



New South Wales

# Superannuation Legislation Amendment Act 1997 No 42

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New South Wales

## **Superannuation Legislation Amendment Act 1997 No 42**

Act No 42, 1997

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An Act to amend various public sector superannuation Acts as a consequence of the enactment of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, to preserve certain accrued benefits under the *State Authorities Non-contributory Superannuation Act 1987*; and for other purposes. [Assented to 30 June 1997]

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Superannuation Legislation Amendment Act 1997*.

**2 Commencement**

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) Schedule 1.6 [18] and [20] commence, or are taken to have commenced, on 29 June 1997.
- (3) Schedule 1.4 [14] and 1.7 [6], [8], [10] and [13] commence, or are taken to have commenced, on 1 July 1997.
- (4) Schedule 1.9 [4] is taken to have commenced on 1 July 1996.

**3 Amendment of Acts**

The Acts specified in Schedule 1 are amended as set out in that Schedule.

**4 Amendment of the Public Sector Executives Superannuation Regulation 1995**

The *Public Sector Executives Superannuation Regulation 1995* is amended by omitting clauses 4 and 5.

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## Schedule 1 Amendment of Acts

(Section 3)

### 1.1 First State Superannuation Act 1992 No 100

#### [1] Section 10 Members may make other arrangements

Omit “scheme” from section 10 (1). Insert instead “fund”.

#### [2] Section 11

Omit the section. Insert instead:

##### 11 Information that must be disclosed to members

- (1) FTC must from time to time give to a member or other person such information as FTC determines under this section.
- (2) FTC must determine, having regard to the information required to be provided by the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, the information to be provided by FTC to members and other persons and the circumstances in which information must or may be provided.

#### [3] Section 30A Acceptance of contributions

Omit “comply with any applicable Commonwealth occupational”. Insert instead “be consistent with any relevant Commonwealth”.

#### [4] Section 30B Rules as to acceptance of contributions and other matters

Omit section 30B (1). Insert instead:

- (1) FTC may make rules for or with respect to persons in respect of whom it would be required not to accept contributions if the Fund were a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

- [5] Section 31 Amount of benefit generally**  
Omit section 31 (2).
- [6] Section 34 Power of FTC to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation**  
Omit the section.
- [7] Section 43 Manner of payment of benefit**  
Omit “applicable Commonwealth occupational”.  
Insert instead “relevant Commonwealth”.
- [8] Section 48 Transfer of benefit from other funds to Fund**  
Omit “scheme” from section 48 (1). Insert instead “fund”.
- [9] Section 75 FTC may make rules**  
Omit “applicable Commonwealth standards relating to occupational superannuation” from section 75 (1).  
Insert instead “relevant Commonwealth superannuation standards”.
- [10] Schedule 3 Savings, transitional and other provisions**  
Insert at the end of clause 1 (1):  
*Superannuation Legislation Amendment Act 1997*
- [11] Dictionary, definition of “approved deposit fund”**  
Omit the definition. Insert instead:  
*approved deposit fund* means an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- [12] Dictionary, definition of “Commonwealth occupational superannuation standard”**  
Omit the definition.

**[13] Dictionary, definition of “complying superannuation scheme”**

Omit the definition. Insert instead:

*complying superannuation fund* means a complying superannuation fund for the purposes of section 45 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**[14] Dictionary, definition of “relevant Commonwealth superannuation standard”**

Insert in alphabetical order:

*relevant Commonwealth superannuation standard* means a standard that would be applicable under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth if the Fund was a regulated superannuation fund under that Act.

**1.2 Parliamentary Contributory Superannuation Act 1971  
No 53**

**[1] Section 3 Definitions**

Omit the definition of *Commonwealth occupational superannuation standard* from section 3 (1).

**[2] Section 3 (1), definition of “relevant Commonwealth superannuation standard”**

Insert in alphabetical order:

*relevant Commonwealth superannuation standard* means a standard that would be applicable under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth if the Fund was a regulated superannuation fund under that Act.

