

Superannuation Acts (General Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purpose of the Act.

Clause 2 contains the commencement date for each section of the Act.

PART 2—AMENDMENT OF HOSPITALS SUPERANNUATION ACT 1988

Clause 3 inserts an additional condition to be eligible for membership of HOSFUND which is that the employer has or will have an obligation to meet the Superannuation Guarantee shortfall on behalf of the employee.

Clause 4 provides the Board with the discretion to grant disability and death benefits cover for casual employees who are members of HOSFUND and to make consequential amendments to section 40F of the **Hospitals Superannuation Act 1988** regarding disability and death cover if the Board decides to offer it to this class of member. In making its decision on this matter the Board must consider the cost of the cover, interests of all members of HOSFUND and the provisions of the Commonwealth Sex Discrimination Act 1984. It also empowers the Board, should they decide not to grant disability and death cover in the first instance, to subsequently determine to provide disability and death benefits cover.

PART 3—AMENDMENT OF LOCAL AUTHORITIES SUPERANNUATION ACT 1988

Clause 5 includes the City of Melbourne in the definition of “Authority” and repeals a current provision.

Clause 6 inserts a new definition of “Director” and repeals the definition of “member” in section 3 (1) of the **Local Authorities Superannuation Act 1988** to reduce ambiguity caused by references to member in Part 7B of that Act.

Clause 7 empowers the Board to engage or enter into an agreement or arrangement with any other person in relation to the administration of the Fund. It also increases the composition of the Board from 5 to 6 by adding an additional employee representative to meet the requirement of the Commonwealth superannuation law. The additional Director will be elected by current members of the scheme. All persons who transferred from the City of Melbourne Superannuation Fund and the Melbourne Water Corporation Employees Superannuation Fund into the Local Authorities Superannuation Fund together with contributors to the Fund and members of LASPLAN are eligible to vote in any election for an elected Director.

A new standard set of provisions is also provided for titles, selection, term of office, appointment, vacancies and removal of Directors. Transitional arrangements are provided to allow the current Board members to continue to operate under their current method of employment until their term expires.

Clause 8 is a consequential amendment arising from the change of title from “member” to “Director”.

Clause 9 replaces the process of determination of disability by the Board. A new provision is inserted about the action a person can take if aggrieved by a decision made by the Board. Any dispute must first be determined by the Board and if still not satisfied, any person aggrieved by the decision of the Board can ask for a review by the Administrative Appeals Tribunal.

Clause 10 enables a contributor, with the introduction of variable employee contribution rates, to make an election (annually) on the rate of his/her contribution, up to 7.5 per cent of salary. Where no election is made, the contributor is deemed to have elected to contribute 6 per cent of salary. For the period of service beginning at 1 July 1995, the average rate of contribution by a contributor cannot exceed 6 per cent of salary.

Clause 11 empowers the Board to set a separate rate of contribution, on the advice of an actuary appointed by the Board, for an employing Authority declared by the Minister.

Clause 12 is consequential to the changes in clause 10 replacing an existing condition of when a member ceases to be a contributor, from years of service to when that contributor reaches his/her maximum benefit limit. This is necessary due to the introduction of variable employee contribution rates.

Clause 13 inserts a provision for the Board to ensure that any Authority specified under clause 11 has a separate notional account, so that the assets and liabilities attributable to that Authority can be identified for the purposes of assessing its actuarial surplus or deficit and for the actuary to recommend amounts or rates to be charged to that Authority. It also provides the capacity for the Board to establish and maintain a separate account for an Authority if one requests the Board to do so.

Clause 14 changes benefit accrual rates for the period after 1 July 1993 as a result of the determination under section 50c (2) of the **Local Authorities Superannuation Act 1988** and introduces new retirement benefit accrual rates where the employee’s contribution is not 6 per cent. As a result of the determination of section 50c (2) of the **Local Authorities Superannuation Act 1988**, a new formula for calculating accrued retirement benefit is inserted and the existing method for calculating death benefit is retained.

Clause 15 inserts new rates to calculate a person’s resignation benefit as a result of the determination under section 50c (2) of the **Local Authorities Superannuation Act 1988** and inserts other rates to cater for the introduction of variable employee contribution rates.

