

First print



New South Wales

Superannuation Administration Bill 1996

Explanatory note

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

The *Superannuation (Axiom Funds Management Corporation) Bill 1996* is cognate with this Bill.

Overview of Bill

The object of this Bill is to establish trustees for State public sector superannuation schemes, and to provide for the provision of administration services and investment management services for State public sector superannuation schemes, and to enable the establishment of additional superannuation schemes for State public sector employees by trust deed.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name of the proposed Act.

Clause 2 provides that the proposed Act is to commence on a day or days appointed by proclamation.

Clause 3 sets out the objects of the proposed Act, which are to establish separate trustees for the accumulation style State public sector superannuation schemes (the FSS Trustee Corporation (FTC)) and the defined benefit style State public sector superannuation schemes (the SAS Trustee Corporation (STC)), to establish statutory bodies to provide scheme administration services (the Superannuation Administration Authority of New South Wales (SAA)) and to provide for investment services (to be provided for STC schemes by the Axiom Funds Management Corporation (AFMC)), to define their responsibilities and functions and to enable the establishment of additional superannuation schemes for State public sector employees by trust deed.

Clause 4 defines words and expressions used in the proposed Act.

Clause 5 enables additional superannuation schemes to be brought within the Act by proclamation.

Clause 6 provides that introductory notes to Parts or Divisions and other notes in the text of the Act do not form part of the proposed Act.

Part 2 Trustee for FTC schemes (FTC)

Division 1 Establishment and principal functions of FTC

Clause 7 constitutes FTC.

Clause 8 makes FTC the trustee for the FTC schemes. These schemes will be the First State Superannuation Scheme and the Public Sector Executives Superannuation Scheme. Both schemes are open to State public sector employees and both provide benefits of an "accumulation" kind rather than specified or defined benefits. FTC will be a trustee for the purposes of Division 2 of Part 2 of the *Trustee Act 1925*, which has the effect of applying the obligations, duties and rights of trustees under that Act to it.

Clause 9 sets out the principal functions of FTC, including the administration and investment and management of the FTC schemes and the FTC funds, providing for the custody of assets and securities of the FTC schemes, and the payment of benefits under the schemes.

Clause 10 imposes on FTC duties to act honestly in relation to its trustee functions, to exercise due care, skill and diligence, to exercise its functions in the best interests of the beneficiaries under the FTC schemes and not to do anything that would hinder the exercise of its functions as trustee. All of these duties reflect those imposed on superannuation trustees under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth (the "Commonwealth Act"). FTC must also take into account Government policy statements, the interests of beneficiaries and the Heads of Government Agreement between the State and the Commonwealth Government as to requirements for State public sector superannuation schemes. The Commonwealth Act sets out the requirements for superannuation trustees and schemes, although it will not apply directly to the State public sector superannuation schemes the proposed Act will apply many of its requirements.

Clause 11 sets out a procedure for laying Government policy statements given under proposed section 10 before each House of Parliament.

Clause 12 confers on FTC power to enter into contracts or arrangements with other persons to provide superannuation investment management services for the FTC funds or part of them and to provide superannuation scheme administration services and custodial services, as well as for other services.

Clause 13 confers on FTC all powers necessary or convenient for, or in connection with, the exercise of FTC's functions.

Division 2 Investment of FTC funds

Clause 14 requires FTC to determine and give effect to an investment strategy and a reserves strategy for the FTC funds and sets out the matters FTC must have regard to in doing so.

Clause 15 requires FTC, in exercising its function of investing and managing the FTC funds, to enter into a contract or an arrangement with an investment manager or managers for the provision of superannuation investment management services. FTC must ensure that any such manager operates within FTC's investment powers and complies with its investment strategy and reserves strategy. FTC may, but is not required to, enter into a contract or an arrangement with AFMC.

Clause 16 requires FTC to exercise its function of providing for the custody of the assets and securities of an FTC scheme by entering into a contract or an arrangement with a person to provide custodial services. FTC must ensure that the person operates within FTC's powers and complies with FTC's policies.

Clause 17 sets out FTC's borrowing and investment powers.

Clause 18 places restrictions on investment of the FTC fund, including prohibiting investment other than on an arms-length basis.

Division 3 Administration of FTC schemes

Clause 19 requires FTC to exercise its function of administering the FTC schemes by entering into a contract or an arrangement with a person to provide superannuation scheme administration services. FTC must ensure that any such person operates within FTC's powers and complies with its policies. FTC may, but is not required to, enter into a contract or an arrangement with SAA.

Clause 20 enables FTC to enter into contracts or arrangements for the provision of additional benefits under the FTC schemes, in the event of the death or invalidity of a scheme member.

Clause 21 enables FTC to compromise or otherwise settle claims.

Clause 22 enables FTC to determine disputes relating to FTC schemes.

Clause 23 confers on FTC power to request evidence from third parties for the purpose of settling claims or determining disputes.

Division 4 Management of FTC

Clause 24 establishes the FTC Board. It is to have 9 part-time members appointed by the Minister and is to manage and control the affairs of FTC. Four members are to represent the interests of employers and four are to represent the interests of employees, the other member is to be the Chairperson.

Clause 25 provides for the appointment of the Chairperson of the FTC Board by the Minister and sets out the experience required for appointment. The Minister must consult with the Labor Council of New South Wales before making the appointment.

Clause 26 sets out the requirements for the appointment of the employer representative members.

Clause 27 sets out the requirements for the appointment of the employee representative members.

Clause 28 imposes a duty on members of the FTC Board to exercise a reasonable degree of care and diligence for the purpose of ensuring that FTC carries out its duties as trustee.

Clause 29 provides for the appointment of a chief executive officer of FTC and confers on the chief executive officer the function of exercising the day-to-day management of FTC. The chief executive officer will be subject to the control and direction of the FTC Board.

Clause 30 provides for the employment of FTC staff.

Clause 31 enables FTC to appoint agents.

Clause 32 gives FTC the power to delegate its functions.

Clause 33 enables the FTC Board to establish committees to give advice and assistance to the Board in connection with any particular matter or function of the Board.

Clause 34 requires FTC to prepare a corporate plan for each financial year and sets out the matters it is to contain.

Clause 35 exempts an FTC Board member, or a person acting under the direction of FTC or the Board, from liability for an act or omission done or omitted in good faith for the purpose of executing the proposed Act or any other Act. The proposed section also provides for the FTC funds to indemnify FTC for liability resulting from actions, liabilities, claims or demands against FTC.

Division 5 Financial provisions

Clause 36 requires FTC to maintain an FTC Administration Account.

Clause 37 provides for FTC's administration costs to be charged against the Administration Account and for their recovery from employers, members and former members of, and contributors and former contributors to, the FTC schemes. FTC is to determine the amount, rate or basis for contribution to administration costs.

Clause 38 provides for the source of payment of administration costs in the FTC schemes.

Clause 39 makes the year commencing 1 July the financial year of FTC.

Division 6 Miscellaneous

Clause 40 enables a person aggrieved by a decision of FTC about a dispute to appeal to the Industrial Relations Commission in Court Session.

Clause 41 requires the FTC Board to report matters having a significant adverse effect on the functions of FTC to the Minister. The report must be made within 3 days of becoming aware of the matter. Written notice must be given of any event which results in an inability to pay benefits.

Clause 42 enables the Minister to request information from time to time from FTC.

Clause 43 provides for the manner and form of accounts and other records relating to FTC schemes.

Clause 44 provides for the manner in which documents may be served on FTC.

Clause 45 removes the need to prove (unless evidence to the contrary is given) matters relating to the constitution and resolutions of FTC and appointments of FTC Board members and their meetings.

Clause 46 enables FTC to recover money owed to it as a debt in a court of competent jurisdiction.

Clause 47 provides for the keeping and use of FTC's seal.

Part 3 Trustee for STC schemes (STC)

Division 1 Establishment and principal functions of STC

Clause 48 continues the State Authorities Superannuation Board and renames it the SAS Trustee Corporation.

Clause 49 makes STC the trustee for the STC schemes. These schemes will include the State Superannuation Scheme, the State Authorities Superannuation Scheme, the State Authorities Non-contributory Superannuation Scheme and the Police Superannuation Scheme and other schemes. None of these schemes are currently open to new members, though some still have contributors. They all provide benefits of a specified kind or defined benefits, related to contributions and years of service. STC will be a trustee for the purposes of Division 2 of Part 2 of the *Trustee Act 1925*, which has the effect of applying the obligations, duties and rights of trustees under that Act to it.

Clause 50 sets out the principal functions of STC, including the administration and investment and management of the STC schemes and the STC funds, providing for the custody of assets and securities of the STC schemes, and the payment of benefits under the schemes.

Clause 51 imposes on STC duties to act honestly in relation to its trustee functions, to exercise due care, skill and diligence, to exercise its functions in the best interests of the beneficiaries under the STC schemes and not to do anything that would hinder the exercise of its functions as trustee. All of these duties reflect those imposed on superannuation trustees under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth (the "Commonwealth Act"). STC must also take into account Government policy statements, the interests of beneficiaries and the Heads of Government Agreement between the State and the Commonwealth Government as to requirements for State public sector superannuation schemes as well as future liabilities. The Commonwealth Act sets out the requirements for superannuation trustees and schemes, although it will not apply directly to the State public sector superannuation schemes the proposed Act will apply many of its requirements.

Clause 52 sets out a procedure for laying Government policy statements given under proposed section 51 before each House of Parliament.

Clause 53 confers on STC power to enter into contracts or arrangements with other persons to provide superannuation investment management services for one or more of the STC funds, or part of an STC fund, and to provide superannuation scheme administration services and custodial services, as well as for other services.

Clause 54 prohibits STC from entering into a contract or an arrangement under proposed section 53 (1) (a), (b) or (c) except with the Minister's consent.

Clause 55 enables the Minister to give directions to STC as to the exercise of its functions if the Minister is of the opinion that an act or omission by STC has had or may have a significant adverse effect on the Consolidated Fund or the financial management of the State. STC must comply with any such direction.

Clause 56 sets out a procedure for laying Ministerial directions to STC before Parliament within 14 sitting days after any such direction is given.

Clause 57 confers on STC all powers necessary or convenient for, or in connection with, the exercise of STC's functions.

Division 2 Investment of STC funds

Clause 58 requires STC to determine and give effect to an investment strategy and a reserves strategy for the STC funds and sets out the matters STC must have regard to in doing so.

Clause 59 requires STC, in exercising its function of investing and managing the STC funds, to enter into a contract or an arrangement with an investment manager or managers for the provision of superannuation investment management services. STC must ensure that any such manager operates within STC's investment powers and complies with its investment strategy and reserves strategy.

Clause 60 provides that STC must enter into a contract or an arrangement with AFMC to be the first investment manager. The contract or arrangement is to be for a fixed period, determined by the Minister, from the commencement of the proposed section. After the end of that period, STC may enter another contract or arrangement with AFMC (or its successors) or with another service provider.

Clause 61 requires STC to exercise its function of providing for the custody of the assets and securities of an STC scheme by entering into a contract or an arrangement with a person to provide custodial services. STC must ensure that the person operates within STC's powers and complies with STC's policies.

Clause 62 sets out STC's borrowing and investment powers.

Clause 63 places restrictions on investment of the STC fund, including prohibiting investment other than on an arms-length basis.

Division 3 Administration of STC schemes

Clause 64 requires STC to exercise its function of administering the STC schemes by entering into a contract or an arrangement with a person to provide superannuation scheme administration services. STC must enter into a contract or an arrangement with SAA and must ensure that any such person operates within STC's powers and complies with its policies.

Clause 65 enables STC to enter into contracts or arrangements for the provision of additional benefits under STC schemes, in the event of the death or invalidity of a scheme member.

Clause 66 enables STC to compromise or otherwise settle claims.

Clause 67 enables STC to determine disputes relating to STC schemes.

Clause 68 confers on STC power to request evidence from third parties for the purpose of settling claims or determining disputes.

Division 4 Management of STC

Clause 69 establishes the STC Board. It is to have 8 part-time members and 1 full-time member appointed by the Minister and is to manage and control the affairs of STC. Four members are to represent the interests of employers and four are to represent the interests of employees (one of these is to be a full-time member).

Clause 70 provides for the appointment of the Chairperson of the STC Board by the Minister and sets out the experience required for appointment. The Minister must consult with the Labor Council of New South Wales before making the appointment.

Clause 71 sets out the requirements for the appointment of the employer representative members.

Clause 72 sets out the requirements for the appointment of the employee representative members.

Clause 73 imposes a duty on members of the STC Board to exercise a reasonable degree of care and diligence for the purpose of ensuring that STC carries out its duties as trustee.

Clause 74 provides for the appointment of a chief executive officer of STC and confers on the chief executive officer the function of exercising the day-to-day management of STC. The chief executive officer will be subject to the control and direction of the STC Board.

Clause 75 provides for the employment of STC staff.

Clause 76 enables STC to appoint agents.

Clause 77 gives STC the power to delegate its functions.

Clause 78 enables the STC Board to establish committees to give advice and assistance to the Board in connection with any particular matter or function of the Board.

Clause 79 requires STC to prepare a corporate plan for each financial year and sets out the matters it is to contain.

Clause 80 exempts an STC Board member, or a person acting under the direction of STC or the Board, from liability for an act or omission done or omitted in good faith for the purpose of executing the proposed Act or any other Act. The proposed section also provides for the STC funds to indemnify STC for liability resulting from actions, liabilities, claims or demands against STC.

Division 5 Financial provisions

Clause 81 continues the amalgamation of the STC funds under the *Superannuation Administration Act 1991*, with each fund having a separate account.

Clause 82 enables STC to re-establish the amalgamated funds as separate funds and to amalgamate separated funds.

Clause 83 confers on STC any powers necessary or convenient in relation to the re-establishment of separate funds or their amalgamation.

Clause 84 requires STC to maintain an STC Administration Account.

Clause 85 provides for STC's administration costs to be charged against the Administration Account and for their recovery from employers, members and former members of, and contributors and former contributors to, the STC schemes. STC is to determine the amount, rate or basis for contribution to administration costs.

Clause 86 provides for the source of payment of administration costs in the STC schemes.

Clause 87 makes the year commencing 1 July the financial year of STC.

Division 6 Miscellaneous

Clause 88 enables a person aggrieved by a decision of STC about a dispute to appeal to the Industrial Relations Commission in Court Session.

Clause 89 requires the STC Board to report matters having a significant adverse effect on the functions of STC to the Minister. The report must be made within 3 days of becoming aware of the matter. Written notice must be given of any event which results in an inability to pay benefits.

Clause 90 enables the Minister to request information from time to time from STC.

Clause 91 provides for the manner and form of accounts and other records relating to STC schemes.

Clause 92 provides for the manner in which documents may be served on STC.

Clause 93 removes the need to prove (unless evidence to the contrary is given) matters relating to the constitution and resolutions of STC and appointments of STC Board members and their meetings.

Clause 94 enables STC to recover money owed to it as a debt in a court of competent jurisdiction.

Clause 95 provides for the keeping and use of STC's seal.

Part 4 Superannuation Administration Authority (SAA)

Division 1 Establishment and principal functions of SAA

Clause 96 constitutes the Superannuation Administration Authority of New South Wales.

Clause 97 gives SAA the functions of providing superannuation scheme administration services for State public sector superannuation schemes on behalf of trustees and other ancillary functions, including entering into contracts or arrangements with scheme trustees and other administrative functions.

Clause 98 sets out services which are taken to be superannuation scheme administration services, including collecting contributions, keeping and maintaining member records, preparing financial statements on behalf of trustees and processing claims and the payment of benefits.

Clause 99 requires SAA to charge consideration for the provision of its services.

Clause 100 confers on SAA power to enter into contracts or arrangements with trustees to provide superannuation scheme administration services. SAA may enter into such a contract or an arrangement with FTC in relation to the FTC schemes. SAA must enter into such a contract or arrangement with STC in relation to the STC schemes.

Clause 101 confers on SAA all powers necessary or convenient for, or in connection with, the exercise of SAA's functions.

Division 2 Management of SAA

Clause 102 provides for the appointment of a chief executive officer of SAA and his or her conditions of appointment.

Clause 103 provides that the chief executive officer is to manage and control the affairs of SAA and that any act, matter or thing done in the name of, or on behalf of, SAA by the chief executive officer is taken to have been done by SAA.

Clause 104 makes SAA subject to the direction and control of the Minister in the exercise of its functions.

Clause 105 enables SAA to employ staff and to fix their wages, salary and conditions and to engage consultants.

Clause 106 gives SAA the power to delegate its functions.

Clause 107 requires SAA to prepare a corporate plan for each financial year and sets out the matters it is to contain.

Clause 108 exempts the chief executive officer of SAA, or any person acting under the direction of SAA or the chief executive officer from liability for an act or thing done or omitted to be done in good faith for the purpose of executing the proposed Act or any other Act.

Division 3 Financial provisions

Clause 109 requires SAA to maintain an SAA Administration Account.

Clause 110 provides for SAA's administration costs to be charged against the Administration Account and for the recovery of costs related to the STC funds from STC.

Clause 111 sets out SAA's borrowing and investment powers and exempts SAA from stamp duty.

Clause 112 makes the year commencing 1 July the financial year of SAA.

Division 4 Miscellaneous

Clause 113 requires the chief executive officer of SAA to report matters having a significant effect on the functions of SAA to the Minister. The report must be made within 3 days of becoming aware of the matter.

Clause 114 enables the Minister to request information from time to time from SAA.

Clause 115 provides for the manner in which documents may be served on SAA.

Clause 116 provides for the recovery of money owing to SAA as a debt in a court of competent jurisdiction.

Clause 117 enables SAA to publish procedures or guidelines as to conflicts of interests in relation to contracts and other commercial arrangements with SAA.

Clause 118 provides for the keeping and use of SAA's seal.

Part 5 Miscellaneous

Division 1 Offences and remedies relating to officers

Clause 119 makes it an offence for the chief executive officer of a superannuation authority, a member of the Board of an authority or another person who is concerned in, or takes part in, the authority's management, to fail to act honestly in the exercise of powers, and discharge of functions as such an officer (maximum penalty \$50,000 or 5 years imprisonment). It also makes it an offence for such a person to fail to use a reasonable degree of care and diligence when exercising powers and discharging functions (maximum penalty \$10, 000), to make improper use of information acquired because of his or her position and to use his or her position to gain an advantage or to cause detriment to the authority (maximum penalty for each offence \$50,000 or 5 years imprisonment). FTC, STC, SAA and AFMC are superannuation authorities.

Clause 120 enables a superannuation authority to recover, as a debt owed to it, any profit made by a person from a contravention of proposed section 119 or loss or damage caused to the authority by such a contravention.

Clause 121 enables persons other than FTC or STC to recover for loss or damage suffered as a result of a contravention of proposed sections relating to the trustees' and Board members' duties from any person knowingly involved in the contravention.

Clause 122 provides a defence for an action under proposed section 121 where the contravention concerned an investment and the investment was in accordance with the investment strategy.

Clause 123 provides a defence for an action under proposed section 121 where the contravention concerned FTC or STC funds reserves and their management was in accordance with the reserves strategy.

Clause 124 sets out defences for actions under proposed section 121 where it can be shown there was a reasonable mistake or reasonable reliance on information supplied by another person or that the contravention was due to the act or default of another person or an accident or some other cause beyond the person's control.

Division 2 General provisions

Clause 125 provides that the proposed Act binds the Crown.

Clause 126 provides that offences under the proposed Act are to be dealt with summarily by a Local Court or the Supreme Court in its summary jurisdiction. It limits the maximum penalty that may be imposed by a Local Court for an offence to \$5,000 or 12 months imprisonment, or both.

Clause 127 provides for the Minister to approve the preparation of a trust deed providing for a superannuation scheme for the benefit of State public sector employees, or a class or classes of State public sector employees. The clause also provides for arrangements to be made to incorporate a trustee for any such scheme.

Clause 128 enables regulations to be made in respect of the transfer of members of FTC or STC schemes to any such new superannuation scheme, and in relation to related matters.

Clause 129 sets out the power to make regulations under the proposed Act.

Clause 130 repeals the *Superannuation Administration Act 1991* and the *Superannuation Administration Amendment Act 1995*.

Clause 131 is a formal provision giving effect to Schedule 3 which contains savings and transitional provisions.

Clause 132 is a formal provision giving effect to Schedule 4 which contains consequential amendments to other Acts.

Clause 133 provides for the review of the Act by the Minister 5 years after the date of assent to the Act.

Schedule 1 Provisions relating to FTC Board

Part 1 Definitions

Part 1 defines expressions used in the Schedule.

Part 2 Members

Part 2 contains provisions relating to the appointment and conditions and vacation of office of members.

Part 3 Procedure

Part 3 contains provisions relating to the procedure of the Board.

Schedule 2 Provisions relating to STC Board

Part 1 Definitions

Part 1 defines expressions used in the Schedule.

Part 2 Members

Part 2 contains provisions relating to the appointment and conditions and vacation of office of members.

Part 3 Procedure

Part 3 contains provisions relating to the procedure of the Board.

Schedule 3 Savings and transitional provisions

The Schedule contains savings and transitional provisions consequent on the enactment of the proposed Act and the proposed *Superannuation (Axiom Funds Management Corporation) Act 1996*.

Schedule 4 Consequential amendments to other Acts

The Schedule contains amendments to other Acts consequential on the enactment of the proposed Act and the proposed *Superannuation (Axiom Funds Management Corporation) Act 1996*. These amendments include the abolition of the Public Sector Executives Superannuation Board (its functions will be exercised by FTC).



New South Wales

Superannuation Administration Bill 1996

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New South Wales

Superannuation Administration Bill 1996

No. , 1996

A Bill for

An Act to provide for trustees for State public sector superannuation schemes and the provision of investment and administration services for such schemes; to constitute as a trustee for the accumulation style schemes open to new members the FSS Trustee Corporation; to continue as a trustee for the defined benefit style schemes closed to new members the SAS Trustee Corporation (formerly the State Authorities Superannuation Board); to confer on the Axiom Funds Management Corporation power to provide investment services for State public sector superannuation schemes and other schemes; to constitute the Superannuation Administration Authority of New South Wales and confer on it power to provide administration services for such schemes and other schemes; to enable the establishment of additional superannuation schemes for State public sector employees by trust deed; and for other purposes.

