

[Act 2001 No 98]



New South Wales

## **Superannuation Legislation Amendment (Miscellaneous) Bill 2001**

### **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 enable additional items to be included as salary for determining contributions to the First State Superannuation Scheme,
  - (b) to transfer certain preserved benefits from the State Authorities Non-contributory Superannuation Scheme to the First State Superannuation Scheme,
  - (c) to broaden and clarify the categories of employers and employees and former employers and employees that may be included in trust deed superannuation schemes established under the *Superannuation Administration Act 1996* and to provide for the making of regulations relating to the extension of a trust deed scheme to cover additional employees.
-

## 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 the date of assent to the proposed Act.

**Clause 3** is a formal provision giving effect to the amendments to the *First State Superannuation Act 1992* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *State Authorities Non-contributory Superannuation Act 1987* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendments to the *Superannuation Administration Act 1996* set out in Schedule 3.

## **Schedule 1 Amendment of First State Superannuation Act 1992**

### **Meaning of “salary or wages”**

Under the *First State Superannuation Act 1992*, the amount of compulsory contributions an employer makes to the First State Superannuation Scheme is based on a percentage of the relevant employee’s salary. Currently, the salary of a non-executive officer is calculated by taking into account ordinary earnings and earnings consisting of over-award payments and shift-loading or commission.

**Schedule 1 [1]** enables regulations to be made prescribing additional allowances or other payments and employment benefits that are to be taken into account when calculating salary.

**Schedule 1 [2]** provides that the regulations may apply to all members who are not executive officers or to specified members or classes of members who are not executive officers.

**Schedule 1 [3]** inserts a definition of *employment benefit*.

### **Transfer of benefits from State Authorities Non-contributory Superannuation Scheme**

Under the *State Authorities Non-contributory Superannuation Act 1987*, benefits may be preserved by employees who cease to be employees. Other benefits are preserved by operation of that Act, including under section 26I, which provides for

the preservation of certain benefits deferred when the First State Superannuation Scheme was established.

The effect of the amendments made by Schedule 1 [4] and Schedule 2 [4] is to transfer the benefits preserved (as at the transfer day) by persons who no longer contribute to, or retain a benefit in, any other closed public sector superannuation scheme, as well as the remaining preserved accrued benefits, from the State Authorities Non-contributory Superannuation Scheme to the First State Superannuation Fund. The employees or former employees concerned will become members of that Fund (if not already members).

**Schedule 1 [4]** inserts proposed Part 5A (proposed sections 37–40).

Proposed section 37 defines expressions used in the proposed Part.

Proposed section 38 transfers a person whose preserved benefit is transferred to the First State Superannuation Scheme as an inactive member of that Scheme (if not already a member). The proposed section requires the Scheme's trustee, the FSS Trustee Corporation, to establish an account for the new member or, if the person is an existing member, to credit the amount to the person's account. The amount credited to an account is to be an amount equal to the amount of the preserved benefit immediately before it is transferred.

Proposed section 39 sets out additional matters, related to transferred members, that may be dealt with by the trust deed of the First State Superannuation Scheme.

Proposed section 40 saves existing rights, liabilities and obligations relating to the transferred preserved benefits.

**Schedule 1 [7]** makes a consequential amendment.

### **Savings and transitional provisions**

**Schedule 1 [5]** enables savings and transitional regulations to be made as a consequence of the proposed Act.

**Schedule 1 [6]** validates actions taken in relation to the transfer of eligible preserved benefits before the date of assent to the proposed Act.

## **Schedule 2 Amendment of State Authorities Non-contributory Superannuation Act 1987**

### **Transfer of benefits from State Authorities Non-contributory Superannuation Scheme**

**Schedule 2 [4]** inserts proposed Part 4B. The proposed Part requires the SAS Trustee Corporation, the trustee of the State Authorities Non-contributory Superannuation Scheme, to transfer benefits preserved by persons who no longer contribute to, or retain a benefit in, any other closed public sector superannuation scheme, as well as the remaining preserved accrued benefits, to the First State Superannuation Fund.

**Schedule 2 [1], [2] and [3]** make consequential amendments.

### **Savings and transitional provisions**

**Schedule 2 [5]** enables savings and transitional regulations to be made as a consequence of the proposed Act.

**Schedule 2 [6]** validates actions taken in relation to the transfer of eligible preserved benefits before the date of assent to the proposed Act.

## **Schedule 3 Amendment of Superannuation Administration Act 1996**

### **Public sector trust deed schemes**

Under section 127 of the *Superannuation Administration Act 1996*, superannuation schemes may be established under trust deeds approved by the Minister for certain classes of employees.

**Schedule 3 [1]** clarifies the classes of employees that may be the subject of the trust deed schemes. They include State public sector employees, a class or classes of State public sector employees (including employees of a local authority or a public authority), employees (or former employees), or classes of such employees, of employers (or former employers) under State statutory superannuation schemes, and other employees, or classes of employees, approved by the Minister. The amendment also enables the Minister to approve of the extension of any such scheme to additional employees or a class or classes of employees of a kind that may be the subject of trust deed schemes.

**Schedule 3 [4]** inserts proposed section 128B which enables regulations to be made as a consequence of the extension of a trust deed scheme to additional persons. Regulations may be made with respect to the transfer of persons who are or have been covered by other statutory public sector superannuation schemes, the rights, entitlements and obligations of any such persons, the transfer of assets and liabilities of other statutory public sector superannuation schemes, benefits and other matters.

**Schedule 3 [2]** and **[3]** make consequential amendments.

#### **Savings and transitional provisions**

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

**Schedule 3 [6]** inserts a savings and transitional provision.