

# Superannuation Acts (General Amendment) Bill

No.

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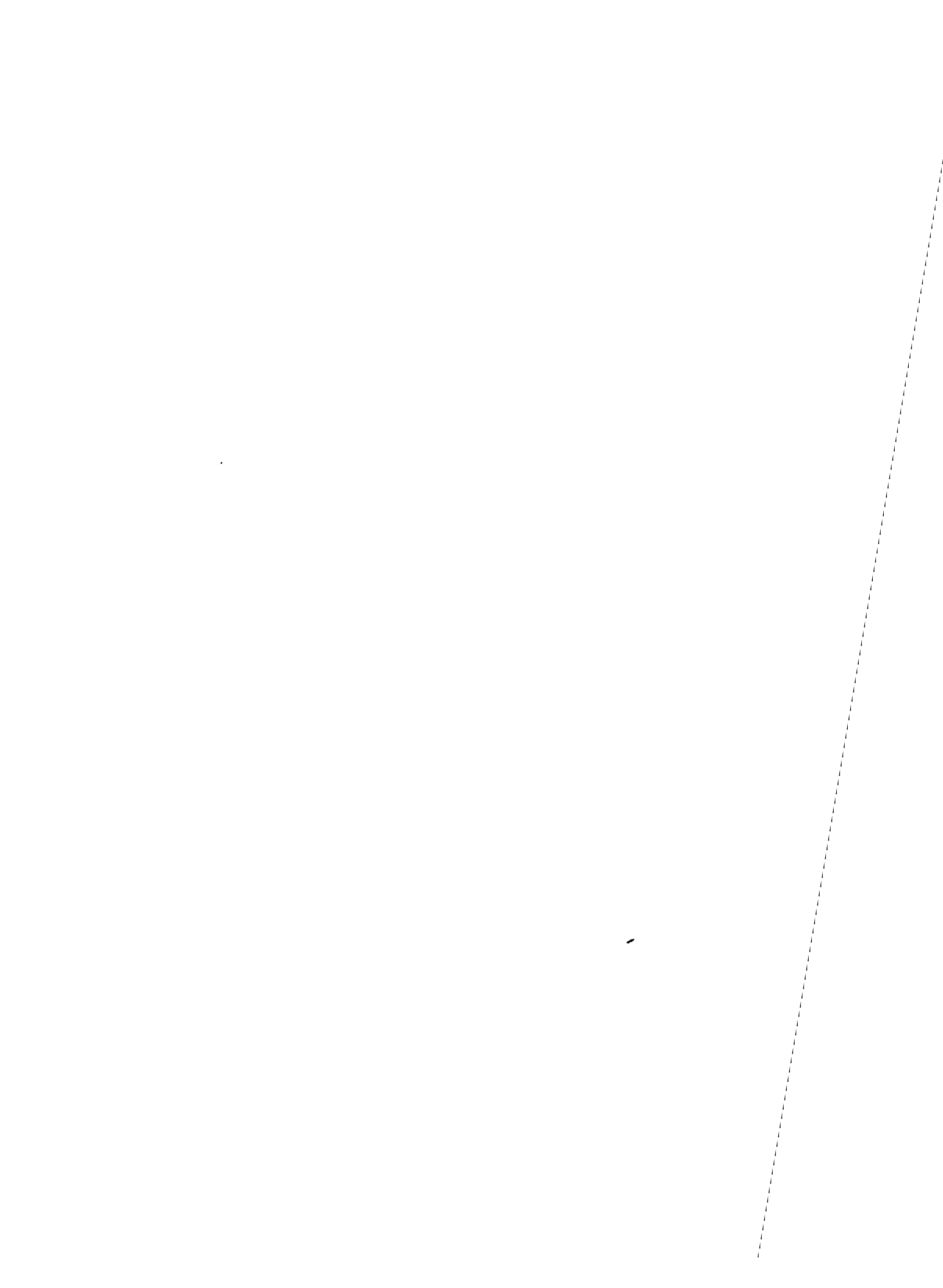
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# LEGISLATIVE ASSEMBLY

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Read 1° 10 May 1995

*(Brought in by Mr Smith (Polwarth) and Mr Stockdale)*

## A BILL

to amend the **Hospitals Superannuation Act 1988**, the **Local Authorities Superannuation Act 1988**, the **Public Sector Superannuation (Administration) Act 1993**, the **State Superannuation Act 1988**, the **State Employees Retirement Benefits Act 1979** and the **Transport Superannuation Act 1988**, to repeal the **State Casual Employees Superannuation Act 1989** and for other purposes.

## **Superannuation Acts (General Amendment) Act 1995**

The Parliament of Victoria enacts as follows:

### **PART 1—PRELIMINARY**

#### **1. Purpose**

The purpose of this Act is to make general amendments to certain specified Superannuation Acts to further improve the administration of public sector superannuation schemes.

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Section headings appear in bold italics and are not part of the Act.  
(See **Interpretation of Legislation Act 1984**.)

**2. Commencement**

- (1) Sections 1, 2, 43 (1) and 43 (2) come into operation on the day on which this Act receives the Royal Assent.
- (2) Sections 3, 4, 9, 16 to 22, 24 to 32, 33 (1), 33 (2), 33 (3), 34, 35, 37, 39, 41, 42 and 43 (3) come into operation on 1 July 1995. 5
- (3) Sections 10 to 15 come into operation on 1 September 1995.
- (4) Sections 38 and 40 come into operation on 1 November 1995. 10
- (5) Sections 5 to 8 and 23 come into operation on 1 November 1995.
- (6) Sections 33 (4), 33 (5), 33 (6), and 33 (7) come into operation on a day or days to be proclaimed not being a day that is after 1 January 1996. 15
- (7) Section 36 comes into operation on 31 March 1996.

**PART 2—AMENDMENT OF HOSPITALS SUPERANNUATION ACT 1988**

**3. Amendment of section 40B** 20

For section 40B (1) (a) of the **Hospitals Superannuation Act 1988** substitute—

“(a) if the person—

- (i) becomes an employee of a participating employer; and 25
- (ii) is not a contributor to, or eligible to contribute to, any other public sector superannuation scheme; and
- (iii) is an employee in respect of which the participating employer has, or believes that the participating employer will have, an obligation to make contributions under the Commonwealth Superannuation Guarantee (Administration) Act 1992— 30

when the person's employer notifies the Board of the person's employment; or".

