

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION
(AMENDMENT) ACT 1989 No. 228**

NEW SOUTH WALES



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**PUBLIC SECTOR EXECUTIVES SUPERANNUATION
(AMENDMENT) ACT 1989 No. 228**

NEW SOUTH WALES



Act No. 228, 1989

An Act to amend the Public Sector Executives Superannuation Act 1989 so as to redefine the expression "salary" for the purposes of that Act and to remove restrictions on coverage for additional benefits and for other purposes. [Assented to 21 December 1989]

Public Sector Executives Superannuation (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Sector Executives Superannuation (Amendment) Act 1989.

Commencement

2. This Act is to be taken to have commenced on 1 October 1989.

Amendment of Public Sector Executives Superannuation Act 1989 No. 106

3. The Public Sector Executives Superannuation Act 1989 is amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

(Sec. 3)

(1) **Section 3 (Definitions):**

(a) After the definition of "member's account" in section 3 (1), insert:

"prescribed employment benefit" means an employment benefit of a kind referred to in paragraph (b), (c) or (e) of the definition of "employment benefit" in section 42K (1) of the Public Sector Management Act 1988;

(b) Omit the definition of "salary" in section 3 (1), insert instead:

"salary":

(a) in the case of an employee or a member who is a chief executive officer or senior executive officer, means the aggregate of:

SCHEDULE 1 - AMENDMENTS - *continued*

- (i) the monetary remuneration payable to the employee or member in accordance with a contract of employment under the Public Sector Management Act 1988 or, if there is no such contract, the monetary remuneration payable to the employee or member in accordance with subsection (8) of section 42L of that Act after making appropriate adjustments as provided for by that subsection; and
 - (ii) the cost of providing prescribed employment benefits under any such contract or, if the employee or member has, in accordance with subsection (4), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost - none of that cost or, as the case may be, the specified proportion of that cost, expressed as an annual rate, but does not include any performance-related incentive payment made to that employee or member; or
- (b) in the case of an employee or a member who is an office holder nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, means the aggregate of:
- (i) the remuneration payable to the employee or member as reduced under that section by the cost of employment benefits provided to the employee or member; and
 - (ii) the cost of providing prescribed employment benefits to the employee or member under that section or, if the employee or member has, in accordance with subsection (4), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost - none of that cost

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- or, as the case may be, the specified proportion of that cost, expressed as an annual rate; or
- (c) in the case of any other kind of employee or member, means the amount determined in accordance with the regulations;
- (c) After section 3 (3), insert:
- (4) For the purposes of paragraphs (a) and (b) of the definition of "salary" in subsection (1), an employee or member referred to in either of those paragraphs may elect to have treated as salary for the purposes of this Act:
- (a) none of the cost to the employer of that employee or member of providing him or her with prescribed employment benefits; or
- (b) only a specified proportion of that cost.
- (5) If an employee or member is appointed to a position as a chief executive officer or senior executive officer, or is nominated as an office holder for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975, the employee or member may, from time to time, elect:
- (a) to reduce the proportion of the cost of providing the prescribed employment benefits of the employee or member that is treated as salary for the purposes of this Act; or
- (b) to increase that proportion or, if none of the cost of providing the employee or member with prescribed employment benefits is currently treated as part of the salary of the employee or member for the purposes of this Act, to nominate a proportion of that cost, but so that the percentage increase in the salary of the employee or member for the purposes of this Act is not greater than the percentage of any increase in the remuneration package of the employee or member since the last occasion on which the employee or member had an opportunity to make an election under this paragraph.

SCHEDULE 1 - AMENDMENTS - *continued*

(6) The qualification in subsection (5) (b) does not apply when the employee or member is appointed to another position as a chief executive officer or senior executive officer or becomes the holder of another office nominated for the purposes of section 11 A of the Statutory and Other Offices Remuneration Act 1975.

(2) Section 10 (**Provision of additional benefits**):

Omit section 10 (2).

(3) Section 37 (**Who may apply to be covered for an additional benefit?**):

Omit "under the early retirement age" wherever occurring.

(4) Section 44:

Omit the section, insert instead:

Liability of employers to contribute

44. (1) If an election by an employee who is a member specifying an amount of contributions to be paid by the employee's employer takes effect, the employer must pay to the Fund an amount equal to the contributions specified in the election.

(2) An employer's contributions to the Fund are to be calculated on the basis of the contribution periods applicable to the members in relation to whom those contributions are to be made, and a contribution payable by an employer in respect of a contribution period must be paid to the Board within 7 days after the last day of that period.

(5) Section 47 (**Benefit at or after early retirement**):

Omit section 47 (1), insert instead:

(1) The benefit provided by this section is payable to a member by the Board when the member retires from employment with an employer on or after reaching the early retirement age.

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SCHEDULE 1 - AMENDMENTS - *continued*

(6) Section 48 (**Benefit on death before retirement**):

From section 48 (1), omit "attaining the early retirement age during", insert instead "retiring from".

(7) Section 49 (**Benefit on total and permanent invalidity before retirement**):

From section 49 (1), omit ", before attaining the early retirement age,".

(8) Section 52A:

After section 52, insert:

Power of the Board to purchase annuities etc.

52A. Whenever a benefit has become payable to or in respect of a member under this Part, the Board must, if requested to do so:

- (a) by the member, or
- (b) if the member has died, by the member's spouse or personal representatives, as the case requires,

apply the benefit, or such part of the benefit as is specified by the member, spouse or personal representatives, in purchasing for the member or, as the case may be, the spouse or the beneficiaries of the member's estate, a right to an annuity or other form of pension from a person nominated by the member, spouse or personal representatives.

[*Minister's second reading speech made in -
Legislative Assembly on 29 November 1989
Legislative Council on 8 December 1989*]