

[Act 1997 No 42]



New South Wales

Superannuation Legislation Amendment Bill 1997

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 Acts relating to State government superannuation schemes as a result of amendments to Commonwealth legislation relating to superannuation, to provide for the payment and preservation of deferred accrued benefits in the State Authorities Non-contributory Superannuation Scheme and to extend the payment of superannuation allowances under the Police Superannuation Scheme to certain surviving spouses and to make other minor amendments.

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 assent, except for certain specified provisions.

Clause 3 is a formal provision giving effect to the amendments to the Acts set out in Schedule 1.

Clause 4 amends the *Public Sector Executives Superannuation Regulation 1995* by omitting unnecessary provisions.

Schedule 1 Amendment of Acts

1.1 First State Superannuation Act 1992 No 100

Amendments relating to Commonwealth legislation

The FSS Trustee Corporation, trustee of the First State Superannuation Scheme, is required to disclose information to members that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth (the *Commonwealth Act*), the trustee will now be required to disclose such information as it determines, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. (See **Schedule 1.1 [2]**.)

Currently, provisions of the Principal Act require aspects of the First State Superannuation Scheme to comply with Commonwealth occupational superannuation standards. The amendments remove references to Commonwealth occupational superannuation standards which have now been replaced by requirements relating to consistency with requirements for regulated superannuation funds under the Commonwealth Act. (See **Schedule 1.1 [3], [4], [7], [9], [12] and [14]**.)

The provision enabling the reduction of benefits in order to avoid incurring a penalty under Commonwealth taxation law is no longer necessary and is to be repealed. (See **Schedule 1.1 [5] and [6]**.)

Currently, provisions of the Principal Act allow employers' obligations to contribute to superannuation under Commonwealth legislation to be met by contributing to other complying superannuation schemes. Also, benefits may be paid to the First State Superannuation Fund from other complying superannuation schemes. The amendments substitute references to complying superannuation schemes for references to complying superannuation funds for consistency with the Commonwealth Act. (See **Schedule 1.1 [1],[8] and [13]**.)

Schedule 1.1 [11] updates a definition so that it is consistent with the Commonwealth Act.

Savings and transitional provisions

Schedule 1.1 [10] enables savings and transitional regulations to be made.

1.2 Parliamentary Contributory Superannuation Act 1971 No 53

Amendments relating to Commonwealth legislation

Currently, provisions of the Principal Act require aspects of the Parliamentary Contributory Superannuation Scheme to comply with Commonwealth occupational superannuation standards. The amendments remove references to Commonwealth occupational superannuation standards which have now been replaced by requirements relating to consistency with requirements for regulated superannuation funds under the Commonwealth Act. (See **Schedule 1.2 [1], [2], [7], [8], [9], [10], [11], [13], [15] and [16].**)

The Commonwealth Act requires trustees of regulated superannuation funds to formulate investment strategies for the management of funds and reserves strategies for the prudential management of any reserves of the funds. Proposed section 8 imposes similar requirements on the trustees of the Parliamentary Contributory Superannuation Scheme. (See **Schedule 1.2 [4].**) **Schedule 1.2 [3]** makes a consequential amendment.

The provision requiring the consent of the Insurance and Superannuation Commissioner of the Commonwealth to the extension of the period within which an actuarial investigation of the Parliamentary Contributory Superannuation Fund must be carried out is to be omitted, as such a power is not required. (See **Schedule 1.2 [5].**)

The State has agreed, under the Heads of Government Agreement commenced on 1 July 1996, to ensure the compliance of its public sector superannuation schemes with standards applicable to funds under the Commonwealth Act. The amendments require the trustees to have regard to the Agreement and the future liabilities of the Parliamentary Contributory Superannuation Fund in exercising their functions. (See **Schedule 1.2 [6].**) The trustees will also be required to furnish to the Insurance and Superannuation Commissioner of the Commonwealth information required for the purpose of monitoring the Agreement. (See **Schedule 1.2 [19].**)

The provision enabling the reduction of benefits in order to avoid incurring a penalty under Commonwealth taxation law is no longer necessary and is to be repealed. (See **Schedule 1.2 [12], [14] and [17].**)