**4. New section 40FA inserted**

After section 40F of the **Hospitals Superannuation Act 1988** insert—

**"40FA. Casual employees—disability and death cover**

(1) The Board must as soon as possible after the commencement of section 4 of the **Superannuation Acts (General Amendment) Act 1995** make a determination as to whether or not to provide disability and death benefits cover for members of the Fund who are casual employees.

(2) If the Board determines under sub-section (1) not to provide disability and death benefits cover for casual employees, the Board may subsequently determine that the Board will provide disability and death benefits cover.

(3) If the Board determines to provide disability and death benefits cover for casual employees, sub-sections (4) to (14) of section 40F apply with the following modifications—

(a) as if in sub-section (8)—

(i) for "is not" there were substituted "is";

(ii) after "to" (where secondly occurring) there were inserted "obtain disability and death benefits cover or to";

(b) in sub-section (12) (c) after "application to" there were inserted "obtain cover or to";

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(c) in sub-section (12) (d) after “application to” there were inserted “obtain cover or to”;

(d) in sub-section (13) after “cover” there were inserted “is to commence or”.

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**PART 3—AMENDMENT OF LOCAL AUTHORITIES  
SUPERANNUATION ACT 1988**

**5. *Melbourne City Council to be an Authority***

In section 3 of the **Local Authorities Superannuation Act 1988**— 10

(a) in sub-section (1) in the definition of “Authority” **omit** “other than the City of Melbourne”;

(b) sub-section (3A) is **repealed**. 15

**6. *Definitions***

In section 3 (1) of the **Local Authorities Superannuation Act 1988**—

(a) after the definition of “current equivalent of the salary on retirement” **insert**— 20

“**Director**” means a Director of the Board appointed under section 9 and a deputy of a Director while acting as a Director;’;

(b) the definition of “member” is **repealed**. 25

**7. *Provisions relating to the Board***

For sections 9, 10 and 11 of the **Local Authorities Superannuation Act 1988** substitute—

**“8A. *Additional powers of the Board***

Without limiting or derogating from the generality of the powers of the Board

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under this Act, the powers of the Board include—

5 (a) power to enter into agreements or arrangements with any other person or body—

(i) to carry out on behalf of the Board any one or more of the functions or powers of the Board in relation to the Fund;

10 (ii) to arrange death and disability cover insurance for individual members or classes of members of the new scheme;

15 (iii) to provide custodial or nominee services;

(b) power to engage any person or body to act as an agent on behalf of the Board.

### 9. *Membership of the Board*

20 (1) The Board is to consist of 6 Directors appointed by the Governor in Council.

(2) Of the persons appointed to the Board—

25 (a) 2 must be persons nominated by the Minister; and

30 (b) 1 must be a person nominated by the Minister from a panel of 3 names submitted by the governing body of the Municipal Association of Victoria at the request of the Minister; and

(c) 3 must be persons who are eligible to be voters elected by voters.

(3) In this section “**voters**” means—

35 (a) contributors other than pensioners; and

(b) members of the scheme; and

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- (c) persons who are members of the City of Melbourne Superannuation Fund to which section 53F applies.
- (4) Despite sub-section (2)—
- (a) the members of the Board in office immediately before the commencement of section 7 of the **Superannuation Acts (General Amendment) Act 1995** under section 9 (1) as in force before that commencement, continue in office as Directors, subject to this Act, for the remainder of their term; and 5
- (b) for the remainder of the term of members referred to in paragraph (a), the alternate members of those members are to continue to be appointed in accordance with section 9 as in force before the commencement of section 7 of the **Superannuation Acts (General Amendment) Act 1995**; and 10
- (c) any vacancy in the office of a member referred to in paragraph (a) during the remainder of their term is to be filled in accordance with sections 9 and 10 as in force before the commencement of section 7 of the **Superannuation Acts (General Amendment) Act 1995**; and 25
- (d) the additional Director of the Board must be elected in accordance with this section for appointment to the Board as from 1 January 1996. 30
- (5) If the governing body of the Municipal Association of Victoria fails to submit a panel of names in accordance with this section, the Governor in Council may 35

appoint a person to be a Director although that person has not been nominated in accordance with sub-section (2) (b).

- 5
- (6) Elections for the purposes of this section must be held in accordance with procedures determined by the Board.
- 10
- (7) If there is no candidate at an election or no person is elected at an election, the Governor in Council may appoint a person to be a Director although that person has not been elected.
- 15
- (8) The Governor in Council must appoint a Director to be the President of the Board.
- 20
- (9) The **Public Sector Management Act 1992** (including Part 9) does not apply to a director in respect of the office of director.
- 25
- (10) A Director is not subject to any action liability, claim or demand for any matter or thing done or contract entered into by the Board if the matter or thing is done or the contract is entered into in good faith for the purpose of carrying out a duty or function or exercising a power of the Board.
- 30
- (11) The Board is deemed to be the same body on and after as before the commencement of section 7 of the **Superannuation Acts (General Amendment) Act 1995**.

#### **10. Term of office**

- 35
- (1) A Director is to be appointed for a term not exceeding 5 years as is specified in the Director's instrument of appointment or, in the case of a Director to be elected

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under section 9 (2) (c), as is fixed by the Minister before the election is held.

(2) A Director is eligible for re-appointment.

(3) Despite sub-section (1), the term of office of a Director may exceed 5 years but not 6 years if the Director is elected to fill a casual vacancy in respect of a Director who had an unexpired term of less than 1 year. 5

### **11. *Deputies*** 10

(1) Each Director is to have a deputy nominated or elected in the same manner as the Director and appointed by the Governor in Council.

(2) The deputy of a Director is to act in the case of illness, suspension or absence of that Director. 15

(3) A deputy has while acting as a Director the powers and authority of the Director.

