

TASMANIA

PUBLIC SECTOR SUPERANNUATION REFORM AMENDMENT BILL 2019

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PUBLIC SECTOR SUPERANNUATION REFORM AMENDMENT BILL 2019

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
30 October 2019

*(Brought in by the Treasurer, the Honourable Peter Carl
Gutwein)*

A BILL FOR

An Act to amend the *Public Sector Superannuation Reform Act 2016*

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Public Sector Superannuation Reform Amendment Act 2019*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

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3. Principal Act

In this Act, the *Public Sector Superannuation Reform Act 2016** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting “or a Government Business Enterprise” after “Agency” in paragraph (b) of the definition of *Agency*;
- (b) by inserting the following paragraph after paragraph (c) in the definition of *Agency*:
 - (ca) a Government Business Enterprise; and
- (c) by inserting “or a Government Business Enterprise” after “Service Agency” in paragraph (c) of the definition of *Agency manager*;
- (d) by inserting the following definition after the definition of *Ambulance member*:

amending Act means the *Public Sector Superannuation Reform Amendment Act 2019*;

*No. 11 of 2016

5. Section 4 amended (Meaning of *salary*)

Section 4(1) of the Principal Act is amended as follows:

- (a) by inserting in paragraph (e) “in lieu of notice” after “made”;
- (b) by omitting “determined” and substituting “calculated”.

6. Section 10 amended (Duties of Commission)

Section 10 of the Principal Act is amended by inserting after paragraph (c) the following paragraph:

- (ca) must have regard to the Heads of Government Agreement, as amended from time to time, that was made on 28 May 1996 between the Commonwealth and Tasmania and that relates to the exemption of public sector superannuation schemes from the SIS Act; and

7. Section 12 amended (Delegation)

Section 12 of the Principal Act is amended by omitting “member of staff of the Commission” and substituting “person made available to the Commission under section 14”.

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8. Section 14 amended (Human resources to be made available to Commission)

Section 14(1) of the Principal Act is amended by omitting “to enable” and substituting “to the Commission for the purpose of enabling”.

9. Section 15A inserted

After section 15 of the Principal Act, the following section is inserted in Division 3:

15A. Secretary to be accountable authority for purposes of *Audit Act 2008*

Despite section 14 of the *Audit Act 2008*, the Secretary of the Department responsible to the Minister for the administration of this Act is the accountable authority of the Commission for the purposes of the *Audit Act 2008*.

10. Section 33 repealed

Section 33 of the Principal Act is repealed.

11. Section 34 amended (Interpretation)

Section 34 of the Principal Act is amended as follows:

- (a) by omitting the definition of *accumulation benefit component*;
- (b) by omitting “continued by the TASS Trust Deed and, immediately before the

transfer date, was being administered by the Board” from the definition of *continued scheme* and substituting “continued by section 36”;

- (c) by inserting “before the Deed was terminated by section 35” after “to time” in the definition of *TASS Trust Deed*.

12. Sections 35, 36 and 37 substituted

Sections 35, 36 and 37 of the Principal Act are repealed and the following sections are substituted:

35. Termination of TASS Trust Deed

The TASS Trust Deed is terminated.

36. Tasmanian Ambulance Service Superannuation Scheme continues in force

Despite the termination of the TASS Trust Deed by section 35, the Tasmanian Ambulance Service Superannuation Scheme, consisting of the defined benefit component of the former superannuation scheme for persons who, immediately before 30 June 2006, were contributing to or required to contribute to, or were deemed to be contributing to, the former superannuation scheme, continues in force.

37. Closure of continued scheme

An Ambulance Service member appointed or employed on or after 30 June 2006 is not entitled to become a member of the continued scheme.

37A. Regulations must make provision in relation to continued scheme

- (1) Without limiting the generality of section 57(1), regulations must provide –
 - (a) that all benefits provided by the continued scheme, other than temporary incapacity benefits, are to be paid as lump sums; and
 - (b) for the amounts, manner and timing of payment of contributions to the continued scheme; and
 - (c) that the only authorised payments from the continued scheme to the Commission or the Ambulance Service are –
 - (i) for refunds of overpaid contributions; or
 - (ii) payments permitted by the SIS Act; and
 - (d) that the Ambulance Service is to pay to the Commission such additional amounts as the

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Minister, on the recommendation of the Actuary, may direct so as to enable the Commission to meet the Commission's liabilities under this Act.

- (2) Before proposed regulations in relation to any of the matters referred to in subsection (1) are submitted to the Governor, the Minister must be satisfied that –
- (a) the Ambulance Service and the Health Services Union of Australia – Tasmanian No. 1 Branch, have been consulted in relation to the proposed regulations; and
 - (b) the proposed regulations are consistent with this Act and the SIS Act.
- (3) Regulations in relation to any of the matters referred to in subsection (1) must not be made so as to authorise any payment from the continued scheme to the Commission or the Ambulance Service other than –
- (a) for refunds of overpaid contributions; or
 - (b) payments permitted by the SIS Act.

