



New South Wales

Superannuation Legislation Amendment Bill 2004

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend various public sector superannuation Acts for the following purposes:

- (a) to provide for contributions to be accepted into the First State Superannuation Fund in respect of members who are not employees,
- (b) to make it clear that employer contributions to superannuation under the *State Authorities Non-contributory Superannuation Act 1987* are not included in the salary of office of senior executive officers for the purposes of other State public sector defined benefit superannuation schemes,
- (c) to enable co-contributions made by the Commissioner of Taxation under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* of the Commonwealth to be accepted into the scheme under the *State Authorities Non-contributory Superannuation Act 1987* in respect of employees covered by the public sector defined benefit superannuation schemes,
- (d) to enable the SAS Trustee Corporation (*STC*) to increase certain death benefits payable under the *State Authorities Superannuation Act 1987*, *Superannuation*

Act 1916, State Authorities Non-contributory Superannuation Act 1987 and the Police Regulation (Superannuation Act) 1906 to restore amounts by which the benefits were reduced because of income tax liability in respect of employers' contributions,

- (e) to clarify certain matters relating to police hurt on duty benefits under the *Police Regulation (Superannuation) Act 1906,*
- (f) to re-enact and streamline provisions relating to the preservation and payment of benefits as a result of changes in scheme membership caused by Government initiatives,
- (g) to enable regulations to be made to provide for who is liable to pay benefits and other employer liabilities that occur during periods where an employee is eligible to elect to leave, or transfer from, a public sector superannuation scheme and before the employee elects to do so,
- (h) to enable STC to adjust employer reserves in the State Authorities Superannuation Fund and the State Superannuation Fund for the purpose of pooling employer liabilities for death and disability benefits paid out of the Fund,
- (i) to make it clear that the FSS Trustee Corporation (*FTC*) and STC may delegate the disputes determination function conferred on those Corporations to committees.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Acts specified in Schedules 1–7 as set out in those Schedules.

Schedule 1 Amendment of First State Superannuation Act 1992 No 100

Schedule 1 amends section 14 of the Principal Act, to include the contributions that may be paid on behalf of members who are not employees as a matter that may be included in the trust deed for the First State Superannuation Fund.

Schedule 2 Amendment of Police Association Employees (Superannuation) Act 1969 No 33

Schedule 2 [1] amends section 2B of the Principal Act, which sets out how the salary of office of an executive officer is calculated for the purposes of superannuation contributions and benefits. The amendment makes it clear that employer

contributions to superannuation under the *State Authorities Non-contributory Superannuation Act 1987* may not be included as part of the remuneration paid to an officer for the purpose of calculating the maximum salary that may be nominated by the officer for the purposes of the superannuation scheme established by the Principal Act.

Schedule 2 [2] enables regulations containing savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

Schedule 3 Amendment of Police Regulation (Superannuation) Act 1906 No 28

Salary of office of executive officers

Schedule 3 [1] amends section 1AA of the Principal Act, which sets out how the salary of office of an executive officer is calculated for the purposes of superannuation contributions and benefits. The amendment makes it clear that employer contributions to superannuation under the *State Authorities Non-contributory Superannuation Act 1987* may not be included as part of the remuneration paid to an officer for the purpose of calculating the maximum salary that may be nominated by the officer for the purposes of the superannuation scheme established by the Principal Act.

Hurt on duty benefits

Under section 12D of the Principal Act, STC may pay a police officer or former police officer who is a member of the Police Superannuation Scheme, and who was hurt on duty, a gratuity in the nature of a workers compensation payment. The gratuity is not payable unless the officer is receiving an annual superannuation allowance under section 10 (that is, an allowance paid because the officer was hurt on duty) or the injury for which the gratuity is paid is determined by the Commissioner of Police to have been caused by being hurt on duty.

Schedule 3 [2] and [3] amend section 12D to make it clear that STC may pay a gratuity under that section without a need for a further determination about whether an injury arose out of being hurt on duty only if it is for the same injury for which a superannuation allowance is already being paid. However, in any other case, a gratuity is only payable after the Commissioner of Police decides that the injury to which the claim relates was caused by the member being hurt on duty. The amendment also removes the requirement that a determination by the Commissioner of Police as to the cause of an injury must be made at the request of STC.

Restoration of death benefit previously reduced to offset contribution tax liabilities

Currently section 14AA of the Principal Act requires STC to make a determination reducing a benefit under the Principal Act if STC is liable to pay income tax under a

Commonwealth taxation law in respect of certain amounts and a portion of that tax is referable to the part of those amounts used to finance the benefit.

Schedule 3 [4] inserts proposed section 14AAA into the Principal Act. The proposed section enables STC to increase a benefit payable or paid under section 9B of the Principal Act, that has been previously reduced under section 14AA, for the purpose of obtaining an income tax deduction. The benefit is increased by an amount equal to the amount that would be allowable as a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* of the Commonwealth in respect of the payment.

Savings and transitional provisions

Schedule 3 [5] enables regulations containing savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

Schedule 3 [6] validates gratuities granted under section 12D of the Principal Act where the Commissioner of Police made a decision about injury other than at the request of STC.

Schedule 3 [6] also provides that proposed section 14AAA applies to a benefit reduced, but not paid, before the commencement of that section and does not apply to a benefit paid before the commencement of that section.

Schedule 4 Amendment of State Authorities Non-contributory Superannuation Act 1987 No 212

Salary of executive officers

Schedule 4 [3] amends section 4A of the Principal Act, which sets out how the salary of an executive officer is calculated for the purposes of superannuation contributions and benefits. The amendment makes it clear that employer contributions to superannuation under other public sector superannuation schemes may not be included as part of the remuneration paid to an officer for the purpose of calculating the maximum salary that may be nominated by the officer for the purposes of the superannuation scheme established by the Principal Act.

Schedule 4 [2] makes a consequential amendment.

Acceptance of co-contributions

The *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* of the Commonwealth provides for contributions (***Commonwealth co-contributions***) to be made by the Commonwealth Government towards the superannuation of eligible low income earners. Such contributions are co-contributions, being made when eligible low income earners themselves make eligible personal contributions to superannuation.

The Schedule includes amendments to the Principal Act to enable Commonwealth co-contributions made in respect of employees and former employees, within the meaning of the Principal Act, to be accepted into the superannuation scheme under the Principal Act.

Schedule 4 [5] and [8] amend the Principal Act to enable any such co-contributions to be accepted into funds and employer reserves under that Act.

In certain cases, co-contributions may be recovered by the Commissioner of Taxation as amounts payable as a debt due to the Commonwealth. **Schedule 4 [7] and [9]** amend the Principal Act to enable such amounts to be paid, or debited, as the case may be, from the relevant funds and employer reserves under the Act. **Schedule 4 [9]** also provides for the costs incurred by STC in relation to Commonwealth co-contributions to be debited from relevant employer reserves.

Schedule 4 [11] inserts proposed section 10B into the Principal Act to provide for STC to establish and maintain accounts in respect of co-contributions made in respect of employees and to credit Commonwealth co-contributions to them.

Schedule 4 [13] inserts proposed section 22A into the Principal Act to provide for the benefit (*Commonwealth co-contribution benefit*) provided by the Principal Act for a person in respect of Commonwealth co-contributions to be an amount equal to the balance at credit in the person's Commonwealth co-contribution account at the time the benefit is paid or preserved.

