

SUPERANNUATION ADMINISTRATION ACT 1987 No. 210

NEW SOUTH WALES



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SCHEDULE 1—PROVISIONS RELATING TO BOARD MEMBERS

SCHEDULE 2—PROVISIONS RELATING TO BOARD PROCEDURE

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SUPERANNUATION ADMINISTRATION ACT 1987 No. 210

NEW SOUTH WALES



Act No. 210, 1987

An Act to constitute the State Authorities Superannuation Board; to provide for the Board to administer certain superannuation schemes; and for other purposes. [Assented to 9 December 1987]

See also State Authorities Superannuation Act 1987; State Authorities Non-contributory Superannuation Act 1987; Hunter District Water Board Employees' Provident Fund (Special Provisions) Act 1987; Superannuation (Amendment) Act 1987; Local Government and Other Authorities (Superannuation) Amendment Act 1987; Transport Employees Retirement Benefits (Amendment) Act 1987; New South Wales Retirement Benefits (Amendment) Act 1987; Public Authorities Superannuation (Amendment) Act 1987; State Public Service Superannuation (Amendment) Act 1987; Police Regulation (Superannuation) Amendment Act 1987; Police Regulation (Special Benefits) Amendment Act 1987; Police Association Employees (Superannuation) Amendment Act 1987; Workers Compensation (Police Force) Amendment Act 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 Superannuation Administration Act 1987.

Commencement

2. (1) Subject to this section, this Act shall commence on a day to be appointed by proclamation or 1 April 1988, whichever is earlier.

(2) Part 3 shall commence on 1 April 1988.

(3) Section 38 (1) and clause 8 of Schedule 3 shall commence on the date of assent to this Act.

Definitions

3. (1) In this Act—

“associated Acts” means the Acts named in section 14;

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

“Management Account” means the State Authorities Superannuation Management Account established under section 21;

“member” means a member of the Board;

“President” means the President of the Board;

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

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

(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.

PART 2—THE STATE AUTHORITIES SUPERANNUATION BOARD**The Board**

4. (1) There is constituted by this Act a corporation with the corporate name of the State Authorities Superannuation Board.

(2) The Board is, for the purposes of any Act, a statutory body representing the Crown.

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(3) The Board shall consist of 10 members who shall be appointed by the Governor on the nomination of the Minister.

(4) Of the members, 5 shall be appointed to represent employers and 5 shall be appointed to represent employees.

(5) Schedule 1 has effect with respect to the members.

(6) Schedule 2 has effect with respect to the procedure of the Board.

Interim Board membership

5. (1) This section applies to the members to hold office under section 4 before the end of March 1990.

(2) Of the members—

(a) 1 shall, in and by the instrument by which the member is appointed to represent employers, be appointed on a full-time basis as President of the Board;

(b) 2 shall, in and by the instruments by which the members are appointed to represent employers, be appointed on a full-time basis as Vice-Presidents of the Board;

(c) 1 shall, in and by the instrument by which the member is appointed to represent employees, be appointed on a full-time basis; and

(d) the remainder shall be appointed on a part-time basis.

(3) Before making a nomination to the Governor with respect to the appointment of a member under this section, the Minister may consult such persons (including associations of employees or associations of employers) as the Minister thinks fit, but need not do so in the case of a person holding office as a member of the State Superannuation Board, State Public Service Superannuation Board or Public Authorities Superannuation Board immediately before being appointed to the State Authorities Superannuation Board.

(4) The members to whom this section applies cease to hold office at the end of March 1990, but are eligible (if otherwise qualified) for re-appointment.

Subsequent Board membership

6. (1) This section applies to the members to hold office under section 4 on or after 1 April 1990.

(2) Of the 5 members representing employers—

(a) 1 shall, in and by the instrument by which the member is appointed, be appointed on a full-time basis as President of the Board;

(b) 2 shall, in and by the instruments by which the members are appointed, be appointed on a full-time basis as Vice-Presidents of the Board; and

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(c) 2 shall be appointed on a part-time basis, at least 1 of whom shall be a person who, in the opinion of the Minister, has relevant investment experience and whose nomination is made after consultation with the Treasurer.

(3) The 5 members representing employees shall be chosen from a panel of persons nominated by the Labor Council of New South Wales, and of them—

- (a) at least 1 shall be appointed on a full-time basis; and
- (b) the remainder shall be appointed on a part-time basis.

(4) If a panel is not nominated within the time or in the manner specified by the Minister in a notice given to the Labor Council of New South Wales, the Governor may appoint the necessary number of members representing employees without recourse to the panel, and the person or persons appointed shall be regarded as having been chosen from a properly nominated panel.

(5) Without limiting what may be included in a notice under subsection (4), the notice may specify, as part of the manner of nomination, the minimum number or maximum number (or both) of persons who may be included in the panel.

Functions of President

7. The President—

- (a) is responsible, as the chief executive officer of the Board, for the management of the affairs of the Board subject to and in accordance with any directions of the Board; and
- (b) has such other functions as are conferred or imposed on the President by or under this or any other Act.

Functions of Vice-Presidents

8. (1) A Vice-President shall have such functions as the President directs.

