

State Superannuation (Transitional and Consequential Provisions) Bill 1999

Explanatory Memorandum

The purpose of the Bill is to provide for the transition from the *Government Employees Superannuation Act 1987* (GES Act) and the *Superannuation and Family Benefits Act 1938* (S&FB Act) to the new legislative framework proposed by the *State Superannuation Bill 1999*. Generally, this Bill:

- Allows, for the transition of the Government Employees Superannuation Board and the Government Employees Superannuation Fund to the new legislative framework proposed in the *State Superannuation Bill 1999*;
- Amends various other Acts to replace references to the GES Act and the S&FB Act with the new references required as a result of the *State Superannuation Bill 1999*; and
- Deletes references to the GES Act and the S&FB Act within the enabling legislation of certain statutory authorities and statutory office holders, so that these provisions can be incorporated within the regulations of the new legislative framework.

The Bill also provides for transitional regulations to be made where it is necessary or convenient for the purpose of effecting transition to the new legislative framework.

Outlined below is an examination of the contents of the Bill on a clause by clause basis.

PART 1 — PRELIMINARY

Part 1 contains the title of the Act, the relevant commencement provisions, definitions of terms used within the Bill and a provision to restore lost rights.

Clause 1 Short title and citation.

Short title

This clause titles the legislation as the *State Superannuation (Transitional and Consequential Provisions) Act 1999*.

Clause 2

Commencement

This clause sets out the commencement provisions, providing for the proposed Act to come into operation on the same day that the *State Superannuation Act 1999* comes into operation.

Clause 3

Interpretation

This clause defines certain words and expressions used in the proposed Act. These are:

“**commencement day**” means the day on which this Act comes into operation;

“**continues**” means continues in force on and after the commencement day;

“**current**” means in force on and after the commencement day.

Clause 4

Power to restore lost rights

This clause provides the Minister with the power to restore lost rights, privileges or benefits.

This clause ensures that the benefits of members are not affected by the coming into operation of this Act.

PART 2 – TRANSITIONAL PROVISIONS

This Part provides for the transitional provisions necessary as a result of the repeal of the *Government Employees Superannuation Act 1987* (GES Act) and the *Superannuation and Family Benefits Act 1938* (S&FB Act), and the establishment of the new superannuation framework proposed under the *State Superannuation Bill 1999*.

Clause 5 This clause continues the current policies and strategies under the GES Act or the S&FB Act as policies determined by the Government Employees Superannuation Board (the Board) to carry out its functions under the proposed *State Superannuation Act 1999* (SSA).
Policies and strategies of the Board

Clause 6 This clause continues the current members of the Board appointed or elected under the GES Act as directors of the Board under the SSA.
Board members continue as directors
Subclause 6(5) provides for Board member elections called before commencement day to be conducted in accordance with provisions under the GES Act as if it were still in operation.

Clause 7 This clause ensures that the protection from liability for Board members and persons acting under the direction of the Board as stated in the GES Act continues for matters relating to that Act.
Protection from liability

Clause 8 On commencement day, the common seal of the Board under the GES Act becomes the common seal of the Board under the SSA.
Common Seal

Clause 9 This clause ensures that current staff appointments and contracts made under either section 8(1) or 8(2) of the GES Act will continue as if they had been made under the SSA.
Staff
Also current contracts for services made under section 8(3) of the GES Act continue as if they had been made under the SSA.

Clause 10 This clause continues all delegations made under section 56 of the GES Act as delegations made under the SSA.
Delegation

Clause 11 This clause clarifies that a person aggrieved by a decision of the Board under the GES Act may apply for a review of that decision as if it had been made under the SSA.
Review of decisions of the Board

Further the clause also provides that if a person has sought a review of a decision under the GES Act and the Board has not completed a review of its decision, then that review is to be undertaken under the SSA.

Similarly, if a person referred a dispute to the Board under the S&FB Act and the Board has not resolved the dispute, then the Board is to review the decision as if it were under the SSA.

However, if proceedings have been commenced for the resolution of a dispute under the S&FB Act and the proceedings have not been determined then they continue in accordance with the S&FB Act as if it were still in operation.

