

First print



New South Wales

General Government Liability Management Fund Bill 2002

Explanatory note

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

This Bill is cognate with the *Appropriation Bill 2002*.

Overview of Bill

The object of this Bill is to establish the General Government Liability Management Fund and provide for its management.

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 assent.

Clause 3 defines certain words and expressions used in the proposed Act.

Part 2 Government Liability Management Fund

Clause 4 establishes the General Government Liability Management Fund (the *Liability Management Fund* or *Fund*) in the Special Deposits Account in the Treasury.

Clause 5 sets out what is to be paid into the Fund. The Fund is to be primarily funded by means of advances from the Crown Entity.

Clause 6 sets out what may be paid out of the Fund. The Ministerial Corporation referred to clause 7 may direct that money be paid for the following purposes:

- (a) to pay employer contributions to the STC Fund on behalf of government agencies, in order to pay accruing or accrued superannuation liabilities of the STC Fund,
- (b) to pay pensions or superannuation benefits under the *Judges' Pensions Act 1953*,
- (c) to pay the superannuation contributions surcharge under the *Superannuation Contributions Tax Imposition Act 1997* of the Commonwealth on surchargeable contributions made under the *Judges' Pensions Act 1953*,
- (d) to reimburse the Attorney General's Department for payments made by the Department for the pensions, superannuation benefits and surcharge referred to in paragraphs (b) and (c),
- (e) subject to certain limitations, to pay borrowings raised by the Treasury Corporation.

Money must not be paid out of the fund to repay borrowings unless an actuarial report has been given to the Treasurer about the net liabilities of the STC Fund and the amount of money to be paid out is not greater than the amount (if any) in the Liability Management Fund that is in excess of the net liabilities of the STC Fund.

Money may also be paid out of the Liability Management Fund to pay for administrative expenses of the Fund and of the Ministerial Corporation. Money in the Liability Management Fund that is not immediately required for the purposes of the Fund may be invested in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*.

Part 3 Ministerial Corporation and Management Committee

Clause 7 constitutes the Treasurer as corporation sole with the name “Liability Management Ministerial Corporation” to be responsible for the Liability Management Fund.

Clause 8 provides for the management of the Ministerial Corporation by the Secretary of the Treasury with the assistance of a Management Committee referred to in clause 10.

Clause 9 sets out provisions relating to the expenses, financial year and annual reports of the Ministerial Corporation.

Clause 10 constitutes the Management Committee to assist the Treasurer in managing the Liability Management Fund.

Clause 11 sets out the functions of the Management Committee. The Committee is give advice relating to:

- (a) investment strategy, and
- (b) appointment of service providers such as asset custodians and consultants, and
- (c) monitoring and reviewing performance of assets, investments and service providers.

The Management Committee must review the long term fiscal target to eliminate total State sector unfunded superannuation liabilities by 30 June 2030.

Clause 12 sets out the terms of office and remuneration of the members of the Management Committee.

Part 4 Miscellaneous

At present, the Crown Entity is required by various Acts and instruments to make recurring employer contributions to the STC Fund on behalf of agencies. These employer contributions are made from time to time as provided for in those Acts or instruments or as required by the trustee which administers the STC Fund. The STC Fund is an amalgamation of several superannuation funds to which employees of different government agencies belong.

Clause 13 prohibits the STC from requiring the Crown Entity to pay employer contributions on behalf of agencies unless there is insufficient money in an employer reserve within the STC Fund to pay the employer-financed component of a benefit or other amount payable from the reserve. This allows money that would ordinarily be used to make periodic employer contributions to the STC Fund to instead be paid into, and accumulated in, the Liability Management Fund. Money in the Fund can later be used for the purposes of paying lump sum employer contributions to the STC Fund, repaying borrowings raised by the Treasury Corporation and paying judges' pensions, superannuation benefits and superannuation contributions surcharge.

Clause 14 requires the Minister to review, and report on, the proposed Act after 5 years to determine whether its policy objectives are being achieved.

Clause 15 provides a general regulation-making power.

Clause 16 is a formal provision giving effect to the amendments to the *Public Finance and Audit Act 1983* and the *Public Authorities (Financial Arrangements) Regulation 2000* set out in Schedule 1.

Schedule 1 Amendment of Acts and Instruments

The amendment of the *Public Authorities (Financial Arrangements) Regulation 2000* has the effect of vesting the Ministerial Corporation with investment powers.

The amendment of the *Public Finance and Audit Act 1983* is to include the Ministerial Corporation as a statutory body for the purposes of general audit under that Act.



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General Government Liability Management Fund Bill 2002

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New South Wales

General Government Liability Management Fund Bill 2002

No. , 2002

A Bill for

An Act to establish the General Government Liability Management Fund and provide for its management; to amend the *Public Finance and Audit Act 1983* and the *Public Authorities (Financial Arrangements) Regulation 2000*; and for other purposes.