(2) If—

- (a) the President is prevented by illness or absence from exercising any of the functions of the office of President; or
- (b) there is a vacancy in the office of President,

a Vice-President shall have the functions of that office (including functions delegated to the President under section 13) and anything done by the Vice-President while acting under this subsection shall be deemed to have been done as President.

(3) If both Vice-Presidents are available, the Vice-President to exercise any such functions is—

- (a) the one nominated for the purpose by the Minister; or
- (b) in the absence of a nomination by the Minister—the one nominated for the purpose by the President.

(4) A Vice-President while acting in the office of President under this section is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the Vice-President.

(5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a Vice-President to act in the office of President under this section.

Staff of Board

9. (1) The Board may appoint and employ such staff as may be necessary to enable the Board to exercise its functions.

(2) The Board may fix the salaries, wages, allowances and conditions of employment of any such staff in so far as they are not fixed by or under another Act or law.

(3) The Board may—

- (a) with the approval of the Minister; and
- (b) on such terms and conditions as may be approved by the Public Service Board,

arrange for the use of the services of any staff or facilities of a government department, administrative office, public authority or employer.

Agents

10. (1) The Board may employ and pay an agent to transact any business or do any act (including receiving or paying money) that the Board is authorised or required to transact or do in the exercise of its functions.

(2) An agent may be employed by the Board to receive or pay money even though the agent, or any subagent employed by the agent, is not a bank.

Consultants

11. The Board may engage persons having suitable qualifications and experience as consultants to the Board.

Committees

12. (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that any or all of the members of a committee are not members of the Board.

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(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings shall be as determined by the Board or (subject to any determination of the Board) by the committee.

Delegation by Board and President

13. (1) The Board may delegate to—

- (a) the President or another member of the Board;
- (b) a committee comprised of members or employees (or both) of the Board;
- (c) an employee of the Board; or
- (d) a person whose services the Board makes use of under this Act,

any of its functions, other than this power of delegation.

(2) The President may delegate to—

- (a) another member of the Board;
- (b) an employee of the Board; or
- (c) a person whose services the Board makes use of under this Act,

any of the functions delegated to the President by the Board, subject to any conditions to which the delegation to the President is subject.

PART 3—FUNCTIONS OF THE BOARD**General functions**

14. The Board has the functions conferred or imposed on it by or under this or any other Act, including the following associated Acts:

- Police Regulation (Superannuation) Act 1906;
- Superannuation Act 1916;
- Local Government and Other Authorities (Superannuation) Act 1927;
- Transport Employees Retirement Benefits Act 1967;
- New South Wales Retirement Benefits Act 1972;
- Public Authorities Superannuation Act 1985;
- State Public Service Superannuation Act 1985;
- State Authorities Superannuation Act 1987;
- State Authorities Non-contributory Superannuation Act 1987.

Management of superannuation schemes

15. (1) The Board shall administer and manage the superannuation schemes established by or under the associated Acts and any other superannuation schemes that it is required to administer or manage pursuant to subsection (2).

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(2) The Governor may make regulations for or with respect to the transfer to the Board of the administration or management of any superannuation scheme established by or under an Act or a superannuation scheme applying to employees of the State, an authority of the State or a municipal or other local governing authority of the State.

PART 4—FINANCIAL PROVISIONS**Definitions**

16. In this Part—

“contributor”, “employee” and “employer” have the same meanings as they have for the purposes of the relevant superannuation schemes managed by the Board.

Financial year

17. (1) The financial year of the Board is the year ending on 31 March.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Financial accommodation and investment

18. Without limiting the operation of the Public Authorities (Financial Arrangements) Act 1987, the Board may obtain financial accommodation, effect financial adjustments and make investments under and subject to that Act.

Pooling of funds

19. The Board may, for the purposes of any provisions of the Public Authorities (Financial Arrangements) Act 1987 relating to investment and for any related purposes, treat as one fund all or any 2 or more of the funds managed by it.

Deposit funds

20. (1) The Board may, subject to and in accordance with the regulations, take such steps as are appropriate to establish one or more funds into which may be paid, at the request of the person entitled to it, the whole or part of any benefit payable under any of the superannuation schemes managed by the Board.

(2) The regulations may provide that any such fund is to be administered in accordance with rules determined by the Board.

Management Account

21. The Board shall establish a State Authorities Superannuation Management Account.

*Superannuation Administration 1987***Management costs generally**

22. (1) Management costs incurred by the Board (including the remuneration or allowances of the members) shall be charged against the Management Account.

(2) The management costs incurred by the Board in relation to the State Superannuation Fund shall be paid from that Fund to the Management Account.

(3) The management costs incurred by the Board in relation to the Police Superannuation Fund shall be paid from that Fund to the Management Account.

(4) There shall be transferred to the Management Account, from the income from investment of the funds managed by the Board, the management costs incurred in investing those funds and managing any such investments.

(5) The management costs incurred by the Board in relation to the cost of administering the State Authorities Non-contributory Superannuation Act 1987 shall be paid to the Management Account by employers and shall be so paid that an employer pays a multiple (to be determined by the Board from time to time in relation to the employer) of the amount paid by way of contributions by the employer under that Act.

