

State Superannuation Act 2000

Compare between:

[16 Mar 2012, 01-j0-02] and [30 Mar 2012, 01-k0-03]

Western Australia

State Superannuation Act 2000

An-Act to provide for-

- employer-funded superannuation contributions and superannuation schemes for and in respect of people working or formerly working in the public sector; and
- the continuation under this Act of certain superannuation sehemes; and
- the establishment of a superannuation fund to be regulated under Commonwealth legislation to replace certain other superannuation schemes,

and for related purposes.

[Long title amended inserted by No. 2535 of 20072011 s. 45.]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *State Superannuation Act 2000* ¹.

2. Commencement

This Act comes into operation on a day fixed by proclamation ¹.

3. Interpretation

(1) In this Act —

> actuary means a fellow or accredited member of the Institute of Actuaries of Australia, or any other person with actuarial knowledge and experience who is approved by the MinisterTreasurer;

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;

Board means the Government Employees Superannuation Board under section 5;

Corporations Act means the Corporations Act 2001 (Commonwealth);

Employer means —

- (a) the Crown; or
- the Government of Western Australia; or (b)
- (c) a Minister of the Crown; or
- an authority, body or person prescribed for the purposes of this definition:

Fund means the Government Employees Superannuation Fund under section 14;

GES Act means the Government Employees Superannuation Act 1987 as in force immediately before this Act came into operation;

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regulated Member means a member of a scheme;

scheme, except in section 30, means a superannuation fund has scheme established or continued under this Act;

subsidiary means a body determined under subsection (3) to be a subsidiary of the meaning given in Board;

Treasurer's guidelines means guidelines issued by the SIS Act section 19;

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

transfer time means the time fixed Treasurer under section 56;33(2).

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) For the purposes of this Act, a person who
 - (a) holds an office or position established or continued under a written law; or
 - (b) is appointed to an office or position by the Governor, a Minister, an Employer or a person who works for an Employer,

is taken to work for an Employer.

- $\frac{-\int (3) deleted}{}$
 - (3) Part 1.2 Division 6 of the Corporations Act applies for the purpose of determining whether a body is a subsidiary of the Board.

[Section 3 amended by No. 18 of 2006 s. 6; No. 25 of 2007 s. 5 and 19(2).]; No. 35 of 2011 s. 6 and 31.]

4. Act binds the Crown

This Act binds the Crown.

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[Part 2 has not come into operation 6.]

Part 3 Schemes administered by the Board

Part 2A — Employer contribution obligation

[Heading inserted by No. $\frac{25}{35}$ of $\frac{2007}{2011}$ s. $\frac{6(1)}{150}$.]

Division 1 Preliminary

[Heading inserted by No. 25 of 2007 s. 6(1).]

Terms used in this Part and Schedules 4E4A.

In this Part and the Schedules (1)

> benefit chosen fund means a benefit paid or payable under a scheme, whether paid or payable as a lump sum, pension, allowance or annuity or fund chosen by an employee in any other form;

Fund meansaccordance with 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 SGA Act Part 1.2 Division 6 applies for the purpose of determining whether a body is a subsidiary of the Board. 3A Division 4;

default fund means —

- in relation to an employee who is not an exempt employee, a fund prescribed by the regulations as the default fund for that employee; and
- in relation to an exempt employee, a fund named by the Employer of that employee, with the approval of the Treasurer, as the default fund for that employee;

employee has the meaning given in the SGA Act section 12;

exempt employee means an employee for whom an Employer, in accordance with section 30(1) or (2), makes or may make superannuation contributions to a fund that is not a scheme under this Act;

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;

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).

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.

[Section <u>4E4A</u> inserted by No. <u>2535</u> of <u>20072011</u> s. <u>650.</u>]

Employers to make contributions 4B.

_(1)-1) An Employer must make superannuation contributions such that the Employer will avoid incurring an individual superannuation guarantee shortfall for any of its employees.

Division 2—Government Employees Superannuation Board

- [Heading amended] (2) Where subsection (1) requires an Employer to make contributions for an employee, the Employer must pay the contributions to —
 - (a) a chosen fund for the employee; or
 - (b) if at the time the contribution is paid there is no chosen fund for the employee, the default fund.
 - 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.

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Part 2A Employer contribution obligation

Division 2 Government Employees Superannuation Board

s. 4C

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 has no obligation under subsection (1) to make contributions in respect of that employee for that period.

(5) This section does not apply in relation to an employee who is in a class of employees prescribed by the regulations.

[Section 4B inserted by No. 35 of 2011 s. 50.]

4C. Regulations may require extra contributions

- Subject to subsection (2), the regulations may require an Employer to make superannuation contributions which exceed any contributions the Employer is required to make under section 4B or any other written law.
- Regulations which require an Employer to make contributions to a fund must either
 - specify the amount or rate of contributions to be made; (a)
 - specify the way in which the amount or rate of (b) contributions is to be determined, in which case the regulations must provide that the determination of the rate or amount of contributions is to be subject to the approval of the Treasurer.

[Section 4C inserted by No. $\frac{25}{35}$ of $\frac{2007}{2011}$ s. $\frac{6(2).1}{50.1}$

[Heading deleted by No. 35 of 2011 s. 7.]

[Division 1 (s. 4E) deleted by No. 35 of 2011 s. 8.]

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Part 2 — Government Employees Superannuation Board

[Heading inserted by No. 35 of 2011 s. 9.]

5. Government Employees Superannuation Board

- (1) There is a board called the Government Employees Superannuation Board.
- (2) The Board is
 - (a) a body corporate with perpetual succession; and
 - (b) a Crown agency.
- (3) The Board is a continuation of, and the same legal entity as, the Government Employees Superannuation Board established under the GES Act.
- (4) Proceedings may be taken by or against the Board in its corporate name.

6. Functions of the Board

- (1) The functions of the Board are to
 - ([(a) administer this deleted]
 - (ba) if so agreed with the Treasurer, provide a service of receiving superannuation contributions paid by Employers and
 - (i) crediting them to the Fund; or
 - (ii) remitting them on behalf of the Employers to other funds,

in accordance with Part 2A; and

- (b) manage the Fund; and
- (c) administer the schemes; or, in accordance with any relevant Treasurer's guidelines, select and appoint external administrators of the schemes and monitor their administration; and

- (d) provide information, advice and assistance to the Minister and the Treasurer on matters relating to superannuation; and
- so far as practicable, provide information to Members (ea) regarding their rights and entitlements under the schemes; and
- provide, or facilitate the provision of, products and (e) services to
 - members of superannuation the schemes administered by the Board under this Part or any other written law; and
 - Employers; (ii)

and

- (f) perform any other functions conferred under this Act or any other written law.
- In carrying out its functions the Board is to, as far as (2) practicable
 - act in the best interests of Members; and (a)
 - ensure that Members and Employers are fully informed of their rights and obligations under the Act; and
 - (c) ensure equity —
 - (i) between the Members of each scheme; and
 - between the Members of a scheme and the (ii) Members of each other scheme.
- (3) In carrying out its functions the Board may use and operate under one or more prescribed trading names.

[Section 6 amended by No. 18 of 2006 s. 7; No. 25 of 2007 s. 6(5) and 19(1)...); No. 35 of 2011 s. 10, 32, 40 and 51.]

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7. Powers of the Board

- (1) The Board has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.
- (2) Without limiting subsection (1), the Board may
 - (a) acquire, hold, deal with and dispose of property of any sort; and
 - (b) in accordance with any relevant Treasurer's guidelines, enter into a contract or arrangement with any person under which that person is to
 - (i) provide professional, technical or other assistance to the Board; or
 - (ii) do for the Board anything that the Board could do.

and pay out of the Fund fees charged by the person in accordance with the contract or arrangement; and

- (e) (c) in accordance with any relevant Treasurer's guidelines, enter into a contract or arrangement with any person under which the Board is to provide products and services to that person and charge fees for providing those products and services; and
- (ca) subject to section 7A, form or acquire a subsidiary—for the purpose of performing the function referred to in section 6(1)(e);; and
- (d) promote and market the Board, its activities, products and services; and
- (e) conduct research; and
- (f) produce and publish information; and
- (g) do anything else that a body corporate may do.
- (3) Without limiting subsection (1) if the Board has power to do something, it may do that thing on its own or in conjunction with any person.

s. 7A

[Section 7 amended by No. 18 of 2006 s. <u>88; No. 35 of 2011</u> s. 41.]

7A. Formation or acquisition of subsidiary

- (1) The Board must obtain the approval of the Minister Treasurer before it forms or acquires a subsidiary.
- (2) The Minister must not give approval under subsection (1) except with the Treasurer's concurrence.

[(2) deleted]

(3) When seeking approval under subsection (1) the Board must give to the Minister Treasurer a copy of the subsidiary's constitution or proposed constitution, as the case requires.

[Section 7A inserted by No. 18 of 2006 s. 99; amended by No. 35 of 2011 s. 31 and 33.]

7B. Control of subsidiary

- [(1) deleted]
- (2) The Board must ensure that the constitution of every subsidiary of the Board that under a written law or the Corporations Act is required to have a constitution
 - (a) contains provisions to the effect of those required by Schedule 3; and
 - (b) is consistent with this **Part**Act; and
 - (c) is not amended in a way that makes it inconsistent with this PartAct.
- (3) A director or a member of the staff of the Board may with the approval of the Board become a director of a company that is or is to be a subsidiary of the Board.
- (4) The provisions of this Part Act prevail to the extent of any inconsistency with the constitution of any subsidiary of the Board.

- (5) Neither
 - subsection (2); nor (a)
 - (b) provisions referred to in subsection (2)(a) included in the constitution of a subsidiary,

make the Board or the Minister Treasurer a director of a subsidiary for the purposes of the Corporations Act.

Subsections (2) to (5) and Schedule 3 are declared to be (6) Corporations legislation displacement provisions for the purposes of section 5G of the Corporations Act in relation to the Corporations legislation as defined in section 9 of the Corporations Act.

[Section 7B inserted by No. 18 of 2006 s. 9; amended by No. 25 of 2007 s. 6(5) and 7; No. 35 of 2011 s. 11 and 31.]

8. **Composition of the Board**

- (1) The Board comprises 7 directors of whom
 - one is to be appointed by the Governor as chairman on the nomination of the Minister Treasurer; and
 - 3 are to be appointed by the Governor as Employer (b) directors; and
 - 3 are to be elected in accordance with the regulations as Member directors.
- Schedule 1 has effect. (2)

[Section 8 amended by No. 25 of 2007 s. 19(1)-]; No. 35 of 2011 s. 31.7

9. **Protection from liability**

Subject to the *Statutory Corporations (Liability of Directors)* (1) Act 1996, an action does not lie against a person, other than the Board, for anything done by the person in good faith in the performance, or purported performance, of a function under this PartAct.

- The protection given by this section applies even if the person would have been capable of doing the act if this Part Act had not been enacted.
- (3) Subsection (1) does not relieve the Board or the Crown of any liability that they might have for anything done by a person against whom that subsection provides that an action does not lie.
- (4) In an action against the Crown or the Board for loss or damage suffered by a person as a result of the making of an investment by the Board, it is a defence for the defendant to prove that the investment was made in accordance with the investment strategy formulated under section 19(1).

[Section 9 amended by No. 25 of 2007 s. 6(5).]6(5); No. 35 of 2011 s. 12.7

10. Meetings, procedures and common seal

- (1) Schedule 2 has effect.
- The common seal of the Board is to be (2)
 - in a form determined by the Board; and
 - (b) kept in safe custody as the Board directs; and
 - used only as authorised by the Board.

[Section 10 amended by No. 25 of 2007 s. 19(1).]

11. Staff

- (1) Public service officers may be appointed or employed under the Public Sector Management Act 1994 to enable the Board to perform its functions.
- The Board may appoint or employ other persons on terms and (2) conditions determined by the Board-on the advice of the Public Sector Commissioner.

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- If the Board appoints an external administrator to conduct the administration of a scheme or schemes and in connection with that appointment the external administrator makes an offer of employment to a person appointed or employed by the Board under subsection (1) or (2) (a **Board officer**), the Board may enter into an agreement with the Board officer on terms approved by the Public Sector Commissioner providing for
 - in the case of a Board officer who is a permanent public service officer appointed or employed under subsection (1)
 - the right of the Board officer, during a stated period, to resume appointment or employment under subsection (1); and
 - the making by the Board of a payment to the Board officer if the offer of employment is accepted and the right of election under subparagraph (i) expires without being exercised;

and

in the case of any other Board officer, the making by the (b) Board of a payment to the Board officer if the offer of employment is accepted.

[Section 11 amended by No. 35 of 2011 s. 42.]

12. **Delegation**

- (1) Subject to section 23 the Board may, in writing, delegate the performance of any of its functions, except this power of delegation, to —
 - (a) any person; or
 - a committee appointed under clause 8 of Schedule 2.
- (2) A function performed by a delegate is taken to have been performed by the Board.

A person purporting to act under this section as a delegate is taken to have acted in accordance with the terms of the delegation unless the contrary is shown.

13. **Review of Board decisions**

- (1) A person aggrieved by a decision of the Board may apply to the Board to have the decision reviewed and the Board is to review the decision.
- A person cannot apply to the Board under subsection (1) more (2) than once in relation to the same decision.
- (3) A person aggrieved by a decision of the Board on a review under subsection (1) may
 - if the decision relates to a superannuation scheme continued by section 29(1)(c) or (d), apply to the State Administrative Tribunal for a review of the decision; or
 - in any case, refer the matter for independent review by a prescribed person or body.
- (4) A referral under subsection (3)(b) is to be made and dealt with in accordance with the regulations.
- The decision on review is to be given effect according to its (5) tenor.

[Section 13 amended by No. 55 of 2004 s. 1104; No. 25 of 2007 s. 8.7

DivisionPart 3—— Government Employees **Superannuation-Fund**

[Heading amended inserted by No. 2535 of 20072011] s. $\frac{6(2).713.7}{}$

14. The Fund

- There is a fund called the Government Employees (1) Superannuation Fund.
- (2) The Fund is a continuation of, and the same fund as, the Government Employees Superannuation Fund established by section 9 of the GES Act.
- After the time fixed under section 75K the State Superannuation Fund consists of 2 sub-funds called
 - (a) the Defined Benefit Fund: and
 - (b) the West State Fund.
- (4) If the West State scheme is discontinued, subsection (3) expires.

[(3),(4)] deleted]

[Section 14 amended by No. 25 of 2007 s. 6868; No. 35 of 2011 <u>s. 14</u>.]

15. **Contents of the Fund**

- The Board is to credit to the Fund (1)
 - contributions made under this PartAct; and
 - amounts transferred to the Fund from other (b) superannuation funds; and
 - earnings derived from the investment of the Fund; and (c)
 - (d) money borrowed by the Board; and
 - other amounts lawfully received by the Board or (e) credited to the Fund.
- (2) The Board is to charge to the Fund —

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- (a) benefits paid under the schemes; and
- (aa) amounts transferred from the Fund to other superannuation funds; and
- (b) costs incurred by the Board in carrying out its functions; and
- (ba) expenditure relating to the establishment of a subsidiary under section 7(2)(ca); and
- (c) other amounts lawfully paid by the Board or charged to the Fund.

[Section 15 amended by No. 18 of 2006 s. 10; No. 25 of 2007 s. 6(5) and 19(1).]; No. 35 of 2011 s. 15 and 52.]

16. Accounting records

- (1) The Board is to keep the accounting and other records that the Board considers appropriate in order to perform its functions.
- (2) The Board may keep its records in or on any medium, or combination of mediums, capable of recording information and may vary the manner or form in which they are kept.

17. Actuarial investigation

- (1) The Board is to cause an actuary to carry out an investigation of the state and sufficiency of the Fund at least once every 3 years and at any other times the Treasurer directs.
- (2) The actuary is to report the results of the investigation to the Board within 12 months of the date as at which the investigation is carried out or within any longer period the Treasurer approves.
- (3) The Board and actuary must ensure that the actuarial investigation and report are carried out in accordance with the Treasurer's guidelines.

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18. Power to invest

- (1) The Board may invest the assets of the Fund in any form of investment that is, or is of a kind that is, approved by the Treasurer.
- (2) The Board may only enter into an investment in accordance with the Treasurer's guidelines.

[(2) deleted]

- (3) The Board may
 - (a) deal with its investments; and
 - (b) deal with or exercise, or choose not to exercise, any rights or obligations that are attendant on ownership of an investment.

as it considers appropriate.

19. Investment strategy

[Section 18 amended by No. 35 of 2011 s. 43.]

19. Exercise of investment powers

- (1) The Board is to formulate and give effect to a broad a strategy for the Fund.
- (2A) The Board's investment strategy for the investment of the Fund Fund is to be consistent with any relevant Treasurer's guidelines.
 - (2) In formulating its investment strategy and in making investment decisions the Board is to endeavour to optimize returns havinghave regard to all of the circumstances of the Fund including
 - (a) the need to exercise care and prudence to maintain the integrity of the Fund; and
 - (b) the
 - (i) nature of; and

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- (ii) potential for capital appreciation and income return from; and
- (iii) costs associated with making; and
- (iv) risks associated with,

different investments and different kinds of investments; and

- (c) the desirability of diversifying its investments; and
- (d) the liquidity of the Fund; and
- (e) its expected cash flow requirements; and
- (f) the level of existing and prospective liabilities.
- (3) The Board is to review
 - (a) its-broad investment strategy; and
 - (b) the management and performance of its investments,

from time to time in accordance with the any relevant Treasurer's guidelines.

