

SUPERANNUATION (AMENDMENT) ACT 1988 No. 133

NEW SOUTH WALES



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SUPERANNUATION (AMENDMENT) ACT 1988 No. 133

NEW SOUTH WALES



Act No. 133, 1988

An Act to amend the Superannuation Act 1916 for the purpose of reconstituting the State Superannuation Fund and for other purposes.
[Assented to 30 December 1988]

See also Police Regulation (Superannuation) Amendment Act 1988; State Authorities Non-contributory Superannuation (Amendment) Act 1988; State Authorities Superannuation (Amendment) Act 1988; Superannuation Administration (Amendment) Act 1988.

Superannuation (Amendment) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Superannuation (Amendment) Act 1988.

Commencement

2. (1) This Act shall be taken to have commenced on 1 July 1988, except as provided by subsections (2) and (3).

(2) Section 4, in its application to a provision of Schedule 2, commences on the day on which the provision commences.

(3) The several provisions of Schedule 2 commence on a day or days to be appointed by proclamation.

Meaning of "Principal Act"

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

Amendment of Superannuation Act 1916 No. 28

4. The Principal Act is amended as set out in Schedules 1 and 2.

Repeal of miscellaneous enactments relating to superannuation

5. (1) Each Act specified in Schedule 3 is repealed.

(2) The Superannuation (Board Elections) Regulation 1979 shall be taken to have been repealed on the commencement of the Superannuation (Amendment) Act 1987.

Validation

6. Whereas—

- (a) for the purposes of paragraph (b) (v) of the definition of "prescribed amount" in section 9C (1) of the Principal Act (as in force before 1 July 1988), the total commutation amounts for pensions wholly commuted under section 21C of the Principal Act were required to be determined in accordance with regulations made under that Act, but no such regulations were ever made; and
- (b) those commutation amounts in respect of pensions which were wholly commuted under section 21C of the Principal Act during the period beginning on 1 July 1985 and ending on 30 June 1988 were in fact determined in accordance with the advice given by the Government Actuary and not in accordance with regulations made under that Act; and
- (c) it is desirable that those commutation amounts should be regarded as having been lawfully determined,

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it is declared that those total commutation amounts shall be taken to have been lawfully determined even though they were not determined in accordance with regulations made under the Principal Act.

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

(Sec. 4)

(1) Section 3 (Definitions)—**(a) Section 3 (1)—**

After the definition of “Civil Service Acts”, insert:

“Commonwealth taxation law” means a law of the Commonwealth that provides for the levying and collection of a tax.

(b) Section 3 (1), definition of “Contributor”—

After “means an employee”, insert “and includes a person who has elected to take the benefit of Division 3A of Part 4”.

(c) Section 3 (i)—

After the definition of “Contributor”, insert:

“Contributors’ reserve” means the reserve for contributors’ contributions established and maintained under section 5 (1).

(d) Section 3 (1)—

After the definition of “Employer”, insert:

“Employer reserve” means a reserve referred to in section 5 (1) (b).

(e) Section 3 (1)—

After the definition of “Exit day”, insert:

“Financial year” has the same meaning as it has in section 17 of the Superannuation Administration Act 1987.

(f) Section 3 (1)—

After the definition of “Service”, insert:

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

(g) Section 3 (1), definition of “The Fund”—

Omit “under”, insert instead “for the purposes of”.

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SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

(h) Section 3 (10) (b)—
Omit “, 26”.

(i) Section 3 (10) (b)—
Omit “, 61j”.

(2) Part 2—

Omit the Part, insert instead:

PART 2—THE STATE SUPERANNUATION FUND

Reconstitution of the Fund

4. (1) There shall, for the purposes of this Act, continue to be a fund to be known as the State Superannuation Fund.

(2) The Board is responsible for maintaining and managing the Fund.

(3) The Board must ensure that there are paid into the Fund—

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

(4) The Board must ensure that there are paid from the Fund—

- (a) the management costs relating to the Fund referred to in section 22 of the Superannuation Administration Act 1987; and
- (b) the amount of any benefit payable under this Act; and
- (c) amounts in repayment of money borrowed for the purposes of the Fund; and
- (d) such amounts as are necessary to satisfy any liability of the Fund with respect to tax payable under a Commonwealth taxation law; and
- (e) any other amounts that are properly payable from the Fund.

(5) If a loss is incurred in realising any investment forming part of the assets of the Fund, the Fund is accordingly reduced by the amount of that loss.

Board required to establish certain reserves within the Fund

5. (1) The Board must establish and maintain within the Fund the following reserves:

- (a) a reserve for contributors’ contributions;

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continued

- (b) a separate reserve for each employer specified in Schedule 3 and, after the commencement of Schedule 2 (33) to the Superannuation (Amendment) Act 1988, a separate reserve—
 - (i) for each employer specified in Part 1 of Schedule 3; and
 - (ii) for each group of employers specified in Parts 2 and 3 of that Schedule;
 - (c) a reserve in respect of money paid to the Fund under Part 5.
- (2) The Board may also establish and maintain within the Fund such other reserves and such accounts as, in its opinion, are necessary or convenient for the proper management of the Fund and administration of this Act.
- (3) As soon as practicable after the passing of the Superannuation (Amendment) Act 1988, the Board must appoint one or more actuaries to carry out the functions referred to in subsection (4).
- (4) As soon as practicable after being appointed under subsection (3), the actuary or actuaries concerned must—
- (a) carry out an investigation of the Fund; and
 - (b) make to the Board recommendations with respect to the apportionment of the Fund so as to enable the Board to fix the initial values of the reserves referred to in subsection (1).
- (5) On receiving the recommendations of the actuary or actuaries in accordance with subsection (4), the Board must—
- (a) after having regard to those recommendations, fix the initial values of the reserves referred to in subsection (1); and
 - (b) publish in the Gazette the values so fixed; and
 - (c) apportion the State Superannuation Fund in accordance with those values.
- (6) The Board's decision under subsection (5) is binding on all contributors and employers.

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
*continued***Contributors' reserve**

6. (1) The Board must ensure that there is credited to the contributors' reserve the contributions that contributors make or have made to the Fund on or after 1 July 1988.

