



Western Australia

State Superannuation (Transitional and Consequential Provisions) Act 2000

State Superannuation (Transitional and Consequential Provisions) Act 2000

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Defined terms

Western Australia

State Superannuation (Transitional and Consequential Provisions) Act 2000

An Act to —

- **amend various Acts; and**
- **enact transitional provisions,**

as a consequence of the enactment of the *State Superannuation Act 2000*.

Part 1 — Introductory

1. Short title

This Act may be cited as the *State Superannuation (Transitional and Consequential Provisions) Act 2000*.

2. Commencement

- (1) Parts 1 and 2 and sections 35, 42, 45, 49, 52, 58, 59(b), 65, 69 and 70 come into operation on the day on which the *State Superannuation Act 2000* comes into operation.
- (2) Part 3, other than the provisions referred to in subsection (1), comes into operation on a day fixed by proclamation.
- (3) Different days may be fixed under subsection (2) for different provisions.

3. Interpretation

- (1) In this Act —
commencement day means the day on which this Part comes into operation;
continues means continues in force on and after the commencement day;
current means in force immediately before the commencement day.
- (2) Where terms defined in the *State Superannuation Act 2000* are used in this Act they have the same meaning in this Act as they have in that Act.

4. Power to restore lost rights

If as a result of the coming into operation of this Act a person has ceased to be entitled to a right, privilege or benefit to which the person was, or might have been, entitled immediately before the commencement day the Minister may —

- (a) permit the person to exercise the right;

- (b) grant the person the privilege; or
- (c) pay the benefit to the person.

Part 2 — Transitional provisions

5. Policies and strategies of the Board

Current policies for the administration of the GES Act or the S&FB Act determined by the Board under section 6(1)(a) of the GES Act, continue as policies determined by the Board in the exercise of its functions under section 6(1) of the *State Superannuation Act 2000*.

6. Board members continue as directors

- (1) The chairman of the Board appointed under section 5(3)(a) of the GES Act continues as chairman as if the appointment had been made under section 8(1)(a) of the *State Superannuation Act 2000*.
- (2) The members of the Board appointed under section 5(3)(b) of the GES Act continue as Employer directors as if their appointments had been made under section 8(1)(b) of the *State Superannuation Act 2000*.
- (3) The members of the Board elected under section 5(3)(c) of the GES Act continue as Member directors as if they had been elected under section 8(1)(c) of the *State Superannuation Act 2000*.
- (4) The deputy chairman appointed under clause 2 of Schedule 3 to the GES Act continues as deputy chairman as if the appointment had been made under clause 2 of Schedule 1 to the *State Superannuation Act 2000*.
- (5) If an election for the purposes of section 5(3)(c) of the GES Act was called before the commencement day but as at that day is not concluded —
 - (a) the election is to be conducted in accordance with the GES Act as if it were still in operation; and
 - (b) a director elected at the election continues as a Member director as if the election had been held under section 8(1)(c) of the *State Superannuation Act 2000*.

7. Protection from liability

The protection from liability provided by clause 4 of Schedule 3 to the GES Act in respect of matters or things done or omitted to be done for the purposes of that Act, continues as if that clause were still in operation.

8. Common seal

- (1) On the commencement day the common seal of the Board under section 5(2) of the GES Act becomes the common seal of the Board under the *State Superannuation Act 2000*.
- (2) A current direction given by the Board as to the custody of the common seal under clause 11(b) of Schedule 3 to the GES Act, continues as a direction under section 10(2)(b) of the *State Superannuation Act 2000*.
- (3) A current authorization given by the Board as to the use of the common seal under clause 11(c) of Schedule 3 to the GES Act, continues as an authorization under section 10(2)(c) of the *State Superannuation Act 2000*.

