

Public Sector Superannuation (Administration) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purposes of the Act.

Clause 2 sets out the date on which a Part or a section comes into operation.

Clause 3 contains the definitions used in the Act.

Clause 4 is an interpretative aid and ensures that in the event of any inconsistency with any other Act or any form of the governing rules of an administered scheme, the provisions of the **Public Sector Superannuation (Administration) Act 1993** prevail, provided that a provision of the Act or regulations made under the Act is consistent with the Commonwealth Occupational Superannuation Standards Act 1987 or regulations made under that Act. Where there is any inconsistency between the Commonwealth law and the Act or regulations, the Board has complied with the Act or regulations if it has complied with the Commonwealth law.

PART 2—VICTORIAN SUPERANNUATION BOARD

Clause 5 establishes the Victorian Superannuation Board as a body corporate with all of the characteristics of a body corporate.

Clause 6 sets out the objectives and duties of the Board.

Clause 7 sets out the powers and functions of the Board.

Clause 8 provides for a Board of 8 Directors to be appointed by the Governor in Council and specifies the procedures for their appointment. The Minister is to nominate 4 Directors and 1 of these Directors is to be appointed as Chairperson of the Board. A total of 4 Directors are to be appointed by the Governor in Council from various categories of members of the Fund and administered schemes. An elected Director must be from the specified category of member and be elected by the members in that category.

To enable the Board to operate as soon as possible after the date of Royal Assent, the Act provides for an interim arrangement under which 4 Directors of the Board who were to be elected representatives will be nominated by the Victorian Trades Hall Council and hold office until no later than 30 June 1995. Elections must be held so that elected Directors can be nominated to the Governor in Council to hold office from 1 July 1995.

Clause 9 provides for the term of office of each Director.

Clause 10 provides for the appointment of a deputy for each Director and specifies the circumstances under which a deputy can act. A deputy is to be nominated or elected under the same procedure as the Director concerned.

Clause 11 sets out the reasons why a vacancy may occur on the Board and specifies the maximum time within which a vacancy must be filled.

Clause 12 provides for the removal or suspension of a Director and the basis for this action. A Director who is removed from office is not entitled to remuneration or compensation for the loss of office.

Clause 13 provides for the remuneration of Directors and for the payment of their expenses while performing their duties of office.

Clause 14 contains the procedures the Board must follow when a meeting is convened. The clause incorporates a requirement in the regulations made under the Commonwealth Occupational Superannuation Standards Act 1987 that a resolution of the Board will require a majority of at least two-thirds the number of Directors in office for the time being.

Clause 15 provides for resolutions to be passed when it is not expedient or practicable for the Directors to assemble. In this case, a resolution can only be passed when all the Directors in office at that time sign a statement that they are in favour of the resolution. There may be more than one document circulated, but each Director must sign a document in which the resolution is expressed in identical terms to any other document circulated containing that resolution.

Clause 16 makes it an offence for a person who is or has been a Director or member of staff of the Board to use information obtained in the course of their duties with the Board for pecuniary or other advantage for themselves or for others.

Clause 17 enables the Board to establish committees and to delegate functions or powers to any committee, but the committee has no power to delegate any function or power. The composition of each committee and the voting majority for resolutions must meet the standards in regulations made under the Commonwealth Occupational Superannuation Standards Act 1987. The Board is not precluded from exercising the powers or functions delegated to a committee.

Clause 18 requires a Director to declare any pecuniary interest in a matter being considered by the Board at a meeting at which the Director is present and the action which must be taken once that interest has been declared. Being a beneficiary of the Fund or an administered scheme is deemed not by itself to be a pecuniary interest.

Clause 19 provides that the Board may employ staff and set their terms and conditions of employment. Staff employed by the Board are not subject to the **Public Sector Management Act 1992**, except for the transitional provision in clause 57.

Clause 20 ensures that the Board has sufficient powers to properly administer the Fund and administered schemes, including entering into agreements with an external body or person to provide the Board with services, agreements for others to act as the Board's agent and contracts to engage consultants and professional advisers.

Clause 21 sets out the manner in which the Board may delegate a power, duty or a function and specifies the class of person or bodies that can receive a delegation.

Clause 22 provides that the investment powers of the Board are those conferred on it by the **Borrowing and Investment Powers Act 1987**, and amends that Act accordingly.

Clause 23 enables the Board to establish one or more common funds for the purpose of investing the assets of the Fund or of one or more of the administered schemes and

specifies the procedures, including accounting procedures, the Board must follow in the operation of a common fund or common funds.

Clause 24 enables the Board to establish an Administration Account which is to be used to meet the costs and expenses in administering the administered superannuation schemes under its control and to obtain funds to meet those costs and expenses. This is a separate account from any Management Account referred to elsewhere in the Act or in the governing rules of an administered scheme.

