

**SUPERANNUATION LEGISLATION (AMENDMENT)
ACT 1992 No. 35**

NEW SOUTH WALES



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**SUPERANNUATION LEGISLATION (AMENDMENT)
ACT 1992 No. 35**

NEW SOUTH WALES



Act No. 35, 1992

An Act to amend various Acts relating to superannuation in order to comply with the Occupational Superannuation Standards Act 1987 of the Commonwealth; to make other amendments to various Acts relating to superannuation; and for other purposes. [Assented to 18 May 1992]

Superannuation Legislation (Amendment) Act 1992 No. 35

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Superannuation Legislation (Amendment) Act 1992.

Commencement

2. A provision of a Schedule to this Act commences, or is taken to have commenced, as provided in the Schedule. The other provisions of this Act commence on the date of assent.

Amendment of Acts

3. The Acts specified in Schedules 1–3 are amended as set out in those Schedules.

Explanatory notes

4. The matter appearing under the heading “Explanatory note” in the Schedules does not form part of this Act.

**SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION**

(Sec. 3)

**COAL AND OIL SHALE MINE WORKERS
(SUPERANNUATION) ACT 1941 No. 45**

Amendments

- (1) Section 10 (**Pension payable to dependants**):
From section 10 (1B), omit “general scope and”.
- (2) Section 14B (**Prescribed amount for purposes of sections 14A and 14AA**):
From section 14B (5A) (b), omit “anticipated”, insert instead “accrued”.
- (3) Section 19O (**Investment of Fund**):
 - (a) After “discretion” in section 19O (1), insert “but subject to subsection (3)”.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

(b) After section 19O (2), insert:

(3) The Tribunal must not, from the assets of the Fund or in obtaining financial accommodation:

- (a) lend money to a contributor for, or to a person entitled to or receiving, a benefit under this Act, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the Fund; or
- (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance; or
- (c) invest any of the assets of the Fund otherwise than on an arms-length basis, unless it is an investment in an in-house asset within the meaning of regulation 16A of the Occupational Superannuation Standards Regulations of the Commonwealth.

Commencement

These amendments to the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 are taken to have commenced on 1 July 1990.

Explanatory note

Item (1) makes an amendment designed to ensure that the provisions relating to widows' pensions comply with the relevant Commonwealth occupational superannuation standards.

Item (2) makes an amendment designed to ensure that variations of the rate for lump sum benefit payments comply with the relevant Commonwealth occupational superannuation standards.

Item (3) imposes restrictions (required by the Commonwealth occupational superannuation standards) on the borrowing of money by the Coal and Oil Shale Mine Workers' Superannuation Tribunal and the lending and other investment by the Tribunal of the assets of the Coal and Oil Shale Mine Workers Superannuation Fund

**PARLIAMENTARY CONTRIBUTORY SUPERANNUATION
ACT 1971 No. 53**

Amendments

Section 7 (**Financial accommodation and investment**):

After section 7 (3), insert:

(4) The trustees must not, from the assets of the Fund or in obtaining financial accommodation:

**SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued***

- (a) lend money to a contributor for, or to a person entitled to or receiving, a benefit under this Act, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the Fund; or
- (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance; or
- (c) invest any of the assets of the Fund otherwise than on an arms-length basis, unless it is an investment in an in-house asset within the meaning of regulation 16A of the Occupational Superannuation Standards Regulations of the Commonwealth.

(5) The trustees are taken to have complied with subsection (4) from 1 July 1990 to the commencement of that subsection.

Commencement

This amendment to the Parliamentary Contributory Superannuation Act 1971 is taken to have commenced on 1 October 1991 which is the date of commencement of the amendment which replaced the former section 7.

Explanatory note

This amendment imposes restrictions (required by the Commonwealth occupational superannuation standards) on the borrowing of money by the trustees of the Parliamentary Contributory Superannuation Fund and the lending and other investment by the trustees of the assets of the Fund

**POLICE ASSOCIATION EMPLOYEES (SUPERANNUATION)
ACT 1969 No. 33****Amendments**

Section 3 (Employees of Association transferring from police service):

- (a) Omit section 3 (3).
- (b) From section 3 (5) (a) (ii), omit “(2) (a)”, insert instead “(2AA) (a)”.
- (c) From section 3 (5) (a), omit “but”, insert instead “with the addition of interest on those amounts”.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (d) Omit section 3 (5) (a) (iii) and (iv), insert instead:
- (iii) at the rate of 4.5 per cent per annum, compounded on 30 June in each year of service of the prescribed person as an employee of the Association, and as a member of the police force, during the period beginning with 23 November 1984 and ending with 30 June 1990 and also compounded on the date of the resignation or discharge (but not dismissal) of the prescribed person from employment by the Association if it occurred during that period; and
 - (iv) at the rate from time to time fixed by the Board under section 16 (1) of the State Authorities Superannuation Act 1987, compounded on 30 June in each year of the service of the prescribed person as an employee of the Association, and as a member of the police force, from and including 1 July 1990 and also compounded on the date of the resignation, discharge or dismissal of the prescribed person from employment by the Association if it occurred on or after 1 July 1990; and

Commencement

These amendments to the Police Association Employees (Superannuation) Act 1969 commence on 1 July 1992.

Explanatory note

Item (1) makes an amendment to comply with the Commonwealth occupational superannuation standards relating to contributions and benefits after age 60.

Item (2) corrects a cross-reference.

Item (3) brings the Police Association Employees (Superannuation) Act 1969 into conformity with the Police Regulation (Superannuation) Act 1906 in relation to the payment of interest on certain lump sum benefits.

Item (4) replaces subparagraphs (iii) and (iv) of the present section 3 (5) (a).

The substituted subparagraph (iii) removes the requirement for at least 5 years service before interest becomes payable on contributions refunded on the resignation or discharge of an employee of the Police Association.

The substituted subparagraph (iv) requires the rate of interest after 30 June 1990 on those refunded contributions to be the same as the rate payable in similar circumstances under the Police Regulation (Superannuation) Act 1906.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*
POLICE REGULATION (SUPERANNUATION) ACT 1906
No. 28

Amendments

(1) Section 5 (**Contributions to Fund**):

Omit section 5 (3), insert instead:

(3) A member of the Police Service who is a contributor, or an employee of the Police Association of New South Wales who is a contributor, is a qualified person for the purposes of this section if the member or employee:

- (a) is under 65 years of age and was under 60 years of age on 30 June 1990; or
- (b) unless paragraph (a) applies, is aged 60 or more but is not aged 70 or more.

(2) Section 9B (**Preserved benefit**):

Omit section 9B (3), insert instead:

(3) The benefit provided by subsection (6) or (6AA), or by section 14M (1) (b), is payable by the Board from the Fund:

- (a) when the former member:
 - (i) has benefits preserved in the Fund under subsection (6) or (6AA) and has attained the age of 55 years; or
 - (ii) has benefits preserved in the Fund under section 14M (1) (b),
and makes an application in writing for payment of the benefit; or
- (b) if the former member dies without making such an application; or
- (c) if it is a benefit provided by subsection (6) or (6AA)—
on the Board being satisfied that the former member is incapable, from an infirmity of body or mind, of being employed in any remunerative occupation in which, in the opinion of the Board, it would otherwise be reasonable to expect the former member to engage; or
- (d) on the Board being satisfied that the former member has attained the age of 65 years and is employed for less than 10 hours a week; or

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (e) on the Board being satisfied that the former member has attained the age of 70 years and is employed for more than 10 but less than 30 hours a week; or
- (f) on the Board being satisfied that the former member has retired from the work force.

(3) Part 4, Division 4:

After section 14L, insert:

Division 4—Age termination benefit

Benefit on attaining 65

14M. (1) A contributor who was under the age of 60 years on 1 July 1990 and has attained the age of 65 years must be paid any superannuation allowance to which the person is entitled under section 7 but:

- (a) may elect under section 14J to commute the whole of the allowance to a lump sum; and
- (b) if such an election is made, may also elect to preserve the lump sum in the Fund.

(2) Interest is payable, at the rate from time to time fixed by the Board under section 16 (1) of the State Authorities Superannuation Act 1987, on an amount preserved in the Fund under this section.