(2) The Board must ensure that there is debited to the contributors' reserve—

- (a) that portion of any benefit payable to or in respect of a contributor from the contributors' reserve in accordance with section 33B (2) (a); and
- (b) management costs calculated in accordance with the Superannuation Administration Act 1987 in relation to contributors; and
- (c) any other amounts that are properly payable from the reserve.

Employer reserves

7. (1) Whenever an employer makes or has made a contribution to the Fund in respect of a contribution period beginning on or after 1 July 1988, the Board must ensure that the contribution is credited to the appropriate employer reserve.

(2) The Board must ensure that there is debited to the appropriate employer reserve—

- (a) the portion of any benefit payable to or in respect of a contributor in accordance with section 33B (2) (b); and
- (b) management costs calculated in accordance with the Superannuation Administration Act 1987 in relation to the employer or an employer to whom the reserve relates; and
- (c) the amounts of tax (if any) that may become payable under a Commonwealth taxation law in respect of contributions to the reserve that are attributable to the employer or an employer to whom the reserve relates; and
- (d) any other amounts that are properly payable from the reserve.

Adjustment of reserves and accounts for interest etc.

8. (1) Whenever appropriate, the Board must fix a rate of interest for the purposes of subsection (2) after having regard to—

- (a) the income of the Fund; and
- (b) the amount of tax (if any) that has to be paid under a Commonwealth taxation law in respect of the investment income of the Fund; and

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SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

(c) such other matters as it considers relevant.

(2) Whenever appropriate, the Board must adjust each of the reserves and accounts established under this Part by applying the rate of interest that is currently fixed under subsection (1).

(3) The Board may fix a rate of interest for the purpose only of enabling specific reserves or accounts to be adjusted.

Funds, accounts and reserves generally

9. (1) The Board must—

(a) credit to the Fund or, as the case may be, to the appropriate reserve or account any amount that is required by or under this or any other Act to be credited to the Fund or to that reserve or account; and

(b) debit to the Fund or to the appropriate reserve or account any amount that is required by this or any other Act to be debited to the Fund or to that reserve or account.

(2) The Board may—

(a) credit to the Fund or, as the case may be, to the appropriate reserve or account any amount that is permitted by or under this or any other Act to be credited to the Fund or to that reserve or account; and

(b) debit to the Fund or to the appropriate reserve or account any amount that is permitted by or under this or any other Act to be debited to the Fund or to that reserve or account.

Actuary or actuaries to conduct periodic investigations into the Fund

10. (1) Whenever necessary for the purposes of this section, the Board must appoint one or more actuaries to conduct an investigation as to the state and sufficiency of the Fund.

(2) Such an investigation must be conducted—

(a) as at 31 March 1991; and

(b) as at 31 March in every subsequent third year.

(3) An actuary or actuaries appointed under subsection (1) must—

(a) complete such an investigation; and

(b) report the result of it to the Board,

not later than 13 months after the date as at which it is required to be conducted.

(4) The Board must, not later than 2 months after it receives a report under subsection (3), forward the report to the Minister and may add to the report such comments as it thinks fit.

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

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

(3) Section 10O (**Existing contributors and employees**)—

Section 10O (2)—

Omit the subsection.

(4) Part 3, Division 7—

Omit the Division, insert instead:

Division 7—Contributions by employers

Contributions to be made by an employer listed in Schedule 3

10AJ. (1) An employer listed in Schedule 3 must pay to the Fund in respect of each contributor that the employer employs an amount equal to a specified multiple of the contributions payable to the Fund by that contributor.

(2) The specified multiple referred to in subsection (1) is a multiple that the Board, with the concurrence of the Treasurer, periodically fixes in respect of the employer concerned.

Calculation of contributions and time for payment

10AK. (1) Contributions under this Division shall be calculated on the basis of contribution periods.

(2) An employer must, within 7 days after the end of each contribution period, pay to the Board the contributions payable by the employer in respect of that period.

Employer may be required to make further payments in certain cases

10AL. (1) Whenever it appears to the Board that there is insufficient money in an employer reserve—

(a) to pay the employer-financed portion of a benefit that is due to or in respect of a contributor or former contributor under this Act; or

(b) to pay any other amounts that are payable from that reserve,

the Board may require the contributor's employer or former employer, by notice in writing, to pay into the Fund an amount equal to the amount of the insufficiency.

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 SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

(2) If an employer fails to pay an amount required to be paid under subsection (1) within 14 days after being notified of the requirement, the amount becomes an amount owing to the Fund and the Board may recover that amount accordingly.

Power of the Board to adjust employer reserves

10AM. Whenever it appears to the Board that, because of a change of circumstances, it would be appropriate to adjust the amount that is currently standing to the credit or debit of an employer reserve so as to reflect the change of circumstances, the Board may, with the concurrence of the Treasurer, adjust that reserve by crediting or debiting that reserve with a specified amount of money and correspondingly debiting or crediting one or more other employer reserves.

- (5) Section 11 (**Contributor resuming employment after service as member of Parliament**)—
 Omit the section.
- (6) Section 12 (**Contributions to be related to units of pension**)—
 Section 12 (1)—
 Omit “defined in section 26”, insert instead “provided by section 27”.
- (7) Section 17 (**Cost of increasing pension to minimum and reducing contribution of employee below rate for age**)—
 Omit the section.
- (8) Section 17A (**Payments by employers in respect of children’s pensions**)—
 Omit the section.
- (9) Section 17B (**Additional payment by employers in respect of increase in pension unit value**)—
 Omit the section.
- (10) Section 17C (**Additional payment by employers in respect of persons becoming contributors after 1.7.1963**)—
 Omit the section.
- (11) Section 17CA (**Payments by employers in respect of widowers’ and certain children’s pensions**)—
 Omit the section.