9. Staff

- (1) Current appointments made under the *Public Sector Management Act 1994* in accordance with section 8 of the GES Act, continue as if they had been made in accordance with section 11(1) of the *State Superannuation Act 2000*.
- (2) Current appointments and contracts of employment under section 8(2) of the GES Act continue as if they had been made under section 11(2) of the *State Superannuation Act 2000*.
- (3) Current contracts for services under section 8(3) of the GES Act, continue as if they had been made in accordance with section 7(2)(b) of the *State Superannuation Act 2000*.

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10. Delegation

A current delegation made by the Board under section 56 of the GES Act, continues as a delegation under section 12 of the *State Superannuation Act 2000*.

11. Review of decisions of the Board

- (1) A person —
- (a) referred to in section 54 of the GES Act who is aggrieved by a decision of the Board made under that Act; or
 - (b) aggrieved by a decision of the Board under the S&FB Act,

may apply under section 13(1) of the *State Superannuation Act 2000* for a review of that decision as if it had been made under the *State Superannuation Act 2000*.

- (2) If a person made representations to the Board under section 54(1) of the GES Act before the commencement day but as at that day the Board has not reviewed the decision to which the representations relate, the Board is to review the decision as if —
- (a) the decision were a decision under the *State Superannuation Act 2000*; and
 - (b) the representations were an application under section 13(1) of the *State Superannuation Act 2000*.
- (3) If a person referred a dispute to the Board for resolution under section 85 of the S&FB Act before the commencement day but as at that day the Board has not resolved the dispute, the Board is to review the decision the subject of the dispute as if —
- (a) the decision were a decision under the *State Superannuation Act 2000*; and

- (b) the referral of the dispute were an application under section 13(1) of the *State Superannuation Act 2000*.
- (4) If proceedings for the resolution of a dispute were commenced in the Supreme Court under section 85 of the S&FB Act before the commencement day but as at that day the proceedings have not been determined, the proceedings are to be dealt with and determined in accordance with the S&FB Act as if that Act were still in operation.

12. Actuarial investigation

If an actuarial investigation under section 11 of the GES Act or section 30 of the S&FB Act commenced before the commencement day but as at that day a report on the results of the investigation has not been received by the Board, the actuary is to continue the investigation and report on it as if it were an investigation under section 17 of the *State Superannuation Act 2000*.

13. Review of investments

If an investment review under section 13(6) of the GES Act commenced before the commencement day but as at that day has not been completed, the Board is to continue the review as if it were a review under section 19(3) of the *State Superannuation Act 2000*.

14. Investment manager

- (1) A current approval of a person as an investment manager given by the Treasurer under section 13(4) of the GES Act, continues as an approval under section 23(1)(b) of the *State Superannuation Act 2000*.
- (2) A current appointment of a person as an investment manager made under section 13(4) of the GES Act, continues as an appointment under section 23(1) of the *State Superannuation Act 2000*.

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- (3) A current delegation to an investment manager under section 13(5) of the GES Act, continues as a delegation under section 23(2) of the *State Superannuation Act 2000*.

15. Recovery of money owing to the Fund

- (1) On the commencement day any money owing to the Fund under the GES Act or the S&FB Act immediately before that day becomes money owing to the Fund under the *State Superannuation Act 2000*.
- (2) If proceedings for the recovery of money owing to the Fund were commenced under section 16(1)(a) of the GES Act or section 88 of the S&FB Act before the commencement day but as at that day have not been completed, the proceedings are to be dealt with and determined in accordance with the GES Act or the S&FB Act, as the case requires, as if that Act were still in operation.
- (3) A current determination made under section 16(1)(c) of the GES Act, continues as if it had been set out in a direction under section 26(2) of the *State Superannuation Act 2000*.
- (4) A current written request made under section 16(2) of the GES Act, continues as a direction under section 26(2) of the *State Superannuation Act 2000*.
- (5) A current determination as to a rate of interest made under section 16(3) of the GES Act or section 49 of the S&FB Act, continues as a determination under section 25(1) of the *State Superannuation Act 2000*.

16. Approval of other superannuation schemes

- (1) A current approval given by the Treasurer under section 56A of the GES Act, continues as an approval of the Treasurer and the Minister under section 30(1) of the *State Superannuation Act 2000*.