Clause 1 Superannuation Administration Bill 1996

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Superannuation Administration Act 1996*.

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

3 Objects of Act

The objects of this Act are as follows:

- (a) to establish trustees for State public sector superannuation schemes and to establish separate trustees for the accumulation style schemes that are open to new members (the FSS Trustee Corporation) and the defined benefit style schemes that are closed to new members (the SAS Trustee Corporation), 10
15
- (b) to provide for the provision of investment management services and other services for State public sector superannuation schemes,
- (c) to set out the functions and responsibilities of trustees and service providers for State public sector superannuation schemes, 20
- (d) to establish the Superannuation Administration Authority of New South Wales to provide administration services for State public sector superannuation schemes and other schemes, being a body which is intended to remain in public ownership, 25
- (e) to enable the establishment of additional superannuation schemes for State public sector employees by trust deed.

Note. The *Superannuation (Axiom Funds Management Corporation) Act 1996* establishes the Axiom Funds Management Corporation, the body that is to provide superannuation investment management services for the STC schemes and that may provide such services to the FTC schemes. 30

4 Definitions

In this Act:

AFMC means the Axiom Funds Management Corporation established by the *Superannuation (Axiom Funds Management Corporation) Act 1996*. 5

benefit means a pension or lump sum retirement or superannuation benefit.

exercise a function includes perform a duty.

FTC means the FSS Trustee Corporation established by this Act.

FTC fund or **FTC scheme** means a superannuation fund or superannuation scheme established or constituted under any of the following Acts: 10

- (a) *First State Superannuation Act 1992*,
- (b) *Public Sector Executives Superannuation Act 1989*,
- (c) any other Act declared under section 5 to be an Act for the purposes of this definition. 15

function includes a power, authority or duty.

local authority means a council within the meaning of the *Local Government Act 1993*.

public authority means a person or body constituted or established by an Act for a public purpose. 20

SAA means the Superannuation Administration Authority of New South Wales established by this Act.

STC means the SAS Trustee Corporation continued by this Act.

STC fund or **STC scheme** means a superannuation fund or superannuation scheme established or constituted under any of the following Acts: 25

- (a) *Police Regulation (Superannuation) Act 1906*,
- (b) *Superannuation Act 1916*,
- (c) *Local Government and Other Authorities (Superannuation) Act 1927*, 30

- (d) *Transport Employees Retirement Benefits Act 1967,*
- (e) *New South Wales Retirement Benefits Act 1972,*
- (f) *Public Authorities Superannuation Act 1985,*
- (g) *State Public Service Superannuation Act 1985,*
- (h) *State Authorities Superannuation Act 1987,* 5
- (i) *State Authorities Non-contributory Superannuation Act 1987.*

superannuation fund means a fund established under a superannuation scheme.

superannuation scheme means a scheme, fund or arrangement (whether or not established by an Act) under which any benefits are provided. 10

5 Declaration of FTC schemes and funds

The Governor may, by order published in the Gazette, declare to be an Act for the purposes of the definition of ***FTC fund*** or ***FTC scheme*** any Act that establishes a superannuation scheme under which employees of the Crown or of a public or local authority are entitled to receive superannuation or retirement benefits. 15

6 Notes in text

Introductory notes to Parts or Divisions and other notes in the text of this Act do not form part of this Act. 20

Part 2 Trustee for FTC schemes (FTC)

Introductory note.

This Part establishes the FSS Trustee Corporation and gives it the functions of the trustee for the FTC schemes. The schemes currently included are accumulation style schemes established under Acts and are still open to new members. Generally, the trustee will have functions (which include powers, authorities and duties) that are consistent with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. That Act regulates the functions of trustees of superannuation funds and the administration of superannuation schemes but does not apply directly to the FTC schemes. The new trustee will also be subject to provisions of the *Trustee Act 1925*. The new trustee will have (among other functions) the function of administering the schemes and investing and managing the superannuation funds concerned. However, it will be required to arrange for these services to be provided by service providers in accordance with this Act. This will not detract from the primary responsibility and power of the trustee in these matters.

Division 1 Establishment and principal functions of FTC

7 Establishment of FTC

- (1) There is constituted by this Act a body corporate with the corporate name of FSS Trustee Corporation. The body may also be called FTC, and the use of that name has the same effect for all purposes as the use of its corporate name. 20
- (2) FTC is, for the purposes of any Act, a statutory body representing the Crown. 25

8 FTC to be trustee for FTC schemes

- (1) FTC is the trustee for the FTC schemes and is to hold in trust for the persons who are or will be entitled to benefits under the FTC schemes all assets held by, and all contributions and other money paid or payable to, FTC under this Act and any Act under which an FTC scheme is constituted or established. 30
- (2) FTC is a trustee for the purposes of the *Trustee Act 1925*. Accordingly, subject to this Act, and unless this Act, the *Trustee Act 1925* or any other Act otherwise provides, FTC has the obligations, rights and duties of a trustee under Division 2 of Part 2 of the *Trustee Act 1925*. 35

Note. The effect of this is that FTC is subject to both the common law obligations, duties and rights of trustees and the obligations, duties and rights of trustees under the *Trustee Act 1925*. These are in addition to its obligations, duties and rights under this Act, unless the *Trustee Act 1925* or this Act otherwise provides.

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9 Principal functions of FTC

- (1) The principal functions of FTC are:
 - (a) to administer the FTC schemes, and
 - (b) to invest and manage the FTC funds, and
 - (c) to provide for the custody of the assets and securities of FTC schemes, and 10
 - (d) to ensure that benefits payable to the persons entitled to receive benefits under the FTC schemes are paid in accordance with the Acts under which the schemes are established or constituted, and 15
 - (e) to determine disputes under those Acts.
- (2) FTC has such other functions as may be conferred or imposed on it by or under this or any other Act.

Note. The FTC schemes are the First State Superannuation Scheme and the Public Sector Executives Superannuation Scheme. Other schemes may be added by declaration under section 5. 20

Other particular functions and obligations of FTC are contained in the legislation establishing the FTC schemes, see the *First State Superannuation Act 1992* and the *Public Sector Executives Superannuation Act 1989*.

10 Duties relating to functions 25

- (1) FTC must:
 - (a) act honestly in all matters relating to its functions relating to the FTC schemes, and
 - (b) exercise, in relation to all matters affecting the FTC schemes, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide, and 30
 - (c) ensure that its functions relating to the FTC schemes are exercised in the best interests of persons entitled to receive benefits under the FTC schemes, and 35

- (d) not enter into any contract or arrangement, or do anything else, that would prevent FTC from, or hinder FTC in, properly exercising FTC's functions as a trustee.

Note. The duties contained in subsection (1) reflect the covenants required of superannuation scheme trustees under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

- (2) In exercising its functions, FTC must have regard to:
- (a) the interests of persons entitled to receive benefits under the FTC schemes, and
- (b) the Heads of Government Agreement, commencing 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, and
- (c) any statement in writing of the policy of the Government on any matter that is relevant to the functions of FTC given by the Minister to FTC.
- (3) Subsection (1) (d) does not prevent FTC from entering into a contract or an arrangement under section 12.

Note. Members of the FTC Board have a duty to ensure that FTC carries out its duties (see section 28).

11 Government policy statements to be laid before Parliament

- (1) The Minister is required to lay before each House of Parliament, within 14 sitting days after giving a statement under section 10 (2) (c), a copy of the statement.
- (2) If a House of Parliament is not sitting when the Minister seeks to comply with this section, the Minister is required to present a copy of the relevant statement to the Clerk of the House.
- (3) A copy of a statement presented to the Clerk of a House of Parliament under this section:
- (a) is, on presentation and for all purposes, taken to have been laid before the House, and
- (b) is required to be printed by authority of the Clerk, and

- (c) if printed by the authority of that Clerk, is, for all purposes, taken to be a document published by order or under the authority of that House, and
- (d) is to be recorded in the Minutes, or Votes and Proceedings, of that House on the first sitting day of that House after receipt of the copy by that Clerk. 5

12 Power to enter into contracts or arrangements

- (1) FTC may enter into contracts or arrangements with any person:
 - (a) under which the person undertakes to carry out the function of providing superannuation investment management services for a superannuation fund or part of a fund under one or more of the FTC schemes, on behalf of FTC, or 10
 - (b) under which the person undertakes to carry out the function of providing superannuation scheme administration services for one or more of the FTC schemes on behalf of FTC, or 15
 - (c) under which the person undertakes to carry out the function of providing custodial services for one or more of the FTC schemes on behalf of FTC, or 20
 - (d) under which the person undertakes to carry out any other functions on behalf of FTC under this or any other Act, or
 - (e) for the performance of any other services.
- (2) A person who enters into a contract or an arrangement with FTC under this section has, while acting in accordance with the terms of the contract or arrangement, those functions of FTC specified in the contract or arrangement. 25
- (3) FTC may enter into a contract or an arrangement under this section only if FTC is satisfied that the contract or arrangement is in the interests of the persons entitled to receive benefits under the FTC schemes. 30
- (4) Any such contract or arrangement may deem the person with whom FTC makes the contract or arrangement to be an agent of FTC.

- (5) A contract or an arrangement entered into by FTC under this section does not confer on the other party any of the principal functions and responsibilities of FTC as trustee.

13 Powers of FTC

Without limiting any other function conferred or imposed on it, FTC may do all things that are necessary or convenient to be done for, or in connection with, the exercise of FTC's functions. 5

Division 2 Investment of FTC funds

14 Investment strategy

- (1) FTC must determine and give effect to an investment strategy for the FTC funds (the *investment strategy*) and a strategy for the prudential management of any reserves of the funds (the *reserves strategy*). 10
- (2) The investment strategy must have regard to the circumstances of the FTC schemes, including but not limited to the following: 15
- (a) the risk involved in making, holding and realising, and the likely return from, the investments having regard to the schemes' objectives and their cash flow requirements,
 - (b) the composition of the investments as a whole, including the extent to which the investments are diverse or involve exposure to risks from inadequate diversification, 20
 - (c) the liquidity of the investments having regard to the schemes' cash flow requirements,
 - (d) the ability to discharge the existing and prospective liabilities under the FTC schemes, 25
 - (e) any other matter which a trustee is required to consider in determining an investment strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (3) The reserves strategy must be consistent with the investment strategy and the ability to discharge the existing and prospective liabilities under the FTC schemes (whether actual or contingent) as and when they fall due. 30

- (4) In determining the reserves strategy, FTC must have regard to any other matter which a trustee is required to consider in determining a reserves strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (5) FTC may not contract out its functions under this section. 5

15 Investment manager to be appointed

- (1) In exercising its function of investing and managing an FTC fund, or part of a fund, FTC must enter into a contract or an arrangement under section 12 with an investment manager or managers who undertake to provide superannuation investment management services for a superannuation fund or part of a fund under the FTC scheme concerned, on behalf of FTC. FTC may not itself provide such services. 10
- (2) FTC must ensure that the investment manager or managers operate within the investment powers of FTC and comply with the investment strategy and reserves strategy determined by FTC. 15
- (3) FTC may enter into contracts or arrangements for the provision of superannuation investment management services with more than one provider of services.
- (4) FTC may, but is not required to, enter into a contract or an arrangement with AFMC (or its successors) for AFMC (or its successors) to provide superannuation investment management services for a superannuation fund or part of a fund under an FTC scheme, on behalf of FTC. 20
- (5) For the purposes of this section: 25
- superannuation investment management services* include (but are not limited to) the following:
- (a) acting as investment manager for any superannuation fund or funds concerned or part of any such fund,
- (b) advising on investments and investment strategies and other related strategies for any superannuation fund or funds concerned or part of any such fund. 30

Note. The Axiom Funds Management Corporation is established under the *Superannuation (Axiom Funds Management Corporation) Act 1996*.

16 Custodian to be appointed

- (1) FTC may exercise its function of providing for the custody of the assets and securities of an FTC scheme only by entering into a contract or an arrangement under section 12 with a person who undertakes to provide custodial services for the scheme on behalf of FTC. 5
- (2) FTC must ensure that the person operates within the powers of FTC and complies with the policies determined by FTC.

17 Borrowing and investment powers

- (1) FTC may: 10
- (a) obtain financial accommodation, and
 - (b) effect financial adjustments, and
 - (c) make investments,
- under and subject to the *Public Authorities (Financial Arrangements) Act 1987*. 15
- (2) FTC may take appropriate action to control or to enhance or protect the value of any investment made from the FTC funds or to enhance or protect the return on any such investment.

18 Restrictions on investment powers

- FTC must not, from the assets of the funds under administration or in obtaining financial accommodation: 20
- (a) lend money to a contributor to, or to a person entitled to or receiving a benefit under, an FTC scheme, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the scheme, or 25
 - (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance, or

- (c) invest any of the assets of an FTC fund otherwise than on an arms-length basis, unless it is an in-house asset within the meaning of Part 8 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

Division 3 Administration of FTC schemes

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19 Administrator to be appointed

- (1) FTC may exercise its function of administering an FTC scheme only by entering into a contract or an arrangement under section 12 with a person who undertakes to provide superannuation scheme administration services for the scheme on behalf of FTC. 10
- (2) FTC must ensure that the person operates within the powers of FTC and complies with the policies determined by FTC.
- (3) FTC may, but is not required to, enter into a contract or an arrangement with SAA for SAA to provide superannuation scheme administration services for an FTC scheme on behalf of FTC. 15

Note. The Superannuation Administration Authority is established under Part 4.

20 Provision of additional benefits

FTC may enter into a contract or an arrangement under section 12 with any person: 20

- (a) for the insurance by that person, or the arranging of insurance by that person (on an individual or a group basis), of members of an FTC scheme for the purpose of paying death or invalidity benefits (not being benefits based on past service) to or in respect of them, or 25
- (b) for the management of a scheme, carried out by or on behalf of that person, for the purpose of paying any such benefits to or in respect of any such members.

21 FTC may compromise or settle claims

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- (1) FTC may compromise or otherwise settle any claim made against it.

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- (2) If FTC compromises or otherwise settles a claim in relation to a benefit, the compromise or settlement discharges FTC's obligations as regards the benefit, and the amount payable is to be regarded as a benefit under the FTC scheme concerned and is payable from the appropriate FTC fund accordingly. 5
- (3) To the extent that an amount payable by FTC following a compromise or settlement is not a benefit under the relevant FTC scheme, the amount is payable from whichever fund or funds that FTC considers appropriate.
- (4) FTC may make such inquiries and investigations with respect to a claim made against it as it thinks fit. 10

22 Determination of disputes

- (1) FTC must determine any dispute under this or any other Act relating to an FTC scheme.
- (2) FTC may, in determining any such dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence. 15

23 Evidence from third parties

- (1) FTC may request a person who has made a claim against FTC, or who has a dispute with FTC, to provide FTC with an authority to obtain from a third person any information or evidence that is relevant to the subject-matter of the claim or dispute. 20
- (2) If such a person does not comply with any such request, FTC is not obliged to proceed to process the claim or determine the dispute concerned. 25

Division 4 Management of FTC

24 FTC Board

- (1) FTC is to have a Board consisting of 9 part-time members appointed by the Minister.

- (2) Of the members:
- (a) 1 is to be appointed as Chairperson of the FTC Board, and
 - (b) 4 are to be appointed as employer representatives, and
 - (c) 4 are to be appointed as employee representatives.
- (3) Schedule 1 has effect with respect to the members and procedure of the Board. 5
- (4) The FTC Board has the function of managing and controlling the affairs of FTC.
- (5) Any act, matter or thing done in the name of, or on behalf of, FTC by the FTC Board is taken to have been done by FTC. 10
- 25 Chairperson of FTC Board**
- (1) The Chairperson of the FTC Board is to be appointed by the Minister.
- (2) To be eligible for appointment as Chairperson a person must:
- (a) have significant knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration, and 15
 - (b) be independent of employers and employees and their respective interests.
- (3) The Minister must not appoint a person as Chairperson without having consulted the Labor Council of New South Wales. 20
- 26 Employer representative members**
- (1) Of the members of the FTC Board appointed as employer representatives, one is to be appointed on the recommendation of the Treasurer. 25
- (2) To be eligible for appointment as an employer representative a person must have knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration.
- 27 Employee representative members** 30
- (1) The members of the FTC Board appointed as employee representatives are to be nominated by the Labor Council of New South Wales.

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- (2) The Labor Council must not nominate a person to be a member unless it has consulted with organisations representing members of the FTC schemes about the nomination.
- (3) If the Labor Council fails to nominate persons for the purposes of this section within the period specified in a written request by the Minister to do so, the Minister may appoint a member or members as employee representatives. Any such member is taken to be properly appointed under this section. 5
- (4) A person may hold the office of a member of the FTC Board (as an employee representative) and also the office of a full-time or part-time member of the STC Board (as an employee representative). 10

28 Duties of members of FTC Board

- (1) A member of the FTC Board must exercise a reasonable degree of care and diligence for the purposes of ensuring that FTC carries out the duties referred to in section 10. 15
- (2) For the purposes of this section, a reasonable degree of care and diligence is the degree of care and diligence that a reasonable person in the position of the member would exercise in FTC's circumstances. 20

Note. Section 10 sets out FTC's principal duties as trustee.

29 Chief executive officer of FTC

- (1) The Minister, on the recommendation of the FTC Board, is to appoint a person as the chief executive officer of FTC.
- (2) The chief executive officer has the function of exercising the day-to-day management of FTC and has such other functions as may be conferred or imposed by or under this or any other Act. 25
- (3) The chief executive officer is subject to the control and direction of the FTC Board.
- (4) The employment of the chief executive officer is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act. The chief executive officer is taken, while holding that office, to be employed by FTC but FTC may not remove the chief executive officer from office. 30

- (5) The Minister may, from time to time, appoint a person to act in the office of the chief executive officer during the illness or absence of the chief executive officer (or during a vacancy in the office of chief executive officer) and the person, while so acting, has all the functions of the chief executive officer and is taken to be the chief executive officer. 5
- (6) The Minister may, at any time, remove a person from office as acting chief executive officer.
- (7) An acting chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine. 10
- (8) The same person may hold the office of chief executive officer of FTC and the office of chief executive officer of STC.

30 Staff of FTC

- (1) FTC may employ such staff as it requires to exercise its functions. 15
- (2) FTC may fix the salary, wages and other conditions of its staff in so far as they are not fixed by or under any other Act or law.
- (3) FTC may engage consultants for the purposes of getting expert advice. 20

31 Agents

- (1) FTC may employ and pay an agent to transact any business or do any act (including receiving or paying money) that FTC is authorised or required to transact or do in the exercise of its functions. 25
- (2) An agent may be employed by FTC to receive or pay money even though the agent, or any subagent employed by the agent, is not a bank, building society or credit union.
- (3) Section 53 (3) of the *Trustee Act 1925* applies to agents employed under this section. 30

Note. That provision excuses a trustee from liability for the default of an agent employed in good faith.

32 Delegation of functions

- (1) FTC may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) FTC may also delegate any of its functions relating to the FTC schemes: 5
- (a) to a natural person with whom FTC has entered into a contract or an arrangement under this Act, or
- (b) to the chief executive or Board of any organisation with which FTC has entered into such a contract or an arrangement. 10
- (3) FTC may not delegate any of its principal functions as trustee under this section.
- (4) In this section, *authorised person* means a member of the FTC Board, the chief executive officer of FTC or a committee that is comprised of or includes members of the Board. 15
- (5) Section 64 (7) of the *Trustee Act 1925* applies to FTC and to a delegate under this section.

33 Committees

- (1) The FTC Board may establish committees to give advice and assistance to the Board in connection with any particular matter or function of the Board. 20
- (2) It does not matter that some or all of the members of any committee are not members of the Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee. 25

34 Corporate plan

- (1) FTC is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of FTC, a corporate plan for the financial year. 30

- (2) A corporate plan must specify:
- (a) the objectives of FTC's activities for the financial year concerned, and
 - (b) the nature and scope of the activities to be undertaken, and
 - (c) the strategies, policies and budgets for achieving those objectives (including the investment strategy and the reserves strategy), and 5
 - (d) targets and criteria for assessing the performance of FTC.
- (3) An annual report of FTC must include an assessment of FTC's performance, according to the targets and criteria for assessment set out in the corporate plan applicable to the year concerned. 10
- (4) This section is subject to the requirements of any other Act or law.

Note. FTC must prepare annual reports for presentation to Parliament under the *Annual Reports (Statutory Bodies) Act 1984*. 15

35 Personal and other liability

- (1) A matter or thing done or omitted to be done by FTC, the FTC Board, a member of the Board or any person acting under the direction of FTC or the Board, does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject such a member or a person so acting personally to any action, liability, claim or demand. 20
- (2) A decision made, or any act or thing done or omitted, by FTC, the FTC Board, a member of the Board or any person acting under the direction of FTC or the Board may not be called into question on any of the following grounds: 25
- (a) an alleged conflict of interest because FTC, the Board or the person is involved in administering different Acts or different superannuation schemes,
 - (b) that knowledge gained by FTC, the Board or the person is or may be relevant to the exercise of a function under another such Act or scheme. 30
- (3) Subsection (1) does not preclude FTC from being subject to any action, liability, claim or demand. Any money becoming payable by FTC in respect of an action, liability, claim or demand is to be paid out of an FTC fund or funds as determined by FTC. 35

- (4) However, money is not payable under subsection (3) in circumstances in which a trustee may not be indemnified under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

Division 5 Financial provisions

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36 FTC to maintain administration account

FTC must maintain an account called the FTC Administration Account.