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 SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (12) Section 17D (**Orders fixing different tables etc.**)—
 Section 17D (1)—
 Omit “, 10AG, 10AK or 10AM”, insert instead “or 10AG”.
- (13) Section 18 (**From what fund employer shall pay contributions**)—
 Omit the section.
- (14) Section 20 (**Manner of payment—deduction from wages or salaries**)—
 Section 20 (1), (2)—
 Omit the subsections, insert instead:
 (1) Whenever salaries or wages are paid to contributors, their employer must deduct from those salaries or wages the contributions that those contributors are required to make to the Fund.
 (2) An employer who has deducted contributions in accordance with subsection (1) must pay those contributions to the Board, without deduction, within—
 (a) the period of 7 days immediately following the end of the contribution period to which they relate; or
 (b) such extended period as the Board may allow in a particular case.
- (15) Section 20E (**Employer’s contribution**)—
 Omit the section.
- (16) Section 21A (**Commuting of pension**)—
 Section 21A (4)—
 Omit the subsection.
- (17) Section 21B (**Commutation of increases in pension by Superannuation (Amendment) Act 1971**)—
 Section 21B (6)—
 Omit the subsection.
- (18) Section 21C (**Commuting of pension emerging after Superannuation (Amendment) Act 1985**)—
 Section 21C (10)—
 Omit the subsection.
- (19) Section 26 (**Pension unit and minimum pension**)—
 Omit the section.

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SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
*continued***(20) Section 27—**

Omit the section, insert instead:

Amount of pension payable on retirement

27. (1) A contributor who retires is entitled to be paid a pension of \$5.50 per fortnight for each unit for which the contributor was contributing at the time of retirement.

(2) Subsection (1) does not apply to a contributor in respect of whom special provision for the payment of a pension or other retirement benefit is made under another provision of this Act.

(21) Section 28A—

Omit the section, insert instead:

Pension on retirement before reaching 60 years of age

28A. (1) This section applies to a contributor who retires in accordance with section 21 (1B) and who is not entitled to a pension under section 28AA.

(2) A contributor to whom this section applies is entitled on retirement to a pension determined according to the number of units for which the contributor has, at the time of retirement, contributed for not less than 2 years and 6 months.

(3) Subject to this section, the value of each unit of pension referred to in subsection (2) is as follows:

- (a) if the age of the contributor at the contributor's last birthday before retirement was 55 years—\$3.27 per fortnight;
- (b) if the age of the contributor at the contributor's last birthday before retirement was 56 years—\$3.55 per fortnight;
- (c) if the age of the contributor at the contributor's last birthday before retirement was 57 years—\$3.91 per fortnight;
- (d) if the age of the contributor at the contributor's last birthday before retirement was 58 years—\$4.35 per fortnight;
- (e) if the age of the contributor at the contributor's last birthday before retirement was 59 years—\$4.88 per fortnight.

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 SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

(4) In addition to the value of a unit of pension specified in subsection (3), a contributor is entitled to receive in respect of the unit an amount per fortnight calculated in accordance with the following formula:

$$\frac{(A - B)}{364} \times C$$

where—

“A” represents the value that the unit would have had if the contributor had in fact retired on the contributor’s next birthday after that retirement; and

“B” represents the value of the unit at the contributor’s last birthday before retirement; and

“C” represents the number of days during the period beginning with the day after the contributor’s last birthday before retirement and ending with the day before payment of the pension is due to begin.

(5) If a contributor to whom this section applies has contributed for one or more units of pension for less than 2 years and 6 months, the contributor is entitled to be paid on retirement a lump sum equal to the amount of contributions that the contributor has paid in respect of the unit or units.

(6) A pension under this section becomes payable on and from the day following the contributor’s exit day, except as provided by subsection (7).

(7) A pension under this section payable to a contributor who is retrenched becomes payable on and from the day after the day on which the contributor actually leaves the service of the contributor’s employer, whether at the contributor’s exit day any period of untaken leave was due to the contributor or not.

(8) A contributor whose pension is determined in accordance with this section ceases to be liable to pay contributions to the Fund on the first day of the month or four-weekly period, as the case may be, in which the pension becomes payable in accordance with subsection (6) or (7).

(22) Section 28AA (**Pension on retirement before reaching 60 years of age—component pension**)—

Section 28AA (9)—

Omit the subsection.

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SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

(23) Section 28B (**Increase of pension in case of certain retirements after reaching 62 years of age**)—

Section 28B (5), (6)—

Omit the subsections.

(24) Section 33B—

After section 33A, insert:

Board to apportion benefit between the contributors' reserve and the appropriate employer reserve

33B. (1) Whenever a benefit under this Act becomes payable to a contributor or, if the contributor has died without receiving the benefit, the benefit becomes payable to another person in consequence of that death, the Board must—

- (a) ascertain the respective portions of the benefit that are payable from the contributors' reserve and the appropriate employer reserve; and
- (b) debit each of the reserves with the portion ascertained in respect of it.

(2) For the purposes of subsection (1)—

- (a) the portion of the benefit payable to or in respect of a contributor from the contributors' reserve is an amount equal to the lesser of—
 - (i) the amount which would be payable if the contributor were entitled to be paid a benefit under section 38A (3); and
 - (ii) the relevant amount; and
- (b) the portion of the benefit payable to or in respect of a contributor from the appropriate employer reserve is equal to the relevant amount, less the amount ascertained under paragraph (a).

(3) For the purposes of subsection (2), the relevant amount is—

- (a) if a lump sum benefit (other than a commutation of pension) is to be paid to or in respect of the contributor—the amount of the benefit payable to or in respect of the contributor; or
- (b) if a pension is to be paid to or in respect of the contributor—the amount calculated by the Board as the capitalised value of the benefits payable to or in respect of the contributor.