The trustees of the Parliamentary Contributory Superannuation Fund are required to disclose information to members or other persons that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the Commonwealth Act, the trustees will now be required to disclose such information as they determine, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. (See **Schedule 1.2 [18].**)

1.3 Police Association Employees (Superannuation) Act 1969 No 33

Amendment relating to benefits for surviving spouses

Currently, a surviving spouse of a former employee of the Police Association is entitled to a superannuation allowance (that is, a pension) if the spouse was the spouse of the former employee when the former employee retired (if the allowance was granted before age 60) or reached age 60 (if the retirement occurs after age 60). Proposed section 3 (10AA) entitles the surviving spouse of a former employee who retired because of disablement to a superannuation allowance, additionally to those circumstances, if the spouse was the spouse at the time of the former employee's death, had been the spouse for the preceding 3 years and became the spouse before the former employee reached age 60. (See **Schedule 1.3 [1]** and **[2].**)

1.4 Police Regulation (Superannuation) Act 1906 No 28

Amendments relating to Commonwealth legislation

Currently, provisions of the Principal Act require aspects of the Police Superannuation Scheme to comply with Commonwealth occupational superannuation standards. The amendments remove references to Commonwealth occupational superannuation standards which have now been replaced by requirements relating to consistency with requirements for regulated superannuation funds under the Commonwealth Act. (See **Schedule 1.4 [1], [2], [3], [7], [8], [16], [18] and [20].**)

The provisions enabling the reduction of benefits in order to avoid incurring a penalty under Commonwealth taxation law are no longer necessary and are to be repealed. Consequential amendments are made to other provisions of the Principal Act. (See **Schedule 1.4 [4], [5], [6], [9], [11], [12], [13], [15], [17], [19], [22], [23] and [24].**)

Schedule 1.4 [14] and [21] remove a superseded

The SAS Trustee Corporation, trustee of the Police Superannuation Scheme, is required to disclose information to contributors that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the Commonwealth Act, the trustee will now be required to disclose such information as it determines, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. (See **Schedule 1.4 [25]**.)

The provision requiring the consent of the Insurance and Superannuation Commissioner of the Commonwealth to the extension of the period within which an actuarial investigation of the Police Superannuation Fund must be carried out is to be omitted, as such a power is not required. (See **Schedule 1.4 [26]**.)

Amendment relating to benefits for surviving spouses

Currently, a surviving spouse of a former member of the Police Superannuation Scheme is entitled to a superannuation allowance (that is, a pension) if the spouse was the spouse of the former member when the former member retired and when the former member died. Proposed section 11AA entitles the surviving spouse of a former member who retired because of disablement to a superannuation allowance, additionally to that circumstance, if the spouse was the spouse at the time of the former member's death, had been the spouse for the preceding 3 years and became the spouse before the former member reached age 60. (See **Schedule 1.4 [10]**.)

Savings and transitional provisions

Schedule 1.4 [27] enables savings and transitional regulations to be made.

1.5 Public Sector Executives Superannuation Act 1989 No 106

Amendments relating to Commonwealth legislation

Schedule **1.5 [1]** and **[3]** update definitions so that they are consistent with the Commonwealth Act.

Currently, provisions of the Principal Act require aspects of the Public Sector Executives Superannuation Scheme to comply with Commonwealth occupational superannuation standards. The amendments remove references to Commonwealth occupational superannuation standards which have now been replaced by requirements relating to consistency with requirements for regulated superannuation funds under the Commonwealth Act. (See **Schedule 1.5 [2], [4], [5] and [8]**.)

The FSS Trustee Corporation, trustee of the Public Sector Executives Superannuation Scheme, is required to disclose information to members that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the Commonwealth Act, the trustee will now be required to disclose such information as it determines, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. (See **Schedule 1.5 [6].**)

The provisions enabling the reduction of benefits in order to avoid incurring a penalty under Commonwealth taxation law are no longer necessary and are to be repealed. Consequential amendments are made to other provisions of the Principal Act. (See **Schedule 1.5 [9], [10], [11], [12], [13], [17] and [18].**)

Actuarial investigation

Schedule 1.5 [7] omits an unnecessary provision requiring actuarial investigations to be carried out.