(3) The provisions of section 9B (3), (4), (6A), (6AA) and (10)–(14) apply to a lump sum benefit preserved under this section.

(4) If on 1 July 1990 a contributor was aged 60 or more, this section applies to the contributor as if the reference in subsection (1) to the age of 65 years were a reference to an age of 70 years.

(5) A contributor to whom this section applies is not entitled to any other benefit under this Act.

Commencement

These amendments to the Police Regulation (Superannuation) Act 1906 commence on 1 July 1992.

Explanatory note

Items (1) and (2) provide for the circumstances in which the Board is required to pay out benefits that have been allowed to remain in the Police Superannuation Fund.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

Item (3) inserts new section 14M as Division 4 of Part 4. Section 14M requires a contributor who is at least 65 years of age to be paid any pension to which the contributor is entitled, but the pension may be commuted to a lump sum with the option of preserving the lump sum in the Police Superannuation Fund to earn interest.

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT
1989 No. 106**

Amendments

(1) Section 16 (**Financial accommodation and investment**):

At the end of the section, insert:

(2) The Board must not, from the assets of the Fund or in obtaining financial accommodation:

- (a) lend money to a contributor for, or to a person entitled to or receiving, a benefit under this Act, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the Fund; or
- (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance; or
- (c) invest any of the assets of the Fund otherwise than on an arms-length basis, unless it is an investment in an in-house asset within the meaning of regulation 16A of the Occupational Superannuation Standards Regulations of the Commonwealth.

(2) Section 43 (**Liability of employee to contribute**):

After section 43 (1), insert:

(1A) An employee is not entitled to contribute to the Fund, and the Board is not to accept a contribution to the Fund offered by an employee, unless the employee:

- (a) is under 65 years of age and was under 60 years of age on 1 July 1990; or
- (b) is not aged 70 or more but was aged 60 or more on 1 July 1990.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (3) Section 44 (**Liability of employer to contribute**):
 After section 44 (2), insert:
 (3) An employer is not to contribute to the Fund in relation to an employee, and the Board is not to accept a contribution to the Fund offered by an employer in relation to an employee, unless the employee:
 (a) is under 65 years of age and was under 60 years of age on 1 July 1990; or
 (b) is not aged 70 or more but was aged 60 or more on 1 July 1990.
- (4) Section 47 (**Benefit at or after early retirement**):
 (a) Omit section 47 (1), insert instead:
 (1) The benefit provided by this section must be paid to a member by the Board:
 (a) when the member retires from employment with an employer on or after attaining the early retirement age and before attaining the age of 65; or
 (b) when the member attains the age of 65, if the member was under 60 years of age on 30 June 1990; or
 (c) in any other case, when the member attains the age of 70.
 (b) After section 47 (3), insert:
 (4) A member required to have a benefit paid under this section may elect to have preserved in the Fund an amount equal to the amount of the benefit, together with interest on the amount from the exit date to the date of payment at a rate determined by the Board.
- (5) Section 51 (**Preserved benefit—employer-financed contributions**):
 (a) After “(3)” in section 51 (4), insert “or section 47 (4)”.
 (b) After “age” in section 51 (4) (a), insert “and requests that payment be made”.
 (c) Omit section 51 (4) (b), insert instead:
 (b) if the member dies; or
 (d) Before “on” in section 51 (4) (c), insert “unless it is a benefit preserved under section 47 (4),”.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

(e) Omit section 51 (4) (d), insert instead:

- (d) if the Board is satisfied that the member has permanently departed from Australia; or
- (e) if the Board is satisfied that the former member is at least 65 years of age and is employed for less than 10 hours a week; or
- (f) if the Board is satisfied that the former member is at least 70 years of age and is employed for more than 10, but less than 30, hours a week; or
- (g) if the Board is satisfied that the former member has retired from the work force; or
- (h) in other prescribed circumstances.

(6) Section 52 (**Preserved benefit—member-financed contributions**):

Omit section 52 (5), insert instead:

(5) Except as provided by subsections (6) and (7), the benefit provided by subsection (4) is payable:

- (a) if the member elects to take the benefit and the election takes effect before the member attains the age of 65; or
- (b) on the member attaining the age of 65.

(6) If, on or after 1 July 1990, a member elects not to have employer-financed contributions made to the Fund, there is payable by the Board as provided by subsection (7) a benefit comprising so much of the amount at credit in the member's account at the member's exit date as arises directly or indirectly from contributions paid after 30 June 1990 by the member for any period during which employer-financed contributions were not also being made, together with interest on that amount calculated from the exit date to the date of payment at a rate determined by the Board.

(7) The benefit provided by subsection (6) is payable by the Board in circumstances the same as those set out in section 51 (4).

Commencement

Items (1)–(5) of the amendments to the Public Sector Executives Superannuation Act 1989 commence on 1 July 1992.

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SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

Item (6) of the amendments to the Public Sector Executives Superannuation Act 1989 is taken to have commenced on 1 July 1990.

Explanatory note

Item (1) imposes restrictions (required by the Commonwealth occupational superannuation standards) on the borrowing of money by the Public Sector Executives Superannuation Board and the lending and other investment by the Board of the assets of the Public Sector Executives Superannuation Fund.

Item (2) prohibits contributions to the Fund by a member who is aged 65 or more and was under 60 on 30 June 1990. It also prohibits contributions by a member who was aged 60 or more on 1 July 1990 but is over 70.

Item (3) prohibits contributions by an employer in relation to a member prohibited from contributing to the Fund.

Items (4), (5) and (6) make amendments setting out certain circumstances in which benefits (including preserved benefits) must be paid to a member. These include payment no later than the attainment by the member of the age of 65 or, in certain circumstances, the age of 70.

**STATE AUTHORITIES NON-CONTRIBUTORY
SUPERANNUATION ACT 1987 No. 212**

Amendments

(1) Section 3 (**Definitions**):

Insert in section 3 (1), in alphabetical order, the following definitions:

“**approved deposit fund**” has the same meaning as it has in the Occupational Superannuation Standards Regulations of the Commonwealth;

“**deferred annuity**” means a deferred annuity to which regulation 11 of the Occupational Superannuation Standards Regulations of the Commonwealth applies;

“**superannuation fund**” has the same meaning as it has in the Occupational Superannuation Standards Act 1987 of the Commonwealth;

(2) Section 22 (**Basic benefit**):

After section 22 (4), insert:

(5) For the purpose of determining the amount of a basic benefit provided by section 24 that becomes payable in respect of a person within 12 months after the person:

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (a) has been appointed as a chief executive officer, senior executive officer or police executive officer; or
- (b) has been nominated as an office holder for the purposes of section 11A of the Statutory and Other Officers Remuneration Act 1975,

the person's salary is taken to be his or her salary as an employee immediately before the appointment or nomination took effect.

(3) Section 23:

Omit the section, insert instead:

Benefit immediately payable

23. (1) The basic benefit in respect of a person is payable by the Board on the death of the person or if the person has ceased to be an employee and:

- (a) the person has attained the age of 55 years and has retired from the work force; or
- (b) the Board is satisfied that, although the person has not attained the age of 55 years, he or she has ceased to be an employee due, directly or indirectly, to his or her permanent physical or mental incapacity; or
- (c) the Board is satisfied that the person is to depart from Australia permanently; or
- (d) the person has requested the Board to pay the benefit:
 - (i) to an approved deposit fund or another superannuation fund; or
 - (ii) by purchasing a deferred annuity,

and the Board is satisfied that the benefit will be preserved in accordance with the Occupational Superannuation Standards Regulations of the Commonwealth; or

- (e) the person has produced to the Board written approval of the Insurance and Superannuation Commissioner for payment of the benefit; or

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (f) the Board has given approval for payment of the benefit under guidelines established by the Insurance and Superannuation Commissioner; or
- (g) the amount of the benefit is less than the amount specified in regulation 12 of the Occupational Superannuation Standards Regulations of the Commonwealth; or
- (h) the cessation of employment occurred in circumstances prescribed by regulations made for the purposes of this section.

(2) The basic benefit in respect of a person is payable by the Board if the person becomes eligible under another superannuation scheme for a benefit that is of the same kind as a benefit provided by this Act and the Board has been requested to pay the benefit to the other superannuation scheme.

