

Western Australia

State Superannuation Amendment Act 2007

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No. 25 of 2007

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State Superannuation Amendment Act 2007

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Western Australia

State Superannuation Amendment Act 2007

No. 25 of 2007

An Act to —

- **amend the *State Superannuation Act 2000*; and**
- **consequentially amend certain other written laws, and for related purposes.**

[Assented to 16 October 2007]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *State Superannuation Amendment Act 2007*.

2. Commencement

- (1) This Act comes into operation as follows:
 - (a) Part 1 — on the day on which this Act receives the Royal Assent (“**assent day**”);
 - (b) Part 2 and Part 6 Division 1 — on a day fixed by proclamation;
 - (c) Part 3 and Part 6 Division 2 — at the time fixed under the *State Superannuation Act 2000* section 56 as inserted by section 16 of this Act (“**transfer time**”);
 - (d) Part 4 — on a day fixed by proclamation, being a day that is after Part 3 comes into operation;
 - (e) Part 5 — subject to and in accordance with subsections (2) to (10).
- (2) Part 5 Division 1 Subdivision 1 comes into operation on a day fixed by proclamation, being a day not before the day on which Part 2 comes into operation.
- (3) If Part 5 Division 1 Subdivision 1 has not come into operation before the transfer time, Part 5 Division 1 is repealed at that time.
- (4) If Part 5 Division 1 Subdivision 1 comes into operation —
 - (a) Part 5 Divisions 2 and 3 are repealed; and
 - (b) Part 5 Division 1 Subdivision 2 comes into operation at the transfer time.
- (5) Part 5 Division 2 Subdivision 1 comes into operation on a day fixed by proclamation, being a day not before the day on which Part 2 comes into operation.

- (6) If Part 5 Division 2 Subdivision 1 comes into operation —
 - (a) Part 5 Divisions 1 and 3 are repealed; and
 - (b) Part 5 Division 2 Subdivision 2 comes into operation at the time fixed under the *State Superannuation Act 2000* section 60B as inserted by section 63 of this Act.
- (7) Part 5 Division 3 Subdivision 1 comes into operation on a day fixed by proclamation, being a day not before the day on which Part 2 comes into operation.
- (8) If Part 5 Division 3 Subdivision 1 comes into operation —
 - (a) Part 5 Divisions 1 and 2 are repealed; and
 - (b) Part 5 Division 3 Subdivision 2 comes into operation at the time fixed under the *State Superannuation Act 2000* section 75K as inserted by section 71 of this Act.
- (9) If Subdivision 1 of Part 5 Division 1, 2 or 3 comes into operation on the same day as Part 2, Part 2 takes effect first.
- (10) If Subdivision 2 of Part 5 Division 1, 2 or 3 comes into operation at the same time as Part 3, Part 3 takes effect first.

3. The Act amended

The amendments in this Act, other than Part 6, are to the *State Superannuation Act 2000**.

[* *Reprint 1 as at 18 August 2006.*
For subsequent amendments see Act No. 77 of 2006.]

Part 2 — Amendments to allow for transfer

4. Long title replaced

The long title is repealed and the following long title is inserted instead —

“

An Act to provide for —

- **employer-funded superannuation for people working in the public sector; and**
- **the continuation under this Act of certain superannuation schemes; and**
- **the establishment of a superannuation fund to be regulated under Commonwealth legislation to replace certain other superannuation schemes, and for related purposes.**

”.

5. Section 3 amended

(1) Section 3(1) is amended as follows:

- (a) by deleting the definitions of “benefit”, “Fund”, “Member”, “S&FB Act”, “scheme”, “subsidiary” and “Treasurer’s guidelines”;
- (b) by inserting in the appropriate alphabetical positions —

“

“Corporations Act” means the *Corporations Act 2001* (Commonwealth);

“regulated superannuation fund” has the meaning given in the SIS Act section 19;

“SIS Act” means the *Superannuation Industry (Supervision) Act 1993* (Commonwealth);

“transfer time” means the time fixed under section 56;

“**West State scheme**” means the superannuation scheme referred to in section 29(1)(a);

“**working day**” means a day other than a Saturday, Sunday or public holiday.

”.

(2) Section 3(3) is repealed.

6. Part heading and Division inserted and consequential amendments

(1) After section 4 the following Part heading and Division are inserted —

“

Part 3 — Schemes administered by the Board

Division 1 — Preliminary

4E. Terms used in this Part and Schedules

(1) In this Part and the Schedules —

“**benefit**” means a benefit paid or payable under a scheme, whether paid or payable as a lump sum, pension, allowance or annuity or in any other form;

“**Fund**” means the Government Employees Superannuation Fund under section 14;

“**Member**” means a member of a scheme;

“**scheme**” means a superannuation scheme continued by section 29 or established under this Part;

“**subsidiary**” means a body determined under subsection (2) to be a subsidiary of the Board;

“**Treasurer’s guidelines**” means guidelines issued by the Treasurer under section 33(2).

(2) The Corporations Act Part 1.2 Division 6 applies for the purpose of determining whether a body is a subsidiary of the Board.

”.

(2) The headings to Parts 2, 3, 4, 5 and 6 are each amended by deleting “Part” and inserting instead —

“ **Division** ”.

(3) Section 29 is amended as follows:

(a) by deleting “the day on which this Act comes into operation” and inserting instead —

“ 17 February 2001 ”;

(b) by deleting “this Act —” and inserting instead —

“ this Part — ”.

(4) Section 32 is amended by deleting “the commencement of this Act.” and inserting instead —

“ 17 February 2001. ”.

(5) The provisions listed in the Table to this subsection are amended by deleting “this Act” in each place where it occurs and inserting instead —

“ this Part ”.

Table

s. 6(1)	s. 30(2)(a)
s. 7B(2) and (4)	s. 31(1)(b)
s. 9(1) and (2)	s. 34(1)
s. 15(1)(a)	s. 37

(6) Schedule 1 clause 6(2)(e) is amended by deleting “this Act;” and inserting instead —

“ Part 3; ”.

- (7) Schedule 2 clause 1 is amended by deleting “this Act.” and inserting instead —

“ Part 3. ”.

7. Section 7B amended

Section 7B(1) is repealed.

8. Section 13 amended

Section 13(3)(a) is amended by deleting “section 29(c) or (d),” and inserting instead —

“ section 29(1)(c) or (d), ”.

9. Section 28 amended

- (1) Section 28(1) is amended by deleting “under section 38”.
- (2) Section 28(2) is amended by deleting “section 29(b),” and inserting instead —
- “ section 29(1)(b), ”.

10. Section 29 amended

Section 29 is amended as follows:

- (a) before “On” by inserting the subsection designation “(1)”;
- (b) in paragraph (a) by deleting “Part VIIA of the GES Act” and inserting instead —

“

*the Government Employees Superannuation
Act 1987 Part VIIA*

”;

s. 11

- (c) in paragraph (b) by deleting “Parts IV, V, VI and VII of the GES Act” and inserting instead —

“

the Government Employees Superannuation Act 1987 Parts IV, V, VI and VII

”;

- (d) in paragraph (c) by deleting “Parts IV, V and VB of the S&FB Act” and inserting instead —

“

the Superannuation and Family Benefits Act 1938 Parts IV, V and VB

”;

- (e) in paragraph (d) by deleting “Parts VA and VB of the S&FB Act” and inserting instead —

“

the Superannuation and Family Benefits Act 1938 Parts VA and VB

”;

- (f) after paragraph (c) by deleting “and”.

11. Section 33B amended

Section 33B(3) is amended by deleting “section 33C —” and inserting instead —

“ section 78 — ”.

12. Section 33C repealed

Section 33C is repealed.

13. Section 35 amended

Section 35(3) is repealed and the following subsection is inserted instead —

“
(3) Section 77 applies to any direction given under this section.
”.

14. Section 38 amended

- (1) Section 38(1) is repealed.
- (2) Section 38(2) is amended by deleting “subsection (1) regulations may be made under subsection (1)” and inserting instead —

“
section 79 but subject to this section, regulations may be made under section 79
”.

- (3) Section 38(3) to (4b) are repealed and the following subsections are inserted instead —

“
(3) Regulations cannot be made if they —
 (a) reduce the amount of a benefit that —
 (i) accrued or became payable before the regulations came into operation; or
 (ii) is, or may become, payable in relation to a period before the regulations came into operation;
 or
 (b) reduce, or have the same effect as reducing —
 (i) in the case of the West State scheme or the scheme continued by section 29(1)(b), the multiplying factor for any relevant benefit; or
 (ii) in the case of the scheme continued by section 29(1)(c), the pension value factor for any Member of that scheme,
”

s. 14

to less than it was immediately before
17 February 2001.

- (4) Subsection (3) does not apply if —
- (a) the Treasurer has certified that the Treasurer is satisfied that the change to be made by the regulations is a change that, if each scheme affected by the regulations were a regulated superannuation fund, would be permitted under the SIS Act to be made to the governing rules of that fund; or
 - (b) the reduction would apply only in respect of Members who agree with the Board that the reduction is to apply in relation to them; or
 - (c) the regulations would reduce or provide for the reduction of a Member's benefit only if —
 - (i) a superannuation agreement, flag lifting agreement or splitting order is in force in respect of the Member; and
 - (ii) the reduction does not reduce the Member's benefit to less than the Member's entitlement under the agreement or order.

”.

- (4) Section 38(5) is amended as follows:
- (a) in paragraph (a) by deleting “Act and” and inserting instead —
“ Part to the extent that ”;
 - (b) by deleting “under subsection (1)”.
- (5) Section 38(6) and (7) are repealed and the following subsection is inserted instead —

“

- (6) Regulations may permit the Board to pay a pension or other benefit from the scheme continued by section 29(1)(c) for the purpose of —
- (a) giving effect to a payment split; or
 - (b) satisfying the requirements of the *Family Law (Superannuation) Regulations 2001* (Commonwealth) Division 2.2 in relation to an entitlement in respect of a superannuation interest in the scheme.

”.

- (6) Section 38(9) is amended as follows:
- (a) by deleting “subsection (4)” and inserting instead —
“ subsection (3) ”;
 - (b) by deleting the definition of “commencement day”;
 - (c) in the definition of “relevant benefit” by deleting “the commencement day” and inserting instead —
“ 17 February 2001 ”.

- (7) After section 38(9) the following subsection is inserted —

“

- (10) In this section each of the following terms has the meaning given in the *Family Law Act 1975* (Commonwealth) section 90MD —
- (a) **“flag lifting agreement”**;
 - (b) **“payment split”**;
 - (c) **“splitting order”**;
 - (d) **“superannuation agreement”**;
 - (e) **“superannuation interest”**.

”.

15. Section 40 amended

Section 40 is amended by deleting “this Act and the regulations made or applying under it” and inserting instead —

“ this Part and the regulations referred to in section 38 ”.

16. Parts 4 and 5 inserted

After section 40 the following Parts are inserted —

“

Part 4 — GESB Superannuation

Division 1 — Preliminary

41. Purpose of this Part

The purpose of this Part is to —

- (a) provide for the establishment of a regulated superannuation fund to replace the superannuation schemes established under Part 3; and
- (b) provide for the transfer of assets and liabilities of the State or the Board relating to those superannuation schemes to TrustCo, MutualCo or subsidiaries of either of them; and
- (c) enable and facilitate a convenient transition from those superannuation schemes to that fund.

42. Terms used in this Part

(1) In this Part —

“**GESB Superannuation**” means the superannuation fund established in accordance with section 45;

“**MutualCo**” means the company registered in accordance with section 43;

“special member” means the person who is the member of MutualCo in the special class of membership referred to in section 43(3)(a);

“statutory fund” has the meaning “Fund” is given in section 4E;

“statutory scheme” means a superannuation scheme established by the *State Superannuation Regulations 2001* and in existence immediately before the transfer time, but does not include a superannuation scheme continued by section 29;

“TrustCo” means the company registered in accordance with section 44.

- (2) In this Part each of the following terms has the meaning given in the Corporations Act section 9 —
- (a) **“director”**;
 - (b) **“registered office”**;
 - (c) **“special resolution”**;
 - (d) **“subsidiary”**.

Division 2 — Formation of companies and superannuation fund

43. Formation of MutualCo

- (1) The Board is to take the necessary steps to form a company limited by guarantee and cause it to be registered under the Corporations Act.
- (2) The company is to be formed and registered with —
- (a) one member, being the Treasurer as the special member; and
 - (b) not less than 3 directors nominated by the Treasurer; and
 - (c) a constitution that has been approved by the Treasurer.

