

**PUBLIC AUTHORITIES SUPERANNUATION BOARD
ACT, 1983, No. 103**

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 103, 1983.

An Act to constitute the Public Authorities Superannuation Board; to define its functions; and for other purposes. [Assented to, 28th November, 1983.]

See also Local Government and Other Authorities (Public Authorities Superannuation Board) Amendment Act, 1983; New South Wales Retirement Benefits (Public Authorities Superannuation Board) Amendment Act, 1983; Transport Employees Retirement Benefits (Public Authorities Superannuation Board) Amendment Act, 1983; Public Service (Public Authorities Superannuation Board) Amendment Act, 1983; Statutory and Other Offices Remuneration (Public Authorities Superannuation Board) Amendment Act, 1983.

Public Authorities Superannuation Board.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Public Authorities Superannuation Board Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Arrangement.

3. This Act is arranged as follows:—

PART I.—PRELIMINARY—*ss.* 1–4.

PART II.—THE PUBLIC AUTHORITIES SUPERANNUATION BOARD—*ss.* 5–12.

PART III.—FUNCTIONS OF THE BOARD—*ss.* 13–15.

PART IV.—FINANCIAL PROVISIONS—*ss.* 16–18.

PART V.—MISCELLANEOUS—*ss.* 19–26.

SCHEDULE 1.—PROVISIONS RELATING TO THE MEMBERS OF THE BOARD.

SCHEDULE 2.—PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Public Authorities Superannuation Board.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Board” means the Public Authorities Superannuation Board constituted by this Act;

“financial year”, in relation to the Board, means the period referred to in section 16;

“Management Account” means the Public Authorities Superannuation Management Account established under section 18;

“member” means a member (including a part-time member) of the Board;

“part-time member” means a member referred to in section 6 (2) (c), (d) or (e);

“President” means the President of the Board;

“regulation” means a regulation made under this Act;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act;

“Vice-President” means the Vice-President of the Board.

(2) In this Act, a reference to—

(a) a function includes a reference to a power, authority and duty; and

(b) the exercise of a function includes, where that function is a duty, a reference to the performance of that duty.

PART II.**THE PUBLIC AUTHORITIES SUPERANNUATION BOARD.****The Board.**

5. There is hereby constituted a corporation under the corporate name of the “Public Authorities Superannuation Board”.

Public Authorities Superannuation Board.

Composition of the Board.

6. (1) The Board shall consist of 7 members who shall be appointed by the Governor on the recommendation of the Minister.

(2) Of the members —

- (a) 1 shall, in and by the instrument by which the member is appointed, be appointed as President;
- (b) 1 shall, in and by the instrument by which the member is appointed, be appointed as Vice-President;
- (c) 2 shall be contributors to a superannuation scheme administered or managed by the Board and shall, in and by the instruments by which they are appointed, be appointed as part-time members to represent the interests of contributors to the superannuation schemes administered or managed by the Board;
- (d) 2 shall, in and by the instruments by which they are appointed, be appointed as part-time members to represent the interests of employers under the superannuation schemes administered or managed by the Board; and
- (e) 1 shall be a person chosen by the Minister from a panel of 3 persons nominated by the Labor Council of New South Wales and shall, in and by the instrument by which the member is appointed, be appointed as a part-time member.

(3) Before making a recommendation to the Governor with respect to the appointment of a member to represent the interests of contributors or employers, the Minister may consult such persons (including associations of employees or associations of employers) as the Minister thinks fit.

(4) Where, for the purposes of subsection (2) (e), nomination of persons to constitute a panel is not made within the time or in the manner specified by the Minister in a written notice given to the Labor Council of New South Wales, the Governor may appoint a person to be a member instead of the person required to be appointed from that panel and the person so appointed shall be deemed to have been chosen by the Minister from a panel duly nominated.

Public Authorities Superannuation Board.

Provisions relating to the members of the Board.

7. Schedule 1 has effect with respect to the members.

Provisions relating to the procedure of the Board.

8. Schedule 2 has effect with respect to the procedure of the Board.

Functions of President.

9. The President—
- (a) is responsible, as the chief executive officer of the Board, for the management of the affairs of the Board subject to and in accordance with any directions of the Board; and
 - (b) shall have and may exercise such other functions as are conferred or imposed on the President by or under this or any other Act.

Functions of the Vice-President.

10. (1) The Vice-President shall have such functions as the President directs.

