

**SUPERANNUATION LEGISLATION (AMENDMENT)
ACT 1991 No. 95**

NEW SOUTH WALES



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**SUPERANNUATION LEGISLATION (AMENDMENT)
ACT 1991 No. 95**

NEW SOUTH WALES



Act No. 95, 1991

An Act to amend various Acts relating to superannuation for the purpose of complying with the Occupational Superannuation Standards Act 1987 of the Commonwealth and for other purposes. [Assented to 17 December 1991]

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Superannuation Legislation (Amendment) Act 1991.

Commencement

2. (1) This Act is taken to have commenced on 1 July 1990, except as provided by this section.

(2) Part 2 of Schedule 1 (amendment of the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 in consequence of the closure of the Queensland Coal Mine Workers' Pensions Fund) is taken to have commenced on 4 December 1989.

(3) The following provisions are taken to have commenced on 1 July 1991:

- (a) Schedule 4 (Amendment of Police Association Employees (Superannuation) Act 1969);
- (b) Part 2 of Schedule 7 (amendments to Public Sector Executives Superannuation Act 1989 relating to retrenchment and discharge benefits);
- (c) Schedule 9 (10) (amendment to State Authorities Superannuation Act 1987 relating to retrenchment benefits);
- (d) Schedule 10 (18) (a) and (19) (amendments to Superannuation Act 1916 relating to retrenchment benefits).

(4) The following provisions commence on the date of assent to this Act:

- (a) section 4 (Repeal of Government Railways (Superannuation) Act 1912 No. 30 and associated Acts etc.);
- (b) section 5 and Schedule 11 (Savings and transitional provisions);
- (c) Part 3 of Schedule 1 (further amendments to the Coal and Oil Shale Mine Workers (Superannuation) Act 1941);
- (d) Schedule 2 (Amendment of Local Government and Other Authorities (Superannuation) Act 1927);
- (e) Schedule 9 (6)–(9) and (11)–(13) (miscellaneous amendments to the State Authorities Superannuation Act 1987);
- (f) Schedule 10 (16)–(17), (18) (b) and (c) and (20) (miscellaneous amendments to the Superannuation Act 1916).

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(5) The following provisions are taken to have commenced on 1 October 1991:

- (a) Part 2 of Schedule 3 (amendments to the Parliamentary Contributory Superannuation Act 1971 relating to the reorganisation of the Parliamentary Contributory Superannuation Scheme);
- (b) Schedule 6 (Amendment of Public Authorities (Financial Arrangements) Act 1987).

(6) The following provisions commence on 1 January 1992:

- (a) Schedule 5 (7) (e)–(10) (miscellaneous amendments to the Police Regulation (Superannuation) Act 1906);
- (b) Schedule 10 (2), (4), (6)–(8), (11), (13) and (15) (amendments to the Superannuation Act 1916 relating to reserve units and voluntary saving).

(7) Schedule 10 (5) (substitution of section 33B of the Superannuation Act 1916) commences on a day to be appointed by proclamation.

(8) Section 3 in its application to a provision of Schedules 1–10 commences or is taken to have commenced on the day on which the provision commences or is taken to have commenced.

Amendment of Acts

3. The Acts specified in Schedules 1–10 are amended as set out in those Schedules.

Repeal of Government Railways (Superannuation) Act 1912 No. 30 and associated Acts etc.

4. (1) The following Acts are repealed:

- (a) the Government Railways (Superannuation) Act 1912 No. 30;
- (b) the Government Railways (Amendment) Act 1979 No. 123;
- (c) the Government Railways (Amendment) Act 1980 No. 105.

(2) The board constituted under section 110 of the Government Railways (Superannuation) Act 1912 is abolished.

(3) A member of the board so constituted is not entitled to compensation for loss of office in consequence of the abolition of that board.

Savings and transitional provisions

5. Schedule 11 has effect.
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**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 2 (**Definitions**):

- (a) After the definition of “Injury” in section 2 (1), insert:
“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;
- (b) In paragraph (d) of the definition of “Mine worker” in section 2 (1), after “section 2E”, insert “authorising the person to be employed in some industry, other than the coal or oil shale mining industries, specified in the permit”.
- (c) From paragraph (e) of the definition of “Mine worker” in section 2 (1), omit “work.”, insert instead:
 work,
 but does not include such a person who is ordinarily so engaged or employed for less than 10 hours per week.

(2) Section 2J (**Further extension of the definition of “Mine worker”**):

In section 2J (7), after “provision of this Act”, insert “, but does not apply to a person who is ordinarily so engaged for less than 10 hours per week”.

(3) Section 8 (**Hard luck cases**):

From section 8 (1), omit “general scope and”.

(4) Section 10EA (**Appropriate amounts of pensions and additions to pensions**):

- (a) Omit section 10EA (2).
 (b) Omit section 10EA (3)–(6), insert. instead:

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- (3) If:
- (a) a person referred to in subparagraph (ii) of subsection (1) (c); or
 - (b) the spouse of the person,
receives or becomes entitled to receive an invalid pension or a wife's pension under the Social Security Act 1947 of the Commonwealth before the day referred to in that subparagraph, the amount to which the person would be entitled under subsection (1) (c) but for this subsection is, for the period during which that pension is payable, to be reduced by the amount of that pension.
- (5) **Section 10F (Amendment of Schedule 1 following variation in Reference Rate):**
After section 10F (2B), insert:
- (3) If, but for this subsection, a variation in the amount of the Reference Rate would result in a decrease in the amount of pension payable to a person described in Column 3 of Schedule 1 to a level below that at which the pension was first paid to that person, the amount of pension payable to the person is in no case to be reduced below the level at which it was first so paid.
- (6) **Section 10H (Suspension of part of pension in certain circumstances):**
From section 10H (1), omit "shall be", insert instead "is, if the person so directs, to be reduced to",
- (7) **Section 13 (Deductions from pensions):**
Omit the section.
- (8) **Section 14 (Applications for pensions):**
Omit section 14 (5), insert instead:
- (5) If, after considering the application and report, the Tribunal is satisfied that the applicant is entitled to a pension under the provision of this Act specified in the application, the Tribunal must allow the application, but, if it is not so satisfied, it must disallow the application or adjourn its consideration of the application until the production of further information by the applicant.

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(9) Section 14B (**Prescribed amount for purposes of sections 14A and 14AA**):

After section 14B (6), insert:

(7) If:

(a) a lump sum benefit has become payable under section 14A or 14AA; and

(b) a variation under subsection (3) would, but for this subsection, result in a reduction in the amount of that benefit,

then, subject to section 19MA, the benefit is to be paid as if the variation under subsection (3) had not been made.

(10) Section 14FA (**Lump sum benefit payable: from 3 July 1988**):

After subsection (1), insert:

(1A) The Tribunal is not entitled to be satisfied as to the incapacity of a mine worker as referred to in subsection (1) unless, in addition to any other proof that it may require, it is provided with a certificate or certificates signed by at least 2 medical practitioners to the effect that the mine worker is in their opinion unlikely ever to be able to work again in employment for which the mine worker is reasonably qualified by education, training and experience.

(11) Section 14H (**Applications for lump sum benefit payment**):

Omit section 14H (5), insert instead:

(5) If, after considering the application and report, the Tribunal is satisfied that the applicant is entitled to a lump sum benefit under the provision of this Act specified in the application, the Tribunal must allow the application, but, if it is not so satisfied, it must disallow the application or adjourn its consideration of the application until the production of further information by the applicant.

(12) Section 15B (**Power of the Tribunal to make orders declaring certain persons to be mine workers for the purposes of this Act**):

After section 15B (4), insert

(5) The Tribunal may not make an order under subsection (1) (a) in respect of a person who is ordinarily engaged in the

Superannuation Legislation (Amendment) 1991

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
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coal or oil shale mining industries for less than 10 hours per week.

(13) Section 19 (**Contributions to Fund**):

(a) From section 19 (2C), omit “anticipated”, insert instead “accrued”.

(b) Omit section 19 (4).

(14) Section 19B (**Amount of subsidy**):

From section 19B (2) (a), omit “section 11A and section 13 (subsection (4) of which shall, for the purposes of this section, be deemed never to have been in force)”, insert instead “sections 10EA and 11A”.

(15) Section 19J (**Refund**):

After section 19J (1), insert:

(1A) If a mine worker is, or the personal representatives of a mine worker are, entitled to a refund under subsection (1) and the refund was not paid before 1 July 1990, there is to be paid to that mine worker or those personal representatives, in addition to the amount provided for by that subsection:

(a) in respect of the period from the termination of the mine worker’s engagement until 1 July 1990—interest on that amount at the rate of 3 per cent per annum; and

(b) in respect of the period beginning with 1 July 1990 and ending with the date on which that amount is paid under this section—interest on that amount as provided by section 19L (6).

(16) Section 19K (**Reduction of amount of refund**):

Omit section 19K (1), insert instead:

(1) The reference in section 19J (1) to the total amount of a mine worker’s contributions to the Fund is a reference to those contributions as reduced by an amount equal to so much of the mine worker’s contributions to the Fund as was previously refunded to or in respect of the mine worker under section 19J (excluding any of those contributions that have been repaid to the Fund).

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SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

(17) Section 19L (**Refund of contributions where mine worker ceases to be employed on or after 26.3.1978**):

- (a) Omit section 19L (6) (b), insert instead:
 - (b) in respect of a year ending on 30 June 1989 or on 30 June in any subsequent year—the rate per annum determined by the Tribunal in respect of that year on the basis of the net earnings of the Fund in that year.
- (b) Omit section 19L (7) and (8).

(18) Omit section 19M, insert instead:

Reduction of amount of refund under section 19L

19M. The reference in section 19L (1) to the total amount of a mine worker's contributions to the Fund is a reference to those contributions as reduced by an amount equal to so much of the mine worker's contributions to the Fund as were previously refunded to or in respect of the mine worker under section 19J (excluding any of those contributions that have been repaid to the Fund, as referred to in section 10AA).