Clause 25 requires that the Board maintain proper accounts and records of its affairs and sets out its responsibilities in respect of its operations, assets and liabilities.

Clause 26 requires the Board to prepare an annual report of its operations and financial position. This report must be in a form approved by the Minister or follow the provisions of the **Annual Reporting Act 1983**, whichever is applicable.

Clause 27 requires the Board to have its annual financial statements audited by the Auditor-General and for the Board to pay to the Consolidated Fund the reasonable costs and expenses of that audit.

PART 3—VICTORIAN SUPERANNUATION FUND

Clause 28 creates the Victorian Superannuation Fund (which may be called VicSuper) and sets out sources of income and assets which are to form part of the Fund.

Clause 29 requires the Fund to be administered by the Board in accordance with the Act.

Clause 30 requires the Board to establish a Management Account and empowers the Board to debit the Fund with the costs and expenses incurred in the establishment and administration of the Fund.

Clause 31 sets out the eligibility conditions for membership of the Fund. The age limit of 65 years for contributions matches the limit under the Commonwealth Superannuation Guarantee (Administration) Act 1992 for employer contributions to a superannuation scheme. Where a participating employer certifies in writing to the Board that it is meeting its entire Commonwealth superannuation guarantee obligations in respect of an employee or employees by contributing to another complying superannuation scheme, that employee or those employees are not eligible to become members of the scheme.

Clause 32 requires the employer of a member of the Fund to contribute so that there is no shortfall under the Commonwealth Superannuation Guarantee (Administration) Act 1992 for any member employed by that employer. The Board can determine the manner of payment of employer's contributions and this determination is binding on an employer. Provision is made for the Board to accept employer contributions above the minimum required under that Act.

Clause 33 enables a member of the Fund to elect to make, vary or cease contributions to the Fund and provides for the Board to determine procedures for such elections by members.

Clause 34 requires the Board to establish a separate account for each member of the Fund and sets out what amounts must be credited or debited to a member's account.

Clause 35 provides that, with two exceptions, members are eligible for additional benefits of \$50,000 above the member's account balance where death or disability occurs. The two exceptions are as follows:

- no additional benefit is payable to a member who is a casual employee; and
- no additional benefit is payable to any member who dies or becomes disabled in his or her first two years of membership of the Fund where the Board determines, on medical advice, that the death or disability was a direct consequence of a pre-existing condition at the time the member's membership of the Fund began.

Apart from a casual employee, any member may apply for increased cover in multiples of \$50,000 up to a maximum fixed from time to time by the Board. The Board must establish procedures to consider applications, including medical examinations of applicants and the obtaining of any other information the Board considers appropriate.

The Board has the discretion to approve, with or without variations, the application by the member and decide the day on which the cover is to be changed. The Board has the power to refuse the member's application to increase the amount of cover as it sees fit, but it must inform the member of the refusal.

Clause 36 provides that the Board, to the extent possible, is to enter into a contract of insurance for members' death and disability cover. The Board must apportion the cost of the premiums paid for this cover to each member's account.

Clause 37 requires the Board to establish within the Fund a Death and Disability Reserve into which it must pay amounts determined upon advice of an actuary. These payments to the Reserve are to be apportioned to each member's account in the same manner as insurance premiums.

The Reserve is to meet death or disability claims for the uninsured portion of a member's additional benefit. The Board has the capacity to reduce the amount of a member's additional disability or death benefit under certain circumstances.

Clause 38 gives the Board the discretion to establish within the Fund, investment funds which are separate investment pools.

The purpose of this arrangement is to allow a member a choice of investment strategies for part or all of the credit balance in their account, subject to any terms determined by the Board. Rather than receiving a net earning rate based on an investment strategy determined by the Board for the entire fund, the member would receive an earning rate which reflected the investment strategy selected by the member.

These investment pools will provide members with the opportunity to select particular classes of investments that match their personal circumstances and degree of risk aversion.

Clause 39 requires the Board to adjust periodically the balance in member's accounts for the net earning rate of the Fund in each period, unless part or all of the member's account balance was invested in a particular investment fund. In this latter case, part or the whole of the balance in the member's account would be adjusted for the net earning rate of the particular investment fund the member selected in that period.

To enable the Board to calculate and to pay benefits from the Fund, the Board has the discretion to set the interim net earning rate of the Fund or of a particular investment fund

having regard to the Board's expectation of the net earning rate it would subsequently determine for the period.

Clause 40 provides that, unless there is a specific requirement to the contrary, the benefit payable to or in respect of a member of the Fund is the balance in the member's account when all credits and debits have been made. Death and disability benefits are two of the exceptions which are covered by clause 41.

