



New South Wales

# State Authorities Non-contributory Superannuation Amendment Bill 2013

## Explanatory note

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

## Overview of Bill

The main object of this Bill is to require employers of NSW public sector employees in ‘defined benefit’ superannuation schemes, and who are subject to the 2.5% wages cap under the NSW Public Sector Wages Policy, to pay the 0.25% increase in the superannuation guarantee charge for the 2013–14 financial year (provided for in the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth) by means of a compulsory employer contribution under the *State Authorities Non-contributory Superannuation Act 1987*.

The Bill also updates the compulsory employer contributions payable for various financial years under the *First State Superannuation Act 1992* in line with the increases in the superannuation guarantee charge for those years provided for in the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

## 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.

## **Schedule 1      Amendment of State Authorities Non-contributory Superannuation Act 1987 No 212**

The Government's NSW Public Sector Wages Policy 2011 applies a wages cap of 2.5% in respect of employees of public sector agencies to which it applies. The application of the 2.5% wages cap for the 2013–14 financial year takes into account the 0.25% increase in the superannuation guarantee charge payable by all employers for that financial year under the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth.

In the case of employees subject to the wages cap who are members of the First State Superannuation Fund (which is an 'accumulation' superannuation fund), the increase in the superannuation guarantee charge is to be paid to employees by way of a 0.25% increase in the compulsory employer superannuation contributions payable under the *First State Superannuation Act 1992* for that financial year (see Schedule 2 below).

However, to account for the increase in the case of such employees who are in 'defined benefit' superannuation schemes in the NSW public sector, the proposed Act amends the *State Authorities Non-contributory Superannuation Act 1987* (the *principal Act*) to require the employer to make an additional superannuation contribution for such employees, being the equivalent of 0.25% of their salary for each financial year, or part, for which they are employees. **Schedule 1 [3]** provides for these additional employer superannuation contributions (termed *section 16A employer contributions*) and includes provision for replacement of the percentage amount by regulation in relation to a financial year (or years).

**Schedule 1 [2]** requires the trustee of the superannuation scheme established under the principal Act (known as *STC*) to establish, for each employee in respect of whom section 16A employer contributions must be paid, an account (an *additional employer contributions account*) within the fund established under the principal Act, and to credit the account with the section 16A employer contributions paid for the employee.

**Schedule 1 [7]** provides for an *additional employer contributions benefit* for a person in respect of whom section 16A employer contributions are made, being (generally) an amount equal to the balance of the person's additional employer contributions account at the time the benefit is paid or preserved.

**Schedule 1 [1]** inserts various definitions for the purposes of the principal Act.

**Schedule 1 [4]** makes a consequential amendment to a regulation-making power.

**Schedule 1 [5] and [8]–[11]** extend provisions dealing with the circumstances in which benefits under the principal Act are payable, and those in which they are to be preserved, to apply also in relation to additional employer contributions benefits. Schedule 1 [5] also extends provisions relating to the treatment of benefits under the principal Act on transfer of employment, and on attaining the age of 65, to apply also in relation to additional employer contributions benefits.

**Schedule 1 [6]** excludes section 16A employer contributions from contributions that *STC* may vary under the principal Act, and from contributions that may be taken into account in determining the net liability of an employer for the purposes of certain provisions relating to privatisation of employers and other Government initiatives.

**Schedule 1 [12]** excludes section 16A employer contributions from a provision requiring the transfer of employer contributions made under the principal Act to the First State Superannuation Scheme in certain circumstances.

**Schedule 1 [13]** amends a heading to a Schedule.

**Schedule 1 [14]** contains a power to make regulations containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the principal Act.

**Schedule 1 [15]** provides that the first financial year in relation to which proposed section 16A applies is the year starting on 1 July 2013 and that the section is taken to apply on and from that date.

## **Schedule 2      Amendment of First State Superannuation Act 1992 No 100**

**Schedule 2 [1]** replaces the current employee salary contribution percentage (of 9%) on which compulsory employer superannuation contributions under the *First State Superannuation Act 1992* (the *FSS Act*) are based, with a table of percentages that are to apply for the financial year starting on 1 July 2013 through to the financial year starting on or after 1 July 2019. The proposed percentages are in line with the increases in the superannuation guarantee charge for those financial years provided for in the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth. The table of percentages may be amended by regulation.