(19) Section 19MA:

After section 19M, insert in Part 4B:

Refund of shortfall where pension or lump sum payments are less than amount payable under section 19J or 19L

19MA. (1) If:

- (a) for any reason a pension payable under a provision of Division 2 of Part 2 to or in respect of a mine worker is cancelled or otherwise terminated; and
- (b) no dependant of the mine worker is entitled to a pension under any other provision of that Division; and,
- (c) the total amount paid as pension under that Division is less than the amount of refund that would have been payable to or in respect of the mine worker under section 19J or 19L had either of those sections been applicable to or in respect of the mine worker,

the Tribunal must, on application by the appropriate person or persons, refund to the applicant or applicants the difference between those amounts.

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SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
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(2) For the purposes of subsection (1), the appropriate person or persons are:

- (a) the mine worker concerned; or
- (b) if that mine worker has died—a dependant of that mine worker; or
- (c) if that mine worker has no dependants—the personal representatives of that mine worker.

(3) The reference in subsection (1) to the total amount paid as pension is, in relation to a pension that has been reduced in accordance with a provision of Division 2 of Part 2, a reference to that total amount as so reduced.

(4) If for any reason the amount of a lump sum benefit payable under Division 3 of Part 2 would be less than the amount of refund that would have been payable to or in respect of the mine worker under section 19L had that section been applicable to or in respect of the mine worker, the mine worker is or, if the mine worker has died, the personal representatives of the mine worker are entitled to receive an amount equivalent to that amount of refund instead of the lump sum benefit.

(20) Section 27 (**Actuarial investigation and report**):

- (a) Omit section 27 (3) (a), insert instead:
 - (a) include a statement of the value of the assets of the Fund; and
 - (a1) include a statement of the actuary's opinion on whether the value of the assets of the Fund is adequate to meet the liabilities of the Fund in respect of vested benefits in the Fund; and
 - (a2) include a statement recommending, in respect of the 3-year period immediately following the period to which the report relates, the rate at which the actuary considers employer contributions should be made or, if the actuary considers employer contributions should be made at different rates in respect of 2 or more periods within that 3-year period, those different rates; and

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

- (a3) include a statement to the effect that employer contributions made at that recommended rate or those recommended rates, together with the assets of the Fund and the contributions made by members, will provide adequately for expected liabilities of the Fund during that 3-year period; and
- (b) From section 27 (3A), omit “13 months”, insert instead “12 months”.
- (c) After section 27 (3A), insert:
- (3AA) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3A) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.
- (d) Omit section 27 (3C), insert instead:
- (3C) The Minister may, in relation to a particular report, extend or further extend the period referred to in subsection (3B) if the Minister considers that special circumstances justify an extension or further extension.
- (21) Section 27B:
- After section 27A, insert:
- What information must be disclosed to mine workers**
- 27B. (1) The Tribunal must, as soon as practicable after a mine worker becomes a contributor to the Fund, give to the mine worker a written statement specifying:
- (a) details of the kinds of benefits provided under this Act to mine workers, former mine workers and the dependants of the mine workers and former mine workers; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.
- (2) The Tribunal must, within 6 months after the end of each financial year of the Tribunal, give to each mine worker who is a contributor to the Fund a written statement specifying for that financial year the particulars required by

**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
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regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the mine worker's interest in the Fund.

(3) If a person ceases to be a mine worker on a day other than the last day of a financial year of the Tribunal, the Tribunal must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Tribunal:

(a) the Tribunal may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and

(b) if the Tribunal does so:

(i) the Tribunal must, in relation to each succeeding financial year of the Tribunal, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and

(ii) the reference in subsection (3) to the last day of a financial year of the Tribunal is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Tribunal must, as soon as practicable after the amendment has been made, give to each mine worker a statement in writing which explains:

(a) the nature and purpose of the amendment; and

(b) the effect (if any) of the amendment on the entitlements of mine workers and their dependants to benefits under this Act or the regulations.

(6) The Tribunal must, on being requested to do so by a mine worker, give to the mine worker:

**SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued***

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 27; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 27 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund;
- (b) a statement of the actuary's opinion on whether the value of the assets of the Fund is adequate to meet the liabilities of the Fund in respect of vested benefits in the Fund;
- (c) a statement recommending, in respect of the S-year period immediately following the period to which the report relates, the rate at which the actuary considers employer contributions should be made or, if the actuary considers employer contributions should be made at different rates in respect of 2 or more periods within that 3-year period, those different rates;
- (d) a statement to the effect that employer contributions made at that recommended rate or those recommended rates, together with the assets of the Fund and the contributions made by members, will provide adequately for expected liabilities of the Fund during that 3-year period.

(8) The Tribunal may, but is not obliged to, comply with more than one request made by a mine worker under subsection (6) during a financial year of the Tribunal.

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SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINEWORKERS (SUPERANNUATION) ACT 1941—*continued*(22) Section 28 (**Advances by Treasury**):

Omit the section.

**PART 2—AMENDMENTS IN CONSEQUENCE OF
THE CLOSURE OF THE QUEENSLAND COAL
MINEWORKERS' PENSIONS FUND**

(23) Section 4A:

After section 4, insert in Part 1:

**Special provisions for persons engaged in the coal mining
industry in Queensland**

4A. (1) For the purposes only of a provision to which this section applies, a person is, subject to this section, taken to have been a mine worker engaged in the coal or oil shale mining industries if the person:

- (a) has (whether before, on or after 4 December 1989) been employed in the coal mining industry in Queensland; and
- (b) by virtue of the operation of section 2 (Z), would be deemed to have been so engaged had the employment been in New South Wales.

(2) This section applies to sections 3 (8), 3A, SAA, 7 (1A), 14A, 14AA, 14D, 14E, 14FA and 14FB.

(3) The provisions of section 3 (1), (3) and (4) apply to a person referred to in subsection (1) and so apply as if a reference in those provisions to New South Wales also included a reference to Queensland.

(4) Section 6 applies to a person referred to in subsection (1) and so applies as if:

- (a) a reference in that section to having been continuously resident, or resident, in New South Wales during a specified period included a reference to any period during which the person was continuously resident, or resident, in Queensland; and
- (b) a reference in that section to having been continuously engaged, or engaged, in the coal or oil shale mining industries in New South Wales during a specified period included a reference to any period during which

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the person was continuously employed, or employed, in the coal mining industry in Queensland; and

- (c) a reference in that section to having actually worked in or about a coal or oil shale mine in New South Wales for a specified period included a reference to any period during which the person worked in or about a coal mine in Queensland.

(5) For the purposes of applying section 14D to a person who has died while employed in the coal mining industry in Queensland, references in that section to the prescribed dependent amount are taken to be references to such amount as the person would have been entitled to be paid under section 14A or 14AA if the person:

- (a) had reached the relevant retirement age for the purposes of this Act on the last day on which the person was actually engaged in the coal or oil shale mining industries in New South Wales; and
(b) had retired on that day.

(6) For the purposes of applying the provisions of section 14E, 14FA or 14FB to a person who is incapacitated by injury while employed in the coal mining industry in Queensland, references in those provisions to a lump sum benefit payable under any of those provisions are taken to be references to such lump sum benefit as the person would have been entitled to be paid under section 14A or 14AA if the person:

- (a) had reached the relevant retirement age for the purposes of this Act on the last day on which the person was actually engaged in the coal or oil shale mining industries in New South Wales; and
(b) had retired on that day.

(24) Section 7 (**Pension—permanent incapacity**):

- (a) in section 7 (1A) (c), omit “in New South Wales”.
(b) From section 7 (1A) (d), omit “and the Coal and Oil Shale Mine Workers Superannuation Fund”, insert instead “, the Coal and Oil Shale Mine Workers Superannuation Fund and the Queensland Coal Mine Workers’ Pensions Fund”.

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SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
MINE WORKERS (SUPERANNUATION) ACT 1941—*continued*

PART 3—FURTHER AMENDMENTS

(25) Section 14D (**Lump sum benefit payment on death of mine worker**):

(a) From section 14D (7), omit “The”, insert instead “Subject to subsection (9), the”.

(b) After section 14D (8), insert:

(9) If:

(a) a mine worker:

(i) has, while actually engaged in performing work as a mine worker on or after 1 August 1990, sustained an injury that is wholly or partly the result of an accident; and

(ii) has died within 6 months after the day on which the injury was sustained; and

(b) the death resulted directly or indirectly from the injury; and

(c) the mine worker is survived by a spouse,

the spouse is entitled to receive a lump sum benefit of an amount equal to 90 times the prescribed amount (as referred to in section 14B) as at the date of the mine worker’s death.

(10) For the purposes of subsection (9), “**accident**” includes an event, act or omission that is the result of the negligence or misconduct of any person (including the deceased mine worker).

(11) A benefit is payable under subsection (9) in addition to any other benefit that is payable in respect of the mine worker under this Part.

(26) Section 25A:

After section 25, insert:

Interest payable where payment of benefit is delayed

25A. (1) Whenever there has been a delay in making payment of a pension or lump sum benefit under this Act (for whatever reason) to or in respect of a person who was a mine worker, the Tribunal may, in its discretion, award interest on the amount of pension or lump sum from the date on which

SCHEDULE 1—AMENDMENT OF COAL AND OIL SHALE
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the person ceased to be a mine worker to the date of payment of the pension or lump sum benefit.

(2) This section applies to or in respect of any person who ceased to be a mine worker on or after 4 December 1989.

**SCHEDULE 2—AMENDMENT OF LOCAL GOVERNMENT
AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927**

(Sec. 3)

Section 15Y:

Omit the section, insert instead:

Payment to be made, to contributor on resignation or dismissal

15Y. (1) If a person who is a contributor resigns or is dismissed from the employment of a prescribed employer, the board must:

(a) pay to the person:

(i) any amount credited to the person's account in accordance with section 15K (3) or section 15L (9) (as the case requires) together with so much of any interest credited to the person's account under section 15U (2) as is attributable to any such amount; and

(ii) in respect of the balance of the amount in the person's account after deduction of the amount and interest (if any) referred to in subparagraph (i) that relates to contributions paid or payable before 1 July 1988—40 per cent of that amount; and

(iii) in respect of the balance of the amount and interest (if any) referred to in subparagraph (i) that relates to contributions paid or payable on or after 1 July 1988—43.96 per cent of that amount; and

(b) pay any amount remaining in the person's account after making the payment under paragraph (a):

(i) in the case of a prescribed employer who is an incorporated hospital, a separate institution or an

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**SCHEDULE 2—AMENDMENT OF LOCAL GOVERNMENT AND
OTHER AUTHORITIES (SUPERANNUATION) ACT 1927—
*continued***

associated organisation specified in the Second, Third or Fourth Schedule to the Public Hospitals Act 1929—to the appropriate employer reserve or reserves established under the State Authorities Superannuation Act 1987; or

(ii) in the case of any other prescribed employer—to that employer.

