

Queensland



**SUPERANNUATION
LEGISLATION
AMENDMENT BILL 1993**

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**SUPERANNUATION LEGISLATION
AMENDMENT BILL 1993**

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1993

A BILL

FOR

An Act to amend certain Acts relating to superannuation

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

PART 1—PRELIMINARY

Short title

Clause1. This Act may be cited as the *Superannuation Legislation Amendment Act 1993*.

Commencement

Clause2.(1) Sections 3, 4, 11, 27, 34 and 35 are to taken to have commenced on 1 July 1992.

(2) Sections 12 and 28 are taken to have commenced on 1 January 1993.

(3) Sections 14, 20, 33, 38, 39 and 45 commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF PARLIAMENTARY CONTRIBUTORY SUPERANNUATION ACT 1970

Amended Act

Clause3. The *Parliamentary Contributory Superannuation Act 1970* is amended as set out in this Part.

Insertion of new s.25B

Clause4. After section 25A (in Part 3)—

insert—

| | |
|--|------------------|
| ‘Minimum benefit payable | 1 |
| ‘25B.(1) Despite any other provision of this Act, a person who ceases to be a member is entitled to the minimum benefit (if any) determined by an actuary approved by the trustees. | 2 3 4 |
| ‘(2) If it is necessary to meet the requirements of the <i>Occupational Superannuation Standards Act 1987</i> (Commonwealth), the whole or part of the minimum benefit is to be preserved under the conditions prescribed under that Act. | 5 6 7 8 |
| ‘(3) In this section— | 9 |
| “minimum benefit” means the amount of payment, pension or preserved benefit entitlement that is determined to avoid payment of the superannuation guarantee charge; | 10 11 12 |
| “superannuation guarantee charge” means the charge imposed by the <i>Superannuation Guarantee Charge Act 1992</i> (Commonwealth).’. | 13 14 |
| | |
| Replacement of s.36 (Regulations) | 15 |
| <i>Clause5.</i> Section 36— | 16 |
| <i>omit, insert—</i> | 17 |
| ‘Regulations | 18 |
| ‘36. The Governor in Council may make regulations for the purposes of this Act.’. | 19 20 |

PART 3—AMENDMENT OF POLICE SUPERANNUATION ACT 1968

| | |
|---|----------|
| Amended Act | 23 |
| <i>Clause6.</i> The <i>Police Superannuation Act 1968</i> is amended as set out in this Part. | 24 25 |

Amendment of s.22 (Commencement of contributions)**Clause 7.(1)** Section 22(9) and (10)—*omit, insert—*

‘(9) For the purposes of subsections (7) and (8), an amount of unpaid contribution or other payment includes interest on the amount calculated at the rate at which earnings would have accrued to the Fund had the amount been paid to the Fund.

‘(10) If a contribution or other payment payable by a contributor is unpaid (the “**unpaid amount**”), the Board may determine the rights of the contributor to benefits under this Act.

‘(10A) If the Board makes a determination under subsection (10), the Board must pay to the contributor an amount equal to the amount of all contributions (accumulated at the applicable rate) and other payments payable by the contributor under this Act to the day of determination less the unpaid amount and interest on the unpaid amount calculated at the rate at which earnings would have accrued to the Fund had the amount been paid to the Fund.’.

(2) After section 22(11)—

insert—

‘(12) In subsection (10A)—

“applicable rate” means—

- (a) in relation to a period ending on or before 22 April 1987—1.25% per year compound; or
- (b) in relation to a period starting on or after 23 April 1987 and ending on or before 30 June 1990—5% per year compound; or
- (c) in relation to a period starting on or after 1 July 1990—the net earning rate of the Fund compound.’.

Amendment of s.30 (Period for which contributions are to continue)**Clause 8.(1)** Section 30(1A)—*omit* all words from ‘Fund in respect of’,*insert* ‘Consolidated Fund for the period, an amount determined by the

