



New South Wales

Treasury Legislation Amendment (Miscellaneous) Bill 2022

Explanatory note

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

Overview of Bill

The object of this Bill is to amend various Acts and Regulations administered by the Treasurer. The Bill amends the following Acts—

- (a) *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*,
- (b) *General Government Liability Management Fund Act 2002*,
- (c) *Government Sector Audit Act 1983*,
- (d) *Government Sector Finance Act 2018*,
- (e) *NSW Self Insurance Corporation Act 2004*,
- (f) *Parliamentary Contributory Superannuation Act 1971*.

The Bill also makes law revision amendments to various Acts and Regulations as a consequence of the changing of the name of the First State Superannuation Fund to the Aware Super 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.

Clause 3 repeals parts of the *Government Sector Finance Legislation (Repeal and Amendment) Act 2018*, which contain amendments that have not yet commenced.

Schedule 1 Amendments

1.1 Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No 45

Schedule 1.1 makes amendments to the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941* in response to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, also known as the Hayne Royal Commission, including amendments—

- (a) enabling a separate person to be appointed to administer the Coal and Oil Shale Mine Workers Compensation Subsidy Fund, instead of the Corporate Trustee that administers the AUSCOAL Superannuation Fund, and
- (b) enabling another person to be appointed to administer the AUSCOAL Superannuation Fund.

1.2 General Government Liability Management Fund Act 2002 No 60

Schedule 1.2 amends the *General Government Liability Management Fund Act 2002* to remove references to the “Crown Entity” to comply with the Australian Accounting Standards.

1.3 Government Sector Audit Act 1983 No 152

Schedule 1.3 amends the *Government Sector Audit Act 1983* to better align the Act with the *Government Sector Finance Act 2018*.

Schedule 1.3[1], [2], [5], [6] and [8] remove redundant references to general government sector financial statements.

Schedule 1.3[3], [4] and [7] make amendments regarding the timing of the provision of audited Consolidated State Financial Statements and audit opinions by the Auditor-General. Specific dates are removed and replaced with obligations to provide statements and opinions as soon as practicable. **Schedule 1.3[4]** omits section 51 as tabling of Consolidated State Financial Statements is dealt with by the *Government Sector Finance Act 2018*, section 7.18. **Schedule 1.3[9]** makes a consequential amendment to remove a subsection made redundant by these amendments.

1.4 Government Sector Finance Act 2018 No 55

Schedule 1.4 amends the *Government Sector Finance Act 2018* to clarify the timing and sequence of the giving of compliance statements.

Currently, an accountable authority for a reporting GSF agency is required to include a compliance statement with its annual GSF financial statements before the beginning of the audit by the Auditor-General. **Schedule 1.4[1]** amends section 7.6 to require the compliance statement be given before the Auditor-General prepares the audit report. The statement is taken to be part of the annual GSF financial statements after it is given to the Auditor-General.

Currently, the Treasurer is required to include a compliance statement with the Consolidated State Financial Statements before the beginning of the audit of the statements by the Auditor-General. **Schedule 1.4[2]** amends section 7.17 to require the Treasurer to provide the compliance statement before the Auditor-General prepares the audit report. The statement is taken to be part of the Consolidated State Financial Statements after it is given to the Auditor-General.

Schedule 1.4[3] inserts section 7.18(1A) to make it clear that certain statements, commentaries and reports must be tabled in the Legislative Assembly at the same time.

1.5 NSW Self Insurance Corporation Act 2004 No 106

Schedule 1.5 amends the *NSW Self Insurance Corporation Act 2004* to remove references to the “Crown Finance Entity” to comply with the Australian Accounting Standards.

1.6 Parliamentary Contributory Superannuation Act 1971 No 53

Schedule 1.6 amends the *Parliamentary Contributory Superannuation Act 1971* to change the method of appointment and removal of the trustees of the Parliamentary Contributory Superannuation Fund. The subschedule also makes other minor, consequential and savings and transitional amendments relating to the trustees.

Schedule 2 Law revision amendments relating to Aware Super

Schedule 2 amends the following Acts and Regulations to update references to First State Superannuation which is now known as Aware Super—

- (a) *First State Superannuation Act 1992*,
- (b) *First State Superannuation Regulation 2018*,
- (c) *Parliamentary Contributory Superannuation Act 1971*,
- (d) *Parliamentary Contributory Superannuation Regulation 2018*,
- (e) *Police Regulation (Superannuation) Act 1906*,
- (f) *Police Superannuation Regulation 2020*,
- (g) *State Authorities Superannuation Act 1987*,
- (h) *State Authorities Superannuation Regulation 2020*,
- (i) *Superannuation Act 1916*,
- (j) *Superannuation (Axiom Funds Management Corporation) Act 1996*,
- (k) *Superannuation Regulation 2016*.



