

1998/99/00/01

**THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA**

SENATE

COMMONWEALTH SUPERANNUATION BOARD BILL 1998

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

(Circulated by the authority of the Minister for Finance and Administration, the Hon
John J Fahey, MP)

AMENDMENTS OF THE COMMONWEALTH SUPERANNUATION BOARD BILL 1998

OUTLINE OF AMENDMENTS

Current provisions in the Bill

The *Commonwealth Superannuation Board Bill 1998* was introduced into Parliament in a package of Bills to make amendments to the various Acts that provide, amongst other things, for superannuation schemes for employees of the Commonwealth and agencies.

The major purpose of the package is to enable choice of superannuation funds for new Commonwealth employees from 1 July 1999 and for existing Commonwealth Superannuation Scheme (CSS) and Public Sector Superannuation Scheme (PSS) members from 1 July 2000. The Bills provide for the PSS to be closed to new members from 1 July 1999.

Other significant changes include new administration arrangements for the Commonwealth's superannuation schemes for its civilian employees. The Commonwealth Superannuation Board (the CS Board) will be established to take over responsibility of the management of the CSS and the PSS from the current CSS and the PSS Boards. The CS Board will also have responsibility for the administration of two other schemes that were closed at an earlier date, while continuing to administer the CSS and PSS Funds as separate entities.

The package will repeal the *Superannuation Act 1976* (the 1976 Act), the *Superannuation Act 1990* (the 1990 Act), the *Superannuation Act 1922* (the 1922 Act) and the relevant provisions of the *Papua New Guinea (Staffing Assistance) Act 1973*. However the repealed legislation will be saved to have effect in relation to existing members and any other persons who may have had entitlements under those Acts in the future, for example, reversionary beneficiaries.

Proposed amendments

These amendments, along with the amendments proposed to the other Bills in the package, are intended to change the date of effect of the new superannuation arrangements for Commonwealth civilian employees to 1 July 2003 including:

- closing the PSS to new employees;
- allowing existing CSS and PSS members to choose to leave their scheme;
- amalgamating the CSS and PSS Boards into the CS Board;
- repealing the legislation with savings provisions.

In addition there are:

- technical amendments to ensure the provisions work as intended;
- further technical amendments to comply with other legislative changes relating to the New Tax Arrangements and the Criminal Code; and

- amendments to remove provisions which restricted access to cash lump sums for CSS and PSS members who were retrenched between 1 July 1999 and 30 June 2000.

Financial Implications

These amendments do not involve any additional Budget costs.

TERMS USED IN EXPLANATORY NOTES

"1976 Act" means the *Superannuation Act 1976*;

"1990 Act" means the *Superannuation Act 1990*;

"Board Bill" means the *Commonwealth Superannuation Board Bill 1998*;

"CS Board" or "Commonwealth Superannuation Board" means the Commonwealth Superannuation Board as provided for in the Board Bill;

"CSS" means the Commonwealth Superannuation Scheme;

"PSS" means the Public Sector Superannuation Scheme;

"Repeal and Amendment Bill" means the *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 1998*;

"Saving and Transitional Bill" means the *Superannuation Legislation (Commonwealth Employment – Saving and Transitional Provisions) Bill 1998*;

NOTES ON AMENDMENTS TO THE COMMONWEALTH SUPERANNUATION BOARD BILL 1998

Amendment 1 – Commencement

Amendment 1 amends clause 2 of the Board Bill to provide that provisions of the Act that do not commence on Royal Assent commence on 1 July 2003.

Amendments 2 and 3 – Technical amendments

2. **Amendments 2 and 3** are technical amendments to definitions included in clause 4 of the Board Bill. These amendments arise from the change of date of the repeal of the 1990 Act from 1 July 1999 to 1 July 2003.

Amendment 4 – Technical amendment

3. **Amendment 4** inserts a new provision to insert a reference to Chapter 2 of the Criminal Code as a consequence of the *Criminal Code Act 1995* that takes effect from 15 December 2001.

Amendments 5 to 7 – Powers to determine variations to the superannuation legislation

4. Clause 8 of the Board Bill will allow the Minister and the CS Board to determine variations to the superannuation legislation in certain circumstances. Restrictions are placed on the Board's capacity to make amendments in order to ensure that the costs of the scheme to the Commonwealth are not increased. In order to put this beyond doubt **amendments 5 to 7** amend clause 8 to clarify certain matters.

5. **Amendments 5 and 6** ensure that the Board may not vary the legislation in order to have an effect on scheme membership without the approval of the Minister.

6. **Amendment 7** clarifies existing subclause 8(9) in relation to costs to ensure that they include any increase in the Commonwealth's liability or requirement to make payments.

Amendments 8 to 12 – Delegation of powers

7. Clause 20 of the Board Bill provides that the CS Board may delegate its powers under the Act.

8. **Amendment 8** replaces a reference to 'officer' with a reference to an 'APS employee' as a consequence of the passage of the *Public Service Act 1999*.

9. **Amendment 9** provides an additional category of person to whom the Board can delegate its powers.

10. **Amendments 10 to 12** allow the Board to delegate powers to a committee of persons to whom powers can be individually delegated.

11. A person to whom the Board has delegated its power may sub delegate that power to one of the other person to whom the power may be delegated. Generally a delegated power may be sub delegated to a person referred to by the same or a later paragraph of the section.

Amendments 13 and 14 – Costs of administration of CSS and PSS

12. Clauses 23 and 24 of the Board Bill ensure that employing agencies with CSS and PSS members pay to the CS Board the costs of administering the schemes on behalf of their employees.

13. **Amendments 13 and 14** amend those provisions as a result of the passage of the *Public Service Act 1999*.

Amendments 15 to 17 – Exemptions from taxation

14. Clause 27 of the Board Bill provides for exemption for taxation for the CS Board with certain exceptions. **Amendments 15 to 17** amend that clause to ensure that the Board is not exempt from the Goods and Services Tax provided for by the New Tax System.

Amendments 18 to 20 – Accounting and other records - criminal code

15. Clause 31 of the Board Bill requires the CS Board to keep proper records and provides penalties for contraventions of the requirements.

16. **Amendments 18 to 20** amend the clause as a consequence of changes to the *Criminal Code*.

Amendment 21 – Change of date of commencement of the CS Board

17. **Amendment 21** amends clause 34 of the Board Bill relating to the CS Board providing financial statements and an annual report as a consequence of the change of date of commencement of the CS Board from 1 July 1999 to 1 July 2003.