

Passed by both Houses



New South Wales

Treasury and Energy Legislation Amendment Bill 2022

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2022



New South Wales

Treasury and Energy Legislation Amendment Bill 2022

Act No _____, 2022

*An Act to amend the *Government Sector Finance Act 2018*, the *First Home Owner Grant (New Homes) Act 2000*, the *Superannuation Administration Act 1996*, the *Electricity Supply Act 1995*, the *Energy and Utilities Administration Act 1987* and the *Subordinate Legislation Act 1989* for particular purposes; and to make consequential amendments to other Acts.*

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Treasury and Energy Legislation Amendment Act 2022*.

2 Commencement

- (1) This Act, other than Schedule 4.2, commences as follows—
 - (a) for Schedule 3.1[10]—on a day or days to be appointed by proclamation,
 - (b) otherwise—on the date of assent to this Act.
- (2) Schedule 4.2 is taken to have commenced on 8 April 1999.

Schedule 1 Amendment of Government Sector Finance Act 2018 No 55

[1] Section 4.7 Deemed appropriations of certain money received by GSF agencies

Omit “responsible Minister” from section 4.7(1). Insert instead “lead Minister”.

[2] Section 4.7(2)

Omit the subsection. Insert instead—

- (2) An appropriation under this section is taken to have been given—
 - (a) if the receiving GSF agency is a special office—for the services of the receiving GSF agency, or
 - (b) otherwise—for the services of the lead Department for the GSF agency.

[3] Section 4.7(3)

Omit the subsection. Insert instead—

- (3) ***Deemed appropriation money*** means—
 - (a) government money that a GSF agency receives or recovers, including from the Commonwealth or another entity, of a kind prescribed by the regulations, that—
 - (i) forms part of the Consolidated Fund, and
 - (ii) is not appropriated under the authority of an Act, or
 - (b) government money that a GSF agency receives or recovers, from another GSF agency, of a kind prescribed by the regulations, that—
 - (i) forms part of the Consolidated Fund, and
 - (ii) is appropriated under the authority of an Act to the lead Minister for the other GSF agency for—
 - (A) if the other GSF agency is a special office—the services of the other GSF agency, or
 - (B) otherwise—the services of the lead Department for the other GSF agency.

[4] Section 4.7(4)

Omit “subsections (3) and (6)(a)”. Insert instead “subsections (3)(a) and (b) and (6)(a)”.

[5] Section 4.7(7) and (8)

Insert after section 4.7(6)—

- (7) At the time a receiving GSF agency receives or recovers deemed appropriation money referred to in subsection (3)(b), the appropriation to the lead Minister referred to in subsection (3)(b)(ii) is taken to have been reduced by an equivalent sum to the sum received or recovered by the receiving agency.
- (8) In this section—

lead Department, for a GSF agency, means—

 - (a) if the GSF agency is a Public Service executive agency within the meaning of the *Government Sector Employment Act 2013*—the Department specified as being the related Department for the GSF agency under that Act, Schedule 1, Part 2, or

- (b) if paragraph (a) does not apply and there is only 1 responsible Minister for the GSF agency—the Department responsible to the responsible Minister for the GSF agency, or
- (c) if paragraph (a) and (b) do not apply and there is more than 1 responsible Minister for the GSF agency and the same single Department is responsible to the responsible Ministers—the Department responsible to the responsible Ministers, or
- (d) if paragraphs (a)–(c) do not apply—the Department specified for the GSF agency in a written determination made by the Treasurer and published in the Gazette.

lead Minister, for a GSF agency, means—

- (a) if amounts are appropriated, under the relevant annual Appropriation Act, to a Minister for the services of the GSF agency—the Minister to whom the amounts are appropriated under the relevant annual Appropriation Act, or
- (b) otherwise—the Minister to whom amounts are appropriated, under the relevant annual Appropriation Act, for the services of the GSF agency’s lead Department.

receiving GSF agency means a GSF agency that receives or recovers deemed appropriation money.

relevant annual Appropriation Act means the annual Appropriation Act under which appropriations are made for the reporting period for a GSF agency in which the GSF agency receives deemed appropriation money.

special office means a GSF agency that is a special office in relation to which an appropriation is made under the relevant annual Appropriation Act.

[6] Section 4.9, heading

Insert “**Ministers or**” after “**between**”.

