

PERPETUITIES (AMENDMENT) BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note' relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Perpetuities Act 1984 to extend exemption from the rule against perpetuities to pooled superannuation trusts.

The rule against perpetuities is a rule of law which invalidates dispositions of property that attempt to postpone, for an indefinite period, the time when the property will vest in someone absolutely. The rule applies to interests in land as well as to personal property.

Currently under the Act individual superannuation funds are exempt from the rule. Pooled superannuation trusts are trusts that for investment purposes pool the individual superannuation funds that are currently exempt.

The amendment will remove any doubt as to the application of the rule to pooled superannuation trusts, that doubt being based on the possibility that an interest in the trust may be created beyond the perpetuity period.

Commencement of the amendment is backdated to the commencement of the section of the Act that confers exemption on individual superannuation funds. The amendment will apply to pooled superannuation trusts established before (as well as after) its commencement. The effect of this will be to validate any existing or past invalidity that may have been caused by the operation of the rule against perpetuities.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is taken to have commenced on the date the Perpetuities Act 1984 commenced (31 October 1984).

Clause 3 makes the amendment described above.