| | |
|---|----|
| Treasurer.’. | 1 |
| (2) Section 30(1B)— | 2 |
| <i>omit</i> ‘Fund pursuant to’, <i>insert</i> ‘Consolidated Fund under’. | 3 |
| (3) Section 30(1B)(b)— | 4 |
| <i>omit</i> ‘Fund’, <i>insert</i> ‘Consolidated Fund’. | 5 |
| (4) Section 30(1C)— | 6 |
| <i>omit</i> ‘Fund’, <i>insert</i> ‘Consolidated Fund’. | 7 |
| | |
| Amendment of s.64 (Pension to widow or child for ex-member dying after Act commences) | 8 |
| | 9 |
| <i>Clause 9.</i> Section 64(6)— | 10 |
| <i>omit</i> ‘the first day of July, one thousand nine hundred and sixty-one’, | 11 |
| <i>insert</i> ‘1 April 1959’. | 12 |
| | |
| Omission of s.82 (Publication of regulations, etc.) | 13 |
| <i>Clause 10.</i> Section 82— | 14 |
| <i>omit.</i> | 15 |
| | |
| PART 4—AMENDMENT OF POLICE SUPERANNUATION ACT 1974 | 16 |
| | 17 |
| | |
| Amended Act | 18 |
| <i>Clause 11.</i> The <i>Police Superannuation Act 1974</i> is amended as set out in this Part. | 19 |
| | 20 |
| | |
| Insertion of new s.3B | 21 |
| <i>Clause 12.</i> After section 3A— | 22 |

| | |
|---|----|
| <i>insert—</i> | 1 |
| ‘Act not to apply to certain members | 2 |
| ‘3B. Despite section 3, a member may become a contributor on and after | 3 |
| 1 January 1993 only if the member makes an election under | 4 |
| section 33(2B).’. | 5 |
| | |
| Amendment of s.4 (Interpretation) | 6 |
| <i>Clause 13.</i> Section 4(7)— | 7 |
| <i>omit</i> ‘on leave of absence’, <i>insert</i> ‘absent from duty’. | 8 |
| | |
| Replacement of s.6 (Police Superannuation Board) | 9 |
| <i>Clause 14.</i> Section 6— | 10 |
| <i>omit, insert—</i> | 11 |
| ‘Police Superannuation Board | 12 |
| ‘6.(1) There is established the Police Superannuation Board. | 13 |
| ‘(2) The Board consists of the following 4 members— | 14 |
| (a) the Commissioner of the Police Service; | 15 |
| (b) 1 person as representative of the Government; | 16 |
| (c) 2 persons as representatives of police officers. | 17 |
| ‘(3) The members of the Board mentioned in subsection (2)(b) and (c) | 18 |
| (the “appointed members”) are to be appointed by the Governor in | 19 |
| Council by Gazette notice. | 20 |
| ‘(4) The persons mentioned in subsection (2)(c) are to be nominated by 1 | 21 |
| or more industrial unions of employees accepted by the Minister as | 22 |
| representative of police officers within the time and in the way determined | 23 |
| by the Minister. | 24 |
| ‘(5) However, if an industrial union of employees fails to make a | 25 |
| nomination within the time and in the way determined by the Minister, the | 26 |
| Governor in Council may choose a person for appointment. | 27 |
| ‘(6) An appointment as a member of the Board is for a maximum term | 28 |
| of 3 years.’. | 29 |

| | |
|--|----------------------|
| Replacement of s.8 (Chairman of the Board) | 1 |
| <i>Clause 15.</i> Section 8— | 2 |
| <i>omit, insert—</i> | 3 |
| ‘Chairperson of Board | 4 |
| ‘8. The member of the Board mentioned in section 6(2)(a) is the chairperson of the Board.’. | 5 6 |
| Omission of s.9 (Filling of casual vacancies) | 7 |
| <i>Clause 16.</i> Section 9— | 8 |
| <i>omit.</i> | 9 |
| Replacement of s.10 (Temporary appointments) | 10 |
| <i>Clause 17.</i> Section 10— | 11 |
| <i>omit, insert—</i> | 12 |
| ‘Deputies of members | 13 |
| ‘10.(1) The Governor in Council may, by Gazette notice, appoint a person who is not a member of the Board to be a deputy of a member of the Board. | 14 15 16 |
| ‘(2) The appointment of a deputy for a member mentioned in section 6(2)(c) is to be made on the nomination of 1 or more of the industrial unions of employees accepted by the Minister as representative of police officers. | 17 18 19 20 |
| ‘(3) A person who has been appointed a deputy of a member may, in the absence of the member— | 21 22 |
| (a) attend meetings of the Board; and | 23 |
| (b) exercise the powers of a member. | 24 |
| ‘(4) This Act applies to the deputy of a member while acting under subsection (3) as if the deputy were the member.’. | 25 26 |