- (3) The Treasurer must not approve a constitution unless satisfied that it contains provisions to the effect that —
- (a) the company, when formed, will have a special class of membership of the company to which class only the person who is for the time being the Treasurer can belong; and
 - (b) if the special member resigns, the special class of membership referred to in paragraph (a) will terminate; and
 - (c) while there is a special member, the special member will have a power to veto the exercise by the company or the directors of its or their power —
 - (i) to alter the constitution of the company; or
 - (ii) to appoint a person as a director of the company; or
 - (iii) to remove all of the directors of the company within any 12 month period; or
 - (iv) to form, acquire or dispose of a subsidiary after the transfer time; or
 - (v) as a holding company of TrustCo, to vote in favour of a resolution to alter the constitution of TrustCo; or
 - (vi) to raise capital or borrow money; or
 - (vii) to alter or terminate an agreement entered into in accordance with section 47(3); or
 - (viii) to appoint, under the trust deed for GESB Superannuation, a new trustee of that fund;
- and

- (d) every person who becomes a member of GESB Superannuation will be eligible to become a member of the company unless ineligible because of a provision of the kind described in subsection (6); and
 - (e) the company must not dispose of any of its shares in TrustCo unless the disposal is approved by special resolution; and
 - (f) a person is not eligible to be a director of the company unless the person meets criteria for fitness and propriety that are, in the Treasurer's opinion, no less stringent than the criteria set out in the prudential standards made for the purposes of the *Banking Act 1959* (Commonwealth) section 23(2)(b) for fitness and propriety of directors of authorised deposit taking institutions; and
 - (g) the chairman of directors must be an independent director; and
 - (h) more than half of the directors of the company must be independent directors.
- (4) In subsection (3)(g) and (h) —
- “independent director”** means a director who is not —
- (a) an employee of the company or any subsidiary of the company; or
 - (b) a director of the Board; or
 - (c) a director of a subsidiary of the company; or
 - (d) an employee as defined in the *Public Sector Management Act 1994* section 3(1).
- (5) A constitution does not fail to satisfy the requirements of subsection (3)(a) only because it allows for a person who was the Treasurer to remain as the special member

until the person who succeeded him or her as Treasurer becomes the special member.

- (6) The constitution of the company may provide that the eligibility for company membership of a person who becomes a member of GESB Superannuation, other than a person who becomes a member by operation of this Part, will or may be subject to —
- (a) the person having been a member of GESB Superannuation for a minimum period; or
 - (b) the value of the person's entitlements under GESB Superannuation being not less than a minimum amount,

being a period or amount set out in the constitution or to be determined by the directors of the company in accordance with the constitution.

44. Formation of TrustCo

- (1) The Board and MutualCo are to take the necessary steps to form a subsidiary of MutualCo that is a proprietary company limited by shares and cause it to be registered under the Corporations Act.
- (2) The company is to be formed and registered with —
- (a) MutualCo as the only shareholder; and
 - (b) not less than 3 directors nominated by the Treasurer; and
 - (c) a constitution that has been approved by the Treasurer.
- (3) The Treasurer must not approve a constitution unless satisfied that it contains provisions to the effect that —
- (a) after the transfer time, the membership of the board of the company will satisfy the equal representation requirements set out in the SIS Act Part 9; and

- (b) more than half of the directors of the company must be independent directors.
- (4) In subsection (3)(b) —
“independent director” means a director who is not —
 - (a) a director or employee of MutualCo; or
 - (b) an employee of TrustCo; or
 - (c) a director or employee of any subsidiary of MutualCo other than TrustCo.

45. Formation of GESB Superannuation

- (1) The Board, MutualCo and TrustCo are to as soon as practicable take the necessary steps to establish a fund that is a superannuation fund for the purposes of the SIS Act.
- (2) The fund is to be established —
 - (a) by a trust deed that has been approved by the Treasurer; and
 - (b) with TrustCo as the first trustee of the fund.
- (3) The Treasurer must not approve a trust deed unless satisfied that compliance with the terms of the trust deed would not cause the trustee to contravene a regulatory provision, as defined in the SIS Act section 38A, in relation to the fund.
- (4) The Treasurer must not approve a trust deed unless satisfied that the trust deed contains provisions to the effect that, if the transfer time were the time when the approval is given —
 - (a) each existing member would be eligible to become a member of GESB Superannuation; and
 - (b) existing members of each statutory scheme would become members in the class of

membership in GESB Superannuation specified in the deed in respect of that statutory scheme; and

- (c) an existing member's benefit entitlements as a member of GESB Superannuation, considered as a whole and disregarding any compliance changes, would be no less favourable than the member's existing benefit entitlements; and
 - (d) an existing member's obligations as a member of GESB Superannuation would be no greater than the member's existing obligations; and
 - (e) if it is necessary to appoint a new trustee the appointment is to be made by MutualCo.
- (5) In subsection (4) —
- “compliance change”**, in relation to a member's benefit entitlements, means an unfavourable change in those entitlements to the extent that it would —
- (a) be necessary for compliance with, or occur as a consequence of the application of, the SIS Act, the *Income Tax Assessment Act 1936* (Commonwealth) or any other law of the Commonwealth; or
 - (b) occur as a result of the member's benefits ceasing to be benefits payable under a scheme for the purposes of section 31;
- “existing”** means existing under a statutory scheme at the time the Treasurer approves the trust deed.

46. Licences, approvals etc. to be obtained

- (1) The Board, MutualCo and TrustCo are to take the necessary steps to ensure that, as soon as is practicable —

- (a) all necessary licences, approvals, registrations, exemptions and other kinds of authorisations have been issued, granted or obtained; and
 - (b) all other requirements with which it is necessary to comply, have been complied with.
- (2) In subsection (1) —
- “necessary”** means necessary, under a written law or a law of the Commonwealth, to be done before the transfer time, in order to enable GESB Superannuation —
- (a) to function as a regulated superannuation fund from the transfer time; or
 - (b) to become a complying superannuation fund in relation to the year of income in which the transfer time occurs.

47. Service agreements

- (1) The Board must, as soon as is practicable, prepare and submit to the Treasurer —
- (a) a draft of an agreement to be entered into by MutualCo and TrustCo for the provision by MutualCo to TrustCo of services relating to the performance by TrustCo of its functions as trustee of GESB Superannuation; and
 - (b) a draft of an agreement to be entered into by MutualCo and the Board for the provision by MutualCo to the Board of services relating to the performance by the Board of its functions.
- (2) The Treasurer may —
- (a) approve a draft agreement submitted under subsection (1); or
 - (b) direct that it be amended and approve it in an amended form.

- (3) As soon as is practicable after the Treasurer has approved a draft agreement MutualCo and TrustCo or the Board, as the case requires, are to enter into an agreement on the terms of the draft agreement approved by the Treasurer.

Division 3 — Continuing provisions relating to MutualCo and TrustCo

48. Constitutions of MutualCo and TrustCo to include certain provisions

- (1) If the constitution of MutualCo or TrustCo does not contain express provisions compliance with which would necessarily involve compliance with a provision set out in the Table to this subsection, the constitution is to be taken to include the provision set out in the Table.

Table

1. The registered office and principal place of business of the company must be located in Western Australia.
 2. More than half of the directors of the company must be ordinarily resident in Western Australia.
- (2) To the extent that they are governed by this section, the constitutions of MutualCo and TrustCo are declared to be excluded matters for the purposes of the Corporations Act section 5F in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies.

49. MutualCo and TrustCo not agents of the State

MutualCo and TrustCo, and any subsidiary of either of them, are not agents of the State and do not have the status, immunities or privileges of the State.

50. Use of names

- (1) MutualCo and TrustCo, and each subsidiary of either of them, are prohibited from using any name in connection with its business that suggests that it or GESB Superannuation is associated with the State.
- (2) The use in a name of the term “GESB” does not contravene subsection (1).
- (3) The use of the terms “West State” or “Gold State” in relation to the superannuation schemes referred to in section 29(1)(a) and (b), or divisions of GESB Superannuation that replace those schemes, does not contravene subsection (1).

51. Non-compliance with veto provisions

- (1) In this section —
“veto provision” means a provision of the constitution of MutualCo that confers, or has the effect of conferring, on the special member a power of veto referred to in section 43(3)(c).
- (2) If MutualCo purports to exercise a power referred to in section 43(3)(c) and the veto provisions relating to the exercise of that power have not been complied with, each director of MutualCo commits an offence.
Penalty: a fine of \$100 000.
- (3) If a person is charged with an offence under subsection (2) it is a defence to prove that —
 - (a) the purported exercise of the power occurred without the person’s consent or connivance;
and
 - (b) the person took all measures that he or she could reasonably be expected to have taken to prevent the purported exercise of the power.

51A. Notice of exercise of veto to be tabled

If the Treasurer exercises a power under a veto provision, as defined in section 51, the Treasurer must, within 14 days after the power is exercised —

- (a) give written notice to MutualCo confirming the exercise of the power; and
- (b) cause a copy of the notice to be laid before each House of Parliament or dealt with under section 78.

52. Review of special membership

- (1) The Treasurer is to carry out a review of the Treasurer's special membership of MutualCo as soon as is practicable after —
 - (a) the third anniversary of the transfer time; and
 - (b) the expiry of each 3 yearly interval after that anniversary.
- (2) In the course of a review the Treasurer is to consider and have regard to —
 - (a) the need for —
 - (i) the Treasurer to continue to be the special member; and
 - (ii) the continuation of section 51;and
 - (b) the effectiveness of the operations and performance of MutualCo, TrustCo and GESB Superannuation; and
 - (c) the interests of members of GESB Superannuation; and
 - (d) any other matters that appear to the Treasurer to be relevant.

- (3) The Treasurer is to prepare a report based on the review and, as soon as is practicable after the report is prepared (and in any event not more than 12 months after the relevant anniversary), cause it to be laid before each House of Parliament or dealt with under section 78.
- (4) Before a copy of the report is laid before Parliament the Treasurer —
 - (a) must provide MutualCo and TrustCo with a reasonable opportunity to identify any information contained in the report that the company considers is of a confidential or commercially sensitive nature; and
 - (b) may exclude from the copy of the report to be laid before Parliament any such information identified by MutualCo or TrustCo.
- (5) If information is excluded from a copy of the report under subsection (4)(b), the copy of the report must contain a statement to that effect at the place in the report where the excluded information would have otherwise appeared.
- (6) If, after carrying out a review, the Treasurer determines that there is no need for the Treasurer to continue to be the special member, the Treasurer is to resign as the special member in the manner provided in the constitution of MutualCo not later than 30 working days after the report is laid before Parliament.

53. Information to be provided in relation to review

- (1) In this section —
“**company**” means MutualCo, TrustCo or a subsidiary of either of them;

“fund members” means the members referred to in section 52(2)(c);

“regulator” means —

- (a) the Australian Securities and Investments Commission under the *Australian Securities and Investments Commission Act 2001* (Commonwealth); or
- (b) the Australian Prudential Regulation Authority under the *Australian Prudential Regulation Authority Act 1998* (Commonwealth); or
- (c) the Commissioner of Taxation under the *Taxation Administration Act 1953* (Commonwealth);

“relevant information” means information of any of the following kinds that is specified, or of a description specified, by the Treasurer —

- (a) information provided by a company to a regulator;
- (b) information given by a regulator to a company;
- (c) information that a company —
 - (i) has given to fund members or members of the company; or
 - (ii) would be required by written law or a law of the Commonwealth to give to a fund member or a member of the company at the member’s request;
- (d) if a complaint has been made to the Superannuation Complaints Tribunal under the *Superannuation (Resolution of Complaints) Act 1993* (Commonwealth) in relation to a decision or conduct of a

company, information relating to the complaint —

(i) given by the company to the Tribunal;
or

(ii) given by the Tribunal to the company,
but not including any information relating to any
fund member or member of the company
individually.

- (2) For the purpose of carrying out a review under section 52 the Treasurer is entitled —
- (a) to have any relevant information in the possession of a company; and
- (b) to make and retain copies of that information.
- (3) For the purposes of subsection (2) the Treasurer may request a company to —
- (a) give relevant information to the Treasurer; or
- (b) give the Treasurer access to relevant information.
- (4) A company must comply with a request given to it under subsection (3) except to the extent that to do so would cause the company to contravene another written law or a law of the Commonwealth.
- (5) If a company is given a request under subsection (3) and —
- (a) after the company has complied with the request; but
- (b) before the Treasurer's report on the review is tabled in accordance with section 52(3),

further relevant information of the kind requested comes into the possession of the company, the company must comply with the request in respect of that further information.