[7] Section 4.9(1)

Omit the subsection. Insert instead—

- (1) This section applies to an appropriation to a Minister made under an annual Appropriation Act for an annual reporting period for the NSW Government for a service, function or program if responsibility for the service, function or program is, during that period, transferred—
 - (a) from one Minister to another Minister, or
 - (b) from one GSF agency to another GSF agency.
- (1A) The appropriation does not lapse merely because the responsibility for the service, function or program is transferred from one Minister to another Minister, or from one GSF agency to another GSF agency, during that period.

[8] Section 4.9(2)

Insert “by a Minister” after “applied”.

[9] Section 4.9A

Insert after section 4.9—

4.9A Deemed appropriations affected by transfer of functions between GSF agencies

- (1) This section applies to a deemed appropriation taken to have been given to the lead Minister for a GSF agency if responsibility for a service, function or program is transferred—
 - (a) from the Minister to another Minister, or
 - (b) from the GSF agency to another GSF agency.
- (2) The deemed appropriation may be applied by a Minister, in accordance with any determination that may be made by the Treasurer, for or towards the transferred service, function or program.
- (3) A determination may extend to the application of the deemed appropriation before the determination is made and operates to validate that application.
- (4) The Treasurer must cause details of any deemed appropriation to which a determination relates to be included in the Budget Papers for the next annual reporting period for the NSW Government after the annual reporting year for the NSW Government in which the determination was made.
- (5) In this section—

deemed appropriation means an appropriation taken to have been given to a lead Minister under section 4.7.

lead Minister, for a GSF agency, has the same meaning as in section 4.7.

[10] Schedule 1 Savings, transitional and other provisions

Insert at the end of the Schedule—

Part 5 Provisions consequent on enactment of Treasury and Energy Legislation Amendment Act 2022

32 Definition for Part

In this Part—

amending Act means the *Treasury and Energy Legislation Amendment Act 2022*.

32 Extension of deemed appropriation money

Section 4.7, as amended by the amending Act, extends to government money that was received or recovered by a GSF agency before the commencement of the amending Act, Schedule 1.

33 Application of existing deemed appropriations and delegations

- (1) This clause applies in relation to—
 - (a) an existing deemed appropriation to the responsible Minister for a GSF agency, and
 - (b) a delegation given by the responsible Minister to a person that authorises the application of all or part of the existing deemed appropriation by the person.
- (2) On and from the commencement of the amending Act, Schedule 1—
 - (a) the existing deemed appropriation is taken to have been given to the lead Minister for the GSF agency, and

- (b) the delegation continues in effect as if the delegation had been given by the lead Minister for the GSF agency.
- (3) In this clause—
existing deemed appropriation, to a responsible Minister for a GSF agency, means an appropriation taken to have been given to the Minister under the Act, section 4.7 as in force before the commencement of the amending Act, Schedule 1.

Schedule 2 Amendment of First Home Owner Grant (New Homes) Act 2000 No 21

[1] **Section 1 Name of Act**

Omit “(New Homes)”. Insert instead “and Shared Equity”.

[2] **Part 2A**

Insert after section 24—

Part 2A Shared equity schemes

Division 1 Preliminary

24A Definitions

In this Part—

financial year means a year ending on 30 June.

Fund means the NSW Shared Equity Scheme Fund established under Division 4.

shared equity scheme—see section 24B.

24B Meaning of “shared equity scheme”

In this Part—

shared equity scheme means a scheme established under this Part that enables a person who is purchasing property to enter into an agreement with the State under which—

- (a) the State contributes a portion of the—
 - (i) purchase price, and
 - (ii) associated construction costs, if relevant, and
- (b) the State obtains an interest in the property.

Division 2 Establishment of scheme

24C Establishment of shared equity scheme

- (1) The Treasurer may, by order published in the Gazette, establish a shared equity scheme and specify matters in relation to the scope or administration of the scheme.
- (2) More than 1 scheme may be established.

24D Policy guidelines

- (1) The Treasurer may publish policy guidelines for the purposes of the administration of a shared equity scheme.
- (2) The published policy guidelines must be tabled in each House of Parliament as soon as practicable after publication.
- (3) The Chief Commissioner must administer a shared equity scheme in accordance with published policy guidelines for the scheme.