(2) This section is subject to section 152 and does not apply to a person who is a contributor referred to in section 15V or 15X.

(3) The board must not make a payment under this section until at least 28 days after the date on which the person concerned resigned or was dismissed, unless the person has applied to the board within that period for the payment to be made.

(4) Any payment of a kind referred to in subsection (1) (b) that the board has made before the commencement of Schedule 2 to the Superannuation Legislation (Amendment) Act 1991 is validated and declared to have been as lawfully made as if this section (as substituted by that Schedule) had then been in force.

(5) In this section, a reference to a prescribed employer is a reference to a council, body or association that is the subject of a proclamation published under section 2 (4).

**SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

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

Insert in alphabetical order:

“Commonwealth occupational superannuation standard” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

“**Commonwealth taxation law**” means a law of the Commonwealth that provides for the levying and collection of a tax;

“**Insurance and Superannuation Commissioner**” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

“**Parliamentary Contributory Superannuation Scheme**” means the contributory superannuation scheme established by this Act;

“**penalty**”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 10 (**Actuarial investigation**):

(a) After section 10 (2), insert:

(2A) The actuary must complete the investigation, and report the result to the trustees, not later than 12 months after the date as at which the investigation is made.

(2B) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2A) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(b) Omit section 10 (3), insert instead:

(3) The actuary must certify to the Treasurer the amount that, in addition to any other money payable into the Fund, should, in the actuary’s opinion, be paid into the Fund in respect of each financial year during the period of 25 years following the completion of the investigation do enable the Fund to meet its liabilities.

(3A) In subsection (3), the reference to money payable into the Fund includes a reference to any interim advances:

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) that were paid into the Fund before completion of the investigation; or
 - (b) that the actuary has, under subsection (4), certified should be paid into the Fund.
- (3B) The report referred to in subsection (2A) must:
- (a) include a statement of the value of the assets of the Fund; and
 - (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.
- (3) Section 22 (**Pension on retirement on grounds of ill-health**):
After section 22 (1), insert:
- (1A) The medical evidence referred to in subsection (1) must include a certificate or certificates acceptable to the trustees, signed by 2 medical practitioners, certifying that the member is incapable of performing the duties of a member due to ill-health or physical or mental incapacity.
- (4) Section 23 (**Pension for widows and widowers**):
From section 23 (3A), omit “or remarriage”.
- (5) Sections 27A–27C:
After section 27, insert:
- Power of the trustees to adjust benefits to comply with certain standards relating to occupational superannuation):**
- 27A. (1) If:
- (a) a member or former member becomes entitled to receive a pension under this Act, other than a pension under section 22; and

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

(b) payment of the pension to the member or former member would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,

the member or former member may, by notice in writing given to the trustees before the pension starts to be paid, elect to receive the pension:

(c) in a form that complies with those standards; or

(d) in a form that is in accordance with this Act (apart from this section and section 27C).

(2) Even after such a pension has started to be paid to a member or former member in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the member or former member is, by notice in writing given to the trustees at any time before the trustees are required to take the action referred to in section 27C (1), entitled to make an election or a further election to receive payment of the pension in a form that complies with the relevant Commonwealth occupational superannuation standards.

(3) An election made and notified to the trustees in accordance with this section is sufficient authority for the trustees to pay a pension in accordance with the election of the member or former member concerned.

(4) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(5) A member or former member who does not notify the trustees of an election made by the member or former member under this section before the pension concerned, starts to be paid is, subject to subsection (2), to be regarded, as having elected to receive payment of the pension in the form provided by this Act (apart from this section and section 27C).

(6) If a member or former member makes an election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the trustees must ensure that the

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

pension is varied only to the extent necessary to comply with those standards.

(7) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the member or former member who made the election but also on any person claiming a benefit under this Act through that member or former member.

(8) If an election is made under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the pension is payable in that form despite any other provision of this Act to the contrary.

Special provisions applicable to members who have reached 65 years of age

27B. (1) If:

- (a) the receipt by the trustees of contributions in respect of a member who has reached 65 years of age, or starting to pay a benefit to or in respect of such a member, would result in the trustees or the Fund being in breach of a Commonwealth occupational superannuation standard; and
- (b) as a result of the breach, the Fund would be liable to a penalty under a Commonwealth taxation law,

the trustees may make a determination under this section to ensure that neither the trustees nor the Fund is in breach of the standard.

(2) Such a determination may be:

- (a) a determination not to accept further contributions in respect of the member concerned; or
- (b) a determination to pay a benefit to or in respect of that member subject to specified terms and conditions (including terms and conditions as to time of payment).

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act

27C. (1) If the Insurance and Superannuation Commissioner:

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) determines that a pension payable to a member or former member under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the member or former member; and
- (b) in consequence of that determination advises the trustees by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that they must treat the pension as if the member or former member had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the trustees must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that they have so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the trustees:

- (a) receive from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or
- (b) are satisfied as a result of information provided by the member or former member concerned that the member or former member has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the trustees must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the trustees are required to commute a pension payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the trustees on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) the relevant Commonwealth occupational superannuation standards; and
 - (b) the commutation factor applicable when a member or former member exercises the right to convert part of a pension to a lump sum benefit as provided by section 20.
- (6) Section 32A:
- After section 32, insert:
- What information must be disclosed to members**
- 32A. (1) The trustees must, as soon as practicable after the person becomes a member, give to the person a written statement specifying:
- (a) details of the kinds of benefits provided under this Act to members, former members and the dependants of members and former members; and
 - (b) the conditions applicable to those benefits; and
 - (c) the method of determining entitlements to those benefits.
- (2) The trustees must, within 6 months after the end of each financial year of the Fund, give to each member a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the member's interest in the Fund.
- (3) If a person ceases to be a member on a day other than the last day of a financial year of the Fund, the trustees must, as soon as practicable after that cessation, give, or arrange, to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.
- (4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Fund:

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (a) the trustees may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the trustees do so:
 - (i) they must, in relation to each succeeding financial year of the Fund, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Fund is to be read as a reference to the last day of the period beginning during that financial year.
- (5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the trustees must, as soon as practicable after the amendment has been made, give to each member a statement in writing which explains:
 - (a) the nature and purpose of the amendment; and
 - (b) the effect (if any) of the amendment on the entitlements of members and their dependants to benefits under this Act or the regulations.
- (6) The trustees must, on being requested to do so by a member, give to the member:
 - (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 10; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

(7) The following statements contained in an actuary's report prepared under section 10 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(8) The trustees may, but are not obliged to, comply with more than one request made by a member under subsection (6) during a financial year of the Fund.

**PART 2—AMENDMENTS RELATING TO THE
REORGANISATION OF THE PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION SCHEME**

(7) Section 3 (**Definitions**):

- (a) From the definition of “the Fund”, omit “established”, insert instead “maintained”.
- (b) Omit the definition of “trustees”, insert instead:

“trustees” means the Trustees of the Parliamentary Contributory Superannuation Fund constituted by this Act.

(8) Section 5:

Omit the section, insert instead:

Parliamentary Contributory Superannuation Fund

5. The trustees must maintain in the Treasury, or in such other place as the trustees determine, a fund to be called the Parliamentary Contributory Superannuation Fund.

(9) Section 7:

Omit the section, insert instead:

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

Financial accommodation and investment

7. (1) The trustees may, under and subject to the Public Authorities (Financial Arrangements) Act 1987:

- (a) obtain financial accommodation; and
- (b) make financial arrangements; and
- (c) make investments.

(2) The trustees must invest money standing to the credit of the Fund that is available for investment through an investment manager or managers who undertake to invest and manage that money on behalf of the trustees.

(3) The trustees may appoint one or more investment managers for the purposes of this section.

(10) Sections 8 (**Uninvested moneys**), 9 (**Borrowing powers**):

Omit the sections.

(11) Section 14 (**Trustees of the Fund**):

Omit section 14 (2)–(6). insert instead:

(2) A person holding office as trustee vacates that office on ceasing to be a member.

(12) Section 14A:

After section 14, insert:

Trustees to be a body corporate

14A. (1) There is constituted by this Act a body corporate with the corporate name of the Trustees of the Parliamentary Contributory Superannuation Fund.

(2) The body corporate is to consist of the trustees who are holding office under section 14.

(13) Section 15:

Omit the section, insert instead:

Functions of the trustees

15. (1) The functions of the trustees are:

- (a) to administer the Parliamentary Contributory Superannuation Scheme; and
- (b) to ensure that the Fund is invested and managed in accordance with this Act; and

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (c) to pay benefits to or in respect of members and former members; and
 - (d) to make such other payments as are provided for by this Act.
- (2) The trustees are trustees for the purposes of the Trustee Act 1925 and are required to hold in trust for the persons entitled to benefits under this Act all contributions and other money paid or payable to the trustees.
- (3) The trustees must use the assets of the Fund to pay benefits to or in respect of the members and former members and to pay the costs and expenses of the investment and management of the Fund.
- (4) The trustees have power in New South Wales and elsewhere to do all things necessary or convenient to be done for, or in connection with, the exercise of the functions specified in subsection (1) and, in particular, may:
- (a) engage investment advisers and other kinds of consultants; and
 - (b) appoint agents and attorneys and act as agent for others; and
 - (c) take action to control or manage, or to enhance or protect, the value of any investment made out of the Fund, or to enhance or protect the return on any such investment.
- (5) In exercising their functions, the trustees must:
- (a) have regard to the interests of members and other persons entitled to benefits under this Act; and
 - (b) comply with the standards prescribed by or under the Occupational Superannuation Standards Act 1987 of the Commonwealth.
- (14) Sections 15A–15C:
After section 15, insert:
Trustees may delegate their functions
15A. The trustees may delegate to:
- (a) a trustee; or

SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

(b) a committee that consists of or includes one or more trustees; or

(c) a person whose services are made use of under section 15B,

any of their functions, other than this power of delegation.

Staff of the trustees

15B. The trustees may, with the approval of the Minister or authority concerned, arrange for the use of the services of any staff, or the facilities, of a Government department, an administrative office or a public or local authority.