- (4) In exercising its powers under section 18 the Board is to—
 - (a) act in accordance with any relevant Treasurer's guidelines; and
 - (b) act so as to give effect to its investment strategy.

[Section 19 amended by No. 25 of 2007 s. 19(1).]; No. 35 of 2011 s. 44.]

20A. Reserves

- (1) The Board may maintain reserves within the Fund.
- (2) The Board is to formulate a reserving strategy for the Fund.
- (3) The Board's reserving strategy for the Fund is to be consistent with
 - (a) the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and

- (b) any relevant Treasurer's guidelines. The Board is to review its reserving strategy from time to time in accordance with any relevant Treasurer's guidelines.
- (5) In exercising its power under subsection (1) the Board is to
 - act in accordance with any relevant Treasurer's guidelines; and
 - (b) act so as to give effect to the Fund reserving strategy.

[Section 20A inserted by No. 35 of 2011 s. 45.]

20. Limitation on in-house assets

- (1) The Board may only invest in debt paper or securities of an Employer if doing so will not result in a breach of subsection (3).
- (2) If at any time it appears to the Board that subsection (3) is being breached, the Board must remedy the breach.
- This subsection is breached if the cost of the Board's (3) investments in debt paper or securities of an Employer (other than debt paper of the Western Australian Treasury Corporation) exceeds the prescribed percentage of the cost of all of the Board's investments.

21. Loans to Members prohibited

The Board must not use the assets of the Fund to make a loan or give financial assistance to a Member.

Earnings derived from investment

-22. Allocation of earnings and costs

- The Board is to allocate— (1)
 - (a) earnings derived from the investment of the Fund-; and
 - (b) the costs of managing and administering the Fund and the schemes,

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between the schemes and where appropriate between Members.

- (2) In allocating earnings and costs under subsection (1) the Board is to
 - (a) ensure compliance with any relevant guidelines; and
 - (b) otherwise act in accordance with the Treasurer's guidelines and otherwise as it considers appropriate.section 6(2).

[Section 22 inserted by No. 35 of 2011 s. 46.]

23. Investment manager

- (1) The Board may appoint
 - (a) an employee of the Board; or
 - (b) a person approved by the Treasurer,

as an investment manager on terms determined by the Board.

- (2) Subject to the any relevant Treasurer's guidelines the Board may delegate to an investment manager all or any of its functions under section 18 with respect to all or part of the Fund.
- (3) A person is not appointed as an investment manager within the meaning of this section unless the person is appointed for the purpose of enabling the Board to delegate a function to that person under subsection (2).

[Section 23 amended by No. 35 of 2011 s. 47.]

24. Borrowing

- (1) The Board cannot borrow money unless
 - (a) the borrowing is
 - (i) for the purpose of overcoming a cash flow problem in the payment of benefits; or
 - (ii) for a purpose approved by the Treasurer; and

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- the terms of the borrowing have been approved by the Treasurer; and
- the borrowing complies with theany relevant Treasurer's (c) guidelines.
- When borrowing money the Board may give any security it (2) considers appropriate.
- (3) In this section —

"borrow money" means borrow or raise money, obtain credit or arrange for other financial accommodation, and includes to re-borrow or obtain advances.

[Section 24 amended by No. 25 of 2007 s. 19(1).]; No. 35 of 2011 s. 48.7

25. Interest accrues on money owing to Fund

- (1) If money is owing to the Fund interest accrues on it at a rate, in the manner and for the period, determined by the Board.
- Interest accruing under subsection (1) may be recovered by the Board in the same way as other money owing to the Fund.

26. Recovery of money owing to Fund

- (1) The Board may recover any money owing to the Fund
 - as a debt in a court of competent jurisdiction; or
 - (b) by deducting the amount owing from any amount that is, or becomes, payable from the Fund to the debtor; or
 - if the money is owed by an Employer, by entering into (c) an arrangement for the satisfaction of the debt in such manner as the Board considers appropriate; or
 - if the money is owed by a Member, by deduction of the (d) amount owing from the Member's pay under subsection (2).

- If a Member owes money to the Fund the Board may direct the Employer of the Member to
 - deduct the amount owing from the Member's pay in the instalments and at the times set out in the direction; and
 - pay the amount deducted to the Fund, (b)

and the Employer must comply with the direction.

[Section 26 amended by No. 25 of 2007 s. 19(2).]

27. Unclaimed Money Act 1990 does not apply to unclaimed benefits

The Unclaimed Money Act 1990 does not apply in relation to unclaimed benefits in the Fund.

Division Part 4——Superannuation schemes Schemes

[Heading amended inserted by No. 2535 of 20072011] s. 6(2).116.1

28. Superannuation schemes

- (1) The Governor may, by regulations, establish superannuation schemes for persons who are working, or have worked, for Employers.
- (2) A scheme, other than a scheme continued by section 29(1)(b), (c) or (d), may provide for the spouses or former spouses of
 - (a) persons who are working, or have worked, for Employers; or
 - (b) persons who are, or will become, entitled to benefits under the *Parliamentary Superannuation Act 1970*,

to participate in the scheme.

(3) In subsection (2) —

benefits has the meaning given to that term in section 28(1) of the *Parliamentary Superannuation Act 1970*;

"**spouse**", in relation to a person, includes a de facto partner of that person.

[Section 28 amended by No. 3 of 2002 s. 102; No. 18 of 2006 s. 11; No. 25 of 2007 s. 9.]

29. Continuation of superannuation schemes

- (1) On 17 February 2001 the following superannuation schemes become superannuation schemes under this PartAct
 - (a) the superannuation scheme that was provided for in the *Government Employees Superannuation Act 1987*Part VIIA immediately before its repeal by section 39 (referred to in that Act as the 1993 scheme);

- (b) the superannuation scheme that was provided for in the Government Employees Superannuation Act 1987 Parts IV, V, VI and VII immediately before its repeal by section 39 (referred to in that Act as the 1987 scheme);
- the superannuation scheme that was provided for in the (c) Superannuation and Family Benefits Act 1938 Parts IV, V and VB immediately before its repeal by section 39;
- the superannuation scheme that was provided for in the (d) Superannuation and Family Benefits Act 1938 Parts VA and VB immediately before its repeal by section 39.
- After the time fixed under section 75K
 - of the West State scheme are to be set out in governing rules under section 75E: and
 - the West State scheme may, if the governing rules permit, be discontinued in accordance with those rules.

I(2)deleted]

[Section 29 amended by No. 25 of 2007 s. 6(3), 10 and 69; No. 35 of 2011 s. 17.7

30. 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 Minister and the Treasurer havehas approved the establishment of that scheme or fund.
- An Employer may make superannuation contributions for (2) persons who work for the Employer to a superannuation fund or scheme other than
 - a scheme under this Part; Act; or (a)
 - a superannuation scheme or fund established in (b) accordance with subsection (1); or
 - (c) a superannuation scheme or fund established before 28 December 1989,

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if and only if the Minister and the Treasurer have has approved the making of those contributions.

- (3A) An Employer may make superannuation contributions in accordance with section 4B(2) for persons who work for the Employer to a superannuation fund or scheme other than—
 - (a) a scheme under this Act; or
 - (b) a superannuation scheme or fund established in accordance with subsection (1); or
 - (c) a superannuation scheme or fund established before 28 December 1989.
 - (3) An approval given by the Minister and the Treasurer under this section must be in writing and may relate to—
 - (a) a particular Employer or class of Employers;
 - (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.
 - (4) This section applies despite any other written law.

[Section 30 amended by No. 25 of 2007 s. 6(5).]6(5); No. 35 of 2011 s. 18, 34 and 53.]

Part 5 Government guarantees and appropriation of the Consolidated

Account

Division

s. 31

Division Part 5— Government guarantees and appropriation of the Consolidated Account

[Heading amendedinserted] by No. 7735 of 20062011 s. 4; No. 25 of 2007 s. 6(2).]

31. Guarantee of benefits and Board's obligations

- (1) The Crown
 - (a) guarantees payment of every benefit payable under a scheme; and
 - (b) may guarantee the performance by the Board of any of its obligations under this PartAct on terms determined by the Treasurer.
- (2) The payment of money under a guarantee under subsection (1) is to be charged to the Consolidated Account, and the Consolidated Account is appropriated accordingly.
- (3) Any amount received or recovered in respect of any payment made under a guarantee is to be credited to the Consolidated Account.

[Section 31 amended by No. 77 of 2006 s. 4; No. 25 of 2007 s. 6(5).] 6(5); No. 35 of 2011 s. 20.]

32. Appropriation to meet contribution and funding obligations

The Consolidated Account is appropriated to the extent necessary to meet the payment of contributions and other amounts required by regulations under this Act to be paid by the Crown to the Fund on or after 17 February 2001.

[Section 32 amended by No. 77 of 2006 s. 4; No. 25 of 2007 s. 6(4).]

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DivisionPart 6—— Miscellaneous

[Heading amended inserted by No. 2535 of 20072011] s. $\frac{6(2)}{21}$

33. Treasurer's approvals and guidelines

- (1) An approval given by the Treasurer
 - must be in writing; and
 - (b) may be given when and how the Treasurer determines;
 - may be given in relation to a particular matter or matters of a particular kind.
- The Treasurer may, after consulting the Board, issue written (2) guidelines to be followed by the Board in relation to
 - the exercise by the Board of its powers under section 6(1)(c) to select and appoint external administrators of the schemes and monitor their administration; and
 - the information, advice and assistance to be provided by (a) the Board under section 6(1)(d); and
 - the provision by the Board of, or the facilitation by the (b) Board of the provision of, products and services under section 6(1)(e); and
 - the exercise by the Board of its powers under (ca) section 7(2)(b) and (c); and
 - the carrying out of actuarial investigations under (c) section 17; and
 - the making exercise of investments the Board's powers (d) under section 18; and
 - the submission of matters to the Treasurer for approval under sections 18, 23, 24 and 38(5); and
 - (fa) the formulation and review of an investment strategy under section 19; and

(f)	the review by the Board of its investment strategy and
	the management and performance of its investments
	under section 19(3); and

- (ga) the maintenance of reserves and the formulation and review of a reserving strategy under section 20A; and
- (g) the allocation of investment earnings and costs of managing and administering the Fund and the schemes under section 22; and
- the appointment of investment managers under (h) section 23(1); and
- the delegation of functions to investment managers (i) under section 23(2); and
- (j) borrowing under section 24.
- Guidelines issued under subsection (2) are not subsidiary (3) legislation for the purposes of the *Interpretation Act* 1984.
- Where guidelines are issued under subsection (2), the Treasurer (4A) is to
 - publish notice of the guidelines in the Gazette within (a) 21 days of the issue; and
 - make and, for so long as they remain current, keep the guidelines accessible on or through a website maintained by the Department.
- In subsection (4A) (4B)

Department means the department of the Public Service principally assisting in the administration of this Act.

(4) If there is any inconsistency between guidelines issued under subsection (2) and a direction given under section 35, the guidelines prevail.

[Section 33 amended by No. 18 of 2006 s. 12; No. 25 of 2007 s. 19(1).]); No. 35 of 2011 s. 49.]

Extract from www.slp.wa.gov.au, see that website for further information

33A. **Duty to observe policy instruments**

The Board is to perform its functions in accordance with its strategic development plan and its statement of corporate intent as existing from time to time.

[Section 33A inserted by No. 28 of 2006 s. 434.]

33B. Strategic development plan and statement of corporate intent

- (1) The Board must, at the prescribed times, prepare and submit to the Minister Treasurer
 - a strategic development plan for the Board; and
 - a statement of corporate intent for the Board. (b)
- The regulations may make provision for the following (2)
 - the manner and form in which the Board is to prepare, submit, revise or modify a strategic development plan or statement of corporate intent;
 - the period a strategic development plan or statement of corporate intent is to cover;
 - the matters to be set out in a strategic development plan (c) or statement of corporate intent;
 - the functions of the Board, the Minister and the (d) Treasurer in relation to the development, approval or modification of a strategic development plan or statement of corporate intent;
 - the operation of a strategic development plan or statement of corporate intent.
- If a regulation referred to in subsection (2) enables the Minister Treasurer to give directions to the Board, the Minister Treasurer must cause a copy of a direction given under the regulation to be laid before each House of Parliament or be dealt with in accordance with section 7836A
 - within 14 days after the direction is given; or

if the direction is the subject of a notice under section 17 of the *Statutory Corporations (Liability of Directors)* Act 1996, within 14 days after it is confirmed under that section.

Regulations deleted]

The text of a direction referred to in subsection (2) are not3) is to be made except withincluded in the Treasurer's concurrence annual report submitted by the accountable authority of the Board under the Financial Management Act 2006 Part 5.

[Section 33B inserted by No. 28 of 2006 s. 434; amended by No. 25 of 2007 s. 4411; No. 35 of 2011 s. 22,31 and 35.]

/33C. Deleted by No. 25 of 2007 s. 12.7

34. Directions to Employers as to practice and procedure

- (1) The Board or the Minister Treasurer may give written directions to Employers about the practices and procedures to be observed by Employers for the efficient operation of this PartAct and may amend those directions.
- An Employer must comply with directions given under (2) subsection (1).
- (3) The Board may recover from an Employer any costs or expenses incurred by the Board as a result of the Employer's failure to comply with a direction given under subsection (1).
- Directions given under subsection (1) may (4)
 - apply at all times, at a particular time, or for a particular (a) period; or
 - apply to all Employers, to a particular Employer, or to (b) Employers in a particular class; or
 - direct something to be done in a particular manner; or (c)

- (d) require something to be approved by, or done to the satisfaction of, a particular person or body, or a member of a class of persons or bodies; or
- confer a discretion on a person or body, or a class of persons or bodies.

[Section 34 amended by No. 25 of 2007 s. 6(5) and 19(2).]; No. 35 of 2011 s. 23 and 31.7

35. Minister Treasurer may give directions to the Board

- (1) Subject to the *Statutory Corporations (Liability of Directors)* Act 1996 the Minister Treasurer may give written directions to the Board with respect to its functions and powers, either generally or with respect to a particular matter.
- The Board is to give effect to directions given by the (2) Minister Treasurer.
- Section 77 applies Subject to any subsections (5) and (6), a direction given becomes effective on the expiry of 7 days after the Board receives it or of such longer period as the Treasurer may, at the Board's request, determine.
- If the Board asks the Treasurer to extend the 7 day period under this subsection (3), the Treasurer must decide whether or not to agree to the request and notify the Board of that decision before the 7 day period has expired.
- 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).
- Despite the Statutory Corporations (Liability of Directors) Act 1996 section 17(4), the Treasurer 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.

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] Extract from www.slp.wa.gov.au, see that website for further information

(7)	The Treasurer must cause a copy of a direction to be laid before	re
	each House of Parliament or dealt with under section 36A —	

- (a) within 14 days after the direction is given; or
- if the direction is the subject of a notice under the (b) Statutory Corporations (Liability of Directors) Act 1996 section 17, within 14 days after it is confirmed under that section.
- 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.

[Section 35 amended by No. 77 of 2006 s. 17; No. 25 of 2007 s. 1313; No. 35 of 2011 s. 24 and 31.]

36A. Supplementary provision about laying documents before **Parliament**

- 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
 - at the commencement of the period, a House of Parliament is not sitting; and
 - the person is of the opinion that the House will not sit (b) during that period,

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

- A copy of a direction transmitted to the Clerk of a House is to be taken to have been laid before that House.
- The laying of a copy of a direction that is 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.

[Section 36A inserted No. 35 of 2011 s. 25.]

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] Extract from www.slp.wa.gov.au, see that website for further information

36. MinisterTreasurer to have access to information

- (1) For parliamentary purposes or for the proper conduct of the Minister's Treasurer's public business, the Minister Treasurer is entitled —
 - (a) to have information in the possession, or under the control, of the Board or a subsidiary; and
 - where the information is in or on a document, to have, (b) and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister Treasurer may, in writing, request the Board to
 - give the **Minister**Treasurer information or access to information; and
 - make its staff and facilities available to enable the Minister Treasurer to access information,

and the Board is to comply with that request.

- This section does not entitle the **Minister**Treasurer to information in the possession of the Board or a subsidiary in a form that —
 - (a) discloses confidential information about a beneficiary;
 - (b) might enable confidential information about a beneficiary to be ascertained,

unless disclosure of the information is —

- authorised by the beneficiary; or
- (d) authorised or required by a written law.
- In this section (4)

"beneficiary" means —

- a Member; or
- a former Member; or (b)
- any other person to whom —

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

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- a benefit has been or is being paid, or is or may become payable; or
- (ii) a product or service has been provided by the

"document" includes any tape, disc or other device or medium on which data is recorded or stored mechanically, photographically, electronically or otherwise;

"information" means information specified, or of a description specified, by the Minister Treasurer that relates to the functions or powers of the Board;

"parliamentary purposes" means the purpose of —

- answering a question asked in a House of Parliament; or
- complying with a written law, or an order or resolution (b) of a House of Parliament, that requires information to be furnished to a House of Parliament.

[Section 36 amended by No. 18 of 2006 s. 13; No. 25 of 2007 s. 19(2).]); No. 35 of 2011 s. 31 and 36.]

[37. Minister to consult with Treasurer

The Minister is to consult with the Treasurer before performing a function under this Part if the performance of the function will or may affect the financial rights or obligations of the Crown under this Part and the value of that effect will or may exceed the prescribed amount.

[Section 37 amendedDeleted by No. 2535 of 20072011 s. 6(5).]37.]

