

**LOCAL GOVERNMENT AND OTHER AUTHORITIES
(SUPERANNUATION) AMENDMENT ACT 1987 No. 215**

NEW SOUTH WALES



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**LOCAL GOVERNMENT AND OTHER AUTHORITIES
(SUPERANNUATION) AMENDMENT ACT 1987 No. 215**

NEW SOUTH WALES



Act No. 215, 1987

An Act to amend the Local Government and Other Authorities (Superannuation) Act 1927 as a consequence of the enactment of the Superannuation Administration Act 1987 and the State Authorities Superannuation Act 1987; and for other purposes. [Assented to 9 December 1987]

Local Government and Other Authorities (Superannuation) Amendment 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government and Other Authorities (Superannuation) Amendment Act 1987.

Commencement

2. (1) Except as provided by this section, this Act shall commence on 1 April 1988.

(2) Schedule 1 (6) (a), and section 3 in its application to that provision, shall be deemed to have commenced on 1 July 1985.

Amendment of Act No. 35, 1927

3. The Local Government and Other Authorities (Superannuation) Act 1927 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (**Interpretation**)—

Section 3, definitions of “Board”, “Management Account”, “Salary”—

Omit the definitions, insert instead in alphabetical order:

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

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

“Salary” means salary determined in accordance with section 3A and expressed as an annual rate.

(2) Section 3A—

After section 3, insert:

Salary

3A. (1) For the purposes of this Act, “salary”, in relation to a servant of an employer, means the remuneration, salary or wages payable in money to the servant in the servant’s capacity as a servant of the employer, as reported to the Board from time to time by the servant’s employer, including—

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

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

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

(2) The excluded amounts or allowances are:

- (a) an amount paid for overtime or as a bonus, or an allowance instead of overtime;
- (b) except to the extent determined in accordance with the regulations, as referred to in subsection (1) (a)—an amount paid as shift allowance;
- (c) except to the extent that this section otherwise provides—a relieving allowance;
- (d) an expense allowance or an allowance for travelling, subsistence or other expenses;
- (e) an equipment allowance; and
- (f) an amount paid for rent or as a residence, housing or quarters allowance.

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

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

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

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

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

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(6) Any allowances or other kinds of remuneration treated as salary immediately before the commencement of this section in relation to a servant shall continue to be treated as salary for the purposes of this Act, but only in relation to that servant.

- (3) Section 10 (**Uninvested moneys**)—
Omit the section.
- (4) Section 12 (**Power to borrow**)—
Omit the section.
- (5) Section 15AA (**Moneys not to be assigned**)—
At the end of section 15AA, insert:
(2) Nothing in this section prevents the Board from making, at the request of a person to whom an amount is payable, a payment of the whole or a part of the amount on behalf of the person.
(3) Any payment made under subsection (2) shall be deemed to have been made to the person entitled to the amount.
- (6) Section 15AMA (**Closure of Pension Fund**)—
(a) Section 15AMA—
Omit “the Fund” wherever occurring, insert instead “the Pension Fund”.
(b) Section 15AMA (6)—
After section 15AMA (5), insert:
(6) On and from 1 April 1988, a reference in this section to the Public Authorities Superannuation Fund shall be read as a reference to the State Authorities Superannuation Fund established under the State Authorities Superannuation Act 1987.
- (7) Part IIID, Division 4 (**Local Government Pension Fund**) (sections 15AZ–15BD)—
Omit the Division.
- (8) Section 15CD (**Actuarial examination of Pension Fund**)—
Omit the section.
- (9) Section 16B (**Proceeds of investment of Management Account**)—
Omit the section.
- (10) Section 16C (**Investment of funds and accounts**)—
Omit the section.
- (11) Section 16D (**Agreements as to investment of Benefits Fund**)—
Omit the section.

*Local Government and Other Authorities (Superannuation) Amendment 1987*SCHEDULE 1—AMENDMENTS—*continued*(12) Section 16E (**Limitations on power of investment**)—

Omit the section.

(13) Section 17BA—

Omit the section, insert instead:

Payment without grant of probate etc.

17BA. (1) Where a person dies and—

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

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

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

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

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

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SCHEDULE 1—AMENDMENTS—*continued*

- (14) Section 17Q (**Inter fund loans**)—
Omit the section.
- (15) Section 17R (**Relieving allowances**)—
Omit the section.
- (16) Section 18A (**Appeals**)—
Omit the section.
- (17) Section 19 (**Financial year of the board**)—
Omit the section.