(3) The basic benefit in respect of a former employee is payable:

- (a) unless the former employee has died—to the former employee; or
- (b) if the former employee has died and is survived by a spouse—to the surviving spouse; or
- (c) if the former employee has died and is not survived by a spouse—to the personal representatives of the former employee or, if appropriate, in accordance with section 31 (Payment without grant of probate etc.); or
- (d) in accordance with section 23 (1) (d) or 23 (2), unless the former employee has died.

(4) For the Board to be satisfied in relation to a person as required by subsection (1) (b), the Board must be given a certificate that:

- (a) is signed by 2 medical practitioners; and
- (b) certifies that, in the opinion of the medical practitioners, the person is unlikely ever to be able to work again in a job for which the person is reasonably qualified by education, training or experience.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

(4) Section 24:

Omit the section, insert instead:

Benefit to be preserved

24. (1) The basic benefit in respect of a person must be preserved by the Board when the person ceases to be an employee otherwise than as referred to in section 23.

(2) The basic benefit must also be preserved by the Board when:

- (a) an employee who is a member of the Public Sector Executives Superannuation Scheme ceases to be a contributor to any other superannuation scheme established by or under an Act; or
- (b) an employee who is not a member of any other superannuation scheme established by or under an Act becomes a member of the Public Sector Executives Superannuation Scheme; or
- (c) an employee becomes eligible under another superannuation scheme for a benefit that is of the same kind as a benefit provided by this Act and the Board has not been requested to pay the benefit to another superannuation scheme.

(3) The basic benefit preserved under this section must be paid by the Board when:

- (a) the person has attained the age of 55 years and has retired from the work force; or
- (b) the Board is satisfied that, although the person has not attained the age of 55 years, he or she has retired from the work force due, directly or indirectly, to his or her permanent mental or physical incapacity; or
- (c) the person has produced to the Board the written approval of the Insurance and Superannuation Commissioner for payment of the benefit; or
- (d) the Board has given approval for payment of the benefit under guidelines established by the Insurance and Superannuation Commissioner, or
- (e) the person dies; or

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (f) the Board is satisfied that the person is to depart from Australia permanently; or
 - (g) the person has requested the Board to pay the benefit:
 - (i) to an approved deposit fund or another superannuation fund; or
 - (ii) by purchasing a deferred annuity,
 and the Board is satisfied that the benefit will be preserved in accordance with the Occupational Superannuation Standards Regulations of the Commonwealth; or
 - (h) there occurs any other event prescribed by the regulations for the purposes of this section.
- (4) When the basic benefit provided by this section is to be paid out by the Board, it is payable:
- (a) if the former employee has not died—to the former employee; or
 - (b) if the former employee has died and is survived by a spouse—to the former employee's spouse; or
 - (c) if the former employee has died and is not survived by a spouse—to the personal representatives of the former employee or, if appropriate, in accordance with section 31 (Payment without grant of probate etc.); or
 - (d) in accordance with subsection (3) (g), unless the former employee has died.
- (5) For the Board to be satisfied in relation to a person as required by subsection (3) (b), the Board must be given a certificate that:
- (a) is signed by 2 medical practitioners; and
 - (b) certifies that, in the opinion of the medical practitioners, the person is unlikely ever to be able to work again in a job for which the person is reasonably qualified by education, training or experience.

Commencement

These amendments to the State Authorities Non-contributory Superannuation Act 1987 commence on 1 July 1992.

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

Explanatory note

Item (1) inserts in section 3 (Definitions) definitions of expressions used in substituted sections 23 (item 3) and 24 (item 4).

Item (2) transfers from the present section 24 (which is repealed and replaced by item (4)) to section 22 a provision relating to the calculation of the salaries of certain persons for the purpose of determining a basic benefit in certain circumstances.

Item (3) replaces the present section 23 and sets out the circumstances in which a basic benefit becomes immediately payable by the Board.

Item (4) replaces the present section 24 and sets out the circumstances in which the Board must preserve a benefit and is required to pay out a preserved benefit.

STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211

Amendments

- (1) Section 25 (**Liability to contribute following election by employee**):

After section 25 (4), insert:

(5) An employee is not entitled to contribute to the Fund, and the Board is not to accept a contribution to the Fund offered by an employee, unless the employee:

- (a) is under 65 years of age and was under 60 years of age on 1 July 1990; or
 - (b) is not aged 70 or more but was aged 60 or more on 1 July 1990.
- (6) A contributor is not entitled to accrue benefit points:
- (a) after attaining the age of 65 years, if the contributor was under 60 years of age on 1 July 1990; or
 - (b) after attaining the age of 70 years, if the contributor was aged 60 or more on 1 July 1990.

- (2) Section 42A:

After section 42, insert:

Benefit on attaining 65

42A. (1) A contributor who attains 65 years of age must be paid any benefit to which the contributor would be entitled on retirement at that age but may elect to preserve the whole of the benefit.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

(2) If on 1 July 1990 an employee was aged 60 or more, this section applies to the employee as if the reference in subsection (1) to 65 years of age were a reference to 70 years of age.

(3) Interest is payable, at a rate determined by the Board, on an amount elected to be preserved in the Fund under this section.

(4) If an amount is preserved under this section, it is payable in the same way as a benefit under section 43.

(5) A person to whom this section applies is not entitled to any other benefit under this Act in respect of the same period of service.

(3) Section 43 (**Preserved benefit**):

Omit section 43 (3), insert instead:

(3) The benefit provided by subsection (6) or section 42A must be paid by the Board:

(a) if the former member:

(i) elected under subsection (5) to preserve the benefit; and

(ii) attains the early retirement age; and

(iii) applies to the Board in writing for payment of the benefit; or

(b) if the former member:

(i) elected under section 42A to preserve the benefit; and

(ii) applies to the Board in writing for payment of the benefit; or

(c) if the former member dies without making an application for payment of the benefit; or

(d) except in the case of a benefit provided under section 42A—on the Board being satisfied that the former member is incapable, from infirmity of body or mind, of being employed in any remunerative occupation in which, in the opinion of the Board, it would otherwise be reasonable to expect the former member to engage; or

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SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (e) on the Board being satisfied that the former member has attained the age of 65 years and is employed for less than 10 hours a week; or
- (f) on the Board being satisfied that the former member has attained the age of 70 years and is employed for more than 10 but less than 30 hours a week; or
- (g) on the Board being satisfied that the former member has retired from the work force.

Commencement

These amendments to the State Authorities Superannuation Act 1987 commence on 1 July 1992.

Explanatory note

Item (1) prohibits contributions to the Fund by an employee who has attained age 65 and was under 60 on 1 July 1990. It also prohibits contributions by an employee who was aged 65 or more on 1 July 1990 and is under 70.

Item (2) inserts proposed section 42A which requires a person who attains the age of 65 years to be paid any benefit to which the person is entitled, but the benefit may be preserved in the State Authorities Superannuation Fund to earn interest.

Item (3) provides for the circumstances in which payment of a preserved benefit is to be made.

SUPERANNUATION ACT 1916 No. 28

Amendments

- (1) Section 10SA:

After section 10S, insert:

Cessation of contributions

10SA. An employee is not entitled to contribute to the Fund, and the Board is not to accept a contribution to the Fund offered by an employee:

- (a) after the employee attains 65 years of age, if the employee was under 60 years of age on 1 July 1990; or
- (b) in any other case, after the employee attains 70 years of age.

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

(2) Part 4, Division 3C:

After Division 3B, insert:

Division 3C—Age termination benefits

Benefit on attaining 65

52W. (1) An employee who was under the age of 60 years on 1 July 1990 and attains the age of 65 years must be paid any pension to which the employee would be entitled on retirement at that age but:

- (a) may elect under section 21A to commute to a lump sum all or part of the pension; and
- (b) if such an election is made, may also elect to preserve the whole of the lump sum in the Fund.

(2) This section applies to a person who was aged 60 or more on 1 July 1990 and attains the age of 70 years in the same way as it applies to an employee referred to in subsection (1).

(3) Interest is payable on an amount preserved in the Fund under this section at a rate determined by the Board having regard to the earnings of the Fund and such other matters as the Board considers relevant.