Subject to the requirements of the Commonwealth Occupational Standards Act 1987 and the regulations made under that Act, clause 40 enables the benefit to be paid at the earliest of a number of specified events.

Clause 41 provides that, with two qualifications, the benefit payable on death or disability of a member of the Fund is the sum of the member's account balance and the amount received by the Board under a contract of insurance or the amount payable from the Death and Disability Reserve.

The first qualification is that only the member's account balance is payable if the member dies or becomes disabled within the first two years of membership of the Fund as a direct consequence of a pre-existing medical condition assessed under the procedure set out in clause 35.

The second qualification is that, in the case of disability, the benefit is payable only if the Board determines the member ceased to be an employee of the participating employer because of the disability. The Board has discretion to determine who is entitled to a benefit on the death of a member and, where there is more than one beneficiary, the respective amount payable to each.

Clause 42 sets out the procedure for considering applications for a disability benefit. Applications are to be made within 6 months of a person ceasing to be an employee and the applicant may provide medical evidence to the Board in support of the application. The Board must determine the question of whether the member's employment ceased as a result of disability after considering medical reports and such information as the Board considers appropriate.

The Board may also appoint a legally qualified medical practitioner who has not reported on the applicant to advise the Board in its consideration of the application and, if requested, to attend the meeting of the Board where an application is considered. Where an application is rejected by the Board, the applicant may request the Board to review its decision and to obtain a further medical report from an independent legally qualified medical practitioner either mutually agreed upon by the member and the Board or, failing agreement, appointed by the Minister.

Clause 43 allows a member to transfer a benefit which must be preserved under the Commonwealth superannuation legislation. A member is entitled to apply to the Board to have the amount of the preserved benefit transferred to another complying superannuation scheme or a superannuation arrangement approved by law to receive preserved benefits. An approved deposit fund is an example of the latter.

Subject to the Act, the Board is obliged to transfer the preserved benefit.

Clause 44 provides for the transfer of a member of the Fund with the member's consent to another superannuation scheme. The Board must determine the terms and conditions which are to apply and the amount of assets to be transferred.

There is a similar mechanism for members or other beneficiaries of another superannuation scheme or approved superannuation arrangement to transfer into the Fund.

Clause 45 requires the Board, in the first instance, to determine any dispute under this Part of the Act. Any person aggrieved by the Board's decision may apply to the Administrative Appeals Tribunal for a review of the decision.

Clause 46 prohibits the assignment of a member's benefits.

Clause 47 allows the Board to pay a benefit to the guardian, administrator or another person nominated by the Board where a person becomes incapable of managing his or her affairs.

Clause 48 specifies the manner in which benefits can be paid and authorises the Board to deduct any tax. Where the Board is of the opinion that the person receiving a benefit is entitled to that benefit, the Board has discharged its obligation in relation to the payment of the benefit.

Clause 49 gives minors the same capacity as a person of full age to do anything for the purposes of Part 3 of the Act.

Clause 50 gives the Board the discretion to recover money owing to the Fund together with interest determined by the Board and sets out the procedures for the recovery of such moneys.

Clause 51 enables the Board to require a participating employer and a person claiming a benefit to provide whatever information the Board may require for the purposes of the Act.

A person who, without reasonable excuse, fails to provide the information required of that person under the Act is liable for a penalty.

Subject to any law, the Board is required to keep confidential any information it obtains.

PART 4—TRANSFER OF ADMINISTRATION OF PUBLIC SECTOR SUPERANNUATION SCHEMES

Clause 52 contains a key feature of the rationalisation of public sector superannuation funds. In this clause, public sector superannuation schemes are named for the purposes of Part 4 of the Act. Other public sector superannuation schemes can be brought under Part 4 of the Act if the governing body of the scheme recommends this course of action and the Minister declares by an instrument in writing that Part 4 of the Act applies to that scheme.

Clause 53 enables the Governor in Council to declare that a superannuation scheme declared under Part 4 is an administered scheme. From the appointed day specified in the Order, the administration of that superannuation scheme is transferred to the Victorian Superannuation Board.

Clause 54 specifies the changes which occur on the appointed day. These changes are designed to ensure that the Victorian Superannuation Board assumes all of the powers, duties, obligations and rights of the former governing body of the superannuation scheme declared to be an administered scheme.

Clause 55 creates an Advisory Committee for an administered scheme and specifies the functions of the Advisory Committee. Members of the former governing body are deemed to have been appointed as members of the Advisory Committee on the same terms and conditions as in their current appointment to the governing body before the appointed day.

Clause 56 is an interpretative aid to resolve any conflict between a duty, function or power conferred on the Board by the Act and a duty, function or power conferred on the Board by the governing instrument of an administered scheme.

