

# Superannuation Legislation Amendment Act 2005 No 52

[2005-52]



New South Wales

## Status Information

### Currency of version

Historical version for 27 June 2005 to 23 November 2005 (accessed 22 November 2024 at 17:59)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill \(No 2\) 2005](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Superannuation Legislation Amendment Act 2005 No 52



New South Wales

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# Superannuation Legislation Amendment Act 2005 No 52



New South Wales

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.

## 1 Name of Act

This Act is the *Superannuation Legislation Amendment Act 2005*.

## 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

## 3 Amendment of Acts

The Acts specified in Schedules 1–7 are amended as set out in those Schedules.

## 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**

(Section 3)

### [1] Section 2B Salary of office: executive officers

Insert “under this Act and the *State Authorities Non-contributory Superannuation Act*

*1987*” after “superannuation” in section 2B (3).

**[2] Schedule 1 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 2005*, but only to the extent to which it amends this Act

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

(Section 3)

**[1] Section 1AA Salary of office: executive officers**

Insert “under this Act and the *State Authorities Non-contributory Superannuation Act 1987*” after “superannuation” in section 1AA (3).

**[2] Section 12D Gratuities to members hurt on duty in respect of loss of limbs, medical expenses etc**

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).

**[3] Section 12D (4)**

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”.

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”.

**[4] Section 14AAA**

Insert after section 14AA:

**14AAA Restoration of death benefit previously reduced to offset contribution tax liabilities**

- (1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* of the Commonwealth, increase a benefit payable or paid under section 9B that has been previously reduced under section 14AA (1).
- (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.

- (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] Schedule 6 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 2005*, but only to the extent to which it amends this Act

**[6] Schedule 6, Part 8**

Insert after Part 7:

## **Part 8 Superannuation Legislation Amendment Act 2005**

### **26 Hurt on duty benefits**

A gratuity granted under section 12D before the commencement of the amendments made to section 12D (4) by the *Superannuation Legislation Amendment Act 2005* is taken to have been validly granted whether or not the Commissioner of Police made the relevant decision under that subsection at the request of STC.

### **27 Restoration of death benefit previously reduced**

- (1) Section 14AAA, as inserted by the *Superannuation Legislation Amendment Act 2005*, applies to a benefit reduced, but not paid, before the commencement of that section.
- (2) Section 14AAA, as inserted by the *Superannuation Legislation Amendment Act 2005*, 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**

(Section 3)

**[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

**Commonwealth co-contribution** means a co-contribution made by the Commissioner of Taxation under the *Superannuation (Government Co-contribution for Low Income*

*Earners) Act 2003* of the Commonwealth.

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

**Commonwealth co-contribution benefit** means the Commonwealth co-contribution benefit referred to in section 22A.

**[2] Section 3 (1)**

Insert in alphabetical order:

**STC Act** means any of the following Acts:

- (a) *Police Regulation (Superannuation) Act 1906*,
- (b) *Superannuation Act 1916*,
- (c) *Local Government and Other Authorities (Superannuation) Act 1927*,
- (d) *Transport Employees Retirement Benefits Act 1967*,
- (e) *Police Association Employees (Superannuation) Act 1969*,
- (f) *New South Wales Retirement Benefits Act 1972*,
- (g) *Public Authorities Superannuation Act 1985*,
- (h) *State Public Service Superannuation Act 1985*,
- (i) *State Authorities Non-contributory Superannuation Act 1987*,
- (j) *State Authorities Superannuation Act 1987*.

**[3] Section 4A Salary of executive officers**

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

**[4] Section 9 Funds etc**

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

**[5] Section 9 (2) (b1)**

Insert after section 9 (2) (b):

- (b1) Commonwealth co-contributions paid to STC, and

**[6] Section 9 (3) (a)**

Insert “and” at the end of the paragraph.

**[7] Section 9 (3) (e)**

Insert at the end of section 9 (3) (d):

, and

- (e) any amount payable as a debt due to the Commonwealth under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* of the Commonwealth in respect of a Commonwealth co-contribution paid to STC.

