

DRAFT SECOND READING SPEECH

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Public Sector Superannuation Reform Amendment Bill 2019

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Madam Speaker, in 2013, a strategic review was undertaken into the former Retirement Benefits Fund to identify the most appropriate means to provide superannuation services to public sector employees and members of the Retirement Benefits Fund into the future.

The reform of public sector superannuation had a number of key objectives, including to:

- protect the interests of members;
- minimise the financial risk to the Government; and
- ensure the efficient and effective provision of Government superannuation services in the future.

In June 2016, the Public Sector Superannuation Reform Act received Royal Assent and this legislation:

- provided for a new default fund to be selected for Tasmanian public sector employees;
- provided for the transfer of Tasmanian Accumulation Scheme accounts from RBF to Tasplan;
- created a Superannuation Commission of up to three persons; and
- provided for the ongoing member administration and investment management services of the defined benefit schemes by the Superannuation Commission.

Madam Speaker, in April 2017, the RBF's Tasmanian Accumulation Scheme accounts were transferred to Tasplan, with administration of the defined benefit schemes being managed by the Superannuation Commission.

These reforms have proven to be successful with positive feedback from members and employee associations.

There are currently five defined benefit sub-funds. These are:

- the Retirement Benefits Fund Defined Benefit (Contributory) Scheme;
- the State Fire Service Superannuation Scheme;
- the Tasmanian Ambulance Service Superannuation Scheme;
- the Parliamentary Retiring Benefits Fund; and
- the Parliamentary Superannuation Fund.

Since the commencement of the new framework, a number of matters have been identified to improve the efficiency and effectiveness of the new arrangements. It is therefore proposed to

amend the Public Sector Superannuation Reform Act to more effectively support the administration arrangements for public sector superannuation in Tasmania.

Currently, the Public Sector Superannuation Reform Act provides that the Superannuation Commission must comply with the Heads of Government Agreement in relation to superannuation. The effect of this drafting is to place a higher obligation on the Commission to comply with the principles of the Agreement than the obligations of the State as a party to the Agreement. This includes reporting and compliance responsibilities to APRA, which are not considered to be relevant in the context of a government guaranteed defined benefit scheme.

It is noted that the States and Territories are required to conform with the principles of the Heads of Government Agreement to the best of their endeavours and ensure that members' accrued benefits in exempt public sector superannuation schemes are protected.

It is therefore proposed to amend the functions and powers of the Superannuation Commission to provide that the Commission must have regard to the Heads of Government Agreement, rather than adhere to strict compliance, which is the intent of the Agreement in respect of exempt public sector superannuation schemes.

Madam Speaker, it is further proposed to amend the Public Sector Superannuation Reform Act to facilitate the closure of the Tasmanian Government Insurance Office Reserve Account.

The TGIO Reserve Account was established in 1993 following the sale of TGIO.

Currently, there is only one active former TGIO member with a Compulsory Preservation Account and 12 members with Life Pensions.

As there is only one active member, the cost of maintaining the Account in terms of administration fees and charges, outweighs any benefit from having separate accounts. Further, as the legislation requires the Government to guarantee the payment of pensions, there is no reason that TGIO pensions could not be managed on the same basis as other RBF pensions.

It is therefore proposed to amend the Public Sector Superannuation Act to facilitate the closure of the TGIO Reserve Account and to provide for the balance of the Reserve Account to be returned to the Public Account. The employer share of benefits would be met by the Government on an emerging cost basis, as with the RBF Defined Benefit Scheme.

This change will have no impact on the remaining members' benefits and entitlements.

Madam Speaker, the Public Sector Superannuation Reform Act currently provides that the Superannuation Commission must ensure that proper accounts and records of the transactions and affairs of the Commission are kept, as well as any other records that sufficiently explain the financial operations and position of the Commission.

It was intended that, as part of the implementation of the structural reforms, Treasury would undertake the accounting functions on behalf of the Superannuation Commission, including the preparation of financial statements in accordance with the *Audit Act 2008* as the "accountable authority" for the Commission. This Bill provides that the Secretary of the Department of Treasury and Finance is the accountable authority of the Superannuation Commission for the purposes of financial reporting pursuant to section 14 of the *Audit Act 2008*;

Madam Speaker, following the commencement of the new arrangements, a number of issues have arisen with some of the definitions in the Public Sector Superannuation Reform Act.