Trustees may establish committees

15C.(1) The trustees may establish committees to assist them in exercising their functions.

(2) A person may be appointed as a member of such a committee even though he or she may not be a trustee.

(3) The procedure for calling meetings of such a committee and for the conduct of business at those meetings may be decided by the trustees or, subject to any decision of the trustees, by the committee.

(15) Section 16 (**Meetings of trustees**):

Omit “managing” wherever occurring.

(16) Section 17 (**Appointment of person to act in absence of Secretary of the Treasury**):

(a) Omit “custodian” where firstly occurring.

(b) Omit “the custodian trustee and shall be deemed to be the corporation sole constituted under subsection (3) of section 14”, insert instead “a trustee”.

(17) Section 17A:

After section 17, insert:

Indemnification of trustees etc.

17A. (1) Any matter or thing done, or omitted to be done, in good faith by:

(a) a trustee in the exercise of the trustee’s functions, under this Act; or

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (b) a person acting in accordance with the directions of the trustees,
does not subject the trustee or person personally to any action, liability, claim or demand.
(2) Subsection (1) does not preclude the trustees from being subject to any action, liability, claim or demand.
- (18) Section 19 (**Members' superannuation benefit**):
From section 19 (9), omit "managing", wherever occurring.
- (19) Section 20 (**Right to convert part of entitlement to lump sum entitlement**):
(a) From section 20 (1), (2) and (4), omit "custodian trustee" wherever occurring, insert instead "trustees".
(b) From section 20 (2) (c) and (5), omit "managing" wherever occurring.
- (20) Section 22 (**Pension on retirement on grounds of ill-health**):
Omit "managing" wherever occurring.
- (21) Section 23 (**Pension for widows and widowers**):
From section 23 (8) and (g), omit "managing" wherever occurring.
- (22) Section 26 (**Suspension of pension where another parliamentary pension received**):
From section 26 (2) and (3), omit "managing" wherever occurring.
- (23) Section 28 (**Pensions to be paid by instalments**):
Omit "managing".
- (24) Section 29 (**Continuation of former Act in certain circumstances**):
(a) From section 29 (1) (d) (iv), omit "custodian trustee", insert "relevant person".
(b) From section 29 (3), omit "the trustees, the custodian trustee and the managing trustees" where secondly occurring, insert instead "the relevant persons".

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SCHEDULE 3—AMENDMENT OF PARLIAMENTARY
CONTRIBUTORY SUPERANNUATION ACT 1971—*continued*

- (c) After section 29 (3), insert:
- (4) The reference in subsection (1) (d) (iv) to the relevant person is a reference:
- (a) during the period beginning on 1 January 1972 and ending with 30 September 1991—to the custodian trustee within the meaning of this Act as then in force; and
- (b) on and after 1 October 1991—to the trustees.
- (5) The reference in subsection (3) to the relevant persons is a reference:
- (a) during the period beginning on 1 January 1972 and ending with 30 September 1991—to the trustees and to the custodian trustee and the managing trustees within the meaning of this Act as then in force; and
- (b) on and after 1 October 1991—to the trustees.
- (25) Section 30 (**Persons who elected not to contribute under former Act**):
- Omit the section.
- (26) Section 31 (**Exemption from stamp duty**):
- (a) Omit “custodian trustee”, insert instead “trustees”.
- (b) Omit “person”, insert instead “persons”.

SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969

(Sec. 3)

- (1) Section 2 (Definitions):
- (a) In section 2 (1), after the definition of “Board” insert:
- “executive officer”** means an employee of the Association whom the Association has appointed or designated as an executive office of the Association;
- (b) From section 2 (1), omit the definition of “salary of office”, insert instead;

Superannuation Legislation (Amendment) 1991

SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—*continued*

“salary of office”:

- (a) in relation to an employee of the Association who is not an executive officer—has the meaning set out in section 1 (2) of the Police Regulation (Superannuation) Act 1906; or
- (b) in relation to an executive officer—has the meaning set out in section 2B;

“superannuation scheme” means a scheme, fund or arrangement (whether established by an Act or not) under which any superannuation or retirement benefits are provided.

(2) After section 2A, insert:

Salary of office: executive officers

2B. (1) For the purposes of this Act, the salary of office of an executive officer is the aggregate of:

- (a) the monetary remuneration payable to the officer; and
- (b) the cost to the Association of providing the officer with employment benefits or, if the officer has, in accordance with subsection (2), elected to have treated as salary of office 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 the officer.

(2) An executive officer may elect to have treated as salary of office for the purposes of this Act:

- (a) none of the cost to the Association of providing the officer with employment benefits referred to in subsection (1) (b); or
 - (b) only a specified proportion of that cost.
- (3) An executive officer may, from time to time:
- (a) elect to reduce the proportion of the cost of providing the officer’s employment benefits that is treated as salary of office for the purposes of this Act; or

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SCHEDULE 4—AMENDMENT OF POLICE ASSOCIATION
EMPLOYEES (SUPERANNUATION) ACT 1969—*continued*

- (b) elect to increase that proportion or, if none of the cost to the Association of providing the officer with employment benefits is currently treated as part of the officer's salary of office for the purposes of this Act, to nominate a proportion of that cost, but so that the percentage increase in the salary of the officer for the purposes of this Act is not greater than the percentage of any increase in the remuneration package of the officer since the last occasion on which the officer had an opportunity to make an election under this paragraph.
- (4) The qualification in subsection (3) (b) does not apply when the executive officer is appointed to another position as an executive officer with the Association.
- (5) For the purposes of this section, “**employment benefits**”, in relation to an executive officer, means any components of the remuneration package of an executive officer that are not subject to the payment of personal income tax, except a component of that package that consists of
- (a) payments of contributions payable to a superannuation scheme by the Association in respect of the officer, and
 - (b) payments by the Association of any approved costs associated with the officer's membership of the scheme.
- (3) Section 3 (**Employees of Association transferring from police force**):
- (a) Omit section 3 (2), insert instead:
 - (2) The Board may, subject to this section, approve the payment of:
 - (a) such annual superannuation allowance to the prescribed person; or
 - (b) such gratuity to the prescribed person, or to or on behalf of some other person,

(as the case requires) out of the Fund as would be payable to the prescribed person or to that other person under section 7, 7AA, 8A, 9B, 13 or 14 of the Police Regulation (Superannuation) Act 1906 if the prescribed person had been a member of the police force and if the prescribed person or

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SCHEDULE "AMENDMENT OF POLICE ASSOCIATION EMPLOYEES (SUPERANNUATION) ACT 1969—*continued*

that other person had been eligible for that allowance or gratuity.

(2AA) The granting of approval under subsection (2) is subject to:

the payment, in such manner as the Board may direct, by the prescribed person into the Fund of sums equivalent to the deductions that would have been made from that person's salary of office under section 5 of the Police Regulation (Superannuation) Act 1906 and the amounts that would have been required to be paid into the Fund under section 5A of that Act if that person had not resigned office as a member of the police force; and

the payment, in such manner as the Board directs, by the Association into the Fund of employer contributions in respect of that person.

(2AB) In subsection (2AA) (b), the reference to employer contributions is a reference to the amounts that the Board, on actuarial advice, determines to be the Association's liability, for the period to which the payment relates, to contribute towards the provision of superannuation benefits for the prescribed person.

(4) Section 4 (Payment of superannuation allowance to F. C. Laut or his widow):

Omit the section.

SCHEDULE 5—AMENDMENT OF POLICE REGULATION (SUPERANNUATION) ACT 1906

(Sec. 3)

PART 1—AMENDMENTS RELATING TO OCCUPATIONAL SUPERANNUATION STANDARDS

(1) Section 1 (Short title, commencement and definitions):

In section 1 (2), insert in alphabetical order.

"Commonwealth occupational superannuation standard" means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

“penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 14AA (**Power of the Board to reduce benefits to offset certain tax liabilities of the Fund**):

From section 14AA (1) (a), omit “member or former member of the police force”, insert instead “contributor or former contributor”.

(3) Section 14AB (**Power of the Board to adjust benefits to comply with certain standards relating to occupational superannuation**):

Omit section 14AB (2) and (3), insert instead:

(2) If:

- (a) a contributor or former contributor becomes entitled to receive a superannuation allowance under this Act, other than a superannuation allowance under section 7 or 10 arising from the incapacity of the contributor or former contributor, and
- (b) payment of the allowance to the contributor or former contributor would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,

the contributor or former contributor may, by notice in writing given to the Board before the allowance starts to be paid, elect to receive the allowance:

- (c) in a form that complies with those standards; or
- (d) in a form that is in accordance with this Act (apart from this section and section 14AC).

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(3) Even after such a superannuation allowance has started to be paid in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the contributor or former contributor concerned is, by notice in writing given to the Board at any time before the Board is required to take the action referred to in section 14AC (1), entitled to make an election or a further election to receive payment of the allowance in a form that complies with the relevant Commonwealth occupational superannuation standards.

(4) An election made and notified to the Board in accordance with this section is sufficient authority for the Board to pay a superannuation allowance in accordance with the election of the contributor or former contributor concerned.

(5) An election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(6) A contributor or former contributor who does not notify the Board of the election of the contributor or former contributor under this section before the superannuation allowance concerned starts to be paid is, subject to subsection (3), to be regarded as having elected to receive payment of the allowance in the form provided by this Act (apart from this section and section 14AC).

(7) If a contributor or former contributor makes an election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards, the Board must ensure that the allowance is varied only to the extent necessary to comply with those standards.

(8) An election under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the contributor or former contributor who made the election but also on any person claiming a benefit under this Act through that contributor or former contributor.

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(9) If an election is made under this section to receive a superannuation allowance in a form that complies with the relevant Commonwealth occupational superannuation standards, the superannuation allowance is payable in that form despite any other provision of this Act to the contrary.

(10) In this section:

- (a) a reference to a benefit or superannuation allowance is a reference to a benefit or superannuation allowance after it has been reduced in accordance with section 14AA if appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(11) This section does not apply to a benefit payable under section 8A.

(4) Section 14AC:

After section 14AB, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a superannuation allowance payable under this Act

14AC. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a superannuation allowance payable to a contributor or former contributor under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor, and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the superannuation allowance as if the contributor or former contributor concerned had commuted to a lump sum benefit so much of the allowance as is required to comply with the notice,

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has done so.