(2) Where—

- (a) the President is prevented by illness or absence from exercising any of the functions of the office of President; or
- (b) there is a vacancy in the office of President,

the Vice-President shall have the functions of that office (including functions delegated to the President under section 15) and any thing done by the Vice-President while acting pursuant to this subsection shall be deemed to have been done as President.

- (3) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising the Vice-President to act in the office of President pursuant to subsection (2).

Public Authorities Superannuation Board.

Staff of the Board.

11. (1) The Board may appoint and employ such staff as may be necessary to enable the Board to exercise its functions.

(2) The Board may, with the approval of the Minister and of the Minister administering a government department or of a statutory body, arrange for the use of the services of any staff or facilities of the department or statutory body.

(3) In subsection (2)—

“government department” includes an administrative office;

“statutory body” includes—

(a) an employer as defined in section 3 (1) of the New South Wales Retirement Benefits Act, 1972; and

(b) an employer as defined in section 15AL of the Local Government and Other Authorities (Superannuation) Act, 1927.

Employment of agents.

12. The Board may employ and pay an agent to transact any business or do any act (including receiving or paying money) that the Board is authorised or required to transact or do in the exercise of its functions.

PART III.**FUNCTIONS OF THE BOARD.****Functions.**

13. The Board—

- (a) shall administer and manage the schemes, funds and accounts established by or under this Act, the Local Government and Other Authorities (Superannuation) Act, 1927, the New South Wales Retirement Benefits Act, 1972, or the Transport Employees Retirement Benefits Act, 1967; and

Public Authorities Superannuation Board.

- (b) shall have and may exercise such other functions as may be conferred or imposed on it by or under this or any other Act (including an Act referred to in paragraph (a)).

Relationship between powers of Board and powers of trustees.

14. (1) In this section, "superannuation fund" means any fund or account administered or managed by the Board from which any superannuation or retirement benefits are provided.

(2) To the extent (if any) to which, but for this subsection, the Board would not have in relation to a superannuation fund the powers that it would have if it were a trustee of the superannuation fund, it has those powers.

(3) To the extent (if any) to which, but for this subsection, the powers conferred by this or any other Act on the Board in relation to a superannuation fund would be restricted by the Trustee Act, 1925, or any other law relating to trusts or trustees, those powers are not so restricted.

(4) Nothing in this section—

- (a) constitutes the Board as a trustee of a superannuation fund; or
(b) implies that the Board is a trustee of a superannuation fund.

Delegation of functions.

15. (1) The Board may, by resolution, delegate to—

- (a) the President;
(b) a committee comprised of members, including the President or a member nominated by the President (whether or not also comprised of persons employed by the Board);
(c) a person employed by the Board;
(d) a person for the time being holding or acting in a specified position in the staff establishment of the Board; or

Public Authorities Superannuation Board.

- (e) any person of whose services the Board makes use pursuant to this or any other Act,

the exercise of such of the functions of the Board (other than this power of delegation) as are specified in the resolution.

(2) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time by the delegate in accordance with the terms of the delegation.

(3) Without limiting the operation of subsection (2), a function the exercise of which has been delegated under this section to the President may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by—

- (a) the Vice-President;
- (b) a person employed by the Board;
- (c) a person for the time being holding or acting in a specified position in the staff establishment of the Board; or
- (d) any person of whose services the Board makes use pursuant to this or any other Act,

as authorised by instrument in writing by the President in that behalf either generally or in a particular case or class of cases.

(4) A delegation or authorisation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the resolution making the delegation or the instrument of authorisation.

(5) Notwithstanding any delegation under this section, the Board may continue to exercise any function delegated.

(6) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section, or by a person duly authorised in that behalf by the President under this section, has the same force and effect as it would have if it had been done or suffered by the Board and shall be deemed to have been done or suffered by the Board.

(7) The Board may, by resolution, revoke wholly or in part any delegation under this section, and the President may, by instrument in writing, revoke wholly or in part any authorisation under this section.

Public Authorities Superannuation Board.

(8) An instrument purporting to have been signed by a person in the capacity of a delegate of the Board, or as a person authorised under this section, shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Board and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Board or by a person duly authorised under this section, as the case may be.

(9) In subsection (8), a reference to a delegate includes a reference to the chairman of a committee to which the exercise of a function has been delegated under subsection (1).

PART IV.

FINANCIAL PROVISIONS.

Financial year.