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|--|----|
| Amendment of s.11 (Vacation of office) | 1 |
| <i>Clause 18.(1)</i> Section 11— | 2 |
| <i>omit</i> ‘Police Force’, <i>insert</i> ‘Police Service’. | 3 |
| (2) Section 11(1)(g)— | 4 |
| <i>omit, insert</i> — | 5 |
| ‘(g) is removed from office by the Governor in Council by Gazette notice for any reason or none.’. | 6 |
| | 7 |
| | |
| Amendment of s.14 (Proceedings of the Board) | 8 |
| <i>Clause 19.</i> Section 14(4) to (6)— | 9 |
| <i>omit, insert</i> — | 10 |
| ‘ (4) If the chairperson is absent from a meeting, the chairperson’s deputy is to preside. | 11 |
| | 12 |
| ‘ (5) If both the chairperson and the chairperson’s deputy are absent from a meeting, a member chosen by the members present is to preside. | 13 |
| | 14 |
| ‘ (6) The person presiding at a meeting has a deliberative vote only and, in the event of an equality of votes on any matter, the question is taken to have been decided in the negative.’. | 15 |
| | 16 |
| | 17 |
| | |
| Replacement of s.15 (Delegation) | 18 |
| <i>Clause 20.</i> Section 15— | 19 |
| <i>omit, insert</i> — | 20 |
| ‘Delegation | 21 |
| ‘15. The Board may delegate its powers under this Act or the 1968 Act to— | 22 |
| | 23 |
| (a) a member or officer of the Board; or | 24 |
| (b) an officer of the public service.’. | 25 |

| | |
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| Omission of s.20 (Disposal of surplus disclosed by investigation) | 1 |
| <i>Clause21.</i> Section 20— | 2 |
| <i>omit.</i> | 3 |
| | |
| Amendment of s.21 (Obligation of members to contribute to the Fund) | 4 |
| | 5 |
| <i>Clause22.(1)</i> Section 21 (heading)— | 6 |
| <i>omit ‘Fund’, insert ‘Fund and Consolidated Fund’.</i> | 7 |
| (2) Section 21(3A)— | 8 |
| <i>omit</i> all words from ‘Fund in respect of’, | 9 |
| <i>insert</i> ‘Consolidated Fund for the period, an amount determined by the Treasurer.’. | 10 |
| | 11 |
| (3) Section 21(3B)— | 12 |
| <i>omit</i> ‘Fund pursuant to’, <i>insert</i> ‘Consolidated Fund under’. | 13 |
| (4) Section 21(3B)(b)— | 14 |
| <i>omit</i> ‘Fund’, <i>insert</i> ‘Consolidated Fund’. | 15 |
| (5) Section 21(3C)— | 16 |
| <i>omit</i> ‘Fund’, <i>insert</i> ‘Consolidated Fund’. | 17 |
| | |
| Amendment of s.23 (Time and manner of paying contributions) | 18 |
| <i>Clause23.(1)</i> Section 23(2A)— | 19 |
| <i>omit</i> ‘Fund’ (2nd mention), <i>insert</i> ‘Consolidated Fund’. | 20 |
| (2) Section 23(2A)(a) (after ‘Fund’)— | 21 |
| <i>insert</i> ‘and the Consolidated Fund’. | 22 |
| (3) Section 23(6) and (7)— | 23 |
| <i>omit, insert—</i> | 24 |
| (6) For the purposes of subsections (4) and (5), an amount of unpaid contribution or other payment includes interest on the amount calculated at the rate at which earnings would have accrued to the Fund had the amount | 25 |
| | 26 |
| | 27 |

been paid to the Fund. 1

‘(7) If a contribution or other payment payable by a contributor is unpaid 2
(the “unpaid amount”), the Board may determine the rights of the 3
contributor to benefits under this Act. 4

‘(7A) If the Board makes a determination under subsection (7), the 5
Board must pay to the contributor an amount equal to the amount of all 6
contributions and other payments payable by the contributor under this Act 7
to the day of determination (accumulated on and after 27 February 1984 at 8
the applicable rate) less the unpaid amount and interest on the unpaid 9
amount calculated at the rate at which earnings would have accrued to the 10
Fund had the amount been paid to the Fund. 11

‘(7B) However, the Board may waive the taking into account of interest 12
on the unpaid amount in whole or part.’. 13

(4) After section 23(8)— 14

insert— 15

‘(9) In subsection (7A)— 16

“applicable rate” means— 17

(a) in relation to a period starting on or after 27 February 1984 and 18
ending on or before 30 June 1990—5% per year compound; or 19

(b) in relation to a period starting on or after 1 July 1990—the net 20
earning rate of the Fund compound.’. 21