**Schedule 2 [2]** contains a power to make regulations containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the FSS Act.

**Schedule 2 [3]** applies the proposed salary contribution percentage relating to the 2013–14 financial year, as from 1 July 2013.



New South Wales

# State Authorities Non-contributory Superannuation Amendment Bill 2013

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New South Wales

# State Authorities Non-contributory Superannuation Amendment Bill 2013

No. , 2013

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## **A Bill for**

An Act to amend the *State Authorities Non-contributory Superannuation Act 1987* and the *First State Superannuation Act 1992* in relation to superannuation contributions to be made by employers under those Acts.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>State Authorities Non-contributory Superannuation Amendment Act 2013</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6

<b>Schedule 1</b>	<b>Amendment of State Authorities</b>	1
	<b>Non-contributory Superannuation Act 1987</b>	2
	<b>No 212</b>	3
<b>[1] Section 3 Definitions</b>		4
	Insert in alphabetical order in section 3 (1):	5
	<i>additional employer contributions account</i> means an account established and maintained under section 10C.	6
	<i>additional employer contributions benefit</i> means the additional employer contributions benefit referred to in section 22B.	7
	<i>section 16A employer contribution</i> means a contribution made by an employer under section 16A.	8
<b>[2] Section 10C</b>		9
	Insert after section 10B:	10
<b>10C Additional employer contributions accounts</b>		11
	STC must:	12
	(a) establish and maintain, within a fund managed by STC to which section 16A employer contributions are paid, a separate account in respect of each employee in respect of whom such contributions are paid to the fund, and	13
	(b) credit the section 16A employer contributions paid in respect of the employee to that account.	14
<b>[3] Section 16A</b>		15
	Insert after section 16:	16
<b>16A Additional contributions by certain public sector employers</b>		17
	(1) A relevant employer must pay to a fund managed by STC, for each relevant employee, a contribution equivalent to 0.25% of the salary of the employee for each financial year, or part of a financial year, for which the employee is an employee.	18
	(2) A contribution under this section is in addition to any other contribution payable by an employer under this or any other Act.	19
	(3) The regulations may prescribe a percentage to replace the percentage in subsection (1). When such a replacement percentage is prescribed, it applies for the purposes of subsection (1) in place of the percentage that it replaces, from the start of the financial year (or years) specified in the regulation.	20
	(4) In this section:	21
	<i>relevant employee</i> means an employee:	22
	(a) who is subject to a limitation on wage increases under section 146C of the <i>Industrial Relations Act 1996</i> or section 6AA of the <i>Statutory and Other Offices Remuneration Act 1975</i> , or	23
	(b) who is or is of a class declared by the regulations to be a relevant employee for the purposes of this definition.	24
	However, <i>relevant employee</i> does not include an employee:	25
	(a) while covered by a State industrial instrument under which payments by the employer to a superannuation fund of the employee as a	26

	consequence of the enactment of, or amendments to, the	1
	<i>Superannuation Guarantee (Administration) Act 1992</i> of the	2
	Commonwealth do not form part of the salaries or wages provided for	3
	in the industrial instrument, or	4
	(b) who is or is of a class declared by the regulations not to be a relevant	5
	employee for the purposes of this definition.	6
	<b>relevant employer</b> means an employer:	7
	(a) who employs a relevant employee in the employee's capacity as a	8
	relevant employee, or	9
	(b) who is or is of a class declared by the regulations to be included in this	10
	definition.	11
<b>[4]</b>	<b>Section 17 Contributions for irregular employees</b>	12
	Omit "or 16" from section 17 (2). Insert instead ", 16 or 16A".	13
<b>[5]</b>	<b>Sections 19 (2), 23 (3), 23A (1), 24 (2) and 27AA (4)</b>	14
	Insert ", any additional employer contributions benefit" after "basic benefit" wherever	15
	occurring.	16
<b>[6]</b>	<b>Sections 19A (1) and 27AB (5)</b>	17
	Insert "(other than section 16A employer contributions)" after "contributions" wherever	18
	occurring.	19
<b>[7]</b>	<b>Section 22B</b>	20
	Insert after section 22A:	21
	<b>22B Additional employer contributions benefit</b>	22
	The additional employer contributions benefit provided by this Act for a	23
	person is an amount equal to the balance at credit in the person's additional	24
	employer contributions account at the time the benefit is paid or preserved, as	25
	the case may be, except as provided by or under this Act.	26
<b>[8]</b>	<b>Section 23 When benefits are payable</b>	27
	Insert ", any additional employer contributions benefit (and any preserved additional	28
	employer contributions benefit)" after "basic benefit)" in section 23 (1).	29
<b>[9]</b>	<b>Section 24 Benefit to be preserved</b>	30
	Omit "in respect of a person and any Commonwealth co-contribution benefit in respect of	31
	the person" from section 24 (1).	32
	Insert instead ", any additional employer contributions benefit and any Commonwealth	33
	co-contribution benefit in respect of a person".	34
<b>[10]</b>	<b>Section 24 (1A) and (1AA)</b>	35
	Omit section 24 (1A). Insert instead:	36
	(1A) Any section 16A employer contribution or Commonwealth co-contribution	37
	received by STC in respect of a former employee while a basic benefit is	38
	preserved by STC in respect of the former employee must be preserved by	39
	STC and is taken to be a preserved additional employer contributions benefit	40
	or a preserved Commonwealth co-contribution benefit (as the case may be).	41