37 Administration costs generally

- (1) FTC must charge administration costs that it incurs (including the remuneration or allowances of members of the FTC Board and the chief executive officer) against the FTC Administration Account. 10
- (2) The administration costs (including costs related to preserved benefits and investment management) that FTC incurs in relation to the FTC schemes are to be paid in accordance with this section to the FTC Administration Account. 15
- (3) The administration costs (including costs related to preserved benefits and investment management) that FTC incurs in relation to the FTC schemes are payable by employers and contributors or members and former contributors or former members under the FTC schemes, in accordance with the Acts under which those schemes are established. 20
- (4) If employees are employed by a group of employers, the costs are payable by the group of employers. If a contributor or member belongs or a former contributor or a former member belonged to a group of contributors or members which contributes to a scheme, the costs are payable by the group of contributors or members. 25
- (5) The amount, the rate and the basis on which an employer, group of employers or contributor or member or former contributor or former member or group of contributors or members is required to pay is to be determined by FTC from time to time. 30

- (6) After calculating the appropriate amount or rate payable, FTC may debit the appropriate account, fund or reserve in the relevant FTC fund in accordance with this Division.
- (7) If the person who is chief executive officer of FTC is also the chief executive officer of STC, the costs of the remuneration of the chief executive officer are to be apportioned between FTC and STC as determined by FTC and STC. 5

38 Source of administration costs

The administration costs (including costs relating to preserved benefits and investment management) payable in respect of an FTC fund are to be paid from the reserves or accounts established for that purpose in the fund in accordance with the Act under which the fund is established. 10

39 Financial year of FTC

- (1) The financial year of FTC is the year commencing on 1 July. 15
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Division 6 Miscellaneous

40 Appeals

- (1) A person aggrieved by a determination of FTC under section 22 (relating to determination of disputes) may appeal against the determination to the Industrial Relations Commission in Court Session (the *Commission*). 20
- (2) The appeal must be made within 6 months after the appellant is notified of the determination of FTC or within such further period as the Commission allows. 25
- (3) In dealing with the appeal, the Commission may exercise any function that could have been exercised by FTC in making the determination the subject of the appeal.

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- (4) In dealing with the appeal, the Commission is to have regard to this Act and any other relevant provisions regulating the superannuation scheme concerned and such other matters as it considers to be relevant.
- (5) In dealing with the appeal, the Commission is not bound by the rules of evidence and may inform itself in any manner it thinks fit. 5
- (6) The final determination made by the Commission on the appeal is to be given effect as if it were a determination of the Board.
- 41 FTC Board must report events affecting functions** 10
- (1) If the FTC Board becomes aware of the occurrence of an event, or of a change in circumstances, having a significant adverse effect on the exercise of the functions of FTC, the Board must give written notice to the Minister setting out particulars of the event or change in circumstances. 15
- (2) The FTC Board must give the notice no later than the third business day after becoming aware of the event or change in circumstances.
- (3) Without limiting subsection (1), the FTC Board must give written notice of an event if, as a result of the event, FTC will not, or may not, be able to make payments to beneficiaries as and when the obligation to make those payments arises. 20
- 42 Provision of information to Minister**
- (1) FTC must furnish to the Minister such information relating to the general administration and operation of the FTC schemes and the FTC funds as the Minister may from time to time require. 25
- (2) Despite subsection (1), FTC must not furnish information relating to an individual member of an FTC scheme to the Minister, except with the member's consent.
- 43 Accounts and records of FTC** 30
- (1) FTC, or any person with whom FTC makes a contract or an arrangement, may maintain accounts and other records relating to the FTC schemes or any other related functions in or on any medium, or combination of media, capable of recording information and may, from time to time, vary the manner or form in which those accounts or other records are maintained. 35

- (2) Subsection (1) is subject to the terms of any contract or arrangement referred to in that subsection.

44 Service of documents

- (1) A document may be served on FTC by leaving it at, or by sending it by post to: 5
- (a) the office of FTC, or
 - (b) if it has more than one office, any one of its offices.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on FTC in any other manner. 10

45 Proof of certain matters not required

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the FTC Board, or
- (b) any resolution of the FTC Board, or 15
- (c) the appointment of, or the holding of office by, any member of the FTC Board, or
- (d) the presence or nature of a quorum at any meeting of the FTC Board.

46 Recovery of amounts payable by FTC 20

- (1) Any charge, fee or money due to FTC may be recovered by FTC as a debt in a court of competent jurisdiction.
- (2) Without limiting subsection (1), FTC may recover any money owing to it under this or any other Act, together with interest on the money, as a debt in a court of competent jurisdiction. 25
- (3) Interest at a rate from time to time determined by FTC is payable on any amount of money owing to it under this or any other Act calculated from the date on which the amount became due for payment until the date on which the amount is recovered or is otherwise paid. 30

47 Seal of FTC

The seal of FTC is to be kept by the chief executive officer of FTC and may be affixed to a document only:

- (a) in the presence of the chief executive officer or a member of staff of FTC authorised in that behalf by the chief executive officer, and
- (b) with an attestation by the signature of the chief executive officer or that member of the fact of the affixing of the seal.

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Part 3 Trustee for STC schemes (STC)

Introductory note.

This Part continues in existence the State Authorities Superannuation Board, renames it the SAS Trustee Corporation and gives it the functions of the trustee for the STC schemes. These schemes are primarily defined benefit schemes established under Acts and are closed to new members. Generally, the trustee will have functions (which include powers, authorities and duties) that are consistent with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. That Act regulates the functions of trustees of superannuation funds and the administration of superannuation schemes but does not apply directly to the STC schemes. The trustee will also be subject to provisions of the *Trustee Act 1925*. The trustee will have (among other functions) the function of administering the schemes and investing and managing the superannuation funds concerned. However, it will be required to arrange for these services to be provided by service providers in accordance with this Act. This will not detract from the primary responsibility and power of the trustee in these matters.

Division 1 Establishment and principal functions of STC

48 Continuation of STC (formerly the State Authorities Superannuation Board) 20

- (1) The corporation constituted by the *Superannuation Administration Act 1987* with the corporate name of State Authorities Superannuation Board and continued by the *Superannuation Administration Act 1991* is continued by this Act. 25
- (2) The continued corporation is to have the corporate name SAS Trustee Corporation. The body may also be called STC, and the use of that name has the same effect for all purposes as the use of its corporate name.
- (3) STC is, for the purposes of any Act, a statutory body representing the Crown. 30

49 STC to be trustee for STC schemes

- (1) STC is the trustee for the STC schemes and is to hold in trust for the persons who are or will be entitled to benefits under the STC schemes all assets held by, and all contributions and other money paid or payable to, STC under this Act and any Act under which an STC scheme is constituted or established. 35

- (2) STC is a trustee for the purposes of the *Trustee Act 1925*. Accordingly, subject to this Act, and unless this Act, the *Trustee Act 1925* or any other Act otherwise provides, STC has the obligations, rights and duties of a trustee under Division 2 of Part 2 of the *Trustee Act 1925*.

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Note. The effect of this is that STC is subject to both the common law obligations, duties and rights of trustees and the obligations, duties and rights of trustees under the *Trustee Act 1925*. These are in addition to its obligations, duties and rights under this Act, unless the *Trustee Act 1925* or this Act otherwise provides.

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50 Principal functions of STC

- (1) The principal functions of STC are:
- (a) to administer the STC schemes, and
 - (b) to invest and manage the STC funds, and
 - (c) to provide for the custody of the assets and securities of the STC schemes, and
 - (d) to ensure that benefits payable to the persons entitled to receive benefits under the STC schemes are paid in accordance with the Acts under which the schemes are established or constituted, and
 - (e) to determine disputes under those Acts.
- (2) STC has such other functions as may be conferred or imposed on it by or under this or any other Act.

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Note. The STC schemes include the State Authorities Superannuation Scheme, the Police Superannuation Scheme, the State Superannuation Scheme, the State Authorities Non-contributory Superannuation Scheme and other public sector schemes. None of these schemes are currently open to new members, though public sector employees still contribute to some of them.

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Other particular functions and obligations of STC are contained in the legislation establishing the STC schemes, including the *Police Regulation (Superannuation) Act 1906*, the *Local Government and Other Authorities (Superannuation) Act 1927*, the *Superannuation Act 1916*, the *State Authorities Superannuation Act 1987* and the *State Authorities Non-contributory Superannuation Act 1987*.

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51 Duties relating to functions

- (1) STC must:
- (a) act honestly in all matters relating to its functions relating to the STC schemes, and
 - (b) exercise, in relation to all matters affecting the STC schemes, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide, and 5
 - (c) ensure that its functions relating to the STC schemes are exercised in the best interests of persons entitled to receive benefits under the STC schemes, and 10
 - (d) not enter into any contract or arrangement, or do anything else, that would prevent STC from, or hinder STC in, properly exercising STC's functions as a trustee. 15

Note. The duties contained in subsection (1) reflect the covenants required of superannuation scheme trustees under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

- (2) In exercising its functions, STC must have regard to:
- (a) the interests of persons entitled to receive benefits under the STC schemes, and 20
 - (b) the Heads of Government Agreement, commencing 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, and 25
 - (c) the future liabilities of the STC funds, and
 - (d) any statement in writing of the policy of the Government on any matter that is relevant to the functions of STC given by the Minister to STC. 30
- (3) Subsection (1) (d) does not prevent STC from entering into a contract or an arrangement under section 53.

Note. Members of the STC Board have a duty to ensure that STC carries out its duties (see section 73).

52 Government policy statements to be laid before Parliament

- (1) The Minister is required to lay before each House of Parliament, within 14 sitting days after giving a statement under section 51 (2) (d), a copy of the statement.
- (2) If a House of Parliament is not sitting when the Minister seeks to comply with this section, the Minister is required to present a copy of the relevant statement to the Clerk of the House. 5
- (3) A copy of a statement presented to the Clerk of a House of Parliament under this section:
- (a) is, on presentation and for all purposes, taken to have been laid before the House, and 10
- (b) is required to be printed by authority of the Clerk, and
- (c) if printed by the authority of that Clerk, is, for all purposes, taken to be a document published by order or under the authority of that House, and 15
- (d) is to be recorded in the Minutes, or Votes and Proceedings, of that House on the first sitting day of that House after receipt of the copy by that Clerk.

53 Power to enter into contracts or arrangements

- (1) STC may enter into contracts or arrangements with any person: 20
- (a) under which the person undertakes to carry out the function of providing superannuation investment management services for a superannuation fund or part of a fund under one or more of the STC schemes, on behalf of STC, or 25
- (b) under which the person undertakes to carry out the function of providing superannuation scheme administration services to the STC schemes on behalf of STC, or
- (c) under which the person undertakes to carry out the function of providing custodial services for one or more of the STC schemes on behalf of STC, or 30
- (d) under which the person undertakes to carry out any other functions on behalf of STC under this or any other Act, or
- (e) for the performance of any other services. 35

- (2) The power of STC to enter into a contract or an arrangement does not extend to conferring on any other person the power of STC to appoint an actuary or actuaries to conduct an investigation into the state or sufficiency of an STC fund.
- (3) A person who enters into a contract or an arrangement with STC under this section has, while acting in accordance with the terms of the contract or arrangement, those functions of STC specified in the contract or arrangement. 5
- (4) STC may enter into a contract or an arrangement under this section only if STC is satisfied that the contract or arrangement is in the interests of the persons entitled to receive benefits under the STC schemes. 10
- (5) Any such contract or arrangement may deem the person with whom STC makes the contract or arrangement to be an agent of STC. 15
- (6) A contract or an arrangement entered into by STC under this section does not confer on the other party any of the principal functions and responsibilities of STC as trustee.
- 54 Minister's consent required**
- STC may not enter into a contract or an arrangement under section 53 (1) (a), (b) or (c) except with the Minister's consent. 20
- 55 STC to be subject to Minister's directions in certain circumstances**
- (1) The Minister may give a direction to STC relating to the exercise by STC of any one or more of its functions if the Minister is of the opinion that an act or omission, or conduct, by STC has had or could reasonably be expected to have a significant adverse effect on the Consolidated Fund or the financial management of the State. A direction must not be inconsistent with this or any other Act. 25
- (2) STC must comply with any such direction. 30
- (3) In giving a direction the Minister must have regard to:
- (a) the interests of persons entitled to receive benefits under the STC schemes, and
- (b) the duties and obligations of STC and the members of the STC Board. 35

- (4) Nothing in this section constitutes the Minister as a trustee of the STC schemes.
- (5) STC is not liable for anything done or omitted for the purpose only of complying with a direction of the Minister under this section.

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56 Direction to be laid before Parliament

- (1) The Minister is required to lay before each House of Parliament, within 14 sitting days after giving a direction under section 55, a copy of the direction.
- (2) If a House of Parliament is not sitting when the Minister seeks to comply with this section, the Minister is required to present a copy of the relevant statement to the Clerk of the House.
- (3) A copy of a statement presented to the Clerk of a House of Parliament under this section:
- (a) is, on presentation and for all purposes, taken to have been laid before the House, and
- (b) is required to be printed by authority of that Clerk, and
- (c) if printed by the authority of that Clerk, is, for all purposes, taken to be a document published by order or under the authority of that House, and
- (d) is to be recorded in the Minutes, or Votes and Proceedings, of that House on the first sitting day of that House after receipt of the copy by that Clerk.

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57 Powers of STC

Without limiting any other function conferred or imposed on it, STC may do all things that are necessary or convenient to be done for, or in connection with, the exercise of STC's functions.

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Division 2 Investment of STC funds**58 Investment strategy**

- (1) STC must determine and give effect to an investment strategy for the STC funds (the *investment strategy*) and a strategy for the prudential management of any reserves of the funds (the *reserves strategy*).

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- (2) The investment strategy must have regard to the circumstances of the STC schemes, including but not limited to the following:
- (a) the risk involved in making, holding and realising, and the likely return from, the investments having regard to the schemes' objectives and their cash flow requirements, 5
 - (b) the composition of the investments as a whole, including the extent to which the investments are diverse or involve exposure to risks from inadequate diversification,
 - (c) the liquidity of the investments having regard to the schemes' cash flow requirements, 10
 - (d) the ability to discharge the existing and prospective liabilities under the STC schemes,
 - (e) any other matter which a trustee is required to consider in determining an investment strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. 15
- (3) The reserves strategy must be consistent with the investment strategy and the ability to discharge the existing and prospective liabilities under the STC schemes (whether actual or contingent) as and when they fall due. 20
- (4) In determining the reserves strategy, STC must have regard to any other matter which a trustee is required to consider in determining a reserves strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (5) STC may not contract out its functions under this section. 25

59 Investment manager to be appointed

- (1) In exercising its function of investing and managing an STC fund, or part of a fund, STC must enter into a contract or an arrangement under section 53 with an investment manager or managers who undertake to provide superannuation investment management services for a superannuation fund or part of a fund under the STC scheme concerned, on behalf of STC. STC may not itself provide such services. 30
- (2) STC must ensure that the investment manager or managers operate within the investment powers of STC and comply with the investment strategy determined by STC. 35

- (3) STC may enter into contracts or arrangements for the provision of superannuation investment management services with more than one provider of services.
- (4) This section is subject to section 60.
- (5) For the purposes of this section: 5
- superannuation investment management services* include (but are not limited to) the following:
- (a) acting as investment manager for any superannuation fund or funds concerned or part of any such fund,
- (b) advising on investments and investment strategies and other related strategies for any superannuation fund or funds concerned or part of any such fund. 10

Note. The Minister's consent is required to any such contract or arrangement (see section 54).

- 60 AFMC to be first investment manager** 15
- (1) The first investment manager for the STC schemes is to be AFMC. For this purpose, STC must enter into a contract or an arrangement under section 53 (1) (a) with AFMC for the provision by AFMC (or its successors) of all superannuation investment management services for all the STC schemes on behalf of STC. 20
- (2) Any such contract or arrangement must be entered into for a fixed period, determined by the Minister for the purposes of this section, from a specified date determined by the Minister.
- (3) Any such contract or arrangement may provide for the circumstances in which it may be ended before that period expires. Any such termination of the contract has no effect unless it is approved in writing by the Minister. 25
- (4) On or after the end of the contract or arrangement referred to in subsection (1), STC is not required to enter into a contract or an arrangement under section 53 with AFMC but may enter into a contract or an arrangement with AFMC (or its successors) or any other person for the provision of one or more superannuation investment management services for a superannuation fund or part of a fund under one or more of the STC schemes. 30
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61 Custodian to be appointed

- (1) STC may exercise its function of providing for the custody of the assets and securities of an STC scheme only by entering into a contract or an arrangement under section 53 with a person who undertakes to provide custodial services for the scheme on behalf of STC. 5
- (2) STC must ensure that the person operates within the powers of STC and complies with the policies determined by STC.

62 Borrowing and investment powers

- (1) STC may: 10
- (a) obtain financial accommodation, and
 - (b) effect financial adjustments, and
 - (c) make investments,
- under and subject to the *Public Authorities (Financial Arrangements) Act 1987*. 15
- (2) STC may take appropriate action to control or to enhance or protect the value of any investment made from the STC funds or to enhance or protect the return on any such investment.

63 Restrictions on investment powers

- (1) STC must not, from the assets of the funds under administration or in obtaining financial accommodation: 20
- (a) lend money to a contributor to, or to a person entitled to or receiving a benefit under, an STC scheme, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the scheme, or 25
 - (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance, or
 - (c) invest any of the assets of an STC fund otherwise than on an arms-length basis, unless it is an in-house asset within the meaning of Part 8 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. 30

- (2) Subsection (1) does not prohibit the lending of money of an STC fund established before 25 May 1988 to a contributor if the trustee of the fund, on or before that date:
- (a) had express power to lend money to contributors, or
 - (b) lent money to contributors and that lending was not expressly prohibited by the legislation establishing the fund. 5

Division 3 Administration of STC schemes

64 Administrator to be appointed

- (1) STC may exercise its function of administering an STC scheme only by entering into a contract or an arrangement under section 53 with SAA for SAA to provide superannuation scheme administration services for the STC schemes on behalf of STC. 10
- (2) STC must ensure that SAA operates within the powers of STC and complies with the policies determined by STC. 15

65 Provision of additional benefits

STC may enter into a contract or an arrangement under section 53 with any person:

- (a) for the insurance by that person, or the arranging of insurance by that person (on an individual or a group basis), of members of an STC scheme for the purpose of paying death or invalidity benefits (not being benefits based on past service) to or in respect of them, or 20
- (b) for the management of a scheme, carried out by or on behalf of that person, for the purpose of paying any such benefits to or in respect of any such members. 25

66 STC may compromise or settle claims

- (1) STC may compromise or otherwise settle any claim made against it.

- (2) If STC compromises or otherwise settles a claim in relation to a benefit, the compromise or settlement discharges STC's obligations as regards the benefit, and the amount payable is to be regarded as a benefit under the STC scheme concerned and is payable from the appropriate STC fund accordingly. 5
- (3) To the extent that an amount payable by STC following a compromise or settlement is not a benefit under the relevant STC scheme, the amount is payable from whichever fund or funds that STC considers appropriate.
- (4) STC may make such inquiries and investigations with respect to a claim made against it as it thinks fit. 10

67 Determination of disputes

- (1) STC must determine any dispute under this or any other Act relating to an STC scheme.
- (2) STC may, in determining any such dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence. 15

68 Evidence from third parties

- (1) STC may request a person who has made a claim against STC, or who has a dispute with STC, to provide STC with an authority to obtain from a third person any information or evidence that is relevant to the subject-matter of the claim or dispute. 20
- (2) If such a person does not comply with any such request, STC is not obliged to proceed to process the claim or determine the dispute concerned. 25

Division 4 Management of STC

69 STC Board

- (1) STC is to have a Board consisting of 8 part-time members and 1 full-time member appointed by the Minister.

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- (2) Of the members:
- (a) 1 is to be appointed as Chairperson of the STC Board, and
 - (b) 4 are to be appointed as employer representatives, and
 - (c) 4 are to be appointed as employee representatives.
- (3) Of the members appointed as employee representatives, 1 is to be a full-time member. 5
- (4) Schedule 2 has effect with respect to the members and procedure of the Board.
- (5) The STC Board has the function of managing and controlling the affairs of STC. 10
- (6) Any act, matter or thing done in the name of, or on behalf of, STC by the STC Board is taken to have been done by STC.

70 Chairperson of STC Board

- (1) The Chairperson of the STC Board is to be appointed by the Minister. 15
- (2) To be eligible for appointment as Chairperson, a person must:
- (a) have significant knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration, and
 - (b) be independent of employers and employees and their respective interests. 20
- (3) The Minister must not appoint a person as Chairperson without having consulted the Labor Council of New South Wales.

71 Employer representative members

- (1) Of the members of the STC Board appointed as employer representatives, one is to be appointed on the recommendation of the Treasurer. 25
- (2) To be eligible for appointment as a member to represent the interests of employers a person must have knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration. 30

72 Employee representative members

- (1) The members of the STC Board appointed as employee representatives are to be nominated by the Labor Council of New South Wales.
- (2) The Labor Council must not nominate a person to be a member unless it has consulted with organisations representing members of the STC schemes. 5
- (3) If the Labor Council fails to nominate persons for the purposes of this section within the period specified in a written request by the Minister to do so, the Minister may appoint a member or members as employee representatives. Any such member is taken to be properly appointed under this section. 10
- (4) A person may hold the office of a full-time or part-time member of the STC Board (as an employee representative) and also the office of a member of the FTC Board (as an employee representative). 15

73 Duties of members of STC Board

- (1) A member of the STC Board must exercise a reasonable degree of care and diligence for the purposes of ensuring that STC carries out the duties referred to in section 51. 20
- (2) For the purposes of this section, a reasonable degree of care and diligence is the degree of care and diligence that a reasonable person in the position of the member would exercise in STC's circumstances.

74 Chief executive officer of STC 25

- (1) The Minister, on the recommendation of the STC Board, is to appoint a person as the chief executive officer of STC.
- (2) The chief executive officer has the function of exercising the day-to-day management of STC and has such other functions as may be conferred or imposed by or under this or any other Act. 30
- (3) The chief executive officer is subject to the control and direction of the STC Board.

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- (4) The employment of the chief executive officer is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act. The chief executive officer is taken, while holding that office, to be employed by STC but STC may not remove the chief executive officer from office. 5
- (5) The Minister may, from time to time, appoint a person to act in the office of the chief executive officer during the illness or absence of the chief executive officer (or during a vacancy in the office of chief executive officer) and the person, while so acting, has all the functions of the chief executive officer and is taken to be the chief executive officer. 10
- (6) The Minister may, at any time, remove a person from office as acting chief executive officer.
- (7) An acting chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine. 15
- (8) The same person may hold the office of chief executive officer of STC and the office of chief executive officer of FTC.

75 Staff of STC

- (1) STC may employ such staff as it requires to exercise its functions. 20
- (2) STC may fix the salary, wages and other conditions of its staff in so far as they are not fixed by or under any other Act or law.
- (3) STC may engage consultants for the purposes of getting expert advice. 25

76 Agents

- (1) STC may employ and pay an agent to transact any business or do any act (including receiving or paying money) that STC is authorised or required to transact or do in the exercise of its functions. 30
- (2) An agent may be employed by STC to receive or pay money even though the agent, or any subagent employed by the agent, is not a bank, building society or credit union.