16. The financial year of the Board shall be—
- (a) except as provided by paragraph (b)—the year ended on 31st March; or
 - (b) the period prescribed for the purposes of this section.

Borrowing powers of Board.

17. (1) The Treasurer may, on the application of the Board and on such terms and conditions as the Treasurer thinks fit, lend money to the Board.

(2) The Board may, for the purpose of obtaining financial accommodation, borrow by way of overdraft from any bank, but the total amount owing at any time on money so borrowed shall not exceed \$6,000,000.

Public Authorities Superannuation Board.

(3) Any amounts payable by the Board—

- (a) towards the repayment of money borrowed pursuant to subsection (1) or (2); or
- (b) by way of interest, charges and fees in respect of financial accommodation obtained by that borrowing,

shall be paid from such funds or accounts (or both) which, by or under this or any other Act, are administered or managed by the Board, and in such proportions, as the Board determines.

Management Account.

18. (1) The Board shall establish a Public Authorities Superannuation Management Account.

(2) There shall be transferred to the Management Account such amounts as are authorised to be so transferred under this Act, the Local Government and Other Authorities (Superannuation) Act, 1927, or the New South Wales Retirement Benefits Act, 1972.

(3) Subject to the Local Government and Other Authorities (Superannuation) Act, 1927, and the New South Wales Retirement Benefits Act, 1972, the costs of management of the Board (including the remuneration and allowances of the members) shall be charged against the Management Account.

PART V.**MISCELLANEOUS.****Service of documents.**

19. (1) A document may be served on the Board by leaving it at, or by sending it by post to, the principal office of the Board.

(2) Nothing in subsection (1) affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Board in a manner not provided for by subsection (1).

Annual report.

20. (1) The Board shall, as soon as practicable, but within 6 months, after the end of each financial year, prepare and forward to the Minister a report of its work and activities for that financial year.

Public Authorities Superannuation Board.

(2) The Minister shall lay the report or cause it to be laid before both Houses of Parliament as soon as practicable after receiving the report.

Recovery of charges, etc., by Board.

21. Any charge, fee or money due to the Board may be recovered by the Board as a debt in a court of competent jurisdiction.

Proof of certain matters not required.

22. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;
- (b) any resolution of the Board;
- (c) the appointment of, or the holding of office by, any member; or
- (d) the presence or nature of a quorum at any meeting of the Board.

Regulations.

23. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,
or may do any combination of those things.

Abolition of Local Government Superannuation Board.

24. The Local Government Superannuation Board is abolished.

Public Authorities Superannuation Board.

Abolition of New South Wales Retirement Board.

25. The New South Wales Retirement Board is abolished.

Savings, transitional and other provisions.

26. Schedule 3 has effect.

SCHEDULE 1.

(Sec. 7.)

PROVISIONS RELATING TO THE MEMBERS OF THE BOARD.**Age of members.**

1. A person of or above the age of 65 years is not eligible to be appointed as a member.

Acting members.

2. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

(2) The Governor may remove any person from any office to which the person was appointed under subclause (1).

(3) A person while acting in the office of a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) For the purposes of this clause—

- (a) a vacancy in the office of a member shall be deemed to be an absence from office of the member;
- (b) the Vice-President shall be deemed to be absent from office as Vice-President during any period that the Vice-President acts as President under section 10 (2); and
- (c) a part-time member shall be deemed to be absent from office as a part-time member during any period that the member acts in the office of the President or Vice-President pursuant to an appointment under subclause (1).

Public Authorities Superannuation Board.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued.*

- (5) In sections 10 and 22, clauses 1, 8, 9 and 13 and Schedule 2—
- (a) a reference to the President or Vice-President includes a reference to a person acting in the office of the President or Vice-President;
 - (b) a reference to a member or part-time member includes a reference to a person acting in the office of a member or part-time member;
 - (c) a reference to the appointment of a member includes a reference to the appointment of a person to act in the office of a member; and
 - (d) a reference to the office of a member or part-time member includes a reference to the office of a person appointed to act in the office of a member or part-time member.

Terms of office.

3. Subject to this Schedule, a member shall hold office for such period not exceeding 7 years as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

President and Vice-President to be full-time members.

4. The President and Vice-President shall devote the whole of their time to the duties of the office of President and Vice-President, respectively, except as permitted by this Act or except with the consent of the Minister (which consent the Minister is hereby authorised to give).

Remuneration.

