



New South Wales

Treasury and Energy Legislation Amendment Bill 2022

Explanatory note

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

Overview of Bill

This Bill—

- (a) amends the *Government Sector Finance Act 2018* to—
 - (i) provide that particular payments between GSF agencies of money, out of the Consolidated Fund, appropriated under the Authority of an Act (***deemed appropriation money***) are taken to be appropriations to the lead Minister for the GSF agency that receives or recovers the deemed appropriation money, and
 - (ii) clarify the reporting requirements for deemed appropriations, and
 - (iii) clarify that an appropriation relating to a service, function or program may be applied by a Minister, in accordance with a determination by the Treasurer, if the service, function or program is transferred between Ministers or between GSF agencies, and
 - (iv) enable the Treasurer to make determinations about the application of deemed appropriations if a service, function or program is transferred between Ministers or between GSF agencies, and
- (b) amends the *First Home Owner Grant (New Homes) Act 2000* to enable the establishment of shared equity schemes, and
- (c) amends the *Superannuation Act 1916* to provide for the transfer of benefits from public sector schemes and trust deed schemes to successor funds, and
- (d) amends the *Electricity Supply Act 1995* to—
 - (i) regulate the conduct and cost of audits, and

- (ii) provide for regulations to be made to extend the period in which energy savings scheme certificates may be surrendered, and
- (iii) clarify when peak demand reduction scheme certificates and renewable fuel scheme certificates may be surrendered, and
- (iv) enable the Scheme Administrator to waive payment of, or reduce, an application fee in relation to the energy savings scheme, the peak demand reduction scheme or the renewable fuel scheme, and
- (e) amends the *Energy Utilities and Administration Act 1987* to remove the requirement for payments to be made into and out of the Energy Administration Account by the Department, and
- (f) amends the *Subordinate Legislation Act 1989* to exclude regulations made under the *Electricity Infrastructure Investment Act 2020* from staged repeal, and
- (g) makes consequential amendments to other Acts.

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.

Schedule 1 **Amendment of Government Sector Finance Act 2018 No 55**

Schedule 1[1] amends the *Government Sector Finance Act 2018*, section 4.7(1) to provide that a deemed appropriation is taken to have been given to the lead Minister for a GSF agency, rather than the responsible Minister for the GSF agency.

Schedule 1[2] substitutes the *Government Sector Finance Act 2018*, section 4.7(2) to provide that a deemed appropriation is taken to have been given—

- (a) if the GSF agency receiving or recovering the deemed appropriation money is a special office under the annual Appropriation Act—for the services of the special office, or
- (b) otherwise—for the services of the lead Department for the GSF agency that receives or recovers the deemed appropriation money.

Schedule 1[3] substitutes the *Government Sector Finance Act 2018*, section 4.7(3) to provide that the definition of **deemed appropriation money** includes money received by one GSF agency from another GSF agency out of the Consolidated Fund that is appropriated under the authority of an Act to the lead Minister of the other GSF agency. **Schedule 1[4]** makes a consequential amendment.

Schedule 1[5] amends the *Government Sector Finance Act 2018*, section 4.7—

- (a) to insert proposed section 4.7(7), which clarifies that deemed appropriations must be offset against appropriations out of which the deemed appropriation is paid, and
- (b) to insert proposed section 4.7(8), which provides definitions of **lead Department**, **lead Minister**, **receiving GSF agency**, **relevant annual Appropriation Act** and **special office**.

Schedule 1[7] and [8] amend section 4.9 to clarify that a Minister may, in accordance with a determination by the Treasurer, apply an appropriation under an annual Appropriation Act for a service, function or program if responsibility for the service, function or program is transferred between Ministers or between GSF agencies. **Schedule 1[6]** makes a consequential amendment.

Schedule 1[9] inserts proposed section 4.9A, which enables deemed appropriations to be applied in accordance with a determination by the Treasurer if responsibility for a service, function or program is transferred between Ministers or between GSF agencies.