- (3) Section 53 (3) of the *Trustee Act 1925* applies to agents employed under this section.

Note. That provision excuses a trustee from liability for the default of an agent employed in good faith.

77 Delegation of functions 5

- (1) STC may delegate to an *authorised person* any of its functions, other than this power of delegation.
- (2) STC may also delegate any of its functions relating to the STC schemes:
- (a) to a natural person with whom STC has entered into a contract or an arrangement under this Act, or 10
- (b) to the chief executive or Board of any organisation with which STC has entered into such a contract or an arrangement.
- (3) STC may not delegate any of its principal functions as trustee under this section. 15
- (4) In this section, *authorised person* means a member of the STC Board, the chief executive of STC or a committee that is comprised of or includes members of the Board.
- (5) Section 64 (7) of the *Trustee Act 1925* applies to STC and to a delegate under this section. 20

78 Committees

- (1) The STC Board may establish committees to give advice and assistance to the Board in connection with any particular matter or function of the Board. 25
- (2) It does not matter that some or all of the members of any committee are not members of the STC Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee. 30

79 Corporate plan

- (1) STC is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of STC, a corporate plan for the financial year.
- (2) A corporate plan must specify: 5
- (a) the objectives of STC's activities for the financial year concerned, and
 - (b) the nature and scope of the activities to be undertaken, and
 - (c) the strategies, policies and budgets for achieving those objectives (including the investment strategy and the reserves strategy), and 10
 - (d) targets and criteria for assessing the performance of STC.
- (3) An annual report of STC must include an assessment of STC's performance, according to the targets and criteria for assessment set out in the corporate plan applicable to the year concerned. 15
- (4) This section is subject to the requirements of any other Act or law.

Note. STC must prepare annual reports for presentation to Parliament under the *Annual Reports (Statutory Bodies) Act 1984*.

80 Personal and other liability 20

- (1) A matter or thing done or omitted to be done by STC, the STC Board, a member of the Board or any person acting under the direction of STC or the Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject such a member or a person so acting personally to any action, liability, claim or demand. 25
- (2) A decision made, or any act or thing done or omitted, by STC, the STC Board, a member of the Board or any person acting under the direction of STC or the Board may not be called into question on any of the following grounds: 30
- (a) an alleged conflict of interest because STC, the Board or the person is involved in administering different Acts or different superannuation schemes,

- (b) that knowledge gained by STC, the Board or the person is or may be relevant to the exercise of a function under another such Act or scheme.
- (3) Subsection (1) does not preclude STC from being subject to any action, liability, claim or demand. Any money becoming payable by STC in respect of an action, liability, claim or demand is to be paid out of an STC fund or funds as determined by STC. 5
- (4) However, money is not payable under subsection (3) in circumstances in which a trustee may not be indemnified under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. 10

Division 5 Financial provisions

81 Amalgamation of funds

- (1) The STC funds amalgamated as one fund under the *Superannuation Administration Act 1991* continue to be amalgamated. 15
- (2) STC is to maintain separate accounts in the amalgamated fund in relation to each STC scheme concerned.
- (3) A reference in any provision of this Act or the regulations or any other Act or other instrument (other than this section) to an STC fund is taken to be a reference to that part of the amalgamated fund that is maintained for the purposes of the relevant STC scheme. 20

82 Re-establishment of separate funds and subsequent amalgamation

- (1) STC may re-establish any of the STC funds as separate funds. On the re-establishment of the funds, section 81 (2) ceases to operate in relation to the funds, but without prejudice to the previous operation of that subsection. 25
- (2) STC may amalgamate into one fund any 2 or more STC funds separated under this section. Section 81 (2) and (3) apply to any such amalgamated fund. 30

83 Powers of STC

Without limiting the generality of sections 81 and 82, STC has power in New South Wales and elsewhere to do all things necessary and convenient to be done for, or in connection with, the re-establishment or amalgamation of a fund under this Division. 5

84 STC to maintain administration account

STC must maintain an account called the STC Administration Account.

85 Administration costs generally

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- (1) STC must charge administration costs that it incurs (including the remuneration or allowances of members of the STC Board and the chief executive officer) against the STC Administration Account.
- (2) The administration costs (including costs related to preserved benefits and investment management) that STC incurs in relation to the STC schemes are to be paid in accordance with this section to the STC Administration Account. 15
- (3) The administration costs (including costs related to preserved benefits and investment management) that STC incurs in relation to the STC schemes, are payable by employers and contributors or members and former contributors or former members under the STC schemes, in accordance with the Acts under which those schemes are established. 20
- (4) If employees are employed by a group of employers, the costs are payable by the group of employers. If a contributor or member belongs or a former contributor or a former member belonged to a group of contributors or members which contributes to a scheme, the costs are payable by the group of contributors or members. 25
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- (5) The amount, the rate and the basis on which an employer, group of employers or contributor or member or former contributor or former member or group of contributors or members is required to pay is to be determined by STC from time to time.

- (6) After calculating the appropriate amount or rate payable, STC may debit the appropriate account, fund or reserve in the relevant STC fund in accordance with this Division.
- (7) If the person who is chief executive officer of STC is also the chief executive officer of FTC, the costs of the remuneration of the chief executive officer are to be apportioned between STC and FTC as determined by STC and FTC. 5

86 Source of administration costs

The administration costs (including costs relating to preserved benefits and investment management) payable in respect of an STC fund are to be paid in accordance with the Act under which the fund is established or, if the Act makes no provision, from the reserves or accounts established in the fund determined for the purposes of this section by STC. 10

87 Financial year of STC 15

- (1) The financial year of STC is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Division 6 Miscellaneous

88 Appeals 20

- (1) A person aggrieved by a determination of STC under section 67 (relating to determination of disputes) may appeal against the determination to the Industrial Relations Commission in Court Session (the *Commission*).
- (2) The appeal must be made within 6 months after the appellant is notified of the determination of STC or within such further period as the Commission allows. 25
- (3) In dealing with the appeal, the Commission may exercise any function that could have been exercised by STC in making the determination the subject of the appeal. 30

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- (4) In dealing with the appeal, the Commission is to have regard to this Act and any other relevant provisions regulating the superannuation scheme concerned and such other matters as it considers to be relevant.
- (5) In dealing with the appeal, the Commission is not bound by the rules of evidence and may inform itself in any manner it thinks fit. 5
- (6) The final determination made by the Commission on the appeal is to be given effect to as if it were a determination of STC.
- 89 STC Board must report events affecting functions** 10
- (1) If the STC Board becomes aware of the occurrence of an event, or of a change in circumstances, having a significant adverse effect on the exercise of the functions of STC, the Board must give written notice to the Minister setting out particulars of the event or change in circumstances. 15
- (2) The STC Board must give the notice no later than the third business day after becoming aware of the event or change in circumstances.
- (3) Without limiting subsection (1), the STC Board must give written notice of an event if, as a result of the event, STC will not, or may not, be able to make payments to beneficiaries as and when the obligation to make those payments arises. 20
- 90 Provision of information to Minister**
- (1) STC must furnish to the Minister such information relating to the general administration and operation of the STC schemes and the STC funds as the Minister may from time to time require. 25
- (2) Despite subsection (1), STC must not furnish information relating to an individual member of an STC scheme to the Minister, except with the member's consent.
- 91 Accounts and records of STC** 30
- (1) STC, or any person with whom STC makes a contract or an arrangement, may maintain accounts and other records relating to the STC schemes or any other related functions in or on any

medium, or combination of media, capable of recording information and may, from time to time, vary the manner or form in which those accounts or other records are maintained.

- (2) Subsection (1) is subject to the terms of any contract or arrangement referred to in that subsection. 5

92 Service of documents

- (1) A document may be served on STC by leaving it at, or by sending it by post to:
- (a) the office of STC, or
 - (b) if it has more than one office, any one of its offices. 10
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on STC in any other manner.

93 Proof of certain matters not required

- In any legal proceedings, proof is not required (until evidence is given to the contrary) of: 15
- (a) the constitution of the STC Board, or
 - (b) any resolution of the STC Board, or
 - (c) the appointment of, or the holding of office by, any member of the STC Board, or 20
 - (d) the presence or nature of a quorum at any meeting of the STC Board.

94 Recovery of amounts payable by STC

- (1) Any charge, fee or money due to STC may be recovered by STC as a debt in a court of competent jurisdiction. 25
- (2) Without limiting subsection (1), STC may recover any money owing to it under this or any other Act, together with interest on the money, as a debt in a court of competent jurisdiction.

- (3) Interest at a rate from time to time determined by STC is payable on any amount of money owing to it under this or any other Act calculated from the date on which the amount became due for payment until the date on which the amount is recovered or is otherwise paid.

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95 Seal of STC

The seal of STC is to be kept by the chief executive officer of STC and may be affixed to a document only:

- (a) in the presence of the chief executive officer or a member of staff of STC authorised in that behalf by the chief executive officer, and
- (b) with an attestation by the signature of the chief executive officer or that member of the fact of the affixing of the seal.

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Part 4 Superannuation Administration Authority (SAA)

Introductory note.

This Part establishes the Superannuation Administration Authority of New South Wales and gives it functions relating to the administration of State public sector superannuation schemes. The Superannuation Administration Authority will be required to supply administration services to STC for the STC schemes and may (subject to an agreement being reached) supply such services to FTC for the FTC schemes. 5

Division 1 Establishment and principal functions of SAA 10

96 Establishment of SAA

- (1) There is established by this Act a body corporate with the corporate name of the Superannuation Administration Authority of New South Wales.
- (2) SAA is, for the purposes of any Act, a statutory body representing the Crown. 15

97 Principal functions of SAA

- (1) The principal functions of SAA are:
 - (a) to provide superannuation scheme administration services for State public sector superannuation schemes on behalf of trustees, and 20
 - (b) to enter into contracts or arrangements with the trustees of such schemes for that purpose, and
 - (c) to carry out other administrative functions related to State public sector superannuation schemes and legislation. 25
- (2) SAA has such other functions as may be conferred or imposed on it by or under this or any other Act.

98 Superannuation scheme administration services

The superannuation scheme administration services that may be provided by SAA include (but are not limited to) the following: 30

-
- (a) collecting contributions to superannuation schemes,
 - (b) keeping and maintaining member records,
 - (c) providing information and advice to members,
 - (d) preparing financial statements on behalf of trustees,
 - (e) processing of claims and payment of benefits. 5

99 Consideration for provision of services

As consideration for entering into a contract or an arrangement to provide superannuation scheme administration services, SAA must charge the trustee of the scheme concerned or other responsible person an amount sufficient to cover: 10

- (a) the costs that SAA has actually incurred in providing the services, and
- (b) any other fees or charges that the trustee or person has agreed to pay to SAA for providing the services, and
- (c) if the scheme concerned is not an STC scheme, an appropriate margin of profit. 15

100 Power to enter into contracts or arrangements

- (1) SAA may enter into contracts or arrangements with FTC under which SAA undertakes to carry out the function of providing superannuation scheme administration services for an FTC scheme on behalf of FTC. 20
- (2) SAA must enter into contracts or arrangements with STC under which SAA undertakes to carry out the function of providing superannuation scheme administration services for an STC scheme on behalf of STC. 25
- (3) SAA may enter into contracts or arrangements with trustees of other State public sector superannuation schemes approved by the Minister under which SAA undertakes to carry out the function of providing superannuation scheme administration services for the scheme on behalf of the trustee. 30

101 Powers of SAA

Without limiting any other function conferred or imposed on it, SAA may do all things that are necessary or convenient to be done for, or in connection with, the exercise of SAA's functions.

Division 2 Management of SAA

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102 Chief executive officer of SAA

- (1) The Minister may appoint a chief executive officer of SAA.
- (2) The employment of the chief executive officer is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act. 10
- (3) The Minister may, from time to time, appoint a person to act in the office of the chief executive officer during the illness or absence of the chief executive officer (or during a vacancy in the office of chief executive officer) and the person, while so acting, has all the functions of the chief executive officer and is taken to be the chief executive officer. 15
- (4) The Minister may, at any time, remove a person from office as acting chief executive officer.
- (5) An acting chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine. 20

103 Chief executive officer to manage and control affairs of SAA

- (1) The affairs of SAA are to be managed and controlled by the chief executive officer of SAA.
- (2) Any act, matter or thing done in the name of, or on behalf of, SAA by the chief executive officer is taken to have been done by SAA. 25

104 Ministerial control of SAA

- (1) SAA is, in the exercise of its functions, subject to the control and direction of the Minister. 30

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- (2) However, the Minister must not give to SAA a direction that is inconsistent with:
- (a) any contract or arrangement that SAA has lawfully entered into, or
 - (b) any duty, obligation or responsibility imposed on SAA by or under this or any other Act. 5
- (3) Any direction given by the Minister in contravention of subsection (2) is void to the extent of the inconsistency.

105 Staff of SAA

- (1) SAA may employ such staff as it requires to exercise its functions. 10
- (2) SAA may fix the salary, wages and other conditions of its staff in so far as they are not fixed by or under any other Act or law.
- (3) SAA may engage consultants for the purposes of getting expert advice. 15

106 Delegation of functions

- (1) SAA may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) In this section, *authorised person* means a member of staff of SAA or a person of a class prescribed by the regulations. 20

107 Corporate plan

- (1) SAA is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of SAA, a draft corporate plan for the financial year.
- (2) SAA: 25
- (a) must consider any comments on the draft corporate plan that are made by the Minister within 2 months after the plan is delivered to the Minister, and
 - (b) must deliver the completed corporate plan to the Minister before the beginning of the financial year concerned. 30

- (3) A corporate plan must specify:
- (a) the objectives of SAA's activities for the financial year concerned and for such future financial years as the Minister directs, and
 - (b) the strategies, policies and budgets for achieving those objectives, and 5
 - (c) targets and criteria for assessing the performance of SAA.
- (4) An annual report of SAA must include an assessment of SAA's performance, according to the targets and criteria for assessment set out in the corporate plan applicable to the year concerned. 10
- (5) This section is subject to the requirements of any other Act or law.

Note. SAA must prepare annual reports for presentation to Parliament under the *Annual Reports (Statutory Bodies) Act 1984*.

108 Personal liability 15

A matter or thing done or omitted to be done by SAA, the chief executive officer of SAA, or any person acting under the direction of SAA or the chief executive officer, does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the member or a person so acting personally to any action, liability, claim or demand. 20

Division 3 Financial provisions

109 SAA Account

- (1) SAA must maintain an account called the SAA Account. 25
- (2) There is payable into the Account all money received by SAA (other than money belonging to a superannuation fund), including interest received in respect of investments, and all money directed to be paid into the Account by this or any other Act. 30

-
- (3) There is payable from the Account all payments made on account of SAA or otherwise required to meet the expenditure incurred in relation to the functions of SAA (including the remuneration (including travelling and subsistence allowances) of the chief executive officer and staff of SAA) and all money directed to be paid from the Account by this or any other Act. 5
- (4) All money payable into the Account is to be paid into an account with a bank, building society or credit union in New South Wales.
- 110 Costs relating to STC schemes** 10
- (1) The administration and other costs that SAA incurs, including remuneration of the chief executive officer and staff salaries, in relation to the STC funds are to be paid to the SAA Fund by STC.
- (2) The amount and the rate of payment, and when payments are to be made, are to be determined by agreement between SAA and STC. 15
- (3) The Minister is to determine any dispute between SAA and STC, if SAA and STC fail to reach agreement under subsection (2).
- (4) For the purposes of this section, SAA must, not later than 3 months before the end of the financial year, submit to STC a detailed estimate of its operating and capital costs for the next financial year. 20
- 111 Borrowing and investment powers and other matters**
- (1) SAA may: 25
- (a) obtain financial accommodation, and
- (b) effect financial adjustments, and
- (c) make investments,
- under and subject to the *Public Authorities (Financial Arrangements) Act 1987*. 30
- (2) Subsection (1) does not apply in respect of money belonging to a superannuation fund.
-

- (3) SAA is not liable for stamp duty under the *Stamp Duties Act 1920* in respect of anything done by SAA for the purposes of this Act or any other Act.

112 Financial year of SAA

- (1) The financial year of SAA is the year commencing on 1 July. 5
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Division 4 Miscellaneous

113 Chief executive officer must report events affecting functions

- (1) If the chief executive officer of SAA becomes aware of the occurrence of an event, or of a change in circumstances, having a significant adverse effect on the exercise of the functions of SAA, the chief executive officer must give written notice to the Minister setting out particulars of the event or change in circumstances. 10
15
- (2) The chief executive officer must give the notice no later than the third business day after becoming aware of the event or change in circumstances.

114 Provision of information to Minister

- (1) SAA must furnish to the Minister such information relating to the general administration and operation of SAA and any State public sector superannuation schemes for which SAA provides superannuation scheme administration services as the Minister may from time to time require. 20
- (2) Despite subsection (1), SAA must not furnish information relating to an individual member of an SAA scheme to the Minister, except with the member's consent. 25

115 Service of documents

- (1) A document may be served on SAA by leaving it at, or by sending it by post to: 30
- (a) the office of SAA, or
- (b) if it has more than one office, any one of its offices.

- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on SAA in any other manner.

116 Recovery of amounts payable to SAA

- (1) Any charge, fee or money due to SAA may be recovered by SAA as a debt in a court of competent jurisdiction. 5
- (2) Without limiting subsection (1), SAA may recover any money owing to it under this or any other Act, together with interest on the money, as a debt in a court of competent jurisdiction.
- (3) Interest at a rate from time to time determined by SAA is payable on any amount of money owing to it under this or any other Act calculated from the date on which the amount became due for payment until the date on which the amount is recovered or is otherwise paid. 10

117 SAA to publish procedures or guidelines with respect to conflicts of interest 15

SAA may publish procedures or guidelines with respect to:

- (a) the disclosure of conflicts of interest associated with the exercise of SAA's functions, including for example the disclosure of conflicts of interest that may or may not preclude participation by individuals or bodies in contracts with SAA, and 20
- (b) the exclusion or participation by consultants to SAA in other commercial arrangements involving SAA, and
- (c) other related matters. 25

118 Seal of SAA

The seal of SAA is to be kept by the chief executive officer of SAA and may be affixed to a document only:

- (a) in the presence of the chief executive officer or a member of staff of SAA authorised in that behalf by the chief executive officer, and 30
- (b) with an attestation by the signature of the chief executive officer or that member of the fact of the affixing of the seal.

Part 5 Miscellaneous

Division 1 Offences and remedies relating to officers

119 Duties and liabilities of persons involved in management

- (1) An officer must act honestly in the exercise of powers, and discharge of functions, as an officer of a superannuation authority. 5
Maximum penalty:
- (a) if the contravention is committed with intent to deceive or defraud the authority, creditors of the authority or creditors of another person or for another fraudulent purpose—500 penalty units or imprisonment for 5 years, or 10
(b) in any other case—100 penalty units.
- (2) In the exercise of powers and the discharge of functions, an officer must exercise the degree of care and diligence that a reasonable person in a like position would exercise in the same circumstances. 15
Maximum penalty: 100 penalty units.
- (3) An officer, or a person who has been an officer, must not make improper use of information acquired because of his or her position as an officer: 20
(a) to gain, directly or indirectly, an advantage for himself or herself or for another person, or
(b) to cause detriment to the superannuation authority.
Maximum penalty: 500 penalty units or imprisonment for 5 years. 25
- (4) An officer must not make improper use of his or her position as an officer:
(a) to gain, directly or indirectly, an advantage for himself or herself or for another person, or
(b) to cause detriment to the superannuation authority. 30
Maximum penalty: 500 penalty units or imprisonment for 5 years.

- (5) In this section:

officer means the chief executive officer of a superannuation authority, a member of the Board of a superannuation authority or another person who is concerned, or takes part, in a superannuation authority's management. 5

superannuation authority means FTC, STC, SAA or AFMC.

- (6) AFMC ceases to be a superannuation authority for the purposes of this section on the commencement of Division 3 of Part 3 of the *Superannuation (Axiom Funds Management Corporation) Act 1996*. 10

120 Recovery of profits from officers

- (1) If a person contravenes section 119, the superannuation authority concerned may recover from the person as a debt due to the authority:

- (a) if the person or another person made a profit because of the contravention—an amount equal to the profit, and 15
(b) if the authority suffered loss or damage because of the contravention—an amount equal to the loss or damage.

- (2) An amount may be recovered from the person under this section whether or not the person has been convicted of an offence in relation to the contravention. 20

- (3) This section is in addition to, and does not limit, the *Confiscation of Proceeds of Crime Act 1989*.

121 Contraventions of trustee duties

- (1) A person (other than FTC or STC) who suffers loss or damage as a result of conduct of another person who was engaged in a contravention of, or failed to comply with, section 10, 28, 51 or 73 may recover the amount of the loss or damage by action against that other person or any other person knowingly involved in the contravention. 25
30

- (2) An action under this section may be begun at any time within 6 years after the day on which the cause of action arose.

- (3) For the purposes of this section, a person is knowingly involved in a contravention if, and only if, the person:
- (a) has aided, abetted, counselled or procured the contravention, or
 - (b) has induced, whether by threats or promises or otherwise, the contravention, or 5
 - (c) has been in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the contravention, or
 - (d) has conspired with others to effect the contravention. 10

122 Defence relating to investment strategy

It is a defence to an action under section 121 for loss or damage suffered by a person as a result of the making of an investment by or on behalf of FTC or STC if the defendant establishes that the investment was made in accordance with an investment strategy formulated in accordance with this Act. 15

123 Defence relating to management of reserves

It is a defence to an action under section 121 for loss or damage suffered by a person as a result of the management of any reserves by FTC or STC if the defendant establishes that the management of the reserves was in accordance with a reserves strategy formulated in accordance with this Act. 20

124 Defences relating generally to actions arising from breach of duties

- (1) It is a defence to an action under section 121 for loss or damage suffered by a person if the defendant establishes that: 25
- (a) the contravention was due to reasonable mistake, or
 - (b) the contravention was due to reasonable reliance on information supplied by another person, or
 - (c) the contravention was due to the act or default of another person, or an accident, or some other cause beyond the person's control and that the defendant took reasonable precautions and exercised due diligence to avoid the contravention. 30

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- (2) For the purposes of subsection (1) (b), a reference to another person does not include a reference to a person who was, when the contravention occurred, an employee or agent of the defendant or, if the defendant is a corporation, a director, employee or agent of the defendant. 5
- (3) A defendant is not entitled to rely on a defence under subsection (1) that a contravention was due to reliance on information supplied by another person or the act or default of another person unless:
- (a) the court grants leave, or 10
- (b) the defendant has, not later than 7 days before the day on which the hearing of the proceedings begins, served on the person bringing the action a written notice containing information that:
- (i) identifies, or would assist to identify, the other person, and 15
- (ii) was in the defendant's possession at the time of the contravention.