- (2) A current approval given by the Treasurer for the purposes of the GES Act allowing an Employer to make superannuation contributions other than under the S&FB Act or the GES Act continues as an approval of the Treasurer and the Minister under section 30(2) of the *State Superannuation Act 2000*.

17. Guarantee of Board's obligations

A current guarantee given by the Treasurer under section 15(1) of the GES Act, continues as a guarantee under section 31(1)(b) of the *State Superannuation Act 2000*.

18. Treasurer's approvals and guidelines

- (1) A current approval given by the Treasurer under section 13(2) or 14 of the GES Act, continues as an approval under section 18(1) or 24 respectively of the *State Superannuation Act 2000*.
- (2) Current guidelines issued by the Treasurer under section 13(3) of the GES Act, continue as guidelines under section 33(2) of the *State Superannuation Act 2000*.

19. Treasurer's directions to Employers

Current instructions issued by the Treasurer under section 52A of the GES Act, continue as directions given by the Minister under section 34 of the *State Superannuation Act 2000*.

20. Minister's directions to the Board

A current direction given under section 6(3) of the GES Act, continues as a direction under section 35 of the *State Superannuation Act 2000*.

21. Minister to have access to information

A current request for information or access to information made by the Minister under section 8A(2)(a) or (b) of the GES Act, continues as a request under section 36(2)(a) of the *State Superannuation Act 2000*.

22. Determination of remuneration

A current determination made by the Minister under section 7 of the GES Act, continues as a determination under clause 7 of Schedule 1 to the *State Superannuation Act 2000*.

23. Board procedures

Current procedures determined by the Board under clause 7 of Schedule 3 to the GES Act, continue as procedures under clause 1 of Schedule 2 of the *State Superannuation Act 2000*.

24. Disclosure of interests

A current disclosure made by a member of the Board under clause 5 of Schedule 3 to the GES Act, continues as a disclosure under clause 10 of Schedule 2 to the *State Superannuation Act 2000*.

25. Transitional regulations

- (1) If there is no sufficient provision in this Act for dealing with a transitional matter, the Governor may make regulations prescribing all matters that are required, or are necessary or convenient, for dealing with that transitional matter.
- (2) Regulations made under subsection (1) may specify as the day on which they come into operation a day that is earlier than the day on which they are published in the *Gazette*.
- (3) Subregulation (2) does not apply to regulations that 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.

- (4) In subsection (1) —

transitional matter means a matter that it is necessary or convenient to deal with for the purpose of effecting the transition from the S&FB Act and the GES Act to the *State Superannuation Act 2000*.

26. Continuation of rules for continued schemes ¹

- (1) Despite the repeals effected by section 39 of the *State Superannuation Act 2000* —
- (a) the provisions of Parts I (including Schedule 1), VIIA, VIIB and VIII (including Schedule 4) of the GES Act continue to apply to and in relation to the superannuation scheme continued by section 29(a) of the *State Superannuation Act 2000*;
 - (b) Parts I (including Schedule 1), IV, V, VI, VII, VIIB and VIII (including Schedule 4) of the GES Act continue to apply to and in relation to the superannuation scheme continued by section 29(b) of the *State Superannuation Act 2000*; and
 - (c) the provisions of the S&FB Act continue to apply to and in relation to the superannuation schemes continued by section 29(c) and (d) of the *State Superannuation Act 2000*.
- (2) The provisions referred to in subsection (1)(a), (b) or (c) continue to apply —
- (a) as if they were regulations made under the *State Superannuation Act 2000*; and
 - (b) only to the extent that they are not inconsistent with that Act.
- (3) Regulations may be made under the *State Superannuation Act 2000* to amend, or to discontinue the application of, the provisions of the GES Act and the S&FB Act continued by this section.

- (4) While any provisions of the GES Act or S&FB Act continue to apply under this section a reference in an Act amended by Part 3 to the *Government Employees Superannuation Act 1987* or the *Superannuation and Family Benefits Act 1938* is to be read, where it is appropriate in the context to do so, as including a reference to the provisions of that Act as so continuing.

