

FACT SHEET

Public Sector Superannuation Reform Bill 2016

- The purpose of the *Public Sector Superannuation Reform Bill 2016* is to formalise the new administration arrangements for the provision of public sector superannuation in Tasmania. These new arrangements provide for the transfer all current Retirement Benefits Fund accumulation members and associated investments to a new default superannuation fund, with the defined benefits schemes to be managed under new governance arrangements within the Government.
- The Bill establishes the Superannuation Commission. The Commission is to consist of up to three persons to be appointed by the Treasurer. A member of the Commission is to be appointed for a term of up to five years and may be reappointed. The Bill facilitates a move to a single member Commission, if considered necessary.
- A member of the Commission may be a State Service employee, however, that person is not entitled to remuneration or allowances under the Act without approval of the Premier.
- The Bill prescribes arrangements for appointing a person to act as member of the Commission and for removal of a member of the Commission. If a person is appointed as an acting member for the chairperson, that person is not appointed as chairperson. The Bill also prescribes the processes to be followed at meetings of the Commission.
- The Commission is responsible for administration of the Fund, which will comprise all of the assets, including investments, accounts and sub funds, of the Retirement Benefits Fund following the transfer of the Tasmanian Accumulation Scheme to the new default fund.
- Under the Bill, the Commission may engage any person or organisation to provide administration and advice in connection with the functions, duties and powers of the Commission under the Act. This facilitates the Government's intention to publicly tender the defined benefit schemes member administration, which would include member services, relationship management, brand identity and any additional services specified in the contract, as well as investment management services.
- The Bill provides that the Treasurer may issue guidelines to the Commission in relation to investments. The Bill requires the Commission to have regard to the guidelines when developing an investment strategy and the Commission must inform the Minister of any proposed strategy. However, the Commission is not subject to a direction of any kind in relation to the investment strategy of the Commission or any investment of the Fund. As an exempt public sector superannuation fund, the trustee, in this case the Commission, must not be subject to Ministerial direction.
- An indemnity is provided to the Commission for loss suffered by a person as a result of an investment choice exercised by that person, investment decisions in respect of the assets of the fund made by or on behalf of the Commission or any other election made by a person, including an election made by a person to become a member of a complying superannuation scheme.
- The Bill prescribes the transitional arrangements that will apply in the period following the appointment of the chairperson of the Superannuation Commission and the transfer

of the accumulation accounts and investments. These arrangements provide that:

- the existing Retirement Benefits Board will continue in its current form, with the addition of the chairperson of the Commission;
 - the Minister may direct the Retirement Benefits Board to take any action that is necessary to give effect to the transfer of the Tasmanian Accumulation Scheme in accordance with the Bill; and
 - the Crown indemnifies the Board, including the chairperson of the Commission, against any liability incurred as a result of the Board acting upon a direction given by the Minister, provided that the action was taken in good faith and was necessary to implement the direction.
- The Bill provides for the nomination of default funds by the Minister by publication of a notice in the *Government Gazette*. The Minister must seek the approval of Unions Tasmania before a default fund, other than the initial default fund, can be nominated.
 - The first default fund nominated under the Bill is the initial default fund, which is the fund that will be the recipient of the transfer assets of the Tasmanian Accumulation Scheme, if the fund satisfies the successor fund transfer test. To be a successor fund, within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*, prior to the transfer the two boards must agree that the successor fund provides equivalent rights in respect of the benefits to members that the members had under the Retirements Benefits Fund.
 - In addition, prior to the transfer, both boards must agree that the transfer is in the best interests of the members of both funds.
 - The Minister may nominate more than one default fund, and it is only the initial default fund that is subject to the successor fund transfer process. Only a fund regulated under the *Superannuation Industry (Supervision) Act* can be nominated as a default fund and there can be more than one default fund at any time.
 - The Bill allows the Minister to enter into a contractual agreement with a superannuation fund to be a default fund.
 - Following the transfer date, the Bill provides for employer superannuation contributions to be paid to the default fund for relevant employees, including transferring members and employees appointed or employed after the transfer date, where fund choice has not been exercised by the employee. The Bill also provides for the payment of employer superannuation contributions for employees that have chosen a fund. 'Chosen fund' is defined in the *Superannuation Guarantee (Administration) Act 1992* and includes RSAs.
 - The Bill does not exclude the possibility of an employee electing the initial default fund to be the employee's chosen fund.
 - Contributions are to be calculated by reference to the employee's salary, as defined in the Bill, and the relevant charge percentage specified in the *Superannuation Guarantee (Administration) Act* of the Australian Government. The charge percentage is currently set at 9.5 per cent of salary. Tasmania has a more generous definition of salary than that prescribed in the *Superannuation Guarantee (Administration) Act* as it includes overtime hours and payments and termination payments in respect of unused annual leave.