Schedule 4 [14] and [15] amend section 23 of the Principal Act to provide for the Commonwealth co-contribution benefit to be payable in the same circumstances as the basic benefit is payable.

Schedule 4 [17] and [18] amend section 24 of the Principal Act to provide for any Commonwealth co-contribution benefit in respect of a person to be preserved if the basic benefit in respect of that person is not otherwise payable under the Principal Act.

Schedule 4 [19] inserts proposed section 24 (1A) and (1B) into the Principal Act to provide that Commonwealth co-contributions received by STC in respect of a former employee while a basic benefit is preserved by STC in respect of the former employee must be preserved, and any preserved Commonwealth co-contribution benefit of the person is to be increased by the amount of Commonwealth co-contributions so preserved.

Schedule 4 [1], [12], [16], [20] and [21] make consequential amendments.

Schedule 4 [4] and [6] make statute law revision amendments.

Restoration of death benefit previously reduced to offset contribution tax liabilities

Currently section 26A of the Principal Act requires STC to make a determination reducing a benefit under the Principal Act if STC is liable to pay income tax under a Commonwealth taxation law in respect of certain amounts and a portion of that tax is referable to the benefit.

Schedule 4 [22] inserts proposed section 26AA into the Principal Act. The proposed section enables STC to increase a benefit payable or paid under the Principal Act on the death of an employee or former employee under the Principal Act, that has been previously reduced under section 26A, for the purpose of obtaining an income tax deduction. The benefit is increased by an amount equal to the amount that would be allowable as a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* of the Commonwealth in respect of the payment.

Effect of Government initiatives

Currently the Principal Act has 2 different ways of dealing with employees who are required to or elect to leave the Act's superannuation scheme, or whose employer ceases to be an employer under the scheme, as a result of a Government privatisation initiative or other Government initiative. The Schedule amends the Act so that all of these employees are dealt with in the same way.

Schedule 4 [24] substitutes section 27AA of the Principal Act. The proposed section applies Part 4AA to employees who transfer employment or superannuation coverage, or whose employer ceases to be an employer in the Act's superannuation scheme, if the Minister certifies that the cessation of employment or coverage or the removal of the employer is as a consequence of a Government privatisation initiative or other Government initiative. If the Part applies, the basic benefit and any Commonwealth co-contribution benefit in respect of the employee is to be preserved.

Schedule 4 [23] makes a consequential amendment.

Schedule 4 [25] extends provisions of section 27AB of the Principal Act, which currently provide for the adjustment of the liabilities of an employer under the Act on privatisation, to enable adjustment of the liabilities of an employer after other Government initiatives affect employees of the employer. **Schedule 4 [10]** makes a consequential amendment.

Schedule 4 [26] and [27] amend section 27AC of the Principal Act to vest an employer's liability in respect of transferred contributors in the Crown on the relevant transfer of contributors or superannuation coverage taking effect as a result of a Government privatisation initiative or other Government initiative.

Schedule 4 [28] inserts proposed section 27ACA into the Principal Act. The proposed section enables regulations to be made for or with respect to liability for employer contributions, benefits or other employer liabilities under the Principal Act that are payable in respect of any period in which an employee may elect to transfer employment or superannuation coverage and before any such election is made.

Savings and transitional provisions

Schedule 4 [29] enables regulations containing savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

Schedule 4 [30] provides that proposed section 26AA applies to a benefit reduced, but not paid, before the commencement of that section and does not apply to a benefit paid before the commencement of that section.

Schedule 5 Amendment of State Authorities Superannuation Act 1987 No 211

Salary of executive officers

Schedule 5 [2] amends section 4A of the Principal Act, which sets out how the salary of an executive officer is calculated for the purposes of superannuation contributions and benefits. The amendment makes it clear that employer contributions to superannuation under the *State Authorities Non-contributory Superannuation Act 1987* may not be included as part of the remuneration paid to an officer for the purpose of calculating the maximum salary that may be nominated by the officer for the purposes of the superannuation scheme established by the Principal Act.

Pooling of liability for death and disability benefits

Schedule 5 [4] inserts proposed section 16A. The proposed section enables STC, after obtaining actuarial advice, to adjust amounts in employers' reserves to achieve an equitable pooling of liability for payment of employer contributions to death and disability benefits among all employers in the State Authorities Superannuation Scheme in the preceding year.

Restoration of death benefit previously reduced to offset contribution tax liabilities

Currently section 45A of the Principal Act requires STC to make a determination reducing the employer-financed portion of a benefit under the Principal Act if STC is liable to pay income tax under a Commonwealth taxation law in respect of certain amounts and a portion of that tax is referable to the employer-financed portion of the benefit.

Schedule 5 [6] inserts proposed section 45AA into the Principal Act. The proposed section enables STC to increase an employer-financed portion of a benefit payable or paid under the Principal Act on the death of a contributor or former contributor, that has been previously reduced under section 45A, for the purpose of obtaining an income tax deduction. The benefit is increased by an amount equal to the amount that would be allowable as a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* of the Commonwealth in respect of the payment.

Effect of Government initiatives

Currently the Principal Act has 2 different ways of dealing with contributors who are required to or elect to leave the Act's superannuation scheme, or whose employer ceases to be an employer under the scheme, as a result of a Government privatisation initiative or other Government initiative. The Schedule amends the Act so that all of these contributors are dealt with in the same way.

Schedule 5 [8] inserts proposed section 46AAA of the Principal Act. The proposed section applies Part 5A to contributors who transfer employment or superannuation coverage, if the Minister certifies that the cessation of employment or coverage or the

removal of the employer is as a consequence of a Government privatisation initiative or other Government initiative. The Part also applies if an employer ceases to be an employer because of an order made as a result of a Government privatisation initiative. **Schedule 5 [1], [3], [5] and [7]** make consequential amendments.

Schedule 5 [9] inserts a formal provision that gives effect to proposed Part 1 of Schedule 5 to the Principal Act.

Schedule 5 [10] extends provisions of section 46AC of the Principal Act, which currently provide for the determination and adjustment of the liabilities of an employer under the Act on privatisation, to enable adjustment of the liabilities of an employer after other Government initiatives affect contributors employed by the employer.

Schedule 5 [11] and [12] amend section 46AD of the Principal Act to vest an employer's liability in respect of transferred contributors in the Crown on the relevant transfer of contributors or superannuation coverage taking effect as a result of a Government privatisation initiative or other Government initiative.

Schedule 5 [14] inserts proposed Part 1 of Schedule 5 into the Principal Act. The proposed Part provides for the deferral of a contributor's benefit when Part 5A of the Principal Act applies and permits immediate payment of any such benefit to another superannuation fund or approved deposit fund approved by STC or to purchase a deferred annuity. Otherwise, the deferred benefit may be paid in the same circumstances as other deferred benefits under the Principal Act. The proposed Part also enables regulations to be made for or with respect to liability for employer contributions, benefits or other employer liabilities under the Principal Act that are payable in respect of any period in which a contributor may elect to transfer employment or superannuation coverage and before any such election is made. **Schedule 5 [13] and [15]** make consequential amendments.

Savings and transitional provisions

Schedule 5 [16] enables regulations containing savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

Schedule 5 [17] provides that proposed section 45AA applies to an employer-financed portion of a benefit reduced, but not paid, before the commencement of that section and does not apply to an employer-financed portion of a benefit paid before the commencement of that section.