Division 3 Functions of Chief Commissioner

24E Functions of Chief Commissioner

The Chief Commissioner has the functions necessary to administer and give effect to a shared equity scheme, including the following functions—

- (a) to establish application processes relating to participation in the scheme,
- (b) to receive and assess applications,
- (c) to enter contracts or other arrangements for the purposes of administering the scheme,
- (d) to monitor compliance with requirements of the scheme,
- (e) other functions prescribed by the regulations.

24F Use of information obtained under other Acts

The Chief Commissioner may, for the purposes of exercising functions under this Part, use and disclose information obtained by the Chief Commissioner under this Act or another Act.

Division 4 The Fund

24G NSW Shared Equity Scheme Fund

- (1) A NSW Shared Equity Scheme Fund (the *Fund*) must be established in the Special Deposits Account.
- (2) The purpose of the Fund is to provide greater opportunities for home ownership by—
 - (a) facilitating the State to enter into shared equity arrangements with eligible persons under shared equity schemes, and
 - (b) managing money for the purposes of shared equity schemes.
- (3) The Chief Commissioner must manage the Fund.

24H Payments into and out of Fund

- (1) The following must be paid into the Fund—
 - (a) all money appropriated by Parliament, or advanced by the Treasurer, for the purposes of payment into the Fund,
 - (b) the proceeds of the investment of money in the Fund,
 - (c) fees and charges payable under this Part,
 - (d) all other money directed or authorised to be paid into the Fund by or under an Act or law,
 - (e) amounts received from the repayments of money provided under a shared equity scheme,
 - (f) all money received from the sale of assets acquired under a shared equity scheme,
 - (g) amounts recovered under this Act as debts related to a shared equity scheme.
- (2) The following may be paid out of the Fund—
 - (a) amounts for the acquisition of interests in property under a shared equity scheme,
 - (b) money required to meet administrative expenses related to the Fund,

- (c) amounts for the purpose of making investments,
 - (d) amounts the Treasurer directs to be paid into the Consolidated Fund.
- (3) The investments must, despite the *Government Sector Finance Act 2018*, only be invested in a way approved by the Treasurer.

24I Annual reports for Fund

- (1) The Minister must produce an annual report on the activities of the Fund during each financial year, including—
- (a) payments in and out of the Fund, and
 - (b) details of investments.
- (2) The annual report must also set out the aggregate value, at the end of the financial year, of interests in property under each shared equity scheme.
- (3) The Treasurer may specify the following—
- (a) the form of the report,
 - (b) matters relating to valuation requirements, including how an aggregate value is to be calculated for the purposes of subsection (2),
 - (c) other information to be included in the report.
- (4) The report must include an audit of the Fund by the Auditor-General, which includes an assessment of whether payments from the Fund have been made in accordance with this Act.
- (5) The report is to be made publicly available within 6 months after the end of the financial year to which it relates.
- (6) The annual report must be tabled in each House of Parliament within 6 months after the end of the financial year to which it relates.

24J Closure of Fund

- (1) The Governor may close the Fund by proclamation published on the NSW legislation website.
- (2) The Governor may make the proclamation only if satisfied that the Minister and the Treasurer support the closure of the Fund.
- (3) A proclamation under this section must not close the Fund within 2 years after the commencement of this Part.
- (4) A proclamation under this section may include savings and transitional provisions in relation to the closure of the Fund, including specifying what is to be done with—
- (a) any amount left in the Fund, and
 - (b) future amounts that would have been payable to the Fund.

Division 5 Miscellaneous

24K Application of Taxation Administration Act 1996

- (1) The *Taxation Administration Act 1996*, Part 8 applies in relation to a participant in a shared equity scheme, with the following modifications—
- (a) a reference to a taxpayer is to be read as a reference to a participant,
 - (b) a reference to a tax liability is to be read as a reference to compliance with the terms and conditions of the shared equity scheme,

- (c) a reference to a taxation law, including in relation to the functions of an authorised officer or tax officer, is to be read as the terms and conditions of the shared equity scheme.

- (2) In this section—
participant includes a former participant.

24L Eligibility for first home buyer schemes not affected

Nothing in this Part affects the eligibility of a person for a grant, financial assistance or a reduction in duty payable under this or another Act.

Note— This includes a first home buyer grant, the First Home Buyers Assistance Scheme under the *Duties Act 1997* and the *Property Tax (First Home Buyer Choice) Act 2022*.

