

# LOCAL GOVERNMENT SUPERANNUATION AMENDMENT BILL (NO. 2) 1992

## EXPLANATORY NOTES

The Bill provides for amendments to the *Local Government Superannuation Act 1985*. The provisions increase employer contributions to the Local Government Employees' Superannuation Fund to enable the requirements of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth (which commenced on 1.7.92.) to be complied with by Local Authorities without jeopardising existing superannuation benefits.

The powers of the Queensland Local Government Superannuation Board have also been extended to enable the Board to establish other superannuation schemes and to also act as trustee of other superannuation schemes.

Additional minor amendments have also been provided for that update certain definitions under the Act, repeal outdated provisions and convert monetary penalties to penalty units.

*Clause 1* sets out the short title of the Act.

*Clause 2* provides that those provisions which facilitate Local Authority compliance with the Commonwealth's *Superannuation Guarantee (Administration) Act 1992* commence on 1 July 1992.

*Clause 3* provides for amendment of the *Local Government Superannuation Act 1985*.

*Clause 4* updates the definitions of "Articles" and "Scheme" to provide for consistent reference to the terms throughout the Act and to have the terms identified with employees of Local Authorities.

*Clause 5* inserts a new heading into the Act to accurately reflect that a new division has been created which groups existing and new provisions together dealing with the Board's powers.

*Clause 6* is a consequential amendment resulting from the provisions of clause 8. The intent of the amendment is to extend the Board's authority in obtaining temporary financial accommodation by allowing it to create a charge over the assets of not only the Local Government Employees'

Superannuation Scheme but also other schemes of which the Board is trustee.

*Clause 7* repeals redundant provisions of the Act.

*Clause 8* inserts a new section 33B into the Act.

The *Superannuation Guarantee (Administration) Act 1992* has had the effect of extending the definition of “employee” of Local Government for the purpose of providing employer financed superannuation contributions.

Section 12(10) of that Act refers to “Members of local council” as being employees of a local government council for the purposes of the Act.

On the basis of this definition, some elected members of Local Authorities will be subject to the Commonwealth legislation. Other classes of “employee”, e.g. certain private contractors may also be subject to the legislation.

The nature of the existing Local Government Employees’ Superannuation Scheme is such that it is technically not appropriate for employers to make the superannuation guarantee contributions for this new class of employee into the scheme.

The new section therefore extends the power of the Board to allow it to establish and act as trustee of other superannuation schemes for the purpose of administering the superannuation guarantee requirements.

Where a scheme is already established, the provisions also allow the Board to act as trustee of the scheme.

To allow for any future circumstances which may arise, e.g. a superannuation scheme for all elected members of Local Government (and not exclusively for those who are subject to the Superannuation Guarantee legislation), the provisions also empower the Board to establish and/or act as trustee of other superannuation schemes for the Local Government sector.

To facilitate the operation of any scheme of which the Board is trustee, the Board is also provided with power to make rules for the scheme.

More specifically:—

- New section 33B(1) defines the types of persons for whom the Board can provide superannuation benefits and specifies that those persons who are not subject to the *Superannuation Guarantee (Administration) Act 1992* are to be prescribed by regulation;
- New section 33B(2) provides that the Board with the approval of the Governor in Council can establish and/or act as trustee of other superannuation schemes for persons in the Local Government sector;
- New section 33B(3) allows the Board to make rules for operating superannuation schemes that are already established and for which the Board is authorised to act as trustee;
- New section 33B(4) allows the Board to make rules for operating schemes that it establishes and acts as trustee;
- New section 33B(5) provides that any rules made by the Board are to be approved by regulation.

*Clause 9* provides for the replacement of the existing scale of employer contribution rates (for employees contributing 6% of their salary) with a new scale of rates that specifies an increase of .25% per financial year for six financial years backdated to commence from 1 July 1992.

The overall increase in employer contributions is 1.5% and these additional funds will be directed towards meeting employer costs associated with the *Superannuation Guarantee (Administration) Act 1992*.

*Clause 10* provides for the replacement of the existing scale of employer contribution rates (for employees contributing 5% of their salary) with a new scale of rates.

Likewise, a 1.5% increase phased in over six financial years commencing 1 July 1992 is provided for and will be directed towards meeting employer costs associated with the *Superannuation Guarantee (Administration) Act 1992*.

*Clause 11* inserts the more appropriate term “recalculation” into section 40(3) rather than “reduction”.

*Clause 12* provides that amendments to the Articles of the Local Government Employees’ Superannuation Scheme are to be made by regulation rather than by order in council. This is in accordance with current legislative practices.

*Clause 13* is a consequential amendment resulting from the provisions of clause 8. The intent of the amendment is to provide that only the costs and expenses incurred in administering the Local Government Employees' Superannuation Scheme can be charged to the Local Government Employees' Superannuation Fund. Costs and expenses incurred in administering any other scheme are therefore charged to the fund relating to that scheme.

*Clause 14* converts the monetary penalty of \$500 for an offence against the Act to 10 penalty units which currently equates to \$600. The penalty has not been increased since the Act commenced. Conversion to penalty units is in accordance with current legislative practices.

*Clause 15* is a consequential amendment resulting from the provisions of clause 8 and provides that any penalty recovered in respect of an offence against the Act is to be paid to the Board rather than to the fund for managing the Local Government Employees' Superannuation Scheme. The Board can therefore pay a penalty recovered to the fund relating to the scheme under which the offence occurred.

*Clause 16* converts the monetary penalty of \$100 for a breach of the regulations to 2 penalty units which currently equates to \$120. The penalty has not been increased since the Act commenced. Once again, the conversion to penalty units is in accordance with current legislative practices.