Schedule 6 Amendment of Superannuation Act 1916 No 28

Salary of executive officers

Schedule 6 [1] amends section 3AA of the Principal Act, which sets out how the salary of an executive officer is calculated for the purposes of superannuation contributions and benefits. The amendment makes it clear that employer contributions to superannuation under the *State Authorities Non-contributory*

Superannuation Act 1987 may not be included as part of the remuneration paid to an officer for the purpose of calculating the maximum salary that may be nominated by the officer for the purposes of the superannuation scheme established by the Principal Act.

Pooling of liability for death and disability benefits

Schedule 6 [2] inserts proposed section 8C. The proposed section enables STC, after obtaining actuarial advice, to adjust amounts in employers' reserves to achieve an equitable pooling of liability for payment of employer contributions to death and disability benefits among all employers in the State Superannuation Scheme in the preceding year.

Medical examinations

Schedule 6 [3] omits Part 2A of the Principal Act which contains provisions about medical examinations for new contributors and is no longer necessary because the State Superannuation Scheme is closed to new contributors.

Breakdown pensions

Currently, a person who is granted a pension under the Principal Act because of invalidity (a *breakdown pension*) is granted that pension for a specified period only and is subject to being recalled to service if STC is of the opinion that the person's health enables the person to perform suitable duties.

Schedule 6 [4] enables STC, when granting a breakdown pension to a contributor who has attained 55 years, to grant the pension for the remainder of the person's life, but only if the contributor so elects.

Schedule 6 [5] inserts proposed section 51A into the Principal Act, which provides that the provisions that would enable a person to be recalled to service and other related provisions do not apply to a person granted a breakdown pension for life.

Schedule 6 [6] enables STC, when granting a breakdown pension to a former contributor who has previously deferred a benefit and who has attained 55 years, to grant the pension for the remainder of the person's life, but only if the contributor so elects.

Restoration of death benefit previously reduced to offset contribution tax liabilities

Currently section 61RA of the Principal Act requires STC to make a determination reducing a benefit under the Principal Act if STC is liable to pay income tax under a Commonwealth taxation law in respect of employers' contributions and a portion of that tax is referable to the employer-financed portion of the benefit.

Schedule 6 [7] inserts proposed section 61RAA into the Principal Act. The proposed section enables STC to increase a lump sum benefit under this Act payable or paid on the death of a contributor or former contributor that has been previously reduced under section 61RA for the purpose of obtaining an income tax deduction. The

benefit is increased by an amount equal to the amount that would be allowable as a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* of the Commonwealth in respect of the payment.

Effect of Government initiatives

Currently the Principal Act has 2 different ways of dealing with contributors who are required to or elect to leave the Act's superannuation scheme, or whose employer ceases to be an employer under the scheme, as a result of a Government privatisation initiative or other Government initiative. The Schedule amends the Act so that all of these contributors are dealt with in the same way.

Schedule 6 [9] inserts proposed section 62A of the Principal Act. The proposed section applies Part 5 to contributors who transfer employment or superannuation coverage, if the Minister certifies that the cessation of employment or coverage or the removal of the employer is as a consequence of a Government privatisation initiative or other Government initiative. The Part also applies if an employer ceases to be an employer because of an order made as a result of a Government privatisation initiative. **Schedule 6 [8]** makes a consequential amendment.

Schedule 6 [10] inserts a formal provision that gives effect to proposed Part 1 of Schedule 23 to the Principal Act.

Schedule 6 [11] extends provisions of section 64 of the Principal Act, which currently provide for the determination and adjustment of the liabilities of an employer under the Act on privatisation, to enable adjustment of the liabilities of an employer after other Government initiatives affect contributors employed by the employer.

Schedule 6 [12] and [13] amend section 65 of the Principal Act to vest an employer's liability in respect of transferred contributors in the Crown on the relevant transfer of contributors or superannuation coverage taking effect as a result of a Government privatisation initiative or other Government initiative.

Schedule 6 [16] inserts proposed Part 1 of Schedule 23 into the Principal Act. The proposed Part provides for the deferral of a contributor's benefit when Part 5 of the Principal Act applies and permits immediate payment of any such benefit to another superannuation fund or approved deposit fund approved by STC or to purchase a deferred annuity. Otherwise, the deferred benefit may be paid in the same circumstances as other deferred benefits under the Principal Act. The proposed Part also enables regulations to be made for or with respect to liability for employer contributions, benefits or other employer liabilities under the Principal Act that are payable in respect of any period in which a contributor may elect to transfer employment or superannuation coverage and before any such election is made. **Schedule 6 [14], [15] and [17]** make consequential amendments.

Savings and transitional provisions

Schedule 6 [18] enables regulations containing savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

Schedule 6 [19] provides that proposed section 61RAA applies to a lump sum benefit reduced, but not paid, before the commencement of that section and does not apply to a lump sum benefit paid before the commencement of that section.

Schedule 7 Amendment of Superannuation Administration Act 1996 No 39

Delegation of the function to determine disputes to a disputes committee

The Principal Act provides that one of the principal functions of FTC and STC is to determine disputes under the Acts under which the FTC, or STC, as the case may be, are established or constituted (sections 9 (1) (e) and 50 (1) (e) respectively).

Schedule 7 [6] amends section 32 of the Principal Act to make it clear that FTC may, in respect of a dispute, a class of disputes or all disputes under the Acts under which the FTC schemes are established or constituted, delegate the FTC dispute function to a committee that is comprised of or includes members of the FTC Board (an *FTC disputes committee*). **Schedule 7 [17]** makes a corresponding amendment in respect of STC.

Schedule 7 [8] amends section 40 of the Principal Act to make it clear that an appeal against a determination of a dispute by an FTC disputes committee may be taken to the Industrial Relations Commission in Court Session in the same way as an appeal may be made against a determination of FTC. **Schedule 7 [19]** makes a corresponding amendment in respect of STC.

Schedule 7 [1]–[5], [7] and [9]–[11] make consequential amendments regarding the FTC disputes committee. **Schedule 7 [1], [12]–[14], [16], [18] and [20]–[22]** make consequential amendments regarding the STC disputes committee.

Other amendments

Schedule 7 [15] amends section 67 of the Principal Act to make it clear that the provisions of the Principal Act relating to determination of disputes do not apply to disputes under the *Police Regulation (Superannuation) Act 1906* relating to hurt on duty benefits and determinations.

Schedule 7 [23] makes a statute law revision amendment.

Schedule 7 [24] and [25] amend sections 128A and 128B of the Principal Act to enable regulations to be made for or with respect to liability for employer contributions, benefits, insurance premiums or other employer superannuation liabilities under the Principal Act that are payable during any period, or in respect of any period, in which a transfer option for transfer to and from certain public sector superannuation schemes may be exercised.

Savings and transitional provisions

Schedule 7 [26] enables regulations containing savings and transitional provisions to be made as a consequence of the enactment of the proposed Act.

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Explanatory note

Schedule 7 [27] provides that the amendments made by the proposed Act to the Principal Act regarding the delegation of the dispute function apply to a dispute that occurred but has not been determined before the commencement of those amendments but do not apply to a dispute determined before the commencement of those amendments.

