

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 the Board must follow in the operation of common funds,

including accounting procedures to ensure that the interests of the separate schemes are protected.

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. However the Board is not responsible for policing contributions from employers.

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 and conditions for such elections by members. In the event that the Commonwealth introduces compulsory employee contributions for superannuation, members will be deemed to have elected to make the required contributions to the Fund.

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 for death and disability cover in the Fund. Members joining the Fund will automatically have cover for death and disability benefits in addition to the member's account balance at the time of death or disability. The additional cover will commence at a level determined from time to time by the Board, but until the Board makes a determination it will be \$50,000 per member.

The additional cover for death and disability will not apply to casual employees or to employees who die or become disabled within the first two years of their membership as a result of a pre-existing condition. Cover will cease 30 days after a member ceases employment with a participating employer or the employer starts making SGC contributions to another scheme. Members can apply from time to time to vary their death and disability cover, and the Board may accept or reject an application or impose conditions on any variation in cover.

The Board can require members to undertake a medical examination before increasing their death and disability cover, and may require other appropriate information. The Board must also determine the date from which any variation becomes effective.

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.

If the Board fails to obtain insurance for the whole of a member's death and disability cover, or can do so only on conditions, then the Board may reduce that member's death and disability benefits or impose conditions accordingly, after having regard to the advice of an actuary concerning the amount held in the Disability and Death Benefits Reserve.

Clause 37 allows 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 and debited to each member's account in the same manner as insurance premiums.

The Reserve is to meet death or disability payments for the uninsured portion of a member's additional benefit. However, no amount is payable from the Reserve in the case of a disability which the Board determines to have been deliberately inflicted.

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 will 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 for payment of the death and disability benefits formulated under clauses 35 to 37. A member also receives his or her account balance on death or disability, regardless of whether any additional benefit is payable.

Disability benefits are paid to the member, and death benefits to the member's dependants or legal personal representatives. The Board has a discretion as to how to apportion death benefits between claimants.

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 medical practitioner 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, as is required by Commonwealth law.

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 legal requirements, 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 State tax or duty.

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 expresses an intention 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 otherwise be entitled to.

Clause 66 provides for the following changes to the rules of the Metropolitan Transit Authority Superannuation Fund:

- (a) the governing instrument of the M.T.A. Fund is deemed to incorporate three sections of the **Transport Superannuation Act 1988**. These sections provide for the adjustment of benefits for the 1988 Commonwealth tax changes, the release of deferred benefits with the approval of the Insurance and Superannuation Commissioner, and annual indexation of pensions and deferred benefits;
- (b) the governing instrument of the M.T.A. Fund is to be read as incorporating provisions for benefits to be based on final average salary over the last two years of service and for employee contributions in future to be limited to 5% of salary;
- (c) the M.T.A. Fund is closed to new members, except those who transfer from the Transport Superannuation Fund with the approval of the Minister; and
- (d) no further amendment which would increase employer costs can be made to the governing instrument of the M.T.A. Fund without the approval of the Minister, and any amendment made in contravention of this is void.

Clause 67 applies to named public sector superannuation funds and requires in respect of each of those funds:

- (a) clause 68 to be incorporated as part of its governing instrument;
- (b) a new scheme within the fund to be established for new employees using the rules contained in clauses 31 to 51, with such modifications as the Minister may approve;
- (c) the fund to be closed to new entrants except those admitted into the new scheme; and
- (d) no further amendment which would increase employer costs to be made to the governing instrument of the fund without the approval of the Minister.

The model rules from clauses 31 to 51 need not apply to a fund while the Minister is satisfied that the fund is closed to all new employees.

Section 84 of the **Electricity Industry Act 1993** is to be read subject to the provisions of this clause.

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. A savings provision is included to ensure that benefits are not reduced from the level applicable on 1 January 1994.

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. A transitional provision is also inserted to ensure that the no benefit is reduced below the level that would be payable at the date of this change.

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 in a lump sum amount part of deferred pensions where the Insurance and Superannuation Commissioner approves and to adjust the deferred pension by such amount as determined by the Board on the advice of an actuary.

Clause 77 repeals the provisions which enabled all New Scheme members to contribute at 7% of salary upon reaching age 40 (8% for prescribed firefighters). All New Scheme members will now be limited to a maximum contribution rate of 5%, with the following exceptions:

1. members may continue to contribute 7% provided the average contribution for their period of service remains below 5%;
2. members of prescribed classes (such as firefighters) may continue to contribute 7%.