**[8] Section 10 Reserves for employers**

Insert “and the Commonwealth co-contributions paid to STC in respect of an employee of an employer or employers to whom the reserve relates” after “relates” in section 10 (3).

**[9] Section 10 (4B)**

Insert after section 10 (4A):

(4B) There may be debited to such an employer reserve:

- (a) the costs incurred by STC in relation to Commonwealth co-contributions paid in respect of an employee of an employer or employers to whom the reserve relates, and
- (b) any amount payable as a debt due to the Commonwealth under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* of the Commonwealth in respect of an employee of an employer or employers to whom the reserve relates.

**[10] Section 10 (7)**

Insert “or other Government initiative” after “initiative”.

**[11] Section 10B**

Insert after section 10A:

**10B Commonwealth co-contribution accounts**

STC must:

- (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

- (b) credit the Commonwealth co-contributions paid in respect of the employee to that account.

**[12] Section 19 Transfer of employees**

Omit “basic benefit” from section 19 (2).

Insert instead “sum of the basic benefit and any Commonwealth co-contribution benefit in respect of the employee”.

**[13] Section 22A**

Insert after section 22:

**22A Commonwealth co-contribution benefit**

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.

**[14] Section 23 When benefits are payable**

Insert “and any Commonwealth co-contribution benefit (and any preserved Commonwealth co-contribution benefit)” after “(and any preserved basic benefit)” in section 23 (1).

**[15] Section 23 (3)**

Insert “and any Commonwealth co-contribution benefit” after “basic benefit”.

**[16] Section 23A Benefit on attaining 65**

Omit section 23A (1). Insert instead:

- (1) A person who attains 65 years of age may elect to be paid the basic benefit and any Commonwealth co-contribution benefit to which the person would be entitled on retirement at that age or may elect to preserve the whole of those benefits.

**[17] Section 24 Benefit to be preserved**

Insert “and any Commonwealth co-contribution benefit in respect of the person” after “in respect of a person” in section 24 (1).

**[18] Section 24 (1)**

Insert “basic” after “if the”.

**[19] Section 24 (1A) and (1B)**

Insert after section 24 (1):

(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.

(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.

**[20] Section 24 (2)**

Insert “and any Commonwealth co-contribution benefit” after “basic benefit”.

**[21] Section 24 (4)**

Omit “basic benefit provided by this section”.

Insert instead “preserved basic benefit and any preserved Commonwealth co-contribution benefit”.

**[22] Section 26AA**

Insert after section 26A:

**26AA Restoration of death benefit previously reduced to offset contribution tax liabilities**

- (1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* 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.
- (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.
- (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.

**[23] Part 4AA, heading**

Insert “**and other Government initiatives**” after “**employers**”.

**[24] Section 27AA**

Omit the section. Insert instead:

**27AA Preservation of benefit for employees affected by Government initiatives**

- (1) This Part applies to an employee who transfers employment if:
  - (a) the employee elects or is required to transfer employment otherwise than with an employer under this Act, and
  - (b) the Minister certifies that the transfer of employment is as a consequence of a Government privatisation initiative or other Government initiative.
- (2) This Part applies to an employee who transfers superannuation coverage if:
  - (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
  - (b) the Minister certifies that the transfer of superannuation coverage is as a consequence of a Government privatisation initiative or other Government initiative.
- (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.
- (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.

**[25] Section 27AB Adjustment of employer liability on Government initiative taking effect**

Omit section 27AB (1). Insert instead:

- (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.

**[26] Section 27AC Employer liabilities after Government initiative takes effect**

Insert “or superannuation coverage” after “employees” where firstly occurring in section 27AC (1).

**[27] Section 27AC (1)**

Insert “or other Government initiative” after “initiative”.

**[28] Section 27ACA**

Insert after section 27AC:

**27ACA Regulations relating to liabilities during transfer period**

- (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.
- (2) A regulation under this section has effect despite any other provision of this Act or the regulations.