[Section 26 amended: No. 25 of 2007 s. 78.]

Part 3 — Consequential amendments

27. ***Agriculture and Related Resources Protection Act 1976***
amended
[To be proclaimed]
28. ***Agriculture Protection Board Act 1950*** amended
[To be proclaimed]
29. ***Alcohol and Drug Authority Act 1974*** amended
[To be proclaimed]
30. ***Animal Resources Authority Act 1981*** amended
[To be proclaimed]
31. ***Anti-Corruption Commission Act 1988*** amended
[To be proclaimed]
32. ***Art Gallery Act 1959*** amended
[To be proclaimed]
33. ***Builders' Registration Act 1939*** amended
- (1) Section 5AA(2)(a) of the *Builders' Registration Act 1939* is amended by deleting “and the *Government Employees Superannuation Act 1987*”.
- [(2) To be proclaimed]*
34. ***Commercial Tribunal Act 1984*** amended
[To be proclaimed]
35. ***Constitution Acts Amendment Act 1899*** amended
Part 3 of Schedule V to the *Constitution Acts Amendment Act 1899* is amended as follows:

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- (a) by inserting the following item after the item for “The Government Employees’ Housing Authority” —

“

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

”;

- (b) by deleting the item “The Superannuation Board constituted under the *Superannuation and Family Benefits Act 1938*.”.

36. Coroners Act 1996 amended

- (1) Section 6(5) of the *Coroners Act 1996* is amended by deleting “or a member within the meaning of the *Government Employees Superannuation Act 1987*”.

[(2) *To be proclaimed*]

37. Corporations (Western Australia) Act 1990 amended

- (1) Section 83 of the *Corporations (Western Australia) Act 1990* is amended as follows —

- (a) at the end of subsection (1)(b)(i) by deleting “; or” and inserting a comma instead;
- (b) by deleting subsection (1)(b)(ii).

[(2) *To be proclaimed*]

38. Curtin University of Technology Act 1966 amended

[To be proclaimed]

39. Director of Public Prosecutions Act 1991 amended

- (1) Clause 3 of Schedule 1 to the *Director of Public Prosecutions Act 1991* is amended as follows:
- (a) in subclause (1) by deleting “or the *Government Employees Superannuation Act 1987*”;

(b) in subclause (2) by deleting “the *Government Employees Superannuation Act 1987* and”;

(c) by deleting subclause (3);

(d) in subclause (5) by deleting “Where subclause (1) does not apply” and inserting instead —

“

If the Director is not a contributor within the meaning of the *Superannuation and Family Benefits Act 1938* or a member under the *State Superannuation Act 2000*

”;

(e) in subclause (7) by deleting “enactments referred to in subclause (1)” and inserting instead —

“

Superannuation and Family Benefits Act 1938 or the *State Superannuation Act 2000*

”;

(f) in subclause (8) by deleting “any enactment referred to in subclause (1)” and inserting instead —

“

the *Superannuation and Family Benefits Act 1938* or the *State Superannuation Act 2000*

”.

[(2) *To be proclaimed*]

40. *Edith Cowan University Act 1984* amended

[*To be proclaimed*]

[**41.** *Deleted: No. 74 of 2003 s. 111.*]

42. *Electricity Corporation Act 1994* amended

Section 19(4) of the *Electricity Corporation Act 1994* is amended by deleting “*Superannuation and Family Benefits Act 1938* or the *Government Employees Superannuation Act 1987*” and inserting instead —

“ *State Superannuation Act 2000* ”.

43. *Family Court Act 1997* amended

- (1) Section 17 of the *Family Court Act 1997* is amended by deleting “or a member within the meaning of the *Government Employees Superannuation Act 1987*”.