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 SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (25) Section 37 (**Retrenchment benefits payable to an employee who is retrenched after completing 10 years' service**)—
- (a) Section 37 (1) (a) (i)—
 Omit “paid by him under this Act”, insert instead “that the contributor paid to the Fund”.
- (b) Section 37 (1) (a) (ii)—
 Omit “paid by him under this Act”, insert instead “that the contributor has paid to the Fund”.
- (c) Section 37 (2) (a)—
 Omit “paid by him under this Act”, insert instead “that the contributor has paid to the Fund”.
- (d) Section 37 (7)–(10)—
 Omit the subsections.
- (26) Section 37A (**Retrenchment benefits payable to contributors having not less than 3 years' contributory service**)—
 Section 37A (12), (13)—
 Omit the subsections.
- (27) Section 38A—
 Omit the section, insert instead:
Withdrawal benefit
 38A. (1) In this section—
 “contributory service”, in relation to a contributor who is retrenched, resigns or is dismissed or discharged from the service of an employer, is the next preceding period that—
 (a) began—
 (i) when the contributor last became a contributor; or
 (ii) if, since last becoming a contributor, the contributor had been held to be on leave of absence without pay as provided by section 48—when an employer re-employed the contributor after that leave of absence; and
 (b) ended when the contributor's employment with the employer ceased;
 “prescribed rate” means—
 (a) in respect of any relevant period ending before 1 July 1972—3.5 per cent per year; and

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continued

- (b) in respect of any relevant period beginning on or after 1 July 1972 and ending before 1 July 1990—4.5 per cent per year; and
- (c) in respect of any relevant period beginning on or after 1 July 1990—the rate as fixed by the Board from time to time, having regard to the earnings of the Fund and such other matters as the Board considers relevant.

(2) If a contributor who has not completed 5 years' contributory service is retrenched, resigns or is dismissed or discharged from the service of an employer, the contributor is, subject to section 38B, entitled to receive from the Fund the amount that would have been payable if the contributor had elected to take the benefit of section 38.

(3) If a contributor who has completed 5 years' but less than 10 years' contributory service is retrenched, resigns or is dismissed or discharged from the service of an employer, the contributor is, subject to section 38B, entitled to receive from the Fund an amount equal to the sum of—

- (a) the amount that would have been payable if the contributor had elected to take the benefit of section 38; and
- (b) interest—
 - (i) compounded on 30 June each year in respect of the period beginning with the day on which the contributor first became liable to make contributions under this Act and ending with the day on which the contributor ceased to be employed by that employer; and
 - (ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subsection (5).

(4) If a contributor who has 10 years' contributory service or more is retrenched, resigns or is dismissed or discharged from the service of an employer, the contributor is, subject to section 38B, entitled to receive from the Fund an amount equal to the sum of—

- (a) the amount that would have been payable if the contributor had elected to take the benefit of section 38; and

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) interest—

- (i) compounded on 30 June each year in respect of the period beginning with the day on which the contributor first became liable to make contributions under this Act and ending with the day on which the contributor ceased to be employed by that employer; and
- (ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subsection (5); and

(c) a further amount calculated in accordance with the following formula:

$$\frac{T \times P}{40}$$

where—

“T” represents the amount referred to in paragraph (a), together with such amount as would have been the amount of interest calculated for the purpose of paragraph (b) if—

- (i) for any relevant period beginning on or after 1 July 1972, the prescribed rate had been 4.5 per cent per year; and
- (ii) for any relevant period before that date the prescribed rate had been 3.5 per cent per year; and

“P” represents the period of the contributor’s contributory service, expressed in years with any fractional part of a year being calculated on a daily basis.

(5) For the purposes of subsections (3) (b) and (4) (b), the formula is as follows:

$$\frac{A + B}{2}$$

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 SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

where—

“A” represents the total amount of contributions (excluding contributions refundable under section 15A (6) (b)) that the contributor had paid to the Fund from the beginning of the contributor’s contributory service to the beginning of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period; and

“B” represents the total amount of those contributions from the beginning of the contributor’s contributory service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period.

(28) Section 47B (**Employer subsidy not to be of greater benefit if service not continuous**)—

Section 47B (1) (a)—

Omit the paragraph, insert instead:

(a) a benefit payable in accordance with section 38A (3) or (4);
or

(29) Section 47F (**Employer contributions**)—

Omit the section.

(30) Section 52E (**Disability pension**)—

Section 52E (1A)—

After section 52E (1), insert:

(1A) For the purposes of subsection (1), a person shall not be regarded as having another benefit under this Division merely because the person has received an interim payment of a pension under this section.

(31) Section 52I (**Cash termination benefit**)—

Section 52I (2)—

Omit “30th June”, insert instead “31 March”.

(32) Section 52J (**Liability etc. of employers of persons preserving benefit**)—

Omit the section.

(33) Section 61J (**Additional payment by employers**)—

Omit the section.

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SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (34) Section 61Q (**Additional payments by employers**)—
Omit the section.
- (35) Section 90 (**Equation of payments**)—
Omit the section.
- (36) Section 94B—
After section 94A, insert:
Transitional and other provisions arising from the Superannuation (Amendment) Act 1988
94B. Schedule 22 has effect.
- (37) Schedules 8, 10—
Omit the Schedules.
- (38) Schedule 17 (**Transitional and other provisions arising from the Superannuation (Amendment) Act 1977**)—
Omit clause 9.
- (39) Schedule 18 (**Increases in certain pensions**)—
Omit clause 7.
- (40) Schedule 22—
After Schedule 21, insert:
SCHEDULE 22—TRANSITIONAL AND OTHER PROVISIONS ARISING FROM THE SUPERANNUATION (AMENDMENT) ACT 1988
(Sec. 94B)

State Superannuation Fund

1. The State Superannuation Fund established by section 4 (as in force on and after 1 July 1988) is the same fund as that established by that section (as in force immediately before that date).

Saving for contributor resuming employment after service as a member of Parliament

2. (1) Despite the repeal of section 11, a person who resigned from the Public Service in accordance with section 2 of the Constitution (Public Service) Amendment Act 1916 and became a member of the Legislative Council or the Legislative Assembly before that repeal took effect is entitled to elect to take the benefit of that section as if it had not been repealed.

(2) Section 11 (as in force on 30 June 1988) applies to a person who makes an election under subclause (1) as if that section had not been repealed by the Superannuation (Amendment) Act 1988.

*Superannuation (Amendment) 1988***SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT—**
*continued***Pensions on retirement**

3. Sections 26, 27 and 28A (as in force on 30 June 1988) continue to apply to a person who retired in accordance with this Act before that date as if those sections had not been repealed or replaced by the Superannuation (Amendment) Act 1988.