Clause 16 repeals an out of date provision which relates to assignment of benefits.

Clause 17 repeals the Part that contains separate arrangements for casual employees as both existing and new casual employees become members of LASPLAN, the accumulation scheme established under Part 7B of the **Local Authorities Superannuation Act 1988**.

Clause 18 provides the mechanism to bring casual employees across to LASPLAN and requires the Board to establish a separate account for each casual employee who is not already a member of LASPLAN to cover their benefits up to the date of joining

LASPLAN. If a person already has accounts under both 7A and & of the **Local Authorities Superannuation Act 1988**, they will be combined into a single account under 7B.

Clause 19 inserts an additional condition to be eligible for membership of LASPLAN which is that the employer has or will have an obligation to make Superannuation Guarantee contributions on behalf of the employee.

Clause 20 provides the Board with the discretion to grant disability and death benefits cover for casual employees who are members of LASPLAN and to make consequential amendments to the Local Authorities Superannuation Act 1988 regarding disability and death cover if the Board decides to offer it to this class of member. In making its decision on this matter the Board must consider the cost of the cover, the interests of all members of LASPLAN and the provisions of the Commonwealth Sex Discrimination Act 1984. It also empowers the Board, should they decide not to grant disability and death cover in the first instance, to subsequently determine to provide disability and death benefits cover.

Clause 21 repeals three outdated provisions relating to medical issues, benefits in general and recovery of money owed to the Board.

Clause 22 inserts modern, standard versions of a number of general provisions relating to the assignment of benefits, payment of benefits to a person deemed to be incapable of managing his or her affairs and recovery of money owed to the Board.

Clause 23 inserts a number of new provisions, as follows—

Sections 53F relates to the transfer of all the members, assets and liabilities of the City of Melbourne Superannuation Fund (CofMSF) and its cessation as a Fund. It also provides for the members of the former CofMSF to go into the Local Authorities Superannuation Fund as a separate class, with continuing coverage under the governing rules of the former CofMSF for all their superannuation rights and benefits.

It also contains a provision conferring on the Board the same powers as the trustees of the former CofMSF had by or under the governing rules of that Fund in relation to members transferred to the Local Authorities Superannuation Fund.

The requirement for agreement to be reached between the Board and the City of Melbourne on the unfunded liability of the former CofMSF and the payments to be made by the City of Melbourne to eliminate any unfunded liability is also covered under these new provisions. Where agreement cannot be reached, the Minister has the power to intervene and determine the matter.

Section 53FA contains details on what happens to the superannuation arrangements of a member of the former CofMSF should that person cease employment with the current employer after being transferred into the Local Authorities Superannuation Fund.

At the time when the change of employment to another Authority occurs, the member of the former CofMSF becomes a contributor for the purposes of Part 7 of the **Local Authorities Superannuation Act 1988**. The Board calculates the resignation benefit for that person in accordance with the rules of the former CofMSF and translates that benefit into a resignation benefit under Part 7 of the **Local Authorities**

Superannuation Act 1988 in such a manner as to ensure that the dollar value of the benefit is not reduced when the translation occurs.

The Board also calculates that person's accrued retirement benefit entitlement under the rules of the former CofMSF. This benefit is used to calculate a person's retirement benefit, retrenchment benefit and part of the person's death or disability benefit. This accrued retirement benefit entitlement is translated by the Board and certified by an actuary into an accrued retirement benefit entitlement for the purposes of Part 7 of the Local Authorities Superannuation Act 1988 in such a fashion as to ensure that the dollar value of the accrued retirement benefit, the retrenchment benefit and the accrued retirement benefit component of the death and disability benefits is not reduced as a result of the translation.

Section 53G provides the basis for the transfer of the Melbourne Parks and Waterways employees who are members of the Melbourne Water Corporation Employees Superannuation Fund (MWCESF) to go into the Local Authorities Superannuation Fund as a separate class of members, with continuing coverage under the governing rules of the MWCESF for all their superannuation benefits.

It also contains a provision conferring on the Board the same powers as the trustees of the MWCESF have by or under the governing rules of that Fund in relation to members transferred to the Local Authorities Superannuation Fund.