(4) A person may act as the deputy of more than one Director except for the purposes of forming a quorum or voting on a resolution, provided that the deputy is nominated or elected in the same manner as all of those Directors. 20 25

### **11A. *Vacancies on Board***

(1) A person ceases to be a Director if that person—

(a) becomes bankrupt; or

(b) is absent, without leave first granted by the Board, from 3 consecutive meetings of which reasonable notice has been given to that Director personally or by post; or 30

(c) resigns office by writing signed and addressed to the Governor in Council; or

5 (d) becomes permanently incapable of performing the duties of office; or

(e) becomes ineligible to hold office by the operation of a relevant Commonwealth superannuation law; or

10 (f) is elected under section 9 and ceases to be qualified as required by that section.

(2) If a Director dies or otherwise ceases to be a Director—

15 (a) the deputy of that Director is to be appointed by the Governor in Council to fill the vacancy; or

20 (b) if there is no deputy, the Governor in Council may appoint a person nominated or elected in the same manner as that Director was nominated or elected to fill the vacancy.

25 (3) A vacancy in the office of a Director must be filled within the period required by a relevant Commonwealth superannuation law.

**11B. *Removal or suspension of Directors***

30 (1) Subject to any provision to the contrary in a relevant Commonwealth superannuation law, a Director may be removed or suspended from office by the Governor in Council—

35 (a) in the case of a Director appointed under section 9 (2) (a) or 9 (2) (b), at any time without cause; or

(b) in the case of a Director elected under section 9 (2) (c), for misbehaviour or incompetence while performing the duties of a Director.

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(2) A Director removed from office under this section is not entitled to any remuneration or compensation for loss of office.”.

### **8. Consequential**

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In the **Local Authorities Superannuation Act 1988**—

(a) in sections 12, 13 (6), 13A (1), 13A (2), 13D and 15 for “member” (wherever occurring) **substitute** “Director”;

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(b) in sections 13 (1), 13 (2), 13 (3), 13A (1), 13A (3) and 13C (1) for “members” (wherever occurring) **substitute** “Directors”;

(c) in section 13B for “member of the Board” **substitute** “Director of the Board”;

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(d) for section 13C (3) **substitute**—

“(3) A committee is to have an equal number of Directors appointed under sections 9 (2) (a) and 9 (2) (b) and of Directors elected under section 9 (2) (c).”;

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(e) in section 13D (1) for “member’s” **substitute** “Director’s”.

### **9. Section 24 substituted**

For section 24 of the **Local Authorities Superannuation Act 1988** **substitute**—

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**“24. Question as to disability determined by Board on medical officer’s report**

(1) If a question arises as to—

(a) whether a contributor is suffering disability; or

(b) whether the disability is due to his or her fault—

5 the question is to be determined by the Board (whether before or after the retirement of the contributor on the ground of disability) after considering, among other things, reports from at least  
10 2 registered medical practitioners appointed by the Board as medical officers for the purposes of this Act.

15 (2) After the Board receives the reports from the medical officers and has made a determination on the question which is adverse to the contributor, the contributor has the right to require the Board to review its determination and obtain a further report from—

20 (a) a registered medical practitioner mutually agreed upon by the contributor and the Board; or

25 (b) if the contributor and the Board do not agree, a registered medical practitioner appointed by the Minister.

**24A. *Settlement of disputes***

30 (1) Any dispute under this Act must be determined in the first place by the Board.

(2) Any person aggrieved by a decision of the Board may apply to the Administrative Appeals Tribunal for a review of the decision.”.

**10. Amendment of section 25—contribution rates by contributor**

(1) For section 25 (1) (a) of the **Local Authorities Superannuation Act 1988 substitute—**

“(a) in the case of the contributor, at the rate not exceeding 7.5 percent of his or her salary as is elected by the contributor;” 5

(2) For sections 25 (2) and 25 (3) of the **Local Authorities Superannuation Act 1988 substitute—**

“(2) A contributor can only elect to contribute at a rate equal to 7.5 per cent of his or her salary if contributing at that rate will not result in the average of the contributor’s contribution rates exceeding 6 per cent of salary for the period of service of the contributor commencing on 1 July 1995. 10 15

(3) A contributor may elect to change his or her rate of contribution on the day or days in any calendar year fixed by the Board as the day or days on which contributors or a class of contributors of which he or she is a member may elect to change their rate of contribution. 20

(3A) Until a contributor has made an election in a manner approved by the Board, he or she is to be treated as having elected to contribute at 6 percent of his or her salary. 25

(3B) An election continues in force until another election is made in accordance with this section.

(3C) A changed contribution is payable as from and inclusive of the pay day on or next following the day being 2 months after the day fixed under sub-section (3).” 30

**11. Amendment of section 25—employing Authority**

After section 25 (1) (b) of the **Local Authorities Superannuation Act 1988 insert—** 35

“(c) in the case of an employing Authority declared by the Minister by notice published in the



Government Gazette for the purposes of this paragraph, at a rate determined by the Board on the advice of an actuary appointed by the Board.”.

5        **12. Consequential amendment of section 26**

For section 26 (b) of the **Local Authorities Superannuation Act 1988** substitute—

10        “(b) the person becomes entitled to the maximum accrued retirement benefit specified in section 32 (4A).”.

**13. New section 29A inserted**

After section 29 of the **Local Authorities Superannuation Act 1988** insert—

**“29A. Board to maintain separate records**

15        The Board must ensure that separate accounting records in a manner and form approved by the Minister are kept in relation to the benefits and contributions of the persons employed by—

20        (a) an employing Authority declared under section 25 (1) (c); and

(b) any other employing Authority which has requested that the Board keep separate accounting records.”.

25        **14. Amendment of section 32**

(1) In section 32 (2) of the **Local Authorities Superannuation Act 1988** after “(2)” insert “For the period of service until 1 July 1993,”.