Schedule 7 [27] also validates a determination of a dispute by a committee on behalf of FTC before the commencement of the amendments made by the proposed Act to the Principal Act regarding the dispute function of FTC.

Schedule 7 [27] also validates a determination of a dispute by a committee on behalf of STC before the commencement of the amendments made by the proposed Act to the Principal Act regarding the dispute function of STC.



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No. , 2004

A Bill for

An Act to amend various public sector superannuation Acts with respect to police hurt on duty benefits, death benefits, deferral and payment of benefits as a result of Government initiatives, adjustment of employer reserves, payment of Commonwealth co-contributions into public sector superannuation schemes and dispute procedures; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Superannuation Legislation Amendment Act 2004</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5
3 Amendment of Acts	6
The Acts specified in Schedules 1–7 are amended as set out in those Schedules.	7 8

**Schedule 1 Amendment of First State
Superannuation Act 1992 No 100**

(Section 3)

Section 14 Other matters that may or may not be included in trust deed

Insert after section 14 (1) (d):

- (d1) the contributions that may be paid on behalf of members who are not employees,

Schedule 2	Amendment of Police Association Employees (Superannuation) Act 1969 No 33	1 2 3
	(Section 3)	4
[1]	Section 2B Salary of office: executive officers	5
	Insert “under this Act and the <i>State Authorities Non-contributory Superannuation Act 1987</i> ” after “superannuation” in section 2B (3).	6 7
[2]	Schedule 1 Savings and transitional provisions	8
	Insert at the end of clause 1 (1):	9
	<i>Superannuation Legislation Amendment Act 2004</i> , but only to the extent to which it amends this Act	10 11

**Schedule 3 Amendment of Police Regulation
(Superannuation) Act 1906 No 28**

	(Section 3)	3
[1] Section 1AA Salary of office: executive officers		4
Insert “under this Act and the <i>State Authorities Non-contributory Superannuation Act 1987</i> ” after “superannuation” in section 1AA (3).		5 6
[2] Section 12D Gratuities to members hurt on duty in respect of loss of limbs, medical expenses etc		7 8
Insert “in respect of an infirmity of body or mind arising out of the same injury to which the claim for the gratuity relates” after “section 10” in section 12D (3) (a).		9 10 11
[3] Section 12D (4)		12
Omit “who is not entitled to an annual superannuation allowance under section 10 claims a gratuity under this section, the Commissioner of Police shall, at the request of STC”.		13 14 15
Insert instead “claims a gratuity under this section (otherwise than in respect of an injury referred to in subsection (3) (a)), the Commissioner of Police must”.		16 17 18
[4] Section 14AAA		19
Insert after section 14AA:		20
14AAA Restoration of death benefit previously reduced to offset contribution tax liabilities		21 22
(1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth, increase a benefit payable or paid under section 9B that has been previously reduced under section 14AA (1).		23 24 25 26 27
(2) The amount of the increase is to be equal to the amount that would be allowable as a deduction from assessable income under section 279D of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth in respect of the payment.		28 29 30 31
(3) Before making the payment, STC may have regard to actuarial advice as to the amount that would be allowable as a deduction from assessable income under section 279D (2) of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth.		32 33 34 35

[5] Schedule 6 Savings and transitional provisions	1
Insert at the end of clause 1 (1):	2
<i>Superannuation Legislation Amendment Act 2004</i> , but only to the	3
extent to which it amends this Act	4
[6] Schedule 6, Part 8	5
Insert after Part 7:	6
Part 8 Superannuation Legislation Amendment Act 2004	7
	8
26 Hurt on duty benefits	9
A gratuity granted under section 12D before the commencement	10
of the amendments made to section 12D (4) by the	11
<i>Superannuation Legislation Amendment Act 2004</i> is taken to	12
have been validly granted whether or not the Commissioner of	13
Police made the relevant decision under that subsection at the	14
request of STC.	15
27 Restoration of death benefit previously reduced	16
(1) Section 14AAA, as inserted by the <i>Superannuation Legislation</i>	17
<i>Amendment Act 2004</i> , applies to a benefit reduced, but not paid,	18
before the commencement of that section.	19
(2) Section 14AAA, as inserted by the <i>Superannuation Legislation</i>	20
<i>Amendment Act 2004</i> , does not apply to a benefit paid before the	21
commencement of that section.	22

Schedule 4 Amendment of State Authorities 1
Non-contributory Superannuation Act 2
1987 No 212 3

(Section 3) 4

[1] Section 3 Definitions 5

Insert in alphabetical order in section 3 (1): 6

Commonwealth co-contribution means a co-contribution made 7
by the Commissioner of Taxation under the *Superannuation* 8
(Government Co-contribution for Low Income Earners) Act 2003 9
of the Commonwealth. 10

Commonwealth co-contribution account means an account 11
established and maintained under section 10B. 12

Commonwealth co-contribution benefit means the 13
Commonwealth co-contribution benefit referred to in section 14
22A. 15

[2] Section 3 (1) 16

Insert in alphabetical order: 17

STC Act means any of the following Acts: 18

(a) *Police Regulation (Superannuation) Act 1906,* 19

(b) *Superannuation Act 1916,* 20

(c) *Local Government and Other Authorities* 21
(Superannuation) Act 1927, 22

(d) *Transport Employees Retirement Benefits Act 1967,* 23

(e) *Police Association Employees (Superannuation) Act 1969,* 24

(f) *New South Wales Retirement Benefits Act 1972,* 25

(g) *Public Authorities Superannuation Act 1985,* 26

(h) *State Public Service Superannuation Act 1985,* 27

(i) *State Authorities Non-contributory Superannuation Act* 28
1987, 29

(j) *State Authorities Superannuation Act 1987.* 30

[3] Section 4A Salary of executive officers 31

Insert “under any STC Act” after “superannuation” in section 4A (3). 32

[4] Section 9 Funds etc 33

Insert “and” at the end of section 9 (2) (a). 34

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Schedule 4 Amendment of State Authorities Non-contributory Superannuation Act 1987
No 212

- [5] Section 9 (2) (b1)** 1
Insert after section 9 (2) (b): 2
 (b1) Commonwealth co-contributions paid to STC, and 3
- [6] Section 9 (3) (a)** 4
Insert “and” at the end of the paragraph. 5
- [7] Section 9 (3) (e)** 6
Insert at the end of section 9 (3) (d): 7
 , and 8
 (e) any amount payable as a debt due to the Commonwealth 9
 under the *Superannuation (Government Co-contribution* 10
 for Low Income Earners) Act 2003 of the Commonwealth 11
 in respect of a Commonwealth co-contribution paid to 12
 STC. 13
- [8] Section 10 Reserves for employers** 14
Insert “and the Commonwealth co-contributions paid to STC in respect of an 15
employee of an employer or employers to whom the reserve relates” after 16
“relates” in section 10 (3). 17
- [9] Section 10 (4B)** 18
Insert after section 10 (4A): 19
 (4B) There may be debited to such an employer reserve: 20
 (a) the costs incurred by STC in relation to Commonwealth 21
 co-contributions paid in respect of an employee of an 22
 employer or employers to whom the reserve relates, and 23
 (b) any amount payable as a debt due to the Commonwealth 24
 under the *Superannuation (Government Co-contribution* 25
 for Low Income Earners) Act 2003 of the Commonwealth 26
 in respect of an employee of an employer or employers to 27
 whom the reserve relates. 28
- [10] Section 10 (7)** 29
Insert “or other Government initiative” after “initiative”. 30