**[3]      Section 7 Financial accommodation and investment**

Omit “regulation 16A of the Occupational Superannuation Standards Regulations of the Commonwealth” from section 7 (4) (c).

Insert instead “Part 8 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth”.

**[4]      Section 8**

Insert after section 7:

**8 Investment strategy**

- (1) The trustees must determine and give effect to an investment strategy for the Fund (the *investment strategy*) and a strategy for the prudential management of any reserves of the Fund (the *reserves strategy*).
- (2) The investment strategy must have regard to the circumstances of the Fund, including but not limited to the following:
  - (a) the risk involved in making, holding and realising, and the likely return from, the investments having regard to the schemes’ objectives and their cash flow requirements,
  - (b) the composition of the investments as a whole, including the extent to which the investments are diverse or involve exposure to risks from inadequate diversification,
  - (c) the liquidity of the investments having regard to the schemes’ cash flow requirements,
  - (d) the ability of the Fund to discharge its existing and prospective liabilities,
  - (e) any other matter which a trustee is required to consider in determining an investment strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

- (3) The reserves strategy must be consistent with the investment strategy and the ability to discharge the existing and prospective liabilities of the Fund (whether actual or contingent) as and when they fall due.
- (4) In determining the reserves strategy, the trustees must have regard to any other matter which a trustee is required to consider in determining a reserves strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**[5] Section 10 Actuarial investigation**

Omit “and the Insurance and Superannuation Commissioner allows the extension or further extension” from section 10 (2B).

**[6] Section 15 Functions of the trustees**

Omit section 15 (5) (b). Insert instead:

- (b) have regard to the Heads of Government Agreement, that commenced on 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, and
- (c) the future liabilities of the fund.

**[7] Section 18A Acceptance of contributions**

Omit “comply with an applicable Commonwealth occupational” from section 18A (2).

Insert instead “be consistent with a relevant Commonwealth”.

**[8] Section 228 Preservation of minimum benefits under superannuation guarantee legislation**

Omit “complying with an applicable Commonwealth occupational” from section 22B (1).

Insert instead “being consistent with a relevant Commonwealth”.



**[9]      Section 22B (1)**

Omit the note to the subsection.

**[10]     Section 22B (4)**

Omit “an applicable Commonwealth occupational”.  
Insert instead “a relevant Commonwealth”.

**[11]     Section 27A Power of the trustees to adjust benefits to comply with certain standards relating to superannuation**

Omit “comply with the relevant Commonwealth occupational” from section 27A (1) (b).  
Insert instead “be consistent with relevant Commonwealth”.

**[12]     Section 27A (1) (d)**

Omit “and section 27C”.

**[13]     Section 27A (2)**

Omit “does not comply with the relevant Commonwealth occupational”.  
Insert instead “is not consistent with relevant Commonwealth”.

**[14]     Section 27A (2)**

Omit “at any time before the trustees are required to take the action referred to in section 27C (1)”.

**[15]     Section 27A (2), (4), (6), (7), (8)**

Omit “complies with the relevant Commonwealth occupational” wherever occurring.  
Insert instead “is consistent with any relevant Commonwealth”.

**[16]     Section 27B Special provisions applicable to members who have reached 65 years of age**

Omit “being in breach of a Commonwealth occupational” from section 27B (1) (a).  
Insert instead “acting in a manner that is inconsistent with a relevant Commonwealth”.

**[17] Section 27C What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act**

Omit the section.

**[18] Section 32A**

Omit the section. Insert instead:

**32A Information that must be disclosed to members**

- (1) The trustees must from time to time give to a member or other person such information as the trustees determine under this section.
- (2) The trustees must determine, having regard to the information required to be provided by the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, the information to be provided by the trustees to members and other persons and the circumstances in which information must or may be provided.