(4) A benefit provided under subsection (1) (b) is to be paid out by the Board on application by the person to whom it is payable under subsection (5).

(5) A benefit under subsection (1) (b) is payable:

- (a) if the former contributor has not died—to the former contributor; or
- (b) if the former contributor has died and is survived by a widow or widower—to the former contributor's widow or widower; or
- (c) if the former contributor has died and is not survived by a widow or widower:
 - (i) to the former contributor's personal representatives; or
 - (ii) if section 88A (Payment without grant of probate etc.) applies and the Board has made a decision under section 88A (1)—in accordance with section 88A (2).

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

(6) A person entitled to a benefit under this section is not entitled to any other benefit under this Act.

Compulsory payment of preserved or other benefit

52X. (1) This section applies to a person who is entitled to, but has not been paid, a benefit under Division 3A, Division 3B or this Division.

(2) The Board is, as soon as practicable, to pay the benefit to which a person to whom this section applies is entitled if:

- (a) the Board is satisfied that the person is at least 65 years of age and is working for less than 10 hours a week; or
- (b) the Board is satisfied that the person has attained the age of 70 years and is working for more than 10, but less than 30, hours a week; or
- (c) the person is at least 65 years of age and has requested the Board to pay the benefit; or
- (d) the Board is satisfied that the person has retired from the work force.

(3) Section 61RA (**Power of the Board to reduce pensions and other benefits to offset certain tax liabilities of the Fund**):

- (a) From section 61RA (2) (a), omit “prescribed by the regulations for the purpose of this section”, insert instead “to which section 61RD applies”.
- (b) From section 61RA (2) (b), omit “so prescribed”, insert instead “set out in section 61RD”.

(4) Section 61RD:

After section 61RC, insert:

Reduction of benefit

61RD. (1) This section applies to the benefits provided under the following provisions:

- (a) section 27 (Amount of pension payable on retirement);
- (b) section 28A (Pension on retirement before reaching 60 years of age);
- (c) section 28AA (Pension on retirement before age 60—component pension);
- (d) section 29 (Breakdown pensions);

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

- (e) section 30 (Pensions to widow or widower on death of contributor);
- (f) section 37 (Retrenchment benefits payable to an employee who is retrenched after completing 10 years' service);
- (g) section 37A (Retrenchment benefits payable to contributors having not less than 3 years' contributing service);
- (h) section 38A (Withdrawal benefit);
- (i) section 47D (Benefits payable in respect of reduced value units);
- (j) Division 3A of Part 4 (Preserved benefits).

(2) For the purposes of section 61RA, the reduction in a benefit to which this section applies (other than a benefit under section 38A or 47D) is the amount calculated in accordance with the following formula:

$$R = M \times \frac{A}{B} \times Q$$

(3) For the purposes of section 61RA, the reduction in a benefit under section 38A (other than a benefit arising as a result of the death of a person) is the amount calculated in accordance with the following formula:

$$R = A \times Q$$

(4) For the purposes of section 61RA, the reduction in a benefit under section 47D is the amount calculated in accordance with the following formula:

$$R = T \times Q$$

(5) In this section:

R represents the amount of the reduction;

M is calculated in accordance with subsection (6) and represents the amount of the pension or lump sum being reduced;

A represents the portion of the benefit payable from the appropriate employer's reserve in accordance with section 33B (2) (b);

B represents the relevant amount in respect of the benefit determined in accordance with section 33B (3);

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

Q represents the sum of such number of terms as is determined in accordance with the formula prescribed by subsection (7) to reflect the number of times the rate of tax has changed;

T represents the total amount of benefit derived under section 47D.

(6) In subsection (5), the symbol “M” represents:

- (a) in the case of a benefit arising under section 27, 28A, 28AA or 29—the benefit that would be payable under that section, but for section 61RA and this section; or
- (b) in the case of a benefit arising under section 30 in respect of a contributor who dies before reaching the age of 60 in the case of a man, or the maturity age in the case of a woman—two-thirds of the pension that, but for section 61RA and this section, would have been payable to the contributor under section 22 if the contributor had been retired immediately before death; or
- (c) in the case of a benefit arising under section 30 in respect of a contributor who dies on or after reaching the age of 60 in the case of a man, or the maturity age in the case of a woman—two-thirds of the pension that, but for section 61RA and this section, would have been payable under section 27 if the contributor had retired, or had been retired, immediately before death; or
- (d) in the case of a benefit arising under section 37 or 37A—the lump sum benefit that would be payable under that section but for section 61RA and this section; or
- (e) in the case of a benefit arising under Division 3A of Part 4—the total component pension preserved in accordance with section 52A.

(7) For the purposes of the symbol “Q” in subsection (5), the formula prescribed by this subsection is:

$$\frac{C}{D} \times L$$

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

where:

C represents the number of days of continuous contributory service that the person in respect of whom the pension is payable has had with one or more employers in each period during which the rate of tax payable on employer contributions is L;

D represents:

(a) in the case of benefits arising under section 29 or 30—the number of days of continuous contributory service that the person in respect of whom the pension is payable has had with one or more employers during the period beginning with the date when the person last became a contributor and ending with the later of the exit date and the date on which the person would have been eligible to retire under section 21 (1) if the person's employment had continued to that date; or

(b) in all other cases—the number of days of continuous contributory service that the person in respect of whom the pension is payable has had with one or more employers during the period beginning with the date on which the person last became a contributor and ending with the person's exit day;

L represents the rate of tax payable on employer contributions set out in the relevant Commonwealth taxation law or such lesser rate as may be determined by the Board having regard to the most recent actuarial valuation of the scheme.

(8) For the purposes of the symbols “C” and “D” in subsection (7), the period of a person's continuous contributory service does not include any period during which the person is treated by section 48 (Breakdown pensioner held to be on leave) as being on leave without pay.

(9) For the purposes of sections 31 and 52F, the benefit that emerges upon the death of the member is not to be reduced as it would already have been reduced in accordance

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued*

with section 61RA when the member retired or when the benefit was preserved.

Commencement

These amendments to the Superannuation Act 1916, except items (3) and (4), commence on 1 July 1992.

Items (3) and (4) commence on 1 September 1992.

Explanatory note

Items (1) and (2) prevent accrual of benefits after age 65 or, in certain cases, after age 70. In the case of item (2), this is effected by proposed Division 3C of Part 4 comprising sections 52W and 52X

Section 52W requires an employee who is aged 65 or more, but was under 60 on 1 July 1990, to be paid any benefit to which the employee is entitled but all or part of so much of the benefit as comprises a lump sum may be preserved in the Fund to earn interest. The section applies in the same way to an employee who was 60 or more on 1 July 1990 and is 70 or more.

Section 52X provides for the circumstances in which the Board is required to pay to a person who was, but no longer is, an employee a benefit to which the person is entitled but has allowed to remain in the State Superannuation Fund.

Items (3) and (4) transfer from the regulations to the Act provisions relating to the reduction of benefits as a result of Commonwealth taxation.

SUPERANNUATION ADMINISTRATION ACT 1991 No. 96

Amendment

Section 19 (Financial accommodation and investment by the Board):

At the end of the section, insert:

(2) Except as provided by regulation 16 (2) and (3) of the Occupational Superannuation Standards Regulations of the Commonwealth, the Board must not, from the assets of the funds under administration or in obtaining financial accommodation:

- (a) lend money to a contributor for, or to a person entitled to or receiving, a benefit under an associated superannuation scheme, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the scheme; or

**SCHEDULE 1—AMENDMENTS CONSEQUENTIAL ON
COMMONWEALTH LEGISLATION—*continued***

- (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance; or
- (c) invest any of the assets of an associated superannuation fund otherwise than on an arms-length basis, unless it is an in-house asset within the meaning of Regulation 16A of the Occupational Superannuation Standards Regulations of the Commonwealth.

Commencement

This amendment to the Superannuation Administration Act 1991 commences on 1 July 1992.

Explanatory note

This amendment to the Superannuation Administration Act 1991 imposes restrictions (required by the Commonwealth occupational superannuation standards) on the borrowing of money by the State Authorities Superannuation Board and the lending or other investment by the Board of the assets of the superannuation schemes managed by it.