Clause 57 deems the staff of an administered scheme to have been appointed under section 19 of the Act if they were not subject to the **Public Sector Management Act 1992**.

Staff employed under the **Public Sector Management Act 1992** by the governing body of an administered scheme have 6 months in which to elect whether to remain employed under that Act. Those who elect not to remain under the Act are deemed from the date of their election to be employees of the Board and are to enjoy terms and conditions of employment no less favourable than they had before the election was made.

Clauses 58 and 59 provide for the Governor in Council to make Orders to give effect to the transfer of administration of schemes.

Clause 60 enables transfer of a member or beneficiary or a class of these persons from one administered scheme to another and specifies that no change in entitlements can arise as a result of that transfer. There is also a process for the Board to decide the amount of assets to transfer as a consequence of transferring members, beneficiaries or a combination of both from one administered scheme to another.

Clause 61 ensures that any assets transferred under Part 4 are not subject to any impost, taxation or duty under any Act of the Parliament of Victoria.

Clause 62 provides that where requested and on the delivery of any relevant certificate of title or instrument, the Registrar of Titles is to make whatever amendments in the Register which are necessary because of the restructuring of the administration of the relevant superannuation schemes.

Clause 63 excludes certain classes of legal proceedings from being brought against any person in respect of specified sections in Part 4.

Clause 64 is an express provision to change section 85 of the **Constitution Act 1975** to prevent the Supreme Court from entertaining applications referred to in the preceding clause.

PART 5—GENERAL

Clause 65 provides that with the approval of the Minister the Board may transfer members or beneficiaries between administered schemes and other public sector

superannuation schemes. The assets to be transferred are to be determined by the respective governing bodies on the advice of an actuary.

The transferred member's or beneficiary's contribution rates, entitlements, rights, obligations and benefits are to be determined and continued in accordance with the provisions of the governing instrument of the Fund he or she was a member of prior to transfer.

The provisions of this clause are in addition to any transfer rights a member or beneficiary may currently be entitled to.

Clause 66 requires the rules of the Metropolitan Transit Authority Superannuation Fund to be read as if three sections of the **Transport Superannuation Act 1988** applied. These sections contain—

- (a) a requirement and the procedure for each member's benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth;
- (b) conditions under which part of a deferred benefit can be released to a member and the procedure to adjust the balance of that member's benefit; and
- (c) a change in the method to adjust certain benefits, so that they are adjusted annually for the movement in the Consumer Price Index.

Clause 67 applies to named superannuation schemes and requires the governing rules of each of these named schemes to be read as if they contained the following provisions—

- (a) a requirement and the procedure for each member's benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth;
- (b) all existing funds are to be closed to new entrants; and
- (c) if a new fund or scheme is to be opened for new employees then the benefit design should be as close as possible to the benefit design in Clause 31 to 51 of the Act and the definitions in Clause 3 of the Act.

Clause 68 contains the procedures and the conditions under which a member's benefit must be adjusted for the tax changes introduced in 1988 by the Commonwealth.

For schemes which were paying or began to pay taxed benefits on or before 1 July 1993, the members' benefits and the maximum benefit payable must be reduced on the basis determined by an actuary and approved by the Minister. The basis for adjustment is that the cost of the scheme for participating employers is no greater than it would have been if the income of the scheme was not subject to tax from 1 July 1988, and no unreasonable detriment is caused to a member.

For schemes which at present do not pay taxed benefits but intend to do so in the future there is a similar procedure to adjust each member's benefit, including the maximum benefit payable.

The governing body of a scheme is to consider whether a member has incurred an unreasonable detriment as a result of any adjustment to his or her benefits and, having regard to the advice of an actuary, take whatever action is necessary to remove that unreasonable detriment.

Clause 69 enables the Governor in Council , after considering a report of the Board, to make regulations to give effect to the Act or to make provision for or with respect to the occupational superannuation standards. The regulations may be disallowed by resolution of either House of Parliament.

PART 6—AMENDMENTS TO THE STATE SUPERANNUATION ACT 1988

Clause 70 provides for amended definitions and new definitions as follows :

The definition of “contract officer” now includes any person or class of persons declared by the Minister thereby allowing the option of ceasing to remain in the scheme to be extended to employees other than executive officers.

The Board is to approve the appointment of two legally qualified medical practitioners to determine disability.

The definition of “exempt officer” has been extended to include contract officers employed by employing authorities. Where the contract of employment provides that a person is an exempt officer for the purposes of the Act, that person is not eligible to join or remain in the scheme.

A new definition “final average salary” is introduced for determining benefits based on the average salary over two years is introduced. A phasing in formula is provided from 1 January 1994 to ensure no reductions in accrued benefits result from the new definition.

The definition of “recognised service” is amended so that any additional service to be recognised by the Board is in accordance with the regulations for this purpose.