It also requires agreement to be reached by the Board and the trustees of the MWCESF with regard to the liabilities and assets to be transferred to the Local Authorities Superannuation Fund. Where agreement cannot be reached, the Minister has the power to intervene and determine the matter.

Section 53GA contains details on what happens to the superannuation arrangements of a member of the MWCESF should that person cease employment with the current employer after being transferred into the Local Authorities Superannuation Fund.

At the time when the change of employment to another Authority occurs, the member of the MWCESF becomes a contributor for the purposes of Part 7 of the **Local Authorities Superannuation Act 1988**. The Board calculates the resignation benefit for that person in accordance with the rules of the former MWCESF and translates that benefit into a resignation benefit under Part 7 of the **Local Authorities Superannuation Act 1988** in such a manner as to ensure that the dollar value of the benefit is not reduced when the translation occurs.

The Board also calculates that person's accrued retirement benefit entitlement under the rules of the MWCESF. This benefit is used to calculate a person's retirement benefit, retrenchment benefit and part of the person's death or disability benefit. This accrued retirement benefit entitlement is translated by the Board and certified by an actuary into an accrued retirement benefit entitlement for the purposes of Part 7 of the **Local Authorities Superannuation Act 1988** in such a fashion as to ensure that the dollar value of the accrued retirement benefit, the retrenchment benefit and the accrued retirement benefit component of the death and disability benefits is not reduced as a result of the translation.

Section 53GB contains details on the arrangements for contributions by Melbourne Parks and Waterways to eliminate its unfunded liability.

Section 53H provides the basis for the transfer of employees of the Melbourne Water Corporation, City West Water Ltd, South East Water Ltd and Yarra Valley Water Ltd out of the Local Authorities Superannuation Fund into the Melbourne Water Corporation Employees' Superannuation Fund (MWCESF), as a separate class of members, with continuing coverage under the governing rules of the Local Authorities Superannuation Fund for all their superannuation benefits.

It also inserts a provision conferring on the trustees of the MWCESF the same powers as the Local Authorities Superannuation Board has by or under the Local Authorities Superannuation Act 1988 in relation to members transferred from the Local Authorities Superannuation Fund.

It also requires agreement to be reached by the Board and the trustees of the MWCESF with regard to the liabilities and assets to be transferred to the MWCESF. Where agreement cannot be reached, the Minister has the power to intervene and determine the matter.

Section 53HA contains details on what happens to the superannuation arrangements of a member of the Local Authorities Superannuation Fund should that person cease employment with the current employer after being transferred into the MWCESF.

At the time when the change of employment to another Authority occurs, the member of the Local Authorities Superannuation Fund becomes a contributor for the purposes of section B of the governing rules of the MWCESF. The trustees calculate the resignation benefit for that person in accordance with the rules of the Local Authorities Superannuation Act 1988 and translate that benefit into a resignation benefit under section B of the governing rules of the MWCESF in such a manner as to ensure that the dollar value of the benefit is not reduced when the translation occurs.

The trustees also calculate that person's accrued retirement benefit entitlement under the rules of the **Local Authorities Superannuation Act 1988**. This benefit is used to calculate a person's retirement benefit, retrenchment benefit and part of the person's death or disability benefit. This accrued retirement benefit entitlement is translated by the trustees and certified by an actuary into an accrued retirement benefit entitlement for the purposes of section B of the governing rules of the MWCESF in such a fashion as to ensure that the dollar value of the accrued retirement benefit, the retrenchment benefit and the accrued retirement benefit component of the death and disability benefits is not reduced as a result of the translation.

Section 53I is a standard provision which exempts from state taxes and charges any financial transactions associated with the transfer of assets and liabilities.

PART 4—AMENDMENT OF PUBLIC SECTOR SUPERANNUATION (ADMINISTRATION) ACT 1993

Clause 24 inserts definitions of a beneficiary who has a benefit or is entitled to a lump sum payment (excluding a death benefit).

Clause 25 inserts an additional condition to be eligible for membership of the Victorian Superannuation Fund which is that the employer has or will have an obligation to meet the Superannuation Guarantee shortfall on behalf of the employee.

