

**PUBLIC AUTHORITIES SUPERANNUATION (AMENDMENT) ACT  
1985 No. 178**

*New South Wales*



ANNO TRICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

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**Act No. 178, 1985**

An Act to amend the Public Authorities Superannuation Act 1985 with respect to the superannuation schemes established or continued under that Act and the constitution of the Public Authorities Superannuation Board. [Assented to, 4th December, 1985.]

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See also Local Government and Other Authorities (Superannuation) Amendment Act 1985; Transport Employees Retirement Benefits (Further Amendment) Act 1985.

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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:

**Short title**

1. This Act may be cited as the "Public Authorities Superannuation (Amendment) Act 1985".

**Commencement**

2. (1) Except as provided by subsection (2), this Act shall be deemed to have commenced on 1 July 1985.

(2) Schedule 2, and section 5 in its application to that Schedule, shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Principal Act**

3. The Public Authorities Superannuation Act 1985 is referred to in this Act as the Principal Act.

**Schedules**

4. This Act contains the following Schedules:

SCHEDULE 1—MISCELLANEOUS AMENDMENTS TO THE  
PRINCIPAL ACT

SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT  
RELATING TO THE CONSTITUTION OF THE BOARD

**Amendment of Act No. 41, 1985**

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

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## SCHEDULE 1

(Sec. 5)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

## (1) Section 5 (1), definition of “superannuation scheme”—

After “arrangement”, insert “(whether or not established by an Act)”.

## (2) Section 11 (7)—

After section 11 (6), insert:

(7) Where a contributor to another superannuation scheme becomes (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) that contributor shall be deemed not to be a contributor to that other superannuation scheme for the purposes of making that election;
- (b) that contributor may make that election on condition that the Board approves an application made by the person under section 12 to be covered for the additional benefit; and
- (c) that election takes effect as at a date determined by the Board.

## (3) Section 12 (4A)—

After section 12 (4), insert:

(4A) For the purpose of deciding whether or not to approve an application under subsection (1), the Board—

- (a) may, under subsection (3), 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.

## (4) Section 17 (1) (a)—

Omit the paragraph, insert instead:

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

- (a) the employment of the contributor with an employer—
- (i) ceases in circumstances entitling the contributor to be paid a benefit under section 29 (benefit on partial and permanent disablement before early retirement age); or
  - (ii) ceases in circumstances entitling the contributor to be paid a benefit under section 30 (benefit on resignation, dismissal or discharge before early retirement age) or section 31 (benefit on retrenchment before early retirement age) but the contributor does not elect to make provision for a preserved benefit;

(5) Section 18A—

Before section 19, insert:

**Interpretation**

18A. (1) In this Part—

“notional preserved benefit”, in relation to a transferred contributor, means 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 32 (1) and the benefit provided by section 32 (5) had thereupon become payable;

“transferred contributor” means a contributor who—

- (a) ceases to be employed by an employer and becomes employed by another employer; and
- (b) does not apply for payment of a benefit under this Act in respect of that former employment.

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

(2) For the purpose of the making of contributions by employers under this Part, a preserved benefit (including a notional preserved benefit) provided by section 32 (5) shall be deemed to become payable on the date the contributor elects, or is deemed to have elected, to make provision for the benefit under section 32 (1).

(6) Section 19 (2)—

After “employer”, insert “specified in Part 1 of Schedule 3”.

(7) (a) Section 20 (1)—

Omit the subsection, insert instead:

(1) An employer specified in Part 2 of Schedule 3 shall pay to the Fund an amount equal to one-half of the amount of contributions payable to the Fund by contributors employed by the employer.

(b) Section 20 (4)—

After section 20 (3), insert:

(4) An employer specified in Part 2 of Schedule 3 shall pay to the Fund such amounts referred to in section 9 (3) (c) and (d) as are from time to time determined by the Board.