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New South Wales

Treasury Legislation Amendment (Miscellaneous) Bill 2022

No. , 2022

A Bill for

An Act to make miscellaneous amendments to legislation administered by the Treasurer.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Treasury Legislation Amendment (Miscellaneous) Act 2022*.

2 Commencement

This Act commences, or is taken to have commenced, on 1 July 2022.

3 Repeal of parts of Government Sector Finance Legislation (Repeal and Amendment) Act 2018 No 70

The following provisions of the *Government Sector Finance Legislation (Repeal and Amendment) Act 2018* are repealed—

- (a) Schedule 4.6,
- (b) Schedule 4.7,
- (c) Schedule 4.9,
- (d) Schedule 4.19[1],
- (e) Schedule 4.37,
- (f) Schedule 4.43[2],
- (g) Schedule 4.106,
- (h) Schedule 4.119.

Schedule 1 Amendments

1.1 Coal and Oil Shale Mine Workers (Superannuation) Act 1941 No 45

[1] Section 2 Definitions

Omit the definition of *Corporate Trustee* from section 2(1). Insert instead—
Corporate Trustee—see section 14.

[2] Section 2 Definitions

Insert in alphabetical order in section 2(1)—

Subsidy Fund Administrator means the person appointed to administer the Subsidy Fund under section 19C.

[3] Section 14

Insert before section 15—

14 Meaning of “Corporate Trustee”

In this Act, *Corporate Trustee* means—

- (a) the body incorporated as a result of arrangements made under the *Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1994*, section 4, or
- (b) if the Minister has appointed a person to be the Corporate Trustee—the person.

[4] Section 15C Corporate Trustee to maintain trust deed and governing rules

Insert “, other than Part 4A,” after “under this Act” in section 15C(4A)(a).

[5] Section 15C(8)

Insert after section 15C(7)—

- (8) To avoid doubt, subsection (7) does not prevent an amendment or substitution of the AUSCOAL Trust Deed to give effect to the following—
 - (a) the amendments to this Act by the *Treasury Legislation Amendment (Miscellaneous) Act 2022*,
 - (b) the allocation of the administration of the Subsidy Fund to the Subsidy Fund Administrator by operation of those amendments.

[6] Part 4A Coal and oil shale mine workers compensation subsidies

Omit “Corporate Trustee” wherever occurring, except section 19C(4).

Insert instead “Subsidy Fund Administrator”.

[7] Section 19C Coal and Oil Shale Mine Workers Compensation Subsidy Fund

Omit section 19C(4). Insert instead—

- (4) The Minister may appoint a person to administer the Subsidy Fund (the *Subsidy Fund Administrator*).

[8] Section 19CA Subsidy Fund Administrator may invest Subsidy Fund

Omit “it is authorised” from section 19CA(2).

Insert instead “the Corporate Trustee is authorised”.

[9] Sections 19CB and 19CC	1
Insert after section 19CA—	2
19CB Extension of references to Corporate Trustee to Subsidy Fund Administrator	3
(1) In the following provisions, a reference to the Corporate Trustee is taken to include a reference to Subsidy Fund Administrator, but only in relation to the Subsidy Fund—	4
(a) section 2J,	5
(b) section 15B,	6
(c) section 16A,	7
(d) section 19AC(1),	8
(e) section 23,	9
(f) section 29.	10
(2) To avoid doubt, in section 15B(1), as extended by subsection (1)(b) in relation to the Subsidy Fund, the reference to “for the purposes of this Act” is taken to be a reference to “for the purposes of Part 4A”.	11
19CC References to “AUSCOAL Rules” and “AUSCOAL Trust Deed”	12
(1) In this Part—	13
<i>AUSCOAL Rules</i> means—	14
(a) the AUSCOAL Rules within the meaning of section 2, or	15
(b) if the Minister has approved other rules for the purposes of this Part—the other rules.	16
<i>AUSCOAL Trust Deed</i> means—	17
(a) the AUSCOAL Trust Deed within the meaning of section 2, or	18
(b) if the Minister has approved another document for the purposes of this Part—the other document.	19
(2) The Minister may approve rules or a document under subsection (1) for the purposes of 1 or more specified provisions of this Part only.	20
[10] Section 24 Unpaid contributions recoverable as debt	21
Omit “or the Subsidy Fund” from section 24(1).	22
[11] Section 24(1A)	23
Insert after section 24(1)—	24
(1A) The Subsidy Fund Administrator may recover as a debt in a court of competent jurisdiction contributions and other money payable by owners to the Subsidy Fund that has not been paid by the due date.	25
1.2 General Government Liability Management Fund Act 2002 No 60	26
[1] Section 3 Definitions	27
Omit the definition of <i>Crown Entity</i> from section 3(1).	28
[2] Sections 5(a) and 12(1)	29
Omit “Entity” wherever occurring.	30