[3] Part 2, Division 6, heading

Omit the heading. Insert instead—

Part 2B Objections and review

[4] Part 2B, subdivision 1, heading

Omit the heading.

[5] Section 25

Omit the section. Insert instead—

25 Grounds of objection—first home owner grant

- (1) A person who is an applicant or former applicant for a first home owner grant who is dissatisfied with any of the following decisions of the Chief Commissioner may make an objection under this Part—
 - (a) a decision on the person's application, including a decision to vary or reverse an earlier decision made independently of an objection under this Act,
 - (b) a decision to require the person to repay an amount under section 45,
 - (c) a decision to require the person to pay a penalty under section 45.
- (2) A person who is dissatisfied with a decision of the Chief Commissioner to require the person, instead of a grant recipient, to pay a recoverable amount under section 46A may make an objection under this Part.

25A Grounds of objection—shared equity schemes

A person who is an applicant or former applicant for participation in a shared equity scheme who is dissatisfied with any of the following decisions of the Chief Commissioner may make an objection under this Part—

- (a) a decision on the person's application, including a decision to vary or reverse an earlier decision made independently of an objection under this Act,
- (b) a decision to require the person to repay an amount under a shared equity arrangement under a shared equity scheme,
- (c) a decision to require the person to repay an amount under section 45,
- (d) a decision to require the person to pay a penalty under section 45.

25B Making objections

- (1) An objection must be made by giving written notice (an *objection notice*) to the Chief Commissioner.
- (2) The grounds of objection must be stated fully and in detail in the objection notice.
- (3) The objection notice must be given to the Chief Commissioner within—
 - (a) 60 days after the date of the notice of the decision to which the objection relates, or
 - (b) if the Chief Commissioner is satisfied that a person has a reasonable excuse for not giving the objection notice within the 60-day period—the longer period approved by the Chief Commissioner.

[6] Part 2B, subdivision 2, heading

Omit the heading.

[7] Section 31

Insert “or a shared equity scheme” after “scheme”.

[8] Section 31A

Insert after section 31—

31A Delegation by Minister

The Minister may delegate the exercise of any function of the Minister under this Act, other than this power of delegation, to—

- (a) the Chief Commissioner, or
- (b) a person employed in the Public Service.

[9] Section 32(1)

Insert “or a shared equity scheme” after “scheme”.

[10] Section 34 Authorised investigations

Omit section 34(a). Insert instead—

- (a) whether the following have been properly made—
 - (i) an application under this Act or a corresponding law for a first home owner grant,
 - (ii) an application under this Act to participate in a shared equity scheme, or

[11] Section 34(d1) and (d2)

Insert after paragraph (d)—

- (d1) whether a participant in a shared equity scheme is eligible to participate, or
- (d2) whether a person has complied with a condition for participating in a shared equity scheme, or

[12] Section 36A Power to require valuation or other evidence

Omit “the purposes of determining the total value of a transaction”.

Insert instead “a relevant purpose”.

[13] Section 36A(1)(a)

Omit the paragraph. Insert instead—

- (a) require, by written notice, the following to give to the Chief Commissioner evidence of the value of property or consideration that the Chief Commissioner considers appropriate—
 - (i) an applicant for a first home owner grant,
 - (ii) an applicant for participation in a shared equity scheme,

[14] Section 36A(2)–(4)

Insert after section 36A(1)—

- (2) The Chief Commissioner may recover from the applicant the cost of obtaining a valuation of property under subsection (1)(b) if—
 - (a) the value of the property in the valuation obtained by the Chief Commissioner differs from the value of the property provided by the applicant by at least 10%, or
 - (b) the applicant fails to comply with a written notice given to the applicant under subsection (1)(a)(ii) within 60 days after the notice is issued.
- (3) The Chief Commissioner may require the Valuer-General to make a valuation for the purposes of this section.
- (4) In this section—
 - applicant* includes a former applicant.
 - relevant purpose* means—
 - (a) determining the total value of a transaction, or
 - (b) the administration of a shared equity scheme.

[15] Section 44 Knowingly giving false or misleading information

Omit section 44(2). Insert instead—

- (2) A person must not make a statement or give information knowing it is false or misleading in a material particular in relation to—
 - (a) an application for a first home owner grant, or
 - (b) an application to participate in a shared equity scheme.