30        (2) After section 32 (3) of the **Local Authorities Superannuation Act 1988** insert—

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- “(3A) For the period of service after 1 July 1993, the accrued retirement benefit of a contributor is the sum of—
- (a) 8.5 percent of the adjusted final salary of the contributor for each year in which he or she has not contributed to the Fund; and 5
  - (b) 13 percent of the adjusted final salary of the contributor for each year in which he or she contributed 3 percent of salary to the Fund; and 10
  - (c) 18.5 percent of the adjusted final salary of the contributor for each year in which he or she contributed 6 percent of salary to the Fund; and
  - (d) 21.5 percent of the adjusted final salary of the contribution for each year in which he or she contributed 7.5 percent of salary to the fund.”. 15
- (3) In section 32 (4) of the **Local Authorities Superannuation Act 1988** after “(4)” insert “For the purposes of section 33,”. 20
- (4) After section 32 (4) of the **Local Authorities Superannuation Act 1988** insert—
- “(4A) The accrued retirement benefit of a contributor for any other purpose must not exceed the adjusted final salary of the contributor multiplied by 25
- $$\frac{ACM}{1} + \left[ \frac{(8.4 - ACM)}{1} \times \frac{18.5}{21} \right]$$
- where ACM is the multiple determined in accordance with sub-section (2).” 30

**15. Amendment of section 36**

In section 36 (1) of the **Local Authorities Superannuation Act 1988**—

- (a) in paragraph (a) after “(a)” insert “for the period of service until 1 July 1993,”; 35

(b) after paragraph (a) **insert**—

“(ab) for the period of service after 1 July 1993—

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- (i) 7.5 percent of the adjusted final salary of the contributor for each year or an amount calculated under sub-section (3) for each part of that contributor’s service (excluding the 5 years of service immediately prior to resignation) in which he or she has not contributed to the Fund; and
  - (ii) 10.5 percent of the adjusted final salary of the contributor for each year or an amount calculated under sub-section (3) for each part of that contributor’s service (excluding the 5 years of service immediately prior to resignation) in which he or she has contributed 3 percent of salary to the Fund; and
  - (iii) 13.5 percent of the adjusted final salary of the contributor for each year or an amount calculated under sub-section (3) for each part year of that contributor’s service (excluding the 5 years of service immediately prior to resignation) in which he or she has contributed 6 percent of salary to the Fund; and
  - (iv) 15 percent of the adjusted final salary of the contributor for each year or an amount calculated under sub-section (3) for each part year of that contributor’s service (excluding the 5 years of service immediately prior to resignation) in which he or she has contributed 7.5 percent of salary to the Fund; and”;

40 (c) for “sub-section (2)” where twice occurring **substitute** “sub-section (3)”.

**16. Section 41 repealed**

Section 41 of the **Local Authorities Superannuation Act 1988** is repealed.

**17. Part 7A repealed**

Part 7A of the **Local Authorities Superannuation Act 1988** is repealed. 5

**18. Casual employees to become members of new scheme**

(1) In section 47F (1) of the **Local Authorities Superannuation Act 1988** omit “who is not a casual employee”. 10

(2) After section 47F (1) of the **Local Authorities Superannuation Act 1988** insert—  
“(1A) On the commencement of section 17 of the **Superannuation Acts (General Amendment) Act 1995** a casual employee who is entitled to a benefit under section 47C as in force before the commencement of that section and who is not already a member of the new scheme becomes a member of the new scheme.”. 15

(3) After section 47I (1) of the **Local Authorities Superannuation Act 1988** insert—  
“(1A) On the commencement of section 17 of the **Superannuation Acts (General Amendment) Act 1995** the Board must establish a separate account in accordance with this section for each casual employee to whom section 47F (1A) applies and credit to that account the balance of the benefit of that casual employee under section 47C as in force before that commencement. 25

(1B) On the commencement of section 17 of the **Superannuation Acts (General Amendment) Act 1995** the Board must in respect of each casual employee who is entitled to a benefit under section 47C as in force before the commencement of that section and who is 30  
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already a member of the new scheme credit to his or her account the balance of the benefit of that casual employee under section 47C as in force before that commencement.”.

5        **19. Amendment of section 47F**

For section 47F (1) (a) of the **Local Authorities Superannuation Act 1988** substitute—

“(a) if the person—

- 10            (i) becomes an employee of a participating employer; and
- (ii) is not a contributor to, or eligible to contribute to, any other public sector superannuation scheme; and
- 15            (iii) is an employee in respect of which the participating employer has, or believes that the participating employer will have, an obligation to make contributions under the Commonwealth Superannuation Guarantee (Administration) Act 1992—
- 20            when the person’s employer notifies the Board of the person’s employment; or”.

**20. New section 47JA inserted**

After section 47J of the **Local Authorities Superannuation Act 1988** insert—

25        **“47JA. Casual employees—disability and death cover**

- 30            (1) The Board must as soon as possible after the commencement of section 20 of the **Superannuation Acts (General Amendment) Act 1995** make a determination as to whether or not to provide disability and death benefits cover for members of the Fund who are casual employees.

- (2) If the Board determines under sub-section (1) not to provide disability and death benefits cover for casual employees, the Board may subsequently determine that the Board will provide disability and death benefits cover. 5
- (3) If the Board determines to provide disability and death benefits cover for casual employees, sub-sections (4) to (14) of section 47J apply with the following modifications— 10
- (a) as if in sub-section (8)—
- (i) for “is not” there were substituted “is”;
- (ii) after “to” (where secondly occurring) there were inserted “obtain disability and death benefits cover or to”; 15
- (b) in sub-section (12) (c) after “application to” there were inserted “obtain cover or to”; 20
- (c) in sub-section (12) (d) after “application to” there were inserted “obtain cover or to”;
- (d) in sub-section (13) after “cover” there were inserted “is to commence or”. 25

## **21. Consequential repeals**

Sections 48, 50 and 51 of the **Local Authorities Superannuation Act 1988** are repealed. 30

## **22. New sections 48 to 50 inserted**

Before section 50A of the **Local Authorities Superannuation Act 1988** insert —

**“48. Assignment of benefits**

Benefits under this Act cannot in any way be assigned, charged or passed by operation of law other than under an Act of the Commonwealth.

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**49. Payment of benefits if person is incapable**

If a person who would ordinarily be entitled to receive benefits is—

(a) a person who is in the opinion of the Board incapable of managing his or her affairs or of unsound mind; or

(b) an involuntary patient or a security patient within the meaning of the **Mental Health Act 1986**; or

(c) a represented person under the **Guardianship and Administration Board Act 1986**—

the Board may cause his or her benefits or any part of the benefits to be paid to his or her guardian or administrator, or, if there is no guardian or administrator, to a person nominated by the Board for the benefit of that person and his or her dependants or any of them until he or she ceases to be incapable or of unsound mind, a patient or a represented person.