**[19] Section 32B**

Insert before section 33:

**32B Provision of information to Insurance and Superannuation Commissioner**

The trustees must furnish to the Insurance and Superannuation Commissioner such information relating to the general administration and operation of the Fund as the Commissioner may reasonably require for the purpose of monitoring the Heads of Government Agreement, that commenced on 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**1.3 Police Association Employees (Superannuation) Act  
1969 No 33**

**[1] Section 3 Employees of Association transferring from  
employment as police officers**

Insert after section 3 (10):

(10AA) If a prescribed person to whom a superannuation allowance has been granted under subsection (2) dies on or after the commencement of Schedule 1.3 [1] to the *Superannuation Legislation Amendment Act 1997* and he or she is survived by a spouse:

- (a) who was his or her spouse at the date when the allowance was granted, if the allowance was granted (whether because of disablement or otherwise) to the prescribed person before he or she attained the age of 60 years, or
- (b) who was his or her spouse at the date when the prescribed person attained the age of 60 years, if the allowance was granted (whether because of disablement or otherwise) to the prescribed person after he or she attained the age of 60 years, or
- (c) who had been the spouse of the prescribed person for at least the preceding 3 years and became the spouse of the prescribed person before he or she attained the age of 60 years, if the allowance was granted because of disablement,

an annual superannuation allowance equivalent to 62.5 per cent of the annual superannuation allowance received by or payable to the prescribed person is payable to the spouse.

**[2] Section 3 (10A), (11), (11B)**

Insert “or (10AA)” after “(10)” wherever occurring.

#### **1.4 Police Regulation (Superannuation) Act 1906 No 28**

##### **[1] Section 1 Short title, commencement and definitions**

Omit the definition of *Commonwealth occupational superannuation standard* from section 1 (2).

##### **[2] Section 1 (2), definition of “relevant Commonwealth superannuation standard”**

Insert in alphabetical order:

*relevant Commonwealth superannuation standard*  
means a standard that would be applicable under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth if the Fund was a regulated superannuation fund under that Act.

##### **[3] Section 5AB Acceptance of contributions**

Omit “comply with an applicable Commonwealth occupational” from section 5AB (2).

Insert instead “be consistent with a relevant Commonwealth”.

##### **[4] Section 7 Superannuation allowance except where member hurt on duty**

Omit “or 14AB” from section 7 (3).

##### **[5] Section 7AA Superannuation allowance on early retirement**

Omit “or 14AB” from section 7AA (2B).

##### **[6] Section 9B Preserved benefit**

Omit “or 14AB” from section 9B (6A).

**[7] Section 9C Preservation of minimum benefits under superannuation guarantee legislation**

Omit “complying with an applicable Commonwealth occupational” from section 9C (1).

Insert instead “being consistent with a relevant Commonwealth”.

**[8] Section 9C (4)**

Omit “an applicable Commonwealth occupational”.

Insert instead “a relevant Commonwealth”.

**[9] Section 10 Superannuation allowance where member hurt on duty**

Omit “or 14AB” from section 10 (1AA).

**[10] Section 11AA**

Insert after section 11:

**11AA Grant of superannuation allowance to the surviving spouse of a former member of the police force who dies after the commencement of Schedule 1.4 [10] to the Superannuation Legislation Amendment Act 1997**

- (1) If a former member of the police force to whom a superannuation allowance has been granted dies on or after the commencement of Schedule 14 [10] to the *Superannuation Legislation Amendment Act 1997*, and that former member is survived by a person who:
  - (a) was the spouse of that former member both at the time of the former member’s death and at the time of the former member’s retirement (whether by disablement or otherwise), or
  - (b) in the case of a former member who retired because of disablement, was the spouse of that former member:

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- (i) both at the time of the former member's death and for at least the preceding 3 years, and
  - (ii) became the spouse of the former member before the former member attained the age of 60 years,

that spouse is entitled to receive a superannuation allowance equivalent to 62.5 per cent of the superannuation allowance that would have been payable to that former member from time to time if that former member had not died.