[16] Section 45

Omit the section. Insert instead—

45 Power to require repayment and impose penalty

- (1) The Chief Commissioner may, by written notice given to a person, require the person for whom an amount was paid under this Act to repay the amount if—
 - (a) the amount was paid in error, or
 - (b) the Chief Commissioner reverses the decision under which the amount was paid for another reason.
- (2) The Chief Commissioner may impose a penalty not exceeding the amount the person is required to repay if—
 - (a) the amount was paid under a first home owner grant as a result of dishonesty by an applicant for the grant, or

- (b) the amount was paid under a shared equity scheme as a result of dishonesty by a participant in the scheme, or
 - (c) the person fails to make a repayment required—
 - (i) under this section, or
 - (ii) by the conditions of a first home owner grant.
- (3) The penalty may be imposed in the notice under subsection (1) or in a separate written notice given to the person.
- (4) The Chief Commissioner may, by written notice given to a participant in a shared equity scheme, impose a penalty of up to \$3,300 on the person if the person fails—
- (a) to give the Chief Commissioner information the Chief Commissioner reasonably requests from the person for the administration of the scheme, or
 - (b) to notify the Chief Commissioner of a change in circumstances required to be notified to the Chief Commissioner under the conditions of the person's participation in the scheme, or
 - (c) to comply with a condition of a shared equity arrangement under a shared equity scheme and the condition is prescribed by the regulations.

[17] Section 46 Power to recover certain amounts

Omit section 46(1)–(3). Insert instead—

- (1) This section applies to the following amounts—
 - (a) an amount required to be repaid under the conditions of a first home owner grant or shared equity scheme or by the Chief Commissioner under this Act, by—
 - (i) an applicant or former applicant for a first home owner grant, or
 - (ii) a participant or former participant in a shared equity scheme,
 - (b) the amount of a penalty imposed on and payable by—
 - (i) an applicant or former applicant for a first home owner grant, or
 - (ii) a participant or former participant in a shared equity scheme,
 - (c) the amount a person is required to repay under section 45.
- (2) An amount to which this section applies is payable to the Chief Commissioner.
- (2A) If the amount is payable by more than 1 person, each person is jointly and severally liable to pay the amount.
- (3) The liability of a person to pay an amount to which this section applies is—
 - (a) a first charge on the person's interest in a home if—
 - (i) the home is one for which a first home owner grant was obtained, and
 - (ii) the person was an applicant for the grant, and
 - (iii) the person is liable to pay an amount referred to in subsection (1)(a) or (b), or
 - (b) a charge on the person's interest in property if—
 - (i) the property is the subject of a shared equity arrangement under a shared equity scheme, and
 - (ii) the person is a participant in the scheme, and

- (iii) the person is liable to pay an amount referred to in subsection (1)(a) or (b).

[18] Section 46(4)

Omit the subsection.

[19] Section 46(5A)

Insert after section 46(5)—

- (5A) An amount to which this section applies is a referable debt within the meaning of the *State Debt Recovery Act 2018*.

[20] Section 47 Protection of confidential information

Omit section 47(1), definition of *protected information*. Insert instead—

protected information means information obtained in the course of work related to the administration of this Act about—

- (a) an applicant for a first home owner grant or the applicant's spouse, or
- (b) an applicant, including a former applicant, for participation in a shared equity scheme or the applicant's spouse.

Schedule 3 Amendments relating to superannuation successor funds

3.1 Superannuation Administration Act 1996 No 39

[1] Part 5, heading

Omit the heading. Insert instead—

Part 5 Offences and remedies relating to officers

[2] Part 5, Division 1, heading

Omit the heading.

[3] Part 5, Division 2, heading

Omit the heading. Insert instead—

Part 6 Public sector schemes

[4] Sections 129B and 129C

Renumber sections 125 and 126 as sections 129B and 129C and relocate after section 129A.

[5] Sections 125–127

Renumber sections 127, 128, 128A and 128B as sections 125, 126, 126A and 127 and relocate the renumbered sections after the heading to Part 6 and update all cross-references to the renumbered sections wherever occurring in the Act.

[6] Section 126A (as renumbered by item [5]), heading

Omit “and EISS”.

[7] Section 126A (as renumbered by item [5])

Omit section 126A(1), definition of *electricity industry superannuation scheme*.