SCHEDULE 2—OTHER AMENDMENTS

(Sec. 3)

**COAL AND OIL SHALE MINE WORKERS
(SUPERANNUATION) ACT 1941 No. 45****Amendment****Section 4A (Special provisions for persons engaged in the coal mining industry in Queensland):**

After section 4A (6), insert:

- (7) For the purposes of:
 - (a) subsection (5)—the prescribed amount referred to in sections 14A and 14AA is taken to be the prescribed amount as at the date of death; and
 - (b) subsection (6)—the prescribed amount referred to in sections 14A and 14AA is taken to be the prescribed amount as at the date of disability.

SCHEDULE 2—OTHER AMENDMENTS—*continued***Commencement**

This amendment to the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 is taken to have commenced on 4 December 1989, which was the date of commencement of the provision being amended.

Explanatory note

The purpose of this amendment is to adjust the date of payment of death and disability benefits in relation to a mine worker with service in Queensland.

**POLICE REGULATION (SUPERANNUATION) ACT 1906
No. 28**

Amendments

- (1) Section 10B (**Medical examination of disabled member and determination of whether hurt on duty**):

Omit section 10B (3) (b), insert instead:

- (b) give the member or former member written notification of the decision.

- (2) Section 12C:

Omit the section, insert instead:

Determination as to whether death resulted from being hurt on duty

12C. (1) If a member of the police force dies, the Commissioner of Police is to decide whether or not the member's death was caused by the member having been hurt on duty and is to notify the Board of the decision.

(2) At the request of the Board, the Commissioner of Police is to decide whether or not the death of a former member of the police force was caused by the former member having been hurt on duty while a member of the police force.

(3) The Commissioner of Police is to give the Board written notification of each decision made by the Commissioner under this section.

(4) On being notified of a decision of the Commissioner under this section, the Board:

SCHEDULE 2—OTHER AMENDMENTS—*continued*

- (a) is to give written notification of the decision to each person who, in the opinion of the Board, would be benefited by a decision under this Act that the member or former member had been hurt on duty; and
 - (b) is to do so whether or not the decision of the Commissioner was that the member or former member had been hurt on duty.
- (3) Section 12D (**Gratuities to members hurt on duty in respect of loss of limbs, medical expenses etc.**):
- Omit section 12D (4) (b), insert instead:
- (b) give written notice of the decision to the Board and to the claimant.
- (4) Section 18C:
- After section 18B, insert:
- Interest on benefits**
- 18C. The Board may, when paying a benefit under this Act, pay interest on the benefit at such rates, for such periods, and in such circumstances, as in its absolute discretion it thinks appropriate.
- (5) Section 21 (**Determination by Compensation Court**):
- (a) From section 21 (1) (b), omit “12C (1) (a), 12C (2) (a)”, insert instead “12C (1), 12C (2)”.
 - (b) From section 21 (1), omit “90 days”, insert instead “6 months”.
 - (c) From section 21 (1), omit “a workers compensation commissioner under the Workers Compensation Act 1987”, insert instead “the Compensation Court”.
 - (d) After section 21 (1), insert:
 - (2) Notification of a decision under subsection (1) is to be given in writing.
 - (e) From section 21 (4), (5), (8) and (9), omit “A workers compensation commissioner” wherever occurring, insert instead “The Compensation Court”.
 - (f) From section 21 (4) (b) and (6), omit “the workers compensation commissioner” wherever occurring, insert instead “the Compensation Court”.

SCHEDULE 2—OTHER AMENDMENTS—*continued*

(g) After section 21 (10), insert:

(11) In this section:

“Compensation Court” means the Compensation Court of New South Wales constituted under the Compensation Court Act 1984.

(6) Section 23C:

After section 23B, insert:

Recovery of money owing to Fund

23C. (1) If a contributor or former contributor owes money to the Fund, the Board may recover the money, together with interest as provided by this section, by deducting it from amounts payable from the Fund:

- (a) to the contributor or former contributor; or
- (b) to the spouse of the contributor or former contributor; or
- or
- (c) to the personal representatives of the contributor or former contributor; or
- (d) in respect of the children of the contributor or former contributor or of his or her spouse.

(2) If the spouse of a deceased contributor or former contributor owes money to the Fund, the Board may recover the money, together with interest as provided by this section, by deducting it from amounts payable from the Fund:

- (a) to the spouse; or
- (b) to the personal representatives of the spouse; or
- (c) in respect of the children of the spouse or the children of the deceased contributor or former contributor.

(3) If money is payable from the Fund to or in respect of any other person who owes money to the Fund, the Board may recover the money owed to the Fund by deducting it from the money payable to or in respect of the person from the Fund.

SCHEDULE 2—OTHER AMENDMENTS—*continued*

(4) Interest on any amount owing under this section is payable to the Board:

- (a) from the date on which the amount became due for payment until the date on which the amount is paid or recovered; and
- (b) at a rate determined by the Board.

Commencement

These amendments to the Police Regulation (Superannuation) Act 1906 commence on the date of assent to this Act.

Explanatory note

Item (1) requires written notification of a decision of the Commissioner of Police as to whether a member, or former member, of the Police Service was hurt while on duty. The Act at present requires notice but does not require it to be in writing.

Item (2) enlarges the class of persons required to be notified of a decision of the Commissioner of Police as to whether the death of a member, or a former member, of the Police Service had been caused by injury while on duty.

Item (3) requires written notification of a decision of the Commissioner of Police as to whether the injury to a member, or former member, of the Police Service had been caused while on duty. The Act at present requires notice to be given to the Board but does not require it to be in writing and does not require notice to be given to the claimant.

Item (4) authorises the payment of interest on benefits.

Item (5) extends from 90 days to 6 months the period within which an aggrieved person may apply to the Compensation Court for a determination in relation to certain decisions of the Board or the Commissioner of Police. It also makes amendments consequential on the constitution of the Compensation Court.

Item (6) enables the Board to recover money owing to the Police Superannuation Fund by deducting it from amounts payable from the Fund to or on account of the debtor.

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT
1989 No. 106**

Amendments**Section 35 (Contributions may be varied):**

(1) Omit section 35 (1), insert instead:

- (1) A member may from time to time lodge with the Board an election specifying the amount of any contributions to be

SCHEDULE 2—OTHER AMENDMENTS—*continued*

paid to the Fund by the member and the member's employer after the election takes effect.

(2) Omit section 35 (4), insert instead:

(4) An election may specify as the commencement date for the contributions a date that is later than the receipt of the election by the Board and is the first day of a named month in a specified year.

(5) If the election does not specify a commencement date as provided by subsection (4), the commencement date for the contributions is the date that is the first day of the named month that next succeeds the receipt of the election.

(6) If a member makes more than one election during a relevant year for the member, the amount determined by the Board as the cost to the Board of dealing with each such election other than the first is payable by the member to the Board within a time allowed by the Board.

(7) In this section:

“relevant year”, in relation to a member, means a year ending immediately before each anniversary of the date on which the member became a contributor.

Commencement

These amendments to the Public Sector Executives Superannuation Act 1989 commence on 1 July 1992.

Explanatory note

Under section 35 of the Act, it is at present mandatory for a contributor to make before 1 September in each year an election specifying the contributions to be paid to the Fund by the contributor and the employer during the next succeeding year.

The proposed amendments would make such an election optional and would permit more than one such election during each year.

The cost to the Board of dealing with any election made during a year, other than the first such election, would be payable by the contributor.

SCHEDULE 2—OTHER AMENDMENTS—*continued***STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211**
Amendments(1) Section 3 (**Definitions**):

Insert in section 3 (1), in alphabetical order, the following definitions:

“approved deposit fund” has the same meaning as it has in the Occupational Superannuation Standards Regulations of the Commonwealth;

“deferred annuity” means a deferred annuity to which regulation 11 of the Occupational superannuation Standards Regulations of the Commonwealth applies;

“superannuation fund” has the same meaning as it has in the Occupational Superannuation Standards Act 1987 of the Commonwealth;

(2) Section 24 (**Revocation of approval**):

After section 24 (4), insert:

(4A) An approval may be revoked whether it relates to a contributor or a former contributor.

(3) Section 42 (**Benefit on retrenchment before early retirement age**):

(a) From section 42 (2), omit “for whom the period commencing on entry date and ending on exit date is 3 years or more”.