38. **Regulations**

deleted]

Subject to subsections (3) to (8), the Governor may make regulations prescribing all matters that are required or permitted by this Act or the State Superannuation (Transitional and

<u>Consequential Provisions</u>) 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) Without limiting the generality of section 79 but subject to this section, subsection (1), regulations may be made under section 79 subsection (1) in relation to
 - (a) establishing schemes; and
 - (b) membership and Employer participation in the schemes; and
 - (c) contributions and transfers of money to the Fund and other funding of the Fund; and
 - (d) benefits and how they are paid or dealt with; and
 - (e) insurance to be provided through the schemes; and
 - (f) management of the Fund; and
 - (g) administration of the schemes; and
 - (h) accounts and records to be kept by the Board; and
 - (i) information and documents to be given to and by the Board; and
 - (j) provision by the Board of, or facilitation by the Board of the provision of, products and services; and
 - (k) appointment and election of directors; and
 - (l) reviews, other than by the State Administrative Tribunal, of decisions of the Board.
- (3) Regulations cannot be made <u>if they under subsection (1) if they</u> reduce the amount of a benefit that
 - (a) reduce the amount of a benefit that
 - (i (a) accrued or became payable before the regulations came into operation; or
 - is, or may become, payable in relation to a period before the regulations came into operation;

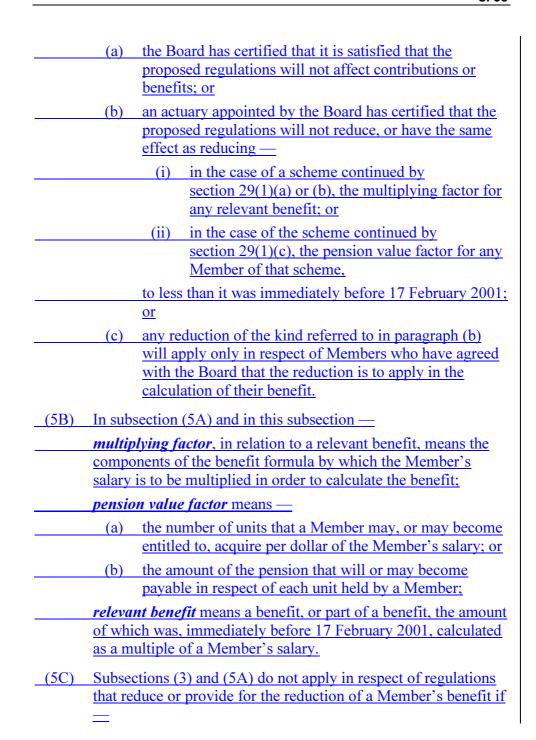
s. 38

- or have the same effect as reducing
 - the case of the West State scheme or the scheme continued by section 29(1)(b), the multiplying factor for any relevant benefit; or
 - in the case of the scheme continued by section 29(1)(c), the pension value factor for any Member of that scheme.

to less than it was immediately before 17 February 2001.

- (4) Subsection (3) does not apply if
 - 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
 - the reduction would apply only in respect of Members (b) who agree with the Board that the reduction is to apply in relation to them; or
 - the regulations would reduce or provide for the reduction of a Member's benefit only if
 - a superannuation agreement, flag lifting agreement or splitting order is in force in respect of the Member; and
 - the reduction does not reduce the Member's (ii) benefit to less than the Member's entitlement under the agreement or order.

Regulations cannot be made under subsection (1) in relation to the superannuation schemes continued by section 29(1)(a), (b) or (c) unless -



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(a)	a superannuation agreement, flag lifting agreement or
	splitting order is in force in respect of the Member; and

the reduction does not reduce the Member's benefit to less than the Member's entitlement under the agreement or order.

(5D) In subsection (5C) —

flag lifting agreement has the meaning given in the *Family Law* Act 1975 (Commonwealth) section 90MD;

splitting order has the meaning given in the *Family Law* Act 1975 (Commonwealth) section 90MD;

superannuation agreement has the meaning given in the Family Law Act 1975 (Commonwealth) section 90MD.

- Regulations under subsection (1) may permit the Board to pay a pension or other benefit under the scheme continued by section 29(1)(c) for the purpose of —
 - (a) giving effect to a payment split; or
 - 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.

(5F)In subsection (5E) —

payment split has the meaning given in the Family Law Act 1975 (Commonwealth) section 90MD;

superannuation interest has the meaning given in the *Family* Law Act 1975 (Commonwealth) section 90MD.

- Regulations that cannot be made under subsection (1), unless they have been approved by the Treasurer, if they
 - will or may affect the financial rights or obligations of the Crown under this Part to the extent that Act and the value of that effect will or may exceed the prescribed amount; or
 - relate to a matter referred to in subsection (2)(i).
- cannot be made unless they have been approved by the Treasurer.
- (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.

(7) deleted

- (6) Regulations that prescribe an authority, body or person for the purposes of the definition of *Employer* in section 3 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.
- Regulations of the kind referred to in subsection (6) cannot be made if they will or may affect a person, except the Crown or an Employer, by
 - prejudicing rights that existed before the regulation was (a) published; or
 - (b) imposing liabilities in respect of anything that occurred before the regulation was published.
 - Regulations prescribing an amount for the purposes of (8) section 37 or subsection (5)(a) may prescribe an amount or a method of determining an amount.

Miscellaneous

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In subsection (3) and this subsection "multiplying factor", in relation to a relevant benefit, means the components of the benefit formula by which the Member's salary is to be multiplied in order to calculate the benefit; "pension value factor" means the number of units that a Member may, or may become entitled to, acquire per dollar of the Member's salary; or the amount of the pension that will or may become payable in respect of each unit held by a Member; 'relevant benefit" means a benefit, or part of a benefit, the amount of which was, immediately before 17 February 2001, calculated as a multiple of a Member's salary. *In this section each of the following terms has the meaning*), (10) given in the Family Law Act 1975 (Commonwealth) section 90MD—deleted]

- (a) flag lifting agreement;
 - payment split;
 - splitting order;
 - superannuation agreement;
 - superannuation interest.

[Section 38 amended by No. 55 of 2004 s. 1105; No. 18 of 2006 s. 14; No. 25 of 2007 s. 4414; No. 35 of 2011 s. 26.]

39. Repeals

The Government Employees Superannuation Act 1987² and the Superannuation and Family Benefits Act 1938² are repealed.

40. **Inconsistent written laws**

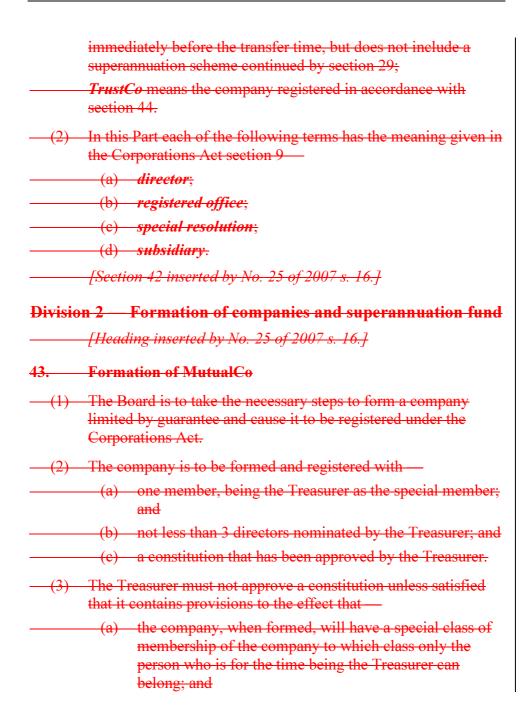
The provisions of this PartAct and the regulations referred to in section 38 made or applying under it that deal with the payment of benefits under a scheme prevail over section 10 of the Administration Act 1903 to the extent of any inconsistency.

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] Extract from www.slp.wa.gov.au, see that website for further information

[Section 40 inserted by No. 18 of 2006 s. 15; amended by No. 25 of 2007 s. 15.

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	Part 4 GESB Superannuation
	[Heading inserted by: No. 25 of 2007 s. 16.]
	Division 1 Preliminary
	[Heading inserted by No. 25 of 2007 s. 16.]
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.
	[Section 41 inserted by No. 25 of 2007 s. 16.]
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

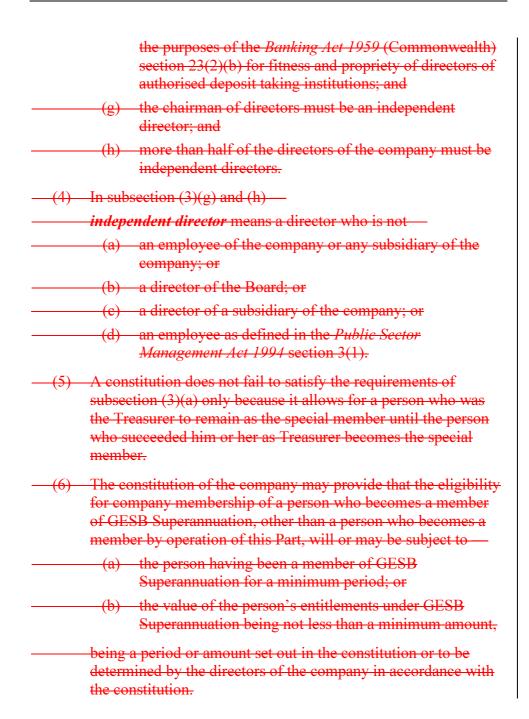


Part 4 **GESB Superannuation**

Division 2 Formation of companies and superannuation fund

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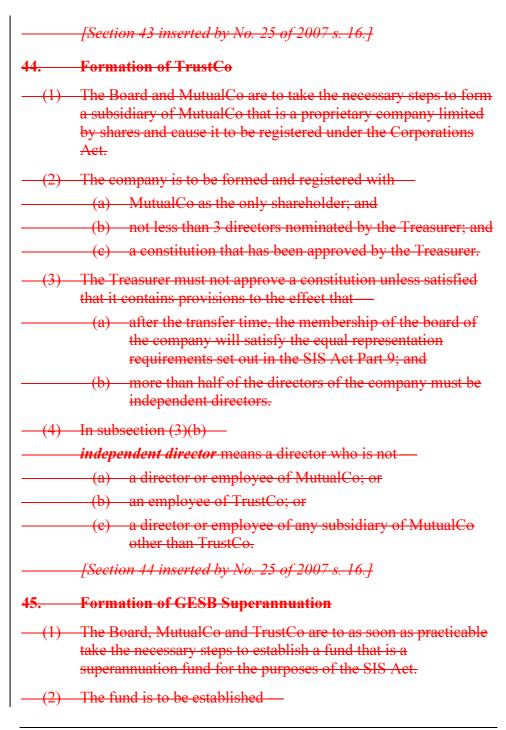
(b) if the special member resigns, the special class of membership referred to in paragraph (a) will terminate; and
(c) while there is a special member, the special member will have a power to veto the exercise by the company or the directors of its or their power—
(i) to alter the constitution of the company; or
(ii) to appoint a person as a director of the company;
(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

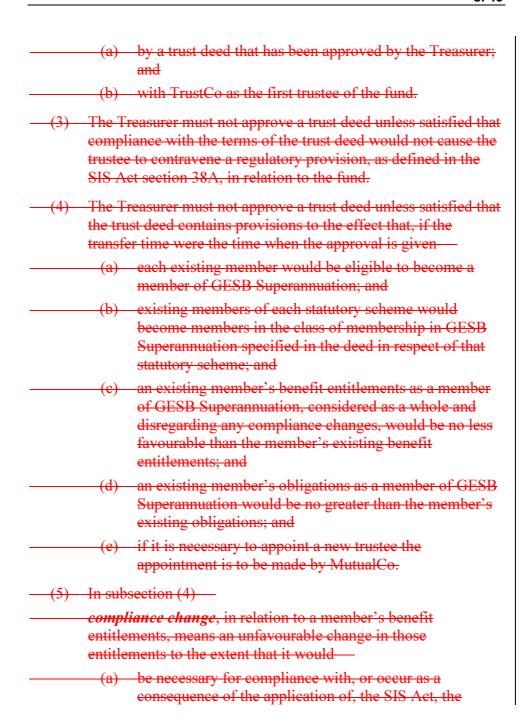


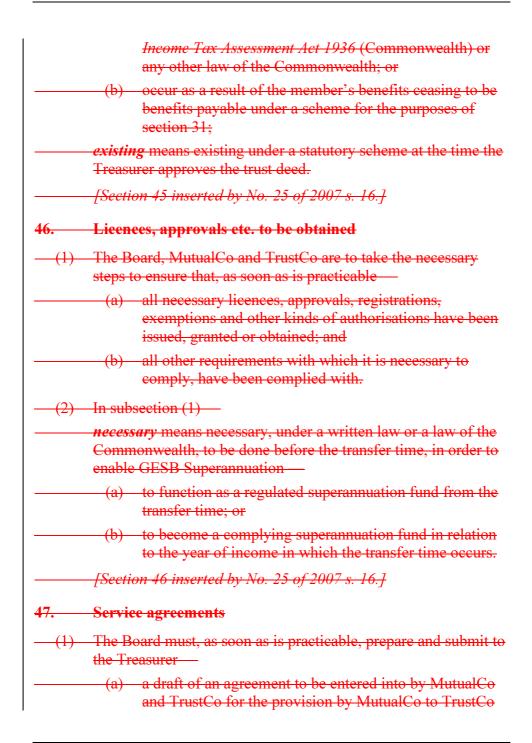
Part 4 **GESB Superannuation**

Division 2 Formation of companies and superannuation fund

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- of services relating to the performance by TrustCo of its functions as trustee of GESB Superannuation; and
- 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.
- The Treasurer may
- approve a draft agreement submitted under subsection (1); or
- direct that it be amended and approve it in an amended
- 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.

[Section 47 inserted by No. 25 of 2007 s. 16.]

Division 3—Continuing provisions relating to MutualCo and **TrustCo**

[Heading inserted by No. 25 of 2007 s. 16.]

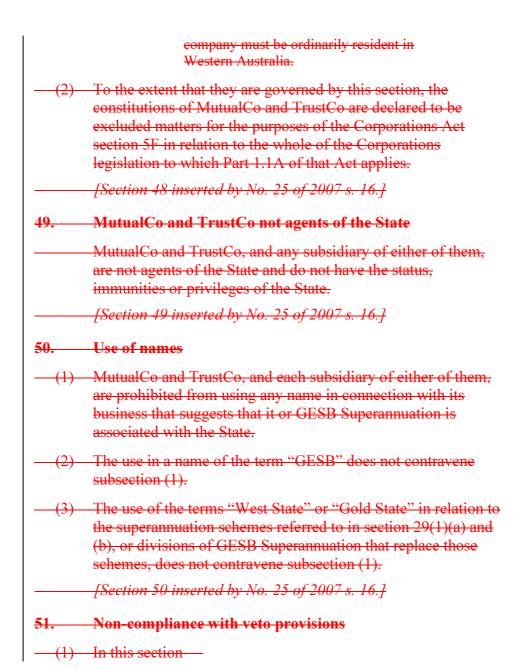
- Constitutions of MutualCo and TrustCo to include certain **provisions**
- (1) If the constitution of MutualCo or TrustCo does not contain express provisions compliance with which would necessarily involve compliance with a provision set out in the Table to this subsection, the constitution is to be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

Table

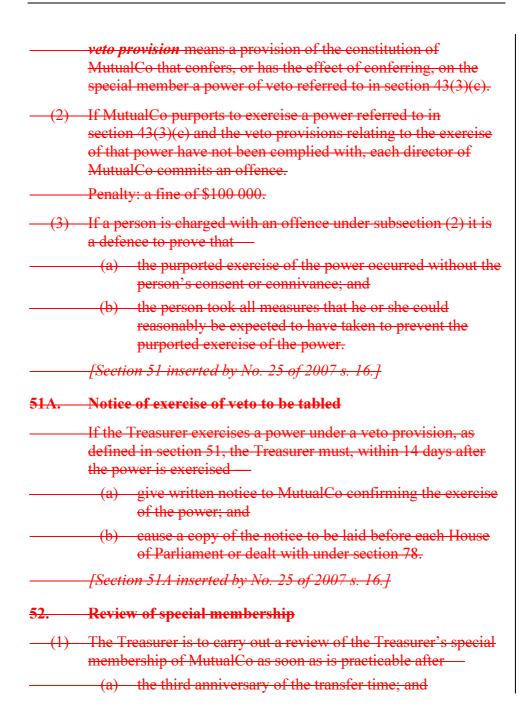
- The registered office and principal place of business of the company must be located in Western Australia.
- More than half of the directors of the 2.