Schedule 1[10] inserts savings and transitional provisions to—

- (a) extend the amendments to the *Government Sector Finance Act 2018*, section 4.7 made by this Bill to government money that was received or recovered by a GSF agency before the commencement of the amendments, and
- (b) continue the effect of an existing deemed appropriation to a responsible Minister for a GSF agency, and any related delegation, as if the existing deemed appropriation, and delegation, was given to, and by, the lead Minister for the GSF agency.

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

Schedule 2[1] renames the *First Home Owner Grant (New Homes) Act 2000* (the *principal Act*) because of the inclusion of provisions relating to shared equity schemes.

Schedule 2[2] inserts proposed Part 2A, which comprises the following proposed sections, into the principal Act—

- (a) **Proposed section 24A**, which contains definitions used in the proposed Part,
- (b) **Proposed section 24B**, which sets out the definition of *shared equity scheme*, being a scheme that enables a person purchasing property to enter into an agreement with the State under which the State contributes a portion of the cost and obtains an interest in the home or land,
- (c) **Proposed section 24C**, which permits the Treasurer to establish shared equity schemes,
- (d) **Proposed section 24D**, which enables the Treasurer to publish policy guidelines for the purposes of the administration of a shared equity scheme and requires the Chief Commissioner of State Revenue (the *Chief Commissioner*) to administer the scheme in accordance with the guidelines.
- (e) **Proposed section 24E**, which gives the Chief Commissioner the functions necessary to administer and give effect to a shared equity scheme.
- (f) **Proposed section 24F**, which provides for the Chief Commissioner to use and disclose information in the exercise of functions.
- (g) **Proposed section 24G**, which requires a NSW Shared Equity Scheme Fund (the *Fund*) to be established in the Special Deposits Account.
- (h) **Proposed section 24H**, which provides for payments into and out of the Fund.
- (i) **Proposed section 24I**, which requires the Minister administering the principal Act to prepare an annual report on the activities of the Fund.
- (j) **Proposed section 24J**, which provides for the closure of the Fund by proclamation made by the Governor.
- (k) **Proposed section 24K**, which provides that the *Taxation Administration Act 1996*, Part 8 applies in relation to a participant in a shared equity scheme.
- (l) **Proposed section 24L**, which clarifies that participation in a shared equity scheme does not affect the eligibility of a person for a grant, financial assistance or a reduction in duty payable under the principal Act or another Act.

Schedule 2[5] updates existing provisions about objections and review in the principal Act to extend them to shared equity schemes. **Schedule 2[3], [4] and [6]** make consequential amendments.

Schedule 2[7] enables the Chief Commissioner to delegate functions related to the administration of a shared equity scheme.

Schedule 2[8] permits the Minister administering the principal Act to delegate the exercise of functions under the principal Act.

Schedule 2[9] permits the Chief Commissioner to enter into agreements with financial institutions or other persons for exercising functions related to the administration of a shared equity scheme.

Schedule 2[10] and [11] extend the matters the Chief Commissioner is authorised to investigate to include an investigation to determine the following—

- (a) whether an application to participate in a shared equity scheme has been properly made,
- (b) whether a participant in a shared equity scheme is eligible to participate,
- (c) whether a person has complied with a condition for participating in a shared equity scheme.

Schedule 2[12]–[14] authorise the Chief Commissioner to require a valuation, or other evidence as to value, of property or consideration for the purposes of the administration of a shared equity scheme and, in certain circumstances, to recover the cost of obtaining a valuation from an applicant, or former applicant, for participation in the scheme.

Schedule 2[15] makes it an offence to make a statement or give any information knowing that it is false or misleading in a material particular in relation to an application to participate in a shared equity scheme. The maximum penalty for the offence is a fine of \$11,000.

