

STATE AUTHORITIES SUPERANNUATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Superannuation (Amendment) Bill 1988.

The object of this Bill is to amend the State Authorities Superannuation Act 1987—

- (a) for the purposes of enabling benefits under that Act to be reduced in order—
 - (i) to offset certain prospective tax liabilities that the State Authorities Superannuation Board may incur in respect of amounts paid to the State Authorities Superannuation Fund; and
 - (ii) to comply with certain Commonwealth standards with respect to occupational superannuation schemes; and
- (b) to provide for other matters of a minor, ancillary or consequential nature.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) amends section 3 of the Principal Act (Definitions) by inserting into that section a definition of “Commonwealth taxation law”.

Schedule 1 (2) amends section 11 of the Principal Act (Establishment of the Fund) by making it clear that the State Authorities Superannuation Board is required to pay from the State Authorities Superannuation Fund any amount necessary to satisfy a liability of the Fund with respect to tax payable under a Commonwealth taxation law.

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Schedule 1 (3) amends section 37 of the Principal Act (Benefit at or after early retirement or on death at or after early retirement age). Schedule 1 (3) (a) makes it clear that a benefit under that section becomes payable when a contributor retires from employment with an employer on or after reaching the early retirement age (normally 55 years) or dies during employment with an employer on or after reaching that age. Schedule 1 (3) (b) amends section 37 so as to provide for the reduction of a benefit payable under that section where the Board has made a determination in respect of the benefit in accordance with proposed section 45A or 45B of that Act. (See Schedule 1 (10) and (11) below.)

Schedule 1 (4) amends section 38 of the Principal Act (Benefit on death before early retirement age) in a similar way to that provided by Schedule 1 (3) (b) above.

Schedule 1 (5) amends section 39 of the Principal Act (Benefit on total and permanent invalidity before early retirement age). Schedule 1 (5) (a) and (b) amend that section by altering a reference to a contributor "retiring" from employment before reaching early retirement age. "Retires" has a precise meaning for the purposes of the Principal Act, and a more appropriate expression is substituted. Schedule 1 (5) (c) inserts into section 39 a new subsection similar to that proposed to be inserted in section 37 by Schedule 1 (3) (b) above.

Schedule 1 (6) amends section 40 of the Principal Act (Benefit on partial and permanent invalidity before early retirement age) in a manner similar to that provided under Schedule 1 (5) above.

Schedule 1 (7) and (8) amend section 41 (Benefit on resignation, dismissal or discharge before early retirement age) and section 42 (Benefit on retrenchment before early retirement age) of the Principal Act in a way similar to that provided by Schedule 1 (3) (b) above.

Schedule 1 (9) amends section 43 of the Principal Act (Preserved benefit). Schedule 1 (9) (a) amends section 43 (1) so as to enable a contributor who is entitled to a benefit under that Act which is not less than the prescribed amount (initially expected to be \$500) to elect to preserve the benefit regardless of the period for which he or she has been a contributor. At present a contributor may make such an election only after being a contributor for at least 3 years. Schedule 1 (9) (b) amends section 43 in a way similar to that provided by Schedule 1 (3) (b) above.

Schedule 1 (10) inserts into the Principal Act proposed section 45A. Proposed section 45A will enable the Board to make a determination reducing the amount of a benefit that is payable under the Principal Act to or in respect of a contributor or former contributor where—

- (a) the Board is liable to pay a Commonwealth tax in respect of employers' contributions to the State Authorities Superannuation Fund; and
- (b) a portion of that tax is referable to that benefit.

Schedule 1 (11) inserts into the Principal Act proposed section 45B. Proposed section 45B will enable the Board to make a determination reducing the amount of a benefit that is payable under the Principal Act to or in respect of a contributor or former contributor if that amount (together with any other superannuation or retirement benefits that have been paid or are payable to or in respect of that contributor or former contributor from any source) would exceed a level fixed by or in accordance with a law of the Commonwealth which fixes standards for occupational superannuation schemes. (Such a level is commonly known as "a reasonable benefit limit" or "RBL".)

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Schedule 1 (12) amends Schedule 5 to the Principal Act (Preserved benefit—contributors transferred as a result of Government initiatives). As a result of the amendment, contributors will be able to elect to preserve their benefit entitlements if their employer ceases to be a Government department or agency. It will be possible to make such an election even though a contributor to whom the Schedule applies is not entitled to a benefit of or exceeding the minimum amount prescribed for the purposes of section 43 (1) (b) of the Principal Act.