Division 2 General provisions

125 Act binds Crown 20

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

126 Proceedings for offences

- (1) Proceedings for an offence against this Act are to be dealt with summarily before: 25
- (a) a Local Court constituted by a Magistrate sitting alone, or
- (b) the Supreme Court in its summary jurisdiction.
- (2) The maximum penalty that may be imposed by a Local Court for an offence under this Act is 50 penalty units or imprisonment for 12 months, or both. 30

127 Additional State public sector superannuation schemes

- (1) The Minister may approve the preparation of a trust deed providing for a superannuation scheme for the benefit of State public sector employees, or a class or classes of State public sector employees (including employees of a local authority or a public authority). 5
- (2) The trust deed may reflect the provisions of any other superannuation schemes, whether established by or under an Act, and may apply different provisions and benefits to different employees, according to the entitlements of the employees under existing State public sector superannuation schemes. 10
- (3) Further arrangements may be made for the incorporation of a body to be the trustee of the proposed superannuation scheme.
- (4) The trust deed must include provisions to ensure that a right that a contributor to, or a member of, the scheme it establishes has immediately before the deed takes effect is not removed or restricted. The rules included in the deed may, however, confer additional rights on a contributor or member. 15
- (5) The trust deed must be consistent with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth for a regulated fund within the meaning of that Act and any trustee must satisfy the requirements of that Act for a trustee. 20
- (6) Before approving the preparation of a trust deed under this section, the Minister must consult with the Labor Council of New South Wales. 25

128 Provisions consequent on establishment of additional superannuation schemes

- (1) Regulations may be made for or with respect to the following matters, in relation to the establishment of a superannuation scheme by a trust deed as referred to in section 127: 30
 - (a) the transfer of members of, or contributors to, an FTC scheme or an STC scheme from that scheme to the new superannuation scheme,
 - (b) the rights of persons who are eligible to become members of the new superannuation scheme to remain as members of, or contributors to, an FTC scheme or an STC scheme, 35

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- (c) the transfer of assets and liabilities of an FTC scheme or an STC scheme, in respect of transferred members or contributors or former members or contributors, to the new superannuation scheme,
 - (d) the payment of pensions and other benefits in respect of former members of, or former contributors to, an FTC scheme or an STC scheme under the new superannuation scheme, 5
 - (e) the funds and reserves to be established in respect of the new superannuation scheme, 10
 - (f) the preservation of benefits of persons transferring to the new superannuation scheme,
 - (g) the entitlements, rights and obligations of a member of, or contributor to, an FTC scheme or an STC scheme who joins the new superannuation scheme, 15
 - (h) the provision of services in relation to the new superannuation scheme by SAA or AFMC (or its successors), or both,
 - (i) the deeming of employers to be no longer employers under an FTC scheme or an STC scheme where all the relevant employees are transferred from the FTC scheme or the STC scheme to the new superannuation scheme. 20
- (2) A regulation made under this section has effect despite any provision of an Act under which an FTC scheme or an STC scheme is constituted. 25

129 Regulations

- (1) 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. 30
- (2) In particular, the regulations may make provision for or with respect to:
 - (a) the administration of the funds and accounts maintained under this Act and the Acts under which the FTC schemes and the STC schemes are established, 35
 - (b) the procedure of the FTC Board, the STC Board or SAA.

Clause 130 Superannuation Administration Bill 1996

Part 5 Miscellaneous
Division 2

130 Repeals

The following Acts are repealed:

Superannuation Administration Act 1991 No 96

Superannuation Administration Amendment Act 1995 No 29.

131 Savings and transitional provisions

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Schedule 3 has effect.

132 Consequential amendment of other Acts

Schedule 4 has effect.

133 Review of Act

- (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. 10
- (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.
- (3) A report of 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. 15

Schedule 1 Provisions relating to FTC Board

(Section 24)

Part 1 Definitions

1 Definitions

In this Schedule:

5

Chairperson means the Chairperson of the Board.

Board means the FTC Board.

member means a member of the Board, including the Chairperson.

Part 2 Members

10

2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

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3 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

4 Deputies

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(1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.

(2) In the absence of a member, the member's deputy:

(a) may, if available, act in the place of a member, and

25

(b) while so acting, has all the functions of the member and is taken to be a member.

Superannuation Administration Bill 1996

Schedule 1 Provisions relating to FTC Board

- (3) The deputy of a member who is the Chairperson does not (because of this clause) have the member's functions as Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person. 5

5 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or 10
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or 15 20
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or 25
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or 30
 - (i) becomes a disqualified person within the meaning of Part 15 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

-
- (2) The Minister may remove a member from office at any time for any or no reason and without notice.

6 Filling of vacancy in office of member

- (1) If the office of any member becomes vacant, the Minister must arrange for a suitably qualified person to be appointed to fill the vacancy in accordance with this Act within 60 days after the date on which the vacancy occurred. 5
- (2) Subclause (1) does not apply if the term of office of the member concerned was due to expire within 60 days after the vacancy occurred. 10

7 Disclosure of pecuniary interests

- (1) If:
- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and 15
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board. 20
- (2) A disclosure by a member at a meeting of the Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or 25
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1). 30

Superannuation Administration Bill 1996

Schedule 1 Provisions relating to FTC Board

- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee (if any) determined by the Board.
- (4) After a member has disclosed the nature of any interest in any matter, the member must not, unless the Board otherwise determines: 5
- (a) be present during any deliberation of the Board with respect to the matter, or
- (b) take part in any decision of the Board with respect to the matter. 10
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not: 15
- (a) be present during any deliberation of the Board for the purpose of making the determination, or
- (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board. 20
- (7) This clause does not apply to or in respect of an interest of a member in a matter or thing which arises merely because the member is a contributor to a superannuation scheme.

8 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member. 25
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or 30
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown. 5

Part 3 Procedure

9 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board. 10

10 Quorum

The quorum for a meeting of the Board is 5 members, of whom at least one must be an employer representative and at least one must be an employee representative. 15

11 Presiding member

- (1) A meeting of the Board is to be presided over by:
 (a) the Chairperson, or
 (b) in the absence of the Chairperson, a member elected by the members present at the meeting. 20
- (2) The presiding member has a deliberative vote.

12 Voting

A decision supported by a two-thirds majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board. 25

13 Transaction of business otherwise than at ordinary meetings

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being. A resolution approved in writing by a two-thirds majority of those members is taken to be a decision of the Board. 30

Superannuation Administration Bill 1996

Schedule 1 Provisions relating to FTC Board

- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members. 5
- (3) For the purposes of:
- (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),
- the members have the same voting rights as they have at an ordinary meeting of the Board. 10
- (4) Papers may be circulated among members for the purposes of subclause (1) by fax or other transmission of the information in the papers concerned.

14 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit. 15

Schedule 2 Provisions relating to STC Board

(Section 69)

Part 1 Definitions

1 Definitions

In this Schedule:

5

Chairperson means the Chairperson of the Board.

Board means the STC Board.

member means a member of the Board, including the Chairperson.

Part 2 Members

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2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

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3 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

4 Deputies

20

(1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.

(2) In the absence of a member, the member's deputy:

(a) may, if available, act in the place of a member, and

25

(b) while so acting, has all the functions of the member and is taken to be a member.

- (3) The deputy of a member who is the Chairperson does not (because of this clause) have the member's functions as Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person. 5

5 Full-time member

- (1) The Board may determine additional functions to be performed by the person holding the office of full-time employee representative member. 10
- (2) The full-time employee representative member is to report to the Board in respect of the performance of the additional functions.

6 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or 15
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or 20
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or 25
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or 30
 - (g) becomes a mentally incapacitated person, or

<p>(h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or</p> <p>(i) becomes a disqualified person within the meaning of Part 15 of the <i>Superannuation Industry (Supervision) Act 1993</i> of the Commonwealth.</p> <p>(2) The Minister may remove a member from office at any time for any or no reason and without notice.</p>	<p>5</p> <p>10</p>
<p>7 Filling of vacancy in office of member</p>	
<p>(1) If the office of any member becomes vacant, the Minister must arrange for a suitably qualified person to be appointed to fill the vacancy in accordance with this Act within 60 days after the date on which the vacancy occurred.</p> <p>(2) Subclause (1) does not apply if the term of office of the member concerned was due to expire within 60 days after the vacancy occurred.</p>	<p>15</p>
<p>8 Disclosure of pecuniary interests</p>	
<p>(1) If:</p> <p style="padding-left: 2em;">(a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and</p> <p style="padding-left: 2em;">(b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,</p> <p style="padding-left: 2em;">the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.</p>	<p>20</p> <p>25</p>
<p>(2) A disclosure by a member at a meeting of the Board that the member:</p> <p style="padding-left: 2em;">(a) is a member, or is in the employment, of a specified company or other body, or</p>	<p>30</p>

- (b) is a partner, or is in the employment, of a specified person,
or
- (c) has some other specified interest relating to a specified
company or other body or to a specified person,
is a sufficient disclosure of the nature of the interest in any 5
matter relating to that company or other body or to that person
which may arise after the date of the disclosure and which is
required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be 10
recorded by the Board in a book kept for the purpose and that
book must be open at all reasonable hours to inspection by any
person on payment of the fee (if any) determined by the Board.
- (4) After a member has disclosed the nature of any interest in any 15
matter, the member must not, unless the Board otherwise
determines:
 - (a) be present during any deliberation of the Board with
respect to the matter, or
 - (b) take part in any decision of the Board with respect to the
matter.
- (5) For the purposes of the making of a determination by the Board 20
under subclause (4), a member who has a direct or indirect
pecuniary interest in a matter to which the disclosure relates
must not:
 - (a) be present during any deliberation of the Board for the 25
purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision
of the Board.
- (7) This clause does not apply to or in respect of an interest of a 30
member in a matter or thing which arises merely because the
member is a contributor to a superannuation scheme.

9 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply
to or in respect of the appointment of a member.

-
- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office, 5
- the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member. 10
- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Part 3 Procedure

10 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board. 15

11 Quorum

The quorum for a meeting of the Board is 5 members, of whom at least one must be an employer representative and at least one must be an employee representative. 20

12 Presiding member

- (1) A meeting of the Board is to be presided over by:
- (a) the Chairperson, or
 - (b) in the absence of the Chairperson, a member elected by the members present at the meeting. 25

- (2) The presiding member has a deliberative vote.

13 Voting

A decision supported by a two-thirds majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

5

14 Transaction of business otherwise than at ordinary meetings

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being. A resolution approved in writing by a two-thirds majority of those members is taken to be a decision of the Board.

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- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

15

- (3) For the purposes of:

- (a) the approval of a resolution under subclause (1), or
(b) a meeting held in accordance with subclause (2),

the members have the same voting rights as they have at an ordinary meeting of the Board.

20

- (4) Papers may be circulated among members for the purposes of subclause (1) by fax or other transmission of the information in the papers concerned.

15 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

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Schedule 3 Savings and transitional provisions

(Section 131)

Part 1 Preliminary

1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act and the *Superannuation (Axiom Funds Management Corporation) Act 1996*. 5
- (2) Any such savings or transitional provision may, if the regulations so provide, take effect on the date of assent to this Act or the *Superannuation (Axiom Funds Management Corporation) Act 1996* or a later date. 10
- (3) To the extent to which any such savings or transitional provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as: 15
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 20

Part 2 Provisions consequent on the enactment of this Act and the Superannuation (Axiom Funds Management Corporation) Act 1996

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2 Definitions

In this Part:

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action, and documents. 30

business undertaking of a body means all the assets, rights and liabilities of the body.

Corporation means the State Superannuation Investment and Management Corporation constituted by the *Superannuation Administration Act 1991*.

5

liabilities means all liabilities, debts and obligations (whether present or future and whether vested or contingent).

PSES Board means the Public Sector Executives Superannuation Board constituted by the *Public Sector Executives Superannuation Act 1989*.

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SAS Board means the State Authorities Superannuation Board continued by the *Superannuation Administration Act 1991*.

State tax means application or registration fees, stamp duty or any other tax, duty, fee or charge imposed by any Act or law of the State.

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the 1991 Act means the *Superannuation Administration Act 1991*.

transferred employee means a member of staff of the SAS Board, the PSES Board or the Corporation transferred by order under clause 16.

20

3 State Authorities Superannuation Board

(1) A person who, immediately before the repeal of the 1991 Act, held office as a trustee of the SAS Board:

(a) ceases to hold that office, and

(b) is eligible (if otherwise qualified) to be appointed as a member of the STC Board or the FTC Board under this Act.

25

(2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

4 References to State Authorities Superannuation Board

30

On and from the repeal of the 1991 Act, a reference in any Act (other than this Act) or in any instrument made under any Act or in any other instrument of any kind to the State Authorities Superannuation Board is to be read:

- (a) as a reference to STC, if the reference is to the Board in its capacity as trustee of, or in relation to any of its functions relating to, any of the STC funds or the STC schemes, and
- (b) as a reference to FTC, if the reference is to the Board in its capacity as trustee of, or in relation to any of its functions relating to, the First State Superannuation Scheme or the First State Superannuation Fund established under the *First State Superannuation Act 1992*. 5
10

5 State Superannuation Investment and Management Corporation

- (1) A person who, immediately before the repeal of the 1991 Act, held office as a director of the Board of the Corporation:
 - (a) ceases to hold that office, and
 - (b) is eligible (if otherwise qualified) to be appointed as a member of the STC Board or the FTC Board under this Act or the AFMC Board under the *Superannuation (Axiom Funds Management Corporation) Act 1996*. 15
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office. 20
- (3) A person who holds office as the Managing Director of the Corporation and who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office under the *Public Sector Management Act 1988*.

6 References to State Superannuation Investment and Management Corporation 25

On and from the repeal of the 1991 Act, a reference in any Act (other than this Act) or in any instrument made under any Act or in any other instrument of any kind to the State Superannuation Investment and Management Corporation is to be read: 30

- (a) as a reference to AFMC, if the reference to the Corporation relates to any of its functions relating to the investment of any of the STC or FTC funds or related functions, or

- (b) as a reference to SAA, if the reference relates to any of its functions relating to the administration of the STC schemes or the First State Superannuation Scheme established under the *First State Superannuation Act 1992*.

5

7 Public Sector Executives Superannuation Board

- (1) A person who, immediately before the repeal of Part 2 of the *Public Sector Executives Superannuation Act 1989* by this Act, held office as a member of the PSES Board:

- (a) ceases to hold that office, and
(b) is eligible (if otherwise qualified) to be appointed as a member of the FTC Board or the STC Board under this Act.

10

- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

15

8 References to Public Sector Executives Superannuation Board

On and from the repeal of Part 2 of the *Public Sector Executives Superannuation Act 1989* by this Act, a reference in any Act (other than this Act) or in any instrument made under any Act or in any other instrument of any kind to the Public Sector Executives Superannuation Board is to be read as a reference to FTC.

20

9 Trustees' role

- (1) For the avoidance of doubt, it is declared that STC and its predecessors have always held the STC funds in trust for the persons entitled to receive benefits under the STC schemes.
(2) For the avoidance of doubt, it is declared that FTC and its predecessors have always held the FTC funds in trust for the persons entitled to receive benefits under the FTC schemes.

25

10 Assets of SAS Board and PSES Board

30

- (1) Any assets, rights or liabilities that are part of the business undertaking of the SAS Board or the PSES Board may be transferred to STC, FTC, AFMC or SAA, as directed by the Minister by order in writing.

-
- (2) An order under this section may be made before, on or after the commencement of any provision of this Act or the *Superannuation (Axiom Funds Management Corporation) Act 1996*.
- (3) An order may specify the consideration on which the order is made and the value or values at which the assets, rights or liabilities are transferred. 5

11 Assets of the Corporation

- (1) Any assets, rights or liabilities that are part of the business undertaking of the Corporation are to be transferred to STC, FTC, AFMC or SAA, as directed by the Minister by order in writing. 10
- (2) An order under this section may be made before, on or after the commencement of any provision of this Act or the *Superannuation (Axiom Funds Management Corporation) Act 1996*. 15
- (3) An order may specify the consideration on which the order is made and the value or values at which the assets, rights or liabilities are transferred.

12 Vesting of undertaking

- (1) When any part of the business undertaking of the SAS Board, the PSES Board or the Corporation is transferred by an order made under clause 10 or 11, the following provisions have effect (subject to the order directing the transfer): 20
- (a) the assets of the SAS Board, the PSES Board or the Corporation comprised in that part of the undertaking vest in the transferee by force of this clause and without the need for any conveyance, transfer, assignment or assurance, 25
- (b) the rights and liabilities of the SAS Board, the PSES Board or the Corporation comprised in that part of the undertaking become by force of this clause the rights and liabilities of the transferee. 30

Superannuation Administration Bill 1996

Schedule 3 Savings and transitional provisions

- (c) all proceedings relating to that part of the undertaking commenced before the transfer by or against the SAS Board, the PSES Board or the Corporation and pending immediately before the transfer are taken to be proceedings pending by or against the transferee, 5
 - (d) anything done or omitted to be done in relation to that part of the undertaking before the transfer by, to or in respect of the SAS Board, the PSES Board or the Corporation is (to the extent that it has any force or effect) taken to have been done or omitted to be done by, to or in respect of the transferee, 10
 - (e) a reference in any other Act, in any instrument, made under any Act or in any document of any kind to the SAS Board, the PSES Board or the Corporation is (to the extent that it relates to that part of the undertaking but subject to the regulations) to be read as, or as including, a reference to the transferee. 15
- (2) The operation of this clause is not to be regarded:
- (a) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or 20
 - (b) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability. 25
- (3) The operation of this section is not to be regarded as an event of default under any contract or other instrument.
- (4) No attornment to the transferee by a lessee from the SAS Board, the PSES Board or the Corporation is required.
- (5) Any instrument executed only for: 30
- (a) a purpose ancillary to or consequential on the operation of this clause, or
 - (b) the purpose of giving effect to this clause,
- is not chargeable with State tax.

13 Delegations

- (1) A delegation effected by the SAS Board of a function related to the STC schemes or STC funds, and in force immediately before the repeal of the 1991 Act, is taken to have been effected under this Act by STC (but only if STC could have lawfully made the delegation under this Act). 5
- (2) A delegation effected by the SAS Board of a function related to the FTC schemes or FTC funds, and in force immediately before the repeal of the 1991 Act, is taken to have been effected under this Act by FTC (but only if FTC could have lawfully made the delegation under this Act). 10
- (3) A delegation effected by the PSES Board of a function related to the Public Sector Executives Superannuation Scheme established under the *Public Sector Executives Superannuation Act 1989*, and in force immediately before the repeal of Part 2 of the *Public Sector Executives Superannuation Act 1989*, is taken to have been effected under this Act by FTC (but only if FTC could have lawfully made the delegation under this Act). 15
- (4) A delegation continued by this clause may be revoked or amended in the same way as any delegation made under this Act. 20

14 Annual reports and other matters of trustee

- (1) If, before the commencement of this clause, the SAS Board, or the PSES Board, has not complied with a requirement made by or under an Act relating to an annual report or a statement of accounts, being a report or statement required to be made in respect of a period which expired before that day, the relevant trustee must comply with the requirement despite the repeal. 25
- (2) The relevant trustee is STC, in relation to a report or statement relating to an STC fund or scheme, or FTC, in relation to a report or statement relating to an FTC fund or scheme. 30

- (3) The first annual report and statement of accounts of STC and FTC after the commencement of the relevant provisions of this Act must deal with any matters relating to the SAS Board or the PSES Board (other than matters dealt with in the report referred to in subclause (1)) that would have been required to be included in an annual report or statement of accounts of the SAS Board or the PSES Board had the former Act and provisions relating to the PSES Board contained in the *Public Sector Executives Superannuation Act 1989* not been repealed. 5

15 Annual reports and other matters of Corporation 10

- (1) If, before the repeal of the 1991 Act, the Corporation has not complied with a requirement made by or under an Act relating to an annual report or a statement of accounts, being a report or statement required to be made in respect of a period which expired before that day, SAA must comply with the requirement despite the repeal. 15

- (2) The first annual report and statement of accounts of SAA after the commencement of the relevant provisions of this Act must deal with any matters relating to the Corporation (other than matters dealt with in the report referred to in subclause (1)) that would have been required to be included in an annual report or statement of accounts of the Corporation had the former Act not been repealed. 20

16 Transfer of staff from repealed bodies

- (1) The Minister may, by order in writing, direct that a member of staff of the SAS Board is to be taken to be an employee of FTC or STC by virtue of this clause. 25
- (2) The Minister may, by order in writing, direct that a member of staff of the PSES Board is to be taken to be an employee of FTC or STC by virtue of this clause. 30
- (3) The Minister may, by order in writing, direct that a member of staff of the Corporation is to be taken to be an employee of SAA or AFMC by virtue of this clause.

- (4) In this section, a reference to a member of staff includes a reference to an employee of another Government agency whose services are being made use of by virtue of the 1991 Act or the *Public Sector Executives Superannuation Act 1989*.