[8] Section 126A(2) and (3) (as renumbered by item [5])

Omit “the electricity industry superannuation scheme or” wherever occurring.

[9] Section 126A(7) (as renumbered by item [5])

Omit “electricity industry and local government superannuation schemes”.

Insert instead “local government superannuation scheme”.

[10] Section 126A (as renumbered by item [5])

Omit the section.

[11] Part 7, heading

Insert before section 127A—

Part 7 Successor funds

127AA Definitions

In this Part—

electricity industry superannuation scheme means the scheme established under a trust deed entered into by the Treasurer and Energy Industries Superannuation Scheme Pty Ltd, as trustee.

local government superannuation scheme means the scheme established under a trust deed entered into by the Treasurer and LGSS Pty Ltd, as trustee.

successor fund has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth.

successor fund transfer means the transfer to a successor fund of—

- (a) the benefits of members, and
- (b) the assets and liabilities supporting the benefits.

[12] Section 127A, heading

Omit the heading. Insert instead—

127A Transfers from STC schemes to successor funds

[13] Sections 127B–128B

Insert after section 127A—

127B Transfers from EISS and LGSS to successor funds

- (1) The regulations may provide for successor fund transfers from the following (a *former scheme*)—
 - (a) the electricity industry superannuation scheme,
 - (b) the local government superannuation scheme.
- (2) Regulations may be made about the following in relation to a successor fund transfer under this section—
 - (a) transferring benefits of members,
 - (b) transferring assets and liabilities,
 - (c) paying transferred benefits,
 - (d) establishing funds and reserves in relation to the successor fund,
 - (e) preserving or deferring transferred benefits,
 - (f) the entitlements, rights and obligations of a member whose benefit is transferred,
 - (g) deeming employers—
 - (i) to be no longer employers under the former scheme, and
 - (ii) to be employers under the successor fund,
 - (h) requiring employers—
 - (i) to be bound by the trust deed of the successor fund, and
 - (ii) to make payments and contributions to the successor fund.
- (3) The Minister must not recommend the making of a regulation under this section in relation to a successor fund transfer before the successor fund transfer has occurred unless the Minister is satisfied the trustees of the former scheme and the successor fund agree the transfer will comply with—
 - (a) the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, and
 - (b) the regulations or other instruments under that Act.

- (4) The Minister must not recommend the making of a regulation under this section in relation to a successor fund transfer after the successor fund transfer has occurred unless the Minister is satisfied the regulation corrects an error.

128 Mobility between public sector schemes and successor funds

- (1) An employee has a right to transfer from an STC scheme to a successor fund if the employee—
- (a) is a member of or contributor to an STC scheme because of employment with a public sector employer prescribed by the regulations, and
 - (b) subsequently transfers employment to an employer that is responsible for the payment of benefits in respect of a successor fund, and
 - (c) meets the eligibility requirements prescribed by the regulations.
- (2) An employee has a right to transfer from a successor fund (the *current successor fund*) to an STC scheme if—
- (a) the employee was previously a member of or contributed to the STC scheme, and
 - (b) the employee has transferred—
 - (i) directly from the STC scheme to the current successor fund, or
 - (ii) from the STC scheme to the current successor fund by way of other successor funds or relevant schemes, and
 - (c) each transfer was—
 - (i) in accordance with regulations made under this Part or Part 6, or
 - (ii) by the exercise of an option under this Act or another Act establishing an STC scheme, and
 - (d) the employee subsequently transfers employment from an employer that is responsible for the payment of benefits in respect of the current successor fund to a public sector employer prescribed by the regulations, and
 - (e) the employee meets the eligibility requirements prescribed by the regulations.
- (3) In this section—
- relevant scheme* means—
- (a) the electricity industry superannuation scheme, or
 - (b) the local government superannuation scheme

128A Regulations about mobility between funds

- (1) Regulations may be made about the following—
- (a) the eligibility requirements for an employee to exercise a right of transfer under section 128 (a *transfer option*),
 - (b) the circumstances in which a transfer of employment is taken to have occurred for the purposes of a transfer option,
 - (c) how a transfer option may be exercised, including the way, form and time for exercising the option,
 - (d) the terms and conditions to which the employee's membership of the fund is subject once the employee exercises a transfer option,
 - (e) the transfer of assets and liabilities between funds in relation to an employee who exercises a transfer option,