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

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Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] page 52 Extract from www.slp.wa.gov.au, see that website for further information



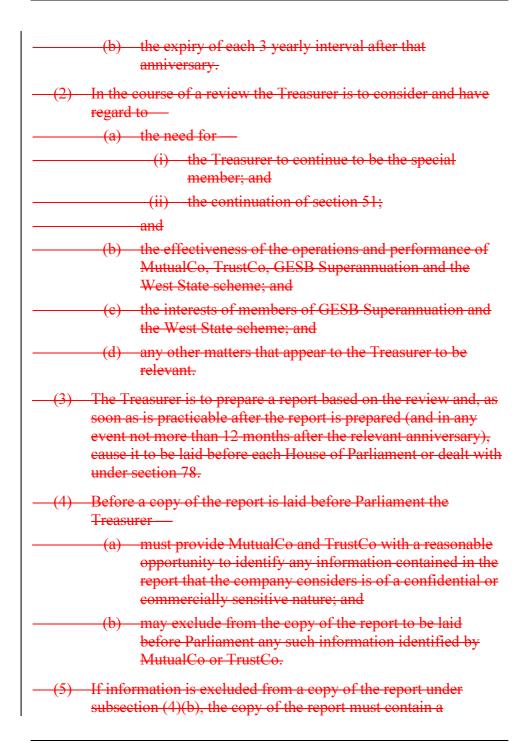
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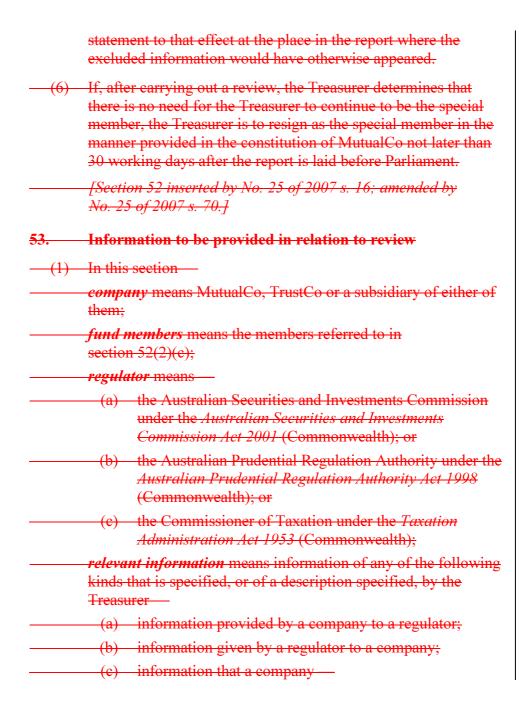
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Part 4 GESB Superannuation

Division 3 Continuing provisions relating to MutualCo and TrustCo

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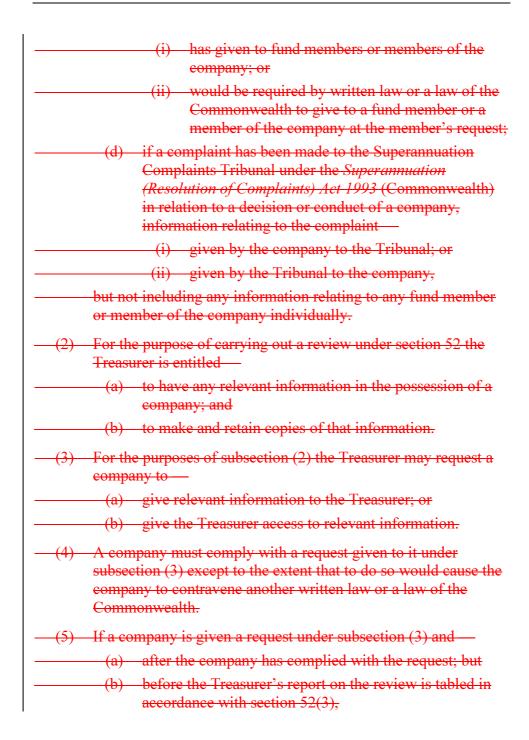


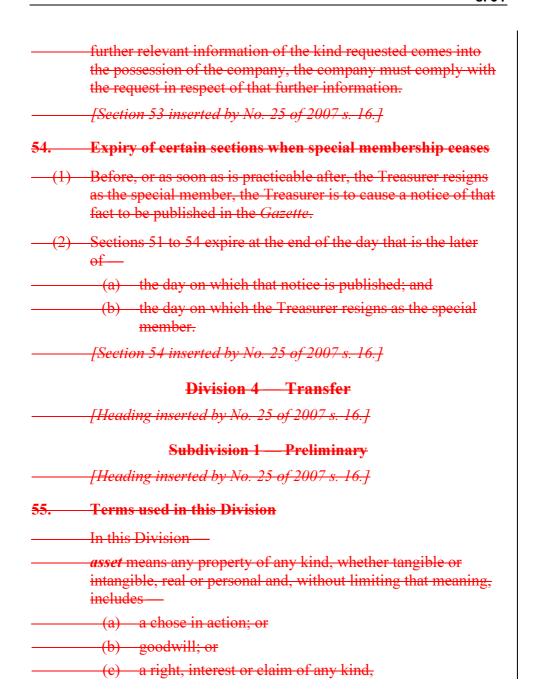


Division 3

Continuing provisions relating to MutualCo and TrustCo



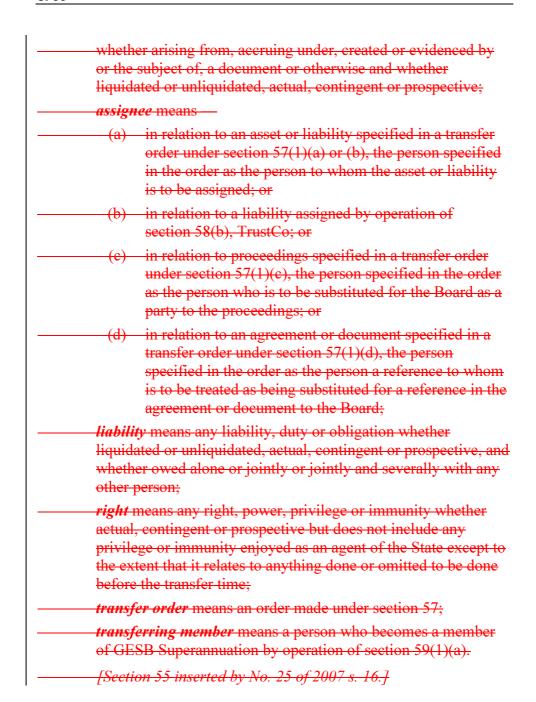


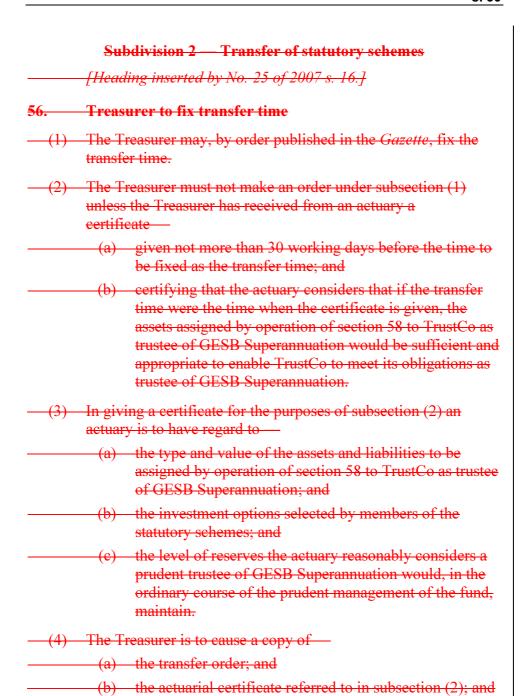


Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

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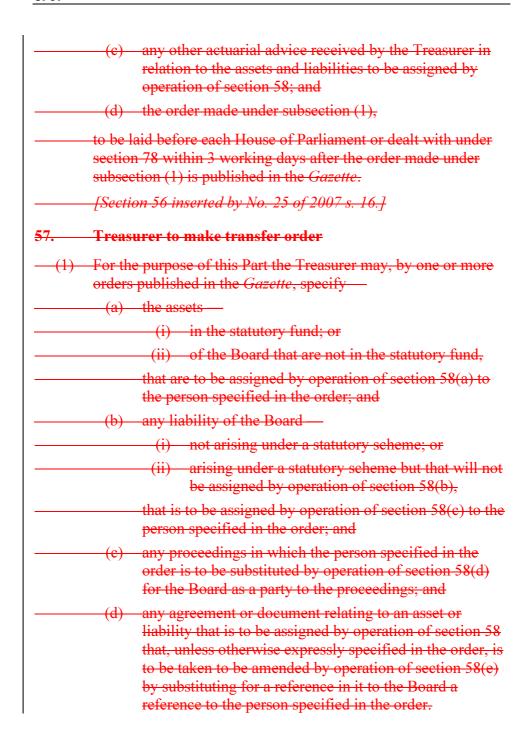
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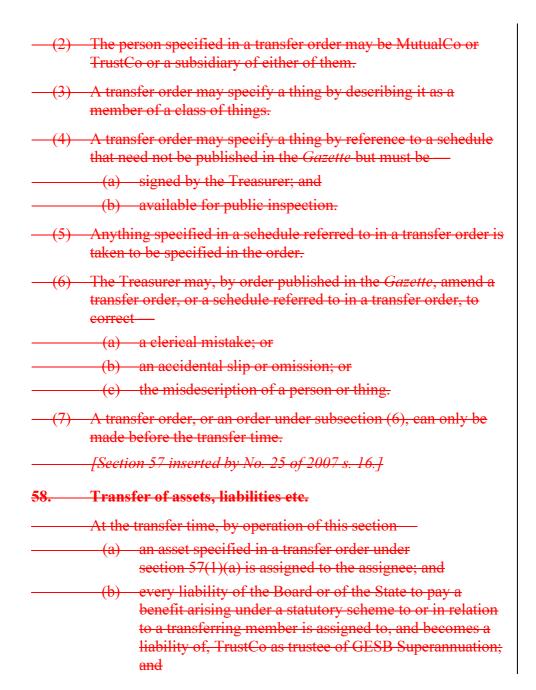


Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

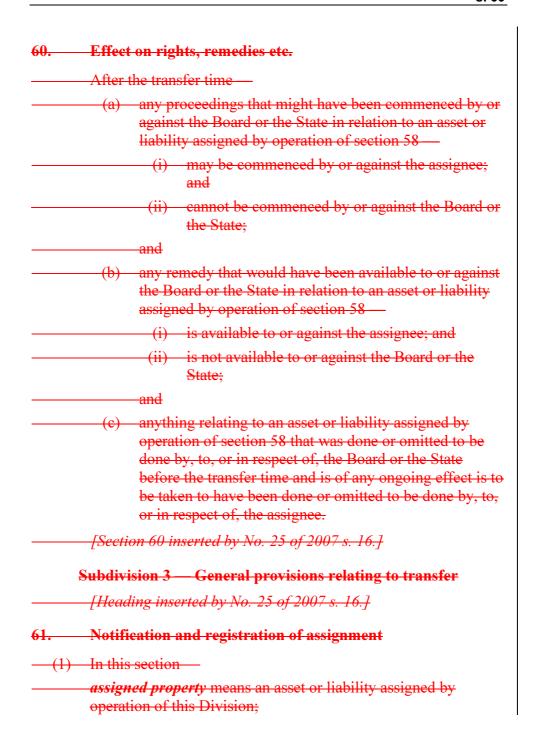
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Division 4



	(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.
	[Section 58 inserted by No. 25 of 2007 s. 16.]
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.
	- [Section 59 inserted by No. 25 of 2007 s. 16.]



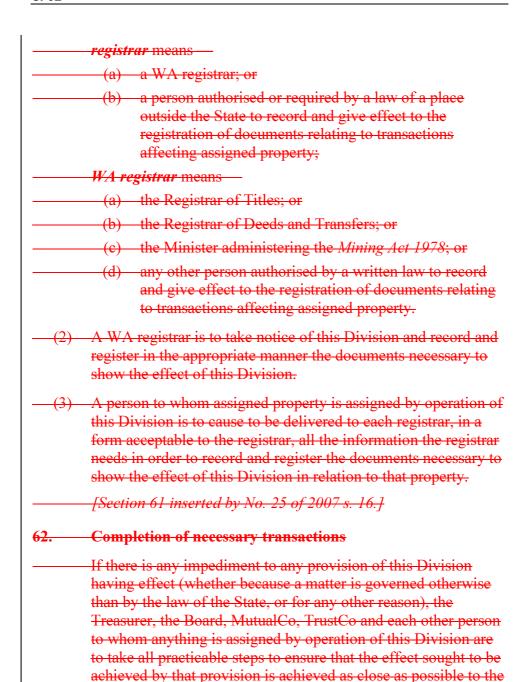
Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

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Part 4 **GESB Superannuation**

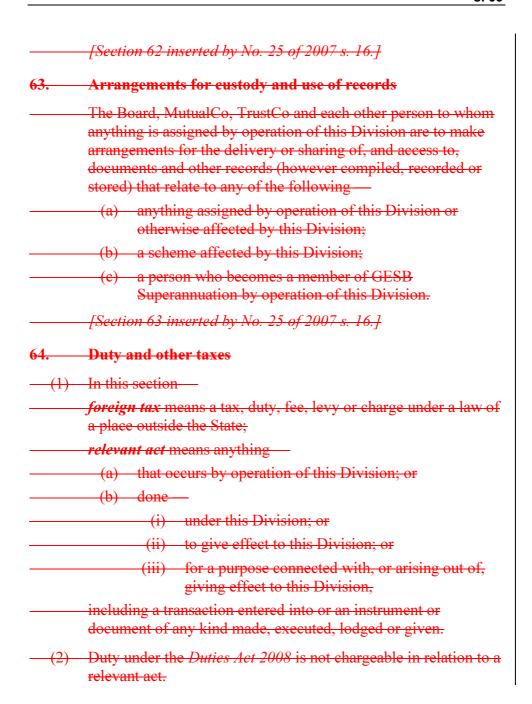
Division 4 Transfer

s. 62



Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

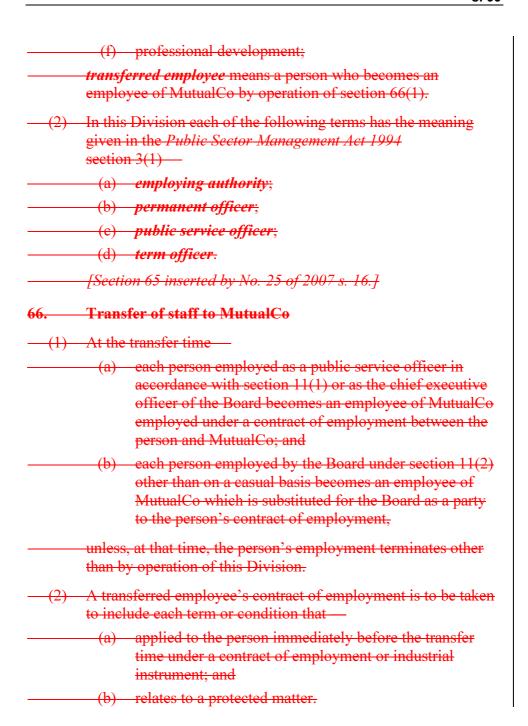
transfer time.



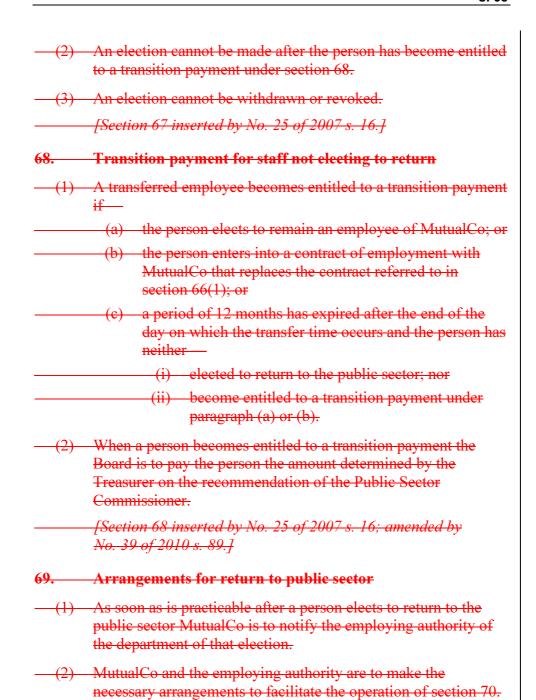
Part 4 **GESB Superannuation** Division Transfer of staff

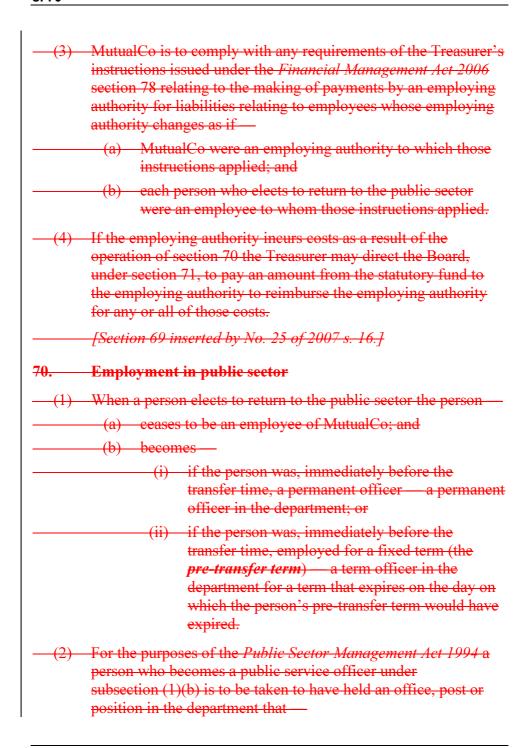
s. 65

(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 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.
	[Section 64 inserted by No. 25 of 2007 s. 16; amended by No. 4735 of 2011 s. 27.]
	Division [Parts 4-5 Transfer of staff
	[Heading inserted (s. 41-79) deleted by No. 25 of 2007 s. 16.]
65.	Terms used in this Division
	Terms used in this Division In this Division—
	In this Division— department means the department of the Public Service
	In this Division— department means the department of the Public Service principally assisting in the administration of this Act;
	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
	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);
	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;
	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;
	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;



(2)	
(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 <i>Public Sector Management Act 1994</i> section 94 do not apply in relation to a change of employment effected by operation of subsection (1).
	-{Section 66 inserted by No. 25 of 2007 s. 16.}
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.





Extract from www.slp.wa.gov.au, see that website for further information

- (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.

Section 70 inserted by No. 25 of 2007 s. 16.]

