

Local Authorities Superannuation Bill

EXPLANATORY MEMORANDUM

PART I—PRELIMINARY

Clause 1—Purpose

This clause identifies the purpose of the Act as being to provide improved superannuation arrangements for contributors to the local authorities superannuation scheme. It is to replace the *Local Authorities Superannuation Act 1958* (the 1958 Act).

Clause 2—Commencement

This is the commencement clause.

Parts 1 and 7 are deemed to have come into operation on 1 September 1987. This will have the effect of making the improved benefits available to contributors whose entitlement arose on or after that date.

The remaining Parts come into operation on a day or days to be proclaimed.

Clause 3—Definitions

This sets out definitions for the purposes of the Act.

Actuary means the Government Actuary or an approved Fellow of the Institute of Actuaries.

Adjusted Final Salary means the lesser of the actual final salary and the average salary of the contributor during the previous year (with appropriate adjustment for changes to the Average Weekly Earnings Index).

Authority means a municipal council (other than the City of Melbourne) or other specified employers. There is a 'grandfather' clause in sub-clause (3) for contributors who are employees of organisations which were 'Authorities' under the 1958 Act but which are not within this definition. There is also an ability to declare other employers to be 'Authorities' for the purposes of the definition, with a corresponding 'grandfather' clause in clause 59 (2).

Benefit means an amount paid or payable out of the fund.

Board is the Local Authorities Superannuation Board.

Contributor is a contributor to the Fund.

Current equivalent of the salary on retirement, in relation to a disability beneficiary, is an amount determined by the Board having regard to general movements in salaries.

Disability is a disability which affects the ability to work.

Disability Beneficiary is a contributor entitled to a disability benefit.

Employee is an employee of an Authority under age 65, except short-term construction workers.

Existing contributor is a person who was a 'permanent employee' under the 1958 Act.

Financial year is the year to 30 June, or other date fixed by Order in Council.

Fund is the Local Authorities Superannuation Fund.

Gainful employment is work for which remuneration is paid.

Government Actuary is the Government Statist in the capacity as Government Actuary.

Ill-Health is a continuous or recurring impairment of an employee's health which adversely affects ability to work is not a disability, doesn't prevent the employee finding other work, and isn't incurred to obtain a benefit.

Maternity Leave is unpaid maternity leave.

Member is member of the Board or alternate member.

Old Benefits is a statutory calculation of benefit closely approximating the benefit payable under the 1958 Act.

Pensioner is a recipient of a pension under the Act.

Retrenchment is compulsory termination of services in defined circumstances.

Salary is the annual rate of pecuniary emoluments.

Service is the adjusted period of time as a contributor.

The clause also contains in sub-clause (3) a 'grandfather' provision in relation to employers which cease to be 'authorities', and in sub-clause (4) details about calculation of service.

The remainder of the clause deals with a notional adjusted final salary, decisions under the Act, exemptions and transfer of payments from other funds.

Clause 4—Application of Act

This clause establishes that the scheme applies to existing contributors, as well as new employees of authorities.

Clause 5—Contributors under Local Authorities Superannuation Act 1958

Existing contributors are eligible to receive benefits under the new Act. However, sub-clause (2) provides for an option of receiving benefits calculated in accordance with the 1958 Act. That option can be exercised at any time from the end of employment until 6 months after the relevant benefit fell due.

PART 2—LOCAL AUTHORITIES SUPERANNUATION BOARD

Clause 6—The Board

The Board is established under this clause. It is the successor to the Local Authorities Superannuation Board established under the 1958 Act (see clause 56).

Clause 7—Objectives and duties of Board

This clause establishes the Board's statutory objectives and duties.

Clause 8—Powers of the Board

This clause establishes additional powers of the Board in relation to business equipment and services and assistance to bodies approved by the Minister on terms and conditions determined by the Board.

Clause 9—Membership of the Board

The Board is to comprise 5 members appointed by the Governor in Council. These are to include persons appointed on the nomination of the Municipal Association of Victoria (two members), the Treasurer (one member), the Municipal Officers Association (one member) and the Municipal Employees Union (one member).

Under sub-clause (2) one member can be appointed as President. Sub-clause (3) enables appointment of alternative members.

Clause 10—Vacancies on the Board

This is the usual clause providing for creation and filling of casual vacancies.

Clause 11—Suspension and removal of members

The Governor in Council is able to remove or suspend members for misbehaviour or incompetence.

