



New South Wales

Superannuation Administration Corporation (Pillar) (Authorised Transaction) Bill 2016

Explanatory note

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

Overview of Bill

The object of this Bill is to authorise and facilitate the transfer to the private sector of the assets, rights and liabilities of the Superannuation Administration Corporation, which is a statutory State owned corporation that operates the business of providing superannuation scheme administration and related services under the trading name Pillar Administration (*Pillar*).

The Bill requires the new private sector owner of Pillar to give a regional commitment to the Illawarra region under which it guarantees that the existing operations of Pillar that are associated with the delivery of member services to existing clients will continue to be located in the Illawarra for at least 10 years after completion of the transaction.

The Bill also has detailed provisions dealing with the transfer of Pillar employees and their rights and entitlements on transfer (see **Part 4**).

Outline of provisions

Part 1 Preliminary

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 the date of assent to the proposed Act (with the exception of Schedule 5, which is to commence on a day to be appointed by proclamation).

Clause 3 contains definitions of key terms used in the proposed Act. Schedule 1 contains other interpretative provisions. The clause defines *authorised transaction* to mean a transfer of Pillar's assets, rights and liabilities authorised by Part 2.

Part 2 The authorised transaction

Clause 4 authorises the transfer of Pillar's assets, rights and liabilities (*Pillar assets*) to the private sector or any public sector agency.

Clause 5 requires the proceeds of the transfer of Pillar assets to the private sector pursuant to the authorised transaction, after deduction of certain amounts for debt repayment and payment of expenses, to be paid into the Restart NSW Fund.

Clause 6 provides for the new private sector owner of Pillar to provide a regional commitment by way of a guarantee that the existing operations of Pillar that are associated with the delivery of member services to existing clients will continue to be located in the Illawarra for at least 10 years after completion of the authorised transaction.

Part 3 Facilitating the authorised transaction

Clause 7 provides that the Treasurer has and may exercise all such functions as are necessary or convenient for the purposes of the authorised transaction.

Clause 8 provides that the authorised transaction is to be effected as directed by the Treasurer in any manner that the Treasurer considers appropriate.

Clause 9 provides for the establishment of a State owned corporation as a *transaction SOC* for the purposes of the authorised transaction.

Clause 10 provides for the establishment of companies as *transaction companies* for the purposes of the authorised transaction (including by means of the corporate conversion of Pillar). Transaction SOCs and transaction companies are referred to as *transaction entities*.

Clause 11 provides that Pillar and each transaction entity has and may exercise all such functions as are necessary or convenient for the purposes of the authorised transaction. The clause also authorises the Treasurer to act for or on behalf of and in the name of Pillar or a transaction entity in the exercise of any of its functions for the purposes of the authorised transaction.

Clause 12 provides that Pillar and transaction entities are subject to the direction and control of the Treasurer in the exercise of any of their functions for the purposes of the authorised transaction.

Clause 13 establishes the Superannuation Administration Assets Ministerial Holding Corporation to hold Pillar assets acquired by it or transferred to it and to carry on any activities or business that relate to Pillar assets held by it.

Clause 14 establishes a fund for the Superannuation Administration Assets Ministerial Holding Corporation in the Special Deposits Account and provides for payments into and from the fund.

Part 4 Arrangements for transfer of staff

Clause 15 provides a definition of *Pillar employee*.

Clause 16 provides for the transfer of a Pillar employee to the employment of another public sector agency.

Clause 17 provides for the transfer of a Pillar employee to employment in the private sector, with a maximum 2-year employment guarantee period.

Clause 18 provides for the continuity of the employment entitlements of employees transferred under the Part.

Clause 19 provides for the effect of a transfer of employment under the Part in relation to the operation of other laws and entitlements.

Clause 20 deals with the effect of any inconsistency between the operation of the proposed Act and any provision made by or under the *Fair Work Act 2009* of the Commonwealth.

Part 5 Arrangements for transfer of assets and functions

Clause 21 authorises the Treasurer to make vesting orders under Schedule 4 for the purposes of the authorised transaction.

Clause 22 provides for the Treasurer to give directions for the grant of any relevant authorisation under various laws to a person who becomes or is proposed to become the new owner of Pillar assets pursuant to the authorised transaction.

Clause 23 provides for the adjustment of the objectives and functions of Pillar to ensure that they remain appropriate following the transfer of Pillar assets pursuant to the authorised transaction.

Part 6 Operation of other laws

Clause 24 provides that various State taxes and charges are not payable by public sector agencies in connection with transactions for the purposes of the authorised transaction and authorises the Treasurer to exempt other persons from liability for State taxes and charges in connection with the authorised transaction.

Clause 25 provides for the provisions of the proposed Act to prevail in the event of an inconsistency between the proposed Act and other relevant State laws.

Clause 26 provides that the *Public Authorities (Financial Arrangements) Act 1987* does not apply to any transaction, agreement or other arrangement entered into for the purposes of the authorised transaction.

Clause 27 authorises the release of information by the Auditor-General for the purposes of the authorised transaction.

Clause 28 exempts contracts for the sale of land from section 52A of the *Conveyancing Act 1919* when entered into for the purposes of the authorised transaction.

Clause 29 prevents the operation of the proposed Act and the various arrangements and actions that it authorises from constituting a breach of various civil obligations.

Clause 30 protects the State from claims for compensation in connection with the enactment or operation of the proposed Act.

Part 7 Miscellaneous

Clause 31 authorises the Treasurer to delegate any function of the Treasurer under the proposed Act to the Secretary of the Treasury or any other Public Service employee prescribed by the regulations.

Clause 32 provides for the proposed Act to bind the State and all other Australian jurisdictions.

Clause 33 provides for the operation of the proposed Act outside the State.

Clause 34 provides for the construction of the proposed Act so as not to exceed the legislative power of the State.

Clause 35 provides for when orders under the proposed Act take effect and for evidence of and presumptions about orders.

Clause 36 provides for how documents are to be given or served for the purposes of the proposed Act.

Clause 37 is a general regulation-making power.

Schedule 1 Interpretative provisions

Schedule 1 contains definitions and other interpretative provisions for the purposes of the proposed Act.

Schedule 2 Provisions concerning transaction SOC

Schedule 2 contains special provisions for the board of directors, chief executive officer, dividends scheme and other procedures of a transaction SOC.

Schedule 3 Corporate conversion of Pillar and transaction SOC

Schedule 3 provides the procedure for the corporate conversion of Pillar or a transaction SOC into a transaction company.

Schedule 4 Vesting of assets, rights and liabilities

Schedule 4 provides for the making of vesting orders by the Treasurer for the purposes of the authorised transaction. Vesting orders operate to vest assets, rights and liabilities comprising Pillar assets in the transferee specified in the order.

Schedule 5 Ownership restrictions in floated transaction companies

Schedule 5 provides for ownership restrictions in floated transaction companies, where Pillar assets are transferred pursuant to the authorised transaction by means of an initial public offer of shares in a transaction company. The Schedule also provides for the location of Member Registers of floated transaction companies, record-keeping and information giving by such companies and the making of remedial orders if a prohibited ownership situation arises in relation to a floated transaction company.

Schedule 6 Savings, transitional and other provisions

Schedule 6 enacts a savings and transitional regulation-making power and contains special provision for the Treasurer to vary the information required to be included in Pillar's half-yearly report of its operations.

Schedule 7 Amendment of Subordinate Legislation Act 1989 No 146

Schedule 7 makes an amendment to exclude instruments made under the proposed Act from the operation of the *Subordinate Legislation Act 1989*.