[11] Section 10B	1
Insert after section 10A:	2
10B Commonwealth co-contribution accounts	3
STC must:	4
(a) establish and maintain, within a fund managed by STC to which Commonwealth co-contributions are paid, a separate account in respect of each employee in respect of whom Commonwealth co-contributions are paid to the fund, and	5 6 7 8 9
(b) credit the Commonwealth co-contributions paid in respect of the employee to that account.	10 11
[12] Section 19 Transfer of employees	12
Omit “basic benefit” from section 19 (2).	13
Insert instead “sum of the basic benefit and any Commonwealth co-contribution benefit in respect of the employee”.	14 15
[13] Section 22A	16
Insert after section 22:	17
22A Commonwealth co-contribution benefit	18
The Commonwealth co-contribution benefit provided by this Act for a person is an amount equal to the balance at credit in the person’s Commonwealth co-contribution account at the time the benefit is paid or preserved, as the case may be, except as provided by or under this Act.	19 20 21 22 23
[14] Section 23 When benefits are payable	24
Insert “and any Commonwealth co-contribution benefit (and any preserved Commonwealth co-contribution benefit)” after “(and any preserved basic benefit)” in section 23 (1).	25 26 27
[15] Section 23 (3)	28
Insert “and any Commonwealth co-contribution benefit” after “basic benefit”.	29
[16] Section 23A Benefit on attaining 65	30
Omit section 23A (1). Insert instead:	31
(1) A person who attains 65 years of age may elect to be paid the basic benefit and any Commonwealth co-contribution benefit to	32 33

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Schedule 4 Amendment of State Authorities Non-contributory Superannuation Act 1987
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	which the person would be entitled on retirement at that age or may elect to preserve the whole of those benefits.	1 2
[17]	Section 24 Benefit to be preserved	3
	Insert “and any Commonwealth co-contribution benefit in respect of the person” after “in respect of a person” in section 24 (1).	4 5
[18]	Section 24 (1)	6
	Insert “basic” after “if the”.	7
[19]	Section 24 (1A) and (1B)	8
	Insert after section 24 (1):	9
	(1A) A Commonwealth co-contribution received by STC in respect of a former employee while a basic benefit is preserved by STC in respect of the former employee must be preserved by STC and is taken to be a preserved Commonwealth co-contribution benefit.	10 11 12 13
	(1B) Any existing preserved Commonwealth co-contribution benefit in respect of a former employee is to be increased by the amount of a Commonwealth co-contribution preserved under subsection (1A) in respect of the former employee.	14 15 16 17
[20]	Section 24 (2)	18
	Insert “and any Commonwealth co-contribution benefit” after “basic benefit”.	19
[21]	Section 24 (4)	20
	Omit “basic benefit provided by this section”.	21
	Insert instead “preserved basic benefit and any preserved Commonwealth co-contribution benefit”.	22 23
[22]	Section 26AA	24
	Insert after section 26A:	25
26AA	Restoration of death benefit previously reduced to offset contribution tax liabilities	26 27
	(1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth, increase a benefit payable or paid under this Act on the death of an employee or former employee that has been previously reduced under section 26A.	28 29 30 31 32 33

- (2) The amount of the increase is to be equal to the amount that would be allowable as a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* of the Commonwealth in respect of the payment. 1
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- (3) Before making the payment, STC may have regard to actuarial advice as to the amount that would be allowable as a deduction from assessable income under section 279D (2) of the *Income Tax Assessment Act 1936* of the Commonwealth. 5
6
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- [23] Part 4AA, heading** 9
Insert “**and other Government initiatives**” after “**employers**”. 10
- [24] Section 27AA** 11
Omit the section. Insert instead: 12
- 27AA Preservation of benefit for employees affected by Government initiatives** 13
14
- (1) This Part applies to an employee who transfers employment if: 15
- (a) the employee elects or is required to transfer employment otherwise than with an employer under this Act, and 16
17
- (b) the Minister certifies that the transfer of employment is as a consequence of a Government privatisation initiative or other Government initiative. 18
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- (2) This Part applies to an employee who transfers superannuation coverage if: 21
22
- (a) the employee, while remaining with his or her existing employer, elects or is required to cease membership of the superannuation scheme established by this Act, and 23
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- (b) the Minister certifies that the transfer of superannuation coverage is as a consequence of a Government privatisation initiative or other Government initiative. 26
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- (3) This Part applies to an employee if the employer of the person ceases to be an employer under this Act and the Minister certifies that it is as a consequence of a Government privatisation initiative. 29
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- (4) The basic benefit and any Commonwealth co-contribution benefit in respect of an employee must be preserved by STC under section 24 if this Part applies to the employee. 33
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[25] Section 27AB Adjustment of employer liability on Government initiative taking effect	1 2
Omit section 27AB (1). Insert instead:	3
(1) STC must, on or before, or as soon as practicable after, this Part applies to employees of an employer or former employer, determine the net liability of the employees' employer or former employer in respect of employees who are affected by the Government initiative concerned.	4 5 6 7 8
[26] Section 27AC Employer liabilities after Government initiative takes effect	9
Insert "or superannuation coverage" after "employees" where firstly occurring in section 27AC (1).	10 11
[27] Section 27AC (1)	12
Insert "or other Government initiative" after "initiative".	13
[28] Section 27ACA	14
Insert after section 27AC:	15
27ACA Regulations relating to liabilities during transfer period	16
(1) Regulations may be made for or with respect to liability for payment of employer contributions, benefits or other employer liabilities under this Act payable during, or in respect of, any period in which an employee may elect to transfer employment or superannuation coverage (as referred to in section 27AA) and before any such election is made.	17 18 19 20 21 22
(2) A regulation under this section has effect despite any other provision of this Act or the regulations.	23 24
[29] Schedule 5 Savings and transitional provisions	25
Insert at the end of clause 1 (1):	26
<i>Superannuation Legislation Amendment Act 2004</i> , but only to the extent to which it amends this Act	27 28

[30] Schedule 5, Part 6	1
Insert after Part 5:	2
Part 6 Superannuation Legislation Amendment Act 2004	3
	4
6 Restoration of death benefit previously reduced	5
(1) Section 26AA, as inserted by the <i>Superannuation Legislation Amendment Act 2004</i> , applies to a benefit reduced, but not paid, before the commencement of that section.	6
	7
	8
(2) Section 26AA, as inserted by the <i>Superannuation Legislation Amendment Act 2004</i> , does not apply to a benefit paid before the commencement of that section.	9
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Schedule 5	Amendment of State Authorities Superannuation Act 1987 No 211	1
		2
	(Section 3)	3
[1] Sections 2C and 43AA		4
	Omit “Part 2 of Schedule 5” wherever occurring.	5
	Insert instead “Part 3 of Schedule 5”.	6
[2] Section 4A Salary of executive officers		7
	Insert “under this Act and the <i>State Authorities Non-contributory Superannuation Act 1987</i> ” after “superannuation” in section 4A (3).	8
		9
[3] Section 14 Reserves for employers		10
	Insert “or other Government initiative” after “initiative” in section 14 (7).	11
[4] Section 16A		12
	Insert after section 16:	13
16A Adjustment of employer reserves to take into account death and disability payments		14
		15
(1)	STC may obtain actuarial advice on or after 1 July in each year as to the appropriate adjustment to employer reserves in the Fund to achieve an equitable pooling of liability for payment of employer contributions to death and disability benefits among all employers in respect of the preceding financial year.	16
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(2)	STC may adjust the amount currently standing to the credit or debit of an employer’s reserve in the Fund in accordance with actuarial advice obtained under this section.	21
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		23
(3)	STC may adjust an employer reserve under this section despite any other provision of this Act.	24
		25
(4)	In this section:	26
	<i>death benefit</i> means a benefit payable under this Act on the death of a contributor or former contributor.	27
		28
	<i>disability benefit</i> means a benefit payable under this Act on the ground of permanent mental or physical incapacity or infirmity of body or mind of a contributor or former contributor.	29
		30
		31
[5] Section 43 Deferred benefit		32
	Omit section 43 (9).	33