Amendment of s.24 (Rates of contribution) 22

Clause 24.(1) Section 24(1) to (3)— 23

omit, insert— 24

‘24.(1) The amount of the contributions payable by a continuing 25
contributor (other than a member to whom subsection (3) applies) is the 26
prescribed percentage of the amount by which the contributor’s applicable 27
current salary exceeds the contributor’s applicable initial salary. 28

‘(2) The amount of the contributions payable by a contributor (other than 29
a contributor to whom subsection (3) applies) who— 30

(a) became a member on or after the commencement; or 31

-
- (b) is a member to whom subsection (3)(b) applies; 1
is the prescribed percentage of the contributor’s applicable current salary. 2
- ‘(3) The amount of the contributions payable by a contributor who— 3
- (a) becomes a member on or after the commencement; and 4
- (b) immediately before becoming a member was in receipt of, or 5
eligible to receive, an incapacity pension under this Act, incapacity 6
benefit under the 1968 Act or superannuation allowance 7
preserved and continued by the 1968 Act; 8
- is the prescribed percentage of— 9
- (c) if the contributor was a contributor to whom subsection (2) 10
applied before the contributor was retired on the grounds of 11
incapacity—the contributor’s applicable current salary; or 12
- (d) in any other case—the amount by which the contributor’s 13
applicable current salary exceeds the contributor’s applicable 14
initial salary. 15
- ‘(3A) Contributions payable under subsections (1), (2) and (3) are 16
payable— 17
- (a) periodically; and 18
- (b) in addition to any contributions payable to the Fund under the 19
1968 Act.’. 20
- (2) Section 24(10)— 21
omit ‘Where’, insert ‘Despite subsections (1), (2) and (3), if’. 22
- (3) After section 24(11)— 23
insert— 24
- ‘(12) In this section— 25
- “applicable current salary” of a contributor means the contributor’s 26
applicable starting salary varied, in the first full fortnightly pay period 27
in November of each year (the “adjustment year”), to the 28
contributor’s salary at 1 October in the adjustment year if the 29
contributor was a contributor on that day; 30
- “applicable initial salary” of a contributor means— 31

| | |
|--|----------------------|
| (a) in relation to a contributor mentioned in subsection (1)—the contributor’s salary at the commencement; or | 1 2 |
| (b) in relation to a contributor mentioned in subsection (3)—the contributor’s salary at the time the contributor was retired; | 3 4 |
| “applicable starting salary” of a contributor means the contributor’s salary at— | 5 6 |
| (a) 30 June 1993; or | 7 |
| (b) if the contributor starts to contribute under this Act after 30 June 1993—the day on which the contributor starts to contribute; | 8 9 |
| “commencement” means the commencement of this Act; | 10 |
| “prescribed percentage” means the percentage prescribed under section 25(4).’. | 11 12 |
| | |
| Amendment of s.25 (Further provisions re contributions) | 13 |
| <i>Clause 25.(1)</i> Section 25(3)— | 14 |
| <i>omit, insert—</i> | 15 |
| ‘(3) If the salary of a contributor is varied, then, for the purpose of calculating under section 24 the amount of contribution payable by the contributor, the salary as varied is the contributor’s salary on and from the day the variation takes or took effect.’. | 16 17 18 19 |
| (2) Section 25(4) and (5)— | 20 |
| <i>omit ‘rate’, insert ‘percentage’.</i> | 21 |
| | |
| Amendment of s.28A (Construction of pension benefit formula in certain cases and transfer of funds) | 22 23 |
| <i>Clause 26.</i> Section 28A(3) (after ‘Fund’)— | 24 |
| <i>insert ‘and the Consolidated Fund in the proportion 2:5’.</i> | 25 |
| | |
| Insertion of new s.28B | 26 |
| <i>Clause 27.</i> After section 28A— | 27 |