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**50. Money owing to the Fund**

(1) The Board may recover any amount of money owing to the Fund by a member of the Fund, an employing Authority, a participating employer or any other person together with interest on that amount in accordance with sub-section (2)—

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- (a) if any amount is or becomes payable from the Fund to that member, employing Authority, participating employer or other person—by the Board deducting it from that amount; or 5
- (b) in any other case—as a debt in any court of competent jurisdiction.
- (2) Interest at a rate determined from time to time by the Board is payable on any amount owing to the Fund calculated from the date on which the amount becomes due until the date on which the amount is paid or otherwise recovered under sub-section (1).” 10 15

**23. New sections 53F to 53I inserted**

After section 53E of the **Local Authorities Superannuation Act 1988** insert—

**“53F. Provisions relating to City of Melbourne Superannuation Fund 20**

- (1) On the commencement of section 23 of the **Superannuation Acts (General Amendment) Act 1995**—
- (a) the assets and liabilities of the City of Melbourne Superannuation Fund are by virtue of this section transferred to the Fund and form part of that Fund; and 25
- (b) the City of Melbourne Superannuation Fund ceases to exist; and 30
- (c) the trustees of the City of Melbourne Superannuation Fund cease to hold the office of trustees.



(2) Despite sub-section (1) a member of the City of Melbourne Superannuation Fund—

5 (a) is entitled to receive the same benefits that he or she would have been entitled to receive had the City of Melbourne Superannuation Fund continued to exist; and

10 (b) is entitled to have his or her rights and obligations determined in accordance with the provisions of the governing instrument of the City of Melbourne Superannuation Fund as in force immediately before  
15 the City of Melbourne Superannuation Fund ceased to exist.

20 (3) For the purposes of sub-section (2) the Board has in respect of a member the duties and powers conferred on the trustees of the City of Melbourne Superannuation Fund by or under the provisions of the governing instrument  
25 of the City of Melbourne Superannuation Fund as in force immediately before the City of Melbourne Superannuation Fund ceased to exist.

30 (4) With the approval of the Minister, the Melbourne City Council must enter into an agreement with the Board which specifies—

35 (a) the liability of the City of Melbourne Superannuation Fund up to the date of transfer in respect of the entitlements of the members as determined by an actuary appointed by the Melbourne City Council; and

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(b) the extent to which the liability specified under paragraph (a) is unfunded; and

(c) the contribution to be paid to the Fund in respect of that unfunded liability by the Melbourne City Council. 5

(5) The Melbourne City Council must pay the contribution determined under sub-section (3) to the Board in such instalments and at such intervals as is agreed between the Board and the Melbourne City Council or, in the absence of agreement, as is determined by the Minister. 10 15

**53G. Provisions relating to Melbourne Parks and Waterways**

(1) On the commencement of section 23 of the **Superannuation Acts (General Amendment) Act 1995** an employee of Melbourne Parks and Waterways who immediately before that commencement is a member of the Melbourne Water Corporation Employees' Superannuation Fund is transferred to the Fund as a contributor with an accrued retirement benefit calculated in accordance with sub-section (2). 20 25

(2) The accrued retirement benefit (however designated) to the date of transfer of a member transferred to the Fund under this section is to be calculated in accordance with the provisions of the governing instrument of the Melbourne Water Corporation Employees' Superannuation Fund and certified by an actuary appointed by the Board. 30 35

(3) From the date of transfer a member transferred to the Fund under this section is entitled to receive benefits as a contributor to the Fund.

(4) With the approval of the Minister, the trustees of the Melbourne Water Corporation Employees' Superannuation Fund must enter into an agreement with the Board which specifies—

(a) the liability of the Melbourne Water Corporation Employees' Superannuation Fund up to the date of transfer in respect of transferred members under this section; and

(b) the value of assets of the Melbourne Water Corporation Employees' Superannuation Fund equal to the liability of the Melbourne Water Corporation Employees' Superannuation Fund under paragraph (a) that are to be transferred to the Fund; and

(c) the terms and conditions which apply to the transfer of these assets to the Fund.

(5) For the purposes of sub-section (4), the liability in respect of each transferred member is to be treated as being in the same proportion as total net assets of the Melbourne Water Corporation Employees' Superannuation Fund are to the total liabilities of the Melbourne Water Corporation Employees' Superannuation Fund.

(6) If agreement cannot be reached within 3 months of the commencement of section 23 of the **Superannuation Acts (General Amendment) Act 1995**, the Minister may determine the matters

- specified in sub-section (4) or which are in dispute and the trustees of the Melbourne Water Corporation Employees' Superannuation Fund and the Board are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister. 5
- (7) The trustees of the Melbourne Water Corporation Employees' Superannuation Fund must transfer the assets specified in the agreement to the Fund. 10
- (8) As soon as the assets have been transferred the assets form part of the Fund. 15

**53H. Provisions relating to certain water authorities**

- (1) In this section, "water authority" means— 20
- (a) the Melbourne Water Corporation;
  - (b) City West Water Ltd;
  - (c) South East Water Ltd;
  - (d) Yarra Valley Water Ltd.
- (2) On the commencement of section 23 of the **Superannuation Acts (General Amendment) Act 1995** an employee of a water authority who immediately before that commencement is a contributor to the Fund is transferred to the Melbourne Water Corporation Employees' Superannuation Fund as a member. 25 30
- (3) Despite the transfer of a member under this section to the Melbourne Water Corporation Employees' Superannuation Fund— 35
- (a) the member is entitled to receive the same benefits that he or she

would have been entitled to receive had he or she not been so transferred; and

5 (b) the member is entitled to have his or her rights and obligations determined in accordance with the **Local Authorities Superannuation Act 1988** as in force immediately before that transfer.

10 (4) With the approval of the Minister, the Board must enter into an agreement with the trustees of the Melbourne Water Corporation Employees' Superannuation Fund which specifies—

15 (a) the liability of the Fund up to the date of transfer in respect of the entitlements of transferred members as determined by an actuary appointed by the Board; and

20 (b) the value of assets of the Fund equal to the liability of the Fund under paragraph (a) that are to be transferred to the Melbourne Water Corporation Employees' Superannuation Fund; and

25 (c) the terms and conditions which apply to the transfer of these assets to the Melbourne Water Corporation Employees' Superannuation Fund.

