinion, it is desirable to do so and the person would not be disadvantaged by his so doing.

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