Schedule 2[16] extends a provision in the principal Act that provides for the recovery of payments to enable the recovery of payments made under a shared equity scheme. The proposed provision also authorises the Chief Commissioner to impose penalties, including—

- (a) a penalty up to the amount a person is required to repay if the amount was paid under a shared equity scheme as a result of dishonesty by a participant in the scheme, or
- (b) a penalty of up to \$3,300 on a person who fails—
 - (i) to give information the Chief Commissioner reasonably requests, or
 - (ii) to notify the Chief Commissioner of a change in circumstances required to be notified under the conditions of a shared equity arrangement under a shared equity scheme, or
 - (iii) to comply with a prescribed condition of a shared equity arrangement under a shared equity scheme.

Schedule 2[17]–[19] provide for the recovery of amounts by the Chief Commissioner in relation to amounts, including penalties, payable in relation to shared equity schemes.

Schedule 2[20] extends a provision that protects information obtained in the administration of the principal Act to apply to information about a participant in a shared equity scheme or the participant's spouse.

Schedule 3 Amendments relating to superannuation successor funds

Schedule 3.1 amends the *Superannuation Administration Act 1996* (the *principal Superannuation Act*) to insert proposed Part 7, which enables successor fund transfers from the electricity industry superannuation scheme and local government superannuation scheme. A *successor fund transfer* means the transfer to a successor fund of the benefits of members and the assets and liabilities supporting the benefits. A *successor fund* means a fund that confers on the transferred members equivalent rights to the rights that the member had under the fund from which the transfer occurred. The proposed provisions enable regulations to be made in relation to successor fund transfers and place some limitations on the circumstances in which the regulations may be made. Proposed Part 7 also provides that transferred members continue to have mobility rights between the successor fund and certain government superannuation schemes of which they were previously members.

Subschedule 3.1 also makes amendments consequent on proposed Part 7 and makes statute law type amendments to reorganise provisions that are currently in the principal Superannuation Act and to remove redundant provisions.

The new Part is arguably shell legislation.

Schedule 3.2–3.5 make amendments to Acts consequential on the renumbering of provisions by **Schedule 3.1**.

Schedule 4 Amendments relating to energy supply

Schedule 4.1[1] amends the *Electricity Supply Act 1995* to provide that an energy savings certificate for energy savings may be created in a period prescribed by the regulations or if a period is not prescribed, no later than 6 months after the end of the year in which the energy savings occur.

Schedule 4.1[2], [5] and [8] amend the *Electricity Supply Act 1995* in relation to energy savings scheme, the peak demand reduction scheme and the renewable fuel scheme to provide particulars the regulations may provide for in relation to—

- (a) the conduct of audits, and
- (b) the fees payable for certain audits.

Schedule 4.1[3], [6] and [9] amend the *Electricity Supply Act 1995* to provide that the Scheme Administrator may waive payment of, or reduce, an application fee required to be paid in relation to the energy savings scheme, the peak demand reduction scheme or the renewable fuel scheme.

Schedule 4.1[4] and [7] amend the *Electricity Supply Act 1995* to provide that a peak reduction certificate that is no longer active, or a renewable fuel certificate that is no longer in force, may be surrendered for a compliance period if it was active or in force during the compliance period for which it is surrendered. The amendments clarify that the certificate may be surrendered for the final compliance period after the end of the compliance period.

Schedule 4.2[1] and [2] amend the *Energy and Utilities Administration Act 1987* to provide that money received by the Energy Corporation of New South Wales, and not the Department of Planning and Environment, must be paid into an Energy Administration Account.

Schedule 4.3 amends the *Energy Legislation Amendment Act 2021* to remove amendments now proposed in Schedule 5 of the proposed Act.

Schedule 4.4[1] amends the *Subordinate Legislation Act 1989* to provide that regulations under the *Electricity Infrastructure Investment Act 2020* are not subject to staged repeal under the *Subordinate Legislation Act 1989*. **Schedule 4.4[2]** makes a consequential amendment.