54. Expiry of certain sections when special membership ceases

- (1) Before, or as soon as is practicable after, the Treasurer resigns as the special member, the Treasurer is to cause a notice of that fact to be published in the *Gazette*.
- (2) Sections 51 to 54 expire at the end of the day that is the later of —
 - (a) the day on which that notice is published; and
 - (b) the day on which the Treasurer resigns as the special member.

Division 4 — Transfer

Subdivision 1 — Preliminary

55. Terms used in this Division

In this Division —

“**asset**” means any property of any kind, whether tangible or intangible, real or personal and, without limiting that meaning, includes —

- (a) a chose in action; or
- (b) goodwill; or
- (c) a right, interest or claim of any kind, whether arising from, accruing under, created or evidenced by or the subject of, a document or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

“**assignee**” means —

- (a) in relation to an asset or liability specified in a transfer order under section 57(1)(a) or (b), the person specified in the order as the person to whom the asset or liability is to be assigned; or

- (b) in relation to a liability assigned by operation of section 58(b), TrustCo; or
- (c) in relation to proceedings specified in a transfer order under section 57(1)(c), the person specified in the order as the person who is to be substituted for the Board as a party to the proceedings; or
- (d) in relation to an agreement or document specified in a transfer order under section 57(1)(d), the person specified in the order as the person a reference to whom is to be treated as being substituted for a reference in the agreement or document to the Board;

“liability” means any liability, duty or obligation whether liquidated or unliquidated, actual, contingent or prospective, and whether owed alone or jointly or jointly and severally with any other person;

“right” means any right, power, privilege or immunity whether actual, contingent or prospective but does not include any privilege or immunity enjoyed as an agent of the State except to the extent that it relates to anything done or omitted to be done before the transfer time;

“transfer order” means an order made under section 57;

“transferring member” means a person who becomes a member of GESB Superannuation by operation of section 59(1)(a).

Subdivision 2 — Transfer of statutory schemes

56. Treasurer to fix transfer time

- (1) The Treasurer may, by order published in the *Gazette*, fix the transfer time.

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- (2) The Treasurer must not make an order under subsection (1) unless the Treasurer has received from an actuary a certificate —
 - (a) given not more than 30 working days before the time to be fixed as the transfer time; and
 - (b) certifying that the actuary considers that if the transfer time were the time when the certificate is given, the assets assigned by operation of section 58 to TrustCo as trustee of GESB Superannuation would be sufficient and appropriate to enable TrustCo to meet its obligations as trustee of GESB Superannuation.
- (3) In giving a certificate for the purposes of subsection (2) an actuary is to have regard to —
 - (a) the type and value of the assets and liabilities to be assigned by operation of section 58 to TrustCo as trustee of GESB Superannuation; and
 - (b) the investment options selected by members of the statutory schemes; and
 - (c) the level of reserves the actuary reasonably considers a prudent trustee of GESB Superannuation would, in the ordinary course of the prudent management of the fund, maintain.
- (4) The Treasurer is to cause a copy of —
 - (a) the transfer order; and
 - (b) the actuarial certificate referred to in subsection (2); and
 - (c) any other actuarial advice received by the Treasurer in relation to the assets and liabilities to be assigned by operation of section 58; and
 - (d) the order made under subsection (1),

to be laid before each House of Parliament or dealt with under section 78 within 3 working days after the order made under subsection (1) is published in the *Gazette*.

57. Treasurer to make transfer order

- (1) For the purpose of this Part the Treasurer may, by one or more orders published in the *Gazette*, specify —
- (a) the assets —
 - (i) in the statutory fund; or
 - (ii) of the Board that are not in the statutory fund,
that are to be assigned by operation of section 58(a) to the person specified in the order; and
 - (b) any liability of the Board —
 - (i) not arising under a statutory scheme; or
 - (ii) arising under a statutory scheme but that will not be assigned by operation of section 58(b),
that is to be assigned by operation of section 58(c) to the person specified in the order; and
 - (c) any proceedings in which the person specified in the order is to be substituted by operation of section 58(d) for the Board as a party to the proceedings; and
 - (d) any agreement or document relating to an asset or liability that is to be assigned by operation of section 58 that, unless otherwise expressly specified in the order, is to be taken to be amended by operation of section 58(e) by substituting for a reference in it to the Board a reference to the person specified in the order.

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- (2) The person specified in a transfer order may be MutualCo or TrustCo or a subsidiary of either of them.
- (3) A transfer order may specify a thing by describing it as a member of a class of things.
- (4) A transfer order may specify a thing by reference to a schedule that need not be published in the *Gazette* but must be —
 - (a) signed by the Treasurer; and
 - (b) available for public inspection.
- (5) Anything specified in a schedule referred to in a transfer order is taken to be specified in the order.
- (6) The Treasurer may, by order published in the *Gazette*, amend a transfer order, or a schedule referred to in a transfer order, to correct —
 - (a) a clerical mistake; or
 - (b) an accidental slip or omission; or
 - (c) the misdescription of a person or thing.
- (7) A transfer order, or an order under subsection (6), can only be made before the transfer time.

58. Transfer of assets, liabilities etc.

At the transfer time, by operation of this section —

- (a) an asset specified in a transfer order under section 57(1)(a) is assigned to the assignee; and
- (b) every liability of the Board or of the State to pay a benefit arising under a statutory scheme to or in relation to a transferring member is assigned to, and becomes a liability of, TrustCo as trustee of GESB Superannuation; and

- (c) a liability specified in a transfer order under section 57(1)(b) is assigned to, and becomes a liability of, the assignee; and
- (d) in proceedings specified in a transfer order under section 57(1)(c) the assignee is substituted for the Board as a party to the proceedings; and
- (e) an agreement or document specified in a transfer order under section 57(1)(d) is, unless otherwise expressly specified in the order, taken to be amended by substituting for any reference in it to the Board a reference to the assignee.

59. Transfer of members

- (1) At the transfer time, by operation of this section, a person who was, immediately before the transfer time, a member of a statutory scheme —
 - (a) becomes a member of GESB Superannuation; and
 - (b) ceases to be a member of the statutory scheme.
- (2) The Board and MutualCo are to take the necessary steps to ensure that at the transfer time every transferring member becomes a member of MutualCo.
- (3) For the purposes of subsection (2), the Board is appointed as attorney for each person who is a member of a statutory scheme for the purpose of executing any documents the Board considers necessary or desirable —
 - (a) to enable that person, if he or she becomes a transferring member, to become a member of MutualCo; and
 - (b) to nominate for the person how MutualCo may send or make available to the person notices,

reports and other communications that MutualCo is required under the Corporations Act to send to members of the company.

60. Effect on rights, remedies etc.

After the transfer time —

(a) any proceedings that might have been commenced by or against the Board or the State in relation to an asset or liability assigned by operation of section 58 —

(i) may be commenced by or against the assignee; and

(ii) cannot be commenced by or against the Board or the State;

and

(b) any remedy that would have been available to or against the Board or the State in relation to an asset or liability assigned by operation of section 58 —

(i) is available to or against the assignee; and

(ii) is not available to or against the Board or the State;

and

(c) anything relating to an asset or liability assigned by operation of section 58 that was done or omitted to be done by, to, or in respect of, the Board or the State before the transfer time and is of any ongoing effect is to be taken to have been done or omitted to be done by, to, or in respect of, the assignee.

Subdivision 3 — General provisions relating to transfer

61. Notification and registration of assignment

(1) In this section —

“**assigned property**” means an asset or liability assigned by operation of this Division;

“**registrar**” means —

- (a) a WA registrar; or
- (b) a person authorised or required by a law of a place outside the State to record and give effect to the registration of documents relating to transactions affecting assigned property;

“**WA registrar**” means —

- (a) the Registrar of Titles; or
- (b) the Registrar of Deeds and Transfers; or
- (c) the Minister administering the *Mining Act 1978*; or
- (d) any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting assigned property.

(2) A WA registrar is to take notice of this Division and record and register in the appropriate manner the documents necessary to show the effect of this Division.

(3) A person to whom assigned property is assigned by operation of this Division is to cause to be delivered to each registrar, in a form acceptable to the registrar, all the information the registrar needs in order to record and register the documents necessary to show the effect of this Division in relation to that property.

62. Completion of necessary transactions

If there is any impediment to any provision of this Division having effect (whether because a matter is governed otherwise than by the law of the State, or for any other reason), the Treasurer, the Board, MutualCo, TrustCo and each other person to whom anything is assigned by operation of this Division are to take all practicable steps to ensure that the effect sought to be achieved by that provision is achieved as close as possible to the transfer time.

63. Arrangements for custody and use of records

The Board, MutualCo, TrustCo and each other person to whom anything is assigned by operation of this Division are to make arrangements for the delivery or sharing of, and access to, documents and other records (however compiled, recorded or stored) that relate to any of the following —

- (a) anything assigned by operation of this Division or otherwise affected by this Division;
- (b) a scheme affected by this Division;
- (c) a person who becomes a member of GESB Superannuation by operation of this Division.

64. Stamp duty and other taxes

- (1) In this section —

“foreign tax” means a tax, duty, fee, levy or charge under a law of a place outside the State;

“relevant act” means anything —

- (a) that occurs by operation of this Division; or
- (b) done —
 - (i) under this Division; or
 - (ii) to give effect to this Division; or

- (iii) for a purpose connected with, or arising out of, giving effect to this Division,

including a transaction entered into or an instrument or document of any kind made, executed, lodged or given.

- (2) Stamp duty under the *Stamp Act 1921* is not chargeable in relation to a relevant act.
- (3) Any foreign tax payable in relation to a relevant act is to be paid by the Board and charged to the statutory fund under section 15(2)(c).
- (4) The Treasurer or a person authorised by the Treasurer may, at the request of the Board or a person who would, but for subsection (2) or (3), be liable to pay stamp duty or foreign tax in relation to a relevant act, certify in writing that a specified thing was a relevant act.
- (5) For all purposes and in all proceedings, a certificate under subsection (4) is conclusive evidence of the matters it certifies, except so far as the contrary is shown.

Division 5 — Transfer of staff

65. Terms used in this Division

- (1) In this Division —
 - “**department**” means the department of the Public Service principally assisting in the administration of this Act;
 - “**election**” means an election made in accordance with section 67;
 - “**industrial instrument**” means an award, order, agreement or other instrument relating to terms and conditions of employment that applies under

the *Industrial Relations Act 1979* or the *Workplace Relations Act 1996* (Commonwealth);

“protected matter” means any of the following —

- (a) remuneration;
- (b) leave;
- (c) workload management;
- (d) working hours;
- (e) flexible working arrangements;
- (f) professional development;

“transferred employee” means a person who becomes an employee of MutualCo by operation of section 66(1).

(2) In this Division each of the following terms has the meaning given in the *Public Sector Management Act 1994* section 3(1) —

- (a) **“employing authority”**;
- (b) **“permanent officer”**;
- (c) **“public service officer”**;
- (d) **“term officer”**.

66. Transfer of staff to MutualCo

- (1) At the transfer time —
- (a) each person employed as a public service officer in accordance with section 11(1) or as the chief executive officer of the Board becomes an employee of MutualCo employed under a contract of employment between the person and MutualCo; and
 - (b) each person employed by the Board under section 11(2) other than on a casual basis becomes an employee of MutualCo which is

substituted for the Board as a party to the person's contract of employment,

unless, at that time, the person's employment terminates other than by operation of this Division.

- (2) A transferred employee's contract of employment is to be taken to include each term or condition that —
 - (a) applied to the person immediately before the transfer time under a contract of employment or industrial instrument; and
 - (b) relates to a protected matter.
- (3) A transferred employee's rights against MutualCo include each accruing or accrued right that —
 - (a) the person had immediately before the transfer time under a contract of employment or industrial instrument; and
 - (b) relates to a protected matter.
- (4) For the purpose of working out when an accruing right referred to in subsection (3) accrues the person's employment in the public sector is to be taken to have been employment with MutualCo.
- (5) Despite subsections (2) and (3) —
 - (a) a person's contract of employment with MutualCo does not include a term or condition; and
 - (b) a person's rights against MutualCo do not include a right,

to the extent that it requires or permits contributions to be made by or for the person to a particular superannuation scheme or to a particular type of superannuation scheme.

- (6) Nothing in this section prevents the subsequent variation or replacement of a term, condition or right referred to in subsection (2) or (3).
- (7) The regulations referred to in the *Public Sector Management Act 1994* section 94 do not apply in relation to a change of employment effected by operation of subsection (1).