**[29] Schedule 5 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 2005*, but only to the extent to which it amends this Act

**[30] Schedule 5, Part 6**

Insert after Part 5:

**Part 6 Superannuation Legislation Amendment Act 2005**

**6 Restoration of death benefit previously reduced**

- (1) Section 26AA, as inserted by the *Superannuation Legislation Amendment Act 2005*, applies to a benefit reduced, but not paid, before the commencement of that section.
- (2) Section 26AA, as inserted by the *Superannuation Legislation Amendment Act 2005*, does not apply to a benefit paid before the commencement of that section.

## **7 Validation in respect of shift allowance**

The regulations may contain a validation provision substantially to the same effect as clause 42 of Schedule 25 to the *Superannuation Act 1916* in respect of the loading (if any) to be treated as part of an employee's salary for the purposes of this Act.

## **Schedule 5 Amendment of *State Authorities Superannuation Act 1987* No 211**

(Section 3)

### **[1] Sections 2C and 43AA**

Omit "Part 2 of Schedule 5" wherever occurring.

Insert instead "Part 3 of Schedule 5".

### **[2] Section 4A Salary of executive officers**

Insert "under this Act and the *State Authorities Non-contributory Superannuation Act 1987*" after "superannuation" in section 4A (3).

### **[3] Section 14 Reserves for employers**

Insert "or other Government initiative" after "initiative" in section 14 (7).

### **[4] Section 16A**

Insert after section 16:

#### **16A Adjustment of employer reserves to take into account death and disability payments**

- (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.
- (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.
- (3) STC may adjust an employer reserve under this section despite any other provision of this Act.
- (4) In this section:

**death benefit** means a benefit payable under this Act on the death of a contributor or former contributor.

**disability benefit** 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.

**[5] Section 43 Deferred benefit**

Omit section 43 (9).

**[6] Section 45AA**

Insert after section 45A:

**45AA Restoration of death benefit previously reduced to offset contribution tax liabilities**

- (1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* 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).
- (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.
- (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.

**[7] Part 5A, heading**

Insert “**and other Government initiatives**” after “**employers**”.

**[8] Section 46AAA**

Insert after section 46AA:

**46AAA Application of Part**

- (1) This Part applies to a contributor who transfers employment if:
  - (a) the contributor elects or is required to transfer employment otherwise than with an employer under this Act, and
  - (b) the Minister certifies that the transfer of employment is as a consequence of

a Government privatisation initiative or other Government initiative.

(2) This Part applies to a contributor who transfers superannuation coverage if:

- (a) the contributor, while remaining with his or her existing employer, elects or is required to become a contributor to another superannuation scheme, and
- (b) the Minister certifies that the transfer of superannuation coverage is as a consequence of a Government privatisation initiative or other Government initiative.

(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.

**[9] Section 46AB Preservation of benefit for contributors**

Omit section 46AB (1). Insert instead:

- (1) Part 1 of Schedule 5 has effect with respect to contributors to whom this Part applies.

**[10] Section 46AC Adjustment of employer liability on Government initiative taking effect**

Omit section 46AC (1). Insert instead:

- (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] Section 46AD Employer liabilities after Government initiative takes effect**

Insert "or superannuation coverage" after "contributors" where firstly occurring in section 46AD (1).

**[12] Section 46AD (1)**

Insert "or other Government initiative" after "initiative".

**[13] Schedule 5 Special provisions for deferring the benefits of certain contributors**

Omit "(Sections 43 (9), 43AA)". Insert instead "(Sections 46AB (1), 43AA)".

**[14] Schedule 5, Part 1**

Omit Parts 1 and 2. Insert instead:

## **Part 1 Contributors affected by Government privatisation initiatives and other Government initiatives**

### **1 Application of Part**

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.

### **2 Contributor entitled to defer benefit**

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.