- (f) the resolution by a person or body of disputes relating to the exercise of a transfer option,
 - (g) the payment of employer superannuation liabilities, including—
 - (i) employer contributions, and
 - (ii) benefits, and
 - (iii) insurance premiums.
- (2) Regulations may also be made about the rights and obligations of the employee and associated beneficiaries, in relation to the employee's membership of or contributions to the fund from which the employee is transferred under the transfer option, including—
- (a) the preservation or deferral of a benefit in the fund, and
 - (b) the calculation of the preserved or deferred benefit, and
 - (c) the payment of the benefit to the fund to which the employee is transferred despite—
 - (i) a minimum qualifying period of membership, or
 - (ii) another limit of the fund that would otherwise prevent or restrict the preservation or deferral of the benefit.
- (3) A regulation made under this section may confer a transfer option even if the relevant transfer of employment took place before the regulation commenced.

128B Part has effect despite other Acts and trust deeds

This Part, including regulations made under this Part, has effect despite any provision of—

- (a) an Act under which an STC scheme is constituted, or
- (b) the trust deeds constituting the following—
 - (i) the electricity industry superannuation scheme,
 - (ii) the local government superannuation scheme,
 - (iii) a successor fund.

[14] Part 8, heading

Insert before section 128C—

Part 8 Miscellaneous

3.2 State Authorities Non-contributory Superannuation Act 1987 No 212

Section 20A Scheme closed for new employees

Omit “section 128A” from section 20A(1)(d). Insert instead “Part 6 or Part 7”.

3.3 State Authorities Superannuation Act 1987 No 211

Section 2B Employee may resume contributions after break in employment

Omit “section 128A” from section 2B(2). Insert instead “Part 6 or Part 7”.

3.4 Superannuation Act 1916 No 28

Section 1A Closure of Scheme to persons employed on or after 1.7.1985

Omit “section 128A” from section 1A(3)(c1). Insert instead “Part 6 or Part 7”.

3.5 Government Sector Audit Regulation 2021

Schedule 1 Prescribed entities

Omit “section 127” from Part 1. Insert instead “section 125”.

Schedule 4 Amendments relating to energy supply

4.1 Electricity Supply Act 1995 No 94

[1] Schedule 4A Energy security safeguard schemes

Omit clause 34(1)–(3). Insert instead—

- (1) An energy savings certificate for energy savings arising from a recognised energy saving activity that occur during a particular year may be created—
 - (a) if the regulations prescribe a period for the creation of the certificate—
in the period prescribed by the regulations, or
 - (b) otherwise—no later than 6 months after the end of the year in which the energy savings occur.
- (2) An energy savings certificate is not created until an application is made under clause 46 for registration of the certificate.

[2] Schedule 4A, clause 58

Omit clause 58(2) and (3). Insert instead—

- (2) Without limiting subclause (1), the regulations may provide for the following matters—
 - (a) matters that may be the subject of audits,
 - (b) persons who may conduct audits,
 - (c) matters relating to decisions about who will conduct audits, including, for example, providing for the Scheme Regulator or Scheme Administrator to make decisions about whether to conduct audits personally or require audits to be conducted by an auditor engaged by the Scheme Regulator, Scheme Administrator or scheme participant,
 - (d) functions that may be exercised by persons conducting audits,
 - (e) fees payable for audits, including—
 - (i) who determines whether fees are payable for particular types of audits or audits in particular circumstances, and
 - (ii) how and by whom the amount of the fees payable for audits are determined, and
 - (iii) the maximum fees payable for audits generally or particular types of audits, and
 - (iv) to whom the fees for audits are payable,
 - (f) offences relating to obstructing or hindering, or refusing or failing to comply with requirements made by, persons who conduct audits.
- (3) If the regulations provide that a fee, as determined by or under the regulations, is payable for the carrying out of particular types of audit or audits in particular circumstances, each scheme participant and accredited certificate provider is liable to pay the fee for the carrying out of an audit of that type or in those circumstances in relation to the participant or provider.

[3] Schedule 4A, clause 77A

Insert after clause 77—

77A Waiver or reduction of application fees

The Scheme Administrator may waive payment of, or reduce, an application fee required to be paid under this Part.