The age specified in the definition of “revised scheme member’s pension” is lowered from 65 to 60 as part of the changes to benefits for death or disability.

Clause 71 substitutes the definition of final average salary for the definition of final salary in calculating benefits for the following:

1. New scheme members who elected to transfer from the State Employees Retirement Benefits Fund
2. Revised scheme members retiring after the age of 60
3. New scheme members retiring after the minimum age for retirement
4. Maximum accrued retirement benefit of new scheme members
5. Spouse and children of new scheme members including prescribed fire-fighters who die before the minimum retirement age
6. New scheme members who resign
7. Meeting the superannuation guarantee amount
8. Revised scheme members’ pensions
9. Revised scheme members retiring through disability
10. New scheme members including prescribed fire-fighters who die with no dependants before the age of 60
11. New scheme members retiring through disability

Clause 72 provides for the closure of the State Superannuation Fund to new members from the commencement of section 31 of the Act.

Clause 73 provides for the payment of the balance (if any) of the non-contributory account established for the relevant scheme members if a pension or benefit is not payable under the **Attorney-General and Solicitor-General Act 1972, Constitution Act 1975, County Court Act 1958, Director of Public Prosecutions Act 1982** or the **Supreme Court Act 1986**.

Clause 74 allows the Minister, after obtaining the advice of an actuary appointed by the Board, to determine additional amounts to be paid from the Consolidated Fund in respect of any outstanding liability of the Consolidated Fund to the Fund. In particular, the clause facilitates the repayment of outstanding deferred employer contributions that have arisen from previous funding arrangements whereby pensions commuted to lump sums were reimbursed as though the pension was still being paid. Upon repayment of the liability the obligation of the Consolidated Fund to continue paying on a pension basis ceases. The manner and timing of the payment is to be agreed between the Board and the Minister.

Clause 75 repeals the provisions of the Act that are inconsistent with the provisions of the Commonwealth Sex Discrimination Act 1984 with which all superannuation funds are required to comply from 1 July 1994. The amendments provide for the continuation of benefits payable to spouses of deceased members on their remarriage. Further provision is made to entitle spouses of pensioners to benefits on the death of the pensioner provided that they had married or had been living in a permanent and bona-fide relationship with the pensioner for at least two years before the death of the pensioner.

Clause 76 allows the Board to pay part of deferred pensions where the Commissioner for Insurance and Superannuation approves and to adjust the deferred pension by such amount as determined by the Board on the advice of an actuary—

Clause 77 restricts the maximum contribution rate which new scheme members can elect to contribute to no more than 5% of salary except in the following circumstances:

1. the member is contributing at a rate which will not result in him or her being entitled to a retirement benefit based on an average contribution rate of 5% for his or her full period of recognised service; or
2. the member is a member of a prescribed class of new scheme member.

A member who is contributing at greater than 5% of salary is deemed to have elected to contribute at the new maximum rate from the last pay in February 1994 unless the above criteria are satisfied.

Existing eligibility criteria for members, other than a prescribed class of members, to contribute at higher rates than 5% are amended to ensure that benefits cannot exceed the benefit that would be payable if the member had contributed at an average of 5% of salary over his or her total recognised service period.

Clause 78 provides for death benefits of new scheme members who are prescribed fire-fighters to be based on prospective service to age 55 and repeals the additional benefit payable based on the old maximum member contribution rate.

Deferred benefits payable on the death of prescribed fire-fighters who are members of the new scheme are to be based on the revised prospective retirement age and additional benefit provisions.

The Board is empowered to release part of the deferred benefit of a prescribed fire-fighter where the Commissioner for Insurance and Superannuation approves and to adjust the deferred pension by an amount determined by the Board on the advice of an actuary.

Clause 79 allows members who are entitled to a deferred pension due to their transfer from the Revised Scheme to the New Scheme, and who subsequently resign, to elect to receive a return of their own contributions and interest in respect of their Revised Scheme membership together with a reduced deferred pension. The clause is deemed to operate from 1 July 1988 to allow New Scheme members who have resigned since that date to receive their Revised Scheme member contributions and interest.

Clause 80 provides that former revised scheme members who transferred to the Transport Superannuation Fund and who subsequently resigned or resign may, in relation to their deferred pensions, elect to receive a return of their own contributions and interest attributable to their Revised Scheme membership together with a reduced deferred pension. The Clause is deemed to operate from 30 June 1992 to allow Transport Superannuation Fund members who have resigned since transferring to the Transport Superannuation Fund to receive their Revised Scheme member contributions and interest.

The Board is empowered to pay part of deferred pensions where the Commissioner for Insurance and Superannuation approves and to adjust the deferred pension by an amount determined by the Board on the advice of an actuary.