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13. Section 40 amended (Certain determinations, &c., to continue to have effect)

Section 40 of the Principal Act is amended by omitting “, acting in accordance with the TASS Trust Deed”.

14. Section 41 amended (Guarantee by Minister)

Section 41 of the Principal Act is amended by omitting “the TASS Trust Deed” and substituting “the regulations”.

15. Section 42 amended (Interpretation)

Section 42 of the Principal Act is amended as follows:

- (a) by omitting “is continued by the Trust Deed and, immediately before the transfer date, was being administered by the Board” from the definition of *continued scheme* and substituting “is continued by section 44”;
- (b) by inserting “, before the Deed was terminated by section 43” after “to time” in the definition of *Trust Deed*.

16. Sections 43, 44 and 45 substituted

Sections 43, 44 and 45 of the Principal Act are repealed and the following sections are substituted:

43. Termination of Trust Deed

The Trust Deed is terminated.

44. Scheme continues in force

Despite the termination of the Trust Deed by section 43, the State Fire Commission Superannuation Scheme, consisting of the defined benefit component of the former superannuation scheme for persons who, immediately before 1 May 2006, were contributing to or required to contribute to, or were deemed to be contributing to, the former superannuation scheme, continues in force.

45. Closure of continued scheme

A Fire Service member appointed or employed on or after 1 July 2005 is not entitled to become a member of the continued scheme.

45A. Regulations must make provision in relation to continued scheme

- (1) Without limiting the generality of section 57(1), regulations must provide –
 - (a) that all benefits provided by the continued scheme, other than temporary incapacity benefits, are to be paid as lump sums; and

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- (b) for the amounts, manner and timing of payment of contributions to the continued scheme; and
 - (c) that the only authorised payments from the continued scheme to the Commission or the State Fire Commission are –
 - (i) for refunds of overpaid contributions; or
 - (ii) payments permitted by the SIS Act; and
 - (d) that the State Fire Commission is to pay to the Commission such additional amounts as the Minister, on the recommendation of the Actuary, may direct so as to enable the Commission to meet the Commission's liabilities under this Act.
- (2) Before proposed regulations in relation to any of the matters referred to in subsection (1) are submitted to the Governor, the Minister must be satisfied that –
- (a) the State Fire Commission and the United Firefighters' Union of Tasmania (Tasmanian Branch) have been consulted in relation to the proposed regulations; and

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- (b) the proposed regulations are consistent with this Act and the SIS Act.
 - (3) Regulations in relation to any of the matters referred to in subsection (1) must not be made so as to authorise any payment from the continued scheme to the Commission or the State Fire Commission other than –
 - (a) for refunds of overpaid contributions; or
 - (b) payments permitted by the SIS Act.
- 17. Section 48 amended (Certain determinations, &c., to continue to have effect)**

Section 48 of the Principal Act is amended by omitting “, acting in accordance with the Trust Deed”.
- 18. Section 49 amended (Guarantee by Minister)**

Section 49 of the Principal Act is amended by omitting “Trust Deed” and substituting “regulations”.
- 19. Section 61 amended (Savings in relation to TGIO Reserve Account)**

Section 61 of the Principal Act is amended by omitting subsections (2), (3), (4), (5), (6), (7), (8)

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and (9) and substituting the following subsections:

- (2) On the day on which this section is amended by the amending Act, the amount standing to the credit of the TGIO Reserve Account becomes the property of the Crown.
- (3) As soon as practicable after the day on which this section is amended by the amending Act, the Commission must withdraw from the TGIO Reserve Account the amount standing to the credit of that account and transfer that amount to the Public Account.
- (4) As soon as practicable after the amount referred to in subsection (2) is transferred to the Public Account under subsection (3), the Commission is to close the TGIO Reserve Account.
- (5) If a benefit is, after the commencement of this subsection, paid by the Fund to a former TGIO employee, the Treasurer is, within the prescribed period, to pay to the Fund the proportion of the amount so paid as is prescribed in, or determined in accordance with, regulations for the purposes of this subregulation.

20. Section 61A inserted

After section 61 of the Principal Act, the following section is inserted in Part 7:

61A. Transitional provisions consequent on enactment of *Public Sector Superannuation Reform Amendment Act 2019*

Section 4, as amended by the amending Act, is to be taken to have been in force on and from 31 March 2016.

21. Repeal of Act

This Act is repealed on the first anniversary of the day on which the last uncommenced provision of this Act commenced.