Certain persons to continue to be liable to make payments that were due under this Act before the commencement of the Superannuation (Amendment) Act 1988

4. If—

- (a) a provision of the Superannuation (Amendment) Act 1988 repeals or amends a provision of this Act; and
- (b) immediately before the commencement of the repealing or amending provision a person was liable to make a payment under the repealed or amended provision which has not been satisfied,

the liability continues despite the repeal or amendment.

Equation of payments

5. Any agreement entered into under section 90 and in force immediately before 1 July 1988 continues in force as if that section had not been repealed by the Superannuation (Amendment) Act 1988.

Savings with respect to entitlements arising under enactments repealed by the Superannuation (Amendment) Act 1988

6. Any person who was entitled to receive a pension or other benefit before 1 July 1988 by virtue of, or partly by virtue of, a provision of an Act (including this Act) repealed or amended by the Superannuation (Amendment) Act 1988 continues to be entitled to receive that pension or benefit as if the last-mentioned Act had not been enacted.

Regulations

7. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the Superannuation (Amendment) Act 1988.

(2) Any such provision may, if the regulations so provide, take effect from and including 1 July 1988 or a later day.

(3) To the extent to which any such provision 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.

SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL ACT

(Sec. 4)

- (1) Section 3 (**Definitions**)—
- (a) Section 3 (1)—
Omit the definition of “Department”.
- (b) Section 3 (1)—
Omit the definition of “Employer”, insert instead:
“Employer” means—
- (a) the Crown, the Government or a Minister of the Crown;
or
- (b) an authority listed in Schedule 3; or
- (c) an authority to which section 3B (4) applies,
and a reference to employment with an employer includes a
reference to employment with successive employers.
- (c) Section 3 (5)—
Omit the subsection.
- (2) Sections 3B, 3C—
After section 3A, insert in Part 1:
- Certain persons to be regarded as employers for the purposes of this Act**
- 3B. (1) An employee of the Crown, the Government or a Minister of the Crown shall, for the purposes of this Act, be treated as being employed by such person or organisation as may be specified in the regulations.
- (2) A person appointed by the Coal Industry Tribunal to be a Local Coal Authority in New South Wales shall, for the purposes of this Act, be treated as being employed by the Joint Coal Board while holding office as such an Authority.
- (3) Members of the Police Force shall, for the purposes of this Act, be treated as being employed by the Commissioner of Police.
- (4) Where, immediately before the commencement of Schedule 2 (33) to the Superannuation (Amendment) Act 1988, an authority was the employer of a contributor or contributors for the purposes of this Act, but the authority is not listed in Schedule 3 to this Act (List of Employers), as in force after that commencement, that authority nevertheless continues to be an employer for those purposes but in respect of that contributor or those contributors only.
- References to employers etc.**
- 3C. (1) A reference in this Act to an authority, where used in or in connection with the definition of “employer”, is a reference to an authority, organisation, corporation, person or other entity.

Superannuation (Amendment) 1988

SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*

(2) If the inclusion of an employer's name in Schedule 3 is expressed to be limited in any respect, this Act has effect in relation to the employer subject to the limitation.

(3) Section 10AN—

After section 10AM, insert as part of Division 7 of Part 3:

Transfer of credits between employers of transferred contributors

10AN. Whenever—

- (a) a contributor ceases to be employed by an employer and becomes employed by another employer; and
- (b) the contributor continues to be a contributor under this Act,

the Board must, as soon as practicable after the contributor begins the later employment—

- (c) debit the employer reserve of the former employer with the actuarially calculated transfer value referable to the contributor; and
- (d) credit the employer reserve of the new employer with that value.

(4) Section 15A (**Reserve units**)—

(a) Section 15A (6) (c)—

Omit the paragraph.

(b) Section 15A (6A)—

Before section 15A (7), insert:

(6A) For the purposes of subsection (6), a reference to the specified rate is—

- (a) if the rate relates to a period before the commencement of Schedule 2 (4) to the Superannuation (Amendment) Act 1988—6.5 per cent per annum or, where the Minister by order published in the Gazette had specified some other rate for the purposes of subsection (6) (c) (as in force before that commencement), that other rate; or
- (b) if the rate relates to a period after that commencement—such rate as the Board has fixed from time to time under section 86A for the purposes of this section.

(c) Section 15A (8)—

Omit the subsection.

Superannuation (Amendment) 1988

 SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (5) Section 17^{CB} (**Payments by employers where whole of pension commuted**)—
Omit the section.
- (6) Section 21^E—
Omit the section, insert instead:
Interest to be paid on commuted amounts
21^E. Whenever a lump sum is payable under section 21^A, 21^B or 21^C on or after the commencement of Schedule 2 (6) to the Superannuation (Amendment) Act 1988, interest at the rate currently fixed under section 86^A for the purposes of this section (less any deduction for money due to the Fund) is payable from the Fund in respect of the period beginning with the date on which the lump sum becomes payable and ending with the date when it is authorised to be paid.
- (7) Section 27 (**Amount of pension payable on retirement**)—
Section 27 (3)—
After section 27 (2), insert:
(3) If the Board has made a determination under section 61^{RA} or 61^{RB} in respect of a pension payable under this section, the amount of the pension is reduced by the amount specified in the Board's determination.
- (8) Section 28^A (**Pension on retirement before reaching 60 years of age**)—
Section 28^A (9)—
After 28^A (8), insert:
(9) If the Board has made a determination under section 61^{RA} or 61^{RB} in respect of a pension payable under this section, the amount of the pension is reduced by the amount specified in the Board's determination.
- (9) Section 28^{AA} (**Pension on retirement before age 60—component pension**)—
Section 28^{AA} (5A)—
After section 28^{AA} (5), insert:
(5A) If the Board has made a determination under section 61^{RA} or 61^{RB} in respect of a pension payable under subsection (3), the amount of that pension is reduced by the amount specified in the Board's determination.

Superannuation (Amendment) 1988

**SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*****(10) Section 29 (Breakdown pensions)—**

Section 29 (2AA)—

After section 29 (2), insert:

(2AA) If the Board has made a determination under section 61RA or 61RB in respect of a pension payable under subsection (2), the amount of the pension is reduced by the amount specified in the Board's determination.