Clause 81 corrects a previous drafting error and specifies conditions for the payment to exempt officers of their deferred benefits in the event of resignation.

Clause 82 provides for the voluntary transfer of revised scheme members to the new scheme.

A minimum transfer rate of 50% of revised scheme members is specified. The transfer period may be extended after 30 June 1994 where the Fund's Board considers that, by such an extension to no later than 31 August 1994, the minimum transfer rate will be achieved.

The contribution rates for revised scheme members are to be increased with effect from the first pay day in May 1994, and further increased with effect from the last pay day in October 1994. The latter adjustment will not apply if the minimum transfer rate of 50% is achieved by the end of the transfer period, or extended period, and a notice to that effect is published in the Government Gazette within 14 days after the expiry of the transfer period or extended transfer period as the case may be.

A revised scheme member who elects to transfer to the new scheme ceases to be entitled to a benefit from the revised scheme and accrues an entitlement to a lump sum benefit from the new scheme equal to a transfer multiple of final average salary calculated in accordance with the formula set out in the Act.

Clause 83 confirms that benefit entitlements from the State Superannuation Fund in respect of Masters of the Supreme Court of Victoria who on 1 January 1991 were contributing to the fund became payable under another Act. It also provides that pensions payable to or in respect of Masters of the Supreme Court that were in force on that date continue to be paid in accordance with the State Superannuation Act. The Minister must reduce any amount payable from the Consolidated Fund by an amount determined by the

Board to be equal to the amount contributed and interest by those Masters whose entitlements became payable under another Act.

Clause 84 provides for deferred benefits payable to members eligible to join approved superannuation schemes who elect to cease contributing to the State Superannuation Fund. Such persons may on subsequent resignation elect to receive a refund of their contributions plus interest and a reduced deferred benefit. The clause also provides that the Governor in Council may by an Order revoke the declaration of an approved superannuation scheme.

Clause 85 allows for the Minister to declare an officer or a class of officers to be eligible to elect in writing to be exempted from continuing membership of the Fund.

An officer who is eligible may elect to be exempted from continuing membership in which case he or she becomes eligible for a deferred benefit as though he or she were an exempt officer.

Clause 86 inserts a requirement and the procedure for each member's benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth.

Clause 87 removes the former provisions applying to forfeiture of benefits in the case of the bankruptcy.

Clause 88 provides for consequential amendments to a change in definition under the **Mental Health Act 1986**.

Clause 89 standardises references to benefit classification certificates by substituting that term for all references to medical classification certificates. The clause is deemed to operate from 30 June 1992 to reflect the date upon which the term benefit classification certificate was introduced.

Clause 90 is a standard provision for Victorian public sector schemes which requires the introduction of annual indexation of pension and deferred benefit entitlements. The clause is deemed to operate from 1 January 1994 and provides transitional arrangements for the half yearly adjustment to pensions in June 1994.

PART 7—AMENDMENTS TO THE STATE CASUAL EMPLOYEES SUPERANNUATION ACT 1989

Clause 91 amends the definitions "employee" "retrenchment" and "spouse", and inserts new definitions "casual employee" and "interest".

The amendment to the definition of "employee" clarifies the class of persons who are to be regarded as such for the purposes of the Act.

The amendment to the definition of "retrenchment" is to bring the definition in line with that of other schemes.

The definition of "casual employee" is to clarify eligibility for membership of the scheme.

The definition of “interest” specifies that the amount of investment income to be credited to members’ accounts is to be determined after adjustment for administration costs and expenses and tax which are not otherwise debited to members’ accounts.

Clause 92 provides for the closure of the State Casual Employees Superannuation Fund to new members.

Clause 93 repeals a provision that is discriminatory on account of a person’s age.

Clause 94 requires the employer of a member of the fund to contribute so that there is no shortfall for any member employed by that employer under the Commonwealth Superannuation Guarantee (Administration) Act 1992.

Clause 95 requires the Board to establish a separate account for each member of the scheme and sets out what must be credited and debited to a member’s account.

Clause 96 provides that the benefit payable to a member, except in the case of death or disability, is the balance of the member’s account and requires the Board to credit interest on the balance of the member’s account until the date the benefit is paid.

Clause 97 provides for the Board to determine an interim interest rate having regard to the expected interest rate.

Clause 98 provides for the closure of Beneficiary Accounts in the Fund and requires the Board to pay the balance of any beneficiary account to the beneficiary or his or her personal representative in accordance with the occupational superannuation standards.

Clause 99 removes the former provisions applying to forfeiture of benefits in the case of the bankruptcy.

Clause 100 provides for the voluntary transfer of members to another complying superannuation fund. The Board, subject to the occupational superannuation standards, must transfer the balance of a member’s account as directed by the member.