- (2) A superannuation allowance under subsection (1):
  - (a) is not payable to the surviving spouse of a deceased former member of the police force, if a superannuation allowance is payable to that spouse under section 12 or a gratuity is payable or has been paid to that spouse under section 12 (1A), and
  - (b) is not payable to the surviving spouse of a deceased former member of the police force who has commuted a superannuation allowance under Division 3, and
  - (c) is subject to section 23.

**[11] Section 12 Superannuation allowance where a member or former member dies as a result of being hurt on duty**

Omit "or 14AB" from section 12 (3B).

**[12] Section 13 Gratuity where deceased member not hurt on duty**

Omit "or 14AB" from section 13 (2A).

**[13] Section 14 Gratuity for discharged members not hurt on duty**

Omit "or 14AB" from section 14 (3).

**[14] Section 14AA Power of STC to reduce benefits to offset certain tax liabilities of the Fund**

Omit “(section 8A excepted)” from section 14AA (1) (a).

**[15] Section 14AB Power of STC to adjust benefits to comply with certain standards relating to superannuation**

Omit section 14AB (1).

**[16] Section 14AB (2)**

Omit “comply with the relevant Commonwealth occupational”.  
Insert instead “be consistent with any relevant Commonwealth”.

**[17] Section 14AB (2), (6)**

Omit “and section 14AC” wherever occurring.

**[18] Section 14AB (3)**

Omit “does not comply with the relevant Commonwealth occupational”.  
Insert instead “is not consistent with any relevant Commonwealth”.

**[19] Section 14AB (3)**

Omit “at any time before STC is required to take the action referred to in section 14AC (1)”.

**[20] Section 14AB (3), (5), (7), (8), (9)**

Omit “complies with the relevant Commonwealth occupational” wherever occurring.  
Insert instead “is consistent with the relevant Commonwealth”.

**[21] Section 14AB (11)**

Omit the subsection.

**[22] Section 14AC What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a superannuation allowance payable under this Act**

Omit the section.

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**[23] Section 14J Commutation on normal or early retirement of member**

Omit “or 14AB” from section 14J (5).

**[24] Section 14K Commutation on discharge of disabled member**

Omit “or 14AB” from section 14K (5).

**[25] Section 23A**

Omit the section. Insert instead:

**23A Information that must be disclosed to contributors**

- (1) STC must from time to time give to a contributor or other person such information as STC determines under this section.
- (2) STC must determine, having regard to the information required to be provided by the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, the information to be provided by STC to contributors and other persons and the circumstances in which information must or may be provided.

**[26] Section 238 Actuarial investigation**

Omit “and the Insurance and Superannuation Commissioner allows the extension or further extension” from section 23B (5).

**[27] Schedule 6 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 1997*



**1.5 Public Sector Executives Superannuation Act 1989  
No 106**

**[1] Section 3 Definitions**

Omit the definition of *approved deposit fund* from section 3 (1).  
Insert instead:

*approved deposit fund* means an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**[2] Section 3 (1), definition of “Commonwealth occupational superannuation standard”**

Omit the definition.

**[3] Section 3 (1), definition of “deferred annuity”**

Omit the definition. Insert instead:

*deferred annuity* means a deferred annuity within the meaning of Part 5 of the *Superannuation Industry (Supervision) Regulations* of the Commonwealth.

**[4] Section 3 (1), definition of “relevant Commonwealth superannuation standard”**

Insert in alphabetical order:

*relevant Commonwealth superannuation standard* means a standard that would be applicable under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth if the Fund was a regulated superannuation fund under that Act.

**[5] Section 28 Deposit funds**

Omit “comply with any applicable Commonwealth occupational” from section 28 (3).

Insert instead “be consistent with any relevant Commonwealth”.

**[6] Section 32**

Omit the section. Insert instead:

**32 Information that must be disclosed to members**

- (1) FTC must from time to time give to a member or other person such information as FTC determines under this section.
- (2) FTC must determine, having regard to the information required to be provided by the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, the information to be provided by FTC to members and other persons and the circumstances in which information must or may be provided.