[3] Section 6 Payments out of the Fund	1
Omit “Crown Entity’s” from section 6(6). Insert instead “Crown’s”.	2
[4] Section 9 Financial provisions relating to Ministerial Corporation	3
Omit section 9(2). Insert instead—	4
(2) The annual report of the Ministerial Corporation must be published as part of the Treasury’s annual report.	5 6
1.3 Government Sector Audit Act 1983 No 152	7
[1] Section 4 Definitions	8
Omit the definition of <i>General Government Sector Financial Statements</i> from section 4(1).	9 10
[2] Section 27B The Auditor-General	11
Omit “, the General Government Sector Financial Statements” from section 27B(3)(a).	12
[3] Section 49	13
Omit the section. Insert instead—	14
49 Examination of Consolidated State Financial Statements	15
(1) The Auditor-General must—	16
(a) examine the Consolidated State Financial Statements given to the Auditor-General by the Treasurer under the <i>Government Sector Finance Act 2018</i> , section 7.17(2), and	17 18 19
(b) prepare and sign an opinion as to whether the statements comply with the <i>Government Sector Finance Act 2018</i> , section 7.17(3).	20 21
(2) As soon as practicable after receiving the Consolidated State Financial Statements from the Treasurer under the <i>Government Sector Finance Act 2018</i> , section 7.17(2), the Auditor-General must give the statements and the opinion prepared under this section to the Treasurer.	22 23 24 25
(3) Nothing in this section prevents the alteration of the Consolidated State Financial Statements, with the approval of the Auditor-General, after being received by the Auditor-General and before being given to the Treasurer.	26 27 28
[4] Section 51 Presentation of financial statements and opinions to Legislative Assembly	29 30
Omit section 51.	31
[5] Sections 52(1) and 57(1)(a)	32
Omit “and General Government Sector Financial Statements” wherever occurring.	33
[6] Section 52 Auditor-General’s reports	34
Omit “, the General Government Sector Financial Statements” from section 52(3).	35
[7] Section 52A Auditor-General’s report to be presented to Parliament	36
Omit “not later than 31 October in the year following that to which the report relates” from section 52A(1)	37 38

Insert instead “as soon as practicable after giving the statements and the opinion to the Treasurer under section 49(2)”.	1 2
[8] Section 57 Functions of Committee	3
Omit “and general government sector financial statements” from section 57(1)(c).	4
[9] Section 64 Regulations	5
Omit section 64(1A).	6
1.4 Government Sector Finance Act 2018 No 55	7
[1] Section 7.6 Annual GSF financial statements	8
Omit section 7.6(4). Insert instead—	9
(4) The accountable authority must prepare a statement as to whether the annual GSF financial statements comply with subsection (3).	10 11
(4A) The statement must be given to the Auditor-General before the Auditor-General prepares the audit report for the annual GSF financial statements.	12 13 14
(4B) The statement is taken to be part of the annual GSF financial statements after it is given to the Auditor-General.	15 16
[2] Section 7.17 Consolidated State Financial Statements	17
Omit section 7.17(4). Insert instead—	18
(4) The Treasurer must prepare a statement as to whether the Consolidated State Financial Statements comply with subsection (3).	19 20
(4A) The statement must be given to the Auditor-General before the Auditor-General prepares the audit report for the Consolidated State Financial Statements.	21 22 23
(4B) The statement is taken to be part of the Consolidated State Financial Statements after it is given to the Auditor-General.	24 25
[3] Section 7.18 Tabling of Consolidated State Financial Statements	26
Insert after section 7.18(1)—	27
(1A) The statements, commentaries and reports referred to in subsection (1)(a)–(c) must be tabled in the Legislative Assembly at the same time.	28 29
1.5 NSW Self Insurance Corporation Act 2004 No 106	30
[1] Section 11 Self Insurance Fund	31
Omit “Finance Entity” from section 11(5).	32
[2] Section 11(6)	33
Omit the subsection.	34
1.6 Parliamentary Contributory Superannuation Act 1971 No 53	35
[1] Section 14	36
Omit the section. Insert instead—	37