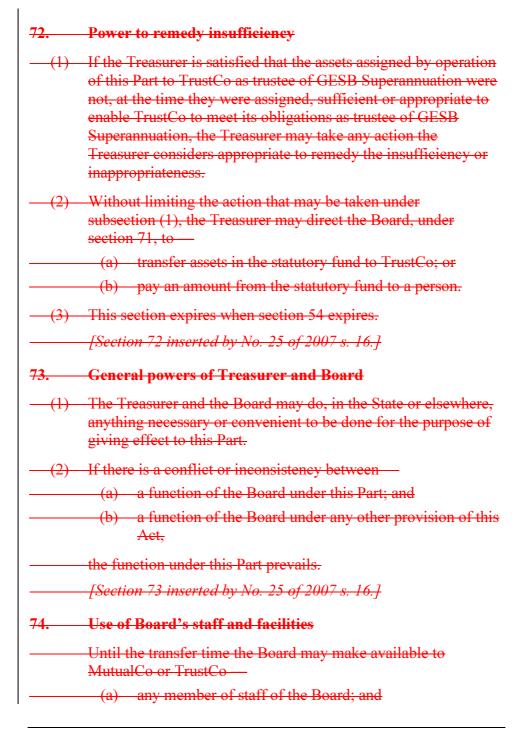
Division 6 General

[Heading inserted by No. 25 of 2007 s. 16.]

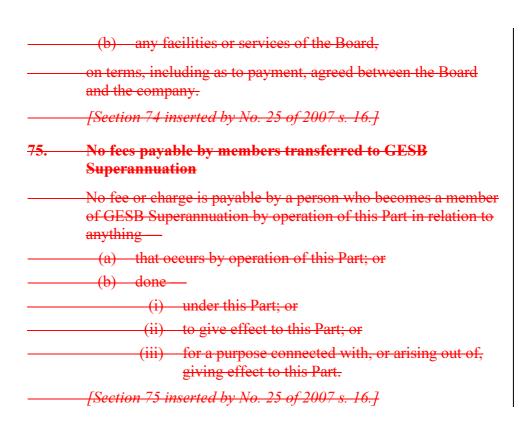
71. Treasurer may give directions

- (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.
- Section 71 inserted by No. 25 of 2007 s. 16.1

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]



page 72 Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]



Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

page 73

Division 1 Preliminary

s. 75A

Part 4A — West State scheme					
[Heading inserted by No. 25 of 2007 s. 71.]					
Division 1 Preliminary					
[Heading inserted by No. 25 of 2007 s. 71.]					
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					
(e) 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.					
[Section 75A inserted by No. 25 of 2007 s. 71.]					
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.					

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(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.				
	[Section 75B inserted by No. 25 of 2007 s. 71.]				
Ŧ	Division 2 — Responsible entity and governing rules				
	[Heading inserted by No. 25 of 2007 s. 71.]				
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.				
	[Section 75C inserted by No. 25 of 2007 s. 71.]				
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				

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

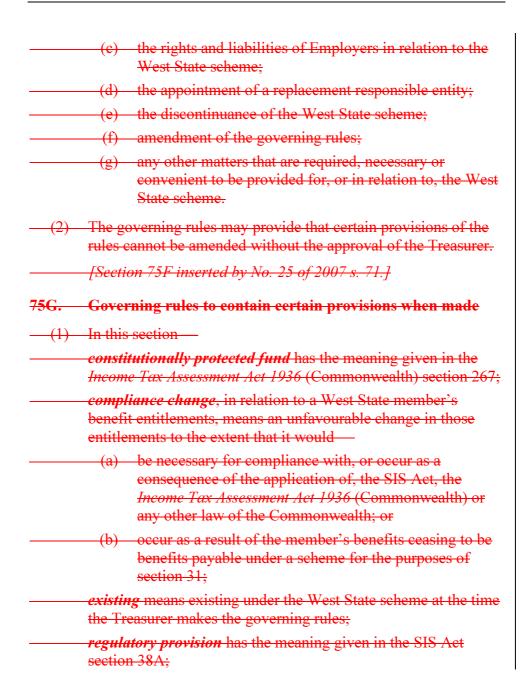
Part 4A West State scheme

Division 2 Responsible entity and governing rules

s. 75E

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	(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;						
							
	(b) for a monetary penalty under a civil penalty order as defined in the SIS Act section 10.						
	[Section 75D inserted by No. 25 of 2007 s. 71.]						
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 <i>Interpretation Act 1984</i> .						
(3)	The <i>Interpretation Act 1984</i> 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.						
	[Section 75E inserted by No. 25 of 2007 s. 71.]						
75F.	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;						

page 76 Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

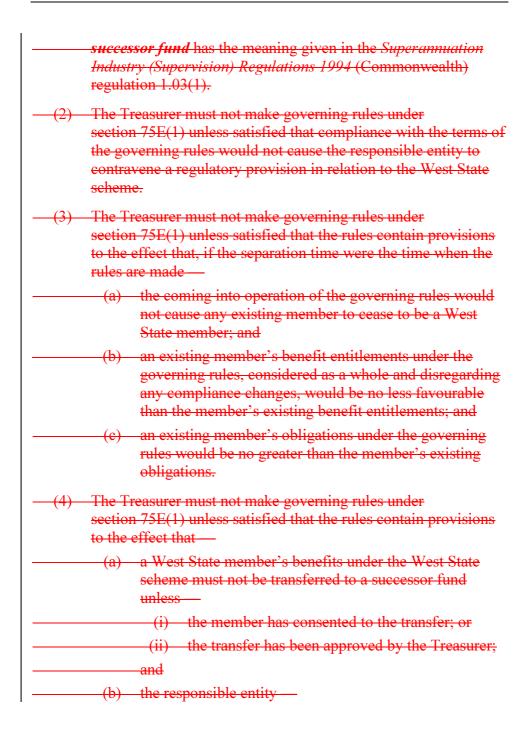


Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] page 77

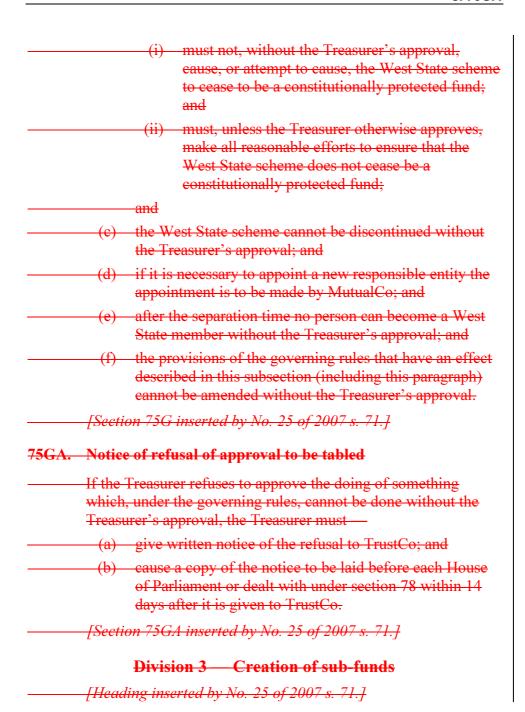
Part 4A West State scheme

Division 2 Responsible entity and governing rules

s. 75G



Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] page 78



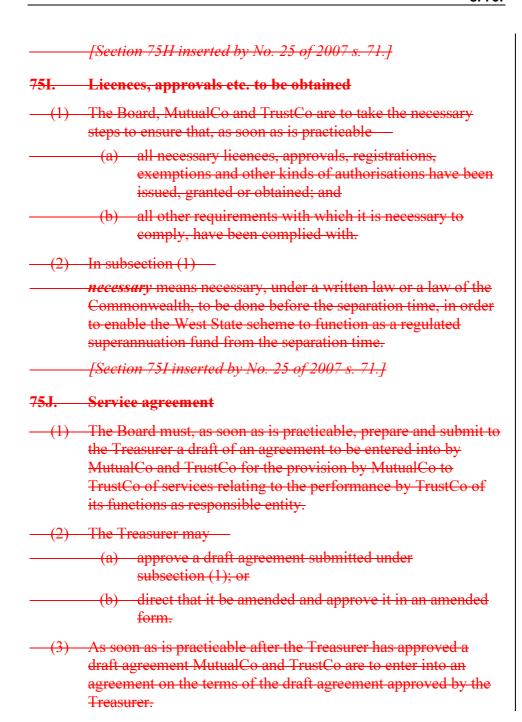
Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

Part 4A West State scheme Division 3 Creation of sub-funds

s. 75H

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.

page 80 Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

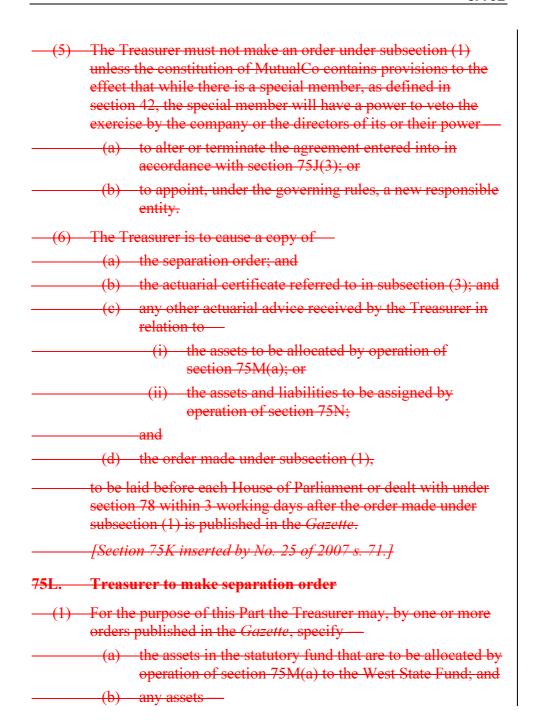


page 81

s. 75K

	[Section 75J inserted by No. 25 of 2007 s. 71.]					
75K.	Treasurer to fix separation time					
(1)	The Treasurer may, by order published in the <i>Gazette</i> , 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.					
- (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.					

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] page 82



Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

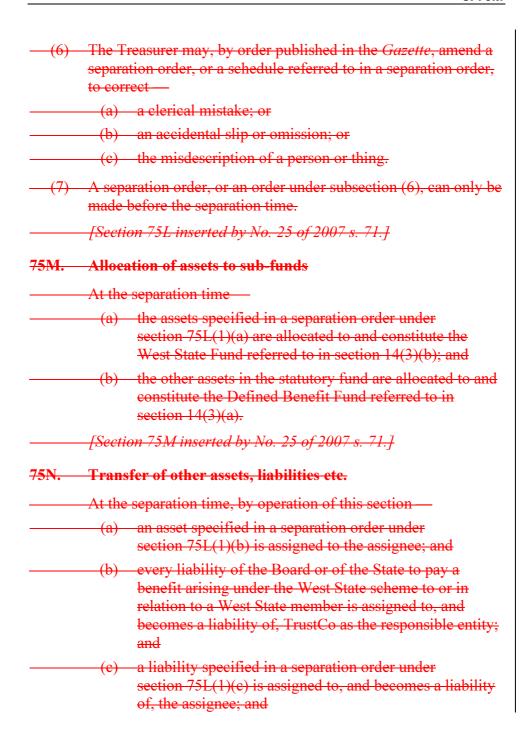
State Superannuation Act 2000

Part 4A West State scheme Division 3 Creation of sub-funds

s. 75L

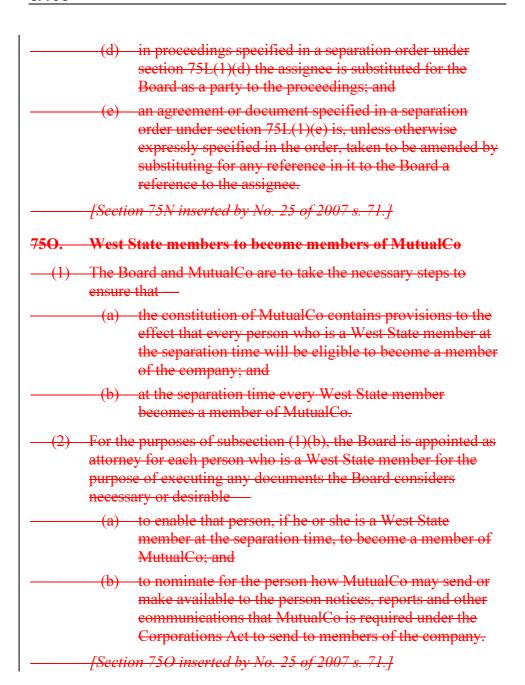
(i) in the statutory fund; or
(ii) of the Board that are not in the statutory fund,
that are to be assigned by operation of section 75N(a) to
the person specified in the order; and
——————————————————————————————————————
(i) not arising under the West State scheme; or
(ii) arising under the West State scheme but that will not be assigned by operation of section 75N(b),
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 <i>Gazette</i> 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.

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] Extract from www.slp.wa.gov.au, see that website for further information

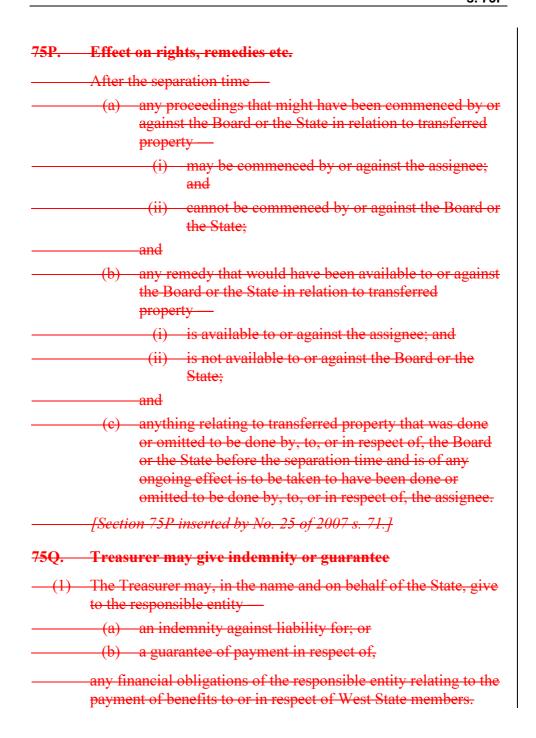


Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

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Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] page 86

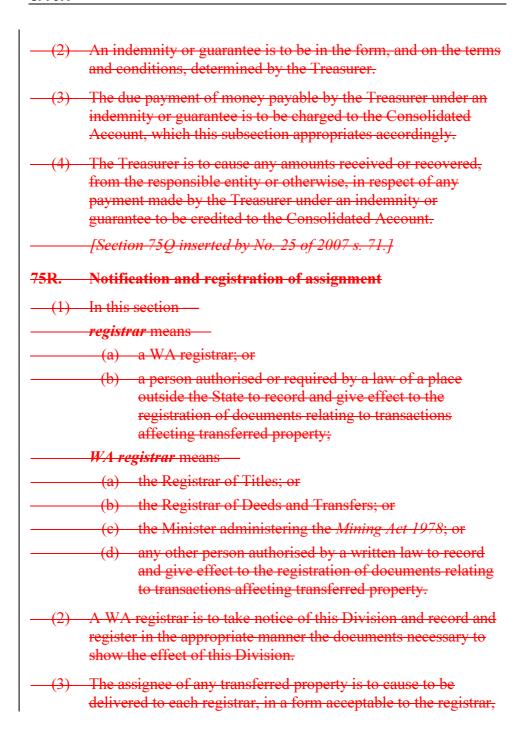


Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] page

State Superannuation Act 2000

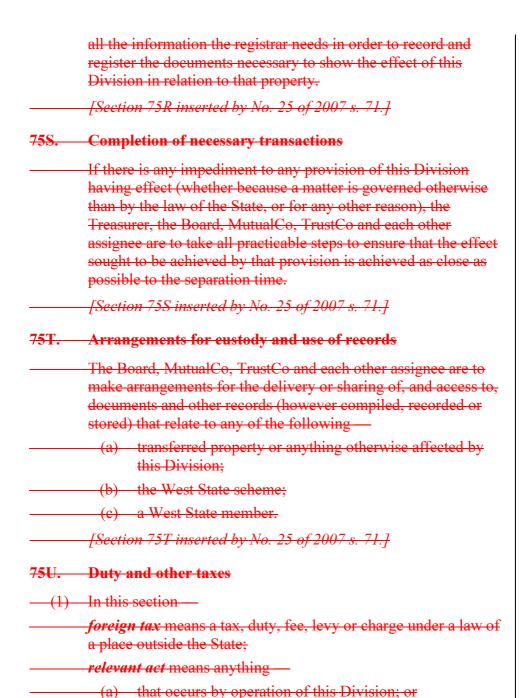
Part 4A West State scheme **Division 3** Creation of sub-funds

s. 75R



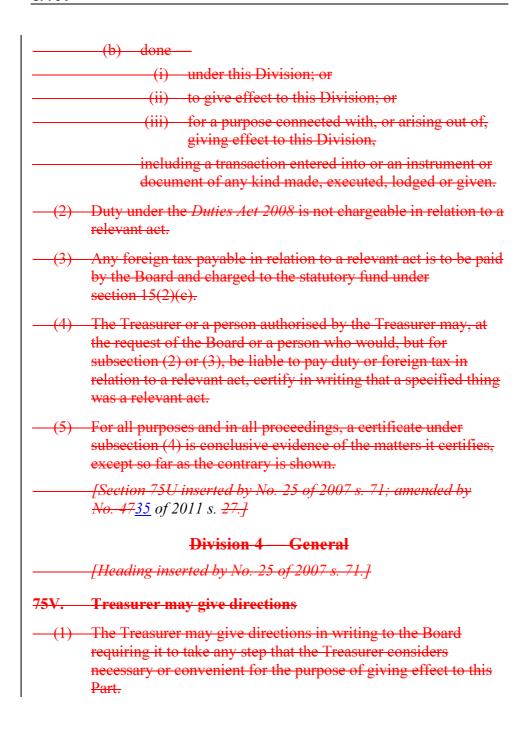
Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

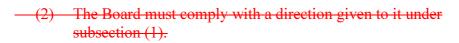
Extract from www.slp.wa.gov.au, see that website for further information



Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] page 89 **Division 4** General

s. 75V





- 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. [Section 75V inserted by No. 25 of 2007 s. 71.]