| | |
|--|--------------------|
| <i>insert—</i> | 1 |
| ‘Minimum benefit payable | 2 |
| ‘28B.(1) A person who ceases to be a contributor is entitled to the minimum benefit (if any) determined by the Actuary. | 3 4 |
| ‘(2) If the person is also entitled to benefits under the <i>Superannuation (Government and Other Employees) Act 1988</i> , the minimum benefit is to be determined taking into account the person’s benefits under that Act. | 5 6 7 |
| ‘(3) If it is necessary to meet the requirements of the <i>Occupational Superannuation Standards Act 1987</i> (Commonwealth), the whole or part of the minimum benefit is to be preserved under the conditions prescribed under that Act. | 8 9 10 11 |
| ‘(4) Subsection (1) applies despite any other provision of this Act. | 12 |
| ‘(5) In this section— | 13 |
| “minimum benefit” means the amount of payment, pension or preserved benefit entitlement that is determined to avoid payment of the superannuation guarantee charge; | 14 15 16 |
| “superannuation guarantee charge” means the charge imposed by the <i>Superannuation Guarantee Charge Act 1992</i> (Commonwealth).’. | 17 18 |
| Amendment of s.33 (Refund of contributions) | 19 |
| <i>Clause 28.(1)</i> Section 33(2B)— | 20 |
| <i>omit</i> all words from ‘Where’ to ‘on his account’ (1st mention), | 21 |
| <i>insert</i> ‘If a person who has made an election under subsection (2) again becomes a member and elects under this subsection to again become a contributor within 3 months of again becoming a member,’. | 22 23 24 |
| (2) After section 33(2B)— | 25 |
| <i>insert—</i> | 26 |
| ‘(2BA) The <i>Superannuation (State Public Sector) Act 1990</i> does not apply to a person who makes an election under subsection (2B). | 27 28 |
| ‘(2BB) If a person who has made an election under subsection (2)— | 29 |
| (a) again becomes a member; and | 30 |

(b) does not make an election under subsection (2B); 1
the prescribed amount is to be applied in obtaining benefits for the person 2
under the scheme established under the *Superannuation (State Public* 3
Sector) Act 1990.’ 4

(3) Section 33(2C)— 5
omit ‘and (2B)’, insert ‘, (2B) and (2BB)’ 6

(4) Section 33 (after subsection (2D))— 7
insert— 8

‘(2E) For the purposes of subsections (1) and (2D), a contributor who, 9
before the commencement of this subsection, had made a payment under 10
section 21(3A) of this Act or section 30(1A) of the 1968 Act to the Fund, is 11
taken to have made the payment to the Consolidated Fund.’ 12

Amendment of s.48 (Cost of Administration) 13

Clause 29. Section 48— 14
omit all words from ‘Consolidated Revenue Fund’, 15
insert ‘Fund and the Consolidated Fund in the proportion 2:5.’ 16

Amendment of s.49 (Amount of contribution by the Crown) 17

Clause 30. Section 49(1C)— 18
omit, insert— 19

‘(1C) Despite subsection (1), the Treasurer must pay to the Fund the 20
amount of each payment made out of the Fund under section 33(1) or (2D) 21
that is a refund of additional payments made by a contributor under— 22

(a) section 21(3A); or 23

(b) section 30(1A) of the 1968 Act.’ 24

Replacement of s.65 (Certain payments to be without interest) 25

Clause 31. Section 65— 26
omit, insert— 27

| | |
|---|----------|
| ‘No interest on certain payments | 1 |
| ‘65.(1) Interest is payable on a lump sum payment made out of the Fund only if— | 2 3 |
| (a) the payment of interest on the payment is authorised by this Act; | 4 |
| or | 5 |
| (b) the Board determines that interest is payable on the payment. | 6 |
| ‘(2) If the Board makes a determination under subsection (1)(b), the Board must also determine the rate of interest.’. | 7 8 |
| | |
| Replacement of Part 7 heading (Part 7—Application of Police Superannuation Act 1968-1971) | 9 10 |
| <i>Clause32.</i> Part 7 (heading)— | 11 |
| <i>omit, insert—</i> | 12 |
| ‘PART 7—SAVINGS AND TRANSITIONAL’. | 13 |
| | |
| Replacement of s.70 (Amendment of No. 58 of 1968) | 14 |
| <i>Clause33.</i> Section 70— | 15 |
| <i>omit, insert—</i> | 16 |
| ‘Members of Board cease to hold office | 17 |
| ‘70. The members of the Board holding office immediately before the commencement of this section cease to hold office on the commencement.’. | 18 19 |
| | |
| PART 5—AMENDMENT OF STATE SERVICE SUPERANNUATION ACT 1972 | 20 21 |
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| Amended Act | 22 |
| <i>Clause34.</i> The <i>State Service Superannuation Act 1972</i> is amended as set out in this Part. | 23 24 |