Clause 1 General Government Liability Management Fund Bill 2002

Part 1 Preliminary

The Legislature of New South Wales enacts: 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *General Government Liability Management Fund Act 2002*. 4
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2 Commencement 6

This Act commences on the date of assent. 7

3 Definitions 8

(1) In this Act: 9

agency, in relation to a superannuation fund that is part of the STC Fund, means an employer whose employees, or some of whose employees, are members of the superannuation fund. 10
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Crown Entity means the entity responsible for assets, liabilities and transactions that are the overall responsibility of the Government (in contrast to being the responsibility of individual Departments or statutory bodies). 13
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exercise a function includes perform a duty. 17

function includes power, authority or duty. 18

Liability Management Fund or *Fund* means the General Government Liability Management Fund established under section 4. 19
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Management Committee means the Management Committee constituted by section 10. 21
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Ministerial Corporation means the Liability Management Ministerial Corporation constituted by section 7. 23
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Secretary means the person for the time being holding or acting in the office of Secretary of the Treasury. 25
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STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*. 27
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| <i>STC Fund</i> means the amalgamated superannuation fund comprising the funds established or constituted under any of the following Acts: | 1 |
| (a) <i>Police Regulation (Superannuation) Act 1906,</i> | 2 |
| (b) <i>Superannuation Act 1916,</i> | 3 |
| (c) <i>Local Government and Other Authorities (Superannuation) Act 1927,</i> | 4 |
| (d) <i>Transport Employees Retirement Benefits Act 1967,</i> | 5 |
| (e) <i>New South Wales Retirement Benefits Act 1972,</i> | 6 |
| (f) <i>Public Authorities Superannuation Act 1985,</i> | 7 |
| (g) <i>State Public Service Superannuation Act 1985,</i> | 8 |
| (h) <i>State Authorities Superannuation Act 1987,</i> | 9 |
| (i) <i>State Authorities Non-contributory Superannuation Act 1987.</i> | 10 |
| <i>STC scheme</i> means a superannuation scheme established under any of the Acts that established or constituted the superannuation funds that are part of the STC Fund. | 11 |
| <i>Treasury Corporation</i> means the New South Wales Treasury Corporation constituted by the <i>Treasury Corporation Act 1983.</i> | 12 |
| (2) Notes included in this Act do not form part of this Act. | 13 |
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| Part 2 Government Liability Management Fund | 1 |
| 4 Establishment of Fund | 2 |
| There is established by this section a General Government Liability Management Fund in the Special Deposits Account in the Treasury. | 3 4 |
| 5 Payments into the Fund | 5 |
| The following is to be paid into the Liability Management Fund: | 6 |
| (a) advances made to the Fund by the Crown Entity, | 7 |
| (b) the interest and any other amounts from time to time accruing from the investments of the Fund, | 8 9 |
| (c) other money required or permitted to be paid into the Fund by or under this or any other Act. | 10 11 |
| 6 Payments out of the Fund | 12 |
| (1) The Ministerial Corporation may direct that money be paid out of the Liability Management Fund for any of the following purposes: | 13 14 |
| (a) to pay employer contributions to the STC Fund on behalf of agencies, in order to meet accruing or accrued superannuation liabilities of the STC Fund, | 15 16 17 |
| (b) to pay pensions or superannuation benefits under the <i>Judges' Pensions Act 1953</i> , | 18 19 |
| (c) to pay the superannuation contributions surcharge under the <i>Superannuation Contributions Tax Imposition Act 1997</i> of the Commonwealth on surchargeable contributions made under the <i>Judges' Pensions Act 1953</i> , | 20 21 22 23 |
| (d) to reimburse the Attorney General's Department for amounts paid by the Department for any of the purposes mentioned in paragraphs (b) and (c), | 24 25 26 |
| (e) subject to subsection (2), to repay, on or before maturity, borrowings raised by the Treasury Corporation. | 27 28 |
| (2) Money may be paid out of the Liability Management Fund to repay borrowings raised by the Treasury Corporation only if: | 29 30 |
| (a) an actuary of the STC Fund has given to the Treasurer a report on the amount of the net liabilities of the STC Fund, and | 31 32 |