5. (1) The President and Vice-President are entitled to be paid—
- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
 - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of each of them.
- (2) A part-time member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the part-time member.

Public Authorities Superannuation Board.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued.***Filling of vacancy in office of member.**

6. In the event of the office of any member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

Casual vacancies.

7. (1) A member shall be deemed to have vacated office if the member—
- (a) dies;
 - (b) being President or Vice-President, absents himself or herself from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant), unless the absence is occasioned by illness or other unavoidable cause;
 - (c) being a part-time member, absents himself or herself from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
 - (d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (e) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
 - (f) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
 - (g) being President or Vice-President, engages in any paid employment outside the duties of the office of President or Vice-President, as the case may be, except with the consent of the Minister (which consent the Minister is hereby authorised to give);
 - (h) resigns the office by instrument in writing addressed to the Minister;
 - (i) attains the age of 65 years;
 - (j) is retired from office by the Governor under subclause (2); or
 - (k) is removed from office by the Governor under subclause (3), (4) or (5).

Public Authorities Superannuation Board.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued.*

(2) The President or Vice-President may, after attaining the age of 60 years and before attaining the age of 65 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) The Governor may remove the President or Vice-President from office for incapacity, incompetence or misbehaviour.

(4) The Governor may remove a part-time member from office.

(5) Without affecting the generality of subclauses (3) and (4), the Governor may remove from office a member who contravenes the provisions of clause 8.

Disclosure of pecuniary interests.

8. (1) A member who has a direct or indirect pecuniary interest—
- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Board; or
 - (b) in a thing being done or about to be done by the Board,

shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a member at a meeting of the Board that the member—
- (a) is a member, or is in the employment, of a specified company or other body;
 - (b) is a partner, or is in the employment, of a specified person; or
 - (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Board shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Board from time to time.

Public Authorities Superannuation Board.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued.*

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines—

- (a) be present during any deliberation of the Board, or take part in any decision of the Board, with respect to that matter; or
- (b) exercise any functions under this Act with respect to that thing,

as the case may require.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Board or the exercise of any function under this Act.

(6) Nothing in this clause applies to or in respect of an interest of a member in a matter or thing which arises by reason only that the member is a contributor to a superannuation scheme administered or managed by the Board.

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

Effect of certain other Acts.

9. (1) The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of a member and a member is not, as a member, subject to the provisions of that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as a part-time member.

(3) The office of a part-time member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

Preservation of rights of President or Vice-President previously public servant, etc.

10. (1) In this clause, "statutory body" means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

Public Authorities Superannuation Board.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued.*

(2) Subject to subclause (3) and to the terms of appointment, where the President or Vice-President was, immediately before being appointed as President or Vice-President, as the case may be—

- (a) an officer of the Public Service or a Teaching Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee,

he or she—

- (e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as President or Vice-President, as the case may be; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity.

as if he or she had continued to be such an officer, contributor or person during any service as President or Vice-President and—

- (h) that service as President or Vice-President shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and
- (i) he or she shall be deemed to be an officer or employee, and the Board shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this clause.

(3) If the President or Vice-President would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme, he or she shall not be so entitled upon becoming (whether upon appointment as President or Vice-President or at any later time while holding office as President or Vice-President) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the Board in any case where he or she becomes a contributor to any such other superannuation scheme.

(4) Subclause (3) does not prevent the payment to the President or Vice-President upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of the scheme.

Public Authorities Superannuation Board.

SCHEDULE 1—*continued.*PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued.*

(5) The President or Vice-President shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

President and Vice-President entitled to re-appointment to former employment in certain cases.

11. (1) In this clause, "statutory body" means any body declared under clause 12 to be a statutory body for the purposes of this Schedule.

(2) A person who—

- (a) ceases to be President or Vice-President by reason of the expiration of the period for which the person was appointed or by reason of resignation;
- (b) was, immediately before being appointed as President or Vice-President—
 - (i) an officer of the Public Service or a Teaching Service; or
 - (ii) an officer or employee of a statutory body; and
- (c) has not attained the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

shall be entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being appointed as President or Vice-President, as the case may be.

(3) Where subclause (2) does not apply to a person who—

- (a) was, immediately before being appointed to a full-time office constituted by an Act, an officer or employee referred to in subclause (2) (b); and
- (b) is after that appointment appointed as the President or Vice-President,

the person shall have such rights (if any) to appointment as such an officer or employee, in the event of ceasing to be President or Vice-President, as are specified in the instrument of appointment as President or Vice-President, as the case may be, or as are agreed upon by the person and by or on behalf of the Government.