(8) Section 23A—

After section 23, insert:

**Transfers of credits between employers in respect of transferred contributors**

23A. Where a transferred contributor—

- (a) transfers to the employment of an employer specified in Part 1 or 2 of Schedule 3 from the employment of any other employer;

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

- (b) transfers to the employment of an employer specified in Part 3 of Schedule 3 from the employment of an employer not specified in that Part; or
- (c) transfers to the employment of an employer specified in Part 4 of Schedule 3 from the employment of an employer not specified in that Part,

the Board shall—

- (d) debit the appropriate reserve established under section 9 (3) or (6) in respect of the former employer with such of the amount of the notional preserved benefit of the transferred contributor as comprises the employer-financed benefit; and
  - (e) credit the appropriate reserve established under section 9 (3) or (6) in respect of the new employer with the amount so debited in respect of the former employer.
- (9) (a) Section 24, definition of “final average salary”—  
Before “salaries”, insert “attributed”.
- (b) Section 24, definition of “final salary”—  
Before “salary paid”, insert “attributed”.
- (10) (a) Section 32 (1)—  
Omit “or who, by reason of a change of work category, becomes a contributor to another superannuation scheme,”.
- (b) Section 32 (7)—  
After section 32 (6), insert:
- (7) 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 notwithstanding anything to the contrary in subsection (1);

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

(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 (6) while employed by that same employer.

(11) Section 43—

After “1927”, insert “or the Transport Employees Retirement Benefits Act 1967”.

(12) Section 58 (1), (2)—

Omit the subsections, insert instead:

(1) Where a contributor dies and—

(a) a benefit thereby becomes payable from the Fund;

(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 contributor, received 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 a part of the benefit in accordance with subsection (2), being a payment that does not exceed \$10,000 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—

(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;

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

- (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 a 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.

(13) Schedule 5, clause 11 (1)—

After “Act”, insert “or the Public Authorities Superannuation (Amendment) Act 1985”.

(14) (a) Schedule 6, clause 3A—

After clause 3, insert:

**Transferred contributors with 30 years’ service entitled to death and disability cover**

3A. (1) This clause applies to a transferred contributor referred to in clause 3 whose entry date was at least 30 years before the appointed day.

(2) If a transferred contributor to whom this clause applies makes an application under section 12 before 31 March 1986, the Board shall approve the application without the necessity for the contributor to submit to, or pass, a medical examination.

(b) Schedule 6, clause 5 (a)—

Omit “and”.

(c) Schedule 6, clause 5 (b), (c)—

At the end of clause 5 (b), insert:

; and

- (c) the contributor’s average contribution rate per cent referred to in the definition of “prospective benefit points”



SCHEDULE 1—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

in section 24 shall, if there is any applicable month for the contributor occurring before the contributor last became a contributor under Part III D of the earlier Act, be determined as prescribed by the regulations or, if no regulations have been made, be determined by the Board.

## (15) (a) Schedule 7, clauses 3A, 3B—

After clause 3, insert:

**Temporary death and disability cover**

3A. (1) This clause applies to a transferred contributor referred to in clause 3 in relation to whom an approval under section 12 (additional benefit) is not, but for subclause (2), in force, whether or not the transferred contributor has made an application under that section.

(2) For the purposes of—

(a) section 27 (benefit on death before age 60); and

(b) section 28 (benefit on total and permanent disablement before age 60),

an approval under section 12 shall be deemed to be in force in relation to a transferred contributor to whom this clause applies during the period commencing on 1 July 1985 and ending on 31 December 1985.

(3) Notwithstanding subclause (2), the benefit provided by section 27 or 28 to a transferred contributor to whom this clause applies shall not include the amount of the additional benefit.

(4) Where the Board pays a benefit to a contributor to whom this clause applies, the Board shall debit to the appropriate reserve established in the Fund under section 9 the difference between the amount of the benefit so paid and the amount that, but for this clause, would have been paid under this Act.

*Public Authorities Superannuation (Amendment) 1985*SCHEDULE 1—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

(5) This clause ceases to have effect on 31 December 1985.

**Transferred contributors with 30 years' service entitled to death and disability cover**

3B. (1) This clause applies to a transferred contributor referred to in clause 3 in respect of whom the number of years of service that would have been taken into account in calculating a benefit payable to the contributor under the earlier Act if the benefit had become payable immediately before the appointed day is, in total, at least 30 years.

(2) If a transferred contributor to whom this clause applies makes an application under section 12 before 31 March 1986, the Board shall approve the application without the necessity for the contributor to submit to, or pass, a medical examination.

(b) Schedule 7, clause 4 (2)—

Omit "31st December, 1985," insert instead "31 December 1985 or before 31 December in any subsequent year,".