(11) Section 37 (Retrenchment benefits payable to an employee who is retrenched after completing 10 years' service)—

Section 37 (4A)—

After section 37 (4), insert:

(4A) If the Board has made a determination under section 61RA or 61RB in respect of a benefit payable under this section, the amount of the benefit is reduced by the amount specified in the Board's determination.

(12) Section 37A (Retrenchment benefits payable to contributors having not less than 3 years' contributory service)—

Section 37A (10A)—

After section 37A (10), insert:

(10A) If the Board has made a determination under section 61RA or 61RB in respect of a benefit payable under this section, the amount of the benefit is reduced by the amount specified in the Board's determination.

(13) Section 38A (Withdrawal benefit)—

Section 38A (6)—

After section 38A (5), insert:

(6) If the Board has made a determination under section 61RA or 61RB in respect of a benefit payable under this section, the amount of the benefit is reduced by the amount specified in the Board's determination.

(14) Section 38C (Break in service may be cured on certain conditions)—

Section 38C (1)—

Omit the subsection, insert instead:

(1) In this section, a reference to the prescribed rate is a reference to the rate of interest for the time being fixed by the Board under section 86A for the purposes of this section.

SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*

- (15) Section 47D (**Benefits payable in respect of reduced value units**)—
Section 47D (8)—
After section 47D (7), insert:
(8) If the Board has made a determination under section 61RA or 61RB in relation to a pension payable in respect of reduced value units, the amount of the pension is reduced by the amount specified in the Board's determination.
- (16) Section 52A (**Calculation of preserved pension components**)—
Section 52A (6)—
After section 52A (5), insert:
(6) If the Board has made a determination under section 61RA or 61RB in respect of a pension payable under this Division, the amount of the pension is reduced by the amount specified in the Board's determination.
- (17) Section 52IA—
After section 52I, insert:
Effect of contributor becoming a contributor to another scheme while employed by the same employer
52IA. 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 Division (section 52I excepted) despite anything to the contrary in this Division; and
(b) shall be regarded as having elected 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 section 52I while employed by that same employer.
- (18) Section 61 (**Surrender of policies**)—
(a) Section 61 (1)—
Omit "per centum per annum" wherever occurring.
(b) Section 61 (2)—
Omit the subsection, insert instead:
(2) In this section, a reference to the prescribed rate is a reference to the rate of interest for the time being fixed by the Board under section 86A for the purposes of this section.

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 SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
 ACT—*continued*
(19) Section 61A (**Surrender of policies generally**)—

(a) Section 61A (4), (5)—

Omit “per centum per annum” wherever occurring.

(b) Section 61A (6)—

Omit the subsection, insert instead:

(6) In this section, a reference to the prescribed rate is a reference to the rate of interest for the time being fixed by the Board under section 86A for the purposes of this section.

(20) Section 61M (**Children’s pensions**)—

Section 61M (4)—

After section 61M (3), insert:

(4) If the Board has made a determination under section 61RA or 61RB in respect of a pension under this section, the amount of the pension is reduced by the amount specified in the Board’s determination.

(21) Section 61N (**Orphans’ pensions**)—

Section 61N (4)—

After section 61N (3), insert:

(4) If the Board has made a determination under section 61RA or 61RB in respect of a pension under this section, the amount of the pension is reduced by the amount specified in the Board’s determination.

(22) Section 61U (**Interest**)—

Omit the section.

(23) Part 4, Division 7A—

After Division 7, insert:

Division 7A—Circumstances in which benefits may be reduced
Power of the Board to reduce pensions and other benefits to offset
certain tax liabilities of the Fund

61RA. (1) Whenever—

- (a) a right to a benefit under this Act accrues to or in respect of a contributor or former contributor; and
- (b) the Board has paid or is liable to pay income tax under a Commonwealth taxation law in respect of employers’ contributions to the Fund; and

SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*

- (c) a portion of that tax is referable to the employer-financed portion of that benefit,

the Board must, subject to subsection (2)—

- (d) calculate the amount necessary to offset the Board's liability to pay tax so far as it is referable to the employer-financed portion of that benefit; and
- (e) accordingly make a determination reducing the benefit by the amount so assessed.

(2) Subsection (1) does not authorise the reduction of a benefit under this Act, unless—

- (a) the benefit is of a kind prescribed by the regulations for the purpose of this section; and
- (b) the method of calculating the reduction is so prescribed; and
- (c) the reduction is calculated according to that method.

(24) Section 61RB—

At the end of Division 7A of Part 4, insert:

Power of the Board to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation

61RB. (1) If—

- (a) the payment of a benefit under this Act to or in respect of a contributor would cause the Board or the Fund to be in breach of a prescribed Commonwealth occupational superannuation standard because—
- (i) the amount of the benefit; or
- (ii) the amount of the benefit, together with the amounts of any other benefits that have already been paid, or that are or may become payable, to or in respect of the contributor from the Fund or under one or more other superannuation schemes,

would, if paid, exceed the relevant level specified in that standard; and

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 SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
 ACT—*continued*

(b) such a breach would cause the Board or the Fund to be liable to a penalty under a Commonwealth taxation law, the Board may make a determination reducing the amount of the benefit by such amount (but no more) as will ensure that neither the Board nor the Fund is in breach of that standard.

(2) In subsection (1)—

- (a) a reference to a Commonwealth occupational superannuation standard is a reference to a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth; and
- (b) a reference to a benefit is a reference to the benefit after reducing the benefit in accordance with section 61RA where appropriate; and
- (c) a reference to a penalty under a Commonwealth taxation law includes a reference to (but is not limited to)—
 - (i) a penalty rate of taxation under that law; and
 - (ii) the loss of a concessional rate of taxation under that law; and
- (d) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by an Act) under or from which any superannuation or retirement benefits are provided.

(25) Section 64—

Omit the section, insert instead:

Interest on voluntary savings

64. (1) The Board must ensure that money paid to the Fund under this Part is credited to the person by or on whose behalf the money was paid.