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.
- 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. [Section 75W inserted by No. 25 of 2007 s. 71.]

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

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

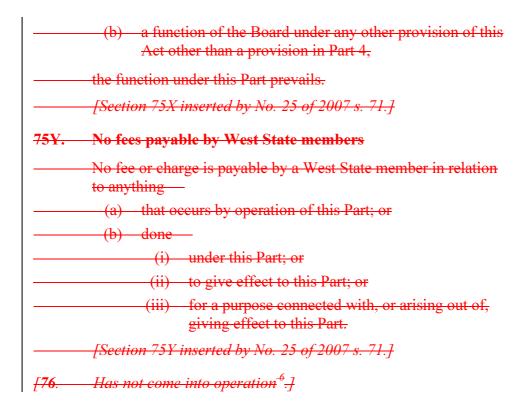
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State Superannuation Act 2000

Part 4A West State scheme

Division 4 General

s. 75Y



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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

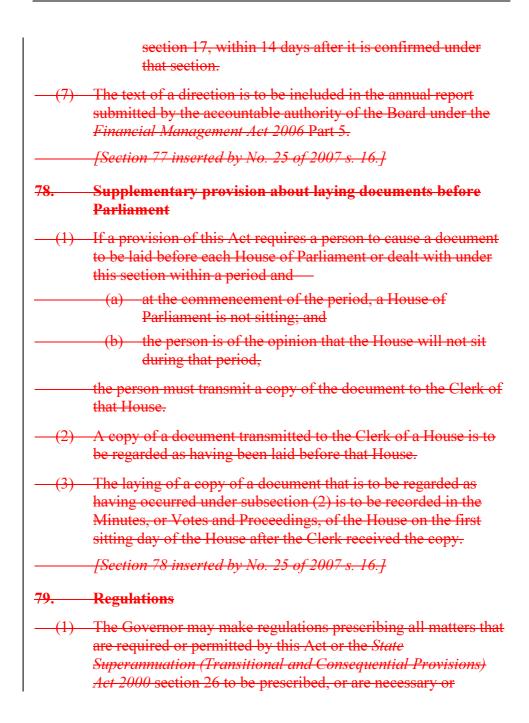
 Corporations (Liability of Directors) Act 1996 section 17, it
 does not become effective before it is confirmed under that
 section or the expiry of any extension of time notified under
 subsection (2).
- (5) Despite the *Statutory Corporations (Liability of Directors)*Act 1996 section 17(4), the Minister 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

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Part 5 General **Division 4** General

s. 78



Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] Extract from www.slp.wa.gov.au, see that website for further information

Division 4



- 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.
- 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.

[Section 79 inserted by No. 25 of 2007 s. 1628.]

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Schedule 1 — Government Employees Superannuation Board

[s. 8(2)]

1. Chairman

- (1) Before making a nomination under section 8(1)(a) the <u>MinisterTreasurer</u> is to consult with unions or associations of unions that appear to the <u>MinisterTreasurer</u> to be broadly representative of persons who work for Employers.
- (2) The Minister Treasurer must not nominate as chairman a person who is an officer or employee of the Board.

[Clause 1 amended by No. 35 of 2011 s. 31.]

2. Deputy chairman

- (1) The Governor may from time to time appoint a director, nominated by the Minister Treasurer, to be deputy chairman.
- (2) The Minister Treasurer must not nominate as deputy chairman a person who is an officer or employee of the Board.
- (3) In the absence of the chairman, the deputy chairman
 - (a) is to act in the place of the chairman; and
 - (b) while so acting, has all the functions of, and is taken to be, the chairman.
- (4) No act or omission of a deputy chairman is to be questioned on the ground that the occasion for the acting had not arisen or had ceased.

[Clause 2 amended by No. 35 of 2011 s. 31.]

3. Election of member directors

Elections for the purposes of section 8(1)(c) are to be held —

- (a) during the 6 months preceding the expiry of the term of office of the current directors elected under section 8(1)(c); or
- (b) in the case of an election to fill a casual vacancy, not later than 60 days after the vacancy occurs.

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4. Term of office

- (1) The term for which a person is appointed to be the chairman or is appointed under section 8(1)(b) to be a director is to be fixed in the instrument of appointment and is not to be longer than 5 years.
- (2) The term for which a director is elected under section 8(1)(c) is 3 years.
- (3) A person's eligibility for appointment or election as a director is not affected by the person having been a director before.

5. Directors are part-time

All directors hold their offices on a part-time basis.

6. Casual vacancies

- (1) A casual vacancy in the office of a director occurs if the director
 - (a) dies; or
 - (b) resigns by notice to the **Minister**Treasurer; or
 - (c) is an insolvent under administration as defined in the Corporations Act; or
 - (d) is removed from office by the Minister Treasurer under subclause (2).
- (2) The Minister Treasurer may remove a director from office if the Minister Treasurer is satisfied that the director
 - (a) has neglected his or her duty; or
 - (b) has misbehaved; or
 - (c) is incompetent; or
 - (d) has contravened clause 10 or 11 of Schedule 2; or
 - (e) is suffering from mental or physical incapacity impairing the performance of his or her functions under Part 3this Act; or
 - (f) is absent from 4 consecutive meetings of the Board of which he or she has been given reasonable notice, unless he or she is absent on leave granted by the Board; or
 - (g) has been convicted of an offence involving dishonest conduct.

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

- If a casual vacancy occurs in the office of a director elected under section 8(1)(c), the Minister Treasurer may appoint a Member to fill the vacancy until a new director is elected.
- Before appointing a person under subclause (3) the Minister Treasurer is to consult with unions or associations of unions that appear to the Minister Treasurer to be broadly representative of persons who work for Employers.

[Clause 6 amended by No. 10 of 2001 s. 220; No. 25 of 2007 s. 6(6), 17 and 19(2)...); No. 35 of 2011 s. 29 and 31.]

7. Remuneration and allowances

A director is entitled to the remuneration and allowances determined by the Minister Treasurer on the recommendation of the Public Sector Commissioner.

[Clause 7 amended by No. 39 of 2010 s. 8989; No. 35 of 2011 s. 38.]

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] Extract from www.slp.wa.gov.au, see that website for further information

Schedule 2 — Meetings and procedures

[s. 10(1)]

1. Board to determine own procedure

The Board may determine its own procedure for calling and conducting Board meetings except to the extent that it is prescribed under Part 3 this Act.

[Clause 1 amended by No. No. 25 of 2007 s. 6(7).]6(7); No. 35 of 2011 s. 30.]

2. Quorum

The quorum at a Board meeting is 5 directors.

3. Presiding director

A Board meeting is to be presided over by —

- (a) the chairman; or
- (b) in the absence of the chairman, the deputy chairman (if one has been appointed); or
- (c) in the absence of the chairman and deputy chairman, a director chosen by the directors present at the meeting.

[Clause 3 amended by No. 25 of 2007 s. 19(2).]

4. Voting

At a Board meeting —

- (a) each director has one vote; and
- (b) the person presiding does not have a casting vote; and
- (c) a resolution is passed if 5 or more directors vote in favour of

[Clause 4 amended by No. 25 of 2007 s. 19(1).]

5. Minutes

The Board is to cause accurate minutes to be kept and preserved of the proceedings at each Board meeting and of each resolution passed by the Board.

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6. Resolution without meeting

A written resolution signed by each director who would have been entitled to vote on the resolution at a meeting is as effectual as if it had been passed at a Board meeting.

7. Telephone or video attendance at meetings

A director may attend a Board meeting by telephone, audio-visual link-up or any other form of instantaneous communication if all directors attending the meeting are simultaneously in contact with each other.

8. **Committees**

- The Board may appoint committees to assist it in the performance of (1) its functions, and may discharge or alter any committee so appointed.
- (2) The Board may appoint a person to a committee whether or not the person is a director.
- The Board may act on the advice of a committee. (3)
- Subject to any directions given by the Board, a committee may (4) determine its own procedure.

9. Material interest

- (1) For the purposes of this Schedule a person has a material interest in a matter if the person
 - subject to subclauses (2) and (3) has a direct or indirect pecuniary interest in the matter; or
 - has given advice for remuneration in relation to the matter to (b) the Board; or
 - subject to subclauses (2) and (3) has a non-pecuniary interest in the matter.
- An interest in a matter is not a material interest if it arises by reason (2) only that the person is
 - a Member; or (a)
 - a person who works for an Employer; or

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- (c) an Employer or a member of the board or other body responsible for the control or direction of an Employer; or
- (d) an employee of a union or association of unions; or
- (e) a member of a corporation listed on a prescribed financial market (within the meaning given by section 9 of the Corporations Act) in Australia, unless that interest is material in relation to that corporation.
- (3) The interest of a person in an existing or proposed contract of insurance is not a material interest if it arises by reason only that the contract insures, or is proposed to insure, the person against a liability incurred by the person in his or her capacity as a director or committee member.
- (4) Subclause (3) does not apply if the Board is the insurer.

 [Clause 9 amended by No. 21 of 2003 s. 34; No. 25 of 2007 s. 18 and 19(2).]

10. Disclosure of interests

- (1) A director or committee member who has a material interest in a matter involving the Board or the Fund must, as soon as possible after the relevant facts have come to the person's knowledge, disclose the nature of the interest at a meeting of the Board or committee.
- (2) A disclosure under subclause (1) is to be recorded in the minutes of the meeting.
- (3) A disclosure under subclause (1) by a person that he or she
 - (a) is a member or employee of a particular company or body; or
 - (b) is a partner or employee of a particular person; or
 - (c) has some other specified interest relating to a particular company, body or person,

is a sufficient disclosure of the person's interest in relation to any matter or thing involving that company, body or person which arises after the disclosure is made.

(4) A contravention of this clause by a person does not invalidate a decision of the Board or committee.

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[Clause 10 amended by No. 25 of 2007 s. 19(2).]

11. Voting by interested persons

- A director or committee member who has a material interest in a (1) matter being considered by the Board or committee
 - must not be present while the matter is being considered at a meeting of the Board or committee; and
 - (b) must not vote on the matter, whether at a meeting or otherwise.
- If as a result of one or more directors being disqualified under (2) subclause (1) the Board is unable to form a quorum in relation to a matter, the Minister Treasurer may deal with the matter.

[Clause 11 amended by No. 35 of 2011 s. 31.]

12. Interested person may be permitted to vote

- (1) Clause 11 does not apply if the Board has at any time passed a resolution that
 - specifies the director or committee member, the interest and (a) the matter: and
 - states that the directors voting for the resolution are satisfied (b) that the interest should not disqualify the director or committee member from considering or voting on the matter.
- A director who has a material interest in a matter (2)
 - must not be present at a meeting of the Board while a proposed resolution under subclause (1) in relation to that matter is being considered; and
 - must not vote, whether at a meeting or otherwise, on a (b) proposed resolution under subclause (1) in relation to the matter, whether in relation to that or a different director.
- (3) The Minister Treasurer may by notice to the Board declare that clause 11 does not apply in relation to a specified matter either generally or in voting on particular resolutions.

(4) The text of any declaration received by the Board is to be included in the annual report submitted by the accountable authority of the Board under Part 5 of the *Financial Management Act 2006*.

[Clause 12 amended by No. 77 of 2006 s. <u>1717; No. 35 of 2011 s. 31</u>.]

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Schedule 3 — Provisions to be included in constitution of subsidiary

[s. 7B]

[Heading inserted by No. 18 of 2006 s. 16.]

1. **Definition**

In this Schedule —

prior approval means the prior written approval of the Minister given with the Treasurer's concurrence Treasurer.

[Clause 1 inserted by No. 18 of 2006 s. 1616; amended by No. 35 of <u>2011 s. 39</u>.]

2. Disposal of shares

- (1) The Board must not sell or otherwise dispose of shares in the subsidiary without prior approval.
- The Minister Treasurer is empowered to execute a transfer of any (2) shares in the subsidiary held by the Board.

[Clause 2 inserted by No. 18 of 2006 s. 1616; amended by No. 35 of 2011 s. 31.7

3. **Directors**

- The directors of the subsidiary are to be appointed by the Board, but (1) no such director may be appointed without prior approval.
- All decisions relating to the operation of the subsidiary are to be made (2) by or under the authority of the board of the subsidiary in accordance with the statement of corporate intent of the Board and the subsidiary.
- (3) The board of the subsidiary is accountable to the Minister Treasurer in the manner set out in section 36 and in the constitution of the subsidiary.

[Clause 3 inserted by No. 18 of 2006 s. 1616; amended by No. 35 of 2011 s. 31.7

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4. **Further shares**

Shares in the subsidiary must not be issued or transferred without prior approval.

[Clause 4 inserted by No. 18 of 2006 s. 16.]

5. Alteration of constitution

The constitution of the subsidiary must not be modified or replaced without prior approval.

[Clause 5 inserted by No. 18 of 2006 s. 16.]

6. Subsidiaries of subsidiary

- (1) The subsidiary must not form or acquire any subsidiary without prior approval.
- The subsidiary must ensure that the constitution of each of its (2) subsidiaries at all times complies with this Act.
- (3) The subsidiary must, to the maximum extent practicable, ensure that each of its subsidiaries complies with its constitution and with the requirements of this Act.

[Clause 6 inserted by No. 18 of 2006 s. 16.]

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Notes

This is a compilation of the State Superannuation Act 2000 and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement		
State Superannuation Act 2000	42 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2 and Gazette 16 Feb 2001 p. 903)		
Corporations (Consequential Amendments) Act 2001 s. 220	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and Gazette 29 Jun 2001 p. 3257 and Cwlth Gazette 13 Jul 2001 No. S285)		
Acts Amendment (Lesbian and Gay Law Reform) Act 2002 Pt. 19	3 of 2002	17 Apr 2002	21 Sep 2002 (see s. 2 and <i>Gazette</i> 20 Sep 2002 p. 4693)		
Corporations (Consequential Amendments) Act (No. 3) 2003 Pt. 15 ³	21 of 2003	23 Apr 2003	11 Mar 2002 (see s. 2 and Cwlth <i>Gazette</i> 24 Oct 2001 No. GN42)		
State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 120 ⁴	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)		
Superannuation Legislation Amendment and Validation Act 2006 Pt. 3 ⁵	18 of 2006	31 May 2006	31 May 2006 (see s. 2)		
Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 17 Div. 9	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)		
Reprint 1: The <i>State Superannuation Act 2000</i> as at 18 Aug 2006 (includes amendments listed above)					
Financial Legislation Amendment and Repeal Act 2006 s. 4 and 17	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)		

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25 of 2007

State Superannuation

Amendment Act 2007 Pt. 1,

2 and 5 (other than Div. 3

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16 Oct 2007 Pt. 1: 16 Oct 2007

(see s. 2(1)(a));

Short title	Number and year	Assent	Commencement
Subdiv. 2) 1 6			Pt. 2: 6 Dec 2007 (see s. 2(1)(b) and <i>Gazette</i> 5 Dec 2007 p. 5973);
			Pt. 5 Div. 1 and 2 repealed by No. 25 of 2007 s. 2(8)(a);
			Pt. 5 Div. 3 Subdiv. 1: 6 Dec 2007 (see s. 2(1)(e) and Gazette 5 Dec 2007 p. 5973)
Public Sector Reform Act 2010 s. 89	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
State Superannuation Amendment Act 2011	35 of 2011	12 Sep 2011	s. 1 and 2: 12 Sep 2011 (see s. 2(a)); Act other than s. 1 and 2: 30 Mar 2012 (see s. 2(b) and Gazette 16 Mar 2012 p. 1245)
Statutes (Repeals and Minor Amendments) Act 2011 s. 27	47 of 2011	25 Oct 2011	26 Oct 2011 (see s. 2(b))

On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
State Superannuation Amendment Act 2007 Pt. 3, 4 and 5 Div. 3 Subdiv. 2 6	25 of 2007 (as amended by No. 35 of 2011 s. 4)	16 Oct 2007	Pt. 3: operative on publication of an order under the State Superannuation Act 2000 s. 56 ("transfer time") (see s. 2(1)(c)); Pt. 4: to be proclaimed (see s. 2(1)(d)); Pt. 5 Div. 3 Subdiv. 2: operative on publication of an order under the State Superannuation Act 2000 s. 75K ("separation time") (see s. 2(8)(b))

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16 Mar 2012 p. 1245)

The Superannuation and Family Benefits Act 1938 and the Government Employees Superannuation Act 1987 were repealed by s. 39 of this Act. Certain provisions of those Acts continue to apply to and in relation to certain schemes because of the State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 26.

The Corporations (Consequential Amendments) Act (No. 3) 2003 s. 2-4 read as follows:

2. Commencement

- (1) If this Act receives the Royal Assent before the day on which Schedule 1 to the Financial Services Reform Act comes into operation, this Act comes into operation at the same time as that Schedule comes into operation.
- If this Act receives the Royal Assent on or after the day on which (2) Schedule 1 to the Financial Services Reform Act comes into operation, this Act is deemed to have come into operation at the same time as that Schedule comes into operation.