**[7] Section 33 Actuarial investigation**

Omit the section.

**[8] Section 44A Acceptance of contributions**

Omit “comply with an applicable Commonwealth occupational” from section 44A (2).

Insert instead “be consistent with a relevant Commonwealth”.

**[9] Section 47 Benefit at or after early retirement**

Omit section 47 (3).

**[10] Section 48 Benefit on death before retirement**

Omit section 48 (3).

**[11] Section 49 Benefit on total and permanent invalidity before retirement**

Omit section 49 (4).

**[12] Section 49A Benefit on retrenchment or discharge**

Omit section 49A (8).

**[13] Section 50 Benefit on termination of employment before early retirement age**

Omit section 50 (3).

**[14] Section 51 Preserved benefit—employer-financed contributions**

Omit “superannuation scheme” from section 51 (2) (b).

Insert instead “fund that is a complying superannuation fund for the purposes of section 45 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth”.

**[15] Section 51 (2A)**

Omit the subsection.

**[16] Section 51 (4)**

Omit the subsection. Insert instead:

- (4) The benefit provided by subsection (3) or section 47 (4) is payable by FTC:
  - (a) if the member dies, or
  - (b) if the member ceases to be employed in the circumstances in which a benefit is payable for the purpose of complying with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth for a regulated superannuation fund, or
  - (c) in any other circumstances in which a benefit is payable to comply with any such requirements,and is so payable in accordance with subsection (5).

- (4A) The whole or part of a benefit may be paid under subsection (4), if such a payment is permitted under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth in the same circumstances in respect of a regulated superannuation fund.
- (4B) The whole or part of a benefit must be paid by FTC under this section if it is required to be paid under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth in the same circumstances in respect of a regulated superannuation fund.

**[17] Section 51 (6)**

Omit the subsection.

**[18] Section 55 Power of FTC to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation**

Omit the section.

**[19] Schedule 5 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 1997*

**1.6 State Authorities Non-contributory Superannuation Act 1987 No 212**

**[1] Section 3 Definitions**

Omit the definition of *approved deposit fund* from section 3 (1).  
Insert instead:

*approved deposit fund* means an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**[2] Section 3 (1), definition of “Commonwealth occupational superannuation standard”**

Omit the definition.

**[3] Section 3 (1), definition of “deferred annuity”**

Omit the definition. Insert instead:

*deferred annuity* means a deferred annuity within the meaning of Part 5 of the *Superannuation Industry (Supervision) Regulations* of the Commonwealth.

**[4] Section 3 (1), definition of “relevant Commonwealth superannuation standard”**

Insert in alphabetical order:

*relevant Commonwealth superannuation standard* means a standard that would be applicable under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth if the Fund was a regulated superannuation fund under that Act.

**[5] Section 3 (1), definition of “superannuation fund”**

Omit “*Occupational Superannuation Standards Act 1987*”.

Insert instead “*Superannuation Industry (Supervision) Act 1993*”.

**[6] Section 13 Actuarial investigation**

Omit “and the Insurance and Superannuation Commissioner has allowed the extension or further extension” from section 13 (4).

**[7] Section 18A Acceptance of contributions**

Omit “comply with an applicable Commonwealth occupational” from section 18A (2).

Insert instead “be consistent with a relevant Commonwealth”.

**[8] Section 20A Scheme closed for new employees**

Omit “ceased to be” from section 20A (4).

Insert instead “been”.

**[9] Section 22 Basic benefit**

Omit “or 26B” from section 22 (4).

**[10] Section 23 When benefits are payable**

Omit section 23 (1) and (2). Insert instead:

- (1) The basic benefit (and any preserved basic benefit) in respect of a person is payable by STC to or in respect of a person:
  - (a) if the person dies, or
  - (b) if the person ceases to be employed in the circumstances in which a benefit is payable for the purpose of complying with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth for a regulated superannuation fund, or
  - (c) in any other circumstances in which a benefit is payable to comply with any such requirements, and is so payable in accordance with subsection (3).
- (2) The whole or part of a benefit may be paid under subsection (1), if such a payment is permitted under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth in the same circumstances in respect of a regulated superannuation fund.
- (2A) The whole or part of a benefit must be paid by STC under this section if it is required to be paid under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth in the same circumstances in respect of a regulated superannuation fund.