PART 8—AMENDMENTS TO PARLIAMENTARY SALARIES AND SUPERANNUATION ACT 1968

Clause 101 provides for new definitions as follows:

The “secretary” is to be appointed by the Trustees and that person must be an employee of the Victorian Superannuation Board.

The new definition of “spouse” is the same as in Part 1 of the Act which will be used for benefits payable from the Victorian Superannuation Fund.

Clause 102 provides for the transfer of administration and investments of the Fund from the State Superannuation Board to the Victorian Superannuation Board.

Standard provisions for the indemnity of trustees and for delegation have also been included.

Clause 103 provides the procedures to adjust the future service component of each member’s superannuation benefit. These adjustments apply from 1 December 1993. The reductions range from 15 to 28 per cent depending on the member’s length of service.

Clause 104 makes consequential amendments to the minimum spouse pension and repeals the discriminatory provision which disqualifies a spouse who remarries from receiving a pension.

Clause 105 repeals the provision for the transfer of assets into the Fund by a member to purchase prior service benefits and inserts arrangements to adjust annually member's and spouse's pensions to movements in basic salary.

Clause 106 introduces a new procedure to adjust a benefit payable to a member for any lump sum benefit previously received by that member.

Clause 107 provides standard adjustment of pensions where a beneficiary becomes a member of another Parliament or accepts an office under the Crown. The pension payable is adjusted to take account of the remuneration for the new position.

PART 9—AMENDMENTS TO THE HOSPITALS SUPERANNUATION ACT 1988

Clause 108 repeals an inoperative provision providing for an increase in the membership of the Board, and repeals a qualification for Board members which discriminates on the basis of age.

Clause 109 provides for the maximum contribution by members to be 4% of salary from 1 January 1994. Persons contributing at the maximum rate of 6% of salary on 31 December 1993 are allowed to continue contributing at that rate until making an election to contribute at a lower rate.

Supplementary contributions will no longer be permitted and the relevant section is repealed.

Clause 110 provides that the future service component of death and disability benefits for basic benefit members is to be based on the employer contribution rate under the Commonwealth Superannuation Guarantee (Administration) Act 1992 at the time of the member's disability or death. The clause also amends the existing provisions to allow the payment of preserved benefits up to the maximum allowed under the Commonwealth superannuation legislation. The Fund may also pay partial releases of preserved benefits with the written approval of the Commissioner for Insurance and Superannuation up to the limit specified in the approval.

Commonwealth taxes payable by the Fund are to be deducted from the amount credited to a member's basic benefit account.

Clause 111 specifies the benefit payable on retirement due to age in respect of contributions made by the member at a new maximum contribution rate.

Clause 112 provides for a consequential amendment to the benefit payable on death before retirement in respect of contributions made by the member at the new maximum contribution rate.

Clause 113 amends the benefit payable in respect of contributions made by a member at the new maximum contribution rate and sets out transitional provisions that will ensure that a member's death and disability benefits will not be less than would have been payable had the member become disabled or died on 31 December 1993 in accordance with the rules in force on that date.

Clause 114 creates a new category of membership which is to be known as HOSPLAN membership and which is to cover all new employees after 1 January 1994.

In common with new schemes or sub-schemes being established across the Victorian public sector, HOSPLAN provisions relating to membership, contributions, benefits and administration are the same as those within the new VicSuper Fund and which are contained in Clauses 31 to 51.

All new public sector employees after 1 January 1994 will therefore be members of funds which are identical in most respects and which will be fully funded accumulation schemes based on employer contribution rates under the Commonwealth Superannuation Guarantee legislation.

Clause 115 closes the fund to new basic benefit or contributory members and provides existing basic benefit and contributory members with an opportunity to transfer to HOSPLAN membership.

Clause 116 inserts a requirement and the procedure for each member's benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth.

Clause 117 provides for the introduction of annual indexation of pension and deferred benefit entitlements. The clause is deemed to operate from 1 January 1994 and provides transitional arrangements for the half yearly adjustment to pensions in June 1994.

Clause 118 deletes the provisions applying to the forfeiture of benefits in the event of a member's bankruptcy.

Clause 119 is a consequential amendment due to a new definition under the **Mental Health Act 1986**.

PART 10—AMENDMENTS TO THE LOCAL AUTHORITIES SUPERANNUATION ACT 1988

Clause 120 repeals a redundant provision that discriminates on the basis of a person's age.

Clause 121 creates a new category of membership which is to be known as LASPLAN membership and which is to cover all new employees other than casual employees after 1 January 1994.

In common with new schemes or sub-schemes being established across the Victorian public sector, LASPLAN provisions relating to membership, contributions, benefits and administration are the same as those within the new VicSuper Fund and which are contained in Clauses 31 to 51.