(b) Omit section 42 (3).

(4) Sections 42AA–42AC:

Before section 43, insert:

Preservation of benefit on retrenchment before early retirement age with at least 3 years’ service

42AA. (1) A contributor who becomes entitled to be paid a benefit under section 42 and for whom the period commencing on entry date and ending on exit date is 3 years or more may elect:

(a) to take the benefit as provided by that section; or

SCHEDULE 2—OTHER AMENDMENTS—*continued*

(b) to preserve in the Fund a benefit calculated in the same way as the benefit provided by that section together with interest from the exit date to the date of payment.

(2) The provisions of section 43 (except section 43 (6)) apply in relation to a benefit preserved under this section in the same way as they apply in relation to a benefit preserved under that section.

(3) Interest for the purposes of this section is to be calculated at a rate determined by the Board.

Preservation of contributor-financed benefit on retrenchment before early retirement age with less than 3 years' service

42AB. (1) A contributor who becomes entitled to be paid a benefit under section 42 and for whom the period commencing on entry date and ending on exit date is less than 3 years may elect to:

- (a) take the contributor-financed benefit as provided by that section; or
- (b) take the contributor-financed benefit together with interest from the exit date to the date of payment.

(2) A benefit provided by this section is to be paid out by the Board on application by the person to whom it is payable under subsection (3).

(3) A benefit under this section is payable:

- (a) if the former contributor has not died—to the former contributor; or
- (b) if the former contributor has died and is survived by a spouse—to the spouse; or
- (c) if the former contributor has died and is not survived by a spouse:
 - (i) to the former contributor's personal representatives; or
 - (ii) if appropriate, in accordance with section 51 (Payment without grant of probate etc.).

(4) Interest for the purposes of this section is to be calculated at a rate determined by the Board.

SCHEDULE 2—OTHER AMENDMENTS—*continued***Preservation of employer-financed benefit on retrenchment before early retirement age with less than 3 years' service**

42AC. (1) A former contributor who becomes entitled to be paid a benefit under section 42 and for whom the period commencing on entry date and ending on exit date is less than 3 years must preserve the employer-financed component of the benefit in the Fund together with interest from the exit date to the date of payment at a rate determined by the Board.

(2) This section does not apply if the employer-financed component of the benefit under section 42 is less than the amount prescribed by regulation 12 of the Occupational Superannuation Standards Regulations of the Commonwealth.

(3) A benefit preserved under this section is payable by the Board on the death of the former contributor or if:

- (a) the former contributor has attained the age of 55 years and has retired from the work force; or
- (b) the Board is satisfied that, although the former contributor has not attained the age of 55 years, he or she has ceased to be an employee due, directly or indirectly, to his or her permanent physical or mental incapacity; or
- (c) the former contributor has produced to the Board the written approval of the Insurance and Superannuation Commissioner for payment of the benefit; or
- (d) the Board has given approval for payment of the benefit under guidelines established by the Insurance and Superannuation Commissioner; or
- (e) the former contributor dies; or
- (f) the Board is satisfied that the former contributor is to depart from Australia permanently; or
- (g) the former contributor has requested the Board to pay the benefit:
 - (i) to an approved deposit fund or another superannuation fund; or
 - (ii) by purchasing a deferred annuity,

SCHEDULE 2—OTHER AMENDMENTS—*continued*

and the Board is satisfied that the benefit will be preserved in accordance with the Occupational Superannuation Standards Regulations of the Commonwealth; or

(h) there occurs any other event prescribed by the regulations for the purposes of this section.

(4) A benefit provided by subsection (3) is payable:

(a) unless the former contributor has died—to the former contributor; or

(b) if the former contributor has died and is survived by a spouse—to the surviving spouse; or

(c) if the former contributor has died and is not survived by a spouse—to the personal representatives of the former contributor or, if appropriate, in accordance with section 51 (Payment without grant of probate etc.); or

(d) in accordance with subsection (3) (g), unless the former contributor has died.

(5) For the Board to be satisfied in relation to a contributor as required by subsection (3) (b), the Board must be given a certificate that:

(a) is signed by 2 medical practitioners; and

(b) certifies that, in the opinion of the medical practitioners, the person is unlikely ever to be able to work again in a job for which the person is reasonably qualified by education, training or experience.

(5) Section 43 (Preserved benefit):

After “41” in section 43 (7) (a), insert “or 42”.

Commencement

Item (1) commences on the day appointed for the commencement of section 42AC of the State Authorities Superannuation Act 1987, as inserted in that Act by Item (4).

Sections 42AB and 42AC of the State Authorities Superannuation Act 1987, as inserted in that Act by item (4), commence on a day to be appointed by proclamation.

The other amendments to the State Authorities Superannuation Act 1987 commence on the date of assent to this Act.

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 2—OTHER AMENDMENTS—*continued*

Explanatory note

Item (1) inserts in section 3 (Definitions) definitions of expressions used in proposed section 42AC (Item (4)).

Item (2) deals with the revocation of an approval for an additional benefit if an untrue statement was made in relation to the application for the benefit or in relation to a medical examination. The purpose of the amendment is to make it clear that all the consequences of a revocation apply not only to a contributor but also to a former contributor.

Item (3) has the effect of enabling the benefit payable on retrenchment before the early retirement age to a contributor with less than 3 years' service to be calculated in the same way as that payable to a contributor with service for 3 years or more.

Item (4) inserts proposed sections 42AA–42AC.

Section 42AA enables a contributor who is retrenched before the early retirement age with at least 3 years' service to preserve the contributor-financed benefit and the employer-financed benefit.

Section 42AB enables a contributor who is retrenched before the early retirement age with less than 3 years' service to preserve the contributor-financed benefit.

Section 42AC requires a contributor who is retrenched with not more than 3 years' service to preserve the employer-financed benefit until it is paid out in accordance with the provision.

Item (5) makes a consequential amendment.

SUPERANNUATION ACT 1916 No. 28

Amendments

(1) **Section 3 (Definitions):**

(a) After “piece-work” in the definition of “Employee” in section 3 (1), insert “, otherwise than as provided by subsection (1A)”.

(b) From section 3 (1), omit the definition of “Part-time employee”, insert instead:

“Part-time employee” means a person appointed by an employer to a position certified to the Board by the employer not to be a full-time position, having regard to the number of hours per week for which the person is required to work in that position.

(c) After section 3 (1), insert:

(1A) A person who is an employee and a contributor does not cease to be a contributor just because at any time after 30

SCHEDULE 2—OTHER AMENDMENTS—*continued*

June 1992 the person is paid at hourly, daily, weekly or fortnightly rates, or by piece-work.

- (d) From section 3 (11A) (b) and (11B) (b), omit “prescribed” wherever occurring, insert instead “set out in section 3AAA”.

(2) Section 3AAA:

After section 3, insert:

Financial dependency

3AAA. (1) For the purposes of section 3 (11A) (b) and (11B) (b), in respect of a person who, at any particular time, was living with another person as the husband or wife of the other person on a bona fide domestic basis for the period of at least 12 months preceding that time, the requirements relating to financial dependency are that the person must satisfy the Board that:

- (a) at the particular time and at all times during the period of 12 months immediately preceding that time, the person was not employed for remuneration in any capacity by any person; and
- (b) the person had not received a total amount of income in excess of the relevant amount during the period of 12 months immediately preceding the particular time.

(2) The Board may require a person seeking to satisfy the Board as to the matters referred to in subsection (1) (a) or (b) to verify any information given to the Board for that purpose by a statutory declaration.

(3) For the purposes of subsection (1) (b), the relevant amount is, subject to subsection (4), \$431.86.

(4) If pensions are increased or reduced under Division 6 of Part 4 by an adjustment percentage for the year ending on 30 June 1992, or for any subsequent year, the relevant amount is, as from the adjustment date for that year, increased or reduced by that percentage.

(5) In this section, “**adjustment date**”, “**adjustment percentage**” and “**year**” have the same meanings as they have in section 61B.