(6) Management costs referred to in subsection (1), other than management costs referred to in subsections (2), (3), (4) and (5), shall be paid to the Management Account by employers and contributors and shall be so paid in relation to each superannuation scheme managed by the Board that—

- (a) an employer pays a multiple of the amount paid by contributors employed by the employer, being a multiple determined by the Board from time to time in relation to the employer; and
- (b) each employer pays a proportion of those costs according to the number of contributors employed by the employer.

and the appropriate funds, accounts or reserves may be debited accordingly.

Management costs regarding preserved benefits

23. (1) In this section, "preserved benefit" means—

- (a) in relation to a contributor under a superannuation scheme—a benefit for which the contributor has made an election—
 - (i) to take the benefit provided by section 9B of the Police Regulation (Superannuation) Act 1906;
 - (ii) to take the benefit of Division 3A of Part IV of the Superannuation Act 1916;
 - (iii) to make provision for a benefit provided by section 32 of the Public Authorities Superannuation Act 1985;

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- (iv) to make provision for a benefit provided by section 34 of the State Public Service Superannuation Act 1985; or
 - (v) to make provision for a benefit provided by section 43 of the State Authorities Superannuation Act 1987; or
 - (b) in relation to an employee referred to in the State Authorities Non-contributory Superannuation Act 1987—a benefit which is required to be preserved under that Act.
- (2) Administrative charges are payable from time to time in relation to a preserved benefit.
- (3) An administrative charge shall be as determined from time to time by the Board.
- (4) An administrative charge shall be debited to the relevant contributor's account under any Act or to the amount that is the subject of the preserved benefit.
- (5) The amount so debited shall be transferred to the Management Account.

PART 5—MISCELLANEOUS**Accounts and records**

24. The Board may maintain its accounts and other records in or on any medium, or combination of mediums, capable of having information recorded therein or thereon and may, from time to time, vary the manner or form in which the whole or any part of the accounts or other records is maintained.

Power to compromise claims

25. (1) Without limiting any of its powers otherwise conferred, the Board may compromise or otherwise settle any claim made against it.

(2) If the Board compromises or otherwise settles a claim in relation to a benefit, the compromise or settlement discharges the Board's obligations as regards the benefit, and the amount payable shall be regarded as a benefit under the relevant superannuation scheme and is payable from the appropriate fund accordingly.

(3) To the extent that an amount payable by the Board following a compromise or settlement is not a benefit under the relevant superannuation scheme, the amount is payable from whichever fund or funds managed by the Board that the Board considers appropriate.

(4) The Board may make such inquiries and investigations with respect to a claim made against it as it thinks fit.

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(5) The Board may request a person who has made a claim against it to provide the Board with an authority to obtain from a third person any information or evidence that is relevant to the subject-matter of the claim.

Disputes

26. (1) This section applies to a dispute under this Act or under any of the following Acts:

Superannuation Act 1916;

Local Government and Other Authorities (Superannuation) Act 1927;

Police Association Employees (Superannuation) Act 1969;

Transport Employees Retirement Benefits Act 1972;

New South Wales Retirement Benefits Act 1972;

Public Authorities Superannuation Act 1985;

State Public Service Superannuation Act 1985;

State Authorities Superannuation Act 1987;

State Authorities Non-contributory Superannuation Act 1987.

(2) This section also applies to a dispute under the Police Regulation (Superannuation) Act 1906 in relation to any matter, other than a matter relating to or arising from a question of whether or not a member of the Police Force or a former member of the Police Force was hurt on duty.

(3) A dispute to which this section applies shall be determined by the Board.

(4) The Board may, in determining such a dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

(5) The Board may request a person who has a dispute with the Board to provide the Board with an authority to obtain from a third person any information or evidence that is relevant to the subject-matter of the dispute.

Appeals

27. (1) A person aggrieved by a determination of the Board under section 26 may appeal against the determination to the Industrial Commission.

(2) The appeal shall be made within 6 months after the date of the determination or within such further period as the Industrial Commission may allow.

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Relationship between powers of Board and powers of trustees

28. (1) To the extent (if any) to which, but for this subsection, the Board would not have in relation to any fund that it manages the powers that it would have if it were a trustee of the fund, it has those powers.

(2) To the extent (if any) to which, but for this subsection, the powers conferred on the Board by this Act would be restricted by the Trustee Act 1925 or any other law relating to trusts or trustees, those powers are not so restricted.

(3) Nothing in this section constitutes the Board a trustee of a fund or implies that the Board is a trustee of a fund.

Member, staff etc. may be director etc. of company

29. (1) If the Board so approves, a person who holds office as a member of the Board, or as a member of the staff of the Board, may also hold office as a director or other officer of a company.

(2) If the Board so approves, a consultant to the Board may hold office as a director or other officer of a company.

(3) 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 (for example, as regards shareholding) as may be necessary to qualify it to nominate a person for appointment as a director or other officer of the company.

(4) An officer of a company includes any person concerned in the management of the company.

Liability

30. (1) In this section, "prescribed person" means—

- (a) a person who is or acts as a member of the Board;
- (b) a person who is or acts as a member of the staff of the Board; or
- (c) a person who is an agent of or consultant to the Board and who is for the time being nominated by the Board as being within this section.