(2) However, if, in relation to a superannuation allowance referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or
- (b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor, has received under that Act a revised determination from the Commissioner with respect to the payment of the allowance,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the allowance.

(3) Whenever the Board is required to commute a superannuation allowance payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the allowance is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factors prescribed in Schedule 3; and
- (c) if the allowance is payable under section 7 as a result of the contributor or former contributor concerned having been certified under section 8 or 10B as being incapable of discharging the duties of office—other commutation factors relevant to the nature of the pension and the circumstances of the contributor or former contributor (including the factor prescribed by section 14K (4)).

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(5) In this section, a reference to a superannuation allowance is a reference to a superannuation allowance after it has been reduced in accordance with section 14AA if appropriate.

(5) Sections 23A, 23B:

After section 23, insert:

What information must be disclosed to members of the police force to whom this Act applies

23A. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the prescribed particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

months beginning on a day during that financial year;
and

(b) if the Board does so:

- (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
- (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 23B; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 23B are specified for the purposes of subsection (6) (a):

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

- (a) a statement of the value of the assets of the Fund;
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, that Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.

Actuarial investigation

23B. (1) An investigation as to the state and sufficiency of the Fund is, as at 31 March 1991, and at the end of each succeeding period of 3 years, to be made by an actuary or actuaries appointed by the Board.

(2) Actuaries appointed under this section must complete their investigation, and report the result to the Board, not later than 12 months after the date as at which the investigation is made.

- (3) The report referred to in subsection (2) must:
 - (a) include a statement of the value of the assets of the Fund; and
 - (b) include a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

(4) The Board must, not later than 2 months after it receives a report under subsection (2), forward the report to the Minister with such comments as it thinks fit.

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(6) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (4) if the Minister considers that special circumstances exist to justify an extension or further extension.

PART 2—MISCELLANEOUS AMENDMENTS

- (6) Section 5B (Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme):
- (a) After “section 9B (6)” wherever occurring, insert “or (6AA)”.
- (b) Omit section 5B (7), insert instead:

(7) If the contributor referred to in subsection (6) (a) has not attained the age of 55 years on electing to become a member of the Public Sector Executives Superannuation Scheme, the benefit to which the contributor is entitled is the greater of the amounts calculated in accordance with the following formulae:

$$(a) L = 2.5 \times B \times 0.97^{(55 - A)}$$

$$(b) L = E \times \left(\frac{S}{S + P} \right) \times 0.94^{(55 - A)}$$

where:

L represents the amount to be calculated;

B represents the amount that would be payable under section 17 if, at the date of the election under subsection (5) (d), the contributor had resigned (but without interest as provided by that section);

E represents the lump sum that would have been payable if the contributor

- (a) were to continue as a member of the police force until attaining the age of 55 years at the same salary of office; and

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(b) were to commute the superannuation allowance otherwise payable to the contributor;

S represents the number of months of service that has been completed by the contributor;

P represents the additional months of service that the contributor would have completed if he or she were to continue as a member of the police force until the age of 55 years;

A represents the age in years of the contributor (including fractions of a year on the basis of completed months) at the date on which the contributor becomes a member of the Public Sector Executives Superannuation Scheme.

(7A) If the contributor referred to in subsection (6) (a) has attained the age of 55 years on electing to become a member of the Public Sector Executives Superannuation Scheme, the benefit to which the contributor is entitled is the lump sum benefit that would be payable if the contributor:

(a) had become entitled to the allowance prescribed by section 7 (1) or section 7AA (2) (whichever is applicable); and

(b) had elected to commute the allowance in accordance with section 14J (3).

(7) Section 9B (**Preserved benefit**):

(a) In section 9B (3), after “subsection (6)”, insert “or (6AA)”.

(b) Omit section 9B (3) (a), insert instead:

(a) when the former member, having attained the age of 55 years, makes an application to the Board in writing for the benefit;

(c) In section 9B (5) (b), after “Subsection (6)”, insert “or (6AA)”.

(d) After section 9B (6), insert: ,

(6AA) Subject to subsection (6A), the benefit provided by this subsection is, in the case of a former member of the police force who:

(a) was eligible to become, or was, a member of the Public Sector Executives Superannuation Scheme: and

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

- (b) elected to make provision for a benefit under this section in accordance with section 5B (1) (b); and
 - (c) has attained the age of 55 years,
- the lump sum benefit that would be payable if the former member:
- (d) had become entitled to the allowance prescribed by section 7 (1) or section 7AA (2) (whichever is applicable); and
 - (e) had elected to commute the allowance in accordance with section 145 (3).
- (d) In section 9B (6A), after “subsection (6)”, insert “or (6AA)”.
- (e) After section 9B (12), insert:
- (13) If, as a result of the invalidity of a former member of the police force, the former member becomes entitled to be paid a superannuation allowance under section 7, or a gratuity under section 14, before a gratuity is paid under this section, then:
 - (a) a gratuity under this section ceases to be payable; and
 - (b) the Board must pay to or in respect of the former member such a superannuation allowance or, if the case requires, a gratuity under section 14.
 - (14) If, as a result of the invalidity of a former member of the police force, the former member becomes entitled to be paid:
 - (a) a superannuation allowance under section 7; or
 - (b) a gratuity under section 14,
 after a gratuity has been paid under this section, the Board must deduct the amount of the gratuity paid under this section from that allowance or, as the case may be, from the gratuity under section 14, in such instalments and at such times as it may determine.
- (8) Section 145 (**Commutation on normal or early retirement of member**):
- After section 145 (3), insert:

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SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued*

(3A) The date on which such an election is to take effect is to be the day after the date on which the person retires, irrespective of the date on which the election is made.

(9) Section 14K (**Commutation on discharge of disabled member**):

After section 14K (3), insert:

(3A) The date on which such an election is to take effect is to be:

- (a) the day on which the person attains 60 years of age; or
- (b) if the person (being a person to whom subsection (3B) applies) has been granted a superannuation allowance under section 10 after having attained the age of 60 years—the date on which the election is made.

(3B) If a disabled member of the police force, having been paid a superannuation allowance under section 7 or a gratuity under section 14, is granted a hurt-on-duty allowance under section 10, the member may, as the case requires, commute to a lump sum:

- (a) the difference (if any) between the allowance granted under section 10 (1A) (a) and the superannuation allowance paid to that member under section 7; or
- (b) the balance (if any) of the allowance granted under section 10 (1A) (a) after an appropriate adjustment has been made for the repayment of the gratuity that has been paid to that member under section 14.

(3C) If a disabled member of the police force, having been granted an additional amount of allowance under section 10 (1A) (b) or (c), elects to commute to a lump sum an allowance under section 10 (1A) in accordance with subsection (3B), the member must commute the additional amount to the extent that it has not already been commuted to a lump sum under section 10C.

(3D) If a disabled member of the police force makes no election to commute to a lump sum an allowance granted under section 10 (1A) because the member has already elected to commute an equivalent allowance payable under section 7, the member is, for the purposes of subsection (3C), to be treated as having elected to commute the first-mentioned allowance in accordance with subsection (3B).

Superannuation Legislation (Amendment) 1991

**SCHEDULE 5—AMENDMENT OF POLICE REGULATION
(SUPERANNUATION) ACT 1906—*continued***

(10) Section 17 (**Refund of deductions**)

Omit section 17 (4), insert:

(4) If a former member of the police force who has resigned has received a lump sum under subsection (1) and subsequently there becomes payable to the former member:

- (a) a superannuation allowance under section 10, or a commuted superannuation allowance under section 10C or 14K, as a result of having been hurt on duty while a member of the police force; or
- (b) a superannuation allowance under section 7, or a gratuity under section 14, as a result of the former member having been discharged under section 8,

the lump sum is to be deducted from that allowance, commuted allowance or gratuity in such instalments and at such times as the Board determines.

**SCHEDULE 6—AMENDMENT OF PUBLIC AUTHORITIES
(FINANCIAL ARRANGEMENTS) ACT 1987**

(Sec. 3)

Schedule 1 (**Authorities**):

After “Tow Truck Industry Council of New South Wales.”, insert:

Trustees of the Parliamentary Contributory Superannuation Fund.

**SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

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

In section 3 (1), after the definition of “Fund”, insert:

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

(2) Section 32:

Omit the section, insert instead:

What information must be disclosed to members

32. (1) The Board must, as soon as practicable after a person becomes a member, give to the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to members, former members and the dependants of members and former members; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each member a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the member’s interest in the Fund.

(3) If a person ceases to be a member on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person’s personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person’s interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(b) if the Board does so:

- (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
- (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each member a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of members and their dependants to benefits under this Act or the regulations.

(6) The Board must., on being requested to do so by a member, give to the member:

- (a) a copy of, or extract from, any specified statement contained in an actuary's report prepared under section 33; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The Board may, but is not obliged to, comply with more than one request made by a member under subsection (6) during a financial year of the Board.

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(3) Section 33 (**Actuarial investigation**):

(a) From section 33 (2), omit “13 months”, insert instead “12 months”.

(b) Omit section 33 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner allows the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

PART 2—OTHER AMENDMENTS

(4) Section 4 (Definitions):

In section 3 (1), insert in alphabetical order:

“discharged”, in relation to a member, means that the member’s employment is terminated:

(a) because the period, or the successive periods, for which the member was employed has or have ended; or

(b) because, before the end of a period for which the member was employed, the employment of the member is terminated by the member’s employer, but does not include a termination of the member’s employment for a breach by the member of the member’s contract of employment or because the member is retrenched;

“retrenched”, in relation to a member, means that the member’s employment

(a) is compulsorily terminated by the member’s employer on the ground that

(i) the employer no longer requires the member’s services and, on termination of the member’s employment, does not propose to fill the member’s position; or

Superannuation Legislation (Amendment) 1991

SCHEDULE 7 — AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

- (ii) the work that the member was engaged to perform has been completed; or
- (iii) the amount of work that the employer requires to be performed has diminished and, due to that fact, it has become necessary to reduce the number of employees employed by the employer; or
- (b) is terminated as a result of the acceptance by the member of an offer by the member's employer of terms of retrenchment made on a ground specified in paragraph (a);

(5) Section 49A:

After section 49, insert:

Benefit on retrenchment or discharge

49A. (1) The benefit provided by this section is payable by the Board to a member where, before attaining the early retirement age:

- (a) the member is retrenched or discharged; and
- (b) no other benefit is payable under this Act (section 50 excepted); and
- (c) the Board is provided with a certificate from the member's employer confirming that the member has been retrenched or discharged and specifying the ground for the retrenchment or discharge.