Clause 12 This clause requires the actuary to continue an investigation and complete a report as if it were under the SSA, if the actuarial investigation has commenced, but a report on the results of the investigation is received by the Board before commencement day.
Delegation

If an investigation or report is close to completion prior to commencement day then the Treasurer's guidelines under clause 17(3) of the SSA may make provision for the report to be completed in accordance with provisions similar to those under the GES Act.

Clause 13
*Review of
Investments*

This clause requires an investment review under the GES Act which was commenced but not completed before the commencement day to continue as if it were a review under the SSA.

Again, if a review is close to completion prior to commencement day then the Treasurer's guidelines under clause 19(3) of the SSA may make provision for the review to be completed in accordance with provisions similar to those under the GES Act.

Clause 14
*Investment
Manager*

This clause continues the current approval of an investment manager given by the Treasurer under the GES Act as an approval under the SSA.

It also continues a current appointment of a person as an investment manager under the GES Act as an appointment under the SSA.

Any delegations to an investment manager made under the GES Act will continue as a delegation under the SSA.

Clause 15
*Recovery of
money owing to
the Fund*

This clause requires that any money owing to the Fund under the GES Act or S&FB Act on commencement day becomes money owing to the Fund under the SSA.

However, if proceedings have commenced but not completed in relation to money owing to the Fund under the GES Act or S&FB Act then these proceedings will be determined in accordance with these Acts.

Determinations for the recovery of money owing from a member's pay under the GES Act continue as if they were Board directions under the SSA.

Board requests made to Employers under section 16(2) of the GES Act to make deductions from a member's pay and pay the amount to the Board will continue as if they were made under the SSA.

A current determination for the rate of interest on money owing to the Fund will continue as a determination under the SSA.

Clause 16
*Approval of other
superannuation
schemes*

This clause continues current approvals given by the Treasurer under section 56A of the GES Act relating to the establishment of other superannuation schemes by a public authority as if they were given under the SSA.

Similarly, approvals given by the Treasurer to allow an Employer to make superannuation contributions to schemes other than those established under the S&FB Act or the GES Act will continue as approvals under the SSA.

Clause 17
*Guarantee of
Board's
obligations*

This clause continues any current guarantees regarding the performance of the Board given under section 15(1) of the GES Act as a guarantee under subclause 31(1)(b) of the SSA.

Clause 18
*Treasurer's
approvals and
guidelines*

This clause continues approvals given by the Treasurer to invest monies standing to the credit of the Fund as approvals by the Treasurer under the SSA.

Also guidelines issued by the Treasurer in relation to investments under the GES Act will continue as guidelines under the SSA.

- Clause 19** This clause provides that current administrative instructions issued to Employers by the Treasurer regarding the functioning of the schemes, will continue as directions given by the Minister under the SSA.
Treasurer's directions to Employers
- Clause 20** This clause continues current directions by the Minister given under the GES Act as a direction given by the Minister under the SSA.
Minister's directions to the Board
- Clause 21** This clause continues any current requests for information or access to information made by the Minister under the GES Act, as a request under the SSA.
Minister to have access to information
- Clause 22** This clause continues a current determination for remuneration of Board members as a determination for remuneration of Board directors.
Determination of remuneration
- Clause 23** This clause continues current procedures of the Board under the GES Act as procedures under the SSA Act.
Board procedures
- Clause 24** This clause continues current disclosures made by a member of the Board under the GES Act as disclosures by a director under the SSA.
Disclosure of interest
- Clause 25** This clause provides for transitional regulations to be made for the purpose of effecting the transition from the S&FB Act and the GES Act to the SSA.
Transitional regulations

PART 3 – CONSEQUENTIAL AMENDMENTS

Part 3 provides for the consequential amendments necessary to other statutes as a result of the *State Superannuation Bill 1999*.

Clauses These clauses amend various statutes to:

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Consequential amendments
- update the references to the S&FB Act or the GES Act to reflect the new legislative framework planned to be established under the *State Superannuation Act 1999*; and/or
 - delete references to the GES Act and the S&FB Act within the enabling legislation of various statutory authorities and statutory office holders that recognise those authorities and office holders for superannuation purposes, so that these provisions can be incorporated within the regulations of the new legislative framework under the *State Superannuation Act 1999*.

There is no intention to reduce the benefit entitlements of members, but rather to simply to transfer them to the regulations of the new *State Superannuation Act 1999*.