(2) A decision made, or any act or thing done or omitted to be done, by—

- (a) the Board or a prescribed person in the exercise of any function conferred or imposed on the Board or the prescribed person by this Act or any associated Act; or
- (b) a prescribed person in the exercise of any function directly or indirectly connected with the official duties of the prescribed person,

shall not be called in question on any of the grounds mentioned in subsection (3).

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(3) The grounds are as follows:

- (a) the ground of an alleged conflict of interest by reason that the Board or a prescribed person is involved in administering different Acts or different superannuation schemes;
- (b) the ground that knowledge gained by the Board or a prescribed person for the purpose of one such Act or scheme is or may be relevant to the exercise of a function under another such Act or scheme.

(4) No decision made, or act done or omitted to be done, by—

- (a) the Board, a prescribed person, or any other person acting under the direction of the Board, in good faith for the purpose of executing this or any other Act; or
- (b) a prescribed person, or any other person acting under the direction of the Board, in good faith in the exercise of any function directly or indirectly connected with the official duties of the prescribed person or other person so acting.

subjects a member of the Board, a prescribed person or a person so acting personally to any action, liability, claim or demand.

(5) A decision made, or any act or thing done or omitted to be done, by the Board in the exercise of a function conferred on it by this Act or any associated Act is not invalidated or prejudiced because of a vacancy in the office of a member of the Board.

(6) The Board may make or revoke the nomination for the purposes of this section of a person who is an agent of or consultant to the Board.

(7) The protection afforded by this section in relation to a decision made, or an act or thing done or omitted, while a person is a prescribed person continues in relation to the person even though the person ceases to be a prescribed person.

Service of documents

31. (1) A document may be served on the Board by leaving it at, or by sending it by post to—

- (a) the office of the Board; or
- (b) if it has more than one office—any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board in any other manner.

Recovery of charges etc. by Board

32. (1) Any charge, fee or money due to the Board may be recovered by the Board as a debt in a court of competent jurisdiction.

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(2) Without limiting subsection (1), the Board may recover any money owing to it under this or any other Act, together with interest thereon as provided by subsection (3), as a debt in a court of competent jurisdiction.

(3) Interest at a rate from time to time determined by the Board is payable on any amount referred to in subsection (2) calculated from the date on which the amount became due for payment until the date on which the amount is recovered under that subsection or is otherwise paid.

Proof of certain matters not required

33. In any legal proceedings, proof is not required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of, or the holding of office by, any member of the Board; or
- (d) the presence or nature of a quorum at any meeting of the Board.

Union representation

34. (1) This section applies to the trade and industrial unions registered under section 6 of the Trade Union Act 1881 and section 8 of the Industrial Arbitration Act 1940 as—

- (a) The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division; and
- (b) The Public Service Association of New South Wales.

(2) Each union to which this section applies—

- (a) may have employees of the Board as members; and
- (b) may represent the interests of employees of the Board in industrial matters under the Industrial Arbitration Act 1940,

whether or not any such power or authority is conferred by the rules of the union or any Act or law.

Regulations

35. (1) 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.

(2) In particular, the regulations may make provision for or with respect to—

- (a) the use and custody of the seal of the Board; and
- (b) the procedure of the Board.

*Superannuation Administration 1987***Savings, transitional and other provisions**

36. Schedule 3 has effect.

Amendment of Industrial Arbitration Act 1940 (No. 2)

37. The Industrial Arbitration Act 1940 is amended by inserting in sections 38AA (3) and 38AC after the word “under” wherever occurring the words “or in relation to”.

Amendment of Statutory and Other Offices Remuneration Act 1975 (No. 4 of 1976), Sch. 2 (Public Offices)

38. (1) The Statutory and Other Offices Remuneration Act 1975 is amended by inserting at the end of Part 1 of Schedule 2 the following words:

President of the State Authorities Superannuation Board.

Vice-President of the State Authorities Superannuation Board.

Full-time member of the State Authorities Superannuation Board, other than President and Vice-President.

(2) The Statutory and Other Offices Remuneration Act 1975 is further amended by omitting from Part 1 of Schedule 2 the following words:

President of the State Superannuation Board.

Vice-President of the State Superannuation Board.

Full-time elected member of the State Superannuation Board.

Full-time elected member of the State Public Service Superannuation Board.

President of the Public Authorities Superannuation Board.

Vice-President of the Public Authorities Superannuation Board.

Amendment of Public Service Act 1979 (No. 89), Sch. 2 (Administrative Offices) and Sch. 3 (Declared Authorities)

39. The Public Service Act 1979 is amended—

(a) by omitting from Schedule 2 the matter relating to the State Superannuation Board;

(b) by omitting from Schedule 3 the words “The Public Authorities Superannuation Board (section 37).”;

(c) by inserting in Schedule 3 in alphabetical order the words “The State Authorities Superannuation Board (section 37).”.

Amendment of Government and Related Employees Appeal Tribunal Act 1980 (No. 39), Sch. 4 (Employing Authorities)

40. The Government and Related Employees Appeal Tribunal Act 1980 is amended—

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- (a) by omitting from Schedule 4 the words "Public Authorities Superannuation Board.";
- (b) by inserting in Schedule 4 in alphabetical order the words "State Authorities Superannuation Board."

