

DRAFT SECOND READING SPEECH

HON PETER GUTWEIN MP

Public Sector Superannuation Reform Bill 2016

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Madam Speaker

The Government has undertaken an extensive review of the Retirement Benefits Fund to identify the most appropriate and cost effective arrangements to provide superannuation services to public sector employees into the future.

The objectives of the review were: to improve the administration of public sector superannuation; ensure ongoing service delivery to public sector employees given the declining membership base; protect the interests of members of the Retirement Benefits Fund; and to ensure the most appropriate framework for delivering the best possible financial outcomes for members.

The review found that the existing structure of the Retirement Benefits Fund may not enable the Fund to remain competitive in the future, particularly given the increasing pressure on costs and services. This is primarily due to a declining membership base, which results in a lack of economies of scale, and increasing competition from large superannuation funds. It would also become increasingly difficult for the Retirement Benefits Fund to continue to provide the same high quality service to members.

Madam Speaker, this has led to a high cost base for the Retirement Benefits Fund compared to other funds in the superannuation industry, making the Tasmanian Accumulation Scheme expensive on a per account basis.

As a result, the Government has agreed to transfer all current Retirement Benefits Fund accumulation accounts and associated investments to a new default superannuation fund. The defined benefits schemes will be managed under new governance arrangements within the Government and will operate under an outsourced model.

In determining how to implement the transfer and select a new default fund, consideration had to be given to the possibility that RBF accumulation members could ultimately be transferred to a mainland based superannuation fund.

If this had in fact eventuated, a key concern that I had was that over time similar pressures in respect to scale could also apply to Tasplan and Quadrant, with the possibility that they too could exit the State. This would potentially mean that over time Tasmania would not have a major locally based superannuation fund in the State and jobs and expertise would be lost to the mainland.

Madam Speaker, as a result of these concerns I asked the RBF to hold discussions with Tasplan and Quadrant, which had agreed to merge outside of the Government's reform process, to consider and develop a business case on the feasibility of a single Tasmanian superannuation fund. That business case concluded that a merger of the three businesses to create a single Tasmanian superannuation fund would be in the best interests of their respective memberships. It is generally accepted that maintaining competitiveness in the superannuation sector through

fund consolidation can contribute to the fund achieving improved financial performance and delivering lower fees for members.

The merger between Tasplan and Quadrant took place on 30 November 2015. This represented the first step to achieve a bigger, stronger superannuation fund in Tasmania.

The creation of the new fund will secure Tasmanian jobs and ensure that Tasmanians continue to benefit from the presence of a competitive and viable superannuation fund in their state. The merged entity also will promote job growth, provide opportunities for local businesses through Tasmanian investments, and support the expansion of the Tasmanian financial services sector. Importantly, a local service presence for members will be retained.

The new fund will be created via a successor fund transfer. This will involve the transfer of member benefits of the Retirement Benefits Fund Tasmanian Accumulation Scheme to Tasplan. The Actuary will be tasked with determining 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. These assets comprise shares, property, fixed interest and other investments. Their allocation between the funds will be agreed between the Board of Tasplan, the Retirement Benefits Fund Board and the Government.

Madam Speaker, in order for the transfer to proceed, the Board of Tasplan and the Board of the Retirement Benefits Fund must be satisfied that Tasplan confers on the members' equivalent rights to the rights that members had under the Tasmanian Accumulation Scheme. In addition, both boards must be satisfied that the transfer is in the best interests of both the Tasmanian Accumulation Scheme and Tasplan members. This is the process used for superannuation funds regulated under the Australian Government's *Superannuation Industry (Supervision) Act 1993*, including that used for the merger of Tasplan and Quadrant.

Under this process, all members' superannuation benefits and entitlements will be maintained.

The Australian Prudential Regulation Authority provides guidance as to what considerations must be had in terms of determining equivalent rights to benefits. These include member investment choice, fees and charges, insurance product offerings and the provision of advice.

Madam Speaker, once established through the successor fund transfer process, the expanded Tasplan will become the default superannuation fund for Tasmanian public sector employees, and importantly, members will retain their choice of superannuation fund. Tasplan will continue to be regulated by the Australian Prudential Regulation Authority under national legislation.

The Retirement Benefit Fund's Defined Benefit Schemes, including the State Fire Commission, Tasmanian Ambulance Service and parliamentary superannuation schemes, will continue to be the ongoing responsibility of Government and the Fund will continue to be administered as an exempt public sector superannuation scheme.

Madam Speaker, the *Public Sector Superannuation Reform Bill 2016* formalises the new administration arrangements for the provision of public sector superannuation in Tasmania.

The Bill firstly creates a Superannuation Commission to be trustee of the Fund. The Commission, which will consist of up to three members, will be responsible for management and administration of the Fund, which will comprise all of the assets, including investments, accounts and subfunds, of the Retirement Benefits Fund following the successor fund transfer. Under the Bill, the Commission has broad powers to administer the Fund as considered necessary.