17 Conditions of employment of transferred employees 5

- (1) Except as otherwise provided by this Act or the regulations, the terms and conditions of employment of a transferred employee (including conditions as to remuneration and duration of employment) are to be the same as they were immediately before the commencement of the relevant order under clause 16 and are to continue to have effect. 10
- (2) Neither the contract of employment nor the period of employment of each transferred employee is taken to have been broken by the operation of this Act for the purposes of any law, award or agreement relating to the employment of that employee. 15
- (3) The transfer of a transferred employee does not affect any right to leave of absence (including long service leave) accrued before the repeal of the 1991 Act.
- (4) The terms and conditions of employment referred to in subclause (1) may be varied but only by the means by which they could be varied immediately before the commencement of this clause. 20

18 Superannuation—employer's liability

- (1) If, before the repeal of the 1991 Act: 25
- (a) a person died or retired or was retrenched, and
- (b) at the date of death, retirement or retrenchment:
- (i) the person was an employee of the SAS Board, the PSES Board or the Corporation, or
- (ii) the SAS Board, the PSES Board or the Corporation was, for the purposes of any superannuation scheme, the employer of the person, 30

then, for the purposes of the Act by or under which the scheme is established, the relevant body is, on and after the day on which the 1991 Act is repealed, taken to be the employer in the service of whom the person was employed at the date of death, retirement or retrenchment for the purposes of any provision in that Act under which payments may be required to be made by the employer of that person in respect of that scheme. 5

- (2) For the purposes of this section, the relevant body:
- (a) in relation to a person whose employer was the SAS Board is STC, and 10
 - (b) in relation to a person whose employer was the Corporation is SAA, and
 - (c) in relation to a person whose employer was the PSES Board is FTC.

19 Appeals 15

- (1) An appeal pending immediately before the repeal of the 1991 Act under any provision of that Act may be dealt with and determined as if that Act had not been repealed.
- (2) Until the commencement of section 153 (1) (h) of the *Industrial Relations Act 1996*, a reference in section 40 or section 88 of this Act to the Industrial Relations Commission in Court Session is taken to be a reference to the Industrial Court. 20

20 Contracts

- (1) Any contract for the performance of services entered into with the SAS Board by another person or body (other than the Corporation), and in force immediately before the repeal of the 1991 Act and relating to the STC schemes, becomes, on the repeal of that Act, a contract for the performance of services entered into with STC. 25
- (2) Any contract for the performance of services entered into with the SAS Board or the PSES Board by another person or body (other than the Corporation), and in force immediately before the repeal of the 1991 Act and relating to the FTC schemes, becomes, on the commencement of this subclause, a contract for the performance of services entered into with FTC. 30 35

-
- (3) Any contract for the performance of services entered into with the Corporation by another person or body (other than the SAS Board or the PSES Board), and in force immediately before the repeal of the 1991 Act and relating to the investment of the FTC or STC funds or related matters, becomes, on the repeal of that Act, a contract for the performance of services entered into with AFMC. 5
- (4) Any contract for the performance of services entered into with the Corporation by another person or body (other than the SAS Board or the PSES Board), and in force immediately before the repeal of the 1991 Act and relating to the scheme administration of the FTC or STC schemes or related matters, becomes, on the repeal of that Act, a contract for the performance of services entered into with AFMC. 10
- 21 Effect of organisational changes** 15
- (1) This section applies to the following:
- (a) the repeal of the 1991 Act, the amendment of the *Public Sector Executives Superannuation Act 1989* by this Act and the operation of this Schedule, and
- (b) the establishment of STC, FTC, SAA and AFMC, and 20
- (c) any agreement or other arrangement entered into for purposes connected with a matter referred to in paragraph (a) or (b).
- (2) None of the matters or things referred to in subclause (1) are to be regarded: 25
- (a) as a breach of a contract or of an arrangement, or
- (b) as giving rise to any right or remedy by a party to a contract or other arrangement, or
- (c) as a breach of confidence or a civil wrong.
- 22 Amalgamated funds** 30
- For the avoidance of doubt, it is declared that for any period during which superannuation funds were treated as one fund under:

- (a) section 20 of the 1991 Act before its amendment by the *Superannuation Administration Amendment Act 1995*, or
 - (b) section 19 of the *Superannuation Administration Act 1987* before its repeal by the 1991 Act,
- those funds were part of an amalgamated fund. 5

23 State Super Financial Services Limited

For the purposes of this Act, State Super Financial Services Limited is taken to be a company established by STC and STC is taken to have power to establish such a company.

24 Union representation 10

- (1) This clause applies to the following trade unions:
 - (a) The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division,
 - (b) The Public Service Association of New South Wales.
- (2) Each trade union to which this clause applies: 15
 - (a) may have employees of SAA as members, and
 - (b) may represent the interests of employees of SAA in industrial matters,

whether or not any such power or authority is conferred by the rules of the union or any Act or law. 20

Schedule 4 Consequential amendments to other Acts

(Section 132)

4.1 First State Superannuation Act 1992 No 100

- [1] Sections 10, 11 (2), 12, 13 (1), 14 (1), 15, 18 (3), 19, 21, 22 (1), 23 (2), 24, 25 (2) and (3), 26, 27 (1), 28 (1) and (3), 29, 30, 31 (2), 32, 33, 34 (1) and (2), 36 (1), 37 (1) and (2), 38, 39, 42 (1), 43, 45 (1) and (3), 46 (1), 46A (1), 47 (4), 48 (2) and (3), 51 (1) (a), 54 (c), 56 (1), (2) and (3), 57, 60, 61, 62, 64 (1), 65, 67, 69, 70 (1), 71, 72, 73 (2), 74, 75 (2), (3) and (4), Schedule 2 5
10

Omit "the Board" wherever occurring. Insert instead "FTC".

- [2] Sections 11, 14 (2), 17, 20, 24 (1), 25, 28, 30, 30B, 32 (2), 34 (1), 35, 41, 45 (2), 49, 50, 51 (1), 52, 55 (1), 56, 57 (1) and (2), 59, 64 (2), 65, 67, 70, 73 (1), 75 (1) 15

Omit "The Board" wherever occurring. Insert instead "FTC".

- [3] Sections 60 (2), 61

Omit "*Superannuation Administration Act 1991*" wherever occurring.

Insert instead "*Superannuation Administration Act 1996*".

- [4] Schedule 1 Employers 20

Omit "State Superannuation Investment and Management Corporation" from Part 1.

Insert instead:

Superannuation Administration Authority of New South Wales
Axiom Funds Management Corporation 25

- [5] Schedule 1, Part 1 (The Crown and other employers)**
Omit "State Authorities Superannuation Board".
Insert instead:
FSS Trustee Corporation
SAS Trustee Corporation 5
- [6] Schedule 2 Employees who are not full members of the Fund**
Omit "associated superannuation scheme (within the meaning of the *Superannuation Administration Act 1991*)" from clause 1 (1) (a).
Insert instead "FTC scheme or an STC scheme (within the meaning of the *Superannuation Administration Act 1996*)". 10
- [7] Dictionary**
Omit the definition of *Board*.
- [8] Dictionary**
Insert in alphabetical order:
FTC means the FSS Trustee Corporation established under the *Superannuation Administration Act 1996*. 15
- 4.2 Freedom of Information Act 1989 No 5**
- [1] Schedule 2 Exempt bodies and offices**
Omit:
The State Authorities Superannuation Board—investment functions. 20
The State Superannuation Investment and Management Corporation—investment functions.
- [2] Schedule 2**
Insert in alphabetical order:
The FSS Trustee Corporation—investment functions. 25
The SAS Trustee Corporation—investment functions.

4.3 Government and Related Employees Appeal Tribunal Act 1980 No 39

[1] Schedule 4 Employing authorities

Omit:

State Authorities Superannuation Board. 5

State Superannuation Investment and Management Corporation.

[2] Schedule 4

Insert in alphabetical order:

Axiom Funds Management Corporation.

FSS Trustee Corporation. 10

SAS Trustee Corporation.

Superannuation Administration Authority of New South Wales.

4.4 Industrial Relations Act 1996

Omit section 153 (1) (h). Insert instead:

- (h) proceedings on a superannuation appeal under section 40 or 88 of the *Superannuation Administration Act 1996*, 15

4.5 Land Tax Management Act 1956 No 26

Section 10B Taxation of land owned by certain authorities

Omit "the State Authorities Superannuation Board" from section 10B (1) (a). 20

Insert instead "the FSS Trustee Corporation and the SAS Trustee Corporation".

**4.6 Local Government and other Authorities
(Superannuation) Act 1927 No 35**

[1] Section 3 Definitions

Omit the definition of *Administration Account*.

Insert instead:

5

Administration Account means the STC Administration Account maintained under the *Superannuation Administration Act 1996*.

[2] Section 3, definition of "Board"

Omit the definition. Insert instead:

10

Board means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

**[3] Section 15CP Person eligible for membership or a member of
the Public Sector Executives Superannuation Scheme**

Omit "Public Sector Executives Superannuation Board established under the *Public Sector Executives Superannuation Act 1989*" from section 15CP (5) (b).

15

Insert instead "FSS Trustee Corporation established under the *Superannuation Administration Act 1996*".

[4] Section 15CP (5) (c)

20

Omit the paragraph. Insert instead:

(c) FTC must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund under the *Public Sector Executives Superannuation Act 1989*.

25

4.7 New South Wales Retirement Benefits Act 1972 No 70

Section 3 Definitions

Omit the definition of *Board* from section 3 (1).

Insert instead:

Board means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*. 5

4.8 Police Association Employees (Superannuation) Act 1969 No 33

[1] Section 2 Definitions

Insert in alphabetical order in section 2 (1): 10

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

[2] Section 2 (1)

Omit the definition of *Board*.

[3] Sections 2B (4) and (7), 3 (2AA), (2AB), (2B), (5), (5A), (6A) and (11D), 4 (2), (3), (4), (6) and (7) 15

Omit "the Board" wherever occurring. Insert instead "STC".

[4] Sections 3 (2) and 4 (4)

Omit "The Board" wherever occurring. Insert instead "STC".

4.9 Police Regulation (Superannuation) Act 1906 No 28 20

[1] Section 1 Short title, commencement and definitions

Insert in alphabetical order in section 1 (2):

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

- [2] Sections 1AA (4) and (7), 2H (3), 2I, 3 (1) and (2), 5A (2), (3), (3A) and (5), 5AB (1), 7 (3), 7AA (2B), 8 (1), 9A (4), 9B (1A), (3), (5), (6AB), (6AC), (6A), (9), (10), (11), (12), (13) and (14), 9C (1), (2), (3) and (4), 10 (1A), (1AA) and (1D), 10B (1) and (2), 10C, 11C (7), 12 (1), (1AA), (1A), (1C), (3B) and (4), 12A (2) and (4), 12B (2) and (3), 12C, 12D (1) and (4), 12E (1), 13 (1) and (2A), 14, 14AA (1), 14AB (1), (2), (3), (4), (6) and (7), 14AC (1), (2) and (3), 14J (3) and (5), 14K (3) and (5), 14L, 14M (2), 15 (3), 15AA, 16 (1), (2) and (4), 17 (1), (1A) and (4), 17A (2), (3), (4) (b), (7) and (8), 18A (1), 18B, 20, 21 (1), (4), (5) and (6), 23 (3), 23A, 23B (1) and (2), 23C 5
10

Omit "the Board" wherever occurring. Insert instead "STC".

- [3] Sections 2J, 3 (3), 5AB (2), 8 (2), 10 (1D), 10B (2A) and (2B), 12 (4) and (5), 12A (5), 12D (1), (2) and (3), 15 (1), 17A (4), 18C, 18D, 20 (2), 21 (3), 23A, 23B (4)

Omit "The Board" wherever occurring. Insert instead "STC". 15

- [4] Section 3 Police Superannuation Fund

Omit "section 22 of the *Superannuation Administration Act 1991*" from section 3 (3) (c).

Insert instead "section 85 of the *Superannuation Administration Act 1996*". 20

- [5] Section 5AA

Insert after section 5:

5AA Source of administration costs payments

The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from the Fund. 25

[6] Section 5B Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 5B (6) (b). Insert instead:

- (b) STC must, as soon as practicable thereafter, pay to the FSS Trustee Corporation established under the *Superannuation Administration Act 1996* the amount of the benefit to which the contributor is entitled, and 5

[7] Section 5B (6) (c)

Omit the paragraph. Insert instead: 10

- (c) the FSS Trustee Corporation must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund under the *Public Sector Executives Superannuation Act 1989*, and 15

[8] Sections 7 (3), 7AA (2B), 9B (6A), 10 (1AA), 12 (3B), 13 (2A), 14 (3), 14AA (1) (d), 14J (5), 14K (5)

Omit "the Board's" wherever occurring. Insert instead "STC's".

[9] Sections 8 (3), 10B (2C)

Omit "State Authorities Superannuation Board" wherever occurring. Insert instead "STC". 20

**4.10 Public Authorities (Financial Arrangements) Act 1987
No 33**

[1] Schedule 1 Authorities

Omit "Public Sector Executives Superannuation Board of New South Wales.". 25

- [2] **Schedule 1**
Omit "State Authorities Superannuation Board."
- [3] **Schedule 1**
Omit "State Superannuation Investment and Management Corporation." 5
- [4] **Schedule 1**
Insert in alphabetical order:
Axiom Funds Management Corporation.
FSS Trustee Corporation.
SAS Trustee Corporation. 10
Superannuation Administration Authority of New South Wales.
- 4.11 Public Authorities Superannuation Act 1985 No 41**
Section 5 Definitions
Omit the definition of *Board* from section 5 (1). Insert instead:
Board means the SAS Trustee Corporation continued 15
under the *Superannuation Administration Act 1996*.
- 4.12 Public Finance and Audit Act 1983 No 152**
- [1] **Schedule 2 Statutory bodies**
Omit "Public Sector Executives Superannuation Board of New South Wales." 20
- [2] **Schedule 2**
Omit "State Authorities Superannuation Board."

[3] Schedule 2

Omit "State Superannuation Investment and Management Corporation."

[4] Schedule 2

Insert in alphabetical order:

Axiom Funds Management Corporation.

FSS Trustee Corporation.

SAS Trustee Corporation.

Superannuation Administration Authority of New South Wales.

5

4.13 Public Sector Executives Superannuation Act 1989 No 106

10

[1] Section 3 Definitions

Omit the definition of *Board* from section 3 (1).

[2] Section 3 (1)

Insert in alphabetical order:

15

FTC means the FSS Trustee Corporation established under the *Superannuation Administration Act 1996*.

[3] Sections 4A (4) and (7), 24 (2) (b) and (3) (a), 25, 26 (1) and (3), 28 (2) and (3), 31, 32 (2), 33 (1) and (2), 34 (1), (2), (3), (5) and (6), 35 (1), (2), (3), (4) and (6), 36, 37 (1), (3) and (4), 38 (1), (3) and (4), 39 (2), 40, 41 (1), (2), (3) and (4), 42, 43, 43A (4), 44, 44A (1), 45, 46 (1), (3) and (4), 47, 48 (1) and (3), 49 (1) and (4), 49A (1), (5), (6) and (8), 50 (1), (3), (4) and (6), 51 (2), (3), (4) and (6), 52 (4), (6) and (7), 52A, 53 (1) and (2), 55 (1), 56 (2) and (3), 59, 60, 61 (1) and (3), 62 (2), (3), (4), (5) and (6), 63 (4), 64, 65, 66, 67 (1) and (3), 68 (1), Schedule 4

20

25

Omit "the Board" wherever occurring. Insert instead "FTC".

- [4] Part 2 The Public Sector Executives Superannuation Board**
Omit the Part.
- [5] Sections 22 (1), (2) and (3), 23 (1), 24 (1), 25 (1), 26 (1) and (2), 28 (1), 30 (1), 32, 33 (3), 36 (2), 39 (1), 44A (2), 45, 49 (3), 51 (2A), 53 (3), 54, 59 (6), 61 (1), 65 (1), 67 (2) and (3)** 5
Omit "The Board" wherever occurring. Insert instead "FTC".
- [6] Section 22 Establishment of the Fund**
Omit "Management Account (subject to the terms and conditions of any contract or arrangement made or entered into under section 9)" from section 22 (3) (a). 10
Insert instead "FTC Administration Account established under the *Superannuation Administration Act 1996* (subject to the terms and conditions of any contract or arrangement made or entered into under that Act)".
- [7] Section 24 Additional Benefit Management Fund** 15
Omit "section 9 or 10" from section 24 (2) (b) where firstly occurring.
Insert instead "sections 12 and 20 of the *Superannuation Administration Act 1996*".
- [8] Section 24 (3)** 20
Omit "section 9 or 10" where firstly occurring.
Insert instead "sections 12 and 20 of the *Superannuation Administration Act 1996*".
- [9] Section 24 (2) (b) and (3) (a)**
Omit "a contract or arrangement under section 9 or 10" wherever occurring. 25
Insert instead "any such contract or arrangement".

-
- [10] Section 29 Management Account and costs**
Omit the section.
- [11] Section 30 Management costs arising from preserved benefits**
Omit section 30 (3). Insert instead:
- (3) An amount so debited is required to be paid to the FTC Administration Account or otherwise in accordance with any relevant contract or arrangement made or entered into under section 12 of the *Superannuation Administration Act 1996*. 5
- [12] Sections 47 (3), 48 (3), 49 (4), 49A (8), 50 (3), 51 (4) (c) and (6)** 10
Omit "the Board's" wherever occurring. Insert instead "FTC's".
- [13] Section 59 Limits on liability of FTC and associated persons**
Omit section 59 (2) and (3).
- [14] Section 69 Payment where beneficiary incapable**
Omit the section. 15
- [15] Section 70 Service of documents**
Omit section 70 (1) and (3).
- [16] Section 71 Recovery of charges etc by Board**
Omit the section.
- [17] Section 73 Review of operation of Act etc** 20
Omit the section.

- [18] Schedule 2 Provisions relating to members of Board**
Omit the Schedule.
- [19] Schedule 3 Provisions relating to Board procedure**
Omit the Schedule.
- 4.14 Public Sector Management Act 1988 No 33** 5
- [1] Schedule 3 Declared authorities**
Omit "State Authorities Superannuation Board."
- [2] Schedule 3**
Omit "State Superannuation Investment and Management Corporation." 10
- [3] Schedule 3**
Insert in alphabetical order:
FSS Trustee Corporation.
SAS Trustee Corporation.
Superannuation Administration Authority of New South Wales. 15
- [4] Schedule 3A Chief executive positions**
Omit "Managing Director of the State Superannuation Investment and Management Corporation" from Part 3.
- [5] Schedule 3A, Part 3**
Insert in alphabetical order: 20
Chief Executive of the FSS Trustee Corporation.
Chief Executive of the SAS Trustee Corporation.
Chief Executive of the Superannuation Administration Authority of New South Wales.

[6] Schedule 3B Senior executive positions

Omit the matter relating to the State Superannuation Investment and Management Corporation from Part 1.

[7] Schedule 3B, Part 2

Omit "Any full-time director of the State Superannuation Investment and Management Corporation (other than the managing director of the Corporation)".

5

4.15 State Authorities Non-contributory Superannuation Act 1987 No 212

[1] Section 3 Definitions

10

Omit the definition of *Board* from section 3 (1).

[2] Section 3 (1)

Insert in alphabetical order:

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

15

[3] Sections 3 (1) (definition of "resign"), 4 (1) and (3), 4A (4) and (7), 9 (1), 10 (1), (2), (4) and (6), 10A (1) and (2), 11, 13 (1) and (2), 14, 15, 16, 17 (1), 18 (1), 18A (1), 19 (1), 19A (1), 20, 20A (3), 21, 22 (4), 23, 24, 24B (2), (3), (4), (6) and (7), 25, 25A, 26, 26A (1), 26B (1), 26H (1), (3), (4), (5) and (6), 27AA, 27AB (3) and (5), 28, 29 (1) and (3), 30 (4), 31, 32, 32A (1), 33 (1), 33A

20

Omit "the Board" wherever occurring. Insert instead "STC".

[4] Sections 4 (1B), 9 (1), (2) and (3), 10 (1), (2) and (6), 11, 13 (3), 15 (4), 18A (2), 19 (2), 19A (2), 24B (4), 26, 26G (2), 26H (1) and (2), 27AB (1), (2) and (4), 29 (1), 31A, 32 (1), 33A

25

Omit "The Board" wherever occurring. Insert instead "STC".

- [5] Section 9 Funds etc**
Omit section 9 (3) (a). Insert instead:
(a) by transfer from the fund to the STC Administration Account maintained under the *Superannuation Administration Act 1996* administration costs incurred by STC, 5
- [6] Sections 10 (4), 25 (1)**
Omit "*Superannuation Administration Act 1991*" wherever occurring.
Insert instead "*Superannuation Administration Act 1996*". 10
- [7] Section 11A**
Insert after section 11:
11A Source of administration costs payments
(1) The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from employer reserves established in accordance with this Act. 15
(2) The administration costs payable in respect of preserved benefits are to be paid from employees' accounts established in accordance with this Act. 20
- [8] Sections 22 (4), 26A (1), 27AB (4)**
Omit "the Board's" wherever occurring. Insert instead "STC's".
- [9] Section 26H Transfers of contributions to FSS Scheme**
Omit "The Board's" from section 26H (4). Insert instead "STC's". 25
- [10] Schedule 1 Employers**
Omit "State Superannuation Investment and Management Corporation" from Part 1.
Insert instead:
Axiom Funds Management Corporation 30
Superannuation Administration Authority of New South Wales

[11] Schedule 1, Part 1

Omit "State Authorities Superannuation Board". Insert instead:
FSS Trustee Corporation
SAS Trustee Corporation

4.16 State Authorities Superannuation Act 1987 No 211 5

[1] Section 3 Definitions

Omit the definition of *Administration Account* from section 3 (1).
Insert instead:

Administration Account means the STC Administration Account maintained under the *Superannuation Administration Act 1996*. 10

[2] Section 3 (1)

Insert in alphabetical order:

STC means the SAS Trustee Corporation established under the *Superannuation Administration Act 1996*. 15

[3] Sections 4 (1) and (3), 4A (4) and (7), 11 (4), 12 (3) (c), 14 (4) and (6), 14A (1) and (2), 15, 16 (1), 18 (1) and (2), 19 (1), (2), (3), (6), (7) and (8), 20 (1) and (3), 21 (2), (3) and (4), 22, 23, 24, 25 (2), (3), (4) and (5), 27 (1), (2), (4), (5) and (6), 28 (1) and (4), 29 (1) and (4), 30 (2), (3), (4) and (5), 30A (5) and (6), 31, 32, 34, 34A (1), 35A (1), 37 (1) and (3), 38 (1) and (3), 39 (1) and (4), 40 (1) and (4), 41 (1) and (2A), 42 (1) and (2A), 43 (1), (1A), (3), (4), (5), (6) and (7A), 43AAA (1) and (3), 43A, 43AB, 44 (1) and (2), 45A (1), 45B (1), 45C (1), (2) and (3), 45D (3), 45E, 46AC (3) and (5), 47, 48, 49, 50 (4), 51, 52, 53, 53A, 54 (1), 54A, Schedule 5 (clauses 3 (2) (a) and 4C) 20 25

Omit "the Board" wherever occurring. Insert instead "STC".