Amendment to the definitions of “agency” and “agency manager” is required to ensure that the definitions capture Government Business Enterprises within the meaning of the *Government Business Enterprises Act 1995*.

In addition, the definition of “salary” is required to be amended to correct a drafting anomaly to ensure that it includes only “payments made in lieu of notice on the termination of employment” rather than all payments made on the termination of employment. This will ensure consistency with ATO Ruling SGR/2009/2 that specifies that termination payments in lieu of notice are included as Ordinary Time Earnings.

The current definition of salary is broader than intended and encompasses all other payments that may be payable on the termination of employment, such as Employment Termination Payments, which are specifically excluded from the meaning of Ordinary Time Earnings under the ATO Ruling. This amendment will be required to have effect retrospectively from 31 March 2016.

Madam Speaker, it is also proposed to incorporate the Tasmanian Ambulance Service Superannuation Scheme Trust Deed and the State Fire Commission Superannuation Scheme Trust Deed in the Public Sector Superannuation Reform Regulations.

The Trust Deeds, as currently drafted, duplicate provisions prescribed in the Act and Regulations, as well as contain a number of drafting errors and anomalies. In addition, each time there is an amendment to the Regulations, the Trust Deeds also require amendment to ensure that they remain consistent.

As part of the amendments to incorporate the Trust Deeds in the Regulations, it is proposed to include a provision to provide that regulations must not be made unless the relevant unions have been consulted. This will include consultation on any amendment, revocation or substitution of the provisions. This is consistent with the current requirement regarding amendment to the Trust Deeds.

No changes are proposed to the benefits and entitlements under either of these Schemes.

In addition to the amendments to the Public Sector Superannuation Reform Act, the Public Sector Superannuation Reform Regulations will also be amended to:

- amend the definition of salary to exclude allowances paid in lieu of a motor vehicle, with the effect that such an allowance would not be taken into account in determining future superannuation benefits;
- include terminal illness as a condition of early release, with the Superannuation Commission to determine whether a contributor is suffering from a terminal medical condition in line with the circumstances prescribed in the *Superannuation Industry Supervision Regulations 1994* of the Australian Government;
- allow the Superannuation Commission to pay an additional lump sum benefit to a contributor who has retired on the grounds of total and permanent incapacity, consistent with the existing provisions for the early release of benefits on compassionate grounds;
- clarify that the Superannuation Commission must periodically determine whether an interim invalidity pensioner, who has not attained his or her preservation age, is eligible to continue to receive the whole or part of his or her interim invalidity benefit;
- allow the Superannuation Commission to reduce or suspend an interim invalidity pension in certain circumstances. This amendment will give the Superannuation Commission the

discretion to reduce or suspend an interim invalidity pension where an invalidity pensioner is engaged in any business or occupation on his or her own account or is undertaking gainful employment, as well as in the situation where the pensioner has recovered from his or her bodily infirmity, physical incapacity or mental illness, so as to be able to undertake gainful employment;

- introduce a new “interim surviving partner pension” to allow a surviving partner of a pensioner to be paid an interim pension immediately following the death of the member-partner, where the member-partner had a reversionary life pension;
- provide greater clarity to the Superannuation Commission and scheme members in the determination of surviving partners, by amending the test for the determination of surviving partner to allow the Commission to determine a person to be a surviving partner in the case where a spouse of a Fund member is not living with the Fund member due to medical or other care reasons;
- ensure that the Superannuation Commission cannot allow a person to become a contributor to the defined benefit schemes through claiming lost rights by extending the operation of subregulation 101(3), which prevents the Commission from enabling a person who is not a State Service employee from becoming a contributor, to include current State Service employees;
- allow the Superannuation Commission to deduct, from a pension payable under the Regulations, bank fees associated with the payment of that pension to an overseas bank account, as well as other associated fees and charges as determined by the Commission. This will ensure that the higher costs associated with the payment of pensions to overseas bank accounts, as well as any other special arrangements as elected by a member, can be recovered from the pension paid to that member, rather than being paid from the assets of the Fund; and
- incorporate the relevant provisions of the Trust Deeds for the Tasmanian Ambulance and State Fire Commission Superannuation schemes. It is not proposed to change any of the benefit entitlements or the design of either of the schemes.

Madam Speaker, an extensive process of consultation has been undertaken with all relevant stakeholders, including unions and employee associations. Stakeholder comments are supportive of the Bill.

I commend this Bill to the House.