Amendment of Public Finance and Audit Act 1983 (No. 152), Sch. 2 (Statutory Bodies)

41. The Public Finance and Audit Act 1983 is amended—

- (a) by omitting from Schedule 2 the words "Public Authorities Superannuation Board.", "State Public Service Superannuation Board." and "State Superannuation Board.";
- (b) by inserting in Schedule 2 in alphabetical order the words "State Authorities Superannuation Board."

Amendment of Public Authorities (Financial Arrangements) Act 1987 (No. 33)

42. The Public Authorities (Financial Arrangements) Act 1987 is amended—

- (a) by omitting section 26 and by inserting instead:

State Authorities Superannuation Board—power to act as funds manager

26. The State Authorities Superannuation Board, if prescribed as an approved funds manager for the purposes of section 25, is by this Act authorised to exercise the functions of a funds manager under that section.

- (b) by inserting in Schedule 1 in alphabetical order the words "State Authorities Superannuation Board."

SCHEDULE 1—PROVISIONS RELATING TO BOARD MEMBERS

(Sec. 4 (5))

Age of members

1. (1) A person of or above the age of 65 years is not eligible to be appointed as a full-time member or to act in the office of a full-time member.

(2) A person of or above the age of 70 years is not eligible to be appointed as a part-time member or to act in the office of a part-time member.

Acting members

2. (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has all the functions of the member and shall be deemed to be a member.

(2) The Minister may remove a person from any office to which the person was appointed under this clause.

*Superannuation Administration 1987*SCHEDULE 1—PROVISIONS RELATING TO BOARD MEMBERS—*continued*

(3) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause—

- (a) a vacancy in the office of a member shall be regarded as an absence from office of the member; and
- (b) a member shall be regarded as absent from office as a member during any period when the member acts in the office of another member pursuant to an appointment under subclause (1).

Terms of office

3. Subject to this Act, a member shall hold office for such period not exceeding 7 years as may be specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Full-time members

4. A full-time member shall devote the whole of his or her time to the duties of the office, except to the extent permitted by this Act or by the Minister.

Remuneration

5. (1) A full-time member is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of the member.

(2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Vacancy in office of member

6. (1) The office of a member becomes vacant if the member—

- (a) dies;
- (b) completes a term of office and is not re-appointed;
- (c) resigns the office by instrument in writing addressed to the Minister;
- (d) is removed or retired from office by the Governor under this clause;
- (e) being—
 - (i) a full-time member, reaches the age of 65 years; or
 - (ii) a part-time member, reaches the age of 70 years;
- (f) being a full-time member, is absent from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister or unless the absence is occasioned by illness or other unavoidable cause;

*Superannuation Administration 1987***SCHEDULE 1—PROVISIONS RELATING TO BOARD MEMBERS—*continued***

- (g) being a part-time member, is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for having been absent from those meetings;
 - (h) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (i) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
 - (j) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
 - (k) being a full-time member, engages in any paid employment outside the duties of the office of full-time member, except with the consent of the Minister.
- (2) The Governor may remove a full-time member from office for incapacity, incompetence or misbehaviour.
- (3) The Governor may remove a part-time member from office at any time.
- (4) Without affecting the generality of subclauses (2) and (3), the Governor may remove from office a member who contravenes clause 8.
- (5) A full-time member may, after reaching the age of 60 years and before reaching the age of 65 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

Filling of vacancy in office of member

7. If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

Disclosure of pecuniary interests

8. (1) A member who has a direct or indirect pecuniary interest—
- (a) in a matter being considered or about to be considered at a meeting of the Board;
 - or
 - (b) in a thing being done or about to be done by the Board,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a member at a meeting of the Board that the member—
- (a) is a member, or is in the employment, of a specified company or other body;
 - (b) is a partner, or is in the employment, of a specified person; or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

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is a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Board shall cause particulars of any disclosure made under this clause to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to inspection by any person on payment of such fee as may be determined by the Board from time to time.

(4) After a member has disclosed the nature of an interest in any matter or thing, the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or
- (b) exercise any function under this Act with respect to that thing.

(5) A contravention of this clause does not invalidate any decision of the Board or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises merely because the member is a contributor to a superannuation scheme administered or managed by the Board.

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

Effect of certain other Acts

9. (1) The Public Service Act 1979 does not apply to the appointment of a member and a member is not, as a member, subject to that Act.

(2) If by or under any other Act provision is made—

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time member.

(3) The office of a part-time member is not, for the purposes of any Act, an office or place of profit under the Crown.

Preservation of rights of full-time member previously public servant etc.

10. (1) This clause applies where a full-time member was, immediately before being appointed as full-time member—

- (a) an officer of the Public Service or a Teaching Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a proclaimed statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.

(2) Subject to the terms of appointment, the full-time member—

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- (a) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;
- (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as full-time member; and
- (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as full-time member.

(3) Service as full-time member shall be regarded as service as an officer or employee for the purposes of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred.