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- (b) the amount of money to be paid out is not greater than the amount (if any) in the Liability Management Fund that is in excess of the net liabilities of the STC Fund. 1
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- (3) Money may be paid out of the Liability Management Fund to meet administrative expenses related to the Fund or the Ministerial Corporation. 4
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- (4) Money in the Liability Management Fund that is not immediately required for the purposes of the Fund may be invested by the Ministerial Corporation in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*. 7
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- Note.** The Ministerial Corporation may make investments of any kind. 11
- (5) In this section, *employer contributions* means the amount that the Treasurer, on actuarial advice, determines to be the Crown Entity's liability, for the period to which the payment relates, to contribute towards the provision of superannuation benefits payable under an Act under which an STC scheme is established or constituted. 12
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| Part 3 Ministerial Corporation and Management Committee | 1 2 |
| 7 Constitution and functions of Ministerial Corporation | 3 |
| (1) For the purposes of this Act, the Treasurer is constituted as a corporation sole with the corporate name “Liability Management Ministerial Corporation”. | 4 5 6 |
| (2) The Ministerial Corporation may give directions in relation to the management of the Liability Management Fund. | 7 8 |
| (3) The Ministerial Corporation has such other functions as are conferred or imposed on it by or under this or any other Act. | 9 10 |
| 8 Management of Ministerial Corporation | 11 |
| (1) The Ministerial Corporation is to be managed by the Secretary with the assistance of the Management Committee constituted by section 10. | 12 13 |
| (2) Any act, matter or thing done in the name of, or on behalf of, the Ministerial Corporation by the Secretary, or with the authority of the Secretary, is taken to have been done by the Ministerial Corporation. | 14 15 16 |
| 9 Financial provisions relating to Ministerial Corporation | 17 |
| (1) The Ministerial Corporation may accept any money transferred to it by the Crown Entity and may, with the approval of the Treasurer, use the money to pay for its expenses. | 18 19 20 |
| (2) The financial year of the Ministerial Corporation is the year commencing on 1 July. | 21 22 |
| (3) The annual report of the Ministerial Corporation is to be published as part of the Annual Report of the Crown Entity prepared by the Treasury. | 23 24 25 |
| 10 Constitution, liabilities and procedures of Management Committee | 26 |
| (1) There is constituted by this section a Management Committee consisting of: | 27 28 |
| (a) the Secretary, and | 29 |
| (b) another officer of the Treasury appointed by the Secretary, and | 30 |
| (c) the Chairperson of the STC Board or his or her nominee, and | 31 |

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| (d) | the Chief Executive of the Treasury Corporation or his or her nominee, and | 1 2 |
| (e) | at least one other person (who is not an officer of the Treasury) appointed by the Treasurer. | 3 4 |
| (2) | A matter or thing done or omitted to be done by the Management Committee, a member of the Committee or a person acting under the direction of the Committee does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand. | 5 6 7 8 9 10 |
| (3) | The Management Committee is to determine the procedure for the calling of meetings of the Management Committee and for the conduct of business at those meetings. | 11 12 13 |
| 11 | Functions of Management Committee | 14 |
| (1) | The Management Committee is to advise the Secretary in matters relating to the Liability Management Fund, including: | 15 16 |
| (a) | investment strategy, and | 17 |
| (b) | appointment of asset custodians, consultants, investment managers and other service providers, and | 18 19 |
| (c) | monitoring and reviewing the performance of assets, investments and service providers. | 20 21 |
| (2) | The Management Committee is to review from time to time the long term fiscal target to eliminate total State sector unfunded superannuation liabilities by 30 June 2030. | 22 23 24 |
| 12 | Terms of office and remuneration of members of Management Committee | 25 26 |
| (1) | A member of the Management Committee is to hold office on a part-time basis. | 27 28 |
| (2) | A member of the Management Committee referred to in section 10 (1) (e) is to hold office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible for reappointment if otherwise qualified. Any other member is to continue as a member of the Committee while he or she holds the office that qualified him or her for appointment. | 29 30 31 32 33 34 |

Clause 12 General Government Liability Management Fund Bill 2002

Part 3 Ministerial Corporation and Management Committee

- (3) A member of the Management Committee referred to in section 10 (1) 1
- (c) or (e) is entitled to be paid such remuneration (including travelling 2
- and subsistence allowances) in respect of work done as a member of 3
- the Committee as the Treasurer may from time to time determine in 4
- respect of the member. 5

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| Part 4 Miscellaneous | 1 |
| 13 Employer contributions to be made only in accordance with this Act | 2 |
| (1) Despite any provision in any Act or instrument, STC may not require the Crown Entity to pay employer contributions on behalf of an agency unless there is insufficient money in an employer reserve within the STC Fund to pay the employer-financed component of a benefit or other amount payable from the reserve. | 3 4 5 6 7 |
| (2) Anything done or omitted to be done by STC in compliance with this section is not to be construed as a breach of the statutory obligations or fiduciary duties of STC and no action, liability, claim or demand lies against STC, or a member of the Board, officer or employee of STC, for anything done or omitted to be done in compliance with this section. | 8 9 10 11 12 13 |
| 14 Review of Act | 14 |
| (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives. | 15 16 17 |
| (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act. | 18 19 |
| (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years. | 20 21 |
| 15 Regulations | 22 |
| The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. | 23 24 25 26 |
| 16 Amendment of Acts and instruments | 27 |
| Each Act or instrument specified in Schedule 1 is amended as set out in that Schedule. | 28 29 |

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| Schedule 1 | Amendment of Acts and instruments | 1 |
| | (Section 16) | 2 |
| 1.1 | Public Authorities (Financial Arrangements) Regulation 2000 | 3 |
| | Schedule 3 Authorities having Part 4 investment powers | 4 |
| | Insert in appropriate order: | 5 |
| | Liability Management Ministerial Corporation, in respect of | 6 |
| | money in the General Government Liability Management Fund | 7 |
| | that is not immediately required for the purposes of the Fund | 8 |
| 1.2 | Public Finance and Audit Act 1983 No 152 | 9 |
| | Schedule 2 Statutory bodies | 10 |
| | Insert in appropriate order: | 11 |
| | Liability Management Ministerial Corporation | 12 |