**[11] Section 23 (3) (c)**

Omit “), or”. Insert instead “).”.

**[12] Section 23 (3) (d) and (4)**

Omit the paragraph and subsection.

**[13] Section 24 Benefit to be preserved**

Omit section 24 (1). Insert instead:

- (1) The basic benefit in respect of a person must be preserved by STC if the benefit is not otherwise payable under this Act.

**[14] Section 24 (3) and (5)**

Omit the subsections.

**[15] Section 24 (4) (c)**

Omit “), or”. Insert instead “).”.

**[16] Section 24 (4) (d)**

Omit the paragraph.

**[17] Section 26B Power of STC to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation**

Omit the section.

**[18] Section 26E Non-contributing employees to have deferred accrued benefit instead of basic benefit**

Omit “26B” from section 26E (3). Insert instead “26A”.

**[19] Section 26F Deferred accrued benefit to be preserved on transfer of employment**

Insert “section 23 (When benefits are payable) and” before “section 24” in section 26F (1).

**[20] Section 26I**

Insert after section 26H:

**26I Preservation of deferred accrued benefits**

- (1) On and from 29 June 1997, each non-contributing employee is taken to have ceased to be an employee for the purposes of the application of section 23 (When benefits are payable) and section 24 (Benefit to be preserved) to the deferred accrued benefit provided by this Part.
- (2) STC must, on and from 30 June 1997, transfer the amount of the benefit preserved in respect of the person under subsection (1) to the person's account in the Fund established under the *First State Superannuation Act 1992*, if the person has such an account.
- (3) For the purposes of calculating the amount of the deferred accrued benefit to be preserved in respect of a non-contributing employee (other than an irregular employee) under this section, the employee's final average salary is taken to be the employee's salary as at 31 December 1996.

**[21] Section 27AA Preservation of benefit for contributors affected by privatisation**

Omit section 27AA (2).

**[22] Section 33A**

Omit the section. Insert instead:

**33A Information that must be disclosed to employees**

- (1) STC must from time to time give to an employee or other person such information as STC determines under this section.
- (2) STC must determine, having regard to the information required to be provided by the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, the information to be provided by STC to employees and other persons and the circumstances in which information must or may be provided.



**[23] Schedule 5 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 1997*

**[24] Schedule 5, Part 3**

Insert after Part 2:

**Part 3 Superannuation Legislation Amendment Act 1997**

**3 Irregular employees**

Any action done by or on behalf of the trustee before the commencement of this clause, that is consistent with the effect of section 20A (4) as amended by the *Superannuation Legislation Amendment Act 1997*, is validated.

**1.7 State Authorities Superannuation Act 1987 No 211**

**[1] Section 3 Definitions**

Omit the definition of *Commonwealth occupational superannuation standard* from section 3 (1).

**[2] Section 3 (1), definition of “relevant Commonwealth superannuation standard”**

Insert in alphabetical order:

*relevant Commonwealth superannuation standard* means a standard that would be applicable under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth if the Fund was a regulated superannuation fund under that Act.

**[3] Section 18 Actuarial investigation**

Omit “and the Insurance and Superannuation Commissioner has allowed the extension or further extension” from section 18 (4).

**[4] Section 35A Acceptance of contributions**

Omit “comply with an applicable Commonwealth occupational” from section 35A (2).

Insert instead “be consistent with a relevant Commonwealth”.

**[5] Section 37 Benefit at or after early retirement or on death at or after early retirement age**

Omit “or 45B” from section 37 (3).

**[6] Section 38 Benefit on death before early retirement age**

Omit “represents the contributor’s final salary” from section 38 (2) (b).