67. Election as to employment

- (1) A transferred employee may elect, by giving written notice to MutualCo, to —
 - (a) remain an employee of MutualCo; or
 - (b) return to the public sector.
- (2) An election cannot be made after the person has become entitled to a transition payment under section 68.
- (3) An election cannot be withdrawn or revoked.

68. Transition payment for staff not electing to return

- (1) A transferred employee becomes entitled to a transition payment if —
 - (a) the person elects to remain an employee of MutualCo; or
 - (b) the person enters into a contract of employment with MutualCo that replaces the contract referred to in section 66(1); or
 - (c) a period of 12 months has expired after the end of the day on which the transfer time occurs and the person has neither —
 - (i) elected to return to the public sector; nor
 - (ii) become entitled to a transition payment under paragraph (a) or (b).

- (2) When a person becomes entitled to a transition payment the Board is to pay the person the amount determined by the Treasurer on the recommendation of the Minister for Public Sector Management.

69. Arrangements for return to public sector

- (1) As soon as is practicable after a person elects to return to the public sector MutualCo is to notify the employing authority of the department of that election.
- (2) MutualCo and the employing authority are to make the necessary arrangements to facilitate the operation of section 70.
- (3) MutualCo is to comply with any requirements of the Treasurer's instructions issued under the *Financial Management Act 2006* section 78 relating to the making of payments by an employing authority for liabilities relating to employees whose employing authority changes as if —
 - (a) MutualCo were an employing authority to which those instructions applied; and
 - (b) each person who elects to return to the public sector were an employee to whom those instructions applied.
- (4) If the employing authority incurs costs as a result of the operation of section 70 the Treasurer may direct the Board, under section 71, to pay an amount from the statutory fund to the employing authority to reimburse the employing authority for any or all of those costs.

70. Employment in public sector

- (1) When a person elects to return to the public sector the person —
 - (a) ceases to be an employee of MutualCo; and

- (b) becomes —
 - (i) if the person was, immediately before the transfer time, a permanent officer — a permanent officer in the department; or
 - (ii) if the person was, immediately before the transfer time, employed for a fixed term (the “**pre-transfer term**”) — a term officer in the department for a term that expires on the day on which the person’s pre-transfer term would have expired.
- (2) For the purposes of the *Public Sector Management Act 1994* a person who becomes a public service officer under subsection (1)(b) is to be taken to have held an office, post or position in the department that —
 - (a) was at the same level of classification as the substantive office, post or position held by the person immediately before the transfer time; and
 - (b) has been abolished.
- (3) When a person becomes a public service officer under subsection (1)(b) the person’s entitlement to leave includes any accrued leave to which the person was entitled as an employee of MutualCo immediately before becoming a public service officer.
- (4) Nothing in this section prevents the subsequent variation or replacement of a term, condition or right relating to the person’s employment in the department.

Division 6 — General

71. Treasurer may give directions

- (1) The Treasurer may give directions in writing to the Board requiring it to take any step that the Treasurer considers necessary or convenient for the purpose of giving effect to this Part.
- (2) The Board must comply with a direction given to it under subsection (1).
- (3) This section applies despite the *Statutory Corporations (Liability of Directors) Act 1996* section 6(a) and a direction given under this section is not unlawful for the purposes of Part 3 Division 4 of that Act.
- (4) Section 77 applies to a direction given under this section.

72. Power to remedy insufficiency

- (1) If the Treasurer is satisfied that the assets assigned by operation of this Part to TrustCo as trustee of GESB Superannuation were not, at the time they were assigned, sufficient or appropriate to enable TrustCo to meet its obligations as trustee of GESB Superannuation, the Treasurer may take any action the Treasurer considers appropriate to remedy the insufficiency or inappropriateness.
- (2) Without limiting the action that may be taken under subsection (1), the Treasurer may direct the Board, under section 71, to —
 - (a) transfer assets in the statutory fund to TrustCo;
or
 - (b) pay an amount from the statutory fund to a person.
- (3) This section expires when section 54 expires.

73. General powers of Treasurer and Board

- (1) The Treasurer and the Board may do, in the State or elsewhere, anything necessary or convenient to be done for the purpose of giving effect to this Part.
- (2) If there is a conflict or inconsistency between —
 - (a) a function of the Board under this Part; and
 - (b) a function of the Board under any other provision of this Act,

the function under this Part prevails.

74. Use of Board's staff and facilities

Until the transfer time the Board may make available to MutualCo or TrustCo —

- (a) any member of staff of the Board; and
- (b) any facilities or services of the Board,

on terms, including as to payment, agreed between the Board and the company.

75. No fees payable by members transferred to GESB Superannuation

No fee or charge is payable by a person who becomes a member of GESB Superannuation by operation of this Part in relation to anything —

- (a) that occurs by operation of this Part; or
- (b) done —
 - (i) under this Part; or
 - (ii) to give effect to this Part; or
 - (iii) for a purpose connected with, or arising out of, giving effect to this Part.

Part 5 — General

- 77. Supplementary provision about Ministerial directions**
- (1) In this section —
“direction” means a direction given to the Board under a provision of this Act that provides for this section to apply to a direction given under that provision;
“Minister”, in relation to a direction, means the Minister who gave the direction.
 - (2) Subject to this section, a direction becomes effective on the expiry of 7 days after the Board receives it or of such longer period as the Minister may, at the Board’s request, determine.
 - (3) If the Board asks the Minister to extend the 7 day period under subsection (2), the Minister must decide whether or not to agree to the request and notify the Board of that decision before the 7 day period has expired.
 - (4) If a direction is the subject of a notice under the *Statutory Corporations (Liability of Directors) Act 1996* section 17, it does not become effective before it is confirmed under that section or the expiry of any extension of time notified under subsection (2).
 - (5) Despite the *Statutory Corporations (Liability of Directors) Act 1996* section 17(4), the Minister may, when confirming a direction under that section, extend the time for the direction to become effective and is to notify the Board of the extension.
 - (6) The Minister must cause a copy of a direction to be laid before each House of Parliament or dealt with under section 78 —

- (a) within 14 days after the direction is given; or
 - (b) if the direction is the subject of a notice under the *Statutory Corporations (Liability of Directors) Act 1996* section 17, within 14 days after it is confirmed under that section.
- (7) The text of a direction is to be included in the annual report submitted by the accountable authority of the Board under the *Financial Management Act 2006* Part 5.

78. Supplementary provision about laying documents before Parliament

- (1) If a provision of this Act requires a person to cause a document to be laid before each House of Parliament or dealt with under this section within a period and —
- (a) at the commencement of the period, a House of Parliament is not sitting; and
 - (b) the person is of the opinion that the House will not sit during that period,

the person must transmit a copy of the document to the Clerk of that House.

- (2) A copy of a document transmitted to the Clerk of a House is to be regarded as having been laid before that House.
- (3) The laying of a copy of a document that is to be regarded as having occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

79. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act or the

State Superannuation (Transitional and Consequential Provisions) Act 2000 section 26 to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

- (2) Regulations that prescribe an authority, body or person for the purposes of the definition of “Employer” may specify as the day on which they come into operation a day that is earlier than the day on which they are published in the *Gazette*.
- (3) Regulations of the kind referred to in subsection (2) cannot be made if they will or may affect a person, except the Crown or an Employer, by —
 - (a) prejudicing rights that existed before the regulation was published; or
 - (b) imposing liabilities in respect of anything that occurred before the regulation was published.

”.

17. Schedule 1 amended

Schedule 1 clause 6(1)(c) is amended by deleting “*Corporations Act 2001* of the Commonwealth” and inserting instead —

“ Corporations Act ”.

18. Schedule 2 amended

- (1) Schedule 2 clause 9(1)(b) is amended by deleting “or to the former Superannuation Board constituted under the S&FB Act”.
- (2) Schedule 2 clause 9(2)(e) is amended by deleting “*Corporations Act 2001* of the Commonwealth” and inserting instead —

“ Corporations Act) ”.

s. 19

19. Conjunctions inserted

- (1) After each of the provisions listed in the Table to this subsection the following is inserted —

“ and ”.

Table

s. 6(2)(a)	s. 19(2)(a), (b), (b)(i), (b)(ii), (c) and (d)
s. 8(1)(a)	
s. 10(2)(a)	s. 24(1)(a)
s. 15(1)(a), (b) and (c)	s. 33(1)(a) Sch. 2 cl. 4(a)

- (2) After each of the provisions listed in the Table to this subsection the following is inserted —

“ or ”.

Table

s. 3(1) (defn. of “Employer” para. (a) and (b))	Sch. 1 cl. 6(1)(a) and (b), (2)(a), (b), (c), (d) and (e)
s. 26(1)(a) and (b)	Sch. 2 cl. 3(a)
s. 34(4)(a), (b) and (c)	Sch. 2 cl. 9(1)(a), (2)(a), (b) and (c)
s. 36(4) (defn. of “beneficiary” para. (a))	Sch. 2 cl. 10(3)(a)

Part 3 — Amendments at transfer time

20. Section 3 amended

Section 3(1) is amended as follows:

- (a) in the definition of “Board” by deleting “Government Employees” and inserting instead —
“ State ”;
- (b) by deleting the definition of “GES Act”.

21. Part 2 inserted

After section 4 the following Part is inserted —

“

Part 2 — Employer contribution obligation

4A. Terms used in this Part

- (1) In this Part —

“**chosen fund**” means a fund chosen by an employee in accordance with the SGA Act Part 3A Division 4;

“**employee**” has the meaning given in the SGA Act section 12;

“**fund**” has the meaning given in the SGA Act section 32E;

“**individual superannuation guarantee shortfall**” has the meaning given in the SGA Act section 19;

“**prescribed fund**”, in relation to an employee, means the fund prescribed by the regulations for that employee;

“**SGA Act**” means the *Superannuation Guarantee (Administration) Act 1992* (Commonwealth);

“superannuation guarantee charge” means the charge imposed by the *Superannuation Guarantee Charge Act 1992* (Commonwealth).

- (2) For the purposes of this Part an employee is to be regarded as an employee of the person or body prescribed by the regulations for that employee.

4B. Employers to make contributions

- (1) An Employer must make contributions to the prescribed fund for each of its employees such that the Employer will avoid incurring an individual superannuation guarantee shortfall for the employee.
- (2) If an Employer becomes liable to pay the superannuation guarantee charge as a result of incurring an individual superannuation guarantee shortfall for an employee for a period, the Employer’s obligation under subsection (1) to contribute for that employee for that period ceases.
- (3) This section does not apply in relation to an employee who is in a class of employees prescribed by the regulations.

4C. Regulations may require extra contributions

Regulations made under section 79 may require an Employer to make contributions to a fund in addition to any contributions the Employer is required to make under section 4B or any other written law.

4D. No contributions to other funds

An Employer must not make contributions for an employee to a fund other than the prescribed fund unless the Treasurer has approved the making of those contributions.

”.

22. Section 4E amended

- (1) Section 4E(1) is amended as follows:
 - (a) by deleting “the Schedules —” and inserting instead —
“ Schedules 1 and 2 — ”;
 - (b) in the definition of “Fund” by deleting “Government Employees” and inserting instead —
“ State ”;
 - (c) in the definition of “scheme” by deleting “or established under this Part”;
 - (d) by deleting the definition of “subsidiary”.
- (2) Section 4E(2) is repealed.

23. Division heading amended

The heading to Part 3 Division 2 is amended by deleting “Government Employees” and inserting instead —
“ **State** ”.

24. Section 5 amended

- (1) Section 5(1) is repealed and the following subsection is inserted instead —
“
 - (1) There is a body called the State Superannuation Board.”.
- (2) Section 5(3) is repealed and the following subsection is inserted instead —
“
 - (3) The Board is a continuation of, and the same legal entity as, the body that was, before the transfer time, called the Government Employees Superannuation Board.”.

Note: The heading to section 5 will be altered by deleting “Government Employees” and inserting instead “**State**”.

s. 25

25. Section 6 amended

(1) Section 6(1) is amended as follows:

(a) after paragraph (c) by inserting —

“

(ca) with the approval of the Treasurer, administer any other superannuation scheme established by or under a written law; and

”.

(b) by deleting paragraph (e) and “and” after it and inserting instead —

“

(e) facilitate the provision of services to members of superannuation schemes administered by the Board and to Employers; and

”.

(2) Section 6(3) is amended by inserting after “trading names” —

“

, being names that are not, and do not include, the term “GESB”

”.

26. Section 7 amended

(1) Section 7(2)(c), (ca), (d), (e) and (f) and “and” after each of them are deleted.