[(2) *to be proclaimed*]

44. *Financial Administration and Audit Act 1985* amended

[*To be proclaimed*]

45. *Gas Corporation Act 1994* amended

Section 19(4) of the *Gas Corporation Act 1994* is amended by deleting “*Superannuation and Family Benefits Act 1938* or the *Government Employees Superannuation Act 1987*” and inserting instead —

“ *State Superannuation Act 2000* ”.

46. *Gold Corporation Act 1987* amended

- (1) Schedule 2 to the *Gold Corporation Act 1987* is amended in clause 3(2)(c) by deleting “an employer listed in Schedule 1 of the *Government Employees Superannuation Act 1987*” and inserting instead —

“

by a person who, or body that, is an Employer for the purposes of the *State Superannuation Act 2000*

”.

[(2) to be proclaimed]

[47. Deleted: No. 31 of 2003 s. 153(2)(a).]

48. *Hospitals and Health Services Act 1927 amended*

(1) Section 7E of the *Hospitals and Health Services Act 1927* is amended as follows:

- (a) in subsection (2) —
 - (i) at the end of paragraph (c) by deleting “; or” and inserting a comma instead;
 - (ii) by deleting paragraph (d);
- (b) in subsection (5) by deleting “the *Government Employees Superannuation Act 1987*” and inserting instead —

“

a superannuation scheme under the *State Superannuation Act 2000*

”.

[(2) deleted]

[Section 48 amended: No. 11 of 2016 s. 304.]

49. *Housing Loan Guarantee Act 1957 amended*

Section 5(1)(d) of the *Housing Loan Guarantee Act 1957* is deleted and the following paragraph is inserted instead —

“

- (d) the Government Employees Superannuation Board under the *State Superannuation Act 2000*;

”.

50. *Insurance Commission of Western Australia Act 1986 amended*

[To be proclaimed]

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51. *Judges' Salaries and Pensions Act 1950* amended

[To be proclaimed]

52. *Land Tax Assessment Act 1976* amended

Section 5(1) of the *Land Tax Assessment Act 1976* is amended in the definition of “public statutory authority” by deleting “established by the *Government Employees Superannuation Act 1987*” and inserting instead —

“ under the *State Superannuation Act 2000* ”.

53. *Law Reform Commission Act 1972* amended

[To be proclaimed]

54. *Library Board of Western Australia Act 1951* amended

[To be proclaimed]

[55. Deleted: No. 31 of 2003 s. 158.]

56. *Museum Act 1969* amended

[To be proclaimed]

57. *Perth Theatre Trust Act 1979* amended

[To be proclaimed]

58. *Port Authorities Act 1999* amended

Section 19 of the *Port Authorities Act 1999* is amended as follows:

- (a) in subsection (1) by deleting “section 56A of the *Government Employees Superannuation Act 1987*” and inserting instead —

“ section 30 of the *State Superannuation Act 2000* ”;

- (b) in subsection (4) by deleting “*Superannuation and Family Benefits Act 1938* or the *Government Employees Superannuation Act 1987*” and inserting instead —
“ *State Superannuation Act 2000* ”.

59. Public Sector Management Act 1994 amended

The *Public Sector Management Act 1994* is amended as follows:

- (a) *[to be proclaimed]*
- (b) in Schedule 2, item 16 by deleting “established under the *Government Employees Superannuation Act 1987*” and inserting instead —
“ under the *State Superannuation Act 2000* ”.

60. Retirement Villages Act 1992 amended

- (1) Section 25(1)(g)(i) of the *Retirement Villages Act 1992* is amended by deleting “and the *Government Employees Superannuation Act 1987*”.

[(2) to be proclaimed]

[61. Deleted: No. 74 of 2003 s. 111.]

62. School Education Act 1999 amended

Clause 14 in Schedule 1 to the *School Education Act 1999* is repealed.

63. Small Claims Tribunals Act 1974 amended

[To be proclaimed]

64. Solicitor-General Act 1969 amended

[To be proclaimed]

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

Schedule 1 to the *Statutory Corporations (Liability of Directors) Act 1996* is amended by deleting the item for the Government Employees Superannuation Board and inserting the following item instead —

“

Government Employees a director *State Superannuation*
Superannuation Board *Act 2000*

”.