Clause 12—Payment of members

Members are to be paid the amount fixed by the Governor in Council.

Clause 13—Procedure of the Board

This clause sets out procedures in relation to meetings of the Board.

Clause 14—Persons employed by the Board

The Board is given power to appoint staff and fix their salaries. Their long service leave entitlements are to be those applying in local government.

Clause 15—Delegation

This provides the Board with power to delegate the ability to make decisions under the Act or the *Borrowing and Investment Powers Act 1987*.

PART 3—LOCAL AUTHORITIES SUPERANNUATION FUND

Clause 16—Establishment of the Fund

This establishes the Local Authorities Superannuation Fund.

Clause 17—Objective of the Fund

This sets out the Fund's objective.

Clause 18—Powers under the Borrowing and Investment Powers Act

The Board is to have the powers conferred on it under the *Borrowing and Investment Powers Act 1987*.

Clause 19—Management Account of the Board

The Board is to maintain a management account.

Clause 20—Accounts and Records

This establishes the Board's financial accounting duties.

Clause 21—Annual Report

The Board is required to produce an annual report. If an order is in force under the *Annual Reporting Act 1983*, then sub-clause (9) provides that the obligations under that Act are to prevail.

Clause 22—Audit

The financial statements are to be audited by the Auditor-General.

Clause 23—Actuarial Investigation of the Fund

There must be an actuarial investigation of the fund each 3 years, the first being as at 28 February 1989.

PART 4—REVIEW OF DECISIONS OF THE BOARD

Clause 24—Person may request Board to reconsider decision

There is a statutory right to require the Board to reconsider a decision. If a person is still not satisfied, there is a right of appeal to a panel established under sub-clause (7).

PART 5—CONTRIBUTIONS

Clause 25—Contribution Rates

The contributions payable by authorities and contributors are established by the clause.

Clause 26—Length of Contribution period

Clause 27—Payment of contributions

Clause 28—Changes in salary

This imposes a notification requirement on Authorities.

Clause 29—Authority to notify Board of Changes with respect to employees

This also imposes a notification requirement, in this case relating to arrivals and departures of staff.

PART 6—MEDICAL EXAMINATIONS AND CLASSIFICATION

Clause 30—Board may require information or examination for purposes of classification

The Board is to classify contributors into categories determined by the Board and notified in the *Government Gazette*. There is to be a percentage reduction in benefits for lower classifications.

Clause 31—Authorities must not contribute to other schemes

Authorities are prohibited from entering other superannuation schemes in respect of their employees, without the Minister's approval.

PART 7—BENEFITS

This Part establishes the benefit structure as follows:

Clause 32—Benefit on retirement

Clause 33—Benefit on death of contributor before retirement

Clause 34—Benefit on retirement through disability

Clause 35—Benefit on retrenchment

Clause 36—Benefit on resignation

Clause 37—Benefit on retirement due to ill health

Clause 38—Deferred Benefit

Clause 39—Traumatic bodily injury

Clause 40—Long service leave and termination of employment

Clause 41—Limits on dealing with sums payable as benefits

Clause 42—Interruptions to employment

Clause 43—Re-employment of retrenched persons

Clause 44—Additional benefits contracts

Clause 45—Payment of benefits

Clause 46—General powers of Board in respect of benefits

Clause 47—Employment by more than one Authority

PART 8—GENERAL

Clause 48—Medical Issues

Medical issues are to be determined by the Board, after receiving a report from a medical officer of the Board. A contributor has a right to obtain a second report from an agreed medical practitioner.

Clause 49—Bankruptcy

This clause deals with the event of a beneficiary becoming bankrupt.

Clause 50—Benefits generally

Benefits are not transferrable by operation of law, except as provided in sub-clause (3).

Clause 51—Recovery of money by the Board

The Board is able to take proceedings for recovery of money.

Clause 52—Minors

Minors are to have capacity for the purposes of the Act.

Clause 53—Board may require information

The Board is able to obtain information for the purposes of the Act.

PART 9—REGULATIONS

Clause 54—Regulations generally

This is the regulation making power.

Clause 55—Regulation under section 54

This provides for what may be incorporated in regulations under the Act.

PART 10—TRANSITIONAL PROVISIONS

These clauses set out the transitional arrangements.

PART 11—CONSEQUENTIAL AMENDMENTS

These are the usual consequential amendments and repeals.