(4) The full-time member shall be regarded as an officer or employee, and the Board shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(5) If the full-time member would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

- (a) he or she is not so entitled on becoming (whether on appointment as full-time member or at any later time while holding office as full-time member) a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Board in any case where he or she becomes a contributor to any such other superannuation scheme.

(6) Subclause (5) does not prevent the payment to the full-time member (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, because of resignation, to be an officer or employee for the purposes of the scheme.

(7) The full-time member is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(8) In this clause—

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

Full-time member entitled to re-appointment to former employment in certain cases

11. (1) A person who—

- (a) ceases to be a full-time member because of the expiration of the period for which the person was appointed or because of resignation;
- (b) was, immediately before being appointed as full-time member—
 - (i) an officer of the Public Service or a Teaching Service; or
 - (ii) an officer or employee of a proclaimed statutory body; and

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- (c) has not reached the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

is entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that proclaimed statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as full-time member.

- (2) Where subclause (1) does not apply to a person who—

- (a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (1) (b); and
 (b) is after that appointment appointed as full-time member,

the person has, in the event of ceasing to be full-time member, such rights (if any) to appointment as such an officer or employee as are specified in the instrument of appointment as full-time member or as are agreed on by the person and by or on behalf of the Government.

- (3) In this clause—

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this clause.

SCHEDULE 2—PROVISIONS RELATING TO BOARD PROCEDURE

(Sec. 4 (6))

General procedure

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act and the regulations, be as determined by the Board.

Quorum

2. The quorum for a meeting of the Board is 6 members, of whom one must be the President or a Vice-President.

Presiding member

3. (1) The President or, in the absence of the President, a Vice-President shall preside at a meeting of the Board.
 (2) If, in the absence of the President, both Vice-Presidents are present at a meeting of the Board, the Vice-President to preside at the meeting is—
 (a) the one nominated for the purpose by the Minister;
 (b) in the absence of a nomination by the Minister—the one nominated for the purpose by the President; or
 (c) in the absence of both such nominations—the one chosen to chair the meeting by the members present.

Voting

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

*Superannuation Administration 1987*SCHEDULE 2—PROVISIONS RELATING TO BOARD PROCEDURE—*continued***Minutes**

5. The Board must cause full and accurate minutes to be kept of each meeting of the Board.

First meeting

6. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 36)

Definitions

1. In this Schedule—

“appointed day” means 1 April 1988;

“cognate Acts” means this Act and the following Acts:

State Authorities Superannuation Act 1987;

State Authorities Non-contributory Superannuation Act 1987;

Hunter District Water Board Employees' Provident Fund (Special Provisions) Act 1987;

Superannuation (Amendment) Act 1987;

Local Government and Other Authorities (Superannuation) Amendment Act 1987;

Transport Employees Retirement Benefits (Amendment) Act 1987;

New South Wales Retirement Benefits (Amendment) Act 1987;

Public Authorities Superannuation (Amendment) Act 1987;

State Public Service Superannuation (Amendment) Act 1987;

Police Regulation (Superannuation) Amendment Act 1987;

Police Regulation (Special Benefits) Amendment Act 1987;

Police Association Employees (Superannuation) Amendment Act 1987;

Workers Compensation (Police Force) Amendment Act 1987;

“former Boards” means—

(a) the State Superannuation Board;

(b) the State Public Service Superannuation Board;

(c) the Public Authorities Superannuation Board; and

(d) the Police Superannuation Board;

“new Board” means the State Authorities Superannuation Board constituted by this Act;

“transferred employee” means a person who becomes an employee of the new Board by the operation of this Schedule.

Abolition of former Boards

2. The former Boards are abolished on the appointed day.

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SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

Transfer of assets etc. of former Boards

3. (1) On and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to a former Board shall vest in and belong to the new Board;
- (b) all money and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by a former Board shall be money and liquidated and unliquidated claims payable to or recoverable by the new Board;
- (c) all proceedings pending immediately before that day at the suit of a former Board shall be deemed to be proceedings pending on that day at the suit of the new Board and all proceedings so pending at the suit of any person against a former Board shall be deemed to be proceedings pending at the suit of that person against the new Board;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, a former Board and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the new Board;
- (e) the new Board may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as a former Board might have done, but for its abolition;
- (f) the new Board may enforce and realise any security or charge existing immediately before that day in favour of a former Board and may exercise any powers thereby conferred on a former Board as if the security or charge were a security or charge in favour of the new Board;
- (g) all debts, money and claims (liquidated and unliquidated) that, immediately before that day, were due and payable by, or recoverable against, a former Board shall be debts due by, money payable by and claims recoverable against, the new Board; and
- (h) all liquidated and unliquidated claims for which a former Board would, but for its abolition, have been liable shall be liquidated and unliquidated claims for which the new Board shall be liable.

(2) Subject to this Act, any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of a former Board shall, to the extent that, but for the abolition of the former Board, that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the new Board.

(3) No attornment to the new Board by a lessee from a former Board shall be required.

References to former Boards etc.

4. (1) Except as provided by this clause, on and from the appointed day, in any other Act, in any instrument made under any Act or in any other instrument of any kind, a reference, or a reference required to be read as a reference, to—

- (a) the Railways Retirement Fund Board;
- (b) the Transport Retirement Board;

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

- (c) the Local Government Superannuation Board;
- (d) the New South Wales Retirement Board; or
- (e) any of the former Boards.

shall be read as a reference to the new Board.