Any member currently contributing at more than the new maximum level who does not fit one of the exceptions is deemed to have elected to contribute at the new maximum level as from the last pay day in February 1994.

Clause 78 changes the prospective service age for death and disability benefits for New Scheme members who are prescribed firefighters from 60 to 55, and repeals the provision based on the old maximum contribution rate of 8%. A transitional provision is inserted to ensure that benefits already accrued are not reduced.

The clause also makes a minor revision to clarify the payment of New Scheme deferred benefits in the case of the member's death, and inserts a provision for payment of deferred benefits in the New Scheme with the approval of the Insurance and Superannuation Commissioner.

Clause 79 corrects drafting errors in the provisions governing resignation benefits for members who transferred from the Revised Scheme to the New Scheme under the 1988 provisions. Such members will be entitled to receive a return of their own contributions and interest in respect of their Revised Scheme membership together with a reduced deferred pension. The provisions which were inserted in 1990 in an earlier effort to correct this problem are removed or relocated.

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 Insurance and Superannuation Commissioner approves and to adjust the deferred pension by an amount determined by the Board on the advice of an actuary.

The clause also ensures that former Revised Scheme members who transferred to either the new scheme or the Transport Superannuation Fund will receive retrenchment benefits for their Revised Scheme membership on the same basis as if they had not transferred.

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 1 May 1994, and further increased with effect from 29 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, as certified by a notice published by the Board in the Government Gazette.

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. The transfer multiple may be adjusted by the Board on the advice of an actuary in the case of a member who has optional units or additional recognised service, so as to take into account any payment which would have been due from that member on or before retirement.

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 1988**. The Minister must reduce any amount payable from the Consolidated Fund by an appropriate amount determined by the Board.

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 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.

The clause also introduces a new benefit for employees whose employment is terminated under section 81A of the **Public Sector Management Act 1992** for refusing a comparable job offer with a newly corporatized entity and have therefore neither resigned nor been retrenched. This benefit will be calculated in the same way as a retrenchment benefit—that is, it will be equal to the employee's accrued retirement benefit—but it will be payable as a deferred benefit. Alternatively, the member may elect to take an immediate refund of contributions plus interest and a reduced deferred benefit.

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 expands on the categories of person in respect of whom the Board can pay benefits to a guardian or administrator by adding persons who are incapable of managing

their own affairs, who were formerly included under the forfeiture provisions. There is also a consequential amendment due to a change in definitions 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 the discriminatory stipulation that members of the State Casual Employees Superannuation Board lose office on reaching age 70.

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, and clarifies the power of the trustees over investments.

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.

The calculation of the ratio used to determine benefits for Members who have been on more than a backbencher's salary for part of their careers is to be adjusted for salary inflation in respect of all service after 1 December 1993.

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. Spouse pensions are also extended to spouses who married after the member's retirement, subject to similar restrictions to those applying under the **State Superannuation Act 1988**.

Clause 105 repeals the provision for the transfer of assets into the Fund by a member to purchase prior service benefits and inserts arrangements for annual adjustment of members' and spouses' 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 after a previous period of service in Parliament. The new procedure will apply to any Member for whom the break in service occurs entirely after 1 December 1993.

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 insert a new definition of “final adjusted Fund salary”, calculated on the same basis as the new definition of “final average salary” in other superannuation Acts. This term is then substituted for “salary” in the appropriate places in the **Hospitals Superannuation Act 1988** for calculation of death and disability benefits.

Clause 109 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 110 inserts into the **Hospitals Superannuation Act 1988** the following standard provisions concerning the powers of the Board, based on those governing the new Victorian Superannuation Board:

- resolutions possible by unanimous agreement without holding meeting;
- penalties for improper use of information;
- power of the Board to establish Committees;
- disclosure of pecuniary interests of Board members.

Clause 111 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 112 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 Insurance and Superannuation Commissioner up to the limit specified in the approval.

Clause 113 specifies the benefit payable on retirement in respect of contributions made by the member at the new maximum contribution rate.

Clause 114 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 115 sets out transitional provisions to ensure that members who continue to contribute at 6% and those whose death and disability benefits would be payable on that basis will not be disadvantaged by the introduction of the new maximum contribution rate.

Clause 116 creates a new category of membership which is to be known as HOSFUND 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, HOSFUND 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 117 closes the fund to new basic benefit or contributory members and provides existing basic benefit and contributory members with an opportunity to transfer to HOSFUND membership.