SCHEDULE 2—OTHER AMENDMENTS—*continued*(3) Section 3AA (**Salary of executive officers**):

(a) Omit section 3AA (1) (c), insert instead:

(c) in the case of a contributor who occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989 and is a member, or is eligible to become a member, of the Public Sector Executives Superannuation Scheme, means the aggregate of:

- (i) the monetary remuneration payable to the contributor as the occupant of the position; and
- (ii) the cost of providing employment benefits referred to in subsection (5) for the contributor as the occupant of the position or, if the contributor has, in accordance with subsection (2), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost—none of that cost or, as the case may be, the specified proportion of that cost,

expressed as an annual rate, but does not include any performance-related incentive payment made to the contributor.

(b) From section 3AA (2), omit “of paragraphs (a) and (b)”.

(c) From section 3AA (2), omit “either of those paragraphs”, insert instead “that definition”.

(d) After “1975” wherever occurring in section 3AA (3) and (4), insert “, or is appointed to another position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989”.

(e) After section 3AA (4), insert:

(5) For the purposes of subsection (1) (c) (ii):

“employment benefit” means any component of the contributor’s remuneration package that is not subject to the payment of personal income tax, except a component of the package that consists of payments of contributions payable to a superannuation scheme by the contributor’s employer in respect of the contributor and

SCHEDULE 2—OTHER AMENDMENTS—*continued*

payments by the employer of any approved costs associated with the contributor's membership of that scheme.

(4) Section 3A (**Salary**):

From section 3A (1) (a) and (2) (b), omit "the regulations" wherever occurring, insert instead "Schedule 24".

(5) Schedule 24:

After Schedule 23, insert:

SCHEDULE 24—LOADING IN RESPECT OF SHIFT ALLOWANCE

(Sec. 3A)

Definitions

1. In this Schedule:

"agreement" means an industrial agreement in force under the Industrial Arbitration Act 1940 as in force immediately before 18 December 1987;

"award" means an award in force under the Industrial Arbitration Act 1940 as in force immediately before 18 December 1987;

"base salary", in relation to a contributor, means the remuneration, salary or wages payable to the contributor under an award or agreement after excluding all allowances;

"industrial organisation" means:

- (a) an industrial union of employees registered under the Industrial Arbitration Act 1940 as in force immediately before 18 December 1987; or
- (b) an organisation of employees registered under the Conciliation and Arbitration Act 1904 of the Commonwealth as in force immediately before 18 December 1987;

SCHEDULE 2—OTHER AMENDMENTS—*continued*

“relevant period”, in relation to a contributor, means the period of 12 months ending on 31 December preceding the date on which the salary of the contributor is to be calculated for the purposes of section 3A.

Determination of loading

2. (1) For the purposes of section 3A (1) (a), the loading (if any) to be treated as part of a contributor’s salary is determined by reference to whichever of the provisions of subclause (2), (3) or (4) is applicable to the contributor.

(2) If:

- (a) there is in force an agreement between, or a practice accepted by, an industrial organisation and the employer of a contributor which was in force immediately before 18 December 1987; and
- (b) the effect of the agreement or practice is that an amount in respect of any shift allowance paid to the contributor by the employer for shifts worked by the contributor during a relevant period is to be treated as a loading for superannuation purposes; and
- (c) that amount is greater than that which would be determined for that period in respect of the contributor under subclause (3),

then the amount referred to in paragraph (b) is, for the purposes of section 3A (1) (a), the loading for the contributor in respect of that shift allowance.

(3) Unless subclause (2) or (4) applies, if a contributor is paid a shift allowance for shifts worked by the contributor during a relevant period, the loading for the contributor in respect of that shift allowance is:

- (a) nil, if during the relevant period the contributor did not work more than 104 shifts; or
- (b) an amount equal to 10 per cent of the contributor’s base salary for the relevant period, if during that period the contributor worked more than 104 shifts but not more than 156 shifts; or

SCHEDULE 2—OTHER AMENDMENTS—*continued*

- (c) an amount equal to 15 per cent of the contributor's base salary for the relevant period, if during that period the contributor worked more than 156 shifts but not more than 208 shifts; or
 - (d) an amount equal to 20 per cent of the contributor's base salary for the relevant period, if during that period the contributor worked more than 208 shifts.
- (4) If the amount actually paid or payable to a contributor as a shift allowance in respect of shifts worked by the contributor during a relevant period is less than the amount of loading for that period determined in respect of the contributor in accordance with subclause (3), the amount so paid is, for the purposes of section 3A (1) (a), the loading for the contributor in respect of that shift allowance.

Commencement

Item (1) (a) and (c) of these amendments to the Superannuation Act 1916 commence on the date of assent to this Act.

The other amendments to the Superannuation Act 1916 commence on 1 September 1992.

Explanatory note

Item (1) makes some consequential amendments and continues the eligibility to contribute to the Fund of an existing contributor who because of a transfer to employment paid at hourly, daily, weekly or fortnightly rates, or by piece-work, would otherwise become ineligible.

Item (2) transfers from the regulations to the Superannuation Act 1916 provisions for determining whether a de facto spouse is financially dependent on the other spouse.

Item (3) transfers from the regulations to the Superannuation Act 1916 provisions relating to the definition of "salary" in relation to contributors who are, or are eligible to become, members of the Public Sector Executives Superannuation Scheme and are referred to in the Act but are at present identified in the regulations.

Item (4) transfers from the regulations to proposed Schedule 24 to the Superannuation Act 1916 (to be inserted by item (5)) provisions relating to the manner of calculating the loading required in respect of a shift allowance in order to determine the "salary" of certain contributors for the purposes of the Act.

Item (5) inserts Schedule 24 which provides for the calculation of the loading referred to in item (4) above in respect of a shift allowance. The date 18 December 1987 referred to in the definitions in clause 1 of that Schedule was the date of commencement of the regulation which is being replaced by that Schedule.

**SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION**

(Sec. 3)

**LOCAL GOVERNMENT AND OTHER AUTHORITIES
(SUPERANNUATION) ACT 1927 No. 35****Amendments****(1) Section 15CK (Definitions):**

From the definition of “Index number” in section 15CK (1), omit “Commonwealth Statistician”, insert instead “Australian Statistician”.

(2) Section 15CM (Calculation of adjustment percentage):

From section 15CM (8) and (9), omit “Commonwealth Statistician” wherever occurring, insert instead “Australian Statistician”.

Commencement

These amendments to the Local Government and Other Authorities (Superannuation) Act 1927 commence on the date of assent to this Act.

Explanatory note

These amendments give effect to a change in title from “Commonwealth Statistician” to “Australian Statistician”.

**PARLIAMENTARY CONTRIBUTORY SUPERANNUATION
ACT 1971 No. 53****Amendment****Section 3 (Definitions):**

At the end of the section, insert:

(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.

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

Commencement

This amendment to the Parliamentary Contributory Superannuation Act 1971 commences on the date of assent to this Act.

Explanatory note

This amendment makes it clear that the expression “function” used in the Act includes a power or authority conferred, and a duty imposed, by or under the Act.

**POLICE REGULATION (SUPERANNUATION) ACT 1906
No. 28**

Amendments

(1) Section 1 (**Short title, commencement and definitions**):

Omit the definition of “Board” from section 1 (2), insert instead:

“Board” means the State Authorities Superannuation Board referred to in section 4 of the Superannuation Administration Act 1991;

(2) Section 14A (**Definitions**):

From the definition of “Index number” in section 14A (1), omit “Commonwealth Statistician”, insert instead “Australian Statistician”.

(3) Section 14B (**Calculation of adjustment percentage**):

From section 14B (4) and (5), omit “Commonwealth Statistician” wherever occurring, insert instead “Australian Statistician”.

Commencement

The amendment made to the Police Regulation (Superannuation) Act 1906 by item (1) is taken to have commenced on 2 March 1992 (the date of commencement of the Superannuation Administration Act 1991).

The other amendments to the Police Regulation (Superannuation) Act 1906 commence on the date of assent to this Act.

Explanatory note

Item (1) makes a consequential amendment following the repeal of the Superannuation Administration Act 1987 and its replacement by the Superannuation Administration Act 1991.

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

Items (2) and (3) give effect to a change of title from “Commonwealth Statistician” to “Australian Statistician”.