Importantly, fiduciary responsibility of the superannuation schemes contained within the Fund will remain with the Government given the unfunded nature of the defined benefits liability, with the Commission responsible for all of the assets, investments and property of the Commission and the Fund. The Bill maintains the closure of the contributory scheme, as well as the Tasmanian Ambulance Service and State Fire Commission superannuation schemes.

Madam Speaker, the Government had considered that a single Superannuation Commissioner would be appropriate to administer the Fund as the responsibilities of the Commission will be fewer than the current Retirement Benefits Fund Board, given that there will be no accumulation scheme. However, following consultation on the Bill, the Government has determined that the Commission should consist of up to three members, with one member to be appointed as chairperson. It is envisaged that initially the Commission will consist of three members to be appointed for terms of up to five years.

While the Bill states that the Treasurer will be responsible for appointing persons to be members of the Commission, I will be seeking advice from Unions Tasmania and the Tasmanian Association of State Superannuants in respect of suitable candidates for membership of the Commission. I intend to initially appoint the chairperson of the Commission to assist in the implementation of the reforms and this chairperson will take up membership on the Retirement Benefits Fund Board.

The Commission will continue to take advice on issues that arise as the current Board does now. The Commission also has the same trustee responsibilities for the Fund as the current Board, which are prescribed in the Superannuation Industry (Supervision) Act and replicated in the regulations.

The same appeal mechanisms will continue whereby a person may appeal against any decision, determination or order of the Commission. These provisions, which are currently in the *Retirement Benefits Regulations 2005*, will be prescribed in the new regulations made under this Bill.

The Commission will be supported by an office within the Department of Treasury and Finance. The size of this office will be developed in tandem with the outcome of the defined benefits schemes tender process and in consultation with the Retirement Benefits Fund Board and other stakeholders.

Madam Speaker, the functions and duties of the Commission have been drafted to provide flexibility and allow for an outsourced model, with a new public tender process for member administration and investment management services to commence at the completion of the current contract. This is similar to the current arrangement within the Retirement Benefits Fund, with member administration services largely outsourced to Mercer and most investments managed externally, with the exception of cash, property and commercial mortgages.

The Retirement Benefits Fund's contract with Mercer for member administration services is due to expire in September 2016, however, it is likely that this will be extended until March 2017 to coincide with the successor fund transfer process. It is expected that the first tender will be for an initial period of between five and seven years.

Madam Speaker, there have been some concerns raised regarding service issues for some members when the Retirement Benefits Fund first outsourced member administration services in 2011. As a result, the Government has taken steps to ensure a smooth transition process, such as appointing the chairperson of the Commission to the Retirement Benefits Fund Board and through the tender specification.

I reiterate that there will be no change to the design or legislated entitlements of any of the defined benefits schemes.

The Commission must comply with the principles outlined in the Heads of Government Agreement and is bound by the covenants contained in the Superannuation Industry (Supervision) Act in relation to management of the fund, which are contained in the regulations made under the Bill.

As I mentioned earlier, during the period leading up to the successor fund transfer, the chairperson of the Superannuation Commission will become a member of the Retirement Benefits Fund Board. Following agreement as to equivalent rights, the Board of Tasplan and the Retirement Benefits Fund Board will execute a successor fund transfer deed, which will ensure the retention of members' rights to benefits before and after the transfer, and will agree an implementation process leading up to the transfer. At this point, some of the existing Retirement Benefits Fund Board members will take up membership on the Tasplan Board, with the remaining board members to be retained to facilitate a smooth transition and provide ongoing stability and expertise during the implementation phase of the reforms.

Following the transfer, the Commission will not have any further role in management and administration of the Tasmanian Accumulation Scheme. The Commission will, however, develop with Tasplan effective administrative arrangements for those eligible pre May 1999 RBF members who have transferred and wish to purchase a life pension from the Retirement Benefits Fund.

Madam Speaker, the Bill requires the Minister to nominate the new default superannuation fund. Whilst the initial default fund must satisfy the successor fund transfer test, any other fund nominated to be a default fund by the Minister must be regulated under the Superannuation Industry (Supervision) Act. It is therefore possible to have more than one default fund for public sector employees at any one time.

Tasplan will be the default superannuation fund for public sector employees under a contract for an initial term of three years. The contract will be renewable subject to Tasplan meeting performance criteria under the contract. These performance criteria will include maintenance of the Tasmanian Accumulation Scheme members' rights to benefits as specified in the successor fund transfer deed between the Retirement Benefits Fund Board and Tasplan.

The Bill enables the nomination of a further default fund or funds. However, any future nomination of a subsequent default fund will not involve a successor fund transfer process. A subsequent default fund may be required in the event that Tasplan does not meet its contractual obligations. When nominating a subsequent default fund, the Minister must seek the agreement of Unions Tasmania.