Clause 122 inserts a new definition "casual employee".

Clause 123 deletes the provisions applying to the forfeiture of benefits in the event of a member's bankruptcy.

Clause 124 a requirement and the procedure for each member's benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth;

**PART 11—AMENDMENTS TO THE TRANSPORT SUPERANNUATION ACT
1988**

Clause 125 provides a new definition of “final average salary” for the purpose of calculating benefits for the following:

1. Members retiring after the minimum age for retirement
2. Maximum accrued retirement benefit of members
3. Members who resign
4. Spouse and children of members who die before the minimum retirement age
5. Members retiring through disability

Clause 126 provides for the closure to new members of the scheme established under the Act.

Clause 127 repeals a provision that discriminates on the basis of a person’s age.

Clause 128 amends the conditions that permit an existing member to contribute at the maximum rate.

Clause 129 allows payment of a deferred benefit up to the maximum amount prescribed in the Commonwealth superannuation standards legislation, and repeals existing payment provisions based on a member’s salary on exit from the scheme.

The clause also provides that benefits are to be paid in accordance with Commonwealth superannuation standards.

Clause 130 inserts a requirement and the procedure for each member’s benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth.

The clause also permits the Board to pay amounts approved by the Commissioner for Insurance and Superannuation to former members and, on the advice of an actuary, reduce the deferred pension payable to the member.

Clause 131 provides for the introduction of annual indexation of pension and deferred benefit entitlements. The clause is deemed to operate from 1 January 1994 and provides transitional arrangements for the half yearly adjustment to pensions in June 1994.

Clause 132 repeals the former provisions applying to forfeiture of benefits in the case of bankruptcy.

Clause 133 is a consequential amendment due to a new definition under the **Mental Health Act 1986**.

**PART 12—AMENDMENTS TO THE EMERGENCY SERVICES
SUPERANNUATION ACT 1986**

Clause 134 provides for all new non-operational employees to be members of the new ESSPLAN Scheme.

Clause 135 repeals a discriminatory provision which prevents a person aged 70 or more from being appointed or re-appointed as a member of the Board.

Clause 136 enables the Board to establish committees and to delegate functions or powers to any committee, but that committee has no power to delegate any function or power. The composition of each committee and the majority required for resolutions meet the standards in regulations made under the Commonwealth Occupational Superannuation Standards Act 1987. The Board is not precluded from exercising the powers or functions it has delegated to a committee.

Clause 137 provides that the Board may establish investment funds in the same manner as the VicSuper Fund and other schemes having the same common rules for new employees.

Clause 138 provides that the Consolidated Fund is not liable to meet any insufficiency of assets to meet ESSPLAN benefits.

Clause 139 repeals section 20A of the **Emergency Services Superannuation Act 1986** which is redundant as other provisions of the Emergency Services Superannuation Act and regulations made thereunder already enable employers to be charged contributions for members' benefits.

Clause 140 repeals the former provisions applying to forfeiture of benefits in the case of bankruptcy.

Clause 141 inserts a requirement and the procedure for each member's benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth.

Clause 142 repeals the provisions relating to acceptance of employer contributions under the Commonwealth Superannuation Guarantee (Administration) Act 1992. Those provisions are being incorporated into the Regulations to facilitate administration of the scheme.

Clause 143 extends the power of the Governor in Council to make regulations to create a new class of membership which is to be called ESSPLAN membership. It is intended that regulations made under this power will create for all new members after 1 January 1994 superannuation arrangements having the same common provisions as other funds as set out in Clauses 31 to 51 together with the definition in Clause 3.

PART 13—AMENDMENT TO THE SUPERANNUATION (PORTABILITY) ACT 1989

Clause 144 changes the indexation of pension and deferred benefit entitlements from a quarterly to a yearly basis.

Clause 145 makes provision for public sector employees who, as a result of the restructuring and establishment of public sector superannuation schemes, have deferred entitlements in more than one scheme, but whose public sector employment has been continuous, or subject to short breaks.

Such employees will be able to have their separate deferred benefits treated as a single benefit for the purposes of the Act.

**PART 14—AMENDMENTS TO THE STATE EMPLOYEES RETIREMENT
BENEFITS ACT 1979**

Clause 146 provides for the introduction of annual indexation of pension and deferred benefit entitlements. The clause is deemed to operate from 1 January 1994 and provides transitional arrangements for the half yearly adjustment to pensions in June 1994.

Clause 147 requires the Board to pay amounts approved by the Commissioner for Insurance and Superannuation to former members and, on the advice of an actuary, reduce the deferred pension payable to the member.

Clause 148 inserts a requirement and the procedure for each member's benefit, including the maximum benefit payable, to be adjusted for tax changes introduced in 1988 by the Commonwealth.