PUBLIC AUTHORITIES SUPERANNUATION ACT 1985 No. 41

Amendments

Schedule 6 (Transitional provisions—Local Government Pension Fund):

(1) Part 2, clause 12 (**Definitions**):

From the definition of “Index number”, omit “Commonwealth Statistician”, insert instead “Australian Statistician”.

(2) Part 2, clause 14 (**Calculation of adjustment percentage**):

From clause 14 (6) and (7), omit “Commonwealth Statistician” wherever occurring, insert instead “Australian Statistician”.

Commencement

These amendments to the Public Authorities Superannuation Act 1985 commence on the date of assent to this Act.

Explanatory note

These amendments give effect to a change of title from “Commonwealth Statistician” to “Australian Statistician”.

**STATE AUTHORITIES NON-CONTRIBUTORY
SUPERANNUATION ACT 1987 No. 212**

Amendments

Schedule 3 (Preservation of benefit for employees aged 55 years and over in certain circumstances):

(1) Omit clause 1 (b), insert instead:

(b) who, as a result of a single reduction of salary, has undergone a reduction of 20% or more in attributed salary after reaching that age; and

(2) At the end of clause 1, insert:

(2) The fact that a person undergoes more than one attributed salary reduction of 20% or more does not mean that the person ceases to be a person to whom this Schedule applies.

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

(3) Omit clause 2, insert instead:

Exit date

2. In this Schedule, “**exit date**”, in relation to an employee to whom this Schedule applies, means the day immediately preceding the day of the reduction in attributed salary in relation to which the employee makes an election under clause 3.

(4) At the end of clause 3, insert:

(2) An employee may make only one election under this clause but the election may relate to any single reduction in attributed salary of 20% or more that occurs after the employee reaches 55 years of age (not just the first reduction that occurs).

Commencement

These amendments to the State Authorities Non-contributory Superannuation Act 1987 are taken to have commenced on 1 January 1991 (the date of commencement of the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990).

Explanatory note

These amendments relate to certain provisions of the State Authorities Non-contributory Superannuation Act 1987 inserted by the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990. Those provisions enable an employee who is aged 55 or more, and who accepts a position at 20% or more below his or her previous salary, to elect to preserve his or her benefit under the Act. The amendments will make the following clarifications:

- The 20% reduction in salary must be a single reduction—not the total of a number of smaller reductions.
- Only one election may be made but it may relate to any single reduction of 20% or more after the employee reaches 55 years of age and not just the first reduction after reaching that age.

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

STATE AUTHORITIES SUPERANNUATION ACT 1987 No. 211

Amendments

Schedule 5 (Special provisions for preserving the benefits of certain contributors):

- (1) Omit clause 5 (b), insert instead:
 - (b) who, as a result of a single reduction of salary, has undergone a reduction of 20% or more in attributed salary after reaching that age; and
- (2) At the end of clause 5, insert:
 - (2) The fact that a person undergoes more than one attributed salary reduction of 20% or more does not mean that the person ceases to be a person to whom this Part applies.
- (3) Omit clause 6, insert instead:

Exit day

6. In this Part, “**exit day**”, in relation to an employee to whom this Part applies, means the day immediately preceding the day of the reduction in attributed salary in relation to which the employee makes an election under clause 7.

- (4) At the end of clause 7, insert:
 - (2) An employee may make only one election under this clause but the election may relate to any single reduction in attributed salary of 20% or more that occurs after the employee reaches 55 years of age (not just the first reduction that occurs).

Commencement

These amendments to the State Authorities Superannuation Act 1987 are taken to have commenced on 1 January 1991 (the date of commencement of the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990).

Explanatory note

These amendments clarify certain provisions of the State Authorities Superannuation Act 1987 that were inserted by the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990. Those provisions enable an employee who is aged 55 or more, and who accepts a position at 20% or more below his or her previous salary, to elect to preserve his or her benefit under the Act. The amendments will have the following effect:

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

- The 20% reduction in salary must be a single reduction—not the total of a number of smaller reductions.
- Only one election may be made but it may relate to any single reduction of 20% or more after the employee reaches 55 years of age and not just the first reduction after reaching that age.

**STATE PUBLIC SERVICE SUPERANNUATION ACT 1985
No. 45**

Amendment

Section 27 (**Final salary**):

From the definition of “index number” in section 27 (1), omit “Commonwealth Statistician”, insert instead “Australian Statistician”.

Commencement

This amendment to the State Public Service Superannuation Act 1985 commences on the date of assent to this Act.

Explanatory note

This amendment gives effect to a change of title from “Commonwealth Statistician” to “Australian Statistician”.

SUPERANNUATION ACT 1916 No. 28

Amendments

(1) Long title:

Omit “to provide a system of voluntary saving by such persons;”.

(2) Section 12 (**Contributions to be related to units of pension**):

From section 12 (1) (b), omit “Commonwealth Statistician”, insert instead “Australian Statistician”.

(3) Section 52L (**Eligible contributors**):

(a) Omit section 52L (b), insert instead:

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

- (b) who, as a result of a single reduction of salary, has undergone a reduction of 20% or more in salary after reaching that age; and
- (b) At the end of section 52L, insert:
- (2) The fact that a person undergoes more than one salary reduction of 20% or more does not mean that the person ceases to be a person to whom this Division applies.
- (4) Section 52M:
- Omit the section, insert instead:
- Exit day**
- 52M. In this Division, “**exit day**”, in relation to an employee to whom this Division applies, means the day immediately preceding the day of the reduction in salary in relation to which the employee makes an election under section 52N.
- (5) Section 52N (**Election to defer or preserve a benefit**):
- After section 52N (2), insert:
- (3) An employee may make only one election under this section but the election may relate to any single reduction in salary of 20% or more that occurs after the employee reaches 55 years of age (not just the first reduction that occurs).
- (6) Section 61B (**Definitions**):
- From the definition of “Index number” in section 61B (1), omit “Commonwealth Statistician”, insert instead “Australian Statistician”.
- (7) Section 61C (**Calculation of adjustment percentage**):
- From section 61C (4) and (5), omit “Commonwealth Statistician” wherever occurring, insert instead “Australian Statistician”.

Commencement

Items (1), (2), (6) and (7) of these amendments to the Superannuation Act 1916 commence on the date of assent to this Act.

Items (3), (4) and (5) of these amendments to the Superannuation Act 1916 are taken to have commenced on 1 January 1991 (the date of commencement of the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990).

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

Explanatory note

Item (1) makes an amendment consequential on the cessation of voluntary savings under the Superannuation Act 1916.

Items (2), (6) and (7) give effect to a change of title from “Commonwealth Statistician” to “Australian Statistician”.

Items (3), (4) and (5) relate to certain provisions of the Superannuation Act 1916 inserted by the Anti-Discrimination (Compulsory Retirement) Amendment Act 1990. Those provisions enable an employee who is aged 55 or more, and who accepts a position at 20% or more below his or her previous salary, to elect to defer or preserve his or her benefit under the Act. The amendments will make the following clarifications:

- The 20% reduction in salary must be a single reduction—not the total of a number of smaller reductions.
- Only one election may be made but it may relate to any single reduction of 20% or more after the employee reaches 55 years of age and not just the first reduction after reaching that age.

TRANSPORT ADMINISTRATION ACT 1988 No. 109

Amendments

Schedule 7 (Savings, transitional and other provisions):

- (1) **Clause 43 (Gratuities payable to certain staff not contributors to superannuation schemes):**

Omit the clause.

- (2) **Clause 45 (Government Railways Superannuation Account):**

Omit the clause.

Commencement

Item (1) of these amendments to the Transport Administration Act 1988 commences on the date of assent to this Act.

Item (2) of these amendments to the Transport Administration Act 1988 is taken to have commenced on 17 December 1991.

Superannuation Legislation (Amendment) Act 1992 No. 35

SCHEDULE 3—AMENDMENTS BY WAY OF STATUTE LAW
REVISION—*continued*

Explanatory note

Item (1) effects a repeal consequential on the transfer to the State Authorities Superannuation Scheme of certain officers who were employed under the Transport Act 1930 (now repealed).

Item (2) effects a repeal consequential on the repeal of the Government Railways (Superannuation) Act 1912.

*[Minister's second reading speech made in—
Legislative Assembly on 30 April 1992
Legislative Council on 7 May 1992]*