Clause 26 inserts provisions to cover the closure of existing beneficiary accounts in the two closed defined benefit schemes, the State Employees Retirement Benefits Fund and the Transport Superannuation Fund. The existing beneficiary has three months from the commencement of this Act to elect to where he/she requires the balance of his/her benefit to be transferred. Where an election is not made, the balance will be transferred into a beneficiary account within the Victorian Superannuation Fund. Similar provisions apply when a lump sum benefit, other than a death benefit, becomes due but the election period is only for 14 days from the date it becomes due. The timing and responsibility for income tax deduction for this benefit is also detailed in this clause.

It also covers the Board's responsibility to maintain individual beneficiary accounts on behalf of the beneficiaries who elected to or by default have beneficiary accounts in the Victorian Superannuation Fund.

Clause 27 provides the Board with the discretion to grant disability and death benefits cover for casual employees who are members of the Victorian Superannuation Fund and to make consequential amendments to the **Public Sector Superannuation (Administration) Act 1993** regarding disability and death cover if the Board decides to offer it to this class of member. In making its decision on this matter the Board must consider the cost of the cover, the interests of all members of the Victorian Superannuation Fund and the provisions of the Commonwealth Sex Discrimination Act 1984. It also empowers the Board, should they decide not to grant disability and death cover in the first instance, to subsequently determine to provide disability and death benefits cover.

Clause 28 is a consequential amendment to the changes made to beneficiary and beneficiary accounts to enable holders of accounts to participate in the investment funds operated by the Board and to receive the actual net earning rate from participating in one or more of these funds.

Clause 29 inserts provisions about payment from a beneficiary's account. The whole of the balance must be withdrawn if the person dies. In any other case, the beneficiary can request either the whole or part of the account balance to be paid, subject to terms and conditions set by the Board.

Clause 30 removes the need for the Minister to approve the transfer of a member or beneficiary of the fund to another administered scheme or a complying superannuation scheme. There is also a consequential amendment to the changes made to beneficiary and beneficiary accounts which provides the Board with the power to transfer the beneficiary and his/her assets to an administered scheme or another complying superannuation fund.

Clause 31 is a consequential amendment arising from the changes made to beneficiary and beneficiary accounts which provides the Board with the power to recover any money owing to the Fund by a beneficiary.

It also includes provisions relating to the Holmesglen Constructions Superannuation Plan. The plan has 5 remaining members and is to be merged into the Victorian Superannuation Fund. The members of the plan will not be disadvantaged by this change.

Clause 32 is a consequential amendment which extends the exemption from state taxes to transactions associated with the transfers from the State Employees Retirement

Benefits Fund and the Transport Superannuation Fund of an existing beneficiary's account or the establishment of a new beneficiary's account in the Victorian Superannuation Fund.

PART 5—REPEAL OF STATE CASUAL EMPLOYEES SUPERANNUATION ACT 1989

Clause 33 inserts definitions to cover who qualifying and non-qualifying members to enable the closing of the State Casual Employees Superannuation Fund and, for qualifying members, to become members of the Victorian Superannuation Fund, effective 1 July 1995. Eligibility depends on whether the member's employing authority is to continue as a participating employer under the **Public Sector Superannuation (Administration) Act 1993** and whether the member has a combined account balance of more than \$500 in the State Casual Employees Superannuation Fund and the Victorian Superannuation Fund.

If eligible, the member's account balance is to be transferred to the Victorian Superannuation Fund. If ineligible, the member's account balance, if over \$500, is to be transferred to another public sector accumulation superannuation scheme (if their employer is a "participating employer" at the date of transfer) or a nominated private sector superannuation scheme or arrangement. If ineligible, and the account balance is \$500 or less, the Victorian Superannuation Board must pay the balance of the account to the member or the member's representative. Where a member whose balance is \$500 or less cannot be found, the Victorian Superannuation Board must pay the balance of the account into a general holding account in the Victorian Superannuation Fund. While in the general holding account, the Board must debit and credit with charges and interest, where applicable, and if the member claims his/her benefit, the Board is empowered to pay it.