Declaration of statutory bodies.

12. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this Schedule.

Public Authorities Superannuation Board.

SCHEDULE 1—*continued.*

PROVISIONS RELATING TO THE MEMBERS OF THE BOARD—*continued.*

Liability of members, etc.

13. No matter or thing done by the Board, and no matter or thing done by any member or by any person acting under the direction of the Board shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

SCHEDULE 2.

(Sec. 8.)

PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD.

General procedure.

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

Quorum.

2. Four members, of whom one shall be the President or Vice-President, shall form a quorum and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise all the functions of the Board.

Presiding member.

3. (1) The President or, in the absence of the President, the Vice-President shall preside at a meeting of the Board.

(2) The person acting as chairman at any meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

Public Authorities Superannuation Board.

SCHEDULE 2—*continued.*PROVISIONS RELATING TO THE PROCEDURE OF THE BOARD—*continued.***Voting.**

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

Minutes.

5. The Board shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

First meeting of Board.

6. The Minister shall call the first meeting of the Board in such manner as the Minister thinks fit.

Common seal of Board.

7. The common seal of the Board shall be kept in the custody of the President and shall only be affixed to an instrument or document—

- (a) in the presence of the President, the Vice-President or any 2 part-time members; and
- (b) in the presence of such other person as may be appointed for that purpose by the Board,

with an attestation by the signatures of those persons of the fact of the affixing of the seal.

SCHEDULE 3.

(Sec. 26.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. In this Schedule—

“appointed day” means the day appointed and notified under section 2 (2);

Public Authorities Superannuation Board.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

“former Board” means the Local Government Superannuation Board or the New South Wales Retirement Board;

“new Board” means the Public Authorities Superannuation Board;

“relevant former Board”, in relation to a transferred servant, means the former Board which, immediately before the appointed day, employed the transferred servant;

“transferred servant” means a servant of a former Board who becomes, or who is deemed to have become, a member of the staff of the new Board in accordance with clause 8.

Transfer of assets, etc., of former Boards.

2. (1) On and from the appointed day—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to either of the former Boards shall vest in and belong to the new Board;
- (b) all money and liquidated and unliquidated claims that, immediately before that day, was or were payable to or recoverable by either of the former Boards shall be money and liquidated and unliquidated claims payable to or recoverable by the new Board;
- (c) all proceedings pending immediately before that day at the suit of either of the former Boards shall be deemed to be proceedings pending on that day at the suit of the new Board and all proceedings so pending at the suit of any person against either of the former Boards shall be deemed to be proceedings pending at the suit of that person against the new Board;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, either of the former Boards and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the new Board;
- (e) the new Board may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as either of the former Boards might have done, but for their abolition;

Public Authorities Superannuation Board.

 SCHEDULE 3—*continued.*

 SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (f) the new Board may enforce and realise any security or charge existing immediately before that day in favour of either of the former Boards and may exercise any powers thereby conferred on either of the former Boards as if the security or charge were a security or charge in favour of the new Board;
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, either of the former Boards shall be debts due by, money payable by and claims recoverable against, the new Board; and
- (h) all liquidated and unliquidated claims for which either of the former Boards would, but for their abolition, have been liable shall be liquidated and unliquidated claims for which the new Board shall be liable.

(2) Subject to this Act, any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of either of the former Boards shall, to the extent that, but for the abolition of the former Boards, that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the new Board.

(3) No attornment to the new Board by a lessee from either of the former Boards shall be required.

References to former Boards, etc.

3. (1) Except as provided by subclause (2), on and from the appointed day, in any other Act or in any regulation, by-law or other statutory instrument or in any document, whether of the same or of a different kind, a reference, or a reference required immediately before that day to be read and construed as a reference, to—

- (a) the Railways Retirement Fund Board;
- (b) the Transport Retirement Board; or
- (c) either of the former Boards,

shall be read and construed as a reference to the new Board.

(2) On and from the appointed day, in any other Act or in any regulation, by-law or other statutory instrument or in any document, whether of the same or a different kind, a reference (however expressed) to a person employed by either of the former Boards shall be read and construed as a reference to a person employed by the new Board who was, immediately before that day, employed by that former Board.