(2) Interest at the prescribed rate is payable in respect of the minimum balance in each month of money referred to in subsection (1), compounded annually.

(3) In subsection (2), a reference to the prescribed rate is a reference to the prescribed rate of interest for the time being fixed by the Board under section 86A for the purposes of this section.

SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*

(26) Section 86A—

After section 86, insert:

Board empowered to fix interest rates for the purposes of this Act

86A. (1) Whenever the Board considers it necessary to do so, the Board may, by resolution, fix a rate of interest for the purposes of section 15A, 21E, 38C, 61, 61A, 64 or 91A.

(2) A rate fixed under subsection (1) for the purposes of section 38C, 61, 61A or 91A has effect on and from—

- (a) the date on which the resolution of the Board fixing the rate is made; or
- (b) if a later date is specified in the resolution, that later date.

(3) A rate fixed under subsection (1) for the purposes of section 15A, 21E or 64 has effect on and from—

- (a) such date as is specified in the resolution of the Board fixing the rate (whether that date is before or after the date of the resolution); or
- (b) if no such date is specified in the resolution, the date on which the resolution is made.

(4) Subject to this section, the Board has power, and shall be regarded as always having had power, when paying a benefit under this Act, to pay interest at such rates, for such periods and in such circumstances as in its absolute discretion it thinks appropriate.

(5) The Board may fix different rates for the provisions mentioned in subsection (1).

(27) Section 91A—

Omit the section, insert instead:

Recovery of money payable to the Board

91A. (1) If an employee or pensioner, widow or widower of a deceased employee or pensioner, or an employer or any other person owes money to the Fund, the Board may recover that money, together with interest as provided by subsection (2), by deducting it—

- (a) in the case of money owed by an employee or pensioner—
 - from amounts payable from the Fund—
 - (i) to the employee or pensioner; or
 - (ii) to the widow or widower of the employee or pensioner; or

Superannuation (Amendment) 1988

SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*

- (iii) to the personal representatives of the employee or pensioner; or
 - (iv) in respect of the children of the employee or pensioner or of the widow or widower of the employee or pensioner; or
 - (b) in the case of money owed by the widow or widower of a deceased employee or pensioner—from amounts payable from the Fund—
 - (i) to that widow or widower; or
 - (ii) to the personal representatives of that widow or widower; or
 - (iii) in respect of the children of that widow or widower or the children of the deceased employee or pensioner; or
 - (c) in the case of money owed by an employer—from any amounts in the Fund credited to that employer; or
 - (d) in the case of money owed by any other person—from any amounts payable from the Fund to or in respect of that other person or to the personal representatives of that other person.
- (2) Interest at the rate for the time being fixed by the Board under section 86A for the purposes of this section is payable—
- (a) in respect of any amount that is owed to the Fund—
 - (i) by an employee or pensioner; or
 - (ii) by the widow of a deceased employee or pensioner; or
 - (b) in respect of any amount owed to the Fund by an employer in respect of a contributor or former contributor,
- calculated from the date on which the amount owing became due for payment to the date on which the Board receives the amount.
- (3) The Board may, in such special circumstances as it may determine and in a particular case, waive payment of interest or any part of any interest that is payable under subsection (2).
- (4) The reference in subsection (2) (a) to an amount that is owed to the Fund includes a reference to a contribution, whether the Board has allowed payment of the contribution to be deferred or not.
- (5) The Board may recover in a court of competent jurisdiction as a debt owing to the Board any money owing to the Fund, together with any interest that is payable on that money.

SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*

(28) Section 92 (Extension of Act)—

Omit the section, insert instead:

Power to amend Schedule 3 (List of Employers)

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

- (a) amend Schedule 3 by inserting the name of an organisation or corporation or a description of a class of organisations or corporations, or by transferring such a name or description from one Part of that Schedule to another Part; or
 - (b) amend Schedule 3 by omitting the name of an employer that has changed its name and inserting instead the new name of the employer; or
 - (c) amend Schedule 3 by omitting the name of an employer that has ceased to exist but has been replaced as an employer by another organisation or corporation and by inserting instead the name of that other organisation or corporation; or
 - (d) amend Schedule 3 by omitting the name of an employer that has ceased to exist and has not been so replaced; or
 - (e) amend Schedule 3 by adding a Part for the purposes of paragraph (a).
- (2) An order under subsection (1), and any other order revoking or varying such an order, may be made—
- (a) to take effect on and from a day specified in the order, whether or not the day specified is earlier than the day of publication of the order; and
 - (b) to effect the amendment to which it relates with such limitations as are specified in the amendment, being limitations that do not operate to the prejudice of an existing contributor.

(29) Section 92AA—

After section 92, insert:

Transfer of contributors as a result of Government initiatives etc.

92AA. Schedule 23 has effect.

(30) Section 92A (Terms and conditions relating to participants in other schemes)—

Omit the section.

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SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—*continued*

(31) Section 93—

Omit the section, insert instead:

Members of authorities not to be liable to be compulsorily retired on attaining 60 years of age

93. Section 21 (2) does not apply to a member of an authority listed in Schedule 3 or of an authority to which section 3B (4) applies.

(32) Section 94 (**Superannuation allowance while in employment of State**)—

Omit the section.