(1AA)	Any existing preserved additional employer contributions benefit in respect of a former employee is to be increased by the amount of a section 16A employer contribution preserved under subsection (1A) in respect of the former employee.	1 2 3 4
<b>[11] Section 24 (4)</b>		5
	Insert “, any preserved additional employer contributions benefit” after “basic benefit”.	6
<b>[12] Section 26H Transfers of contributions to FSS Scheme</b>		7
	Insert “(other than a section 16A employer contribution)” after “contribution” in section 26H (1).	8 9
<b>[13] Schedule 5, heading</b>		10
	Omit “and transitional provisions”. Insert instead “, transitional and other provisions”.	11
<b>[14] Schedule 5, clause 1 (1)</b>		12
	Insert at the end of the subclause:	13
	any other Act that amends this Act	14
<b>[15] Schedule 5, Part 8</b>		15
	Insert after clause 8:	16
<b>Part 8 State Authorities Non-contributory Superannuation Amendment Act 2013</b>		17 18
<b>9 First financial year for section 16A employer contributions</b>		19
	The first financial year in relation to which section 16A applies is the year starting on 1 July 2013 and section 16A is taken to apply on and from that date.	20 21

**Schedule 2      Amendment of First State Superannuation Act**      1  
**1992 No 100**      2

**[1] Section 8 Compulsory employer superannuation contributions**      3

Omit section 8 (2). Insert instead:      4

- (2) The salary contribution percentage for a person, in relation to a financial year referred to in Column 1 in the table to this subsection, is the percentage of the salary or wages of the person specified in Column 2 for that financial year.      5  
6  
7

<b>Column 1 Year</b>	<b>Column 2 Percentage</b>
Year starting on 1 July 2013	9.25
Year starting on 1 July 2014	9.5
Year starting on 1 July 2015	10
Year starting on 1 July 2016	10.5
Year starting on 1 July 2017	11
Year starting on 1 July 2018	11.5
Year starting on or after 1 July 2019	12

- (2A) The regulations may prescribe a period or a percentage to replace, or in addition to, any period or percentage in the table to subsection (2) to reflect any changes to the superannuation guarantee charge percentage prescribed by section 19 (2) of the relevant Commonwealth legislation.      8  
9  
10  
11

- (2B) When a period or percentage is prescribed under subsection (2A), it applies for the purposes of subsection (2) in place of the period or percentage that it replaces or (if additional) as if it formed part of the table to that subsection.      12  
13  
14

**[2] Schedule 3 Savings, transitional and other provisions**      15

Insert at the end of clause 1 (1):      16

any other Act that amends this Act      17

<b>[3] Schedule 3, Part 4</b>	1
Insert after clause 19:	2
<b>Part 4 Provision consequent on enactment of State Authorities Non-contributory Superannuation Amendment Act 2013</b>	3 4 5
<b>20 Application of section 8</b>	6
Section 8 (as amended by the <i>State Authorities Non-contributory Superannuation Amendment Act 2013</i> ), in its application in relation to the financial year starting on 1 July 2013, is taken to apply on and from 1 July 2013.	7 8 9 10