(2) On and from the appointed day, in any other Act, in any instrument made under any Act or in any other instrument of any kind, a reference to the President, a Vice-President or other member of a former Board, or a member of the staff of a former Board, shall be read as a reference to the President, a Vice-President or other member of the new Board, or a member of the staff of the new Board, respectively.

(3) Subclause (2) does not apply to any determination under the Statutory and Other Offices Remuneration Act 1975.

(4) On and from the appointed day, in any other Act, in any instrument made under any Act or in any other instrument of any kind—

- (a) a reference to the Public Authorities Superannuation Fund shall be read as a reference to the State Authorities Superannuation Fund; and
- (b) a reference to a Management Account under an associated Act shall be read as a reference to the State Authorities Superannuation Management Account.

Annual reports etc.

5. (1) If, before the appointed day, a former Board has not complied with a requirement made by or under an Act relating to an annual report or a statement of accounts, being a report or statement required to be made in respect of a period which expired before that day, the new Board shall comply with the requirement.

(2) The first annual report and statement of accounts of the new Board shall contain such further matters in respect of a former Board (other than matters dealt with by subclause (1)) as would have been required to be included in an annual report or statement of accounts of the former Board had the cognate Acts not been enacted.

Review Committee

6. (1) The Minister may appoint a Review Committee to report to the new Board on any matters arising from the operation of the cognate Acts (otherwise than in relation to staff of the new Board).

(2) A Review Committee shall comprise—

- (a) 2 persons nominated by the new Board, one of whom shall be appointed as chairperson; and
- (b) a nominee of the Auditor-General.

(3) The Minister may constitute a Review Committee by appointing different persons according to the subject-matter with which it is at any time, or from time to time, required to deal.

Members holding office immediately before appointed day

7. (1) A person who, immediately before the appointed day, held office as a member of a former Board ceases to hold office as such on that day.

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SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(2) A person who ceases to hold office as a member of a former Board because of the operation of the cognate Acts is not entitled to be paid any remuneration or compensation because of ceasing to hold that office.

(3) A person who, immediately before the appointed day, held office as President or Vice-President of a former Board and who ceases to hold that office because of the operation of the cognate Acts is, if the person—

- (a) is not appointed to a full-time position on the new Board with effect before, or on, that day;
- (b) was, immediately before being appointed as President or Vice-President of the former Board, the holder of a full-time position in the service of the Government; and
- (c) has not reached the age of 60 years,

entitled to be appointed to some position in the service of the Government.

(4) A person referred to in subclause (3) is, until—

- (a) the day on which the term of office for which the person had been appointed to the former Board expires; or
- (b) the day on which the person ceases to hold the position to which the person is appointed pursuant to subclause (3),

whichever first occurs, entitled to be paid such salary as the Statutory and Other Offices Remuneration Tribunal may from time to time determine in relation to the person, not lower than the salary for the time being applicable to the position that the person held immediately before being appointed to the former Board.

(5) Pending the making of the relevant determination under subclause (4) salary shall continue to be paid to a person referred to in subclause (3) at the rate at which it was payable to the person immediately before the appointed day.

(6) A person who, immediately before the appointed day, held office as a full-time elected member of a former Board and who ceases to hold that office because of the operation of the cognate Acts is, if the person—

- (a) is not appointed to a full-time position on the new Board with effect on that day; and
- (b) has not reached the age of 60 years,

entitled to be appointed to some position in the service of the employer by whom the person was employed immediately before taking up that office, being a position not lower in classification and salary than that held immediately before taking up that office.

(7) A reference in this clause to a position in the service of the Government includes a reference to an office or position as a member, officer or employee of a body constituted by an Act.

Appointments etc. in anticipation

8. (1) For the purpose only of enabling the new Board to be constituted in accordance with this Act on or after (but not before) the commencement of this Act, appointments may be made under this Act and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(2) No appointment as a member of the new Board as so constituted takes effect before the commencement of this Act.

(3) The Board may, if it considers it to be necessary or convenient to do so for the purpose of preparing for the coming into operation of an uncommenced provision of a cognate Act (or a provision amended by such an uncommenced provision), exercise a function conferred on it by the cognate Act (or a provision amended by it) that, but for this subclause, it could not exercise until after the commencement of the provision.

Delegations

9. A delegation effected by a former Board and in force immediately before the appointed day shall be deemed to have been effected under this Act.

Investments

10. Any assets of a fund that were acquired under an associated Act before the appointed day (for example, under section 51 (2) of the Public Authorities Superannuation Act 1985) shall be deemed to have been acquired under the Public Authorities (Financial Arrangements) Act 1987.

Management Account

11. (1) As soon as practicable after the appointed day, the new Board shall close—
- (a) the Public Authorities Superannuation Management Account established under section 45 of the Public Authorities Superannuation Act 1985; and
 - (b) the Management Account established under section 9 (1) of the State Public Service Superannuation Act 1985,

and transfer the balances to the Management Account established under this Act.