(2) After section 7(3) the following subsection is inserted —

“

(4) Without limiting subsection (1) the Board may charge a fee for administering a superannuation scheme of a kind referred to in section 6(1)(ca).

”.

27. Sections 7A and 7B repealed

Sections 7A and 7B are repealed.

28. Section 8 amended

Section 8(1) is repealed and the following subsections are inserted instead —

“

- (1) The Board comprises the prescribed number of directors —
 - (a) of whom one is to be appointed by the Governor as chairman on the nomination of the Treasurer; and
 - (b) of the others of whom —
 - (i) half are to be appointed by the Governor as Employer directors; and
 - (ii) half are to be elected or appointed in accordance with the regulations as Member directors.
- (1a) The number prescribed for the purposes of subsection (1) must be an odd number not exceeding 7.

”.

29. Section 11 replaced

Section 11 is repealed and the following section is inserted instead —

“

11. Use of government staff and facilities

- (1) The Board may by arrangement with the relevant employer make use, either full-time or part-time, of the services of any officer or employee —
 - (a) in the Public Service; or
 - (b) in a State agency; or
 - (c) otherwise in the service of the State.
- (2) The Board may by arrangement with —
 - (a) a department of the Public Service; or

(b) a State agency,

make use of any facilities of the department or agency.

- (3) An arrangement under subsection (1) or (2) is to be made on terms, including as to payment, agreed to by the parties.

”.

30. Section 12 amended

Section 12(1) is amended by deleting “section 23” and inserting instead —

“ section 18(4) ”.

31. Division heading amended

The heading to Part 3 Division 3 is amended by deleting “Government Employees” and inserting instead —

“ **State** ”.

32. Section 14 amended

- (1) Section 14(1) is amended by deleting “Government Employees” and inserting instead —

“ State ”.

- (2) Section 14(2) is repealed and the following subsection is inserted instead —

“

- (2) The State Superannuation Fund is a continuation of, and the same fund as, the fund that was, before the transfer time, called the Government Employees Superannuation Fund.

”.

Note: The heading to section 14 will be deleted and the following heading will be inserted instead “**State Superannuation Fund**”.

33. Section 15 amended

Section 15(2)(ba) and “and” after it are deleted.

34. Section 18 amended

- (1) Section 18(3) is amended by deleting from “an investment,” to the end of the subsection and inserting instead —

“

an investment; and

- (c) mix investments with investments of any other person,

as if it were dealing with its own property as it considers appropriate.

”.

- (2) After section 18(3) the following subsection is inserted —

“

- (4) Subject to the Treasurer’s guidelines the Board may delegate any or all of its functions under this section to a person approved by the Treasurer.

”.

35. Section 23 repealed

Section 23 is repealed.

36. Section 28 replaced

Section 28 is repealed and the following section is inserted in Part 3 Division 3 —

“

28. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of agencies apply to and in respect of the Board and its operations.

”.

s. 37

37. Section 30 repealed

Section 30 is repealed.

38. Section 33 amended

Section 33(2) is amended as follows:

- (a) in paragraph (b) by deleting “the provision by the Board of, or” and “, products and”;
- (b) in paragraph (d) by inserting after “investments” —
“ , and the delegation of functions, ”;
- (c) in paragraph (e) by deleting “sections 18, 23, 24 and 38(5);” and inserting instead —
“ sections 18 and 24; ”;
- (d) by deleting paragraphs (h) and (i) and “and” after each of them.

39. Sections 33A and 33B repealed

Sections 33A and 33B are repealed.

40. Section 36 amended

- (1) Section 36(1)(a) and (3) are amended by deleting “or a subsidiary”.
- (2) Section 36(2)(b) is amended by inserting after “facilities” —
“ (including any being used in accordance with section 11) ”.
- (3) Section 36(4) is amended in the definition of “beneficiary” by deleting paragraph (c) and inserting instead —
“
(c) any other person to whom a benefit has been or is being paid, or is or may become payable;
”.

41. Section 37 repealed

Section 37 is repealed.

42. Section 38 amended

(1) Section 38(2) is amended as follows:

- (a) by deleting paragraph (a) and “and” after it;
- (b) by deleting paragraph (j) and “and” after it and inserting instead —

“

- (j) facilitation by the Board of the provision of services under section 6(1)(e); and

”;

- (c) after paragraph (l) by deleting the full stop and inserting instead —

“

; and

- (m) the discontinuance of a scheme.

”.

(2) Section 38(5) is repealed.

(3) Section 38(8) is repealed and the following subsections are inserted instead —

“

(7) Regulations cannot be made after the transfer time if they would permit a person to become —

- (a) a member of the West State scheme or the scheme continued by section 29(1)(b); or
- (b) a contributor or subscriber to a scheme continued by section 29(1)(c) or (d).

(7a) Subsection (7) does not affect any regulation, or provision of the *Superannuation and Family Benefits Act 1938* continued under the *State Superannuation*

(Transitional and Consequential Provisions) Act 2000
section 26(1)(c), that is in force immediately before the transfer time.

- (8) Regulations providing for the discontinuance of a scheme cannot be made unless —
- (a) there are no members, contributors or subscribers left in the scheme; or
 - (b) the regulations provide for the transfer of members', contributors' or subscribers' benefits in the scheme to another superannuation fund or scheme in a manner that, if each scheme affected by the regulations were a regulated superannuation fund, would be permitted under the SIS Act.

”.

43. Section 76 inserted

Before section 77 the following section is inserted in Part 5 —

“

76. Restriction on other public sector superannuation schemes

- (1) An Employer may establish a superannuation scheme or fund for the benefit of persons who work for the Employer, if and only if the Treasurer has approved the establishment of that scheme or fund.
- (2) An approval given by the Treasurer under this section must be in writing and may relate to —
 - (a) a particular Employer or class of Employers; or
 - (b) a particular person who works for an Employer, or class of such persons; or
 - (c) a particular scheme or fund or class of schemes or funds.

(3) This section applies despite any other written law.

”.

44. Section 79 amended

After section 79(3) the following subsection is inserted —

“

(4) If the Minister responsible for the administration of this Act is not the Treasurer, regulations cannot be made for the purposes of this Act unless they have been approved by the Treasurer.

”.

45. Section 80 inserted

After section 79 the following section is inserted —

“

80. Transitional and saving provisions

Schedule 3 sets out transitional and savings provisions.

”.

46. Schedule 1 amended

- (1) The amendments in this section are to Schedule 1.
- (2) The Schedule heading is amended by deleting “Government Employees” and inserting instead —

“ **State** ”.

- (3) Clauses 1(2), 2(2) and 3 are repealed.
- (4) Clause 4(1) is amended by deleting “section 8(1)(b)” and inserting instead —

“ section 8(1)(b)(i) ”.

s. 47

- (5) Clause 4(2) is amended by deleting “under section 8(1)(c)” and inserting instead —
“ or appointed under section 8(1)(b)(ii) ”.
- (6) Clause 6(1) is amended by deleting “A casual vacancy in the office of a director occurs if the director —” and inserting instead —
“ A person ceases to be a director if the person — ”.
- (7) Clause 6(2)(c) and “or” after it are deleted and the following is inserted instead —
“
(c) is incompetent or is otherwise not a fit and proper person to be a director; or
”.
- (8) Clause 6(3) and (4) are repealed.

Note: The heading to clause 6 will be deleted and the following heading will be inserted instead “**Vacation of office by director**”.

47. Schedule 2 amended

- (1) The amendments in this section are to Schedule 2.
- (2) Clause 2 is amended by deleting “5 directors.” and inserting instead —
“ two-thirds of the total number of directors. ”.
- (3) Clause 4(c) is amended by deleting “5 or more directors” and inserting instead —
“ at least the number of directors required to form a quorum ”.

48. Schedule 3 replaced

Schedule 3 is repealed and the following Schedule is inserted instead —

“

Schedule 3 — Transitional and saving provisions

[s. 80]

Division 1 — Provisions for *State Superannuation Amendment Act 2007*

1. References to Board and Fund

- (1) A reference in a written law or other document to the Government Employees Superannuation Board may be read as if it had been amended to be a reference to the State Superannuation Board.
- (2) A reference in a written law or other document to the Government Employees Superannuation Fund may be read as if it had been amended to be a reference to the Fund as defined in the *State Superannuation Act 2000* section 4E.
- (3) This clause applies to the extent that a contrary intention does not appear.

2. Transitional provision in relation to Minister

After the transfer time anything that was done or omitted to be done by, to, or in relation to, the Minister before the transfer time and is of any ongoing effect, has the same effect after that time as if it had been done or was omitted to be done by, to, or in relation to, the Treasurer.

”

s. 49

49. Various references to Minister amended

- (1) The provisions listed in the Table to this subsection are amended by deleting “Minister” in each place where it occurs and inserting instead —

“ Treasurer ”.

Table

s. 3(1) (defn. of “actuary”)	Sch. 1 cl. 2(1)
s. 34(1)	Sch. 1 cl. 6(1), (2)
s. 35(1) and (2)	Sch. 1 cl. 7 (first place only)
s. 36(1), (2), (3) and (4)	Sch. 2 cl. 11(2)
(defn. of “information”)	Sch. 2 cl. 12(3)
s. 77(2), (3), (5) and (6)	
Sch. 1 cl. 1(1)	

- (2) Section 6(1)(d) is amended by deleting “Minister and the”.
- (3) Section 36(1) is amended by deleting “Minister’s” and inserting instead —

“ Treasurer’s ”.

- (4) Section 77(1) is amended as follows:
- (a) after the definition of “direction” by deleting the semicolon and inserting instead a full stop;
 - (b) by deleting the definition of “Minister”.

Note: The heading to sections 35 and 36 will be altered by deleting “Minister” and inserting instead “**Treasurer**”.

Part 4 — Amendments to introduce choice

50. Section 4B amended

- (1) Section 4B(1) is amended by deleting “the prescribed fund” and inserting instead —
“ a fund ”.
- (2) After section 4B(1) the following subsections are inserted —
“
 - (1a) The contributions required by subsection (1) to be made for an employee must be made to —
 - (a) a chosen fund for the employee; or
 - (b) if at the time the contribution is made there is no chosen fund for the employee, the prescribed fund.
 - (1b) Except as prescribed in the regulations, an Employer must comply with the requirements of the SGA Act Part 3A Division 6, even if it is not required by that Act to do so, and in doing so must specify the prescribed fund as the fund to which the Employer will contribute if the employee does not choose a different fund.”.

51. Section 4D repealed

Section 4D is repealed.

Part 5 — Amendments relating to West State scheme

Division 1 — West State in main transfer

Subdivision 1 — Amendments to allow transfer

52. Section 29 amended

After section 29(1) the following subsection is inserted —

“

- (2) At the transfer time the West State scheme is discontinued.

”.

53. Section 41 amended

Section 41(a) is amended by inserting after “Part 3” —

“ and the West State scheme ”.

54. Section 42 amended

Section 42(1) is amended in the definition of “statutory scheme” by deleting “time, but does not include a” and inserting instead —

“

time or the West State scheme, but does not include any other

”.

55. Section 56 amended

Section 56(3) is amended after paragraph (c) by deleting the full stop and inserting instead —

“

; and

- (d) any indemnity or guarantee given under section 60A.

”.

56. Section 60A inserted

After section 60 the following section is inserted in
Subdivision 2 —

“

60A. Treasurer may give indemnity or guarantee

- (1) The Treasurer may, in the name and on behalf of the State, give to TrustCo —
 - (a) an indemnity against liability for; or
 - (b) a guarantee of payment in respect of,

any financial obligations of TrustCo as trustee of GESB Superannuation relating to the payment of benefits to or in respect of transferring members who were, immediately before the transfer time, members of the West State scheme.
- (2) An indemnity or guarantee is to be in the form, and on the terms and conditions, determined by the Treasurer.
- (3) The due payment of money payable by the Treasurer under an indemnity or guarantee is to be charged to the Consolidated Account, which this subsection appropriates accordingly.
- (4) The Treasurer is to cause any amounts received or recovered, from TrustCo or otherwise, in respect of any payment made by the Treasurer under an indemnity or guarantee to be credited to the Consolidated Account.

”.

Subdivision 2 — Amendments at transfer time

57. Section 4E amended

Section 4E(1) is amended in the definition of “scheme” by deleting “section 29;” and inserting instead —

“ section 29(1)(b), (c) or (d); ”.

58. Section 22 repealed

Section 22 is repealed.

59. Section 33 amended

Section 33(2)(g) and “and” after it are deleted.