### **3 Contributor entitled to immediate payment of deferred benefit after ceasing to contribute**

- (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).
- (2) The benefit is to be paid or applied as follows:
  - (a) to another superannuation fund approved by STC,
  - (b) to an approved deposit fund approved by STC,
  - (c) to purchase a deferred annuity.
- (3) A contributor is entitled to be paid the benefit under this clause despite any provision of section 43.
- (4) Nothing in this clause affects any other entitlement of a contributor to payment of a benefit under section 43 (6).
- (5) In this clause:

**approved deposit fund** means an approved deposit fund within the meaning of the [Superannuation Industry \(Supervision\) Act 1993](#) of the Commonwealth.

**deferred annuity** means a deferred annuity within the meaning of the [Superannuation Industry \(Supervision\) Act 1993](#) of the Commonwealth.

### **4 Regulations relating to liabilities during transfer period**

- (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.

- (2) A regulation under this clause has effect despite any other provision of this Act or the regulations.

**[15] Schedule 5**

Renumber Part 3 as Part 2.

**[16] Schedule 6 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 2005*, but only to the extent to which it amends this Act

**[17] Schedule 6, Part 7**

Insert after Part 6:

## **Part 7 Superannuation Legislation Amendment Act 2005**

### **9 Restoration of death benefit previously reduced**

- (1) Section 45AA, as inserted by the *Superannuation Legislation Amendment Act 2005*, applies to an employer-financed portion of a benefit reduced, but not paid, before the commencement of that section.
- (2) Section 45AA, as inserted by the *Superannuation Legislation Amendment Act 2005*, does not apply to an employer-financed portion of a benefit paid before the commencement of that section.

### **10 Validation in respect of shift allowance**

The regulations may contain a validation provision substantially to the same effect as clause 42 of Schedule 25 to the *Superannuation Act 1916* in respect of the loading (if any) to be treated as part of a contributor's salary for the purposes of this Act.

## **Schedule 6 Amendment of Superannuation Act 1916 No 28**

(Section 3)

**[1] Section 3AA Salary of executive officers**

Insert "under this Act and the *State Authorities Non-contributory Superannuation Act*

1987” after “superannuation” wherever occurring in section 3AA (3) and (6B).

**[2] Section 8C**

Insert after section 8B:

**8C Adjustment of employer reserves to take into account death and disability payments**

- (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.
- (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.
- (3) STC may adjust an employer reserve under this section despite any other provision of this Act.
- (4) In this section:

**death benefit** means a benefit payable under this Act on the death of a contributor or former contributor.

**disability benefit** means a benefit payable under this Act on the ground of invalidity or physical or mental incapacity of a contributor or former contributor.

**[3] Part 2A Medical examination of contributors**

Omit the Part.

**[4] Section 29 Breakdown pensions**

Insert after section 29 (4A):

- (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 this section, and who has attained the age of 55 years, is to be for the remainder of the person’s life.
- (5A) STC may not make a determination under subsection (5), except on the election of the contributor or former contributor concerned.

**[5] Section 51A**

Insert after section 51:

**51A Division not applicable to lifetime pensions**

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).

**[6] Section 52E Disability pension**

Insert after section 52E (4):

(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.

(4B) STC may not make a determination under subsection (4A), except at the election of the person concerned.

(4C) Subsections (5)–(7) do not apply to a person the subject of a determination under subsection (4A).

**[7] Section 61RAA**

Insert after section 61RA:

**61RAA Restoration of death benefit previously reduced to offset contribution tax liabilities**

- (1) STC may, for the purposes of obtaining a deduction from assessable income under section 279D of the *Income Tax Assessment Act 1936* 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.
- (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.
- (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.

**[8] Part 5, heading**

Insert “**and other Government initiatives**” after “**employers**”.

