



NSW Legislative Council Hansard

Superannuation Administration Amendment (Trust Deed Schemes) Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 22 November 2006.

Second Reading

The Hon. MICHAEL COSTA (Treasurer, Minister for Infrastructure, and Minister for the Hunter) [8.30 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

The Superannuation Administration Amendment (Trust Deed Schemes) Bill amends the Superannuation Administration Act 1996 to enable additional classes of persons to be admitted as members of trust deed superannuation schemes established under section 127 of the Act. The bill also retrospectively validates past ministerial approval of trust deed amendments that would otherwise be invalid. The Superannuation Administration Act 1996, which facilitates the legal and legislative framework under which the Energy Industries Superannuation Scheme and the Local Government Superannuation Scheme are established, requires the two schemes' trust deeds to be consistent with the requirements of a regulated fund under the Commonwealth's Superannuation Industry (Supervision) Act 1993.

Section 127 of the Superannuation Administration Act 1996 currently only allows specific classes of employees, rather than persons, to be admitted into the schemes. Despite this limitation the trust deeds of the two schemes have been amended over the years, consistent with Commonwealth superannuation law provisions, to admit spouses and local government councillors as members of the schemes. The proposed amendments to the Superannuation Administration Act 1996 will validate the existing membership of spouses of members of the respective schemes. The proposed amendments will also enable the Local Government Superannuation Scheme to accept councillors as members of the scheme. Councillors will not be classified as employees entitled to compulsory employer contributions to superannuation. The Local Government Act 1993 at section 251 (1) specifically excludes councillors being deemed as an employee of a council "for the purposes of any Act".

Consistent with Commonwealth superannuation law, provision has been made to include de facto partners as one of the categories of persons who can, subject to the schemes' own trust deed requirements, become members of the schemes. The Commonwealth's Superannuation Industry (Supervision) Act 1993 at section 10 defines spouse to include de facto partners. The definition of "de facto partner" has been drafted with reference to the Property Relationships Act 1994. The effect of this is that same-sex partners of members who are otherwise entitled to or who are receiving benefits under the schemes can, subject to the respective schemes' trust deeds, be dealt with as the spouse of such persons. The schemes' existing trust deeds define "spouses" to include same-sex partners.

Optional membership applies only to the accumulation divisions of the Local Government Superannuation Scheme and the accumulation divisions of the Energy Industries Superannuation Scheme. "Optional" spouse members have been accepted into both schemes since 1998 and "optional" local government councillor members have been accepted into the Local Government Superannuation Scheme in a limited capacity since June 2004. In 2004 local government councillors were admitted as optional members of the Local Government Superannuation Scheme to enable those councillors to make post-tax contributions to superannuation. The proposed legislative amendments are not aimed at seeking to admit a wide category of persons into the schemes, for example, the general public. I commend the bill to the House.