Superannuation Acts (Miscellaneous Amendments) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 states the purpose of the Act.

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

PART 2—AMENDMENT OF EMERGENCY SERVICES SUPERANNUATION ACT 1986

Clause 3 expands the definition of "employer" to ensure there is no doubt that the Board has the capacity to bill and collect contributions from an employer (however described) in respect of benefits payable to a spouse or dependant of a member or former member of, or a contributor or former contributor to a superannuation scheme managed by the Board.

Clause 4 repeals two outdated provisions that allow the size of the Board to be increased to 8 if certain membership conditions applied at the time of nomination. This amendment ensures the size of the Board will be limited to its current size of 6 members and deems it to be the same body after the commencement of this section as before.

Clause 5 inserts a new standard provision relating to the delegation powers of the Board under this Act and under the **Borrowing and Investment Powers Act 1987**.

Clause 6 repeals a section which enabled the Board to borrow money outside the provisions of the **Borrowing and Investment Powers Act 1987**.

PART 3—AMENDMENT OF HOSPITALS SUPERANNUATION ACT 1988

Clause 7 inserts a new standard provision relating to the delegation powers of the Board under this Act and under the **Borrowing and Investment Powers Act 1987**.

Clause 8 establishes beneficiary accounts within HOSFUND, the accumulation scheme in Part 6A of the **Hospitals Superannuation Act 1988**, and the arrangements for their operation. The amendment also sets out the procedures to be followed by a person, who becomes entitled to a lump sum payment or is the holder of an existing beneficiary account, about the elections which must be made to transfer to a new beneficiary's account established under Part 6A or elsewhere.

Death benefits cannot be credited to or left in a beneficiary's account and a deferred lump sum benefit cannot be transferred until it becomes payable.

Clause 9 inserts rules about payments from a beneficiary's account. On the death of the holder of a beneficiary's account, the whole of the balance must be withdrawn. In all other circumstances, the beneficiary can make a complete withdrawal or periodic withdrawals from his or her account, subject to terms and conditions set by the Board.

Clause 10 repeals the existing provision to establish and to operate a beneficiary's account.

Clause 11 enables the Board to pay interest on lump sum benefits which are not paid within 14 days of a person becoming entitled to the payment of that benefit.

PART 4—AMENDMENT OF LOCAL AUTHORITIES SUPERANNUATION ACT 1988

Clause 12 inserts a new standard provision relating to the delegation powers of the Board under this Act and under the **Borrowing and Investment Powers Act 1987**.

Clause 13 reduces the time period from 2 months to 14 days after which interest is payable on a lump sum benefit to which a person is entitled but has not been paid.

PART 5—AMENDMENT OF PUBLIC SECTOR SUPERANNUATION (ADMINISTRATION) ACT 1993

Clause 14 extends the definitions of "beneficiary" and "existing beneficiary" to cover those who become entitled to a lump sum payment (excluding a death benefit) or are the holders of a beneficiary's account under the **State Superannuation Act 1988**.

Clause 15 enables holders of beneficiary accounts established under the **State Superannuation Act 1988** and any member of the State Superannuation Fund who becomes entitled to a lump sum payment (other than a death benefit) to have the options to transfer to a new beneficiary's account in the Victorian Superannuation Fund, to transfer the payment to a complying superannuation scheme or arrangement or to receive the money.

Clause 16 provides a member with the entitlement to require the Board to transfer his or her preserved benefits to any other complying superannuation scheme or arrangement. This entitlement can only be exercised during the period that member's participating employer certifies to the Board that the superannuation guarantee shortfall in respect of that member is being paid to another complying superannuation scheme or arrangement. During the period this certification remains in force, the Board must comply with the member's request and make the transfer after deducting any amounts owed to the Board.

Clause 17 provides a member with the right to require the Board to transfer his or her non-preserved benefits to any other complying superannuation scheme or arrangement. The Board must comply with the member's request and make the transfer after deducting any amounts owed to the Board.

PART 6—AMENDMENT OF STATE EMPLOYEES RETIREMENT BENEFITS ACT 1979

Clause 18 inserts a definition of "ill health".

Clause 19 repeals a provision that requires a disability pension to continue to be paid to a person in the event that the person is not offered employment by his former employer, even though the Board has determined that that person is no longer disabled.