66. *Stipendiary Magistrates Act 1957* amended

[To be proclaimed]

67. *Strata Titles Act 1985* amended

[To be proclaimed]

68. *Supreme Court Act 1935* amended

[To be proclaimed]

69. *Transport Co-ordination Act 1966* amended

Section 62(3)(c) of the *Transport Co-ordination Act 1966* is amended by deleting “to the Superannuation Fund established under the *Superannuation and Family Benefits Act 1938*” and inserting instead —

“ under the *State Superannuation Act 2000* ”.

70. *Water Corporation Act 1995* amended

Section 19(4) of the *Water Corporation Act 1995* is amended by deleting “*Superannuation and Family Benefits Act 1938* or the *Government Employees Superannuation Act 1987*” and inserting instead —

“ *State Superannuation Act 2000* ”.

- 71. *Western Australian Coastal Shipping Commission Act 1965*
amended**
[To be proclaimed]
- 72. *Western Australian Land Authority Act 1992* amended**
[To be proclaimed]
- 73. *Western Australian Tourism Commission Act 1983* amended**
[To be proclaimed]
- 74. *Workers' Compensation and Rehabilitation Act 1981*
amended**
[To be proclaimed]
- 75. Various provisions repealed**
[To be proclaimed]
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State Superannuation (Transitional and Consequential Provisions) Act 2000

Notes Compilation table

Notes

This is a compilation of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> ³⁻⁵	43 of 2000	2 Nov 2000	Pt. 1 & 2 and s. 35, 42, 45, 49, 52, 58, 59(b), 65, 69 & 70: 17 Feb 2001 (see s. 2(1) and <i>Gazette</i> 16 Feb 2001 p. 903); s. 33(1), 36(1), 37(1), 39(1), 43(1), 46(1), 48(1), 60(1) and 62: 17 Feb 2001 (see s. 2(2) and <i>Gazette</i> 16 Feb 2001 p. 903)
<i>Public Transport Authority Act 2003</i> s. 153 and 158	31 of 2003	26 May 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 111	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
<i>State Superannuation Amendment Act 2007</i> s. 78	25 of 2007	16 Oct 2007	6 Dec 2007 (see s. 2(1)(b) and <i>Gazette</i> 5 Dec 2007 p. 5973)
<i>Health Services Act 2016</i> s. 304	11 of 2016	26 May 2016	1 Jul 2016 (see s. 2(b) and <i>Gazette</i> 24 Jun 2016 p. 2291)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 27-32, 33(2), 34, 36(2), 37(2), 38, 39(2), 40, 43(2), 44, 46(2), 50, 51, 53, 54, 56, 57, 59(a), 60(2), 63, 64, 66-68 & 71-75	43 of 2000 (as amended by 65 of 2003 s. 106, 42 of 2004 s. 174 and 11 of 2016 s. 304)	2 Nov 2000	To be proclaimed (see s. 2(2))
<i>Arts and Culture Trust Act 2021</i> s. 77	15 of 2021	9 Sep 2021	1 Jul 2022 (see s. 2(b) and SL 2022/77 cl. 2)

Other notes

- ¹ The text of the *Superannuation and Family Benefits Act 1938* as continued and amended under the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26 may be viewed in the Acts database of the Statutes of Western Australia.
- ² The amendment in s. 75 to the *Workplace Agreements Act 1993* will not be included because the Schedule it sought to amend was deleted by the *Labour Relations Reform Act 2002* s. 72 prior to commencement.
- ³ Sections 41 and 61 deleted by the *Statutes (Repeals and Minor Amendments) Act 2003* s. 111.
- ⁴ Section 47 deleted by the *Public Transport Authority Act 2003* s. 153(2)(a).
- ⁵ Section 55 deleted by the *Public Transport Authority Act 2003* s. 158.

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
commencement day	3(1)
continues	3(1)
current	3(1)
transitional matter	25(4)