[6] Section 45AA	1
Insert after section 45A:	2
45AA Restoration of death benefit previously reduced to offset contribution tax liabilities	3 4
(1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth, increase an employer-financed portion of a benefit payable or paid under this Act on the death of a contributor or former contributor previously reduced under section 45A (1).	5 6 7 8 9 10
(2) The amount of the increase is to be equal to the amount that would be allowable as a deduction from assessable income under section 279D of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth in respect of the payment.	11 12 13 14
(3) Before making the payment, STC may have regard to actuarial advice as to the amount that would be allowable as a deduction from assessable income under section 279D (2) of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth.	15 16 17 18
[7] Part 5A, heading	19
Insert “ and other Government initiatives ” after “ employers ”.	20
[8] Section 46AAA	21
Insert after section 46AA:	22
46AAA Application of Part	23
(1) This Part applies to a contributor who transfers employment if:	24
(a) the contributor elects or is required to transfer employment otherwise than with an employer under this Act, and	25 26
(b) the Minister certifies that the transfer of employment is as a consequence of a Government privatisation initiative or other Government initiative.	27 28 29
(2) This Part applies to a contributor who transfers superannuation coverage if:	30
(a) the contributor, while remaining with his or her existing employer, elects or is required to become a contributor to another superannuation scheme, and	31 32 33 34
(b) the Minister certifies that the transfer of superannuation coverage is as a consequence of a Government privatisation initiative or other Government initiative.	35 36 37

(3)	This Part applies to a contributor if the employer of the contributor ceases to be an employer under this Act because of an order under this Part.	1 2 3
[9]	Section 46AB Preservation of benefit for contributors	4
	Omit section 46AB (1). Insert instead:	5
(1)	Part 1 of Schedule 5 has effect with respect to contributors to whom this Part applies.	6 7
[10]	Section 46AC Adjustment of employer liability on Government initiative taking effect	8 9
	Omit section 46AC (1). Insert instead:	10
(1)	STC must, on or before, or as soon as practicable after, this Part applies to contributors, determine the net liability of the contributors' employer or former employer in respect of contributors who are affected by the Government initiative concerned.	11 12 13 14 15
[11]	Section 46AD Employer liabilities after Government initiative takes effect	16
	Insert "or superannuation coverage" after "contributors" where firstly occurring in section 46AD (1).	17 18
[12]	Section 46AD (1)	19
	Insert "or other Government initiative" after "initiative".	20
[13]	Schedule 5 Special provisions for deferring the benefits of certain contributors	21 22
	Omit "(Sections 43 (9), 43AA)". Insert instead "(Sections 46AB (1), 43AA)".	23
[14]	Schedule 5, Part 1	24
	Omit Parts 1 and 2. Insert instead:	25
Part 1	Contributors affected by Government privatisation initiatives and other Government initiatives	26 27 28
1	Application of Part	29
	This Part applies to contributors to whom Part 5A applies and so applies on and from transfer of employment or superannuation coverage, or an employer ceasing to be an employer under this Act, as referred to in section 46AAA.	30 31 32 33

2	Contributor entitled to defer benefit	1
	Despite any provision of section 43, a contributor is taken to have made provision for a deferred benefit under that section on the date when this Part first applies to the contributor.	2 3 4
3	Contributor entitled to immediate payment of deferred benefit after ceasing to contribute	5 6
(1)	A contributor who has a deferred benefit is entitled to be paid a benefit under section 43 (6) when or at any time after the contributor ceases to contribute to the Fund, if STC is satisfied that the benefit is to be paid or applied in accordance with subclause (2).	7 8 9 10 11
(2)	The benefit is to be paid or applied as follows:	12
	(a) to another superannuation fund approved by STC,	13
	(b) to an approved deposit fund approved by STC,	14
	(c) to purchase a deferred annuity.	15
(3)	A contributor is entitled to be paid the benefit under this clause despite any provision of section 43.	16 17
(4)	Nothing in this clause affects any other entitlement of a contributor to payment of a benefit under section 43 (6).	18 19
(5)	In this clause:	20
	<i>approved deposit fund</i> means an approved deposit fund within the meaning of the <i>Superannuation Industry (Supervision) Act 1993</i> of the Commonwealth.	21 22 23
	<i>deferred annuity</i> means a deferred annuity within the meaning of the <i>Superannuation Industry (Supervision) Act 1993</i> of the Commonwealth.	24 25 26
4	Regulations relating to liabilities during transfer period	27
(1)	Regulations may be made for or with respect to liability for payment of employer contributions, benefits or other employer liabilities under this Act payable during, or in respect of, any period in which a contributor may elect to transfer employment or superannuation coverage (as referred to in section 46AAA) and before any such election is made.	28 29 30 31 32 33
(2)	A regulation under this clause has effect despite any other provision of this Act or the regulations.	34 35
[15]	Schedule 5	36
	Renumber Part 3 as Part 2.	37

[16] Schedule 6 Savings and transitional provisions	1
Insert at the end of clause 1 (1):	2
<i>Superannuation Legislation Amendment Act 2004</i> , but only to the	3
extent to which it amends this Act	4
[17] Schedule 6, Part 7	5
Insert after Part 6:	6
Part 7 Superannuation Legislation Amendment Act 2004	7
	8
9 Restoration of death benefit previously reduced	9
(1) Section 45AA, as inserted by the <i>Superannuation Legislation Amendment Act 2004</i> , applies to an employer-financed portion of a benefit reduced, but not paid, before the commencement of that section.	10
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(2) Section 45AA, as inserted by the <i>Superannuation Legislation Amendment Act 2004</i> , does not apply to an employer-financed portion of a benefit paid before the commencement of that section.	14
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Schedule 6	Amendment of Superannuation Act 1916	1
	No 28	2
	(Section 3)	3
[1]	Section 3AA Salary of executive officers	4
	Insert “under this Act and the <i>State Authorities Non-contributory Superannuation Act 1987</i> ” after “superannuation” wherever occurring in section 3AA (3) and (6B).	5 6 7
[2]	Section 8C	8
	Insert after section 8B:	9
	8C Adjustment of employer reserves to take into account death and disability payments	10 11
	(1) STC may obtain actuarial advice on or after 1 July in each year as to the appropriate adjustment to employer reserves in the Fund to achieve an equitable pooling of liability for payment of employer contributions to death and disability benefits among all employers in respect of the preceding financial year.	12 13 14 15 16
	(2) STC may adjust the amount currently standing to the credit or debit of an employer’s reserve in the Fund in accordance with actuarial advice obtained under this section.	17 18 19
	(3) STC may adjust an employer reserve under this section despite any other provision of this Act.	20 21
	(4) In this section:	22
	<i>death benefit</i> means a benefit payable under this Act on the death of a contributor or former contributor.	23 24
	<i>disability benefit</i> means a benefit payable under this Act on the ground of invalidity or physical or mental incapacity of a contributor or former contributor.	25 26 27
[3]	Part 2A Medical examination of contributors	28
	Omit the Part.	29
[4]	Section 29 Breakdown pensions	30
	Insert after section 29 (4A):	31
	(5) Despite subsection (4A), STC may determine that the period for payment of a pension to a contributor to whom this section applies or a former contributor who is being paid a pension under	32 33 34