(c) Schedule 7, clause 4 (2A)—

After clause 4 (2), insert:

(2A) A contributor referred to in subclause (1) who wishes to make an election under section 15 may make that election by specifying the number of benefit points to be accrued for a superannuation year and, if the election is made in that manner, the election shall be deemed to specify a rate per cent of the contributor's salary sufficient to increase by that number the accrued benefit points for that superannuation year.

(d) Schedule 7, clause 5A—

After clause 5, insert:

**Application of certain definitions to transferred contributor**

5A. In relation to a transferred contributor referred to in clause 3—

SCHEDULE 1—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

- (a) the definition of “accrued benefit points” in section 24 shall be construed as if a reference therein to contributed points figures included a reference to the number of transferred benefit points for the contributor; and
- (b) the definition of “average contribution rate per cent” in section 24 shall be construed as if a reference therein to the sum of the rates per cent of salary in relation to a contributor were a reference to the sum of benefit points accrued by the contributor.

- (e) Schedule 7, clause 6 (4)—

Omit the subclause.

- (f) Schedule 7, clause 6A—

After clause 6, insert:

**Calculation of “prospective benefit points” for transferred contributor**

6A. In relation to a transferred contributor referred to in clause 3, the contributor’s average contribution rate per cent referred to in the definition of “prospective benefit points” in section 24 shall be determined by including any applicable month occurring before the contributor’s entry date, being a month of service which would have been taken into account in calculating a benefit payable to the contributor under the earlier Act if the benefit had become payable immediately before the appointed day.

- (g) Schedule 7, clause 7 (3)—

Omit “subclause (4)”, insert instead “subclauses (4) and (5)”.

- (h) Schedule 7, clause 7 (5), (6)—

After clause 7 (4), insert:

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SCHEDULE 1—*continued*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—  
*continued*

(5) The Board may determine a greater number of benefit points accrued by a contributor for the superannuation year that commences on 1 April 1986, and each succeeding superannuation year, than the number of benefit points that would otherwise have accrued under subclause (3) for each one per cent of salary, or part thereof, contributed to the Fund.

(6) The Board may make a determination under subclause (5) in respect of a contributor only if—

(a) the contributor has attained the age of 59 years and 11 months before 1 April 1986; and

(b) the Board is of the opinion that the contributor would, as a result of the operation of subclause (3) (b), otherwise be required to maintain contributions or increase contributions to the Fund in excess of the rate of contributions which would have been required to have been made to the Retirement Fund to accrue the benefit for which the contributor was contributing immediately before the appointed day.

(i) Schedule 7, Table—

Omit the Table, insert instead:



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## SCHEDULE 2

(Sec. 5)

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

## (1) (a) Section 35 (1)—

Omit “7 members”, insert instead “8 members”.

## (b) Section 35 (2) (d)—

Omit “and” where lastly occurring.

## (c) Section 35 (2) (e), (f)—

At the end of section 35 (2) (e), insert:

; and

(f) one shall be a member of the State Public Service Superannuation Board or the State Superannuation Board, or of both, and shall, in and by the instrument by which the member is appointed, be appointed as a part-time member.

## (d) Section 35 (5)—

After section 35 (4), insert:

(5) A decision made, or any act or thing done or omitted to be done, by the Board or by a member of the Board who is also a member of the State Public Service Superannuation Board or of the State Superannuation Board in the exercise of a function conferred on the Board or that member by this Act shall not be called in question on the ground of an alleged conflict of interest by reason that such a member is a member of both the Board and the State Public Service Superannuation Board or the State Superannuation Board or on the ground that knowledge gained by such a member in one of those capacities is, or may be, relevant to the exercise of a function in the other of those capacities.

## (2) (a) Schedule 1, clause 4 (2)—

At the end of clause 4, insert:

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SCHEDULE 2—*continued*

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

(2) For the purposes of subclause (1), the duties of the office of President or Vice-President include any duties imposed on the holder of the office as a member of the State Public Service Superannuation Board or the State Superannuation Board.

(b) Schedule 1, clause 7 (1) (j)—

Omit “or”.

(c) Schedule 1, clause 7 (1) (k), (l)—

At the end of clause 7 (1) (k), insert:

; or

(l) being the part-time member referred to in section 35 (2) (f), ceases to hold the qualification by virtue of which the part-time member was appointed.

(3) Schedule 2, clause 2—

Omit “Four”, insert instead “Five”.

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