Clause 20 inserts a provision that allows a person who is under 60 years of age and receiving a disability pension, whom the Board now considers is no longer disabled, to apply to retire on the grounds of ill-health. The amendment sets out the method to calculate the ill-health benefit and the period in which the former pensioner can apply for the benefit and once the person accepts the payment, the Board is released from any obligations or other entitlements with respect to that person or to any of his or her dependants.

Clause 21 inserts a provision that requires the Board to pay interest on lump sum benefits not paid within 14 days from the date the payment of that benefit became due.

PART 7—AMENDMENT OF STATE SUPERANNUATION ACT 1988

Clause 22 inserts a definition of "ill health".

Clause 23 is a substitute for an existing provision and repeals an existing provision. This new provision removes any doubt that once the pensioner accepts the offer of the lump sum, the Board is released from any obligations or other entitlements with respect to that person or to any of his or her dependants.

Clause 24 inserts an option for the Board to cancel a disability pension.

Clause 25 inserts a new provision concerning the eligibility for and the payment of an ill health lump sum benefit. This provision applies to a person who is under the minimum age for retirement and is receiving a disability pension.

Where the Board decides that a person, who is under the minimum age of retirement, is no longer disabled that person can apply to the Board to retire on the grounds of ill-health. The application must be within the 3 month period between the date the Board makes the decision that the person is no longer disabled or 30 days after the Board confirms that decision on review or the Administrative Appeals Tribunal confirms the decision on review.

The provision provides the method to calculate the benefit using the recognised service to the date on which the pension was granted and the salary or final average salary, as the case may be, on the same date. The amount calculated is then increased by movements in the All Capital Cities Consumer Price Index as if the lump sum was a deferred benefit during the period between the date used in the calculation and the date on which the Board determined that the person was no longer disabled.

When the payment is accepted, the Board is released from any obligations or other entitlements with respect to that person or to any of his or her dependants.

This provision also covers current receivers of disability pensions, under the minimum age of retirement, whom the Board has already determined is no longer disabled but, because the employer has not offered employment, continue to receive a disability pension. These disability pensioners can apply to the Board to retire on the grounds of ill-health. The application must be within 90 days of the commencement date of this Act or 30 days after the Board confirms their determination on review or the Administrative Appeals Tribunal confirms the decision on review.

Clause 26 repeals a provision relating to the establishment and operation of beneficiary accounts under the **State Superannuation Act 1988**.

Clause 27 inserts a provision that requires the Board to pay interest on lump sum benefits not paid within 14 days from the date the payment of that benefit became due.

Clause 28 clarifies the objective test to apply when a person is to transfer to the new scheme under section 95 of the **State Superannuation Act 1988**.

PART 8—AMENDMENT OF SUPERANNUATION ACTS (FURTHER AMENDMENT) ACT 1994

Clause 29 amends the commencement date for certain sections of this Act to remove any doubts concerning compliance with the Commonwealth Sex Discrimination Act 1984. This change will cause no disadvantage and removes the possibility of discrimination against "defacto spouses" in applications for benefits (usually death benefits) for the period 1 July 1994 to 20 December 1994.

PART 9—AMENDMENT OF SUPERANNUATION ACTS (GENERAL AMENDMENT) ACT 1995

Clause 30 inserts provisions to remove an impediment to the merger of the State Casual Employees Superannuation Fund (SCESF) with the Victorian Superannuation Fund by 31 March 1996. It enables the Victorian Superannuation Board to pay to the Registrar of Unclaimed Moneys any account balance where the member of the SCESF is either lost or does not make an election within the specified period.

It also inserts an additional provision to allow a member's balance of $500 or less to be paid to an eligible roll over fund.

PART 10—AMENDMENT OF SUPERANNUATION (PUBLIC SECTOR) ACT 1992

Clause 31 changes the wording to remove an ambiguity in relation to the salary to be used for superannuation purposes for a person who is or becomes an executive officer. An officer who wishes to remain in one of the specified public sector defined benefit schemes has the choice to select, as salary for superannuation purposes, 70% of the remuneration package for the current position or the previous salary if it is higher.

PART 11—AMENDMENT OF TRANSPORT SUPERANNUATION ACT 1988

Clause 32 inserts a provision that requires the Board to pay interest on lump sum benefits not paid within 14 days from the date the payment of that benefit became due.

By Authority. Victorian Government Printer