**[9] Section 62A**

Insert after section 62:

**62A Application of Part**

- (1) This Part applies to a contributor who transfers employment if:
  - (a) the contributor elects or is required to transfer employment otherwise than with an employer under this Act, and
  - (b) the Minister certifies that the transfer of employment is as a consequence of a Government privatisation initiative or other Government initiative.
- (2) This Part applies to a contributor who transfers superannuation coverage if:
  - (a) the contributor, while remaining with his or her existing employer, elects or is required to become a contributor to another superannuation scheme, and
  - (b) the Minister certifies that the transfer of superannuation coverage is as a consequence of a Government privatisation initiative or other Government initiative.
- (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.

**[10] Section 63 Preservation of benefit for contributors**

Omit section 63 (1). Insert instead:

- (1) Part 1 of Schedule 23 has effect with respect to contributors to whom this Part applies.

**[11] Section 64 Adjustment of employer liability on Government initiative taking effect**

Omit section 64 (1). Insert instead:

- (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.

**[12] Section 65 Employer liabilities after Government initiative takes effect**

Insert “or superannuation coverage” after “contributors” where firstly occurring in section 65 (1).

**[13] Section 65 (1)**

Insert “or other Government initiative” after “initiative”.

**[14] Section 92AA Transfer of contributors as a result of Government initiatives etc**

Omit the section.

**[15] Schedule 23 Special provisions for deferring benefits of certain contributors**

Omit “(Section 92AA)”. Insert instead “(Section 63 (1))”.

**[16] Schedule 23, Part 1**

Omit Parts 1 and 2. Insert instead:

## **Part 1 Contributors affected by Government privatisation initiatives and other Government initiatives**

### **1 Application of Part**

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.

### **2 Contributor entitled to defer benefit**

- (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.
- (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.
- (3) A contributor is entitled to take the benefit of Division 3A or 3B of Part 4, despite any provision of those Divisions.

### **3 Application of Division 3B of Part 4**

- (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.

- (2) Sections 52L and 52N (3) do not apply to a contributor to whom this Part applies.

#### **4 Contributor entitled to immediate payment of deferred benefit after ceasing to contribute**

- (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).
- (2) The benefit is to be paid or applied as follows:
- (a) to another superannuation fund approved by STC,
  - (b) to an approved deposit fund approved by STC,
  - (c) to purchase a deferred annuity.
- (3) A contributor is entitled to be paid the benefit under this clause despite any provision of Division 3A or 3B of Part 4.
- (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.
- (5) In this clause:

**approved deposit fund** means an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

**deferred annuity** means a deferred annuity within the meaning of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

#### **5 Regulations relating to liabilities during transfer period**

- (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 62A) and before any such election is made.
- (2) A regulation under this clause has effect despite any other provision of this Act or the regulations.

#### **[17] Schedule 23**

Re-number Part 3 as Part 2.

**[18] Schedule 24 Loading in respect of shift allowance**

Omit the definition of **S** in clause 2 (5). Insert instead:

**S** is the sum of:

- (a) the number of such shifts the contributor actually worked during the relevant period, and
- (b) the number of such shifts the contributor would have actually worked during the relevant period but for the contributor being on leave, being leave for which a shift allowance or an equivalent allowance or loading (including that part of annualised salary that replaces shift allowance in respect of the contributor) is paid.

**[19] Schedule 25 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 2005*, but only to the extent to which it amends this Act

**[20] Schedule 25, Part 11**

Insert after Part 10:

## **Part 11 Superannuation Legislation Amendment Act 2005**

### **41 Restoration of death benefit previously reduced**

- (1) Section 61RAA, as inserted by the *Superannuation Legislation Amendment Act 2005*, applies to a lump sum benefit reduced, but not paid, before the commencement of that section.
- (2) Section 61RAA, as inserted by the *Superannuation Legislation Amendment Act 2005*, does not apply to a lump sum benefit paid before the commencement of that section.

### **42 Validation**

Anything done or omitted to be done, on or after 1 March 1999, that would have been validly done or omitted had the amendment made to clause 2 (5) of Schedule 24 by Schedule 6 [18] to the *Superannuation Legislation Amendment Act 2005* been in force at the time that the thing was done or omitted, is validated.