- [4] **Sections 4 (1B), 11 (3) and (4), 12 (1), 13 (1), 14 (1), (2) and (6), 15, 16, 18 (3), 21 (2), 25 (4), 32 (4), 34A (2), 35 (2), 35A (2), 39 (3), 40 (3), 42A (3), 43 (7B), 43AB (4), 44 (3), 45, 45D (1), 46AC (1), (2) and (4), 48 (1), 51A, 52 (1), 54A**
Omit "The Board" wherever occurring. Insert instead "STC". 5
- [5] **Sections 11 (4) (a), 12 (3) (c), 14 (4) (b)**
Omit "*Superannuation Administration Act 1991*" wherever occurring.
Insert instead "*Superannuation Administration Act 1996*".
- [6] **Section 14B** 10
Insert after section 14A:
14B Source of administration costs payments
(1) The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from employer reserves established in accordance with this Act. 15
(2) The administration costs payable in respect of preserved benefits are to be paid from employees' accounts established in accordance with this Act. 20
(3) The administration costs payable in respect of pensions provided under this Act are to be paid from employees' accounts established in accordance with this Act.
- [7] **Sections 27 (6) (b), 37 (3), 38 (3), 39 (4), 40 (4), 41 (2A), 42 (2A), 43 (7A), 45A (1) (d), 46AC (4)** 25
Omit "the Board's" wherever occurring. Insert instead "STC's".
- [8] **Section 28 Variations of contribution rate: hardship**
Omit "The Board's" from section 28 (5). Insert instead "STC's".

-
- [9] **Section 30A Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme** 5
- Omit "the Public Sector Executives Superannuation Board established under the *Public Sector Executives Superannuation Act 1989*" from section 30A (6) (b).
- Insert instead "the FSS Trustee Corporation established under the *Superannuation Administration Act 1996*".
- [10] **Section 30A (6) (c)** 10
- Omit the paragraph. Insert instead:
- (c) STC must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund established under the *Public Sector Executives Superannuation Act 1989*.
- [11] **Schedule 1 Employers** 15
- Omit the following from Part 1:
 State Superannuation Investment and Management Corporation
 State Authorities Superannuation Board
- [12] **Schedule 1, Part 1** 20
- Insert in alphabetical order:
 Axiom Funds Management Corporation
 FSS Trustee Corporation
 SAS Trustee Corporation
 Superannuation Administration Authority of New South Wales
- 4.17 State Public Service Superannuation Act 1985 No 45** 25
- [1] **Section 5 Definitions**
- Omit "*Superannuation Administration Act 1987*" from the definition of **administration levy** in section 5 (1).
- Insert instead "*Superannuation Administration Act 1996*".

[2] Section 5 (1)

Omit the definition of *Board*. Insert instead:

Board means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

4.18 Superannuation Act 1916 No 28

5

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

- [2] Sections 3 (1) (definitions of "Exit day", "Part-time employee"),** 10
(2), (3) and (9), 3AA (4) and (7), 3A (1) and (3), 4 (4) (a), 5 (3), (4)
and (5), 6 (2) (b), 7 (1), 8 (1) and (2), 10 (1) and (3), 10B, 10C, 10D
(3) and (4), 10R (1), 10SA, 10T (1), (2) and (5), 10W (5), 10WA (1)
and (2), 10WB (3), 10WC (16), 10Z (3), 10AH (1), (2) and (3), 10AJ,
10AK (2), 10AL, 10AM, 10AN, 10AO (1), 12 (1), 12A (1), 12B (1), 15
(3), (3C) and (4), 12BA (1) and (4), 12C (2), (3), (6) and (7), 12CA
(2) and (3), 15A (2), (5), (6), (6AB), (6AD) and (6A), 19 (3), (4) and
(5), 19A, 20, 20A, 20C, 21 (4), 21A (2), (3), (6), (7) and (9), 21AA (5)
and (6), 21C (7), (9), (11), (12), (14) and (19), 21D (3), 22 (2), 23B,
23BA (3), 26A, 27 (3), 28A (9), 28AA (5) and (5A), 29 (2AA), (4), 20
(4A) and (8), 32A (1A) and (2), 32C, 33A (2), (4) and (5), 33B (1),
(3) and (6), 37 (1), (2), (4A) and (12), 37A (4), (7) and (10A), 38A
(1) and (6), 38B (3), (4) and (5), 38C (1), (3), (4) and (8), 39, 40 (2)
and (3), 41, 42, 43 (2), 43A, 46, 46B, 47B (2), 47C (1), (3), (7) and
(8), 47D (8), 50, 51 (1), 52, 52A (3) and (6), 52C (1), 52D (1), 52E 25
(1), (3), (4) and (5), 52EA (2), 52F (1), 52H (2), 52I, 52W (4) and (5),
52X (2), 52Y, 61, 61A, 61M (4), 61N (4), 61RA (1), 61RB, 61RC,
61RD (7), 61U (3), 61V, 64 (3) and (5), 84A, 85, 86 (1), 86A, 87, 88
(4), 88A, 89A, 91, 91A, 99 (4) and (5), 100 (4) and (5), 107 (2), 108,
Schedule 17, Schedule 19, Schedule 21, Schedule 23 30

Omit "the Board" wherever occurring. Insert instead "STC".

[3] Section 3 (1)

Omit the definition of *Financial year*.

Insert instead:

Financial year means the year commencing 1 July.

- [4] Sections 3A (1B), 4 (2), (3) and (4), 5 (1) and (2), 6, 7 (2), 8 (3), 9, 10 (4), 10D (2) and (3), 10K (1), 10L (1), 10M (1), 10T (1), (3) and (5), 10AJ (4), 10AO (2), 12B (3A), 12BA (3), 12C (4), 15A (6AA), 19A, 20 (3), 33AA, 33A (3), 38C (5), 39 (1) and (2), 46B (4), 52EA (1), 52I (2A), 52W (3), 52X (2), 61 (1), 61A (2), 61U (1), 64 (1), (2) and (4), 85, 86A (5), 87, 89, 91A (3) and (5), Schedule 21 (clause 4)** 5
10

Omit "The Board" wherever occurring. Insert instead "STC".

[5] Section 5 Board required to establish certain reserves within the Fund

Omit "The Board's" from section 5 (6). Insert instead "STC's". 15

[6] Sections 6 (2) (b) and 7 (2) (b)

Omit "the Board under the *Superannuation Administration Act 1991*" wherever occurring.

Insert instead "STC under the *Superannuation Administration Act 1996*". 20

[7] Section 8A

Insert after section 8:

8A Source of administration costs payments

- (1) The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from employer reserves and the contributors' reserve in the Fund. 25
- (2) The administration costs payable in respect of preserved benefits are to be paid from employer reserves in the Fund. 30

- (3) The administration costs payable in respect of pensions provided under this Act are to be paid from employer reserves in the Fund.

[8] Section 20AB Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme 5

Omit section 20AB (6) (b). Insert instead:

- (b) STC must, as soon as practicable thereafter, pay to the FSS Trustee Corporation established under the *Superannuation Administration Act 1996* the amount of benefit to which the contributor is entitled, and 10

[9] Section 20AB (6) (c)

Omit the paragraph. Insert instead:

- (c) the FSS Trustee Corporation must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund established under the *Public Sector Executives Superannuation Act 1989*. 15

[10] Sections 27 (3), 28A (9), 28AA (5A), 29 (2AA), 37 (4A), 37A (10A), 38A (6), 47D (8), 52A (6), 52E (1) and (6), 61M (4), 61N (4), 61RA (1), 64 (4) 20

Omit "the Board's" wherever occurring. Insert instead "STC's".

[11] Schedule 3 List of employers

Omit the following from Part 1: 25
State Superannuation Investment and Management Corporation
State Authorities Superannuation Board

[12] Schedule 3, Part 1

Insert in alphabetical order: 30
Axiom Funds Management Corporation
FSS Trustee Corporation
SAS Trustee Corporation
Superannuation Administration Authority of New South Wales

**4.19 Transport Employees Retirement Benefits Act 1967
No 96**

Section 3 Definitions

Omit the definition of *Board* from section 3 (1). Insert instead:

Board means the SAS Trustee Corporation continued by
the *Superannuation Administration Act 1996*. 5

4.20 Treasury Corporation Act 1983 No 75

Section 4C Staff of Corporation and other persons

Omit “*Superannuation Administration Act 1991*” from section 4C
(3). 10

Insert instead “*Superannuation Administration Act 1996*”.



New South Wales

Superannuation Administration Act 1996 No 39

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New South Wales

Superannuation Administration Act 1996 No 39

Act No 39, 1996

An Act to provide for trustees for State public sector superannuation schemes and the provision of investment and administration services for such schemes; to constitute as a trustee for the accumulation style schemes open to new members the FSS Trustee Corporation; to continue as a trustee for the defined benefit style schemes closed to new members the SAS Trustee Corporation (formerly the State Authorities Superannuation Board); to confer on the Axiom Funds Management Corporation power to provide investment services for State public sector superannuation schemes and other schemes; to constitute the Superannuation Administration Authority of New South Wales and confer on it power to provide administration services for such schemes and other schemes; to enable the establishment of additional superannuation schemes for State public sector employees by trust deed; and for other purposes. [Assented to 25 June 1996]

See also *Superannuation (Axiom Funds Management Corporation) Act 1996*.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Superannuation Administration Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Objects of Act

The objects of this Act are as follows:

- (a) to establish trustees for State public sector superannuation schemes and to establish separate trustees for the accumulation style schemes that are open to new members (the FSS Trustee Corporation) and the defined benefit style schemes that are closed to new members (the SAS Trustee Corporation),
- (b) to provide for the provision of investment management services and other services for State public sector superannuation schemes,
- (c) to set out the functions and responsibilities of trustees and service providers for State public sector superannuation schemes,
- (d) to establish the Superannuation Administration Authority of New South Wales to provide administration services for State public sector superannuation schemes and other schemes, being a body which is intended to remain in public ownership,
- (e) to enable the establishment of additional superannuation schemes for State public sector employees by trust deed.

Note. The *Superannuation (Axiom Funds Management Corporation) Act 1996* establishes the Axiom Funds Management Corporation, the body that is to provide superannuation investment management services for the STC schemes and that may provide such services to the FTC schemes.

4 Definitions

In this Act:

AFMC means the Axiom Funds Management Corporation established by the *Superannuation (Axiom Funds Management Corporation) Act 1996*.

benefit means a pension or lump sum retirement or superannuation benefit.

exercise a function includes perform a duty.

FTC means the FSS Trustee Corporation established by this Act.

FTC fund or **FTC scheme** means a superannuation fund or superannuation scheme established or constituted under any of the following Acts:

- (a) *First State Superannuation Act 1992*,
- (b) *Public Sector Executives Superannuation Act 1989*,
- (c) any other Act declared under section 5 to be an Act for the purposes of this definition.

function includes a power, authority or duty.

local authority means a council within the meaning of the *Local Government Act 1993*.

public authority means a person or body constituted or established by an Act for a public purpose.

SAA means the Superannuation Administration Authority of New South Wales established by this Act.

STC means the SAS Trustee Corporation continued by this Act.

STC fund or **STC scheme** means a superannuation fund or superannuation scheme established or constituted under any of the following Acts:

- (a) *Police Regulation (Superannuation) Act 1906*,
- (b) *Superannuation Act 1916*,
- (c) *Local Government and Other Authorities (Superannuation) Act 1927*,

- (d) *Transport Employees Retirement Benefits Act 1967,*
- (e) *New South Wales Retirement Benefits Act 1972,*
- (f) *Public Authorities Superannuation Act 1985,*
- (g) *State Public Service Superannuation Act 1985,*
- (h) *State Authorities Superannuation Act 1987,*
- (i) *State Authorities Non-contributory Superannuation Act 1987.*

superannuation fund means a fund established under a superannuation scheme.

superannuation scheme means a scheme, fund or arrangement (whether or not established by an Act) under which any benefits are provided.

5 Declaration of FTC schemes and funds

The Governor may, by order published in the Gazette, declare to be an Act for the purposes of the definition of ***FTC fund*** or ***FTC scheme*** any Act that establishes a superannuation scheme under which employees of the Crown or of a public or local authority are entitled to receive superannuation or retirement benefits.

6 Notes in text

Introductory notes to Parts or Divisions and other notes in the text of this Act do not form part of this Act.

Part 2 Trustee for FTC schemes (FTC)

Introductory note.

This Part establishes the FSS Trustee Corporation and gives it the functions of the trustee for the FTC schemes. The schemes currently included are accumulation style schemes established under Acts and are still open to new members. Generally, the trustee will have functions (which include powers, authorities and duties) that are consistent with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. That Act regulates the functions of trustees of superannuation funds and the administration of superannuation schemes but does not apply directly to the FTC schemes. The new trustee will also be subject to provisions of the *Trustee Act 1925*. The new trustee will have (among other functions) the function of administering the schemes and investing and managing the superannuation funds concerned. However, it will be required to arrange for these services to be provided by service providers in accordance with this Act. This will not detract from the primary responsibility and power of the trustee in these matters.

Division 1 Establishment and principal functions of FTC

7 Establishment of FTC

- (1) There is constituted by this Act a body corporate with the corporate name of FSS Trustee Corporation. The body may also be called FTC, and the use of that name has the same effect for all purposes as the use of its corporate name.
- (2) FTC is, for the purposes of any Act, a statutory body representing the Crown.

8 FTC to be trustee for FTC schemes

- (1) FTC is the trustee for the FTC schemes and is to hold in trust for the persons who are or will be entitled to benefits under the FTC schemes all assets held by, and all contributions and other money paid or payable to, FTC under this Act and any Act under which an FTC scheme is constituted or established.
- (2) FTC is a trustee for the purposes of the *Trustee Act 1925*. Accordingly, subject to this Act, and unless this Act, the *Trustee Act 1925* or any other Act otherwise provides, FTC has the obligations, rights and duties of a trustee under Division 2 of Part 2 of the *Trustee Act 1925*.

Note. The effect of this is that FTC is subject to both the common law obligations, duties and rights of trustees and the obligations, duties and rights of trustees under the *Trustee Act 1925*. These are in addition to its obligations, duties and rights under this Act, unless the *Trustee Act 1925* or this Act otherwise provides.

9 Principal functions of FTC

- (1) The principal functions of FTC are:
 - (a) to administer the FTC schemes, and
 - (b) to invest and manage the FTC funds, and
 - (c) to provide for the custody of the assets and securities of FTC schemes, and
 - (d) to ensure that benefits payable to the persons entitled to receive benefits under the FTC schemes are paid in accordance with the Acts under which the schemes are established or constituted, and
 - (e) to determine disputes under those Acts.
- (2) FTC has such other functions as may be conferred or imposed on it by or under this or any other Act.

Note. The FTC schemes are the First State Superannuation Scheme and the Public Sector Executives Superannuation Scheme. Other schemes may be added by declaration under section 5.

Other particular functions and obligations of FTC are contained in the legislation establishing the FTC schemes, see the *First State Superannuation Act 1992* and the *Public Sector Executives Superannuation Act 1989*.

10 Duties relating to functions

- (1) FTC must:
 - (a) act honestly in all matters relating to its functions relating to the FTC schemes, and
 - (b) exercise, in relation to all matters affecting the FTC schemes, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide, and
 - (c) ensure that its functions relating to the FTC schemes are exercised in the best interests of persons entitled to receive benefits under the FTC schemes, and

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- (d) not enter into any contract or arrangement, or do anything else, that would prevent FTC from, or hinder FTC in, properly exercising FTC's functions as a trustee.

Note. The duties contained in subsection (1) reflect the covenants required of superannuation scheme trustees under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

- (2) In exercising its functions, FTC must have regard to:
- (a) the interests of persons entitled to receive benefits under the FTC schemes, and
 - (b) the Heads of Government Agreement, commencing 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, and
 - (c) any statement in writing of the policy of the Government on any matter that is relevant to the functions of FTC given by the Minister to FTC.
- (3) Subsection (1) (d) does not prevent FTC from entering into a contract or an arrangement under section 12.

Note. Members of the FTC Board have a duty to ensure that FTC carries out its duties (see section 28).

11 Government policy statements to be laid before Parliament

- (1) The Minister is required to lay before each House of Parliament, within 14 sitting days after giving a statement under section 10 (2) (c), a copy of the statement.
- (2) If a House of Parliament is not sitting when the Minister seeks to comply with this section, the Minister is required to present a copy of the relevant statement to the Clerk of the House.
- (3) A copy of a statement presented to the Clerk of a House of Parliament under this section:
 - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
 - (b) is required to be printed by authority of the Clerk, and

- (c) if printed by the authority of that Clerk, is, for all purposes, taken to be a document published by order or under the authority of that House, and
- (d) is to be recorded in the Minutes, or Votes and Proceedings, of that House on the first sitting day of that House after receipt of the copy by that Clerk.

12 Power to enter into contracts or arrangements

- (1) FTC may enter into contracts or arrangements with any person:
 - (a) under which the person undertakes to carry out the function of providing superannuation investment management services for a superannuation fund or part of a fund under one or more of the FTC schemes, on behalf of FTC, or
 - (b) under which the person undertakes to carry out the function of providing superannuation scheme administration services for one or more of the FTC schemes on behalf of FTC, or
 - (c) under which the person undertakes to carry out the function of providing custodial services for one or more of the FTC schemes on behalf of FTC, or
 - (d) under which the person undertakes to carry out any other functions on behalf of FTC under this or any other Act, or
 - (e) for the performance of any other services.
- (2) A person who enters into a contract or an arrangement with FTC under this section has, while acting in accordance with the terms of the contract or arrangement, those functions of FTC specified in the contract or arrangement.
- (3) FTC may enter into a contract or an arrangement under this section only if FTC is satisfied that the contract or arrangement is in the interests of the persons entitled to receive benefits under the FTC schemes.
- (4) Any such contract or arrangement may deem the person with whom FTC makes the contract or arrangement to be an agent of FTC.

- (5) A contract or an arrangement entered into by FTC under this section does not confer on the other party any of the principal functions and responsibilities of FTC as trustee.

13 Powers of FTC

Without limiting any other function conferred or imposed on it, FTC may do all things that are necessary or convenient to be done for, or in connection with, the exercise of FTC's functions.

Division 2 Investment of FTC funds

14 Investment strategy

- (1) FTC must determine and give effect to an investment strategy for the FTC funds (the *investment strategy*) and a strategy for the prudential management of any reserves of the funds (the *reserves strategy*).
- (2) The investment strategy must have regard to the circumstances of the FTC schemes, including but not limited to the following:
- (a) the risk involved in making, holding and realising, and the likely return from, the investments having regard to the schemes' objectives and their cash flow requirements,
 - (b) the composition of the investments as a whole, including the extent to which the investments are diverse or involve exposure to risks from inadequate diversification,
 - (c) the liquidity of the investments having regard to the schemes' cash flow requirements,
 - (d) the ability to discharge the existing and prospective liabilities under the FTC schemes,
 - (e) any other matter which a trustee is required to consider in determining an investment strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (3) The reserves strategy must be consistent with the investment strategy and the ability to discharge the existing and prospective liabilities under the FTC schemes (whether actual or contingent) as and when they fall due.

- (4) In determining the reserves strategy, FTC must have regard to any other matter which a trustee is required to consider in determining a reserves strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (5) FTC may not contract out its functions under this section.

15 Investment manager to be appointed

- (1) In exercising its function of investing and managing an FTC fund, or part of a fund, FTC must enter into a contract or an arrangement under section 12 with an investment manager or managers who undertake to provide superannuation investment management services for a superannuation fund or part of a fund under the FTC scheme concerned, on behalf of FTC. FTC may not itself provide such services.
- (2) FTC must ensure that the investment manager or managers operate within the investment powers of FTC and comply with the investment strategy and reserves strategy determined by FTC.
- (3) FTC may enter into contracts or arrangements for the provision of superannuation investment management services with more than one provider of services.
- (4) FTC may, but is not required to, enter into a contract or an arrangement with AFMC (or its successors) for AFMC (or its successors) to provide superannuation investment management services for a superannuation fund or part of a fund under an FTC scheme, on behalf of FTC.
- (5) For the purposes of this section:

superannuation investment management services include (but are not limited to) the following:

- (a) acting as investment manager for any superannuation fund or funds concerned or part of any such fund,
- (b) advising on investments and investment strategies and other related strategies for any superannuation fund or funds concerned or part of any such fund.

Note. The Axiom Funds Management Corporation is established under the *Superannuation (Axiom Funds Management Corporation) Act 1996*.

16 Custodian to be appointed

- (1) FTC may exercise its function of providing for the custody of the assets and securities of an FTC scheme only by entering into a contract or an arrangement under section 12 with a person who undertakes to provide custodial services for the scheme on behalf of FTC.
- (2) FTC must ensure that the person operates within the powers of FTC and complies with the policies determined by FTC.

17 Borrowing and investment powers

- (1) FTC may:
 - (a) obtain financial accommodation, and
 - (b) effect financial adjustments, and
 - (c) make investments,under and subject to the *Public Authorities (Financial Arrangements) Act 1987*.
- (2) FTC may take appropriate action to control or to enhance or protect the value of any investment made from the FTC funds or to enhance or protect the return on any such investment.

18 Restrictions on investment powers

FTC must not, from the assets of the funds under administration or in obtaining financial accommodation:

- (a) lend money to a contributor to, or to a person entitled to or receiving a benefit under, an FTC scheme, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the scheme, or
- (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance, or

- (c) invest any of the assets of an FTC fund otherwise than on an arms-length basis, unless it is an in-house asset within the meaning of Part 8 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

Division 3 Administration of FTC schemes

19 Administrator to be appointed

- (1) FTC may exercise its function of administering an FTC scheme only by entering into a contract or an arrangement under section 12 with a person who undertakes to provide superannuation scheme administration services for the scheme on behalf of FTC.
- (2) FTC must ensure that the person operates within the powers of FTC and complies with the policies determined by FTC.
- (3) FTC may, but is not required to, enter into a contract or an arrangement with SAA for SAA to provide superannuation scheme administration services for an FTC scheme on behalf of FTC.