30 (5) For the purposes of sub-section (4), the liability in respect of each transferred member is to be treated as being in the same proportion as total net assets of the Fund are to the total liabilities of the Fund.

35 (6) If agreement cannot be reached within 3 months of the commencement of section 23 of the **Superannuation Acts**

(General Amendment) Act 1995, the Minister may determine the matters specified in sub-section (4) or which are in dispute and the Board and the trustees of the Melbourne Water Corporation Employees' Superannuation Fund are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister. 5

(7) The Board must transfer the assets specified in the agreement to the Melbourne Water Corporation Employees' Superannuation Fund. 10

(8) As soon as the assets have been transferred the assets form part of the Melbourne Water Corporation Employees' Superannuation Fund. 15

**53I. Provisions relating to transfer of assets and liabilities** 20

No stamp duty or other tax is payable under any Act in respect of anything done under section 53F, 53G or 53H".

**PART 4—AMENDMENT OF PUBLIC SECTOR SUPERANNUATION (ADMINISTRATION) ACT 1993** 25

**24. Definitions**

In section 3 (1) of the **Public Sector Superannuation (Administration) Act 1993** insert the following definitions—

“beneficiary” means— 30

(a) an existing beneficiary; or

(b) a person who becomes entitled to a lump sum payment (not being a death benefit) under a public sector superannuation

5 scheme established under the **State Employees Retirement Benefits Act 1979** or the **Transport Superannuation Act 1988** or under any other defined benefit public sector superannuation scheme which is declared under section 52 (c)—

who makes an election under section 37A (1) (a) or 37A (2) (a);

10 “**beneficiary’s account**” means a beneficiary’s account established and maintained by the Board for each beneficiary under section 37A;

15 “**existing beneficiary**” means a person who is the holder of a beneficiary’s account under the **State Employees Retirement Benefits Act 1979** or the **Transport Superannuation Act 1988** immediately before the commencement of section 24 of the **Superannuation Acts (General Amendment) Act 1995**;’.

**25. Amendment of section 31**

20 For section 31 (1) (a) of the **Public Sector Superannuation (Administration) Act 1993** substitute—

“(a) if the person—

25 (i) becomes an employee of a participating employer; and

(ii) is not a contributor to, or eligible to contribute to, any other public sector superannuation scheme; and

30 (iii) is an employee in respect of which the participating employer has, or believes that the participating employer will have, an obligation to make contributions under the Commonwealth Superannuation Guarantee (Administration) Act 1992—

35 when the person’s employer notifies the Board of the person’s employment; or”.

**26. New sections 37A and 37B inserted**

After section 37 of the **Public Sector Superannuation (Administration) Act 1993** insert—

- “37A. Beneficiary must make election** 5
- (1) An existing beneficiary must within 3 months of the commencement of section 24 of the **Superannuation Acts (General Amendment) Act 1995** elect in writing to the Board— 10
- (a) for all or part of the balance of his or her beneficiary account after deduction of any income tax payable on the benefit to be credited to an account established under section 37B; or 15
- (b) for the balance of his or her beneficiary account to be paid to a complying superannuation scheme or arrangement; or 20
- (c) for the balance of his or her beneficiary account to be paid to that person or to his or her legal personal representative.
- (2) A beneficiary within the meaning of paragraph (b) of the definition of “beneficiary” in section 3 (1) must within 14 days after becoming entitled to the lump sum payment referred to in that paragraph elect in writing to the Board— 25
- (a) for all or part of the lump sum payment to be credited to an account established under section 37B; or 30
- (b) for the lump sum payment to be paid to a complying superannuation scheme or arrangement; or 35



(c) for the lump sum payment to be paid to that person or to his or her legal personal representative.

5 (3) If a beneficiary fails to make an election under sub-section (1) or (2), he or she is deemed to have made an election under sub-section (1) (a) or (2) (a) as the case may be.

**37B. Beneficiaries' accounts**

10 (1) The Board must establish and maintain within the Fund a separate account for each beneficiary.

(2) The Board must credit to a beneficiary's account—

15 (a) the amount of any lump sum payment which the beneficiary has elected is to be credited; and

20 (b) any other amount payable to the beneficiary's account, including in the case of an existing beneficiary the balance of his or her beneficiary account under the **State Employees Retirement Benefits Act 1979** or the **Transport Superannuation Act 1988** immediately before the commencement of section 24 of the **Superannuation Acts (General Amendment) Act 1995** after deduction of any income tax payable on the benefit; and

25 (c) any net earnings calculated on the basis of the net earning rate of the Fund or an investment fund.

30 (3) The Board must debit to a beneficiary's account—

35 (a) an amount determined by the Board in respect of management and

administration costs incurred by the Board in the administration of the Fund; and

- (b) any net loss calculated on the basis of the net earning rate of the Fund or an investment fund; and 5
- (c) any amounts transferred to another complying superannuation scheme; and
- (d) any other amount payable by the member.”. 10

**27. New section 35A inserted**

After section 35 of the **Public Sector Superannuation (Administration) Act 1993** insert— 15

**“35A. Casual employees—disability and death cover**

- (1) The Board must as soon as possible after the commencement of section 27 of the **Superannuation Acts (General Amendment) Act 1995** make a determination as to whether or not to provide disability and death benefits cover for members of the Fund who are casual employees. 20 25
- (2) If the Board determines under sub-section (1) not to provide disability and death benefits cover for casual employees, the Board may subsequently determine that the Board will provide disability and death benefits cover. 30
- (3) If the Board determines to provide disability and death benefits cover for casual employees, sub-sections (4) to (14) of section 35 apply with the following modifications— 35

- (a) as if in sub-section (8)—
- (i) for “is not” there were substituted “is”;
  - (ii) after “to” (where secondly occurring) there were inserted “obtain disability and death benefits cover or to”;
- (b) in sub-section (12) (c) after “application to” there were inserted “obtain cover or to”;
- (c) in sub-section (12) (d) after “application to” there were inserted “obtain cover or to”;
- (d) in sub-section (13) after “cover” there were inserted “is to commence or”.