| | |
|--|----------------------|
| Insertion of new s.30E | 1 |
| <i>Clause 35.</i> After section 30D— | 2 |
| <i>insert—</i> | 3 |
| ‘Minimum benefit payable | 4 |
| ‘30E.(1) A person who ceases to be a contributor is entitled to the minimum benefit (if any) determined by the Actuary. | 5 6 |
| ‘(2) If the person is also entitled to benefits under the <i>Superannuation (Government and Other Employees) Act 1988</i> , the minimum benefit is to be determined taking into account the person’s benefits under that Act. | 7 8 9 |
| ‘(3) If it is necessary to meet the requirements of the <i>Occupational Superannuation Standards Act 1987</i> (Commonwealth), the whole or part of the minimum benefit is to be preserved under the conditions prescribed under that Act. | 10 11 12 13 |
| ‘(4) Subsection (1) applies despite any other provision of this Act. | 14 |
| ‘(5) In this section— | 15 |
| “minimum benefit” means the amount of payment, pension or preserved benefit entitlement that is determined to avoid payment of the superannuation guarantee charge; | 16 17 18 |
| “superannuation guarantee charge” means the charge imposed by the <i>Superannuation Guarantee Charge Act 1992</i> (Commonwealth).’. | 19 20 |
| | |
| Amendment of s.35 (Refund of contributions) | 21 |
| <i>Clause 36.(1)</i> Section 35(2B)— | 22 |
| <i>omit</i> all words from ‘Where’ to ‘again becomes a contributor’, | 23 |
| <i>insert</i> ‘If a person who has made an election under subsection (2) again becomes an officer and elects under this subsection to again become a contributor within 3 months of again becoming an officer,’. | 24 25 26 |
| (2) Section 35(2BA)— | 27 |
| <i>omit, insert—</i> | 28 |
| ‘(2BA) The <i>Superannuation (State Public Sector) Act 1990</i> does not apply to a person who makes an election under subsection (2B). | 29 30 |

| | |
|---|----|
| ‘(2BB) If a person who has made an election under subsection (2)— | 1 |
| (a) again becomes an officer; and | 2 |
| (b) does not make an election under subsection (2B); | 3 |
| the prescribed amount is to be applied in obtaining benefits for the person | 4 |
| under the scheme established under the <i>Superannuation (State Public</i> | 5 |
| <i>Sector) Act 1990.</i> ’. | 6 |
| (3) Section 35(2C)— | 7 |
| omit ‘(2BA)’, insert ‘(2BB)’. | 8 |
| | |
| Replacement of s.69 (Certain payments to be without interest) | 9 |
| <i>Clause37.</i> Section 69— | 10 |
| omit, insert— | 11 |
| ‘No interest on certain payments | 12 |
| ‘69.(1) Interest is payable on a lump sum payment made out of the Fund | 13 |
| only if— | 14 |
| (a) the payment of interest on the payment is authorised by this Act; | 15 |
| or | 16 |
| (b) the Board determines that interest is payable on the payment. | 17 |
| ‘(2) If the Board makes a determination under subsection (1)(b), the | 18 |
| Board must also determine the rate of interest.’. | 19 |
| | |
| Minor amendments | 20 |
| <i>Clause38.</i> The <i>State Service Superannuation Act 1972</i> is further amended as | 21 |
| set out in Schedule 1. | 22 |

**PART 6—AMENDMENT OF SUPERANNUATION
(GOVERNMENT AND OTHER EMPLOYEES) ACT
1988**

Amended Act

Clause 39. The *Superannuation (Government and Other Employees) Act 1988* is amended as set out in Schedule 2.

**PART 7—AMENDMENT OF SUPERANNUATION
(PUBLIC EMPLOYEES PORTABILITY AND ACTS
AMENDMENT) ACT 1985**

Amended Act

Clause 40. The *Superannuation (Public Employees Portability and Acts Amendment) Act 1985* is amended as set out in this Part.

Amendment of s.4 (Meaning of terms)

Clause 41.(1) Section 4(1) (definitions “**eligible officer**” and “**Minister**”)—
omit.

(2) Section 4(1) (definition “**approved superannuation scheme**”, paragraph (d))—

omit ‘Order in Council’, *insert* ‘regulation’.

(3) Section 4(1)—

insert—

‘ “**eligible officer**” means an employee in public employment who is contributing to an approved or eligible superannuation scheme;’.