Insert instead “represents the higher of the contributor’s final salary or the contributor’s final average salary”.

**[7] Section 38 (3)**

Omit “or 45B”.

**[8] Section 39 Benefit on total and permanent invalidity before early retirement age**

Omit “represents the contributor’s final salary” from section 39 (2) (b).

Insert instead “represents the higher of the contributor’s final salary or the contributor’s final average salary”.

**[9] Section 39 (4)**

Omit “or 45B”.

**[10] Section 40 Benefit on partial and permanent invalidity before early retirement age**

Omit “represents the contributor’s final salary” from section 40 (2) (b).

Insert instead “represents the higher of the contributor’s final salary or the contributor’s final average salary”.

**[11] Section 40 (4)**

Omit “or 45B”.

**[12] Section 41 Benefit on resignation, dismissal or discharge before early retirement age**

Omit “or 45B” from section 41 (2A).

**[13] Section 42 Benefit on retrenchment before early retirement age**

Omit “represents the contributor’s final salary” from section 42 (2) (b).

Insert instead “represents the higher of the contributor’s final salary or the contributor’s final average salary”.

**[14] Section 42 (2A)**

Omit “or 45B”.

**[15] Section 43 Preserved benefit**

Omit “or 45B” from section 43 (7A).

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**[16] Section 43AAA Preservation of minimum benefits under superannuation guarantee legislation**

Omit “complying with an applicable Commonwealth occupational” from section 43AAA (1).

Insert instead “being consistent with a relevant Commonwealth”.

**[17] Section 43AAA (3)**

Omit “an applicable Commonwealth occupational”.

Insert instead “a relevant Commonwealth”.

**[18] Section 45B Power of STC to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation**

Omit the section.

**[19] Section 45C What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under the regulations**

Omit the section.

**[20] Section 54A**

Omit the section. Insert instead:

**54A Information that must be disclosed to contributors**

- (1) STC must from time to time give to a contributor or other person such information as STC determines under this section.
- (2) STC must determine, having regard to the information required to be provided by the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, the information to be provided by STC to contributors and other persons and the circumstances in which information must or may be provided.

**[21] Schedule 5 Special provisions for preserving the benefits of certain contributors**

Insert after clause 4C (4):

(5) In this clause:

*approved deposit fund* means an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

*deferred annuity* means a deferred annuity within the meaning of Part 5 of the *Superannuation Industry (Supervision) Regulations* of the Commonwealth.

**[22] Schedule 6 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 1997*

**1.8 Superannuation Act 1916 No 28**

**[1] Section 3 Definitions**

Omit the definition of *Approved deposit fund* from section 3 (1).  
Insert instead:

*Approved deposit fund* means an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**[2] Section 3 (1), definition of “Commonwealth occupational superannuation standard”**

Omit the definition.

**[3] Section 3 (1), definition of “Deferred annuity”**

Omit the definition. Insert instead:

*Deferred annuity* means a deferred annuity within the meaning of Part 5 of the *Superannuation Industry (Supervision) Regulations* of the Commonwealth.

**[4] Section 3 (1), definition of “Relevant Commonwealth superannuation standard”**

Insert in alphabetical order:

*Relevant Commonwealth superannuation standard* means a standard that would be applicable under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth if the Fund was a regulated superannuation fund under that Act.

**[5] Section 10 Actuary or actuaries to conduct periodic investigations into the Fund**

Omit “and the Insurance and Superannuation Commissioner has allowed the extension or further extension” from section 10 (5).

**[6] Section 12BA Deduction factors for periods determined by STC**

Omit “the application of an applicable Commonwealth occupational” from section 12BA (3).

Insert instead “being consistent with a relevant Commonwealth”.

**[7] Section 27 Amount of pension payable on retirement**

Omit “or 61RB” from section 27 (3).

**[8] Section 28A Pension on retirement before reaching 60 years of age**

Omit “or 61RB” from section 28A (9).