Public Authorities Superannuation Board.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Provisions relating to annual reports, etc., during transition period.**

4. (1) Where, before the appointed day, a former Board has not complied with a requirement made by or under an Act relating to an annual report or a statement of accounts, being a report or statement required to be made in respect of a period which expired before that day, the new Board shall comply with that requirement as if it were the former Board.

(2) The first annual report of the new Board and the first statement of accounts of the new Board, being a report or statement containing matters relating to the insurance scheme and funds established under the Local Government and Other Authorities (Superannuation) Act, 1927, shall contain such further matters in respect of the activities of the Local Government Superannuation Board during the period commencing on the 1st April preceding the appointed day and ending on the day preceding the appointed day as would be necessary if the new Board were the same Board as, and a continuation of, the Local Government Superannuation Board.

(3) The first annual report of the new Board and the first statement of accounts of the new Board, being a report or statement containing matters relating to the New South Wales Retirement Fund shall contain such further matters in respect of the activities of the New South Wales Retirement Board during the period commencing on the 1st July preceding the appointed day and ending on the day preceding the appointed day as would be necessary if the new Board were the same Board as, and a continuation of, the New South Wales Retirement Board.

(4) Where the Minister has, by order served on the new Board, directed that, in so far as the first annual report of the new Board or the first statement of accounts of the new Board relates to the New South Wales Retirement Fund, the financial year of the new Board shall be the year ended on 30th June, the new Board shall exercise any function which, by or under this or any other Act, it is required to exercise in relation to that report or statement as if, in so far only as that report or statement relates to the New South Wales Retirement Fund, the financial year of the new Board were the year ended on 30th June.

(5) Where, pursuant to subclause (4), the new Board exercises any function in relation to the first annual report of the new Board or the first statement of accounts of the new Board as if, in so far as that report or statement relates to the New South Wales Retirement Fund, the financial year of the new Board were the year ended on 30th June, it may exercise any function which by or under this or any other Act it is required to exercise in relation to the second annual report of the new Board or the second statement of accounts of the new Board as if, in so far only as that second report or statement relates to the New South Wales Retirement Fund, the financial year of the new Board were the period commencing on 1st July and ending on the following 31st March.

Public Authorities Superannuation Board.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Review Committee.**

5. (1) The Minister shall appoint a Review Committee to report to the new Board on any matters arising from the operation of this Act (other than in relation to servants of the new Board).

(2) For the purposes of subclause (1), a Review Committee shall comprise—

- (a) 2 persons nominated by the new Board, 1 of whom shall be appointed as chairman; and
- (b) a nominee of the Auditor-General.

(3) The Minister may constitute a Review Committee under this clause by appointing different persons according to the subject-matter with which it is at any time, or from time to time, required to deal.

Members holding office immediately before the appointed day.

6. (1) A person who, immediately before the appointed day, held office as a member of either of the former Boards—

- (a) shall cease to hold office as such on that day; and
- (b) is eligible (if otherwise qualified) to be appointed as a member of the new Board.

(2) A person who ceases to hold office as a member of either of the former Boards by reason of the operation of this Act is not entitled to be paid any remuneration or compensation by reason of ceasing to hold that office, but nothing in this subclause prevents the payment to that person of such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(3) A person who, immediately before the appointed day, held office as Chairman or executive member of the New South Wales Retirement Board and was required by the terms of appointment to devote the whole of his or her time to the duties of his or her office or held office as president of the Local Government Superannuation Board, and who ceases to hold that office by reason of the operation of this Act, is, if the person—

- (a) is not appointed as President or Vice-President of the new Board with effect on and from that day; and
- (b) was, immediately before being appointed to the office so held immediately before the appointed day, the holder of a full-time position in the service of the Government,

entitled to be appointed to some position in the service of the Government.

Public Authorities Superannuation Board.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (4) A person referred to in subclause (3) is, until—
- (a) the day on which the term of office for which the person had been appointed to a former Board expires; or
 - (b) the day on which the person ceases to hold the position to which the person is appointed pursuant to subclause (3),

whichever first occurs, entitled to be paid such salary as the Statutory and Other Offices Remuneration Tribunal may from time to time determine in relation to the person, not lower than the salary for the time being applicable to the position that the person held immediately before being appointed to that former Board.

(5) Pending the making of the relevant determination under subclause (4), salary shall continue to be paid to a person referred to in subclause (3) at the rate at which it was payable to the person immediately before the appointed day.