Preserved benefits

Currently, the Principal Act sets out the circumstances when a benefit preserved under the Act, and consisting of employer-financed contributions, may be paid. These circumstances reflect those provided for under the Commonwealth Act. The amendments provide for the preserved benefit to be payable in the same circumstances as it would be payable under the Commonwealth Act for a regulated superannuation fund under that Act, rather than setting out each circumstance. (See **Schedule 1.5 [16].**)

The amendments also enable a member entitled to a benefit before retirement age to have it paid to the member's account in another complying superannuation fund within the meaning of the Commonwealth Act. (See **Schedule 1.5 [14] and [15].**)

Savings and transitional provisions

Schedule 1.5 [19] enables savings and transitional regulations to be made.

1.6 State Authorities Non-contributory Superannuation Act 1987 No 212

Amendments relating to Commonwealth legislation

Schedule 1.6 [1] and [3] update definitions so that they are consistent with the Commonwealth Act.

Currently, provisions of the Act require aspects of the State Authorities Non-contributory Superannuation Scheme to comply with Commonwealth occupational superannuation standards. The amendments remove references to Commonwealth occupational superannuation standards which have now been replaced by requirements relating to consistency with requirements for regulated superannuation funds under the Commonwealth Act. (See **Schedule 1.6** [2], [4], [5] and [7].)

The provision requiring the consent of the Insurance and Superannuation Commissioner of the Commonwealth to the extension of the period within which an actuarial investigation of the State Authorities Non-contributory Superannuation Fund must be carried out is to be omitted, as such a power is not required. (See **Schedule 1.6** [6].)

The provisions enabling the reduction of benefits in order to avoid incurring a penalty under Commonwealth taxation law are no longer necessary and are to be repealed. Consequential amendments are made to other provisions of the Principal Act. (See **Schedule 1.6** [9], [17] and [18].)

The SAS Trustee Corporation, trustee of the State Authorities Non-contributory Superannuation Scheme, is required to disclose information to employees that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the Commonwealth Act, the trustee will now be required to disclose such information as it determines, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. (See **Schedule 1.6** [22].)

Non-contributing employees

When the First State Superannuation Scheme was commenced, the State Authorities Non-contributory Superannuation Scheme was closed to new employees and irregular employees were dealt with as having ceased to be employees on 30 June 1992. The amendments clarify the treatment of such employees by making it clear that these employees are taken to have been employees on that date but that for any duties after that date the employees are to be taken to have commenced employment as employees for the purposes of becoming members of the First State Superannuation Scheme. The amendments also validate the actions of the trustee in relation to such employees. (See **Schedule 1.6** [S] and [24].)

Payment of benefits

Currently, the Principal Act sets out the circumstances when the basic benefit and a benefit preserved under the Act may be paid. These circumstances reflect those provided for under the Commonwealth Act. The amendments provide for the basic benefit and a preserved benefit to be payable in the

same circumstances as it would be payable under the Commonwealth Act for a regulated superannuation fund under that Act, rather than setting out each circumstance. (See **Schedule 1.6** [10], [11], [12], [13], [14], [15], [16], [19] and [21].)

Preservation of deferred accrued benefits

When the First State Superannuation Scheme was commenced, the State Authorities Non-contributory Superannuation Scheme was closed to new employees and existing employees (other than contributors to other public sector superannuation schemes) were given a deferred accrued benefit instead of the basic benefit under the Scheme. The amendments treat employees who are entitled to this benefit as having ceased to be employees for the purposes of the Principal Act, on and from 29 June 1997. The effect of this is that the non-contributing employees' deferred accrued benefit becomes payable and is preserved under the Principal Act. The amendments also require any such preserved benefit to be transferred to a person's account in the First State Superannuation Scheme, if the person is a member under that Scheme. Otherwise the benefit will be payable in the same way as any other preserved benefit. For the purposes of calculating the amount of the benefit to be preserved, the employees' final average salary (for persons who are not irregular employees) is taken to be their salary as at 31 December 1996. (See **Schedule 1.6** [20].)

Savings and transitional provisions

Schedule 1.6 [23] enables savings and transitional regulations to be made.