## **28. Consequential amendments**

In the **Public Sector Superannuation (Administration) Act 1993**—

- (a) in sections 38 (2) and 38 (3)—
- (i) after “member of the Fund” **insert** “or a beneficiary”;
  - (ii) after “member’s account” **insert** “or beneficiary’s account”;
- (b) in section 38 (4) after “member’s” (where twice occurring) **insert** “or beneficiary’s”;
- (c) in sections 39 (1) and 39 (2) after “member’s” (wherever occurring) **insert** “or beneficiary’s”.

## **29. Amendment of section 40**

After section 40 (3) of the **Public Sector Superannuation (Administration) Act 1993** **insert**—

- “(4) The whole of the balance of a beneficiary’s account must be withdrawn as a single amount by the beneficiary or his or her legal personal

representative by application to the Board in a form approved by the Board upon the death of the beneficiary.

- (5) Subject to sub-section (4), a beneficiary may subject to such terms and conditions as are determined by the Board withdraw part or the whole of the balance of a beneficiary's account by application to the Board in a form approved by the Board.”. 5

**30. Amendment of section 44** 10

In section 44 of the **Public Sector Superannuation (Administration) Act 1993**—

- (a) in sub-sections (1) and (3) **omit** “Subject to the approval of the Minister,”.
- (b) in sub-section (1) after “member of the Fund” (where twice occurring) **insert** “or beneficiary”; 15
- (c) in sub-section (2) after “member” **insert** “or beneficiary”;

**31. Amendment of section 50**

In section 50 (1) of the **Public Sector Superannuation (Administration) Act 1993**— 20

- (a) after “member of the Fund,” **insert** “a beneficiary,”;
- (b) after “that member,” **insert** “beneficiary,”.

**32. Consequential amendment** 25

In section 61 of the **Public Sector Superannuation (Administration) Act 1993** after “Part” **insert** “or for the purposes of section 37A or 37B”.

**PART 5—REPEAL OF STATE CASUAL EMPLOYEES  
SUPERANNUATION ACT 1989**

**33. Provisions relating to section 23A accounts**

(1) In this section—

5           **“non-qualifying member”** means an employee within the meaning of the **State Casual Employees Superannuation Act 1989** who is not a qualifying member;

10           **“qualifying member”** means an employee within the meaning of the **State Casual Employees Superannuation Act 1989**—

          (a) who has a member’s account under section 23A of that Act immediately before the commencement of this sub-section; and

15           (b) whose employing authority is a participating employer under the **Public Sector Superannuation (Administration) Act 1993**; and

20           (c) whose account balance is more than \$500 or whose account balance when added to the balance of his or her member’s account under section 34 of the **Public Sector Superannuation (Administration) Act 1993** is more than \$500.

25           (2) On the commencement of this sub-section—

          (a) a qualifying member who is not already a member of the Victorian Superannuation Fund becomes a member of the Victorian Superannuation Fund; and

30           (b) the Victorian Superannuation Board must in respect of each person who becomes a member under paragraph (a) establish and maintain within the Victorian Superannuation Fund a separate account under section 34 of the **Public Sector Superannuation (Administration) Act 1993** and credit to that account the balance of the member’s account under section 23A of the

**State Casual Employees Superannuation Act 1989; and**

- (c) the Victorian Superannuation Board must in respect of each qualifying member who is already a member of the Victorian Superannuation Fund credit to his or her account the balance of the member's account under section 23A of the **State Casual Employees Superannuation Act 1989**. 5
- (3) A person who is a non-qualifying member because his or her employing authority is not a participating employer under the **Public Sector Superannuation (Administration) Act 1993** but whose account balance is more than \$500 must, upon being requested in writing to do so by the Victorian Superannuation Board, nominate a complying sector superannuation scheme or arrangement to which the balance of the account is to be paid. 10 15
- (4) On the commencement of this sub-section, the Victorian Superannuation Board must pay the balance of the account of a member to whom sub-section (3) applies to the scheme or arrangement nominated by that member. 20
- (5) On the commencement of this sub-section, the Victorian Superannuation Board must pay the balance of the account of a person who is a non-qualifying member because that balance is \$500 or less immediately before that commencement to that person or to his or her legal personal representative. 25 30
- (6) If the Victorian Superannuation Board cannot after making reasonable enquiries find a person to whom sub-section (5) applies, the Board must pay the balance of that person's account into a general holding account in the Victorian Superannuation Fund to be held on behalf of that person. 35
- (7) Sections 34 (2), 34 (3) and 40 of the **Public Sector Superannuation (Administration) Act 1993** apply

as if the general holding account were a member's account.

**34. Provisions relating to contributors**

(1) On the commencement of this section—

(a) a contributor within the meaning of the **State Casual Employees Superannuation Act 1989** becomes a member of the Victorian Superannuation Fund;

(b) the Victorian Superannuation Board must establish and maintain within the Victorian Superannuation Fund a separate account under section 34 of the **Public Sector Superannuation (Administration) Act 1993** and credit to that account the balance of the contributor's ordinary account under the **State Casual Employees Superannuation Act 1989**.

(2) Despite the transfer of a contributor under this section to the Victorian Superannuation Fund—

(a) the contributor is entitled to receive the same benefits that he or she would have been entitled to receive had he or she not been so transferred; and

(b) the contributor is entitled to have his or her rights and obligations in existence at the date of the transfer determined in accordance with the provisions of the **State Casual Employees Superannuation Act 1989** as in force immediately before that transfer.

**35. Transfer of assets and liabilities of Fund**

(1) The assets and liabilities of the State Casual Employees Superannuation Fund remaining after the making of any payments required to be made under section 33 or 34 are by virtue of this section transferred to the Victorian Superannuation Fund and form part of that Fund.

*Superannuation Acts (General Amendment)*

(2) No stamp duty or other tax is chargeable under any Act in respect of anything done under this section or section 33 or 34.

(3) The transfer effected by this section does not affect the benefits and rights conferred on any person by the **State Casual Employees Superannuation Act 1989**.

5

**36. *Repeal of State Casual Employees Superannuation Act 1989***

(1) The **State Casual Employees Superannuation Act 1989** is repealed.

10

(2) Despite the repeal of the **State Casual Employees Superannuation Act 1989**, the Minister must continue to pay into the Victorian Superannuation Fund such amounts as would have been payable from time to time under sections 26 (3) and 27 (2) of that Act into the State Casual Employees Superannuation Fund if that Act had not been repealed.