Clause 118 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 119 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 120 deletes the provisions applying to the forfeiture of benefits in the event of a member's bankruptcy.

Clause 121 expands on the categories of person in respect of whom the Board can pay benefits to a guardian or administrator by adding persons who are incapable of managing their own affairs, who were formerly included under the forfeiture provisions. There is also a consequential amendment due to a change in definitions under the **Mental Health Act 1986**.

PART 10—AMENDMENTS TO THE LOCAL AUTHORITIES SUPERANNUATION ACT 1988

Clause 122 restricts the operation of the provision which prevents employees of the City of Melbourne from becoming members of the Local Authorities Superannuation Fund. This will avert the need for the Melbourne City Council to establish a new accumulation fund and will facilitate the eventual merger of the two funds.

Clause 123 repeals the discriminatory stipulation that members of the Board may no longer hold office on reaching age 70.

Clause 124 inserts into the **Local Authorities Superannuation Act** the following standard provisions concerning the powers of the Board, based on those governing the new Victorian Superannuation Board:

- resolutions possible by unanimous agreement without holding meeting;
- penalties for improper use of information;
- power of the Board to establish Committees;
- disclosure of pecuniary interests of Board members.

Clause 125 creates a new category of membership which is to be known as LASPLAN 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, LASPLAN provisions relating to membership, contributions, benefits and administration are the same as those within the new VicSuper Fund which are contained in Clauses 31 to 51.

Clause 126 inserts a new definition "casual employee".

Clause 127 deletes the provisions applying to the forfeiture of benefits in the event of a member's bankruptcy.

Clause 128 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.

PART 11—AMENDMENTS TO THE TRANSPORT SUPERANNUATION ACT 1988

Clause 129 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 130 provides for the closure to new members of the scheme established under the Act.

Clause 131 repeals the discriminatory stipulation that members of the Board may no longer hold office on reaching age 70.

Clause 132 removes the automatic right of members to contribute at 7.5% on reaching age 40.

Clause 133 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 134 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 Insurance and Superannuation Commissioner to former members and, on the advice of an actuary, reduce the deferred pension payable to the member.

Clause 135 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 136 repeals the former provisions applying to forfeiture of benefits in the case of bankruptcy.

Clause 137 expands on the categories of person in respect of whom the Board can pay benefits to a guardian or administrator by adding persons who are incapable of managing their own affairs, who were formerly included under the forfeiture provisions. There is also a consequential amendment due to a change in definitions under the **Mental Health Act 1986**.

PART 12—AMENDMENTS TO THE EMERGENCY SERVICES SUPERANNUATION ACT 1986

Clause 138 provides for all new non-operational employees to be members of the new ESSPLAN Scheme.

Clause 139 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 140 inserts into the **Emergency Services Superannuation Act** the following standard provisions concerning the powers of the Board, based on those governing the new Victorian Superannuation Board:

- resolutions possible by unanimous agreement without holding meeting;
- penalties for improper use of information;
- power of the Board to establish Committees;
- disclosure of pecuniary interests of Board members.

Clause 141 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 142 provides that the Consolidated Fund is not liable to meet any insufficiency of assets to meet ESSPLAN benefits.

Clause 143 repeals section 20A of the **Emergency Services Superannuation Act 1986** which is redundant as other provisions of that Act and regulations already enable employers to be charged contributions for members' benefits.

Clause 144 repeals the former provisions applying to forfeiture of benefits in the case of bankruptcy.

Clause 145 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 146 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 147 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—AMENDMENTS TO THE SUPERANNUATION (PORTABILITY) ACT 1989

Clause 148 changes the indexation of pension and deferred benefit entitlements from a quarterly to a yearly basis.

Clause 149 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 150 inserts a new definition into the **State Employees Retirement Benefits Act** of “final adjusted salary” based on the new definition of “final average salary” in the other superannuation Acts. This term is then substituted for “salary” in the appropriate places for calculation of death and disability benefits.

Clause 151 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 152 provides for annual indexation of the “prescribed rate” for minimum pension amounts in the S.E.R.B. Scheme, with the standard transitional provision for payments before 1 April 1994.

Clause 153 provides for reduction of the projected service age for calculation of death and disability benefits from 65 to 60. Appropriate transitional provisions are also inserted to protect accrued benefits.

Clause 154 requires the Board to pay amounts approved by the Insurance and Superannuation Commissioner to former members and, on the advice of an actuary, reduce the deferred pension payable to the member.

Clause 155 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.