(33) Schedule 3—

Omit the Schedule, insert instead:

SCHEDULE 3—LIST OF EMPLOYERS

(Secs. 3, 10AJ, 92)

PART 1—THE CROWN AND OTHER EMPLOYERS

A Government Department or Administrative Office
 Commissioner of Police
 Health Administration Corporation
 State Bank of New South Wales
 The Maritime Services Board of New South Wales
 Water Administration Ministerial Corporation
 Water Board
 The Hunter District Water Board
 Board of Fire Commissioners of New South Wales
 Western Lands Commissioner
 Australian Museum Trust
 The Commissioner for Main Roads
 The Electricity Commission of New South Wales
 Grain Handling Authority of New South Wales
 State Authorities Superannuation Board
 New South Wales Investment Corporation
 New South Wales Treasury Corporation
 Judicial Commission of New South Wales
 Bathurst-Orange Development Corporation
 The Broken Hill Water Board
 Building Services Corporation
 The Commissioner for Motor Transport
 Fish Marketing Authority
 Government Insurance Office of New South Wales
 Greyhound Racing Control Board
 Harness Racing Authority of New South Wales
 Homebush Abattoir Corporation
 Metropolitan Waste Disposal Authority
 New South Wales Film and Television Office
 New South Wales Meat Industry Authority

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**SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL
ACT—continued**

State Rail Authority of New South Wales
 Sydney Cove Redevelopment Authority
 Sydney Market Authority
 Traffic Authority of New South Wales
 Urban Transit Authority of New South Wales
 The University of Sydney
 The University of New England
 The University of New South Wales
 The Macquarie University
 The University of Newcastle
 The University of Wollongong
 University of Technology, Sydney
 Mitchell College of Advanced Education
 Northern Rivers College of Advanced Education
 Hunter Institute of Higher Education
 Cumberland College of Health Sciences
 Kuring-gai College of Advanced Education
 Nepean College of Advanced Education
 Riverina-Murray Institute of Higher Education
 Macarthur Institute of Higher Education
 Armidale College of Advanced Education
 Sydney College of Advanced Education
 New South Wales Institute of the Arts
 Hawkesbury Agricultural College
 Orange Agricultural College
 The New South Wales Teachers' Federation
 Public Service Association of New South Wales
 Joint Coal Board
 The Murray-Darling Basin Commission—in respect of persons who were
 contributing to the Fund immediately before becoming officers of the River
 Murray Commission and in respect of whom provision is made by the River
 Murray Commission for superannuation in accordance with this Act
 Forestry Commission of New South Wales
 Government Printing Office
 Public Trust Office
 State Compensation Board
 State Lotteries Office
 Trustees of state recreation areas
 The Sydney Opera House Trust
 United Dental Hospital
 Wentworth Park Trust

PART 2—LOCAL GOVERNMENT AND OTHER AUTHORITIES**PART 3—HOSPITALS AND OTHER BODIES**

An incorporated hospital specified in the Second Schedule to the Public
 Hospitals Act 1929
 A separate institution specified in the Third Schedule to the Public Hospitals
 Act 1929
 An associated organisation specified in the Fourth Schedule to the Public
 Hospitals Act 1929

*Superannuation (Amendment) 1988***SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued***

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

(34) Schedule 17 (Transitional and other provisions arising from the Superannuation (Amendment) Act 1977)—

Clause 5 (3)—

After “section 92A”, insert “(as in force before the commencement of Schedule 2 (30) to the Superannuation (Amendment) Act 1988)”.

(35) Schedule 22 (Transitional and other provisions arising from the Superannuation (Amendment) Act 1988)—

After clause 7, insert:

Terms and conditions relating to participants in other schemes

8. If section 92A (as in force immediately before the commencement of Schedule 2 (30) to the Superannuation (Amendment) Act 1988) was applicable to a person before that date, that section and any terms and conditions determined under that section with respect to the person continue to apply to the person as if that section had not been repealed by that Act.

(36) Schedule 23—

After Schedule 22, insert:

**SCHEDULE 23—SPECIAL PROVISIONS FOR
PRESERVING BENEFITS OF CERTAIN
CONTRIBUTORS**

(Sec. 92AA)

Contributors to whom this Schedule applies

1. (1) This Schedule applies—

(a) to contributors—

(i) who are employed in an area of an employer’s activities that is, or is to be, transferred to another employer who is not, in respect of the contributor, an employer under this Act; and

(ii) who have elected or are required to transfer to the employment of that other employer; and

(iii) whose transfer of employment is declared by the regulations to be a transfer of employment to which this Schedule applies; and

(b) to contributors—

(i) who, while remaining with their existing employer, have elected or are required to become contributors to another superannuation scheme; and

(ii) whose transfer to that scheme is declared by the regulations to be a transfer of superannuation coverage to which this Schedule applies.

(2) The regulations may—

(a) for the purposes of subclause (1) (a) (iii), declare that the transfer of

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SCHEDULE 2—FURTHER AMENDMENTS TO THE PRINCIPAL ACT—*continued*

employment of any specified contributors or former contributors is a transfer of employment to which this Schedule applies; or

- (b) for the purposes of subclause (1) (b) (ii), declare that the transfer of any specified contributors or former contributors to another superannuation scheme is a transfer of superannuation coverage to which this Schedule applies.

but only if the Minister has certified that the transfer of employment or, as the case may be, the transfer of superannuation coverage is a consequence of a Government initiative.

Contributors to whom this Schedule applies to be entitled to make provision for a preserved benefit despite having less than 3 years' service

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

Contributors to whom this Schedule applies to be entitled to immediate payment of preserved benefit (including employer-financed component)

3. (1) A contributor to whom this Schedule applies and who elects to make provision for a preserved benefit is entitled to be paid the actuarially calculated lump sum value of the benefit provided by Division 3A of Part 4 on ceasing to be a contributor, despite anything to the contrary in that Division.

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

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

Regulations

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

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

(2) Any such regulation may, if it so provides, take effect from the date of assent to the Superannuation (Amendment) Act 1988 or a later day.

(3) To the extent to which any such regulation takes effect from a date that is earlier than the date of its publication in the Gazette, the regulation 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.

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SCHEDULE 3—REPEAL OF ACTS RELATING TO SUPERANNUATION

(Sec. 5)

Superannuation (Amendment) Act 1930 No. 31
Superannuation (Amendment) Act 1951 No. 53
Superannuation (Amendment) Act 1955 No. 6
Superannuation (Amendment) Act 1960 No. 36
Superannuation (Amendment) Act 1963 No. 3
Superannuation (Amendment) Act 1965 No. 30
Superannuation (Amendment) Act 1970 No. 7
Superannuation (Amendment) Act 1971 No. 7
Superannuation (Amendment) Act 1974 No. 44
Superannuation (Amendment) Act 1976 No. 101
Superannuation (Amendment) Act 1977 No. 137

*[Minister's second reading speech made in—
Legislative Assembly on 29 November 1988
Legislative Council on 13 December 1988]*