15

**PART 6—AMENDMENT OF STATE EMPLOYEES RETIREMENT BENEFITS ACT 1979**

20

**37. *Repeal of section 74***

Section 74 of the **State Employees Retirement Benefits Act 1979** is repealed.

**PART 7—AMENDMENT OF STATE SUPERANNUATION ACT 1988**

25

**38. *Payments into Fund***

(1) Section 30 of the **State Superannuation Act 1988** is repealed.

(2) Section 51 of the **State Superannuation Act 1988** is repealed.

30



- (3) For sections 90 (2) and 90 (3) of the **State Superannuation Act 1988** substitute—

5 “(2) The Treasurer may pay from the Consolidated Fund into the Fund any additional amount or amounts determined by the Minister on the advice of an actuary appointed by the Board in respect of any unfunded liability of the Fund relating to an employing authority or class of employing authority under section 90A.

- 10 (3) Any amount or amounts determined under sub-section (2) is or are to be paid into the Fund in a manner and a time agreed between the Minister and the Board.”.

**39. Amendment of section 52**

15 After section 52 (2B) of the **State Superannuation Act 1988** insert—

20 “(2C) In the case of a member of the Melbourne Water Corporation Employees’ Superannuation Fund who is transferred to the new scheme, his or her accrued retirement benefit for the total period of membership as a member of that Fund and as a new member is the sum of—

25 (a) the accrued retirement benefit (however designated) to the date of transfer calculated in accordance with the provisions of the governing instrument of the Melbourne Water Corporation Employees’ Superannuation Fund and certified by an actuary appointed by the Board; and

30 (b) the accrued retirement benefit calculated in accordance with sub-section (2).”.

**40. New section 90A inserted**

35 After section 90 of the **State Superannuation Act 1988** insert—

**“90A. Payments into Fund by employing authority**

- (1) In this section, “**employing authority**” means—
- (a) an employing authority within the meaning of the definition of “employing authority” in section 3 (1); and 5
  - (b) any other person, authority or body declared by the Minister by notice published in the Government Gazette to be an employing authority in respect of an officer or pensioner. 10
- (2) The Minister may by notice published in the Government Gazette declare a class or classes of employing authority. 15
- (3) Subject to sub-section (5), the Board may determine the contributions to be paid into the Fund by an employing authority or a class of employing authority. 20
- (4) Contributions under sub-section (3) may be calculated—
- (a) as a percentage or percentages of salary; or 25
  - (b) as a multiple or multiples of an employee’s contribution; or
  - (c) as a proportion or proportions of the benefit payable; or
  - (d) as a fixed amount; or 30
  - (e) by any combination of the methods specified in paragraphs (a), (b), (c) and (d).
- (5) A determination of the Board under this section has no effect unless the determination has been approved by the Minister. 35

(6) A determination—

(a) takes effect in the case of the first determination under this section, on 1 November 1995; and

(b) takes effect in the case of subsequent determinations, on whichever is the later of—

(i) the expiry of 4 months after notice of the determination is given by the Board to the employing authority or class of employing authority; or

(ii) the next 1 July occurring after the making of the determination; and

(c) continues in force for such period as is specified in the determination.

(7) An employing authority must pay its contributions on such dates as are determined by the Board in respect of that employing authority or the class of employing authority of which the employing authority is a member.

(8) If an employing authority does not within 14 days after an amount has become payable pay the whole of that amount to the Board, the employing authority must pay interest at the rate for the time being fixed under section 2 of the **Penalty Interest Rates Act 1983** on the amount remaining unpaid from the date on which it became payable until the date on which it is paid to the Board.”.

**41. *New section 94 inserted***

After section 93 of the **State Superannuation Act 1988** insert—

**“94. Transfer of members of MWCESF**

- (1) On the commencement of section 41 of the **Superannuation Acts (General Amendment) Act 1995**, a person who is a member of the Melbourne Water Corporation Employees’ Superannuation Fund to whom section 42 (2) of the **Metropolitan Bridges Highways and Foreshores Act 1974** or section 47 (1), 48 (1), 49 (1) or 51 (1) of the **Town and Country Planning (Transfer of Functions) Act 1985** applies is transferred to the new scheme as a member. 5
- (2) With the approval of the Minister, the trustees of the Melbourne Water Corporation Employees’ Superannuation Fund must enter into an agreement with the Board which specifies— 15
- (a) the liability of the Melbourne Water Corporation Employees’ Superannuation Fund up to the date of transfer in respect of the entitlements of transferred members as determined by an actuary appointed by the trustees of the Melbourne Water Corporation Employees’ Superannuation Fund; and 20
- (b) the value of assets of the Melbourne Water Corporation Employees’ Superannuation Fund equal to the liability of the Melbourne Water Corporation Employees’ Superannuation Fund under paragraph (a) that are to be transferred to the Fund; and 25 35
- (c) the terms and conditions which apply to the transfer of these assets to the Fund. 40

5 (3) For the purposes of sub-section (2), the liability in respect of each transferred member is to be treated as being in the same proportion as total net assets of the Melbourne Water Corporation Employees' Superannuation Fund are to the total liabilities of the Melbourne Water Corporation Employees' Superannuation Fund.

10 (4) If agreement cannot be reached within 3 months of the commencement of section 41 of the **Superannuation Acts (General Amendment) Act 1995**, the Minister may determine the matters specified in sub-section (2) or which are in dispute and the trustees of the Melbourne Water Corporation Employees' Superannuation Fund and the Board are deemed by virtue of this sub-section to have entered into an agreement containing the matters determined by the Minister.

15  
20  
25 (5) No stamp duty or other tax is payable under any Act in respect of anything done under this section.”.

**PART 8—AMENDMENT OF TRANSPORT  
SUPERANNUATION ACT 1988**

**42. *Repeal of section 44***

30 Section 44 of the **Transport Superannuation Act 1988** is repealed.

**PART 9—MISCELLANEOUS**

**43. *Repeals***

(1) The **Superannuation Act 1963** is repealed.

s. 43

*Superannuation Acts (General Amendment)*

- (2) The **Superannuation Act 1975** is repealed.
- (3) Sections 47 to 51 of the **Town and Country Planning (Transfer of Functions) Act 1985** are repealed.