this section, and who has attained the age of 55 years, is to be for the remainder of the person’s life.	1 2
(5A) STC may not make a determination under subsection (5), except on the election of the contributor or former contributor concerned.	3 4 5
[5] Section 51A	6
Insert after section 51:	7
51A Division not applicable to lifetime pensions	8
This Division does not apply if STC determines that a “breakdown” pension is to be paid to a person for the remainder of the person’s life under section 29 (5) or 52E (4A).	9 10 11
[6] Section 52E Disability pension	12
Insert after section 52E (4):	13
(4A) Despite subsection (4), STC may determine that the period for payment of a pension to a person to whom this section applies or a person who is being paid a pension under this section, and who has attained the age of 55 years, is to be for the remainder of the person’s life.	14 15 16 17 18
(4B) STC may not make a determination under subsection (4A), except at the election of the person concerned.	19 20
(4C) Subsections (5)–(7) do not apply to a person the subject of a determination under subsection (4A).	21 22
[7] Section 61RAA	23
Insert after section 61RA:	24
61RAA Restoration of death benefit previously reduced to offset contribution tax liabilities	25 26
(1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth, increase a lump sum benefit under this Act payable or paid on the death of a contributor or former contributor that has been previously reduced under section 61RA.	27 28 29 30 31 32
(2) The amount of the increase is to be equal to the amount that would be allowable as a deduction from assessable income under section 279D of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth in respect of the payment.	33 34 35 36

(3)	Before making the payment, STC may have regard to actuarial advice as to the amount that would be allowable as a deduction from assessable income under section 279D (2) of the <i>Income Tax Assessment Act 1936</i> of the Commonwealth.	1 2 3 4
[8]	Part 5, heading	5
	Insert “ and other Government initiatives ” after “ employers ”.	6
[9]	Section 62A	7
	Insert after section 62:	8
	62A Application of Part	9
(1)	This Part applies to a contributor who transfers employment if:	10
(a)	the contributor elects or is required to transfer employment otherwise than with an employer under this Act, and	11 12
(b)	the Minister certifies that the transfer of employment is as a consequence of a Government privatisation initiative or other Government initiative.	13 14 15
(2)	This Part applies to a contributor who transfers superannuation coverage if:	16 17
(a)	the contributor, while remaining with his or her existing employer, elects or is required to become a contributor to another superannuation scheme, and	18 19 20
(b)	the Minister certifies that the transfer of superannuation coverage is as a consequence of a Government privatisation initiative or other Government initiative.	21 22 23
(3)	This Part applies to a contributor if the employer of the contributor ceases to be an employer under this Act because of an order under this Part.	24 25 26
[10]	Section 63 Preservation of benefit for contributors	27
	Omit section 63 (1). Insert instead:	28
(1)	Part 1 of Schedule 23 has effect with respect to contributors to whom this Part applies.	29 30
[11]	Section 64 Adjustment of employer liability on Government initiative taking effect	31 32
	Omit section 64 (1). Insert instead:	33
(1)	STC must, on or before, or as soon as practicable after, this Part applies to contributors, determine the net liability of the contributors’ employer or former employer in respect of	34 35 36

	contributors who are affected by the Government initiative concerned.	1 2
[12]	Section 65 Employer liabilities after Government initiative takes effect	3
	Insert “or superannuation coverage” after “contributors” where firstly occurring in section 65 (1).	4 5
[13]	Section 65 (1)	6
	Insert “or other Government initiative” after “initiative”.	7
[14]	Section 92AA Transfer of contributors as a result of Government initiatives etc	8 9
	Omit the section.	10
[15]	Schedule 23 Special provisions for deferring benefits of certain contributors	11 12
	Omit “(Section 92AA)”. Insert instead “(Section 63 (1))”.	13
[16]	Schedule 23, Part 1	14
	Omit Parts 1 and 2. Insert instead:	15
	Part 1 Contributors affected by Government privatisation initiatives and other Government initiatives	16 17 18
	1 Application of Part	19
	This Part applies to contributors to whom Part 5 applies and so applies on and from transfer of employment or superannuation coverage, or an employer ceasing to be an employer under this Act, as referred to in section 62A.	20 21 22 23
	2 Contributor entitled to defer benefit	24
	(1) A contributor is taken to have elected to take the benefit of Division 3A of Part 4 on the date that this Part first applies to the contributor, unless the contributor is otherwise entitled to a pension under section 27, 28, 28A or 28AA.	25 26 27 28
	(2) A contributor who is entitled to a pension under section 27, 28, 28A or 28AA on the date when this Part first applies to the contributor may instead elect to take the benefit of Division 3B of Part 4.	29 30 31 32

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- (3) A contributor is entitled to take the benefit of Division 3A or 3B of Part 4, despite any provision of those Divisions. 1
2
- 3 Application of Division 3B of Part 4** 3
- (1) For the purposes of the application of Division 3B of Part 4 to a contributor, the *exit day* for the contributor is the date when this Part first applied to the contributor. 4
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- (2) Sections 52L and 52N (3) do not apply to a contributor to whom this Part applies. 7
8
- 4 Contributor entitled to immediate payment of deferred benefit after ceasing to contribute** 9
10
- (1) A contributor who has a deferred benefit under Division 3A or 3B of Part 4 is entitled to be paid the actuarially calculated lump sum value of the benefit provided under Division 3A or 3B of Part 4 when or at any time after the contributor ceases to contribute to the Fund if STC is satisfied that the benefit is to be paid or applied in accordance with subclause (2). 11
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- (2) The benefit is to be paid or applied as follows: 17
- (a) to another superannuation fund approved by STC, 18
- (b) to an approved deposit fund approved by STC, 19
- (c) to purchase a deferred annuity. 20
- (3) A contributor is entitled to be paid the benefit under this clause despite any provision of Division 3A or 3B of Part 4. 21
22
- (4) Nothing in this clause affects any other entitlement of a contributor to payment of a benefit under Division 3A or 3B of Part 4. 23
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25
- (5) In this clause: 26
- approved deposit fund* means an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. 27
28
29
- deferred annuity* means a deferred annuity within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. 30
31
32
- 5 Regulations relating to liabilities during transfer period** 33
- (1) Regulations may be made for or with respect to liability for payment of employer contributions, benefits or other employer liabilities under this Act payable during, or in respect of, any period in which a contributor may elect to transfer employment 34
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Schedule 6 Amendment of Superannuation Act 1916 No 28

	or superannuation coverage (as referred to in section 62A) and before any such election is made.	1 2
	(2) A regulation under this clause has effect despite any other provision of this Act or the regulations.	3 4
[17]	Schedule 23	5
	Renumber Part 3 as Part 2.	6
[18]	Schedule 25 Savings and transitional provisions	7
	Insert at the end of clause 1 (1):	8
	<i>Superannuation Legislation Amendment Act 2004</i> , but only to the extent to which it amends this Act	9 10
[19]	Schedule 25, Part 11	11
	Insert after Part 10:	12
	Part 11 Superannuation Legislation Amendment Act 2004	13 14
41	Restoration of death benefit previously reduced	15
	(1) Section 61RAA, as inserted by the <i>Superannuation Legislation Amendment Act 2004</i> , applies to a lump sum benefit reduced, but not paid, before the commencement of that section.	16 17 18
	(2) Section 61RAA, as inserted by the <i>Superannuation Legislation Amendment Act 2004</i> , does not apply to a lump sum benefit paid before the commencement of that section.	19 20 21