[4] Schedule 4A, clause 104

Omit clause 104(1)(a). Insert instead—

- (a) the certificate—
 - (i) is registered as active in the register of certificates, or
 - (ii) was registered as active during the compliance period for which the certificate is surrendered, and

[5] Schedule 4A, clause 127

Omit clause 127(2). Insert instead—

- (2) Without limiting subclause (1), the regulations may provide for the following matters—
 - (a) matters that may be the subject of audits,
 - (b) persons who may conduct audits,
 - (c) matters relating to decisions about who will conduct audits, including, for example, providing for the Scheme Regulator or Scheme Administrator to make decisions about whether to conduct audits personally or require audits to be conducted by an auditor engaged by the Scheme Regulator, Scheme Administrator or scheme participant,
 - (d) functions that may be exercised by persons conducting audits,
 - (e) fees payable for audits, including—
 - (i) who determines whether fees are payable for particular types of audits or audits in particular circumstances, and
 - (ii) how and by whom the amount of the fees payable for audits are determined, and
 - (iii) the maximum fees payable for audits generally or particular types of audits, and
 - (iv) to whom the fees for audits are payable,
 - (f) offences relating to obstructing or hindering, or refusing or failing to comply with requirements made by, persons who conduct audits.
- (2A) If the regulations provide that a fee, as determined by or under the regulations, is payable for the carrying out of particular types of audit or audits in particular circumstances, each scheme participant and accredited certificate provider is liable to pay the fee for the carrying out of an audit of that type or in those circumstances in relation to the participant or provider.

[6] Schedule 4A, clause 143A

Insert after clause 143—

143A Waiver or reduction of application fees

The Scheme Administrator may waive payment of, or reduce, an application fee required to be paid under this Part.

[7] Schedule 4A, clause 168

Omit clause 168(1)(a). Insert instead—

- (a) the certificate—
 - (i) is registered as in force in the register of certificates, or
 - (ii) was in force during the compliance period for which the certificate is surrendered, and

[8] Schedule 4A, clause 192

Omit clause 192(2). Insert instead—

- (2) Without limiting subclause (1), the regulations may provide for the following matters—
 - (a) matters that may be the subject of audits,
 - (b) persons who may conduct audits,
 - (c) matters relating to decisions about who will conduct audits, including, for example, providing for the Scheme Regulator or Scheme Administrator to make decisions about whether to conduct audits personally or require audits to be conducted by an auditor engaged by the Scheme Regulator, Scheme Administrator or scheme participant,
 - (d) functions that may be exercised by persons conducting audits,
 - (e) fees payable for audits, including—
 - (i) who determines whether fees are payable for particular types of audits or audits in particular circumstances, and
 - (ii) how and by whom the amount of the fees payable for audits are determined, and
 - (iii) the maximum fees payable for audits generally or particular types of audits, and
 - (iv) to whom the fees for audits are payable,
 - (f) offences relating to obstructing or hindering, or refusing or failing to comply with requirements made by, persons who conduct audits.
- (2A) If the regulations provide that a fee, as determined by or under the regulations, is payable for the carrying out of particular types of audit or audits in particular circumstances, each scheme participant and accredited certificate provider is liable to pay the fee for the carrying out of an audit of that type or in those circumstances in relation to the participant or provider.

[9] Schedule 4A, clause 225A

Insert after clause 225—

225A Waiver or reduction of application fees

The Scheme Administrator may waive payment of, or reduce, an application fee required to be paid under this Part.

4.2 Energy and Utilities Administration Act 1987 No 103

[1] Section 35 Energy Administration Account

Omit “and the Department” from section 35(2)(a).

[2] Section 35(3)

Omit “the Department and”.

4.3 Energy Legislation Amendment Act 2021 No 34

Schedule 1 Amendment of Electricity Supply Act 1995 No 94

Omit Schedule 1[44], [51], [52], [79] and [80].

4.4 Subordinate Legislation Act 1989 No 146

[1] Section 10 Staged repeal of statutory rules

Insert after section 10(2)—

- (3) This section does not apply in relation to the following statutory rules—
 - (a) a regulation made under the *Electricity Infrastructure Investment Act 2020*,
 - (b) a regulation that sets out management rules for marine parks or aquatic reserves made under the *Marine Estate Management Act 2014*.

[2] Section 10(5)

Omit the subsection.