## **Schedule 7 Amendment of Superannuation Administration Act 1996**

## No 39

(Section 3)

### [1] Section 4 Definitions

Insert in alphabetical order:

**FTC dispute function** 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.

**FTC disputes committee** means a committee delegated the FTC dispute function under section 32.

**STC dispute function** 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.

**STC disputes committee** means a committee delegated the STC dispute function under section 77.

### [2] Section 22 Determination of disputes

Insert “or an FTC disputes committee” after “FTC” where secondly occurring in section 22 (1) and (2).

### [3] Section 22 (3)

Insert “, an FTC disputes committee” after “FTC”.

### [4] Section 22 (4)

Omit “has”. Insert instead “and an FTC disputes committee have”.

### [5] Section 32 Delegation of functions

Insert “, other than the FTC dispute function” after “section” in section 32 (3).

### [6] Section 32 (3A)

Insert after section 32 (3):

(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.



**[7] Section 35 Personal and other liability**

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.

**[8] Section 40 Appeals**

Insert “or an FTC disputes committee” after “FTC” in section 40 (1).

**[9] Section 40 (2)**

Omit “of FTC”.

**[10] Section 40 (3)**

Insert “or the FTC disputes committee, as the case may be,” after “FTC”.

**[11] Section 45 Proof of certain matters not required**

Insert at the end of section 45 (d):

, or

(e) the delegation of the FTC dispute function to an FTC disputes committee, or

(f) the appointment of, or the holding of office by, any member of an FTC disputes committee.

**[12] Section 67 Determination of disputes**

Insert “or an STC disputes committee” after “by STC” where secondly occurring in section 67 (1) and (2).

**[13] Section 67 (3)**

Insert “, an STC disputes committee” after “STC”.

**[14] Section 67 (4)**

Omit “has”. Insert instead “and an STC disputes committee have”.

**[15] Section 67 (5)**

Insert after section 67 (4):

(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 *Police Regulation (Superannuation) Act 1906*.

**[16] Section 77 Delegation of functions**

Insert “, other than the STC dispute function” after “section” in section 77 (3).

**[17] Section 77 (3A)**

Insert after section 77 (3):

(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.

**[18] Section 80 Personal and other liability**

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.

**[19] Section 88 Appeals**

Insert “or an STC disputes committee” after “STC” in section 88 (1).

**[20] Section 88 (2)**

Omit “of STC”.

**[21] Section 88 (3)**

Insert “or the STC disputes committee, as the case may be,” after “STC”.

**[22] Section 93 Proof of certain matters not required**

Insert at the end of section 93 (d):

, or

(e) the delegation of the STC dispute function to an STC disputes committee, or

(f) the appointment of, or the holding of office by, any member of an STC disputes committee.

**[23] Section 96 Definitions**

Insert in alphabetical order:

***superannuation authority*** means FTC or STC.

**[24] Section 128A Mobility between public sector schemes and EISS and LGSS**

Insert at the end of section 128A (4) (f):

, and

- (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).

**[25] Section 128B Provisions consequent on extension of superannuation schemes to additional employees**

Insert at the end of section 128B (1) (f):

, and

- (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).

**[26] Schedule 3 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Superannuation Legislation Amendment Act 2005*, but only to the extent to which it amends this Act

**[27] Schedule 3, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on the enactment of the  
Superannuation Legislation Amendment Act 2005**

**25 Definition**

In this Part:

**the 2005 Act** means the *Superannuation Legislation Amendment Act 2005*.

**26 Delegations**

- (1) The amendments made by the 2005 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.

- (2) The amendments made by the 2005 Act to those sections do not apply to a dispute determined before the commencement of those amendments.

### **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 2005 Act to sections 4, 22, 32, 35 and 40 is taken to have been determined by FTC.

### **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 2005 Act to sections 4, 67, 77, 80 and 88 is taken to have been determined by STC.