Schedule 7 Amendment of Superannuation Administration Act 1996 No 39

	(Section 3)	3
[1] Section 4 Definitions		4
Insert in alphabetical order:		5
<i>FTC dispute function</i> means the principal function, referred to in section 9 (1) (e), to determine disputes under the Acts under which the FTC schemes are established or constituted.		6
<i>FTC disputes committee</i> means a committee delegated the FTC dispute function under section 32.		7
<i>STC dispute function</i> means the principal function, referred to in section 50 (1) (e), to determine disputes under the Acts under which the STC schemes are established or constituted.		8
<i>STC disputes committee</i> means a committee delegated the STC dispute function under section 77.		9
[2] Section 22 Determination of disputes		10
Insert “or an FTC disputes committee” after “FTC” where secondly occurring in section 22 (1) and (2).		11
[3] Section 22 (3)		12
Insert “, an FTC disputes committee” after “FTC”.		13
[4] Section 22 (4)		14
Omit “has”. Insert instead “and an FTC disputes committee have”.		15
[5] Section 32 Delegation of functions		16
Insert “, other than the FTC dispute function” after “section” in section 32 (3).		17
[6] Section 32 (3A)		18
Insert after section 32 (3):		19
(3A) FTC may, in respect of a dispute, a class of disputes or all disputes under the Acts under which the FTC schemes are established or constituted, delegate the FTC dispute function to a committee that is comprised of or includes members of the FTC Board.		20
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[7] Section 35 Personal and other liability	1
Insert “, an FTC disputes committee, a member of an FTC disputes committee” after “member of the Board” in section 35 (1) and (2) wherever occurring.	2 3 4
[8] Section 40 Appeals	5
Insert “or an FTC disputes committee” after “FTC” in section 40 (1).	6
[9] Section 40 (2)	7
Omit “of FTC”.	8
[10] Section 40 (3)	9
Insert “or the FTC disputes committee, as the case may be,” after “FTC”.	10
[11] Section 45 Proof of certain matters not required	11
Insert at the end of section 45 (d):	12
, or	13
(e) the delegation of the FTC dispute function to an FTC disputes committee, or	14 15
(f) the appointment of, or the holding of office by, any member of an FTC disputes committee.	16 17
[12] Section 67 Determination of disputes	18
Insert “or an STC disputes committee” after “by STC” where secondly occurring in section 67 (1) and (2).	19 20
[13] Section 67 (3)	21
Insert “, an STC disputes committee” after “STC”.	22
[14] Section 67 (4)	23
Omit “has”. Insert instead “and an STC disputes committee have”.	24
[15] Section 67 (5)	25
Insert after section 67 (4):	26
(5) This section does not apply to a dispute in respect of which an application may be made to the District Court under section 21 of the <i>Police Regulation (Superannuation) Act 1906</i> .	27 28 29
[16] Section 77 Delegation of functions	30
Insert “, other than the STC dispute function” after “section” in section 77 (3).	31

[17] Section 77 (3A)	1
Insert after section 77 (3):	2
(3A) STC may, in respect of a dispute, a class of disputes or all disputes under the Acts under which the STC schemes are established or constituted, delegate the STC dispute function to a committee that is comprised of or includes members of the STC Board.	3 4 5 6 7
[18] Section 80 Personal and other liability	8
Insert “, an STC disputes committee, a member of an STC disputes committee” after “member of the Board” in section 80 (1) and (2) wherever occurring.	9 10 11
[19] Section 88 Appeals	12
Insert “or an STC disputes committee” after “STC” in section 88 (1).	13
[20] Section 88 (2)	14
Omit “of STC”.	15
[21] Section 88 (3)	16
Insert “or the STC disputes committee, as the case may be,” after “STC”.	17
[22] Section 93 Proof of certain matters not required	18
Insert at the end of section 93 (d):	19
, or	20
(e) the delegation of the STC dispute function to an STC disputes committee, or	21 22
(f) the appointment of, or the holding of office by, any member of an STC disputes committee.	23 24
[23] Section 96 Definitions	25
Insert in alphabetical order:	26
<i>superannuation authority</i> means FTC or STC.	27
[24] Section 128A Mobility between public sector schemes and EISS and LGSS	28 29
Insert at the end of section 128A (4) (f):	30
, and	31
(g) liability for payment of employer contributions, benefits, insurance premiums or other employer superannuation	32 33

	liabilities payable during any period, or in respect of any period, during which a transfer option may be exercised (whether or not that option is exercised).	1 2 3
[25]	Section 128B Provisions consequent on extension of superannuation schemes to additional employees	4 5
	Insert at the end of section 128B (1) (f):	6
	, and	7
	(g) liability for payment of employer contributions, benefits, insurance premiums or other employer superannuation liabilities payable during any period, or in respect of any period, during which a transfer option may be exercised (whether or not that option is exercised).	8 9 10 11 12
[26]	Schedule 3 Savings and transitional provisions	13
	Insert at the end of clause 1 (1):	14
	<i>Superannuation Legislation Amendment Act 2004</i> , but only to the extent to which it amends this Act	15 16
[27]	Schedule 3, Part 3	17
	Insert after Part 2:	18
	Part 3 Provisions consequent on the enactment of the Superannuation Legislation Amendment Act 2004	19 20 21
25	Definition	22
	In this Part:	23
	<i>the 2004 Act</i> means the <i>Superannuation Legislation Amendment Act 2004</i> .	24 25
26	Delegations	26
	(1) The amendments made by the 2004 Act to sections 4, 22, 32, 35, 40, 67, 77, 80 and 88 apply to a dispute that occurred but has not been determined before the commencement of those amendments.	27 28 29 30
	(2) The amendments made by the 2004 Act to those sections do not apply to a dispute determined before the commencement of those amendments.	31 32 33

27 Disputes determined by FTC

A dispute under the Acts under which the FTC schemes are established or constituted that was determined by a committee on behalf of FTC before the commencement of the amendments made by the 2004 Act to sections 4, 22, 32, 35 and 40 is taken to have been determined by FTC.

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28 Disputes determined by STC

A dispute under the Acts under which the STC schemes are established or constituted that was determined by a committee on behalf of STC before the commencement of the amendments made by the 2004 Act to sections 4, 67, 77, 80 and 88 is taken to have been determined by STC.

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