14 Trustees of the Fund	1
(1) The trustees of the Fund are—	2
(a) 7 members of the Parliamentary Contributory Superannuation Scheme appointed by the trustees (an <i>appointed trustee</i>), and	3
(b) the Secretary of the Treasury.	4
(2) An appointed trustee vacates office on ceasing to be a member of the Parliamentary Contributory Superannuation Scheme.	5
(3) On a vacancy occurring in the office of appointed trustee, for any reason, the trustees must appoint a member of the Parliamentary Contributory Superannuation Scheme to replace the vacating trustee.	6
(4) An appointed trustee may be removed by—	7
(a) the trustees, or	8
(b) after consultation with the trustees, the Treasurer on reasonable grounds.	9
(5) Subject to this section, an appointed trustee holds office for the period specified in the trustee's instrument of appointment, which must not exceed 4 years.	10
(6) An appointed trustee is eligible for reappointment.	11
[2] Section 16 Meetings of trustees	12
Omit section 16(1A).	13
[3] Section 16(5)	14
Omit "by reason of the dissolution or expiry of the Legislative Assembly or".	15
[4] Schedule 1 Savings, transitional and other provisions	16
Insert at the end of clause 1(1)—	17
an Act that amends this Act	18
[5] Schedule 1, clause 13	19
Insert after clause 12—	20
13 Existing trustees continue in office	21
(1) The trustees of the Fund referred to in section 14(1)(a) and (b), as in force immediately before the commencement of the amending Act, continue in office until the earlier of the following—	22
(a) the expiry of the period of 4 years beginning on the commencement of the amending Act, or	23
(b) another date determined by the trustees.	24
(2) A trustee referred to in this clause—	25
(a) may be removed under section 14(4), as inserted by the amending Act, and	26
(b) is eligible for reappointment.	27
(3) In this clause—	28
<i>amending Act</i> means the <i>Treasury Legislation (Miscellaneous) Act 2022</i> , Schedule 1.6.	29

Schedule 2	Law revision amendments relating to Aware Super	1
		2
2.1	First State Superannuation Act 1992 No 100	3
[1]	Section 1 Name of Act	4
	Omit “ <i>First State Superannuation Act 1992</i> ”. Insert instead “ <i>Aware Super Act 1992</i> ”.	5
[2]	Schedule 3 Savings, transitional and other provisions	6
	Insert at the end of the Schedule, with appropriate numbering—	7
Part	Provision consequent on enactment of Treasury Legislation Amendment (Miscellaneous) Act 2022	8
		9
	References to First State Superannuation	10
	On and from the commencement of the <i>Treasury Legislation Amendment (Miscellaneous) Act 2022</i> , Schedule 2.1, a reference in an Act, instrument or other document to First State Superannuation or the <i>First State Superannuation Act 1992</i> is taken to include a reference to Aware Super or the <i>Aware Super Act 1992</i> , respectively.	11
		12
		13
		14
		15
[3]	Dictionary	16
	Omit the definition of <i>FTC</i> .	17
	Insert instead—	18
	<i>FTC</i> means the following companies, taken to be registered under the <i>Corporations Act 2001</i> of the Commonwealth by reason of the operation of the <i>Superannuation Administration Act 1996</i> , Schedule 2A, clause 3—	19
		20
	(a) until 6 September 2020—the company called FSS Trustee Corporation,	21
	(b) from 7 September 2020—the company called Aware Super Pty Ltd.	22
		23
[4]	Dictionary, definition of “Fund”	24
	Omit “First State Superannuation”. Insert instead “Aware Super”.	25
2.2	First State Superannuation Regulation 2018	26
[1]	Clause 1 Name of Regulation	27
	Omit “ <i>First State Superannuation Regulation 2018</i> ”.	28
	Insert instead “ <i>Aware Super Regulation 2018</i> ”.	29
[2]	Clause 3 Definition	30
	Omit the definition of <i>the Act</i> from clause 3(1). Insert instead—	31
	<i>the Act</i> means the <i>Aware Super Act 1992</i> .	32
2.3	Parliamentary Contributory Superannuation Act 1971 No 53	33
[1]	Section 29A Definitions	34
	Insert in alphabetical order—	35
	<i>Aware Super Fund</i> means the Aware Super Fund established under the <i>Aware Super Act 1992</i> .	36
		37