(6) A reference in this clause to a position in the service of the Government includes a reference to an office or position as a member, officer or employee of a body constituted by an Act.

Appointments, etc., before appointed day.

7. For the purpose only of enabling the new Board to be constituted in accordance with this Act on or after (but not before) the appointed day, appointments may be made under this Act and any other act, matter or thing may be done before that day as if the whole of this Act commenced on the date of assent to this Act, but so that no appointment as a member of the new Board takes effect before the appointed day.

Transfer of staff.

8. A person who, immediately before the appointed day, was a servant of either of the former Boards (not being a casual employee) and who—

- (a) presents himself or herself for work at an office of the new Board on that day;
- (b) is on leave from the relevant former Board immediately before that day but presents himself or herself for work at an office of the new Board upon the expiration of that leave; or

Public Authorities Superannuation Board.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (c) has, in the opinion of the new Board, a reasonable excuse for not presenting himself or herself for work at an office of the new Board on that day but presents himself or herself for work at an office of the new Board as soon as practicable after that day,

shall, on presenting himself or herself for work under paragraph (a), (b) or (c), become or be deemed to have become, as the case may be, a member of the staff of the new Board on that day.

Salary, wages, etc., of transferred servants.

9. (1) A transferred servant shall be paid salary or wages, and allowances, at a rate not less than the rate that was payable to the transferred servant immediately before the appointed day, subject, in the case of salary or wages, to any adjustment necessary to give effect to any fluctuation in the basic wage for adult males, or adult females, as the case may be, for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, until the salary or wages, and allowances, of the transferred servant is or are varied or altered—

- (a) by an award of a competent tribunal or an industrial agreement or otherwise in accordance with law; or
- (b) where the variation or alteration increases the amount of salary, wages or allowances—by the new Board.

(2) Except as otherwise provided by this Schedule, where any condition of employment of any transferred servant is, immediately before the appointed day, regulated by an award or an industrial agreement, the condition shall continue to be so regulated until it is varied or altered by an award that is made by a competent tribunal and that binds the new Board or by an industrial agreement to which the new Board is a party.

Previous service and accrued leave.

10. (1) Service of a transferred servant with the relevant former Board shall be counted as service with the new Board for the purpose of any Act or of any regulation, by-law or other statutory instrument or of the terms and conditions of any staff agreement or of any award or agreement made under the Industrial Arbitration Act, 1940.

(2) The transfer of a transferred servant to the service of the new Board shall not affect any right to leave (including long service leave) of absence accrued before the appointed day.

Public Authorities Superannuation Board.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Redundancy of transferred servants.**

11. The employment of a transferred servant may not be terminated by the new Board on the ground of redundancy arising from the operation of this Act.

Superannuation—employer's liability.

12. Where, before the appointed day—

- (a) a person died or retired or was retrenched; and
- (b) at the date of death, retirement or retrenchment—
 - (i) the person was a servant of a former Board; or
 - (ii) the former Board was, for the purposes of any superannuation scheme, the employer of the person,

then, for the purposes of the Act by or under which that scheme is established, the new Board shall, on and after the appointed day, be deemed to be the employer in the service of whom the person was employed at the date of death, retirement or retrenchment for the purposes of any provision in that Act under which payments may be required to be made by that employer in respect of that scheme.

Staff committee.

13. (1) The Minister shall appoint a staff committee to report to the new Board on any matters arising from the operation of this Act in relation to servants of the new Board.

(2) For the purposes of subclause (1), a staff committee shall comprise—

- (a) a chairman nominated by the Minister;
- (b) 2 persons nominated by the new Board; and
- (c) 2 persons nominated by the Minister, after consulting such persons as the Minister thinks fit, to represent servants of the new Board.

(3) The Minister may constitute a staff committee under this clause by appointing different persons according to the subject-matter with which it is at any time, or from time to time, required to deal.

Public Authorities Superannuation Board.

SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Closing of Local Government (Superannuation) Management Account.**

14. (1) As soon as practicable after the appointed day, the new Board shall close the Local Government (Superannuation) Management Account and transfer the balance thereof to the Management Account.

(2) The transfer of an amount as referred to in subclause (1) shall be deemed to be a transfer made under the Local Government and Other Authorities (Superannuation) Act, 1927, towards the management expenses of the new Board.

Regulations.

15. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule (other than clauses 6, 8, 9, 10 and 11).