(2) A member who becomes entitled to be paid a benefit under this section may:

- (a) elect to be paid a benefit provided by subsection (4) or to have the benefit transferred to the credit of the member in another superannuation scheme; or
- (b) elect to make provision for a benefit provided by subsection (5).

(3) A member who, being entitled to make an election under this section, fails to make the election within 90 days after being retrenched or discharged, is taken to have made an election under subsection (2) (b).

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(4) The benefit provided by this subsection is an amount equal to the balance at credit in the member's account at the time when the benefit is paid.

(5) The benefit provided by this subsection is an amount equal to the balance at credit in the member's account at the member's exit date, together with interest on that balance, from the exit date to the date of payment, at a rate determined by the Board.

(6) The benefit provided by subsection (5) is payable by the Board:

- (a) when the member attains the early retirement age; or
- (b) if, before attaining that age, the member dies; or
- (c) when the Board is satisfied as provided by section 49; or
- (d) in any other prescribed circumstances,

and is so payable in accordance with subsection (7).

(7) A benefit provided by subsection (6) is payable:

- (a) except where the member has died—to the member; or
- (b) if the member has died and is survived by a spouse—to the member's spouse; or
- (c) if the member has died and is not survived by a spouse—to the personal representatives of the member or, if appropriate, in accordance with section 64 payment without grant of probate etc.).

(8) If the Board makes a determination under section 55 in relation to a benefit to be provided by this section, the amount of that benefit is reduced by the amount specified in the Board's determination.

(6) Section 50 (Benefit on termination of employment before early retirement age):

- (a) From section 50 (1), 'omit “, or is dismissed or discharged”, insert instead “or is dismissed”.
- (b) After section 50 (1), insert

(1A) Subsection (1) does not apply to a member who is retrenched or discharged.

Superannuation Legislation (Amendment) 1991

SCHEDULE 7—AMENDMENT OF PUBLIC SECTOR
EXECUTIVES SUPERANNUATION ACT 1989—*continued*

(7) Section 53 (**How does a member or other person apply for payment or preservation of a benefit?**):

Before “51 or 52”, wherever occurring, insert “49A”.

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987

(Sec. 3)

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

After the definition of “full-time employee” in Section 3 (1) insert:

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

(2) Section 13 (**Actuarial investigation**):

(a) From section 13 (2), omit “13 months”, insert instead “12 months”.

(b) After section 13 (2), insert:

(2A) The report referred to in subsection (2) must:

(a) include a statement of the value of the assets of the funds established under section 9; and

(b) include a statement of any liability for benefit payments that are not expected to be covered by:

(i) the assets of those funds; or

(ii) any future contributions to, or earnings of, those funds; or

(iii) any guarantee by the Government or by any of its agencies; or

(iv) an appropriation in respect of those funds.

(c) Omit section 13 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued*

extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

(3) Section 33A:

After section 33, insert:

What information must be disclosed to employees

33A. (1) The Board must, as soon as practicable after a person becomes an employee, give the person a written statement specifying:

- (a) details of the kinds of benefits provided under this Act to employees, former employees, the dependants of employees and former employees; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each employee a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the employee's interest in the appropriate fund.

(3) If a person ceases to be an employee on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the appropriate fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987—*continued*

- (a) the Board may, give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
 - (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.
- (5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each employee a statement in writing which explains:
- (a) the nature and purpose of the amendment; and
 - (b) the effect (if any) of the amendment on the entitlements of employees and their dependants to benefits under this Act or the regulations.
- (6) The Board must, on being requested to do so by an employee, give to the employee:
- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 13; and
 - (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the appropriate fund as are specified in the request; and
 - (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

Superannuation Legislation (Amendment) 1991

**SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
NON-CONTRIBUTORY SUPERANNUATION ACT 1987 — *continued***

(7) The following statements contained in an actuary's report prepared under section 13 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the appropriate fund;
- (b) a Statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of that fund; or
 - (ii) any future contributions to, or earnings of, that fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of that fund.

(8) The Board may, but is not obliged to, comply with more than one request made by an employee under subsection (6) during a financial year of the Board.

(9) In this section, a reference to the appropriate fund, in relation to an employee, is a reference to the fund maintained under section 9 in which is kept the reserve of the employee's employer.

**SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987**

(Sec. 3)

**PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS**

(1) Section 3 (Definitions):

In section 3 (1), insert in alphabetical order:

“Commonwealth occupational superannuation standard” means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth;

“Insurance and Superannuation Commissioner” means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office;

Superannuation Legislation (Amendment) 1991

SCHEDULE 8—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

“**penalty**”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law;

(2) Section 18 (**Actuarial investigation**):

(a) From section 18 (2), omit “13 months*”, insert instead “12 months*”.

(b) After section 18 (2), insert:

(2A) The report referred to in subsection (2) must:

(a) include a statement of the value of the assets of the Fund; and

(b) include a statement of any liability for benefit payments that are not expected to be covered by:

- (i) the assets of the Fund; or
- (ii) any future contributions to, or earnings of, the Fund; or
- (iii) any guarantee by the Government or by any of its agencies; or
- (iv) an appropriation in respect of the Fund.

(c) Omit section 18 (4), insert instead:

(4) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (2) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension.

(3) Section 45B (**Power of the Board to reduce benefits to comply with certain Commonwealth standards relating to occupational superannuation**):

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SUPERANNUATION ACT 1987—*continued*

Omit section 4SB (2), insert instead:

- (2) In this section:
 - (a) a reference to a benefit is a reference to the benefit after reducing it in accordance with section 45A if appropriate; and
 - (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement Benefits are provided.

(4) Section 45C:

After section 45B, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under the regulations

45C. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a pension payable under the regulations to a contributor or former contributor exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor, and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the pension as if the contributor or former contributor had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, or

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SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

(b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the Board is required to commute a pension payable under the regulations to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factors prescribed by the relevant regulations; and
- (c) if the pension becomes payable under the regulations as a result of the total and permanent, or the partial and permanent, physical or mental incapacity of the contributor or former contributor concerned—other factors relevant to the nature of the pension and the circumstances of that contributor or former contributor.

(5) In this section, a reference to a pension is a reference to a pension after it has been reduced in accordance with section 45A if appropriate.

(5) Section 54A:

After section 54, insert

What information must be disclosed to contributors

54A. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

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SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations 1987 of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year, and
- (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year

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SUPERANNUATION ACT 1987—*continued*

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report prepared under section 18; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 18 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund; and
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

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SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

(8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.

PART 2—MISCELLANEOUS AMENDMENTS

(6) Section 21 (**Medical examination**):

From section 21 (2) (a), omit “a medical examination”, insert instead “medical examinations”.

(7) Section 29 (**Contributions during leave without pay**):

Omit section 29 (3), insert instead:

(3) A contributor who takes leave without pay that is not prescribed leave:

(a) is liable to make contributions to the Fund in respect of

- (i) a contribution period that begins before but finishes after the start of that leave; and
- (ii) a contribution period that begins before but finishes after the end of that leave; and

(b) is not liable or entitled to make contributions to the Fund in respect of:

- (i) a contribution period that begins on the first day of that leave and finishes before the end of that leave; or
- (ii) a contribution period that, having begun after the start of that leave, finishes on the last day of that leave; or
- (iii) a contribution period that falls between a contribution period referred to in paragraph (a) (i) or subparagraph (i) and a contribution period referred to in paragraph (a) (ii) or subparagraph (ii) (whichever is relevant).

(8) Section 30A (**Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme**):

From section 30A (5) (a), omit “section 43 (1) (b)”, insert instead “section 43 (1)”.

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SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

- (9) Section 41 (**Benefit on resignation, dismissal or discharge before early retirement age**):
- Omit section 41 (1), insert instead:
- (1) The benefit provided by this section is payable by the Board to a contributor:
- (a) if, before attaining the early retirement age, the contributor, having resigned, or having been dismissed or discharged, from employment with an employer, elects under section 43 (1) to take that benefit and no other benefit is payable under this Act; or
- (b) if the amount of that benefit is less than the prescribed amount referred to in section 43 (1).
- (10) Section 42 (**Benefit on retrenchment before early retiring age**):
- (a) From section 42 (2), omit “(other than a contributor who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme)”.
- (b) From section 42 (3), omit “or who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme”.
- (11) Section 43 (**Preserved benefit**):
- (a) Omit section 43 (1), insert instead:
- (1) A contributor who resigns, or is dismissed or discharged, from employment with an employer before attaining the early retirement age may elect to take the benefit provided by section 41 or (if that benefit is not less than the prescribed amount) to make provision for a benefit provided by this section.
- (b) In section 43 (2), after “election”, insert “to make provision for a benefit provided by this section”.
- (c) After section 43 (2), insert:
- (2A) A contributor who, being entitled to make an election under subsection (1), does not make such an election before the end of the prescribed period is taken to have elected to have made provision for a benefit provided by this section.

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SCHEDULE 9—AMENDMENT OF STATE AUTHORITIES
SUPERANNUATION ACT 1987—*continued*

- (c) Omit section 43 (5), insert instead:
- (5) The benefit provided by subsection (7) is payable to a contributor by the Board if:
- (a) the contributor has elected to take that benefit; and
- (b) the election takes effect before the benefit provided by subsection (6) becomes payable to or in respect of she contributor.
- (12) Section 44 (**Application for payment of benefit**):
- (a) From section 44 (1), omit “, or for preservation of a benefit under section 43,”.
- (b) Omit section 44 (1) (b), insert instead:
- (b) such other documents as the Board reasonably requires in order to determine the application.
- (c) From section 44 (2), omit “or preserved”.
- (13) Section 48 (Employee or claimant to provide information):
- From section 48 (1) (c), omit “a medical examination”, insert instead “one or more medical examinations”.