[2] Section 29A, definition of “complying superannuation fund”	1
Omit “First State Superannuation” from paragraph (b).	2
Insert instead “Aware Super”.	3
[3] Section 29A, definition of “First State Superannuation Fund”	4
Omit the definition.	5
[4] Section 29C Payment splits	6
Omit “First State Superannuation” from section 29C(5). Insert instead “Aware Super”.	7
2.4 Parliamentary Contributory Superannuation Regulation 2018	8
Clauses 17(4)(d) and 18(2)(b)	9
Omit “First State Superannuation” wherever occurring.	10
Insert instead “Aware Super”.	11
2.5 Police Regulation (Superannuation) Act 1906 No 28	12
[1] Section 1 Name of Act, commencement and definitions	13
Insert in alphabetical order in section 1(2)—	14
<i>Aware Super Fund</i> has the same meaning as <i>Fund</i> has in the <i>Aware Super Act 1992</i> .	15
	16
[2] Section 1(2), definition of “First State Superannuation Fund”	17
Omit the definition.	18
[3] Sections 5B, 5C(5)(e), 5D(2), 14N, definition of “complying superannuation fund”, paragraph (b) and 14P(5)	19
Omit “First State Superannuation” wherever occurring. Insert instead “Aware Super”.	20
	21
[4] Sections 5D(3) and 14P(8), definition of “FTC”	22
Omit “ <i>First State Superannuation Act 1992</i> ” wherever occurring.	23
Insert instead “ <i>Aware Super Act 1992</i> ”.	24
[5] Section 5J Payment of conversion benefit	25
Omit “First State Superannuation Fund established under the <i>First State Superannuation Act 1992</i> ” from section 5J(4).	26
	27
Insert instead “Aware Super Fund under the <i>Aware Super Act 1992</i> ”.	28
2.6 Police Superannuation Regulation 2020	29
Clauses 23(4)(d) and 24(2)(b)	30
Omit “First State Superannuation” wherever occurring. Insert instead “Aware Super”.	31
2.7 State Authorities Superannuation Act 1987 No 211	32
[1] Section 3 Definitions	33
Insert in alphabetical order in section 3(1)—	34

<i>Aware Super Fund</i> has the same meaning as <i>Fund</i> has in the <i>Aware Super Act 1992</i> .	1 2
[2] Section 3(1), definition of “First State Superannuation Fund”	3
Omit the definition.	4
[3] Sections 30A, 45F, definition of “complying superannuation fund”, paragraph (b), 45I(5) and 46AE(2)(b)	5 6
Omit “First State Superannuation” wherever occurring. Insert instead “Aware Super”.	7
[4] Section 45F Definitions	8
Omit “ <i>First State Superannuation Act 1992</i> ” from the definition of <i>FTC</i> .	9
Insert instead “ <i>Aware Super Act 1992</i> ”.	10
2.8 State Authorities Superannuation Regulation 2020	11
Clauses 22(4)(d) and 23(2)(b)	12
Omit “First State Superannuation” wherever occurring.	13
Insert instead “Aware Super”.	14
2.9 Superannuation Act 1916 No 28	15
[1] Section 3 Definitions	16
Insert in alphabetical order in section 3(1)—	17
<i>Aware Super Fund</i> has the same meaning as <i>Fund</i> has in the <i>Aware Super Act 1992</i> .	18 19
[2] Section 3(1), definition of “First State Superannuation Fund”	20
Omit the definition.	21
[3] Sections 20AB(3) and (5)(e), 20F(5)(e), 20M(4), 61W, definition of “complying superannuation fund”, paragraph (b) and 61WB(5)	22 23
Omit “First State Superannuation” wherever occurring. Insert instead “Aware Super”.	24
[4] Sections 20G(3), 20M(1)(a) and section 61W, definition of “FTC”	25
Omit “ <i>First State Superannuation Act 1992</i> ” wherever occurring.	26
Insert instead “ <i>Aware Super Act 1992</i> ”.	27
2.10 Superannuation (Axiom Funds Management Corporation) Act 1996 No 40	28 29
Section 4 Definitions	30
Omit paragraph (a) of the definition of <i>FTC fund</i> or <i>FTC scheme</i> in section 4.	31
Insert instead—	32
(a) <i>Aware Super Act 1992</i> ,	33

2.11 Superannuation Regulation 2016	1
Clauses 13(4)(d) and 14(2)(b)	2
Omit “First State Superannuation” wherever occurring.	3
Insert instead “Aware Super”.	4