**[9] Section 28AA Pension on retirement before age 60—component pension**

Omit “or 61RB” from section 28AA (5A).

**[10] Section 29 Breakdown pensions**

Omit “or 61RB” from section 29 (2AA).

**[11] Section 37 Retrenchment benefits payable to an employee who is retrenched after completing 10 years’ service**

Omit “or 61RB” from section 37 (4A).

**[12] Section 37A Retrenchment benefits payable to contributors having not less than 3 years’ contributory service**

Omit “or 61RB” from section 37A (10A).

**[13] Section 38A Withdrawal benefit**

Omit “or 61RB” from section 38A (6).

**[14] Section 47D Benefits payable in respect of reduced value units**

Omit “or 61RB” from section 47D (8).

**[15] Section 52A Calculation of preserved pension components**

Omit “or 61RB” from section 52A (6).

**[16] Section 52Y Preservation of minimum benefits under superannuation guarantee legislation**

Omit “complying with an applicable Commonwealth occupational” from section 52Y (1).

Insert instead “being consistent with a relevant Commonwealth”.

**[17] Section 52Y (4)**

Omit “an applicable Commonwealth occupational”.

Insert instead “a relevant Commonwealth”.

**[18] Section 61M Children's pensions**

Omit "or 61RB" from section 61M (4).

**[19] Section 61N Orphans' pensions**

Omit "or 61RB" from section 61N (4).

**[20] Section 61RB Power of STC to adjust benefits to comply with certain Commonwealth standards relating to superannuation**

Omit section 61RB (1).

**[21] Section 61RB (2) (b)**

Omit "comply with the relevant Commonwealth occupational".  
Insert instead "be consistent with relevant Commonwealth".

**[22] Section 61RB (3)**

Omit "does not comply with the relevant Commonwealth occupational".  
Insert instead "is not consistent with relevant Commonwealth".

**[23] Section 61RB (3), (5), (7), (8) and (9)**

Omit "complies with the relevant Commonwealth occupational" wherever occurring.  
Insert instead "is consistent with relevant Commonwealth".

**[24] Section 61RC What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act**

Omit the section.

**[25] Section 85**

Omit the section. Insert instead:

**85 Information that must be disclosed to contributors**

- (1) STC must from time to time give to a contributor or other person such information as STC determines under this section.



- (2) STC must determine, having regard to the information required to be provided by the trustee of a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, the information to be provided by STC to contributors and other persons and the circumstances in which information must or may be provided.

**[26] Schedule 25 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 1997*

**1.9 Superannuation Administration Act 1996 No 39**

**[1] Section 4 Definitions**

Insert in alphabetical order:

*Insurance and Superannuation Commissioner* means the Insurance and Superannuation Commissioner appointed under the *Insurance and Superannuation Commissioner Act 1987* of the Commonwealth, or a person for the time being acting as Insurance and Superannuation Commissioner under that Act.

**[2] Section 42A**

Insert after section 42:

**42A Provision of information to Insurance and Superannuation Commissioner**

FTC must furnish to the Insurance and Superannuation Commissioner such information relating to the general administration and operation of any FTC scheme or fund as the Commissioner may reasonably require for the purpose of monitoring the Heads of Government Agreement, commencing 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**[3] Section 90A**

Insert after section 90:

**90A Provision of information to Insurance and Superannuation Commissioner**

STC must furnish to the Insurance and Superannuation Commissioner such information relating to the general administration and operation of any STC scheme or fund as the Commissioner may reasonably require for the purpose of monitoring the Heads of Government Agreement, commencing 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**[4] Section 127 Additional State public sector superannuation schemes**

Insert “,or other employees, or a class or classes of other employees, of employers under FTC or STC schemes (being employees associated with or involved in local government or local government activities, or associated with or involved in the electricity industry)” after “authority” in section 127 (1).

[Minister’s second reading speech made in—  
Legislative Assembly on 17 June 1997  
Legislative Council on 25 June 1997]