

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 6 June 1995

GOVERNMENT SUPERANNUATION FUND AMENDMENT BILL

Proposed Amendment

Rt. Hon. W. F. BIRCH, in Committee, to move the following amendment:

Clause 4: Proposed new section 19EA: To insert, after proposed section 19E on pages 13 and 14, the following new section:

“19EA. Statement of policies relating to exercise of discretionary powers—(1) The Superintendent shall, as soon as practicable after the commencement of this section, publish a statement of the policies developed by the Government Superannuation Board (as established before the commencement of this section) in relation to the exercise of all of the discretionary powers referred to in **section 19E** of this Act.

“(2) If the Superintendent proposes to make any change to the published statement of policies, the Superintendent shall—

- “(a) Advise the Board of the proposed change; and
- “(b) Consider any comments made to the Superintendent by the Board before making the decision; and
- “(c) Republish the statement of policies, or the part of the statement of policies affected by the change.

“(3) Any failure by the Superintendent to consult as required by this section shall not invalidate any decision made under **section 19E** of this Act, but nothing in this subsection limits any right to appeal under **sections 7 to 12B** of this Act.

EXPLANATORY NOTE

This Supplementary Order Paper requires the Superintendent to—

- (a) Publish a statement of the policies developed by the existing GSF Board in respect of the exercise of all of the discretionary powers referred to in *section 19E*; and
- (b) Consult with the new GSF Appeals Board, if proposing to make any changes to the published statement of policies.

The amendments are designed to allay fears about any possible future change of policy by the Superintendent.

The Supplementary Order Paper is based on the amendment moved by the Hon. David Caygill. That amendment required the Superintendent to consult the person concerned when a determination under *section 19E (1)* represents a change to existing policies.

The principal differences between the 2 amendments are—

- (a) This amendment gives statutory recognition to the publication of the existing policies of the Board. The proposed clause can then hinge on “published policies” rather than “existing policies”. The identification of the latter may be a difficult question, eg. there may be disputes about what an existing policy is, after how long does a new policy become an existing policy, etc. These amendments are designed to avoid difficulties in deciding when a “change in existing policies” has occurred:
 - (b) This amendment requires the Superintendent to consult with the new Board before changing the policies, and to republish the policies after the change. If there is to be a change in a policy which could potentially apply to a large number of contributors or beneficiaries, then it is appropriate that the Board be consulted, rather than just the first applicants after the change is proposed:
 - (c) This amendment applies to all the policies developed by the existing Board in relation to the exercise of the discretionary powers under *section 19E*, not just those under *subsection (1) of section 19E*.
- The proposed *subsection (3)* is designed to avoid any uncertainty as to whether or not a decision is valid. It does not limit the appeal rights under the Bill.