60. Section 38 amended

- (1) Section 38(3)(b)(i) is amended by deleting “the West State scheme or”.
- (2) Section 38(7)(a) is amended by deleting “the West State scheme or”.

Division 2 — West State in later transfer

Subdivision 1 — Amendments to allow transfer

61. Section 29 amended

After section 29(1) the following subsection is inserted —

“

- (2) At the time fixed under section 60B the West State scheme is discontinued.

”.

62. Section 41 amended

Section 41(a) is amended by inserting after “Part 3” —

“ and the West State scheme ”.

63. Subdivision 2A inserted

After section 60 the following Subdivision is inserted —

“

Subdivision 2A — Transfer of West State scheme

60A. Terms used in this Subdivision

In this Subdivision —

“**transferring WSS member**” means a person who becomes a member of GESB Superannuation by operation of section 60E(1)(a);

“**WSS assignee**” means —

- (a) in relation to an asset or liability specified in a WSS transfer order under section 60C(1)(a) or (b), the person specified in the order as the person to whom the asset or liability is to be assigned; or
- (b) in relation to a liability assigned by operation of section 60D(b), TrustCo; or
- (c) in relation to proceedings specified in a WSS transfer order under section 60C(1)(c), the person specified in the order as the person who is to be substituted for the Board as a party to the proceedings; or
- (d) in relation to an agreement or document specified in a WSS transfer order under section 60C(1)(d), the person specified in the order as the person a reference to whom is to be treated as being substituted for a reference in the agreement or document to the Board;

“**WSS transfer order**” means an order made under section 60C;

“**WSS transfer time**” means the time fixed under section 60B.

60B. Treasurer to fix WSS transfer time

- (1) The Treasurer may, by order published in the *Gazette*, fix the WSS transfer time.
- (2) The time fixed under subsection (1) cannot be before the transfer time.
- (3) The Treasurer must not make an order under subsection (1) unless the Treasurer has received from an actuary a certificate —
 - (a) given not more than 30 working days before the time to be fixed as the WSS transfer time; and
 - (b) certifying that the actuary considers that if the WSS transfer time were the time when the certificate is given, the assets assigned by operation of section 60D to TrustCo as trustee of GESB Superannuation would be sufficient and appropriate to enable TrustCo to meet its obligations as trustee of GESB Superannuation in relation to transferring WSS members.
- (4) In giving a certificate for the purposes of subsection (3) an actuary is to have regard to —
 - (a) the type and value of the assets and liabilities to be assigned by operation of section 60D to TrustCo as trustee of GESB Superannuation; and
 - (b) the investment options selected by transferring WSS members; and
 - (c) the amount by which the actuary reasonably considers a prudent trustee of GESB Superannuation would, in the ordinary course of the prudent management of the fund, increase the level of reserves maintained in the fund as a consequence of the operation of this Subdivision; and

- (d) any indemnity or guarantee given under section 60G.
- (5) The Treasurer must not make an order under subsection (1) unless satisfied that the trust deed by which GESB Superannuation is governed contains provisions to the effect that if the WSS transfer time were the time when the order is made —
 - (a) each existing member would be eligible to become a member of GESB Superannuation; and
 - (b) existing members would become members in the class of membership in GESB Superannuation specified in the deed; and
 - (c) an existing member's benefit entitlements as a member of GESB Superannuation, considered as a whole and disregarding any compliance changes, would be no less favourable than the member's existing benefit entitlements; and
 - (d) an existing member's obligations as a member of GESB Superannuation would be no greater than the member's existing obligations.
- (6) In subsection (5) —
 - “**compliance change**”, in relation to a member's benefit entitlements, means an unfavourable change in those entitlements to the extent that it would —
 - (a) be necessary for compliance with, or occur as a consequence of the application of, the SIS Act, the *Income Tax Assessment Act 1936* (Commonwealth) or any other law of the Commonwealth; or
 - (b) occur as a result of the member's benefits ceasing to be benefits payable under a scheme for the purposes of section 31;

“**existing**” means existing under the West State scheme at the time the Treasurer makes the order under subsection (1).

- (7) The Treasurer is to cause a copy of —
- (a) the WSS transfer order; and
 - (b) the actuarial certificate referred to in subsection (3); and
 - (c) any other actuarial advice received by the Treasurer in relation to the assets and liabilities to be assigned by operation of section 60D; and
 - (d) the order made under subsection (1),

to be laid before each House of Parliament or dealt with under section 78 within 3 working days after the order made under subsection (1) is published in the *Gazette*.

60C. Treasurer to make WSS transfer order

- (1) For the purpose of this Part the Treasurer may, by one or more orders published in the *Gazette*, specify —
- (a) the assets —
 - (i) in the statutory fund; or
 - (ii) of the Board that are not in the statutory fund,
that are to be assigned by operation of section 60D(a) to the person specified in the order; and
 - (b) any liability of the Board —
 - (i) not arising under the West State scheme; or
 - (ii) arising under the West State scheme but that will not be assigned by operation of section 60D(b),

that is to be assigned by operation of section 60D(c) to the person specified in the order; and

- (c) any proceedings in which the person specified in the order is to be substituted by operation of section 60D(d) for the Board as a party to the proceedings; and
 - (d) any agreement or document relating to an asset or liability that is to be assigned by operation of section 60D that, unless otherwise expressly specified in the order, is to be taken to be amended by operation of section 60D(e) by substituting for a reference in it to the Board a reference to the person specified in the order.
- (2) The person specified in a WSS transfer order may be MutualCo or TrustCo or a subsidiary of either of them.
 - (3) A WSS transfer order may specify a thing by describing it as a member of a class of things.
 - (4) A WSS transfer order may specify a thing by reference to a schedule that need not be published in the *Gazette* but must be —
 - (a) signed by the Treasurer; and
 - (b) available for public inspection.
 - (5) Anything specified in a schedule referred to in a WSS transfer order is taken to be specified in the order.
 - (6) The Treasurer may, by order published in the *Gazette*, amend a WSS transfer order, or a schedule referred to in a WSS transfer order, to correct —
 - (a) a clerical mistake; or
 - (b) an accidental slip or omission; or
 - (c) the misdescription of a person or thing.

- (7) A WSS transfer order, or an order under subsection (6), can only be made before the WSS transfer time.

60D. Transfer of assets, liabilities etc.

At the WSS transfer time, by operation of this section —

- (a) an asset specified in a WSS transfer order under section 60C(1)(a) is assigned to the WSS assignee; and
- (b) every liability of the Board or of the State to pay a benefit arising under the West State scheme to or in relation to a transferring WSS member is assigned to, and becomes a liability of, TrustCo as trustee of GESB Superannuation; and
- (c) a liability specified in a WSS transfer order under section 60C(1)(b) is assigned to, and becomes a liability of, the WSS assignee; and
- (d) in proceedings specified in a WSS transfer order under section 60C(1)(c) the WSS assignee is substituted for the Board as a party to the proceedings; and
- (e) an agreement or document specified in a WSS transfer order under section 60C(1)(d) is, unless otherwise expressly specified in the order, taken to be amended by substituting for any reference in it to the Board a reference to the WSS assignee.

60E. Transfer of members

- (1) At the WSS transfer time, by operation of this section, a person who was, immediately before the WSS transfer time, a member of the West State scheme —

- (a) becomes a member of GESB Superannuation;
and
 - (b) ceases to be a member of the West State scheme.
- (2) The Board and MutualCo are to take the necessary steps to ensure that at the WSS transfer time every transferring WSS member becomes a member of MutualCo.
- (3) For the purposes of subsection (2), the Board is appointed as attorney for each person who is a member of the West State scheme for the purpose of executing any documents the Board considers necessary or desirable —
- (a) to enable that person, if he or she becomes a transferring WSS member, to become a member of MutualCo; and
 - (b) to nominate for the person how MutualCo may send or make available to the person notices, reports and other communications that MutualCo is required under the Corporations Act to send to members of the company.

60F. Effect on rights, remedies etc.

After the WSS transfer time —

- (a) any proceedings that might have been commenced by or against the Board or the State in relation to an asset or liability assigned by operation of section 60D —
 - (i) may be commenced by or against the WSS assignee; and
 - (ii) cannot be commenced by or against the Board or the State;
- and

- (b) any remedy that would have been available to or against the Board or the State in relation to an asset or liability assigned by operation of section 60D —
 - (i) is available to or against the WSS assignee; and
 - (ii) is not available to or against the Board or the State;and
- (c) anything relating to an asset or liability assigned by operation of section 60D that was done or omitted to be done by, to, or in respect of, the Board or the State before the WSS transfer time and is of any ongoing effect is to be taken to have been done or omitted to be done by, to, or in respect of, the WSS assignee.

60G. Treasurer may give indemnity or guarantee

- (1) The Treasurer may, in the name and on behalf of the State, give to TrustCo —
 - (a) an indemnity against liability for; or
 - (b) a guarantee of payment in respect of,any financial obligations of TrustCo as trustee of GESB Superannuation relating to the payment of benefits to or in respect of transferring WSS members.
- (2) An indemnity or guarantee is to be in the form, and on the terms and conditions, determined by the Treasurer.
- (3) The due payment of money payable by the Treasurer under an indemnity or guarantee is to be charged to the Consolidated Account, which this subsection appropriates accordingly.

- (4) The Treasurer is to cause any amounts received or recovered, from TrustCo or otherwise, in respect of any payment made by the Treasurer under an indemnity or guarantee to be credited to the Consolidated Account.

”.

Subdivision 2 — Amendments at WSS transfer time

64. Section 4E amended

Section 4E(1) is amended in the definition of “scheme” by deleting “section 29;” and inserting instead —

“ section 29(1)(b), (c) or (d); ”.

65. Section 22 repealed

Section 22 is repealed.

66. Section 33 amended

Section 33(2)(g) and “and” after it are deleted.

67. Section 38 amended

- (1) Section 38(3)(b)(i) is amended by deleting “the West State scheme or”.
- (2) Section 38(7)(a) is amended by deleting “the West State scheme or”.

Division 3 — West State separated into sub-fund

Subdivision 1 — Amendments to allow separation

68. Section 14 amended

After section 14(2) the following subsections are inserted —

“

- (3) After the time fixed under section 75K the State Superannuation Fund consists of 2 sub-funds called —

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- (a) the Defined Benefit Fund; and
 - (b) the West State Fund.
- (4) If the West State scheme is discontinued, subsection (3) expires.

”.

69. Section 29 amended

After section 29(1) the following subsection is inserted —

“

- (2) After the time fixed under section 75K —
- (a) the details of the West State scheme are to be set out in governing rules under section 75E; and
 - (b) the West State scheme may, if the governing rules permit, be discontinued in accordance with those rules.

”.

70. Section 52 amended

Section 52(2) is amended as follows:

- (a) in paragraph (b) by deleting “and GESB Superannuation” and inserting instead —

“

, GESB Superannuation and the West State scheme

”;

- (b) in paragraph (c) by inserting after “GESB Superannuation” —

“ and the West State scheme ”.

71. Part 4A inserted

After section 75 the following Part is inserted —

“

Part 4A — West State scheme

Division 1 — Preliminary

75A. Purpose of this Part

The purpose of this Part is to —

- (a) provide for the assets in the statutory fund to be divided into 2 sub-funds, one relating to the West State scheme and one relating to the other schemes continued by section 29; and
- (b) provide for the details of the West State scheme to be set out in governing rules; and
- (c) provide for the Board’s powers and duties in relation to the West State scheme to be transferred to TrustCo; and
- (d) enable and facilitate a convenient transition of the West State scheme to the new structure.

75B. Terms used in this Part

(1) In this Part —

“**governing rules**” means the governing rules made under section 75E;

“**responsible entity**” means the responsible entity of the West State scheme under section 75C;

“**separation time**” means the time fixed under section 75K;

“**West State Fund**” means the sub-fund of the State Superannuation Fund referred to in section 14(3)(b) and called the West State Fund;

“West State member” means a member of the West State scheme.

- (2) In this Part each of the following terms has the meaning given in section 42 —
- (a) **“MutualCo”**;
 - (b) **“statutory fund”**;
 - (c) **“subsidiary”**;
 - (d) **“TrustCo”**.

Division 2 — Responsible entity and governing rules

75C. Responsible entity

- (1) At the separation time, TrustCo becomes the responsible entity for the West State scheme.
- (2) If TrustCo ceases to be the responsible entity, a replacement responsible entity is to be appointed in accordance with the governing rules.

