



New South Wales

# Superannuation Administration Amendment (Investment Management and Other Matters) Bill 2015

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Treasury Corporation Amendment Bill 2015*.

## Overview of Bill

The object of this Bill is to amend the *Superannuation Administration Act 1996* to make provision with respect to the investment management of the public sector superannuation schemes under that Act (*STC funds* or *STC schemes*) and the fiduciary and other obligations and powers of the SAS Trustee Corporation (*STC*), which administers those schemes.

The amendments made by this Bill:

- (a) authorise the Treasurer to require STC to appoint an investment manager approved by the Treasurer (a **mandated investment manager**) to provide investment management services in relation to an STC fund subject to any terms and conditions determined by the Treasurer and consistently with STC's investment strategies, reserves strategy and custodial policies for the STC fund, and
- (b) clarify that a mandated or other investment manager appointed by STC may engage other investment managers to provide the relevant investment management services, and
- (c) enable the Minister to declare prudential standards, or reporting and auditing requirements, and to require STC to comply with them, and
- (d) enable, at the request of STC, the transfer of accumulation-style components of benefits under a STC scheme to a successor fund.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

### **Schedule 1      Amendment of Superannuation Administration Act 1996 No 39**

**Schedule 1 [1]** inserts definitions of terms used in the other proposed amendments. The proposed amendment transfers, from section 59 to the general definition section, the definition of *superannuation investment management services* and expands the definition to include providing services in relation to the custody of the assets and securities of a superannuation fund. **Schedule 1 [3], [4], [6] and [11]** make consequential amendments on the extension of that definition.

**Schedule 1 [2]** requires STC to have regard to the role of employers under STC schemes in funding benefits under those schemes when exercising its functions.

**Schedule 1 [5]** ensures that an investment manager appointed by STC to carry out the function of providing superannuation investment management services on behalf of STC may engage another investment manager to provide those services.

**Schedule 1 [7]** enables the Minister to waive the obligation to obtain the Minister's consent to a contract or arrangement for the appointment of an investment or scheme administration manager.

**Schedule 1 [9]** requires STC to ensure that any investment manager providing superannuation investment management services on its behalf complies with the investment strategy determined by STC for the fund concerned.

**Schedule 1 [10]** requires an investment manager who carries out all superannuation investment management services for a superannuation fund of STC to engage a separate person to undertake services relating to the custody of assets and securities.

**Schedule 1 [13]** inserts proposed section 60 to enable the Treasurer, by order given to STC, to require the investment of the whole or any part of the STC funds to be managed by one or more investment managers approved by the Treasurer (a *mandated investment manager*). The order of the Treasurer may be given only with the approval of the Minister administering the principal Act. A mandated investment manager may, subject to any terms and conditions set out or described in the order and any investment or reserves strategy or custodial policy determined by STC, invest the STC funds concerned in any investment that is authorised or permitted by the principal Act or any other applicable legislation.

Under the proposed section, the terms and conditions that may be set out or described in the order, may, for example, relate to any or all of the following matters:

- (a) the kind and extent of superannuation investment management services to be provided,
- (b) the period during which the STC funds are to be managed by the mandated investment manager,
- (c) the engagement by the mandated investment manager of a person to provide custodial services and the kind and extent of such custodial services,
- (d) the circumstances in which the contract or arrangement may be varied or terminated.

The proposed amendment also provides that STC is taken to have discharged the obligations and duties imposed on it in relation to the investment and management of the relevant STC funds, if a mandated investment manager provides superannuation investment management services in respect of the relevant STC funds on behalf of STC, or engages another person to provide them, under a contract or arrangement entered into by STC in accordance with section 59. **Schedule 1 [6] and [12]** make consequential amendments.

**Schedule 1 [14]** omits provisions relating to services for the custody of the assets and securities of an STC scheme as a result of the extension of the meaning of “superannuation investment management services” to cover such custodial services.

**Schedule 1 [15]** enables STC to request, and the Minister to approve, the transfer of part of the benefits of all or some members of an STC fund to a successor superannuation fund. Any successor fund must provide for the maintenance of existing rights of persons whose benefits are transferred and the transfer and successor fund must comply with Commonwealth legislation regulating such transfers. Any part of benefits that are transferred cannot consist of defined benefit interests.

**Schedule 1 [16]** enables the Minister, by order published in the Gazette, to declare that specified prudential standards, or reporting or auditing requirements, apply to STC (and those engaged by STC) in the exercise of the principal functions of STC specified in the order. **Schedule 1 [8]** makes a consequential amendment.

**Schedule 1 [17]** provides for the making of savings and transitional regulations consequent on the enactment of any Act that amends the *Superannuation Administration Act 1996*.