(4) Section 4(2)—

omit, insert—

| | |
|--|----------------------|
| ‘(2) Without limiting paragraph (c) of the definition “public employment”, a person or authority (whether corporate or unincorporate) may be treated as discharging a public function if— | 1 2 3 |
| (a) the person or authority is financed for the purpose of discharging any function in whole or substantial part (whether directly or indirectly) by the Commonwealth or a State or Territory; or | 4 5 6 |
| (b) in the case of the person or authority being a corporation—the Commonwealth or a State or Territory has a controlling interest in the corporation.’. | 7 8 9 |
| Amendment of s.6 (Election to forgo benefit other than that prescribed by this Part) | 10 11 |
| <i>Clause42.</i> Section 6(2)— | 12 |
| <i>omit</i> ‘Order in Council’, <i>insert</i> ‘regulation’. | 13 |
| Amendment of s.12 (Declaration of eligible superannuation schemes) | 14 |
| <i>Clause43.(1)</i> Section 12— | 15 |
| <i>omit</i> ‘notification published in the Gazette’, <i>insert</i> ‘written notice’. | 16 |
| (2) Section 12(c)— | 17 |
| <i>omit, insert</i> — | 18 |
| ‘(c) in relation to a contributor to the scheme who voluntarily resigns employment— | 19 20 |
| (i) the payment to another approved or eligible superannuation scheme of a transfer value; or | 21 22 |
| (ii) the maintenance within the scheme of a deferred benefit (subsidised by the person or authority that was the employer of the contributor before the contributor’s resignation) in relation to the contributor’s entitlements under the scheme.’. | 23 24 25 26 |
| (3) Section 12 (at the end)— | 27 |
| <i>insert</i> — | 28 |
| ‘(2) A notice under subsection (1) is subordinate legislation.’. | 29 |

| | |
|---|--------------|
| Replacement of s.13 (Regulations) | 1 |
| <i>Clause44.</i> Section 13— | 2 |
| <i>omit, insert—</i> | 3 |
| ‘Regulations | 4 |
| ‘13. The Governor in Council may make regulations for the purposes of this Act. | 5 6 |
| ‘Saving of existing orders in council | 7 |
| ‘13A. An order in council in force under this Act immediately before the commencement of this section continues to have effect after the commencement and is taken to be a regulation.’. | 8 9 10 |
| | |
| PART 8—AMENDMENT OF SUPERANNUATION (STATE PUBLIC SECTOR) ACT 1990 | 11 12 |
| | |
| Amended Act | 13 |
| <i>Clause45.</i> The <i>Superannuation (State Public Sector) Act 1990</i> is amended as set out in Schedule 3. | 14 15 |

SCHEDULE 1**MINOR AMENDMENTS OF STATE SERVICE
SUPERANNUATION ACT 1972**

section 38

1. Section 3B(1)—*omit* ‘Order in Council’, *insert* ‘regulation’.**2. Section 3B(2)—***omit* ‘An Order in Council made under subsection (1)’,
insert ‘The regulation’.**3. Section 3B(5)—***omit* ‘specified in an Order in Council made under subsection (1)’,
insert ‘prescribed by regulation’.**4. Section 3C(1)—***omit* ‘Order in Council’, *insert* ‘regulation’.**5. Section 3C(2)—***omit* ‘An Order in Council made under subsection (1)’,
insert ‘The regulation’.**6. Section 4(1) (definition “officer”, paragraph (a))—***omit* all words from ‘, or in an office’ to ‘of section 20’,
insert ‘prescribed by regulation for the purposes of section 20(10)’.

SCHEDULE 1 (continued)

- 7. Section 4(1) (definition “officer”, paragraph (da))—** 1
omit ‘pursuant to an Order in Council made under’, 2
insert ‘under a regulation made for the purposes of’. 3
- 8. Section 4(1) (definition “officer”, paragraph (db))—** 4
omit, insert— 5
‘(db)a person approved by regulation for the purposes of this 6
paragraph;’. 7
- 9. Section 4(1) (definition “officer”, paragraph (g))—** 8
omit, insert— 9
‘(g) a person excepted from this Act by regulation;’. 10
- 10. Section 20(8) (2nd sentence)—** 11
omit, insert— 12
‘(8A) The Governor in Council may, by regulation, exempt a person 13
from the operation of subsection (8).’. 14
- 11. Section 20(10)—** 15
omit all words from ‘from time to time’ to ‘Order in Council’ 16
(2nd mention), 17
insert ‘by regulation, declare that persons employed full-time in a 18
permanent capacity by a University established under an Act, in the offices 19
specified in the regulation,’. 20
- 12. Section 20(11)—** 21
omit all words from ‘an Order in Council’ to ‘publication of the Order in 22
Council’, 23