Clause 34 provides for the transfer of a contributor and his/her account balance to the Victorian Superannuation Fund. There is also a provision to ensure the contributor continues to receive the same entitlements that applied before the transfer.

Clause 35 provides for the balance of assets and liabilities remaining in the State Casual Employees Superannuation Fund, after all payments and transfers required to be made on behalf of members are completed, to be transferred to the Victorian Superannuation Fund. There is also a provision to ensure any benefits and rights to any person is not affected by this transfer and inserts a standard provision which exempts from state taxes and charges any financial transactions associated with the transfer of assets and liabilities.

Clause 36 repeals the **State Casuals Employees Superannuation Act 1989**. It also has a provision that requires continuation of the Minister's obligations to pay the employer's contribution for the lump sum benefits payable under sections 26 and 27 of the **State Casuals Employees Superannuation Act 1989**.

PART 6—AMENDMENT OF STATE EMPLOYEES RETIREMENT BENEFITS ACT 1979

Clause 37 repeals a provision relating to the establishment and operation of beneficiary accounts in the **State Employees Retirement Benefits Act 1979**.

PART 7—AMENDMENT OF STATE SUPERANNUATION ACT 1988

Clause 38 repeals two sections about payments of employers' contributions to the Fund from the Consolidated Fund and consolidates the charging provisions for both the Revised and New schemes into the general part of the **State Superannuation Act 1988**. It also introduces a new system of charging to cover unfunded liability relating to an employing authority or class of employing authority.

Clause 39 inserts a provision about the accrued retirement benefit for approximately 90 public servants (remaining from when the highways and planning functions were separated from the MMBW in 1974 and 1985) who are currently members of the Melbourne Water Corporation Employees' Superannuation Fund (MWCESF) and who are to be transferred to the new scheme of the State Superannuation Fund.

Clause 40 inserts a new provision defining employing authorities and a new method for the Board to collect contributions. It also sets out provisions to cover the dates of determination and the penalties for late payment.

Clause 41 inserts a provision to transfer approximately 90 government employees who are currently members of the Melbourne Water Corporation Employees' Superannuation Fund (MWCESF) to the State Superannuation Fund, as a separate class of members, with continuing coverage under the governing rules of the MWCESF for all their superannuation benefits. It also inserts a provision conferring on the Victorian Superannuation Board the same powers as the trustees of the MWCESF in relation to members transferred from that Fund.

It also requires agreement to be reached by the Board and the trustees of the MWCESF with regard to the liabilities and assets to be transferred to the State Superannuation Fund. In case agreement cannot be reached, the Minister has the power to intervene and determine the matter.

It also contains details on what happens to the superannuation arrangements of a member of the MWCESF should that person cease employment with the current employing authority after being transferred into the State Superannuation Fund.

At the time when the change of employment from the current employing authority to another employing authority occurs, the member of the MWCESF becomes a member of the new scheme under the **State Superannuation Act 1988**. The Board calculates the resignation benefit for that person in accordance with the rules of the former MWCESF and translates that benefit into a resignation benefit in the new scheme in such a manner as to ensure that the dollar value of the benefit is not reduced when the translation occurs.

The Board also calculates that person's accrued retirement benefit entitlement under the rules of the MWCESF. This benefit is used to calculate a person's retirement benefit, retrenchment benefit and part of the person's death or disability benefit. This accrued retirement benefit entitlement is translated by the Board and certified by an actuary into an accrued retirement benefit entitlement for the purposes of the new scheme of the **State Superannuation Act 1988** in such a fashion as to ensure that the dollar value of the accrued retirement benefit, the retrenchment benefit and the accrued retirement benefit component of the death and disability benefits is not reduced as a result of the translation.

PART 8—REPEAL OF TRANSPORT SUPERANNUATION ACT 1988

Clause 42 repeals a provision relating to the establishment and operation of beneficiary accounts in the **Transport Superannuation Act 1988**.

PART 9—MISCELLANEOUS

Clause 43 repeals the **Superannuation Act 1963**, the **Superannuation Act 1975** and sections 47 to 51 of the **Town and Country Planning (Transfer of Functions) Act 1985**.