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916

(Sec. 3)

PART 1—AMENDMENTS RELATING TO OCCUPATIONAL
SUPERANNUATION STANDARDS

- (1) Section 3 (**Definitions**):
- In section 3 (1), insert in alphabetical order:
- “Commonwealth occupational superannuation standard”** means a standard prescribed in respect of occupational superannuation schemes by a law of the Commonwealth.
- “Insurance and Superannuation Commissioner”** means the Insurance and Superannuation Commissioner holding office under the Insurance and Superannuation Commissioner Act 1987 of the Commonwealth, and includes a person acting in that office.

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

“Penalty”, in relation to a Commonwealth taxation law, includes (but is not limited to):

- (a) a penalty rate of taxation under that law; and
- (b) the loss of a concessional rate of taxation under that law.

(2) Section 5 (**Board required to establish certain reserves within the Fund**):

Omit section 5 (1) (c).

(3) Section 10 (**Actuary or actuaries to conduct periodic investigations into the Fund**):

(a) From section 10 (3) (b), omit “report”, insert instead “submit a report of”.

(b) From section 10 (3), omit “13 months”, insert instead “12 months”.

(c) After section 10 (3), insert:

(3A) The report referred to in subsection (3) must:

(a) include a statement of the value of the assets of the Fund; and

(b) include a statement of any liability for benefit payments that are not expected to be covered by:

(i) the assets of the Fund; or

(ii) any future contributions to, or earnings of, the Fund; or

(iii) any guarantee by the Government or by any of its agencies; or

(iv) an appropriation in respect of the Fund.

(d) Omit section 10 (5), insert instead:

(5) The Minister may, in relation to a particular investigation, extend or further extend the period referred to in subsection (3) if the Minister considers that special circumstances exist to justify an extension or further extension and the Insurance and Superannuation Commissioner has allowed the extension or further extension.

(6) The Minister may, in relation to a particular investigation, extend or further extend the period referred to

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in subsection (4) if the Minister considers that special circumstances exist to justify an extension or further extension.

(4) Section 15A (**Reserve units**):

(a) Omit section 15A (6), insert instead:

(6) A contributor who, on 1 January 1992, is contributing for any reserve units may, by notice in writing lodged with the Board within 60 days after that date, elect to discontinue paying contributions in respect of those units.

(6AA) The Board must pay to a contributor who, in accordance with subsection (6), elects to discontinue the payment of contributions for reserve units the amount paid in respect of those units, together with any interest payable under subsection (6AD).

(6AB) If a contributor who is contributing for reserve units ceases to be an employee, the Board must pay to the contributor or, as the case may be, to the contributor's personal representatives the amount of the contributor's contributions paid in respect of those units, together with any interest payable under subsection (6AD).

(6AC) In subsection (6AB), the reference to personal representatives includes a reference to a person referred to in section 88A (2).

(6AD) If a contributor:

- (a) has contributed for reserve units for not less than 10 years; or
- (b) having contributed for reserve units for less than 10 years, ceases to be an employee because of death or retirement,

interest is payable in respect of those contributions, compounded annually, at the rate fixed by the Board in accordance with section 86A and is so payable from the respective dates of payment.

(6AE) Payments under subsections (6AA) and (6AB) are to be made from the appropriate reserve.

- (b) From section 15A (6A), omit "subsection (6)", insert instead "subsections (6)–(6AE)".

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ACT 1916—*continued*

(5) Section 33B:

Omit the section, insert instead:

Board to apportion benefit between the contributors' reserve and the appropriate employer reserve

33B. (1) Whenever:

- (a) a benefit under this Act becomes payable to a contributor (other than a benefit under Division 3A of Part 4): or
- (b) a contributor elects to take the benefit of that Division; or
- (c) if a contributor has died without having received a benefit under this Act—the benefit becomes payable to another person in consequence of that death,

the Board must ascertain the portion of the benefit that is payable from the contributors' reserve and the portion that is payable from the appropriate employer reserve.

(2) For the purposes of subsection (1):

- (a) the portion of the benefit payable to or in respect of a contributor from the contributors' reserve is an amount equal to the lesser of the amount calculated according to subsection (4) and the relevant amount; and
- (b) the portion of the benefit payable to or in respect of the contributor from the appropriate employer reserve is equal to the relevant amount, less the amount ascertained under paragraph (a).

(3) For the purposes of subsection (2), the relevant amount

- (a) if a lump sum benefit (other than a commutation of pension) is to be paid to or in respect of the contributor—the amount of the benefit payable to or in respect of the contributor; or
- (b) if a pension or a commutation of a pension is to be paid to or in respect of the contributor—the amount calculated by the Board as the capitalised value of the benefits payable to or in respect of the contributor.

(4) For the purposes of subsection (2), the amount to be calculated is:

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (a) the amount that would have been payable if the contributor had elected to take the benefit of section 38; and
- (b) interest:
 - (i) compounded on 30 June in each year in respect of the period beginning with the day on which the contributor first became liable to make contributions under this Act and ending with the day on which the contributor ceased to be employed by an employer; and
 - (ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subsection (5).

(5) For the purposes of subsection (4) (b), the formula is as follows:

$$\frac{A+B}{2}$$

where:

A represents the total amount of contributions (excluding contributions refundable under section 15A (6M) or (6AB)) that the contributor had paid to the Fund from the beginning of the contributor's contributory service to the beginning of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period;

B represents the total amount of those contributions from the beginning of the contributor's contributory service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated as at 30 June immediately preceding that period.

(6) For the purposes of this section, "**prescribed rate**" means:

- (a) in respect of any relevant period ending before 1 July 1972—3.5 per cent per year, and

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- (b) in respect of any relevant period beginning on or after 1 July 1972—the rate as fixed by the Board from time to time, having regard to the earnings of the Fund and such other matters as the Board considers relevant.
- (6) Section 38 (**Refund of contributions**):
From section 38 (1), omit “section 15A (6) (b)” insert instead “section 15A (6AB)”.
- (7) Section 38A (**Withdrawal benefit**):
From the definition of the symbol “A” in section 38A (3), omit “section 15A (6) (b)”, insert instead “section 15A (6AB)”.
- (8) Section 61 (**Surrender of policies**):
From section 61 (1), omit “, and may pay the surrender value to the Board under the provisions of Part 5 relating to voluntary saving,”.
- (9) Section 61RB (**Power of the Board to adjust benefits to comply with certain Commonwealth standards relating to occupational superannuation**):
Omit section 61RB (2), insert instead:
- (2) If:
- (a) a contributor or former contributor becomes entitled to receive a pension under this Act, other than a pension under section 29; and
- (b) payment of the pension to the contributor or former contributor would, but for this subsection, not comply with the relevant Commonwealth occupational superannuation standards,
- the contributor or former contributor may, by notice in writing given to the Board before the pension starts to be paid, elect to receive the pension:
- (c) in a form that complies with those standards; or
- (d) in a form that is in accordance with this Act (apart from this section and section 61RC).

SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(3) Even after such a pension has started to be paid in a form that does not comply with the relevant Commonwealth occupational superannuation standards, the contributor or former contributor concerned is, by notice in writing given to the Board at any time before the Board is required to take the action referred to in section 61RC (1), entitled to make an election or a further election to receive payment of the pension in a form that complies with the relevant Commonwealth occupational superannuation standards.

(4) An election made and notified to the Board in accordance with this section is sufficient authority for the Board to pay a pension in accordance with the election of the contributor or former contributor concerned.

(5) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is irrevocable.

(6) A contributor or former contributor who does not notify the Board of the election of the contributor or former contributor under this section before the pension concerned starts to be paid is, subject to subsection (3), to be regarded as having elected to receive payment of that pension in the form provided by this Act (apart from this section and section 61RC).

(7) If a Contributor or former contributor makes an election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the Board must ensure that the pension is varied only to the extent necessary to comply with those standards.

(8) An election under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards is binding not only on the contributor or former contributor who made the election but also on any person claiming a benefit under this Act through that contributor or former contributor.

(9) If an election is made under this section to receive a pension in a form that complies with the relevant Commonwealth occupational superannuation standards, the pension is payable in that form despite any other provision of this Act to the contrary.

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ACT 1916—*continued*

(10) In this section:

- (a) a reference to a benefit or pension is a reference to the benefit or pension after reducing it in accordance with section 61RA where appropriate; and
- (b) a reference to a superannuation scheme is a reference to a scheme, fund or arrangement (whether or not established by or under an Act) under or from which any superannuation or retirement benefits are provided.

(10) Section 61RC:

After section 61RB, insert:

What happens when the Insurance and Superannuation Commissioner makes a determination in respect of a pension payable under this Act

61RC. (1) If the Insurance and Superannuation Commissioner:

- (a) determines that a pension payable to a contributor or former contributor under this Act exceeds the reasonable benefit limits prescribed by a Commonwealth occupational superannuation standard for the contributor or former contributor; and
- (b) in consequence of that determination advises the Board by notice in writing in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth that it must treat the pension as if the contributor or former contributor had commuted to a lump sum benefit so much of the pension as is required to comply with the notice,

the Board must, within 1 month after receipt of the notice, comply with the notice and advise the Commissioner that it has so complied.

(2) However, if, in relation to a pension referred to in subsection (1), the Board:

- (a) receives from the Insurance and Superannuation Commissioner a revised notice in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth; or

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(b) is satisfied as a result of information provided by the contributor or former contributor concerned that the contributor or former contributor has received under that Act a revised determination from the Commissioner with respect to the payment of the pension,

the Board must comply with the revised notice or information and disregard any earlier notice received from the Commissioner with respect to the pension.

(3) Whenever the Board is required to commute a pension payable under this Act to comply with a notice given by the Insurance and Superannuation Commissioner in accordance with the Occupational Superannuation Standards Act 1987 of the Commonwealth, the commutation factor to be applied to the pension is to be a factor determined by the Board on actuarial advice.

(4) In providing advice for the purposes of subsection (3), an actuary is required to have regard to:

- (a) the relevant Commonwealth occupational superannuation standards; and
- (b) the commutation factor prescribed by section 21C; and
- (c) if the pension becomes payable under section 29—other factors relevant to the nature of the pension and the circumstances of the member.

(5) In this section, a reference to a pension is a reference to a pension after it has been reduced in accordance with section 61RA where appropriate.

(11) Part 5 (**Voluntary Saving**):

Omit the Part.

(12) Section 85:

After section 84A, insert:

What information must be disclosed to contributors

85. (1) The Board must, as soon as practicable after a person becomes a contributor, give to the person a written statement specifying:

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (a) details of the kinds of benefits provided under this Act to contributors, former contributors and the dependants of contributors and former contributors; and
- (b) the conditions applicable to those benefits; and
- (c) the method of determining entitlements to those benefits.