Madam Speaker, while most of the detail pertaining to the transfer of the Tasmanian Accumulation Scheme will be contained in the successor fund transfer documentation, the Bill formalises the transfer process by providing that the Minister must direct the Board to transfer the Tasmanian Accumulation Scheme assets to the initial default fund, which will be Tasplan, on a date specified in a notice that is to be published in the *Gazette*. As stated previously, the Actuary will be responsible for determining the value of the transfer assets.

All members of the Tasmanian Accumulation Scheme will transfer to the initial default fund, with the exception of a small number of pre 1994 members of the Fund.

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 process.

Madam Speaker, employer superannuation contributions will then be paid to the default fund for 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 different fund.

The rates of employer superannuation contributions are not changing.

Madam Speaker, Tasmania has a more generous definition of salary than that prescribed in the *Superannuation Guarantee (Administration) Act 1992* as it includes overtime hours and payments and termination payments in respect of unused annual leave. This definition of salary is maintained in the Bill.

From the transfer date, the Commission becomes responsible for the ongoing management and administration of the defined benefits schemes. This includes becoming legally responsible for all of the assets, liabilities and rights that remain following the successor fund transfer.

The Bill provides for the Commission to assume responsibility for administration of the Tasmanian Ambulance Service and State Fire Commission superannuation schemes. The Government does not have any intention to change the current structure of these two schemes and the operation of the schemes will be supported by trust deeds as they are now.

Madam Speaker, where a member has an entitlement under the current regulations, they will continue to have this entitlement following the reforms.

The *Retirements Benefits Act 1993* and the *Public Sector Superannuation Reform Act 1999* are repealed from the transfer date. New regulations will be made under the Bill in respect of the contributory scheme and the parliamentary superannuation scheme. The Tasmanian Accumulation Scheme Trust Deed will also be rescinded on the transfer date.

In respect of the repeal of the Trust Deed, those pre May 1999 Retirement Benefits Fund members who have rights to life pensions in the Trust Deed will, following the successor fund transfer, maintain these rights through the regulations enacted under the Bill.

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.

Madam Speaker, the Actuary is still required 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 matters that the must be included in the Actuary's report.

Madam Speaker, as part of this reform process, priority will be given to maximising employment opportunities for existing employees of Tasplan and the Retirement Benefits Fund as well as employment opportunities within the State. Accordingly, employment decisions will aim to ensure the retention of existing skills, experience and knowledge in the sector.

For those Retirement Benefits Fund employees that take up employment with the Commission, the Bill provides that long service leave accrued with the Retirement Benefits Fund Board will be

recognised in their employment in the State Service, provided that the person's employment with the Commission is taken up within three months. Similarly, the superannuation entitlements of an 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 will also be maintained.

Madam Speaker, the Government consulted directly with unions, including the Community and Public Sector Union and Unions Tasmania, the State Fire Commission, Ambulance Tasmania, the Police Association of Tasmania, the Tasmanian Association of State Superannuants and the Australian Nursing and Midwifery Federation on the draft Bill. The Government also wrote to various organisations, including all State Government agencies, Government Business Enterprises and State-owned companies, seeking feedback on the proposed Bill. Information sessions were also held for interested parties. The Retirement Benefits Fund played a significant role in assisting with the development of the Bill.

As I stated previously, the Government made a number of amendments to the Bill as a result of the feedback received following consultation. The most significant change was to the composition of the Superannuation Commission. Instead of a single Commissioner, the Government has determined that, at least initially when the workload of the Commission will be the greatest, the Commission will be comprised of up to three members. This change will mitigate key-person dependencies, recognise that the initial workload of the Commission is inappropriately high for one person and provide for a wider perspective in decision making.

Members of the Commission will each be appointed for a five year term. Prior to the end of this five year period, I intend to conduct a review to determine whether the Commission should continue to operate as a multiple member Commission, or whether it should be constituted by a single member. The Bill requires that, if it is determined that the Commission should operate as a corporation sole, the Minister must issue a notice to formally declare this intention. Similarly, if it is considered that the Commission should be constituted of more than one member, such a notice can be revoked.

Madam Speaker, the Bill was also amended to require the Minister to obtain the written approval of Unions Tasmania before a default fund can be nominated for new public sector employees.

In addition, an additional regulation making power has been included in the Bill to allow regulations to be made, if necessary, to ensure that the Commission can continue to prepare and issue reports or statements that are required by any Australian Government body, such as the ATO, as well as to members of the Fund in respect of that member's interest or benefit entitlement.

Madam Speaker this new fund will be the largest business by size of balance sheet in Tasmania, servicing around 165 000 members and managing over \$6.5 billion. It will be in a strong position to compete in the wider Australian superannuation industry and attract new business and new jobs to Tasmania.

Further, the Government is confident that Retirement Benefits Fund members will continue to receive a high level of service following the implementation of these reforms.

Madam Speaker, I move the second reading of this Bill and commend the Bill to the House.