75D. Responsible entity and directors to be indemnified

- (1) The responsible entity and the directors of that entity are each entitled to be indemnified out of the assets in the West State Fund against a liability —
 - (a) assigned by operation of section 75N; or
 - (b) properly incurred while acting as the responsible entity or a director of the responsible entity (as the case requires).
- (2) Subsection (1) does not entitle a person to be indemnified out of the assets in the West State Fund against a liability —
 - (a) that arises because the person —
 - (i) fails to act honestly in a matter concerning the West State scheme; or

(ii) intentionally or recklessly fails to exercise due care and diligence in the exercise of the person's functions in relation to the West State scheme;

or

(b) for a monetary penalty under a civil penalty order as defined in the SIS Act section 10.

75E. Governing rules

- (1) The Treasurer may make governing rules for the West State scheme.
- (2) Governing rules are not subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (3) The *Interpretation Act 1984* section 43 (other than subsections (4) and (6)) applies in relation to the making of the governing rules by the Treasurer under subsection (1) as if they were subsidiary legislation.
- (4) Governing rules made under subsection (1) —
 - (a) may be amended or repealed by the responsible entity in the manner, and subject to any conditions, specified in the governing rules; and
 - (b) cannot be amended or repealed by the Treasurer.

75F. Content of governing rules

- (1) The governing rules may make provision for the following —
 - (a) the functions, rights and liabilities of the responsible entity;
 - (b) the rights and liabilities of West State members;
 - (c) the rights and liabilities of Employers in relation to the West State scheme;

- (d) the appointment of a replacement responsible entity;
 - (e) the discontinuance of the West State scheme;
 - (f) amendment of the governing rules;
 - (g) any other matters that are required, necessary or convenient to be provided for, or in relation to, the West State scheme.
- (2) The governing rules may provide that certain provisions of the rules cannot be amended without the approval of the Treasurer.

75G. Governing rules to contain certain provisions when made

- (1) In this section —

“constitutionally protected fund” has the meaning given in the *Income Tax Assessment Act 1936* (Commonwealth) section 267;

“compliance change”, in relation to a West State member’s benefit entitlements, means an unfavourable change in those entitlements to the extent that it would —

- (a) be necessary for compliance with, or occur as a consequence of the application of, the SIS Act, the *Income Tax Assessment Act 1936* (Commonwealth) or any other law of the Commonwealth; or
- (b) occur as a result of the member’s benefits ceasing to be benefits payable under a scheme for the purposes of section 31;

“existing” means existing under the West State scheme at the time the Treasurer makes the governing rules;

“regulatory provision” has the meaning given in the SIS Act section 38A;

“**successor fund**” has the meaning given in the *Superannuation Industry (Supervision) Regulations 1994* (Commonwealth) regulation 1.03(1).

- (2) The Treasurer must not make governing rules under section 75E(1) unless satisfied that compliance with the terms of the governing rules would not cause the responsible entity to contravene a regulatory provision in relation to the West State scheme.
- (3) The Treasurer must not make governing rules under section 75E(1) unless satisfied that the rules contain provisions to the effect that, if the separation time were the time when the rules are made —
 - (a) the coming into operation of the governing rules would not cause any existing member to cease to be a West State member; and
 - (b) an existing member’s benefit entitlements under the governing rules, considered as a whole and disregarding any compliance changes, would be no less favourable than the member’s existing benefit entitlements; and
 - (c) an existing member’s obligations under the governing rules would be no greater than the member’s existing obligations.
- (4) The Treasurer must not make governing rules under section 75E(1) unless satisfied that the rules contain provisions to the effect that —
 - (a) a West State member’s benefits under the West State scheme must not be transferred to a successor fund unless —
 - (i) the member has consented to the transfer; or

- (ii) the transfer has been approved by the Treasurer;
- and
- (b) the responsible entity —
 - (i) must not, without the Treasurer’s approval, cause, or attempt to cause, the West State scheme to cease to be a constitutionally protected fund; and
 - (ii) must, unless the Treasurer otherwise approves, make all reasonable efforts to ensure that the West State scheme does not cease be a constitutionally protected fund;
- and
- (c) the West State scheme cannot be discontinued without the Treasurer’s approval; and
- (d) if it is necessary to appoint a new responsible entity the appointment is to be made by MutualCo; and
- (e) after the separation time no person can become a West State member without the Treasurer’s approval; and
- (f) the provisions of the governing rules that have an effect described in this subsection (including this paragraph) cannot be amended without the Treasurer’s approval.

75GA. Notice of refusal of approval to be tabled

If the Treasurer refuses to approve the doing of something which, under the governing rules, cannot be done without the Treasurer’s approval, the Treasurer must —

- (a) give written notice of the refusal to TrustCo; and

- (b) cause a copy of the notice to be laid before each House of Parliament or dealt with under section 78 within 14 days after it is given to TrustCo.

Division 3 — Creation of sub-funds

75H. Terms used in this Division

- (1) In this Division —

“assignee” means —

- (a) in relation to an asset specified in a separation order under section 75L(1)(a), TrustCo; or
- (b) in relation to an asset or liability specified in a separation order under section 75L(1)(b) or (c), the person specified in the order as the person to whom the asset or liability is to be assigned; or
- (c) in relation to a liability assigned by operation of section 75N(b), TrustCo; or
- (d) in relation to proceedings specified in a separation order under section 75L(1)(d), the person specified in the order as the person who is to be substituted for the Board as a party to the proceedings; or
- (e) in relation to an agreement or document specified in a separation order under section 75L(1)(e), the person specified in the order as the person a reference to whom is to be treated as being substituted for a reference in the agreement or document to the Board;

“separation order” means an order made under section 75L;

“transferred property” means —

- (a) an asset allocated by operation of section 75M(a) to the West State Fund; or
 - (b) an asset or liability assigned by operation of section 75N.
- (2) In this Division each of the following terms has the meaning given in section 55 —
- (a) **“asset”**;
 - (b) **“liability”**;
 - (c) **“right”**.

75I. Licences, approvals etc. to be obtained

- (1) The Board, MutualCo and TrustCo are to take the necessary steps to ensure that, as soon as is practicable —
- (a) all necessary licences, approvals, registrations, exemptions and other kinds of authorisations have been issued, granted or obtained; and
 - (b) all other requirements with which it is necessary to comply, have been complied with.
- (2) In subsection (1) —
- “necessary”** means necessary, under a written law or a law of the Commonwealth, to be done before the separation time, in order to enable the West State scheme to function as a regulated superannuation fund from the separation time.

75J. Service agreement

- (1) The Board must, as soon as is practicable, prepare and submit to the Treasurer a draft of an agreement to be entered into by MutualCo and TrustCo for the provision by MutualCo to TrustCo of services relating

to the performance by TrustCo of its functions as responsible entity.

- (2) The Treasurer may —
 - (a) approve a draft agreement submitted under subsection (1); or
 - (b) direct that it be amended and approve it in an amended form.
- (3) As soon as is practicable after the Treasurer has approved a draft agreement MutualCo and TrustCo are to enter into an agreement on the terms of the draft agreement approved by the Treasurer.

75K. Treasurer to fix separation time

- (1) The Treasurer may, by order published in the *Gazette*, fix the separation time.
- (2) The time fixed under subsection (1) must not be before the transfer time.
- (3) The Treasurer must not make an order under subsection (1) unless the Treasurer has received from an actuary a certificate —
 - (a) given not more than 30 working days before the time to be fixed as the separation time; and
 - (b) certifying that the actuary considers that if the separation time were the time when the certificate is given, the assets allocated by operation of section 75M(a) to the West State Fund would be sufficient and appropriate to enable the responsible entity to meet its obligations under the governing rules.

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- (4) In giving a certificate for the purposes of subsection (3) an actuary is to have regard to —
- (a) the type and value of the assets to be allocated by operation of section 75M(a) to the West State Fund; and
 - (b) the type and value of the assets and liabilities to be assigned by operation of section 75N to TrustCo as the responsible entity; and
 - (c) the investment options selected by West State members; and
 - (d) the level of reserves the actuary reasonably considers a prudent trustee would, in the ordinary course of the prudent management of the West State scheme, maintain; and
 - (e) any indemnity or guarantee given under section 75Q.
- (5) The Treasurer must not make an order under subsection (1) unless the constitution of MutualCo contains provisions to the effect that while there is a special member, as defined in section 42, the special member will have a power to veto the exercise by the company or the directors of its or their power —
- (a) to alter or terminate the agreement entered into in accordance with section 75J(3); or
 - (b) to appoint, under the governing rules, a new responsible entity.
- (6) The Treasurer is to cause a copy of —
- (a) the separation order; and
 - (b) the actuarial certificate referred to in subsection (3); and

- (c) any other actuarial advice received by the Treasurer in relation to —
 - (i) the assets to be allocated by operation of section 75M(a); or
 - (ii) the assets and liabilities to be assigned by operation of section 75N;
- and
- (d) the order made under subsection (1),

to be laid before each House of Parliament or dealt with under section 78 within 3 working days after the order made under subsection (1) is published in the *Gazette*.

75L. Treasurer to make separation order

- (1) For the purpose of this Part the Treasurer may, by one or more orders published in the *Gazette*, specify —
 - (a) the assets in the statutory fund that are to be allocated by operation of section 75M(a) to the West State Fund; and
 - (b) any assets —
 - (i) in the statutory fund; or
 - (ii) of the Board that are not in the statutory fund,that are to be assigned by operation of section 75N(a) to the person specified in the order; and
 - (c) any liability of the Board —
 - (i) not arising under the West State scheme; or
 - (ii) arising under the West State scheme but that will not be assigned by operation of section 75N(b),

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that is to be assigned by operation of section 75N(c) to the person specified in the order; and

- (d) any proceedings in which the person specified in the order is to be substituted by operation of section 75N(d) for the Board as a party to the proceedings; and
 - (e) any agreement or document relating to transferred property that, unless otherwise expressly specified in the order, is to be taken to be amended by operation of section 75N(e) by substituting for a reference in it to the Board a reference to the person specified in the order.
- (2) The person specified in a separation order may be MutualCo or TrustCo or a subsidiary of either of them.
 - (3) A separation order may specify a thing by describing it as a member of a class of things.
 - (4) A separation order may specify a thing by reference to a schedule that need not be published in the *Gazette* but must be —
 - (a) signed by the Treasurer; and
 - (b) available for public inspection.
 - (5) Anything specified in a schedule referred to in a separation order is taken to be specified in the order.
 - (6) The Treasurer may, by order published in the *Gazette*, amend a separation order, or a schedule referred to in a separation order, to correct —
 - (a) a clerical mistake; or
 - (b) an accidental slip or omission; or
 - (c) the misdescription of a person or thing.
 - (7) A separation order, or an order under subsection (6), can only be made before the separation time.

75M. Allocation of assets to sub-funds

At the separation time —

- (a) the assets specified in a separation order under section 75L(1)(a) are allocated to and constitute the West State Fund referred to in section 14(3)(b); and
- (b) the other assets in the statutory fund are allocated to and constitute the Defined Benefit Fund referred to in section 14(3)(a).

75N. Transfer of other assets, liabilities etc.

At the separation time, by operation of this section —

- (a) an asset specified in a separation order under section 75L(1)(b) is assigned to the assignee; and
- (b) every liability of the Board or of the State to pay a benefit arising under the West State scheme to or in relation to a West State member is assigned to, and becomes a liability of, TrustCo as the responsible entity; and
- (c) a liability specified in a separation order under section 75L(1)(c) is assigned to, and becomes a liability of, the assignee; and
- (d) in proceedings specified in a separation order under section 75L(1)(d) the assignee is substituted for the Board as a party to the proceedings; and
- (e) an agreement or document specified in a separation order under section 75L(1)(e) is, unless otherwise expressly specified in the order, taken to be amended by substituting for any reference in it to the Board a reference to the assignee.

75O. West State members to become members of MutualCo

- (1) The Board and MutualCo are to take the necessary steps to ensure that —
 - (a) the constitution of MutualCo contains provisions to the effect that every person who is a West State member at the separation time will be eligible to become a member of the company; and
 - (b) at the separation time every West State member becomes a member of MutualCo.
- (2) For the purposes of subsection (1)(b), the Board is appointed as attorney for each person who is a West State member for the purpose of executing any documents the Board considers necessary or desirable —
 - (a) to enable that person, if he or she is a West State member at the separation time, to become a member of MutualCo; and
 - (b) to nominate for the person how MutualCo may send or make available to the person notices, reports and other communications that MutualCo is required under the Corporations Act to send to members of the company.

75P. Effect on rights, remedies etc.