- The Bill provides for the Minister to direct the Board to transfer, to the initial default fund, the transfer assets. The Actuary must determine those assets that represent the transfer assets of the Tasmanian Accumulation Scheme, which are to include the benefits of the transferring members and the relevant proportion of reserves.
- The Bill requires the Actuary to determine the value of the assets to be transferred to Tasplan, and the value of those assets that will remain in the Retirement Benefits Fund for the defined benefits schemes. The composition of these assets will be agreed between the Board of Tasplan, the Retirement Benefits Fund Board and the Government.
- Once the Board has been provided with a direction from the Minister to transfer the transfer assets, it must transfer, to the initial default fund, all transferring members and the transfer assets. The transfer takes effect from the transfer date, which is the date specified in the notice published in the *Gazette* by the Minister that nominates a superannuation fund to be the initial default fund.
- All members of the Tasmanian Accumulation Scheme, immediately before the transfer date, will transfer to the initial default fund, with the exception of Investment 12 Account members. Investment 12 Account members are accounts in the Tasmanian Accumulation Scheme of persons who were members of the contributory scheme prior to 30 June 1994 and who were made redundant and elected to preserve their redundancy benefit in accordance with scheme rules to retain access to the protected conversion factor of 12 upon reaching preservation age.
- Members of the Tasmanian Accumulation Scheme who are currently receiving a pension from the Retirement Benefits Fund, such as RBF Account Based Pensions, will in future be paid by the initial default fund. The governing rules of the initial default fund will provide for the replication of pension benefits as part of the successor fund transfer arrangements.
- From the transfer date, the Bill provides that:
 - any contract, agreement, arrangement, document or undertaking that refers to the Retirement Benefits Board is taken to be a reference to the Commission, including a reference to the Board in a document pertaining to the transfer;
 - any legal or other proceedings that relate to the Tasmanian Accumulation Scheme and which have commenced, or could have commenced, before the transfer date are taken to be proceedings against the Commission;
 - any judgment or order of a court that is, before the transfer date, obtained by or against the Board may be enforced against the Commission; and
 - any document, relating to legal proceedings that has been served on the Board prior to the transfer is taken to have been served on the Commission.
- Members that are transferred to the initial default fund, as well as all new State Service employees, retain their right to choose to become a member of an RSA or other complying superannuation scheme.
- From the transfer date, the Commission becomes responsible for the management and administration of the contributory scheme and becomes the legal custodian of the fund assets, which includes the Tasmanian Ambulance Service Superannuation Scheme, State Fire Commission Superannuation Scheme and parliamentary superannuation schemes. The Commission also becomes a party to any legal, or other, proceedings that relate to

the contributory scheme, the Tasmanian Ambulance Service Superannuation Scheme and the State Fire Commission Superannuation Scheme.

- The *Retirements Benefits Act 1993* and the *Public Sector Superannuation Reform Act 1999* are repealed from the transfer date and the Retirement Benefits Fund Board will be wound up. The Tasmanian Ambulance Service Superannuation Scheme and the State Fire Commission Superannuation Scheme will continue to be governed by trust deeds as they are now.
- Following the wind up of the Retirement Benefits Fund Board, it is envisaged that some of its employees will become State Service Employees within the office of the Superannuation Commission. The Bill provides that, for these persons, long service leave accrued with the Retirement Benefits Fund Board will be recognised in their employment under the *State Service Act 2000*. For long service leave to be recognised, the period between the employee ceasing to be an employee of the Retirement Benefits Fund and commencing employment with the Commission must be no longer than three months. Similarly, the Bill provides for the preservation of superannuation entitlements of a Retirement Benefits Fund employee who takes up a position with the Commission within three months of the employee ceasing to be an employee of the Retirement Benefits Fund.
- The Bill maintains the closure of the contributory scheme and does not apply to an employee engaged or appointed on or after 15 May 1999. This was first given effect by the *Public Sector Superannuation Reform Act*. The existing arrangements that applied in respect of members of boards and where a person is employed in two or more positions continue to apply.
- The Bill requires the Actuary to undertake triennial reviews as to the state and sufficiency of the fund and will be required to assess, and report on, the financial position of the fund and the Government contribution rates that are needed to ensure that the defined benefits can continue to be met. The regulations prescribe the arrangements under which the review is to be undertaken and what the review must cover.
- The Bill provides regulation making provisions, as well as savings and transitional provisions that are necessary following the repeal of the *Retirement Benefits Act* and the *Public Sector Superannuation Reform Act*.