1.7 State Authorities Superannuation Act 1987 No 211

Amendments relating to Commonwealth legislation

Currently, provisions of the Principal Act require aspects of the State Authorities Superannuation Scheme to comply with Commonwealth occupational superannuation standards. The amendments remove references to Commonwealth occupational superannuation standards which have now been replaced by requirements relating to consistency with requirements for regulated superannuation funds under the Commonwealth Act. (See **Schedule 1.7** [1], [2], [4], [16] and [17].)

The provision requiring the consent of the Insurance and Superannuation Commissioner of the Commonwealth to the extension of the period within which an actuarial investigation of the State Authorities Superannuation Fund must be carried out is to be omitted, as such a power is not required. (See **Schedule 1.7** [3].)

Explanatory note

The provisions enabling the reduction of benefits in order to avoid incurring a penalty under Commonwealth taxation law are no longer necessary and are to be repealed. Consequential amendments are made to other provisions of the Principal Act. (See **Schedule 1.7** [5], [7], [9], [11], [12], [14], [15], [18] and [19].)

The SAS Trustee Corporation, trustee of the State Authorities Superannuation Scheme, is required to disclose information to contributors that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the Commonwealth Act, the trustee will now be required to disclose such information as it determines, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. (See **Schedule 1.7** [20].)

Schedule 1.7 [21] updates definitions.

Calculation of benefits

The amendments change the component of salary used to calculate certain benefits under the State Authorities Superannuation Scheme from the contributor's final salary on exit from the scheme to the higher of the final salary and the contributor's final average salary (which is calculated over a period of up to 3 years preceding exit). The change will apply to benefits on death before early retirement, total and permanent invalidity before early retirement, partial and permanent invalidity before reaching early retirement age and on retrenchment before early retirement age. (See **Schedule 1.7** [6], [8], [10] and [13].)

Savings and transitional provisions

Schedule 1.7 [22] enables savings and transitional regulations to be made.

1.8 Superannuation Act 1916 No 28

Amendments relating to Commonwealth legislation

Schedule 1.8 [1] and [3] update definitions so that they are consistent with the Commonwealth Act.

Currently, provisions of the Principal Act require aspects of the State Superannuation Scheme to comply with Commonwealth occupational superannuation standards. The amendments remove references to Commonwealth occupational superannuation standards which have now been replaced by requirements relating to consistency with requirements for regulated superannuation funds under the Commonwealth Act. (See **Schedule 1.8** [2], [4], [6], [16], [17], [21], [22] and [23].)

The provision requiring the consent of the Insurance and Superannuation Commissioner of the Commonwealth to the extension of the period within which an actuarial investigation of the State Superannuation Fund must be carried out is to be omitted, as such a power is not required. (See **Schedule 1.8 [5].**)

The provisions enabling the reduction of benefits in order to avoid incurring a penalty under Commonwealth taxation law are no longer necessary and are to be repealed. Consequential amendments are made to other provisions of the Principal Act. (See **Schedule 1.8 [7]–[15], [18]–[20], and [24].**)

The SAS Trustee Corporation, trustee of the State Superannuation Scheme, is required to disclose information to members that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the Commonwealth Act, the trustee will now be required to disclose such information as it determines, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. (See **Schedule 1.8 [25].**)

Savings and transitional provisions

Schedule 1.8 [26] enables savings and transitional regulations to be made.

1.9 Superannuation Administration Act 1996 No 39

Amendments relating to Commonwealth legislation

The SAS Trustee Corporation and the FSS Trustee Corporation are required to disclose information to members of or contributors to schemes for which they are the trustee that is required for compliance with a Commonwealth occupational superannuation standard. As a result of changes made by the Commonwealth Act, the trustees will now be required to disclose such information as they determine, having regard to the requirements for a regulated superannuation fund under the Commonwealth Act. The trustees will also be required to furnish to the Insurance and Superannuation Commissioner of the Commonwealth information required for the purpose of monitoring the Heads of Government Agreement. (See **Schedule 1.9 [2]** and **[3].**)

Schedule 1.9 [1] makes a consequential amendment.

Other superannuation schemes

Schedule 1.9 [4] makes it clear that superannuation schemes may be established for non-public sector employees who are currently in State public sector superannuation schemes and who are involved in or associated with local government or the electricity industry. A consequence of the amendment is that transitional regulations may be made.