After the separation time —

- (a) any proceedings that might have been commenced by or against the Board or the State in relation to transferred property —
 - (i) may be commenced by or against the assignee; and

- (ii) cannot be commenced by or against the Board or the State;
- and
- (b) any remedy that would have been available to or against the Board or the State in relation to transferred property —
 - (i) is available to or against the assignee; and
 - (ii) is not available to or against the Board or the State;
- and
- (c) anything relating to transferred property that was done or omitted to be done by, to, or in respect of, the Board or the State before the separation time and is of any ongoing effect is to be taken to have been done or omitted to be done by, to, or in respect of, the assignee.

75Q. Treasurer may give indemnity or guarantee

- (1) The Treasurer may, in the name and on behalf of the State, give to the responsible entity —
 - (a) an indemnity against liability for; or
 - (b) a guarantee of payment in respect of,any financial obligations of the responsible entity relating to the payment of benefits to or in respect of West State members.
- (2) An indemnity or guarantee is to be in the form, and on the terms and conditions, determined by the Treasurer.
- (3) The due payment of money payable by the Treasurer under an indemnity or guarantee is to be charged to the Consolidated Account, which this subsection appropriates accordingly.

- (4) The Treasurer is to cause any amounts received or recovered, from the responsible entity or otherwise, in respect of any payment made by the Treasurer under an indemnity or guarantee to be credited to the Consolidated Account.

75R. Notification and registration of assignment

- (1) In this section —

“registrar” means —

- (a) a WA registrar; or
- (b) a person authorised or required by a law of a place outside the State to record and give effect to the registration of documents relating to transactions affecting transferred property;

“WA registrar” means —

- (a) the Registrar of Titles; or
 - (b) the Registrar of Deeds and Transfers; or
 - (c) the Minister administering the *Mining Act 1978*; or
 - (d) any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting transferred property.
- (2) A WA registrar is to take notice of this Division and record and register in the appropriate manner the documents necessary to show the effect of this Division.
- (3) The assignee of any transferred property is to cause to be delivered to each registrar, in a form acceptable to the registrar, all the information the registrar needs in order to record and register the documents necessary to

show the effect of this Division in relation to that property.

75S. Completion of necessary transactions

If there is any impediment to any provision of this Division having effect (whether because a matter is governed otherwise than by the law of the State, or for any other reason), the Treasurer, the Board, MutualCo, TrustCo and each other assignee are to take all practicable steps to ensure that the effect sought to be achieved by that provision is achieved as close as possible to the separation time.

75T. Arrangements for custody and use of records

The Board, MutualCo, TrustCo and each other assignee are to make arrangements for the delivery or sharing of, and access to, documents and other records (however compiled, recorded or stored) that relate to any of the following —

- (a) transferred property or anything otherwise affected by this Division;
- (b) the West State scheme;
- (c) a West State member.

75U. Stamp duty and other taxes

- (1) In this section —

“foreign tax” means a tax, duty, fee, levy or charge under a law of a place outside the State;

“relevant act” means anything —

- (a) that occurs by operation of this Division; or
- (b) done —
 - (i) under this Division; or
 - (ii) to give effect to this Division; or

(iii) for a purpose connected with, or arising out of, giving effect to this Division,

including a transaction entered into or an instrument or document of any kind made, executed, lodged or given.

- (2) Stamp duty under the *Stamp Act 1921* is not chargeable in relation to a relevant act.
- (3) Any foreign tax payable in relation to a relevant act is to be paid by the Board and charged to the statutory fund under section 15(2)(c).
- (4) The Treasurer or a person authorised by the Treasurer may, at the request of the Board or a person who would, but for subsection (2) or (3), be liable to pay stamp duty or foreign tax in relation to a relevant act, certify in writing that a specified thing was a relevant act.
- (5) For all purposes and in all proceedings, a certificate under subsection (4) is conclusive evidence of the matters it certifies, except so far as the contrary is shown.

Division 4 — General

75V. Treasurer may give directions

- (1) The Treasurer may give directions in writing to the Board requiring it to take any step that the Treasurer considers necessary or convenient for the purpose of giving effect to this Part.
- (2) The Board must comply with a direction given to it under subsection (1).
- (3) This section applies despite the *Statutory Corporations (Liability of Directors) Act 1996* section 6(a) and a

direction given under this section is not unlawful for the purposes of Part 3 Division 4 of that Act.

- (4) Section 77 applies to a direction given under this section.

75W. Power to remedy insufficiency

- (1) If the Treasurer is satisfied that the assets allocated to the West State Fund by operation of this Part were not, at the separation time, sufficient or appropriate to enable TrustCo to meet its obligations as the responsible entity, the Treasurer may take any action the Treasurer considers appropriate to remedy the insufficiency or inappropriateness.
- (2) Without limiting the action that may be taken under subsection (1), the Treasurer may direct the Board, under section 75V, to —
- (a) allocate assets in the statutory fund to the West State Fund referred to in section 14(3)(b); or
 - (b) pay an amount from the statutory fund to a person.
- (3) This section expires when section 54 expires.

75X. General powers of Treasurer and Board

- (1) The Treasurer and the Board may do, in the State or elsewhere, anything necessary or convenient to be done for the purpose of giving effect to this Part.
- (2) If there is a conflict or inconsistency between —
- (a) a function of the Board under this Part; and
 - (b) a function of the Board under any other provision of this Act other than a provision in Part 4,

the function under this Part prevails.

75Y. No fees payable by West State members

No fee or charge is payable by a West State member in relation to anything —

- (a) that occurs by operation of this Part; or
- (b) done —
 - (i) under this Part; or
 - (ii) to give effect to this Part; or
 - (iii) for a purpose connected with, or arising out of, giving effect to this Part.

”.

Subdivision 2 — Amendments at separation time

72. Section 4E amended

Section 4E(1) is amended as follows:

- (a) by deleting the definition of “Fund” and inserting instead —

“

“Fund” means —

- (a) unless paragraph (b) applies — the sub-fund of the State Superannuation Fund referred to in section 14(3)(a) and called the Defined Benefit Fund; or
- (b) if the West State scheme has been discontinued — the State Superannuation Fund under section 14;

”;

- (b) in the definition of “scheme” by deleting “section 29;” and inserting instead —

“ section 29(1)(b), (c) or (d); ”.

73. Section 22 repealed

Section 22 is repealed.

Part 6 — Consequential amendments

Division 1 — Amendments to commence with Part 2

77. *Magistrates Court Act 2004* amended

- (1) The amendments in this section are to the *Magistrates Court Act 2004**.

[* *Act No. 47 of 2004.*

For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Act No. 77 of 2006.]

- (2) Schedule 1 clauses 5(8) and 13(8) are amended by deleting “1999” and inserting instead —

“ 2000 ”.

78. *State Superannuation (Transitional and Consequential Provisions) Act 2000* amended

- (1) The amendments in this section are to the *State Superannuation (Transitional and Consequential Provisions) Act 2000**.

[* *Act No. 43 of 2000.*

For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1.]

- (2) Section 26(2)(a) and (3) are amended by deleting “section 38 of”.

Division 2 — Amendments to commence with Part 3

79. Constitution Acts Amendment Act 1899 amended

- (1) The amendments in this section are to the *Constitution Acts Amendment Act 1899**.

[* *Reprint 14 as at 21 April 2006.*
For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Acts Nos. 28, 29, 30, 32 and 33 of 2005 and 64, 73 and 77 of 2006.]

- (2) Schedule V Part 3 is amended by deleting the item for the Government Employees Superannuation Board and inserting in the appropriate alphabetical position —

“

The State Superannuation Board under the *State Superannuation Act 2000*.

”.

80. Director of Public Prosecutions Act 1991 amended

- (1) The amendments in this section are to the *Director of Public Prosecutions Act 1991**.

[* *Reprint 2 as a 25 November 2005.*]

- (2) Schedule 1 clause 3(5) to (8) are repealed.
- (3) After Schedule 1 clause 3 the following clause is inserted —

“

3A. Superannuation if subsequently appointed as judge

- (1) A person who was the Director and is, on termination of his or her appointment as Director, appointed to a pensionable office as defined in the *Judges' Salaries and Pensions Act 1950* section 2(4) may elect for subsection (2) to apply to the person.

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- (2) If this subsection applies to a person, for the purposes of the *Judges' Salaries and Pensions Act 1950* the person's service as Director is to be taken to be service in a pensionable office.
- (3) If a person who makes an election under subsection (1) was, while Director, a contributor to, or a member of, a superannuation scheme continued by the *State Superannuation Act 2000* section 29(1)(b) or (c), the person's entitlements to benefits under that scheme in respect of the period of his or her service as Director cease when the person makes that election.
- (4) If a person who makes an election under subsection (1) is not a person to whom subsection (3) applies, any pension that becomes payable to or in respect of the person under the *Judges' Salaries and Pensions Act 1950* is to be reduced by an amount determined by the Minister, on the advice of an actuary, to be actuarially equivalent to the value of the employer sponsored component of any benefit accrued in a superannuation fund in respect of the period of his or her service as Director.
- (5) An election under subsection (1) is to be made in writing to the Minister within 30 days after ceasing to be Director and is irrevocable.
- (6) This section has effect despite anything in the *Superannuation and Family Benefits Act 1938*, *State Superannuation Act 2000* or the *Judges' Salaries and Pensions Act 1950*.

”.

81. *Electricity Corporations Act 2005* amended

- (1) The amendments in this section are to the *Electricity Corporations Act 2005**.

[* *Act No. 18 of 2005*.

For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Act No. 77 of 2006.]

- (2) Section 26(4) is amended by deleting “section 30.” and inserting instead —

“ section 76. ”.

82. *Financial Management Act 2006* amended

- (1) The amendments in this section are to the *Financial Management Act 2006**.

[* *Act No. 76 of 2006.*

For subsequent amendments see Act No. 77 of 2006.]

- (2) Schedule 1 is amended by deleting “Government Employees Superannuation Board” and inserting in the appropriate alphabetical position —

“ State Superannuation Board ”.

83. *Land Tax Assessment Act 2002* amended

- (1) The amendments in this section are to the *Land Tax Assessment Act 2002**.

[* *Reprint 1 as at 11 August 2006.*

For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1 and Act No. 73 of 2006.]

- (2) The Glossary clause 1 is amended in the definition of “taxable authority” by deleting “Government Employees Superannuation Board” and inserting instead —

“ State Superannuation Board ”.

84. *Port Authorities Act 1999* amended

- (1) The amendments in this section are to the *Port Authorities Act 1999**.

[* *Reprint 1 as at 1 October 2004.*
For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Act No. 77 of 2006.]

- (2) Section 19(1) is amended by deleting “section 30” and inserting instead —

“ section 76 ”.

85. *Public Sector Management Act 1994* amended

- (1) The amendments in this section are to the *Public Sector Management Act 1994**.

[* *Reprint 7 as at 25 August 2006.*
For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Act No. 77 of 2006.]

- (2) Schedule 2 item 16 is deleted.

86. *Racing and Wagering Western Australia Act 2003* amended

- (1) The amendments in this section are to the *Racing and Wagering Western Australia Act 2003**.

[* *Reprint 1 as at 22 September 2006.*
For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Acts Nos. 77 of 2006 and 2 and 8 of 2007.]

- (2) Section 23(1) is amended by deleting “section 30” and inserting instead —

“ section 76 ”.

87. *Statutory Corporations (Liability of Directors) Act 1996* amended

- (1) The amendments in this section are to the *Statutory Corporations (Liability of Directors) Act 1996**.
- [* *Reprint 4 as at 9 February 2007.*]
- (2) Schedule 1 is amended by deleting the item for the Government Employees Superannuation Board and inserting in the appropriate alphabetical position —

“

State Superannuation Board a director *State Superannuation Act 2000*

”.

88. *Western Australian Land Authority Act 1992* amended

- (1) The amendments in this section are to the *Western Australian Land Authority Act 1992**.

[* *Reprint 2 as at 4 February 2005.*
For subsequent amendments see Western Australian Legislation Information Tables for 2006, Table 1, and Act No. 77 of 2006.]

- (2) Section 13A(1) is amended by deleting “section 30” and inserting instead —

“ section 76 ”.

89. *Electricity Industry (Independent Market Operator) Regulations 2004* amended

- (1) The amendments in this section are to the *Electricity Industry (Independent Market Operator) Regulations 2004**.

[* *Published in Gazette 30 September 2004, p. 4207-69.*]

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Part 6 Consequential amendments

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(2) Regulation 17(4) is amended by deleting “section 30” and inserting instead —

“ section 76 ”.