Interpretation 3.

In this Part —

Financial Services Reform Act means the Financial Services Reform Act 2001 of the Commonwealth;

FSR commencement time means the time when Schedule 1 to the Financial Services Reform Act comes into operation: statutory rule means a regulation, rule or by-law.

4. Validation

- This section applies if this Act comes into operation under (1) section 2(2).
- Anything done or omitted to have been done after the FSR (2) commencement time and before this Act receives the Royal Assent that could have been done if this Act had received the Royal Assent before the FSR commencement time is taken to be as valid and lawful, and to always have been as valid and lawful, as it would have been if this Act had received the Royal Assent before the FSR commencement time.

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- (3) Anything done or omitted to have been done by a person after the FSR commencement time and before this Act received the Royal Assent that would have been valid and lawful if the Financial Services Reform Act had not commenced, is taken to be valid and lawful.
- (4) Anything done or omitted to have been done after the FSR commencement time and before this Act receives the Royal Assent
 - (a) that could only have been validly and lawfully done or omitted because this Act received the Royal Assent after the FSR commencement time; and
 - (b) that could not have been validly and lawfully done or omitted if this Act had received the Royal Assent before the FSR commencement time,

is taken not to be valid, and to never have been valid.

- The State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5, the State Administrative Tribunal Act 2004 s. 167 and 169, and the State Administrative Tribunal Regulations 2004 r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.
- The Superannuation Legislation Amendment and Validation Act 2006 s. 17 and 18 read as follows:

"

17. Validation of certain payments

(1) In this section —

Superannuation Act means the State Superannuation Act 2000, the Government Employees Superannuation Act 1987 or the Superannuation and Family Benefits Act 1938.

- (2) A payment or purported payment of a benefit under the State Superannuation Act 2000, the Government Employees Superannuation Act 1987 or the Superannuation and Family Benefits Act 1938 that was
 - (a) made before this section came into operation; and
 - (b) invalid or ineffective because of the *Administration Act 1903* section 10.

is, and is to be taken always to have been, as valid and effective as it would have been if the *State Superannuation Act 2000* section 40, as inserted by section 15 of this Act, had been in operation in respect of each Superannuation Act at the time of the payment.

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- (3) If—
 - (a) a benefit under the State Superannuation Act 2000, the Government Employees Superannuation Act 1987 or the Superannuation and Family Benefits Act 1938 was paid to an executor or administrator of the estate of a deceased person before this section came into operation; and
 - (b) the executor or administrator paid, or purportedly paid, some or all of the benefit to another person before this section came into operation; and
 - (c) the payment was invalid or ineffective because of the *Administration Act 1903* section 10,

the executor or administrator is, and is to be taken always to have been, as liable for the payment referred to in paragraph (b) as the executor or administrator would have been if the *State Superannuation Act 2000* section 40, as inserted by section 15 of this Act, had been in operation in respect of each Superannuation Act at the time of the payment referred to in paragraph (a).

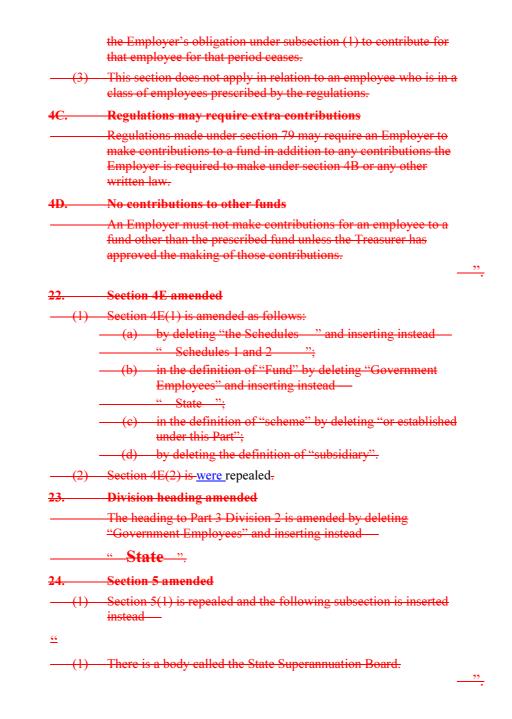
18. Validation of contributions made for visiting medical practitioners

- (1) In this section
 - **Board** means the Government Employees Superannuation Board referred to in the *State Superannuation Act 2000* section 5; *visiting medical practitioner* means a medical practitioner engaged, other than as an employee, to provide services in a hospital.
- (2) This section applies in relation to superannuation contributions made, or purportedly made, under the *Government Employees Superannuation Act 1987* or the *State Superannuation Act 2000* in respect of a visiting medical practitioner between 1 July 1992 and 30 June 2001.
- (3) A thing done, or purportedly done, by the Board in consequence of a superannuation contribution having been made, or purportedly made, in respect of a visiting medical practitioner is, and is to be taken always to have been, as valid and effective as if the contribution had been made in respect of a person who was a member of the relevant scheme.
- On the date as at which this compilation was prepared, the The State Superannuation Amendment Act 2007 Pt. 3, 4 and 5 Div. 3 Subdiv. 1 and 2 had not come into operation. They read as follows:

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Part 3 — Amendments at transfer time 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". Part 2 inserted After section 4 the following Part is inserted Part 2 Employer contribution obligation 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). 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. **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. 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,

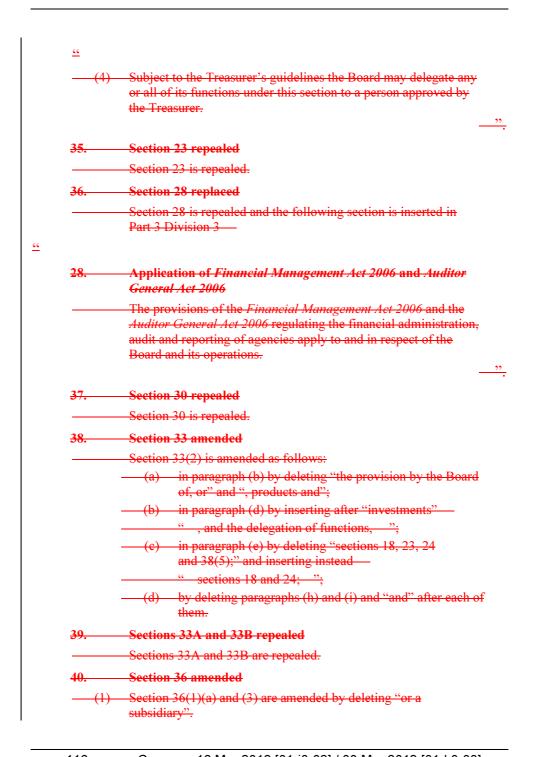
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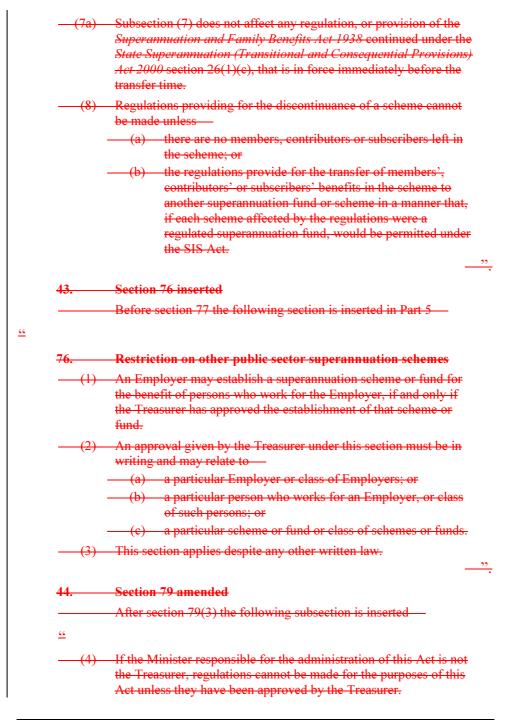
(2)	Section 5(3) is repealed and the following subsection is inserted instead—
<u>"</u>	
(3)	The Board is a continuation of, and the same legal entity as, the body that was, before the transfer time, called the Government Employees Superannuation Board.
	Note: The heading to section 5 will be altered by deleting "Government Employees" and inserting instead "State".
25.	Section 6 amended
(1)	Section 6(1) is amended as follows:
	— (a) after paragraph (c) by inserting—
	<u>«</u>
	— (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 r	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
<u>"</u>	
(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
<u> </u>	
(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
29.	Section 11 is repealed and the following section is inserted
29.	•
	Section 11 is repealed and the following section is inserted
11.	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities The Board may by arrangement with the relevant employer make
11.	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities The Board may by arrangement with the relevant employer make use, either full time or part time, of the services of any officer or
11.	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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—
11.	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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
11.	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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
11. — (1)	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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.
11. — (1)	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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. The Board may by arrangement with
11. — (1)	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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. The Board may by arrangement with (a) a department of the Public Service; or
11. — (1)	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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. The Board may by arrangement with (a) a department of the Public Service; or (b) a State agency,
11. ———————————————————————————————————	Section 11 is repealed and the following section is inserted instead Use of government staff and facilities 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. The Board may by arrangement with (a) a department of the Public Service; or

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
<u> </u>	
(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
	<u>«</u>
	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

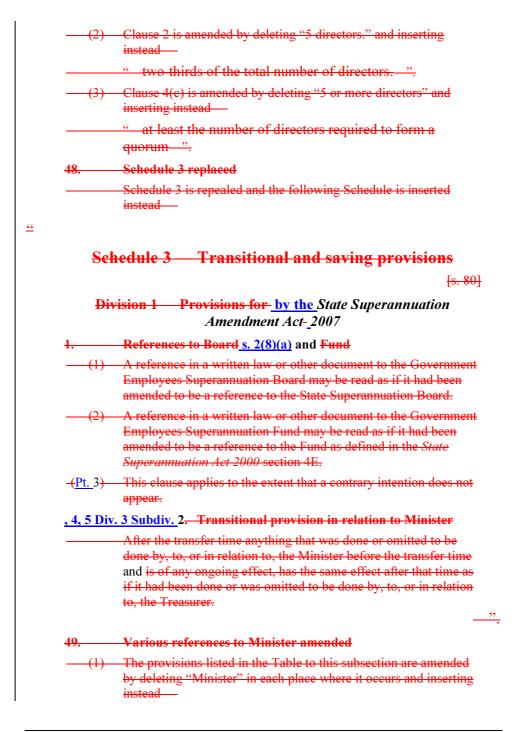


(2)	Section 36(2)(b) is amended by inserting after "facilities"
	" (including any being used in accordance with section 11) ".
(3)	Section 36(4) is amended in the definition of "beneficiary" by deleting paragraph (c) and inserting instead
	<u>"</u>
	(c) any other person to whom a benefit has been or 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—
	<u>«</u>
	(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—
	<u>«</u>
	; 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—
<u> </u>	
(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



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4 5	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
	<u>"State".</u>
(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) ".
(5)	Clause 4(2) is amended by deleting "under section 8(1)(e)" 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".



	" Treasurer ".	
s. 34(s. 35(s. 36((defn s. 77((1) (defn. of "actuary") (1) (1) and (2) (1), (2), (3) and (4) of "information") (2), (3), (5) and (6) 1 el. 1(1)	Table Seh. 1 cl. 2(1) Seh. 1 cl. 6(1), (2) Sch. 1 cl. 7 (first place only) Seh. 2 cl. 11(2) Sch. 2 cl. 12(3)
(2)	Section 6(1)(d) is ame	ended by deleting "Minister and the".
(3)	instead	ded by deleting "Minister's" and inserting
	" Treasurer's ".	
(4)	Section 77(1) is amen	
		nition of "direction" by deleting the and inserting instead a full stop;
		he definition of "Minister".
		ections 35 and 36 will be altered by deleting "Minister" and
	macrung mateau Treasurer	
	D4 4 A J	
		ments to introduce choice
50.	Part 4 Amend Section 4B amended	ments to introduce choice
	Section 4B amended	ments to introduce choice ded by deleting "the prescribed fund" and
	Section 4B amended Section 4B(1) is amen	
(1)	Section 4B amended Section 4B(1) is amen inserting instead " a fund ".	
(1)	Section 4B amended Section 4B(1) is amen inserting instead " a fund ".	ded by deleting "the prescribed fund" and
— (1) — (2) <u>"</u>	Section 4B amended Section 4B(1) is amen inserting instead " a fund ". After section 4B(1) th	e following subsections are inserted uired by subsection (1) to be made for an
— (1) — (2) <u>"</u>	Section 4B amended Section 4B(1) is amen inserting instead " a fund ". After section 4B(1) th The contributions requestion and the contributions requestion and the contributions requestions."	e following subsections are inserted uired by subsection (1) to be made for an
— (1) — (2) <u>"</u>	Section 4B amended Section 4B(1) is amen inserting instead "a fund ". After section 4B(1) th The contributions request be made and a chosen function of the contribution of the contribu	e following subsections are inserted uired by subsection (1) to be made for an de to

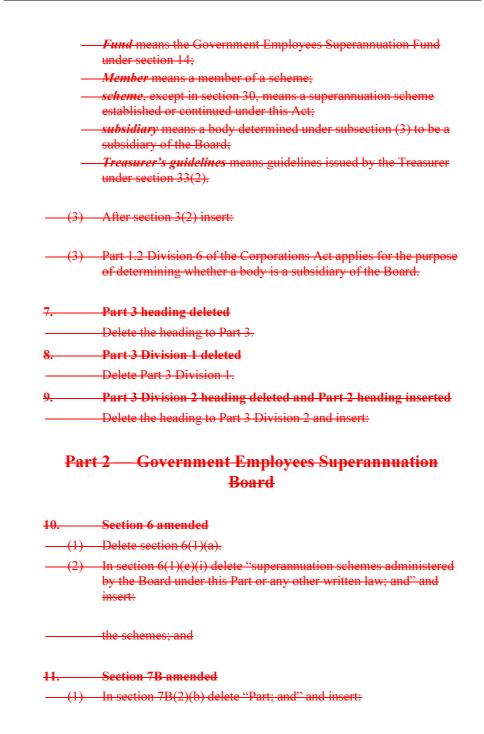
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51.	Section 4DPt. 6 Div. 2 were repealed
	Section 4D is repealed.
Part	5 Amendments relating to West State scheme
	Division 3 West State separated into sub-fund
	Subdivision 2 Amendments at separation time
72.	Section 4E amended
	Section 4E(1) is amended as follows:
	(a) by deleting the definition of "Fund" and inserting instead
<u> </u>	
_	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.
74.	Section 33 amended
	Section 33(2)(g) and "and" after it are deleted.
75.	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".
76.	Section 51 amended
	Section 51(1) and (2) are amended by inserting after "section 43(3)(e)"
	" or 75K(5) ".

"

On the date as at which this compilation was prepared, by the State Superannuation Amendment Act 2011 s. 3, Pt. 2-5 had not 4 before they purported to come into operation. They read as follows: Act amended This Act, other than Part 2 Division 1, amends the State Superannuation Act 2000. Part 2 State Superannuation Amendment Act 2007 repealed and related amendments Division 1 State Superannuation Amendment Act 2007 repealed 4. Act repealed The State Superannuation Amendment Act 2007 is repealed. **Division 2** Provisions related to the repeal of the State Superannuation Amendment Act 2007 Long title replaced Delete the long title and insert: An Act to provide for superannuation contributions and superannuation schemes for and in respect of people working or formerly working in the public sector and for related purposes. 6. Section 3 amended (1) In section 3(1) delete the definitions of: regulated superannuation fund SIS Act transfer time West State Scheme working day (2) In section 3(1) insert in alphabetical order: 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;

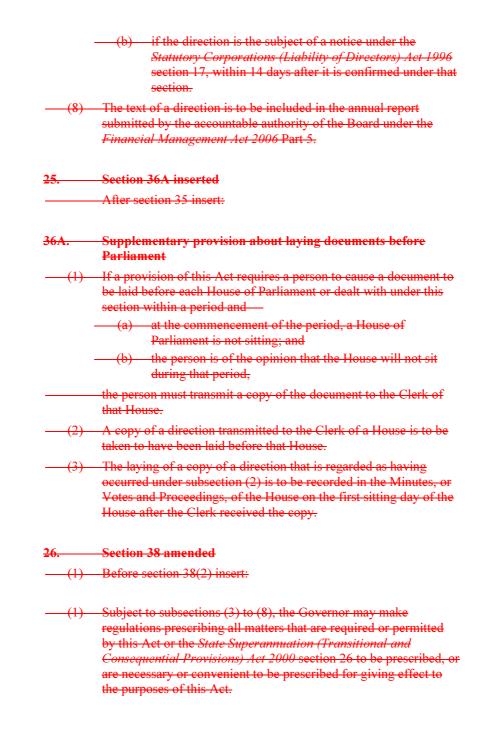
Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]



