

1997

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES
CRIMES (SUPERANNUATION BENEFITS) AMENDMENT BILL 1997
SUPPLEMENTARY EXPLANATORY MEMORANDUM
(Amendments to be moved on behalf of the Government)

(Circulated by authority of the Minister for Justice
Senator the Honourable Amanda Vanstone)

**Amendments 1 and 4 - Presumption Concerning Document(s) Provided In
Response To A Request For Information From Superannuation Entities**

The purpose of these amendments is to make a minor technical amendment affecting the statement provided in response to a request made under s 39N.

2. Under new ss 18(3), for the purpose of considering an application for a superannuation order, a written response to a request for information under ss 39N(1) will be *prima facie* evidence of the information stated in it. That is similar to the way in which signed/sealed certificates furnished by superannuation authorities under ss 18(3) and (4) (which are being repealed) are *prima facie* evidence of the matters stated in the certificates. Existing subsection 18(6) provides that a document purporting to be signed or sealed by a superannuation authority is taken to be signed/sealed by the superannuation authority unless the contrary is proved.

3. With subsections 18(3) and (4) being replaced by new ss 18(3), subsection 18(6) is being repealed and replaced with a reworked ss 18(6) that makes it clear that a document purporting to be a written statement made by a person in response to a request under s 39N (*ie* in accordance with new ss 18(3)) is to be presumed to be a document made by the person, unless the contrary is proved. Parallel amendments to the *Australian Federal Police Act 1979* (AFP Act) are made by amendment 4.

**Amendments 2, 3, 5 and 6 - The Sum of Employer Contributions And Interest
Forms The Basis Of The Recovery Order**

4. This is a technical amendment to make it clear that subparas 19(9)(a)(i) and 19(9)(a)(ii) are to be read cumulatively and conjunctively. In other words, the sum of employer contributions paid by the Commonwealth or Commonwealth Authority and the interest that has accrued on those contributions is indexed under para 19(9)(b). After indexation and deducting the roll-over holder's reasonable expenses, the balance is the amount referred to in paragraph 19(8)(a) and the recovery order the lesser of that amount and the amount the roll-over entity holds for the person. Parallel amendments to the AFP Act are made by amendments 5 and 6.

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