(2) The Board must, within 6 months after the end of each financial year of the Board, give to each contributor a written statement specifying for that financial year the particulars required by regulation 17 (1) (e) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the contributor's interest in the Fund.

(3) If a person ceases to be a contributor on a day other than the last day of a financial year of the Board, the Board must, as soon as practicable after that cessation, give, or arrange to be given, to the person, or to the person's personal representatives, a written statement specifying the particulars required by regulation 17 (1) (f) of the Occupational Superannuation Standards Regulations of the Commonwealth with respect to the person's interest in the Fund.

(4) Instead of giving a written statement under subsection (2) specifying particulars in relation to a financial year of the Board:

- (a) the Board may give a statement specifying corresponding particulars relating to a period of 12 months beginning on a day during that financial year; and
- (b) if the Board does so:
 - (i) it must, in relation to each succeeding financial year of the Board, give a statement setting out corresponding particulars relating to the corresponding succeeding period; and
 - (ii) the reference in subsection (3) to the last day of a financial year of the Board is to be read as a reference to the last day of the period beginning during that financial year.

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

(5) Whenever this Act is or the regulations are amended on or after 1 July 1990, the Board must, as soon as practicable after the amendment has been made, give to each contributor a statement in writing which explains:

- (a) the nature and purpose of the amendment; and
- (b) the effect (if any) of the amendment on the entitlements of contributors and their dependants to benefits under this Act or the regulations.

(6) The Board must, on being requested to do so by a contributor, give to the contributor:

- (a) a copy of, or extract from, such of the statements referred to in subsection (7) as are specified in the request and are contained in an actuary's report so specified prepared under section 10; and
- (b) a copy of such reports of the Auditor-General in respect of the audited accounts of the Fund as are specified in the request; and
- (c) a copy of such returns, certificates and notices referred to in section 12 (Notices as to satisfaction of the superannuation fund conditions) and section 13 (Discretion to treat funds as satisfying the superannuation fund conditions) of the Occupational Superannuation Standards Act 1987 of the Commonwealth as are specified in the request.

(7) The following statements contained in an actuary's report prepared under section 10 are specified for the purposes of subsection (6) (a):

- (a) a statement of the value of the assets of the Fund; and
- (b) a statement of any liability for benefit payments that are not expected to be covered by:
 - (i) the assets of the Fund; or
 - (ii) any future contributions to, or earnings of, the Fund; or
 - (iii) any guarantee by the Government or by any of its agencies; or
 - (iv) an appropriation in respect of the Fund.

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

- (8) The Board may, but is not obliged to, comply with more than one request made by a contributor under subsection (6) during a financial year of the Board.
- (13) Section 86A (**Board empowered to fix interest rates for the purposes of this Act**):
- (a) From section 86A (1), omit “, 64”.
 - (b) From section 86A (3), omit “, 21E or 64”, insert instead “or 21E”.
- (14) Section 91 (**Time for making elections, applications etc.**):
- After section 91 (1), insert:
- (1A) The provisions of subsection (1.) (C) and (d) do not apply to an election under section 61RB.
- (15) Section 99 (**Pensions emerging during suspension period**):
- From section 99 (6), omit “section 15A (6) (b)”, insert instead “section 15A (6AB)”.

PART 2—MISCELLANEOUS AMENDMENTS

- (16) Section 12B (**Deduction factors in relation to certain periods of leave of absence**):
- After section 12B (2), insert:
- (2A) The reference to a prescribed form of leave in subsection (2) (a) includes (but is not limited to) a reference to maternity leave and is to be taken to have included such a reference from and including 1 July 1985.
- (17) Section 28AA (**Pension on retirement before age 60—component pension**):
- From section 28AA (2) (b), omit “28A (2)”, insert instead “28A (S)”.
- (18) Section 37 (**Retrenchment benefits payable to an employee who is retrenched after completing 10 years’ service**):
- From section 37 (1AA), omit “or to an employee who is eligible to become or who is a member of the Public Sector Executives Superannuation Scheme”.
- From section 37 (12) (b), omit “are continuous”.
- In section 37 (12), before “the Board”, insert “are continuous”.

*Superannuation Legislation (Amendment) 1991*SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*(19) Section 37A (**Retrenchment benefits payable to contributors having not less than 3 years' contributory service**):

Omit section 37A (1A).

(20) Section 52B (**Adjustment of pension components**):

Omit section 52B (4), insert instead:

(4) Where:

- (a) a pension under this Division, or a pension that is calculated by reference to a pension that is payable under this Division, has become payable to or in respect of a person referred to in section 52A; and
- (b) pensions are adjusted under Division 6 by a percentage for a year beginning before and ending after the date on which that pension became so payable,

the pension, as from the adjustment date for that year, is, in addition to any adjustment of the pension under Division 6, adjusted by the amount calculated in accordance with the following formula:

$$A = C_2 \times P \times \frac{Q}{4}$$

where:

A represents the amount of the pension as adjusted;

C₂ represents:

- (a) in the case of a pension payable under section 52C or 52E to a person—the amount of the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of this section before the pension became payable; or
- (b) in the case of a pension payable under section 52D to a person—the amount obtained in relation to the person from the calculation, under that section, of the formula $P2 (1 - 0.04 \times TM)$; or
- (c) in the case of a pension payable under this Division to the widow or widower of a person referred to in section 52A (1)—an amount equal to two-thirds of the amount of the

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SCHEDULE 10—AMENDMENT OF SUPERANNUATION
ACT 1916—*continued*

employer-financed pension component calculated in relation to that person and as adjusted by the operation (if any) of this section before the pension became payable; or

- (d) in the case of a pension of a widow or widower that is calculated by reference to a pension that was payable to a person under this Division—an amount equal to two-thirds of the amount referred to in paragraph (a) or (b), as the case may be, in relation to that person;

P represents the percentage for the year by which pensions are adjusted;

Q represents the number derived by adding together the following:

- (a) except when paragraph (b) applies—“1” (representing the quarter of the year during which the pension became payable);
- (b) if the pension became payable on the first day of a quarter, “0”;
- (c) the smaller of:
- (i) the number of whole quarters in that year that have occurred before the day on which the pension became payable; and
 - (ii) the number of whole quarters that have occurred since the exit day of the person to or in respect of whom the pension is payable and before the day on which the pension became payable.

SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS

(Sec. 5)

PART 1— GENERAL

Savings and transitional regulations

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

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of commencement of this Act or a later date.

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SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(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; 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.

**PART 2—TRANSITIONAL AND SAVINGS PROVISIONS
CONSEQUENT ON THE AMENDMENT BY THIS ACT OF THE
PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1971**

Definitions

2. In this Part:

- “**body corporate**” means the Trustees of the Parliamentary Contributory Superannuation Fund constituted as a body corporate under section 14A of the Principal Act, as inserted by this Act;
- “**custodian trustee**” means the custodian trustee constituted as a corporation sole under section 14 (3) of the Principal Act, as in force on 30 September 1991;
- “**managing trustees**” means the trustees (other than the custodian trustee) holding office as trustees under section 14 (1) of the principal Act, as in force on 30 September 1991;
- “**Principal Act**” means the Parliamentary Contributory Superannuation Act 1971.

Parliamentary Contributory Superannuation Fund

3. The Parliamentary Contributory Superannuation Fund referred to in section 5 of the principal Act, as in force on 1 October 1991, is the same Fund as that established under that section on 30 September 1991.

Trustees of the Fund

4. (1) The persons holding office as custodian trustee and as managing trustees on 30 September 1991 continue to hold office as trustees of the Parliamentary Contributory Superannuation Fund for the remainder of the terms for which they were originally appointed to hold that office, subject to the Principal Act (as amended by this Act).

(2) A reference in any Act (other than this Act and the Principal Act), in any instrument made under an Act or in any other document of any kind to the trustees of the Parliamentary Contributory Superannuation Fund is, on and after 1 October 1991, to be read as a reference to the body corporate.

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SCHEDULE 11—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

Decisions of the trustees

5. Any decisions of the management trustees or the custodian trustee made under the Principal Act are to be treated as decisions of the body corporate.

Assets of the Fund etc.

6. On 1 October 1991:

- (a) all property that, immediately before that date, was vested in the custodian trustee is taken to have vested in the body corporate; and
- (b) the body corporate is taken to have assumed responsibility for the custody of all securities and documents of title relating to the property of the Parliamentary Contributory Superannuation Fund; and
- (c) responsibility for the management of that Fund is vested in the body corporate; and
- (d) all money that, immediately before that date, was payable to the custodian trustee is taken to have become payable to the body corporate; and
- (e) any liquidated or unliquidated claim that, immediately before that date, was enforceable by or against the custodian trustee is taken to have become enforceable by or against the body corporate; and
- (f) any proceeding pending immediately before that date at the suit of or against the custodian trustee or the managing trustees is taken to have become a proceeding pending at the suit of or against the body corporate; and
- (g) any contract or an arrangement entered into with the custodian trustee or the managing trustees and in force immediately before that date is taken to have become a contract or arrangement entered into with the body corporate; and
- (h) any security or charge given to or by the custodian trustee and in force immediately before that date is taken to have become a security or charge given to or by the body corporate; and
- (i) any act, matter or thing done or omitted to be done before that date by, to or in respect of the custodian trustee or the managing trustees is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the body corporate.

PART 3—TRANSITIONAL PROVISION CONSEQUENT ON THE REPEAL BY THIS ACT OF PART 5 OF THE SUPERANNUATION ACT 1916

Closure of voluntary saving accounts etc.

7. (1) The State Authorities Superannuation Board is required, as soon as practicable after 1 January 1992:

- (a) to pay all money that is credited to an account under Part 5 of the Superannuation Act 1916, or a reserve referred to in section 5 (1) (c) of that Act, immediately before that date to the person to whose credit the money is held or, where appropriate, to that person's personal representatives; and
- (b) to close the account or reserve.

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SCHEDULE II—SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(2) In subclause (1), the reference to personal representatives includes a reference to a person referred to in section 88A (2) of the Superannuation Act 1916.

*[Minister's second reading speech made in—
Legislative Assembly on 17 October 1991
Legislative Council on 9 December 1991*