(2) Any payments that had been approved by the Public Authorities Superannuation Board before the appointed day for payment from the Contingent Account established under the Public Authorities Superannuation Act 1985, and not paid as at the appointed day, are payable from the Management Account established under this Act.

Transfer of staff

12. (1) A person who, immediately before the appointed day, was a member of the staff of a former Board or a public servant employed in the staff establishment of a former Board and who—

- (a) presents himself or herself for work at an office of the new Board on that day;
- (b) is on leave immediately before that day but presents himself or herself for work at an office of the new Board on the expiration of that leave; or
- (c) has, in the opinion of the new Board, a reasonable excuse for not presenting himself or herself for work at an office of the new Board on that day but presents himself or herself for work at an office of the new Board as soon as practicable after that day,

shall, on presenting himself or herself for work under this clause, become or be deemed to have become (as the case may be) a member of the staff of the new Board on that day.

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 SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(2) A person who, immediately before the appointed day, was a public servant employed in the staff establishment of a former Board ceases to be a public servant on that day.

(3) A person who—

- (a) immediately before the appointed day, was an officer (within the meaning of the Public Service Act 1979) employed in the staff establishment of a former Board;
- (b) became a member of the staff of the new Board by the operation of this clause; and
- (c) during or before the transition period applies for appointment, or is appointed, to a position in the Public Service,

shall, in relation to the application or appointment and any matter concerning the application or appointment, be deemed to be an officer (within the meaning of that Act).

(4) Subclause (3) does not apply to a person who applies for appointment, or is appointed, to a position in the Public Service if the person has, on a previous occasion in the transition period, been appointed to a position in the Public Service.

(5) In this clause, “transition period” means the period of 3 years commencing on 1 April 1988.

Salary, wages etc. of transferred staff

13. (1) A transferred employee shall be paid salary or wages, and allowances, at a rate not lower than the rate that was payable to the employee immediately before the appointed day, subject to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act 1940, until the salary or wages, and allowances, of the transferred employee is or are varied or altered—

- (a) by an award of a competent tribunal or an industrial agreement or otherwise in accordance with law; or
- (b) where the variation or alteration increases the amount of salary, wages or allowances—by the new Board.

(2) Except as otherwise provided by this Schedule, where any condition of employment of any transferred employee is, immediately before the appointed day, regulated by an award or an industrial agreement, the condition shall continue to be so regulated until it is varied or altered by—

- (a) an award that is made by a competent tribunal and that binds the new Board; or
- (b) an industrial agreement to which the new Board is a party.

(3) The following provisions of Industrial Agreement No. 7720 of 9 March 1987:

- (a) clause 35 (Long service leave—preserved arrangement); and
- (b) clause 45 (Sick leave—payment for untaken sick leave),

shall, in relation to the transferred employees to whom they applied immediately before the appointed day, continue to regulate the matters which they regulate, until more favourable provision is made in relation to those matters by a variation or alteration under subclause (2).

*Superannuation Administration 1987*SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
*continued***Previous service and accrued leave**

14. (1) Service of a transferred employee with a former Board or as a public servant shall be counted as service with the new Board for the purpose of any Act or of any regulation, by-law or other statutory instrument or of the terms and conditions of any staff agreement or of any award or agreement made under the Industrial Arbitration Act 1940.

(2) The transfer of a transferred employee to the service of the new Board does not affect any right to leave (including long service leave) of absence accrued before the appointed day.

Redundancy of transferred staff

15. The employment of a transferred employee may not be terminated by the new Board on the ground of redundancy arising from the operation of the cognate Acts.

Superannuation—employer's liability

16. If, before the appointed day—

- (a) a person died or retired or was retrenched; and
- (b) at the date of death, retirement or retrenchment—
 - (i) the person was a member of the staff of a former Board or a public servant employed in the staff establishment of a former Board; or
 - (ii) the former Board was, for the purposes of any superannuation scheme, the employer of the person.

then, for the purposes of the Act by or under which that scheme is established, the new Board shall, on and after the appointed day, be deemed to be the employer in the service of whom the person was employed at the date of death, retirement or retrenchment for the purposes of any provision in that Act under which payments may be required to be made by that employer in respect of that scheme.

Staff Committee

17. (1) The Minister shall appoint a Staff Committee to report to the new Board on any matters arising from the operation of the cognate Acts in relation to employees of the new Board.

(2) A Staff Committee shall comprise—

- (a) a nominee of the Public Service Board;
- (b) 2 persons nominated by the new Board; and
- (c) 2 persons nominated by the Minister, after consulting such persons as the Minister thinks fit, to represent employees of the new Board.

(3) The Minister may appoint one of the members of a Staff Committee to be its chairperson.

(4) The Minister may constitute a Staff Committee by appointing different persons according to the subject-matter with which it is at any time, or from time to time, required to deal.

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SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
*continued***Appeals**

18. An appeal pending before the Industrial Commission immediately before the appointed day under any provision repealed by a cognate Act shall be deemed to be an appeal made under section 27.

Regulations

19. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of the cognate Acts.

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

(3) 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.

(4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect despite any other clause of this Schedule (clauses 7, 13, 14, 15 and 16 excepted).