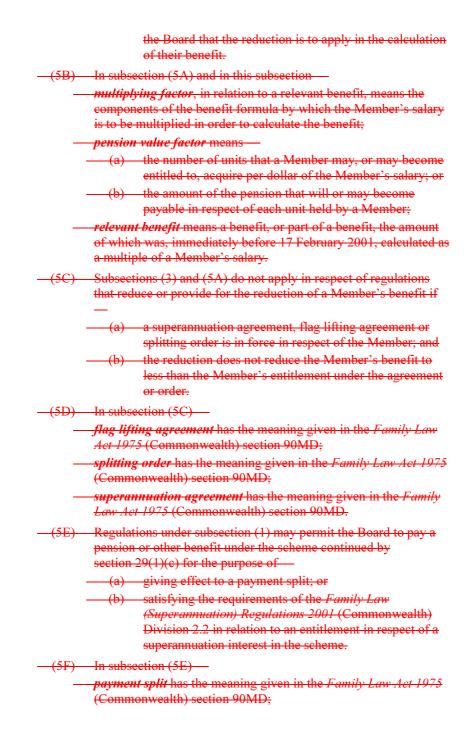
	-Act; and
(2)	In section 7B(2)(c) delete "Part." and insert:
	- Act.
(3)	In section 7B(4) delete "Part" and insert:
	—Act
12	Section 9 amended
	In section 9(1) delete "Part." and insert:
(1)	The section 9(1) defete Faft. and misert.
	—Act.
(2)	In section 9(2) delete "Part" and insert:
	—Act
13.	Part 3 Division 3 heading deleted and Part 3 heading inserted
	Delete the heading to Part 3 Division 3 and insert:
Pari	t 3 — Government Employees Superannuation Fund
	Section 14 amended
	Delete section 14(3) and (4).
15.	Section 15 amended
	In section 15(1)(a) delete "Part; and" and insert:
	—Act; and

16.	Part 3 Division 4 heading deleted and Part 4 heading inserted
	Delete the heading to Part 3 Division 4 and insert:
	Part 4 Superannuation Schemes
17.	Section 29 amended
(1)	In section 29(1) delete "Part " and insert:
	—Act—
(2)	Delete section 29(2).
18.	Section 30 amended
	In section 30(2)(a) delete "Part;" and insert:
	-Act; or
19.	Part 3 Division 5 heading deleted and Part 5 heading inserted
	Delete the heading to Part 3 Division 5 and insert:
Part 5	Government guarantees and appropriation of the Consolidated Account
20.	Section 31 amended
	In section 31(1)(b) delete "Part" and insert:
	—Act
21.	Part 3 Division 6 heading deleted and Part 6 heading inserted
	Delete the heading to Part 3 Division 6 and insert:
	Part 6 Miscellaneous

22.	Section 33B amended
(1)	In section 33B(3) delete "section 78" and insert:
	section 36A
(2)	At the end of section 33B insert:
(5)	The text of a direction referred to in subsection (3) is to be included in the annual report submitted by the accountable authority of the Board under the <i>Financial Management Act 2006</i> Part 5.
23.	Section 34 amended
	In section 34(1) delete "Part" and insert:
	— Act
24.	Section 35 amended
	Delete section 35(3) and insert:
(2)	
(3)	Subject to subsections (5) and (6), a direction becomes effective on the expiry of 7 days after the Board receives it or of such longer period as the Treasurer may, at the Board's request, determine.
(4)	If the Board asks the Treasurer to extend the 7 day period under subsection (3), the Treasurer must decide whether or not to agree to the request and notify the Board of that decision before the 7 day period has expired.
(5)	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).
(6)	Despite the Statutory Corporations (Liability of Directors) Act 1996 section 17(4), the Treasurer 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.
- (7)	The Treasurer must cause a copy of a direction to be laid before each House of Parliament or dealt with under section 36A— (a) within 14 days after the direction is given; or



(2)	In section 38(2):
	(a) delete "section 79 but subject to this section," and insert:
	subsection (1),
	— (b) delete "under section 79" and insert:
	——————————————————————————————————————
(3)	Delete section 38(3) and insert:
(3)	Regulations cannot be made under subsection (1) if they reduce the amount of a benefit that—
	(a) accrued or became payable before the regulations came into operation; or
	(b) is, or may become, payable in relation to a period before the regulations came into operation.
, ,	After section 38(4) insert: Regulations cannot be made under subsection (1) in relation to the superannuation schemes continued by section 29(1)(a), (b) or (c) unless—
	(a) the Board has certified that it is satisfied that the
	proposed regulations will not affect contributions or benefits; or
	(b) an actuary appointed by the Board has certified that the proposed regulations will not reduce, or have the same effect as reducing—
	(i) in the case of a scheme continued by section 29(1)(a) or (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,
	to less than it was immediately before 17 February 2001;
	or (c) any reduction of the kind referred to in paragraph (b) will apply only in respect of Members who have agreed with



	superannuation interest has the meaning given in the Family Law Act 1975 (Commonwealth) section 90MD.
(5)	In section 38(5): (a) delete "Regulations that" and insert:
	Regulations cannot be made under subsection (1), unless they have been approved by the Treasurer, if they
	(b) in paragraph (a) delete "Part to the extent that" and insert:
	——————————————————————————————————————
	(c) in paragraph (b) delete "subsection (2)(j)," and insert:
	subsection (2)(j).
	— (d) delete "cannot be made unless they have been approved by the Treasurer.".
(6)	Delete section 38(6) and insert:
(6)	Regulations that prescribe an authority, body or person for the purposes of the definition of <i>Employer</i> in section 3 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 <i>Gazette</i> .
(7)	Regulations of the kind referred to in subsection (6) 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.
(7)	— In section 38(8) delete "section 37 or".

(8) Delete section 38(9) and (10).

27.	Section 40 amended	
	In section 40 delete "t section 38" and insert	this Part and the regulations referred to in
	this Act and the regul	ations made or applying under it
28.	Parts 4, 4A and 5 de	
	Delete Parts 4, 4A and	
29.	Schedule 1 amended	
	In Schedule 1 clause 6(2)(e) delete "Part 3; or" and insert:	
	this Act; or	
30.	Schedule 2 amended	Į.
	In Schedule 2 clause	1 delete "Part 3." and insert:
	this Act.	
₽	Part 3 — Amendme	ents relating to the Treasurer
31.	Various references t	o "Minister" amended
	In the provisions liste occurrence) and inser	ed in the Table delete "Minister" (each t:
	——Treasurer	
		Table
s. 3	def. of <i>actuary</i>	s. 7A(1) and (3)
s. 7	B(5)	s. 8(1)(a)
s. 3	3B(1) and (3)	s. 34(1)
s. 3	5(1) and (2)	s. 36(1), (2), (3) and (4) def. of

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03] Extract from www.slp.wa.gov.au, see that website for further information

information

Sch. 1 cl. 1(1)	Sch. 1 cl. 1(2)
Sch. 1 cl. 2(1)	Sch. 1 cl. 2(2)
Sch. 1 cl. 6(1)(b) and (d)	Sch. 1 cl. 6(2)
Sch. 1 cl. 6(3)	Sch. 1 cl. 6(4)
Sch. 2 cl. 11(2)	Sch. 2 cl. 12(3)
Sch. 3 cl. 2(2)	Sch. 3 cl. 3(3)

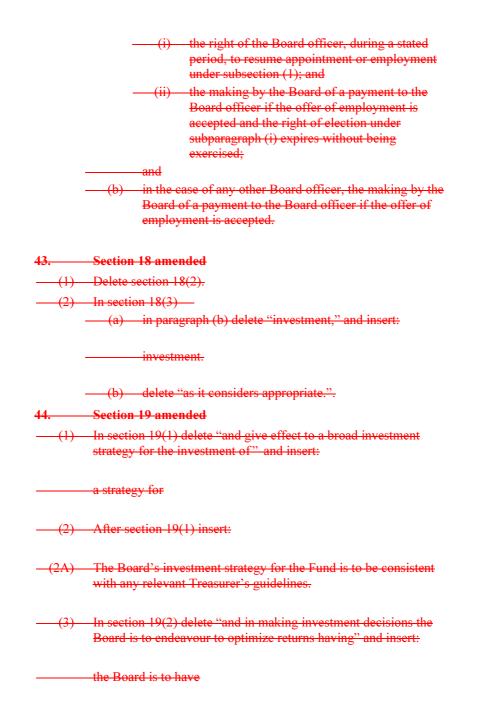
Note: The heading to amended section 35 is to read: Treasurer may give directions to Board Section 6 amended In section 6(1)(d) delete "the Minister and". 33. Section 7A amended Delete section 7A(2). 34. Section 30 amended (1) In section 30(1) delete "Minister and the Treasurer have" and insert: Treasurer has In section 30(2) delete "Minister and the Treasurer have" and insert: Treasurer has (3) In section 30(3) delete "Minister and the". 35. Section 33B amended (1) In section 33B(2)(d) delete "Board, the Minister" and insert: -Board

Compare 16 Mar 2012 [01-j0-02] / 30 Mar 2012 [01-k0-03]

(2) Delete section 33B(4).

	Section 36 amended
	In section 36(1) delete "Minister's" and insert:
-	Treasurer's
	Note: The heading to amended section 36 is to read: Treasurer to have access to information
37.	Section 37 deleted
	Delete section 37.
38	Schedule 1 amended
	In Schedule 1 clause 7 delete "Minister" and insert:
39.	Schedule 3 amended
	In Schedule 3 clause 1 in the definition of <i>prior approval</i> delete "Minister given with the Treasurer's concurrence." and insert:
	Treasurer.
P	Treasurer. art 4 — Amendments relating to administration and funding
	art 4 — Amendments relating to administration
	art 4 — Amendments relating to administration and funding — Section 6 amended — In section 6(1):
	art 4 — Amendments relating to administration and funding Section 6 amended
	art 4 — Amendments relating to administration and funding Section 6 amended In section 6(1): (a) in paragraph (c) delete "schemes; and" and insert: schemes or, in accordance with any relevant Treasurer
	art 4 — Amendments relating to administration and funding — Section 6 amended — In section 6(1): — (a) — in paragraph (c) delete "schemes; and" and insert: — schemes or, in accordance with any relevant Treasurer guidelines, select and appoint external administrators of

	— (c) in paragraph (f) after "under" insert:
	this Act or
41.	Section 7 amended
	—In section 7(2):
	(a) in paragraph (b) before "enter" insert:
	in accordance with any relevant Treasurer's guidelines,
	(b) in paragraph (c) before "enter" insert:
	in accordance with any relevant Treasurer's guidelines,
	(c) in paragraph (ca) delete "subsidiary for the purpose of performing the function referred to in section 6(1)(e); and" and insert:
	subsidiary; and
42.	Section 11 amended
(1)	In section 11(2) delete "Board." and insert:
	Board on the advice of the Public Sector Commissioner.
(2)	After section 11(2) insert:
(3)	If the Board appoints an external administrator to conduct the administration of a scheme or schemes and in connection with that appointment the external administrator makes an offer of employment to a person appointed or employed by the Board under subsection (1) or (2) (a <i>Board officer</i>), the Board may enter into an agreement with the Board officer on terms approved by the Public Sector Commissioner providing for
	(a) in the case of a Board officer who is a permanent public service officer appointed or employed under subsection (1)



(4)	In section 19(3):
	(a) in paragraph (a) delete "broad";
	(b) delete "the Treasurer's" and insert:
	any relevant Treasurer's
(5)	After section 19(3) insert:
(4)	In exercising its powers under section 18 the Board is to
	(a) act in accordance with any relevant Treasurer's
	guidelines; and
	(b) act so as to give effect to its investment strategy.
	— Note: — The heading to amended section 19 is to read: Exercise of investment powers
45.	Section 20A inserted
	After section 19 insert:
	11101 500101 17 1150111
20 A.	— Reserves
	Reserves The Board may maintain reserves within the Fund.
(1)	
(1) (2)	The Board may maintain reserves within the Fund.
(1) (2)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with—
(1) (2)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent
(1) (2)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with (a) the Board's capacity to discharge the liabilities of the
— (1) — (2) — (3)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with— (a) the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and (b) any relevant Treasurer's guidelines.
— (1) — (2) — (3)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with— (a)—the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and
— (1) — (2) — (3) — (4)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with— (a)—the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and—(b)—any relevant Treasurer's guidelines. The Board is to review its reserving strategy from time to time in
— (1) — (2) — (3) — (4)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with— (a) the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and (b) any relevant Treasurer's guidelines. The Board is to review its reserving strategy from time to time in accordance with any relevant Treasurer's guidelines.
— (1) — (2) — (3) — (4)	The Board may maintain reserves within the Fund. The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with— (a) the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and— (b) any relevant Treasurer's guidelines. The Board is to review its reserving strategy from time to time in accordance with any relevant Treasurer's guidelines. In exercising its power under subsection (1) the Board is to— (a) act in accordance with any relevant Treasurer's
— (1) — (2) — (3) — (4)	The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with— (a) the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and (b) any relevant Treasurer's guidelines. The Board is to review its reserving strategy from time to time in accordance with any relevant Treasurer's guidelines. In exercising its power under subsection (1) the Board is to— (a) act in accordance with any relevant Treasurer's guidelines; and
— (1) — (2) — (3) — (4) — (5)	The Board is to formulate a reserving strategy for the Fund. The Board's reserving strategy for the Fund is to be consistent with— (a) the Board's capacity to discharge the liabilities of the Fund, actual and contingent, as they fall due; and (b) any relevant Treasurer's guidelines. The Board is to review its reserving strategy from time to time in accordance with any relevant Treasurer's guidelines. In exercising its power under subsection (1) the Board is to— (a) act in accordance with any relevant Treasurer's guidelines; and

22.	Allocation of earnings and costs
(1)	The Board is to allocate—
	— (a) earnings derived from the investment of the Fund; and
	(b) the costs of managing and administering the Fund and the schemes,
	between the schemes and where appropriate between Members.
(2)	— In allocating earnings and costs under subsection (1) the Board is to—
	(a) ensure compliance with any relevant guidelines; and
	(b) otherwise act in accordance with section 6(2).
47.	Section 23 amended
	In section 23(2) delete "the Treasurer's" and insert:
	any relevant Treasurer's
48.	Section 24 amended
	In section 24(1)(c) delete "the Treasurer's" and insert:
	any relevant Treasurer's
49.	Section 33 amended
(1)	In section 33(2):
	— (a) delete "may issue" and insert:
	may, after consulting the Board, issue
	(b) before paragraph (a) insert:
	(aa) the exercise by the Board of its powers under
	section 6(1)(c) to select and appoint external
	administrators of the schemes and monitor their administration; and
	— (c) after paragraph (b) insert:

	(ca) the exercise by the Board of its powers under section 7(2)(b) and (c); and
	(d) in paragraph (d) delete "making of investments" and insert:
	exercise of the Board's powers
	(e) after paragraph (e) insert:
	(fa) the formulation and review of an investment strategy under section 19; and
	(f) after paragraph (f) insert:
	(ga) the maintenance of reserves and the formulation and review of a reserving strategy under section 20A; and
	(g) in paragraph (g) after "earnings" insert:
	and costs of managing and administering the Fund and the schemes
(2)	After section 33(3) insert:
(4A)	Where guidelines are issued under subsection (2), the Treasurer is to—
	(a) publish notice of the guidelines in the <i>Gazette</i> within 21 days of the issue; and
	(b) make and, for so long as they remain current, keep the guidelines accessible on or through a website maintained by the Department.
(4B)	In subsection (4A)
_	Department means the department of the Public Service principally assisting in the administration of this Act.

Part 5 — Amendments to introduce choice Part 2A inserted After section 4 insert: Part 2A — Employer contribution obligation Terms used (1) In this Part -chosen fund means a fund chosen by an employee in accordance with the SGA Act Part 3A Division 4; default fund means (a) in relation to an employee who is not an exempt employee, a fund prescribed by the regulations as the default fund for that employee; and in relation to an exempt employee, a fund named by the Employer of that employee, with the approval of the Treasurer, as the default fund for that employee; employee has the meaning given in the SGA Act section 12; exempt employee means an employee for whom an Employer, in accordance with section 30(1) or (2), makes or may make superannuation contributions to a fund that is not a scheme under this Act; 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; 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). 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. **Employers to make contributions** (1) An Employer must make superannuation contributions such that the Employer will avoid incurring an individual superannuation guarantee shortfall for any of its employees. Where subsection (1) requires an Employer to make contributions for an employee, the Employer must pay the contributions to

	— (a) a chosen fund for the employee; or
	(b) if at the time the contribution is paid there is no chosen
	fund for the employee, the default fund.
(3)	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.
(4)	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 has no obligation under subsection (1) to make
	contributions in respect of that employee for that period.
(5)	This section does not apply in relation to an employee who is in a
	elass of employees prescribed by the regulations.
4 C.	Regulations may require extra contributions
(1)	Subject to subsection (2), the regulations may require an Employer
	to make superannuation contributions which exceed any
	contributions the Employer is required to make under section 4B
	or any other written law.
(2)	Regulations which require an Employer to make contributions to a
	fund must either
	(a) specify the amount or rate of contributions to be made; or
	(b) specify the way in which the amount or rate of
	contributions is to be determined, in which case the
	regulations must provide that the determination of the rate or amount of contributions is to be subject to the
	approval of the Treasurer.
	approvar of the freustrer.
51	Costlon Committee
51.	— Section 6 amended
	After section 6(1)(a) insert:
	(ba) if so agreed with the Treasurer, provide a service of
	receiving superannuation contributions paid by Employers and—
	• •
	(i) crediting them to the Fund; or
	— (ii) remitting them on behalf of the Employers to other funds.
	in accordance with Part 2A; and

52.	Section 15 amended
	After section 15(2)(a) insert:
	— (aa) — amounts transferred from the Fund to other superannuation funds; and
53.	Section 30 amended
(1)	In section 30(2) delete "and only if the Minister and the Treasurer have" and insert:
	the Treasurer has
(2)	After section 30(2) insert:
(3A)	An Employer may make superannuation contributions in accordance with section 4B(2) for persons who work for the Employer to a superannuation fund or scheme other than (a) a scheme under this Act; or (b) a superannuation scheme or fund established in accordance with subsection (1); or (c) a superannuation scheme or fund established before 28 December 1989.