SCHEDULE 1 (continued)

| | |
|---|----------------|
| <i>insert</i> ‘a regulation made for the purposes of subsection (10) applies, may within 3 months from the day of commencement of the regulation or, if the person became so employed after the day of commencement’. | 1 2 3 |
| 13. Section 20(12)— | 4 |
| <i>omit</i> ‘, or class or classes of offices, specified in an Order in Council made under’, | 5 6 |
| <i>insert</i> ‘specified in a regulation made for the purposes of’. | 7 |
| 14. Section 20(13)— | 8 |
| <i>omit</i> . | 9 |
| 15. Section 52(2)(b)— | 10 |
| <i>omit</i> ‘Order in Council’, <i>insert</i> ‘regulation’. | 11 |
| 16. Section 70(1) (penalty)— | 12 |
| <i>omit, insert—</i> | 13 |
| ‘Maximum penalty—2 penalty units.’. | 14 |
| 17. Section 74— | 15 |
| <i>omit, insert—</i> | 16 |
| ‘PART 8—SAVINGS AND TRANSITIONAL | 17 |
| ‘Saving of existing orders in council | 18 |
| ‘74. An order in council in force under this Act immediately before the commencement of this section continues to have effect after the commencement and is taken to be a regulation.’. | 19 20 21 |

SCHEDULE 1 (continued)

18. Schedule 2—

omit.

1

2

SCHEDULE 2**MINOR AMENDMENTS OF SUPERANNUATION
(GOVERNMENT AND OTHER EMPLOYEES) ACT
1988**

section 39

1. Section 12—*omit, insert—***‘Delegation by Board****‘12.** The Board may delegate its powers under this Act—

- (a) to a member or officer of the Board; or
- (b) an officer of the public service.’.

2. Section 32—*omit, insert—***‘Regulations****‘32.** The Governor in Council may make regulations for the purposes of this Act.’.**3. Section 33(2)—***omit, insert—***‘(2)** The Articles are subordinate legislation.’.**4. Section 34—***omit, insert—*

SCHEDULE 2 (continued)

| | |
|---|--------------|
| ‘Amendment of Articles | 1 |
| ‘34.(1) The Articles may be amended by the Board. | 2 |
| ‘(2) An amendment of the Articles is of no effect until approved by a regulation that sets out the amendment.’. | 3 4 |
| 5. After section 36— | 5 |
| <i>insert—</i> | 6 |
| ‘Saving of existing orders in council | 7 |
| ‘37. An order in council in force under section 33 or 34 immediately before the commencement of this subsection continues to have effect after the commencement and is taken to be a regulation.’. | 8 9 10 |

SCHEDULE 3**MINOR AMENDMENTS OF SUPERANNUATION
(STATE PUBLIC SECTOR) ACT 1990**

section 45

**1. Section 1.3(1) (definition “unit of the State Public Sector”,
paragraphs (r) and (u))—***omit* ‘Order in Council’, *insert* ‘regulation’.**2. Section 1.3(2)—***omit.***3. Section 2.3—***omit, insert—***‘Delegation by Board****‘2.3** The Board may delegate its powers under this Act—

(a) to a Board member or an officer of the Board; or

(b) an officer of the public service.’.

4. Section 3.3(2) and (3)—*omit, insert—***‘(2)** The Deed—

(a) is subordinate legislation; and

(b) may be amended by the Board.

‘(3) An amendment of the Deed is of no effect until approved by a regulation that sets out the amendment.’.

SCHEDULE 3 (continued)

| | |
|---|----|
| 5. Section 3.4(1)— | 1 |
| <i>omit</i> ‘Order in Council’, <i>insert</i> ‘regulation’. | 2 |
| 6. Section 3.4(2)— | 3 |
| <i>omit</i> ‘Order in Council’, <i>insert</i> ‘regulation’. | 4 |
| 7. Section 3.4(3)— | 5 |
| <i>omit</i> ‘An Order in Council made under’, | 6 |
| <i>insert</i> ‘A regulation made for the purposes of’. | 7 |
| 8. Section 3.4(4)— | 8 |
| <i>omit</i> ‘Order in Council’, <i>insert</i> ‘regulation’. | 9 |
| 9. Section 3.4(5)— | 10 |
| <i>omit</i> ‘an Order in Council be made under’, | 11 |
| <i>insert</i> ‘a regulation be made for the purposes of’. | 12 |
| 10. Section 4.16— | 13 |
| <i>omit, insert—</i> | 14 |
| ‘Regulations | 15 |
| ‘4.16 The Governor in Council may make regulations for the purposes | 16 |
| of this Act. | 17 |
| ‘Saving of existing orders in council | 18 |
| ‘4.17 An order in council in force under this Act immediately before the | 19 |
| commencement of this subsection continues to have effect after the | 20 |
| commencement and is taken to be a regulation.’. | 21 |
| | 22 |

SCHEDULE 3 (continued)