Note. The Superannuation Administration Authority is established under Part 4.

20 Provision of additional benefits

FTC may enter into a contract or an arrangement under section 12 with any person:

- (a) for the insurance by that person, or the arranging of insurance by that person (on an individual or a group basis), of members of an FTC scheme for the purpose of paying death or invalidity benefits (not being benefits based on past service) to or in respect of them, or
- (b) for the management of a scheme, carried out by or on behalf of that person, for the purpose of paying any such benefits to or in respect of any such members.

21 FTC may compromise or settle claims

- (1) FTC may compromise or otherwise settle any claim made against it.

- (2) If FTC compromises or otherwise settles a claim in relation to a benefit, the compromise or settlement discharges FTC's obligations as regards the benefit, and the amount payable is to be regarded as a benefit under the FTC scheme concerned and is payable from the appropriate FTC fund accordingly.
- (3) To the extent that an amount payable by FTC following a compromise or settlement is not a benefit under the relevant FTC scheme, the amount is payable from whichever fund or funds that FTC considers appropriate.
- (4) FTC may make such inquiries and investigations with respect to a claim made against it as it thinks fit.

22 Determination of disputes

- (1) FTC must determine any dispute under this or any other Act relating to an FTC scheme.
- (2) FTC may, in determining any such dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

23 Evidence from third parties

- (1) FTC may request a person who has made a claim against FTC, or who has a dispute with FTC, to provide FTC with an authority to obtain from a third person any information or evidence that is relevant to the subject-matter of the claim or dispute.
- (2) If such a person does not comply with any such request, FTC is not obliged to proceed to process the claim or determine the dispute concerned.

Division 4 Management of FTC

24 FTC Board

- (1) FTC is to have a Board consisting of 9 part-time members appointed by the Minister.

- (2) Of the members:
 - (a) 1 is to be appointed as Chairperson of the FTC Board, and
 - (b) 4 are to be appointed as employer representatives, and
 - (c) 4 are to be appointed as employee representatives.
- (3) Schedule 1 has effect with respect to the members and procedure of the Board.
- (4) The FTC Board has the function of managing and controlling the affairs of FTC.
- (5) Any act, matter or thing done in the name of, or on behalf of, FTC by the FTC Board is taken to have been done by FTC.

25 Chairperson of FTC Board

- (1) The Chairperson of the FTC Board is to be appointed by the Minister.
- (2) To be eligible for appointment as Chairperson a person must:
 - (a) have significant knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration, and
 - (b) be independent of employers and employees and their respective interests.
- (3) The Minister must not appoint a person as Chairperson without having consulted the Labor Council of New South Wales.

26 Employer representative members

- (1) Of the members of the FTC Board appointed as employer representatives, one is to be appointed on the recommendation of the Treasurer.
- (2) To be eligible for appointment as an employer representative a person must have knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration.

27 Employee representative members

- (1) The members of the FTC Board appointed as employee representatives are to be nominated by the Labor Council of New South Wales.

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- (2) The Labor Council must not nominate a person to be a member unless it has consulted with organisations representing members of the FTC schemes about the nomination.
 - (3) If the Labor Council fails to nominate persons for the purposes of this section within the period specified in a written request by the Minister to do so, the Minister may appoint a member or members as employee representatives. Any such member is taken to be properly appointed under this section.
 - (4) A person may hold the office of a member of the FTC Board (as an employee representative) and also the office of a full-time or part-time member of the STC Board (as an employee representative).

28 Duties of members of FTC Board

- (1) A member of the FTC Board must exercise a reasonable degree of care and diligence for the purposes of ensuring that FTC carries out the duties referred to in section 10.
- (2) For the purposes of this section, a reasonable degree of care and diligence is the degree of care and diligence that a reasonable person in the position of the member would exercise in FTC's circumstances.

Note. Section 10 sets out FTC's principal duties as trustee.

29 Chief executive officer of FTC

- (1) The Minister, on the recommendation of the FTC Board, is to appoint a person as the chief executive officer of FTC.
- (2) The chief executive officer has the function of exercising the day-to-day management of FTC and has such other functions as may be conferred or imposed by or under this or any other Act.
- (3) The chief executive officer is subject to the control and direction of the FTC Board.
- (4) The employment of the chief executive officer is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act. The chief executive officer is taken, while holding that office, to be employed by FTC but FTC may not remove the chief executive officer from office.

- (5) The Minister may, from time to time, appoint a person to act in the office of the chief executive officer during the illness or absence of the chief executive officer (or during a vacancy in the office of chief executive officer) and the person, while so acting, has all the functions of the chief executive officer and is taken to be the chief executive officer.
- (6) The Minister may, at any time, remove a person from office as acting chief executive officer.
- (7) An acting chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.
- (8) The same person may hold the office of chief executive officer of FTC and the office of chief executive officer of STC.

30 Staff of FTC

- (1) FTC may employ such staff as it requires to exercise its functions.
- (2) FTC may fix the salary, wages and other conditions of its staff in so far as they are not fixed by or under any other Act or law.
- (3) FTC may engage consultants for the purposes of getting expert advice.

31 Agents

- (1) FTC may employ and pay an agent to transact any business or do any act (including receiving or paying money) that FTC is authorised or required to transact or do in the exercise of its functions.
- (2) An agent may be employed by FTC to receive or pay money even though the agent, or any subagent employed by the agent, is not a bank, building society or credit union.
- (3) Section 53 (3) of the *Trustee Act 1925* applies to agents employed under this section.

Note. That provision excuses a trustee from liability for the default of an agent employed in good faith.

32 Delegation of functions

- (1) FTC may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) FTC may also delegate any of its functions relating to the FTC schemes:
 - (a) to a natural person with whom FTC has entered into a contract or an arrangement under this Act, or
 - (b) to the chief executive or Board of any organisation with which FTC has entered into such a contract or an arrangement.
- (3) FTC may not delegate any of its principal functions as trustee under this section.
- (4) In this section, *authorised person* means a member of the FTC Board, the chief executive officer of FTC or a committee that is comprised of or includes members of the Board.
- (5) Section 64 (7) of the *Trustee Act 1925* applies to FTC and to a delegate under this section.

33 Committees

- (1) The FTC Board may establish committees to give advice and assistance to the Board in connection with any particular matter or function of the Board.
- (2) It does not matter that some or all of the members of any committee are not members of the Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

34 Corporate plan

- (1) FTC is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of FTC, a corporate plan for the financial year.

- (2) A corporate plan must specify:
 - (a) the objectives of FTC's activities for the financial year concerned, and
 - (b) the nature and scope of the activities to be undertaken, and
 - (c) the strategies, policies and budgets for achieving those objectives (including the investment strategy and the reserves strategy), and
 - (d) targets and criteria for assessing the performance of FTC.
- (3) An annual report of FTC must include an assessment of FTC's performance, according to the targets and criteria for assessment set out in the corporate plan applicable to the year concerned.
- (4) This section is subject to the requirements of any other Act or law.

Note. FTC must prepare annual reports for presentation to Parliament under the *Annual Reports (Statutory Bodies) Act 1984*.

35 Personal and other liability

- (1) A matter or thing done or omitted to be done by FTC, the FTC Board, a member of the Board or any person acting under the direction of FTC or the Board, does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject such a member or a person so acting personally to any action, liability, claim or demand.
- (2) A decision made, or any act or thing done or omitted, by FTC, the FTC Board, a member of the Board or any person acting under the direction of FTC or the Board may not be called into question on any of the following grounds:
 - (a) an alleged conflict of interest because FTC, the Board or the person is involved in administering different Acts or different superannuation schemes,
 - (b) that knowledge gained by FTC, the Board or the person is or may be relevant to the exercise of a function under another such Act or scheme.
- (3) Subsection (1) does not preclude FTC from being subject to any action, liability, claim or demand. Any money becoming payable by FTC in respect of an action, liability, claim or demand is to be paid out of an FTC fund or funds as determined by FTC.

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- (4) However, money is not payable under subsection (3) in circumstances in which a trustee may not be indemnified under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

Division 5 Financial provisions

36 FTC to maintain administration account

FTC must maintain an account called the FTC Administration Account.

37 Administration costs generally

- (1) FTC must charge administration costs that it incurs (including the remuneration or allowances of members of the FTC Board and the chief executive officer) against the FTC Administration Account.
- (2) The administration costs (including costs related to preserved benefits and investment management) that FTC incurs in relation to the FTC schemes are to be paid in accordance with this section to the FTC Administration Account.
- (3) The administration costs (including costs related to preserved benefits and investment management) that FTC incurs in relation to the FTC schemes are payable by employers and contributors or members and former contributors or former members under the FTC schemes, in accordance with the Acts under which those schemes are established.
- (4) If employees are employed by a group of employers, the costs are payable by the group of employers. If a contributor or member belongs or a former contributor or a former member belonged to a group of contributors or members which contributes to a scheme, the costs are payable by the group of contributors or members.
- (5) The amount, the rate and the basis on which an employer, group of employers or contributor or member or former contributor or former member or group of contributors or members is required to pay is to be determined by FTC from time to time.

- (6) After calculating the appropriate amount or rate payable, FTC may debit the appropriate account, fund or reserve in the relevant FTC fund in accordance with this Division.
- (7) If the person who is chief executive officer of FTC is also the chief executive officer of STC, the costs of the remuneration of the chief executive officer are to be apportioned between FTC and STC as determined by FTC and STC.

38 Source of administration costs

The administration costs (including costs relating to preserved benefits and investment management) payable in respect of an FTC fund are to be paid from the reserves or accounts established for that purpose in the fund in accordance with the Act under which the fund is established.

39 Financial year of FTC

- (1) The financial year of FTC is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Division 6 Miscellaneous

40 Appeals

- (1) A person aggrieved by a determination of FTC under section 22 (relating to determination of disputes) may appeal against the determination to the Industrial Relations Commission in Court Session (the *Commission*).
- (2) The appeal must be made within 6 months after the appellant is notified of the determination of FTC or within such further period as the Commission allows.
- (3) In dealing with the appeal, the Commission may exercise any function that could have been exercised by FTC in making the determination the subject of the appeal.

- (4) In dealing with the appeal, the Commission is to have regard to this Act and any other relevant provisions regulating the superannuation scheme concerned and such other matters as it considers to be relevant.
- (5) In dealing with the appeal, the Commission is not bound by the rules of evidence and may inform itself in any manner it thinks fit.
- (6) The final determination made by the Commission on the appeal is to be given effect as if it were a determination of the Board.

41 FTC Board must report events affecting functions

- (1) If the FTC Board becomes aware of the occurrence of an event, or of a change in circumstances, having a significant adverse effect on the exercise of the functions of FTC, the Board must give written notice to the Minister setting out particulars of the event or change in circumstances.
- (2) The FTC Board must give the notice no later than the third business day after becoming aware of the event or change in circumstances.
- (3) Without limiting subsection (1), the FTC Board must give written notice of an event if, as a result of the event, FTC will not, or may not, be able to make payments to beneficiaries as and when the obligation to make those payments arises.

42 Provision of information to Minister

- (1) FTC must furnish to the Minister such information relating to the general administration and operation of the FTC schemes and the FTC funds as the Minister may from time to time require.
- (2) Despite subsection (1), FTC must not furnish information relating to an individual member of an FTC scheme to the Minister, except with the member's consent.

43 Accounts and records of FTC

- (1) FTC, or any person with whom FTC makes a contract or an arrangement, may maintain accounts and other records relating to the FTC schemes or any other related functions in or on any medium, or combination of media, capable of recording information and may, from time to time, vary the manner or form in which those accounts or other records are maintained.

- (2) Subsection (1) is subject to the terms of any contract or arrangement referred to in that subsection.

44 Service of documents

- (1) A document may be served on FTC by leaving it at, or by sending it by post to:
- (a) the office of FTC, or
 - (b) if it has more than one office, any one of its offices.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on FTC in any other manner.

45 Proof of certain matters not required

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the FTC Board, or
- (b) any resolution of the FTC Board, or
- (c) the appointment of, or the holding of office by, any member of the FTC Board, or
- (d) the presence or nature of a quorum at any meeting of the FTC Board.

46 Recovery of amounts payable by FTC

- (1) Any charge, fee or money due to FTC may be recovered by FTC as a debt in a court of competent jurisdiction.
- (2) Without limiting subsection (1), FTC may recover any money owing to it under this or any other Act, together with interest on the money, as a debt in a court of competent jurisdiction.
- (3) Interest at a rate from time to time determined by FTC is payable on any amount of money owing to it under this or any other Act calculated from the date on which the amount became due for payment until the date on which the amount is recovered or is otherwise paid.

47 Seal of FTC

The seal of FTC is to be kept by the chief executive officer of FTC and may be affixed to a document only:

- (a) in the presence of the chief executive officer or a member of staff of FTC authorised in that behalf by the chief executive officer, and
- (b) with an attestation by the signature of the chief executive officer or that member of the fact of the affixing of the seal.

Part 3 Trustee for STC schemes (STC)

Introductory note.

This Part continues in existence the State Authorities Superannuation Board, renames it the SAS Trustee Corporation and gives it the functions of the trustee for the STC schemes. These schemes are primarily defined benefit schemes established under Acts and are closed to new members. Generally, the trustee will have functions (which include powers, authorities and duties) that are consistent with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth. That Act regulates the functions of trustees of superannuation funds and the administration of superannuation schemes but does not apply directly to the STC schemes. The trustee will also be subject to provisions of the *Trustee Act 1925*. The trustee will have (among other functions) the function of administering the schemes and investing and managing the superannuation funds concerned. However, it will be required to arrange for these services to be provided by service providers in accordance with this Act. This will not detract from the primary responsibility and power of the trustee in these matters.

Division 1 Establishment and principal functions of STC

48 Continuation of STC (formerly the State Authorities Superannuation Board)

- (1) The corporation constituted by the *Superannuation Administration Act 1987* with the corporate name of State Authorities Superannuation Board and continued by the *Superannuation Administration Act 1991* is continued by this Act.
- (2) The continued corporation is to have the corporate name SAS Trustee Corporation. The body may also be called STC, and the use of that name has the same effect for all purposes as the use of its corporate name.
- (3) STC is, for the purposes of any Act, a statutory body representing the Crown.

49 STC to be trustee for STC schemes

- (1) STC is the trustee for the STC schemes and is to hold in trust for the persons who are or will be entitled to benefits under the STC schemes all assets held by, and all contributions and other money paid or payable to, STC under this Act and any Act under which an STC scheme is constituted or established.

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- (2) STC is a trustee for the purposes of the *Trustee Act 1925*. Accordingly, subject to this Act, and unless this Act, the *Trustee Act 1925* or any other Act otherwise provides, STC has the obligations, rights and duties of a trustee under Division 2 of Part 2 of the *Trustee Act 1925*.

Note. The effect of this is that STC is subject to both the common law obligations, duties and rights of trustees and the obligations, duties and rights of trustees under the *Trustee Act 1925*. These are in addition to its obligations, duties and rights under this Act, unless the *Trustee Act 1925* or this Act otherwise provides.

50 Principal functions of STC

- (1) The principal functions of STC are:
- (a) to administer the STC schemes, and
 - (b) to invest and manage the STC funds, and
 - (c) to provide for the custody of the assets and securities of the STC schemes, and
 - (d) to ensure that benefits payable to the persons entitled to receive benefits under the STC schemes are paid in accordance with the Acts under which the schemes are established or constituted, and
 - (e) to determine disputes under those Acts.
- (2) STC has such other functions as may be conferred or imposed on it by or under this or any other Act.

Note. The STC schemes include the State Authorities Superannuation Scheme, the Police Superannuation Scheme, the State Superannuation Scheme, the State Authorities Non-contributory Superannuation Scheme and other public sector schemes. None of these schemes are currently open to new members, though public sector employees still contribute to some of them.

Other particular functions and obligations of STC are contained in the legislation establishing the STC schemes, including the *Police Regulation (Superannuation) Act 1906*, the *Local Government and Other Authorities (Superannuation) Act 1927*, the *Superannuation Act 1916*, the *State Authorities Superannuation Act 1987* and the *State Authorities Non-contributory Superannuation Act 1987*.

51 Duties relating to functions

- (1) STC must:
- (a) act honestly in all matters relating to its functions relating to the STC schemes, and
 - (b) exercise, in relation to all matters affecting the STC schemes, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide, and
 - (c) ensure that its functions relating to the STC schemes are exercised in the best interests of persons entitled to receive benefits under the STC schemes, and
 - (d) not enter into any contract or arrangement, or do anything else, that would prevent STC from, or hinder STC in, properly exercising STC's functions as a trustee.

Note. The duties contained in subsection (1) reflect the covenants required of superannuation scheme trustees under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

- (2) In exercising its functions, STC must have regard to:
- (a) the interests of persons entitled to receive benefits under the STC schemes, and
 - (b) the Heads of Government Agreement, commencing 1 July 1996, relating to the exemption of certain State public sector superannuation schemes from the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, and
 - (c) the future liabilities of the STC funds, and
 - (d) any statement in writing of the policy of the Government on any matter that is relevant to the functions of STC given by the Minister to STC.
- (3) Subsection (1) (d) does not prevent STC from entering into a contract or an arrangement under section 53.

Note. Members of the STC Board have a duty to ensure that STC carries out its duties (see section 73).

52 Government policy statements to be laid before Parliament

- (1) The Minister is required to lay before each House of Parliament, within 14 sitting days after giving a statement under section 51 (2) (d), a copy of the statement.
- (2) If a House of Parliament is not sitting when the Minister seeks to comply with this section, the Minister is required to present a copy of the relevant statement to the Clerk of the House.
- (3) A copy of a statement presented to the Clerk of a House of Parliament under this section:
 - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
 - (b) is required to be printed by authority of the Clerk, and
 - (c) if printed by the authority of that Clerk, is, for all purposes, taken to be a document published by order or under the authority of that House, and
 - (d) is to be recorded in the Minutes, or Votes and Proceedings, of that House on the first sitting day of that House after receipt of the copy by that Clerk.

53 Power to enter into contracts or arrangements

- (1) STC may enter into contracts or arrangements with any person:
 - (a) under which the person undertakes to carry out the function of providing superannuation investment management services for a superannuation fund or part of a fund under one or more of the STC schemes, on behalf of STC, or
 - (b) under which the person undertakes to carry out the function of providing superannuation scheme administration services to the STC schemes on behalf of STC, or
 - (c) under which the person undertakes to carry out the function of providing custodial services for one or more of the STC schemes on behalf of STC, or
 - (d) under which the person undertakes to carry out any other functions on behalf of STC under this or any other Act, or
 - (e) for the performance of any other services.

- (2) The power of STC to enter into a contract or an arrangement does not extend to conferring on any other person the power of STC to appoint an actuary or actuaries to conduct an investigation into the state or sufficiency of an STC fund.
- (3) A person who enters into a contract or an arrangement with STC under this section has, while acting in accordance with the terms of the contract or arrangement, those functions of STC specified in the contract or arrangement.
- (4) STC may enter into a contract or an arrangement under this section only if STC is satisfied that the contract or arrangement is in the interests of the persons entitled to receive benefits under the STC schemes.
- (5) Any such contract or arrangement may deem the person with whom STC makes the contract or arrangement to be an agent of STC.
- (6) A contract or an arrangement entered into by STC under this section does not confer on the other party any of the principal functions and responsibilities of STC as trustee.

54 Minister's consent required

STC may not enter into a contract or an arrangement under section 53 (1) (a), (b) or (c) except with the Minister's consent.

55 STC to be subject to Minister's directions in certain circumstances

- (1) The Minister may give a direction to STC relating to the exercise by STC of any one or more of its functions if the Minister is of the opinion that an act or omission, or conduct, by STC has had or could reasonably be expected to have a significant adverse effect on the Consolidated Fund or the financial management of the State. A direction must not be inconsistent with this or any other Act.
- (2) STC must comply with any such direction.
- (3) In giving a direction the Minister must have regard to:
 - (a) the interests of persons entitled to receive benefits under the STC schemes, and
 - (b) the duties and obligations of STC and the members of the STC Board.

- (4) Nothing in this section constitutes the Minister as a trustee of the STC schemes.
- (5) STC is not liable for anything done or omitted for the purpose only of complying with a direction of the Minister under this section.

56 Direction to be laid before Parliament

- (1) The Minister is required to lay before each House of Parliament, within 14 sitting days after giving a direction under section 55, a copy of the direction.
- (2) If a House of Parliament is not sitting when the Minister seeks to comply with this section, the Minister is required to present a copy of the relevant statement to the Clerk of the House.
- (3) A copy of a statement presented to the Clerk of a House of Parliament under this section:
 - (a) is, on presentation and for all purposes, taken to have been laid before the House, and
 - (b) is required to be printed by authority of that Clerk, and
 - (c) if printed by the authority of that Clerk, is, for all purposes, taken to be a document published by order or under the authority of that House, and
 - (d) is to be recorded in the Minutes, or Votes and Proceedings, of that House on the first sitting day of that House after receipt of the copy by that Clerk.

57 Powers of STC

Without limiting any other function conferred or imposed on it, STC may do all things that are necessary or convenient to be done for, or in connection with, the exercise of STC's functions.

Division 2 Investment of STC funds

58 Investment strategy

- (1) STC must determine and give effect to an investment strategy for the STC funds (the *investment strategy*) and a strategy for the prudential management of any reserves of the funds (the *reserves strategy*).

- (2) The investment strategy must have regard to the circumstances of the STC schemes, including but not limited to the following:
- (a) the risk involved in making, holding and realising, and the likely return from, the investments having regard to the schemes' objectives and their cash flow requirements,
 - (b) the composition of the investments as a whole, including the extent to which the investments are diverse or involve exposure to risks from inadequate diversification,
 - (c) the liquidity of the investments having regard to the schemes' cash flow requirements,
 - (d) the ability to discharge the existing and prospective liabilities under the STC schemes,
 - (e) any other matter which a trustee is required to consider in determining an investment strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (3) The reserves strategy must be consistent with the investment strategy and the ability to discharge the existing and prospective liabilities under the STC schemes (whether actual or contingent) as and when they fall due.
- (4) In determining the reserves strategy, STC must have regard to any other matter which a trustee is required to consider in determining a reserves strategy under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (5) STC may not contract out its functions under this section.

59 Investment manager to be appointed

- (1) In exercising its function of investing and managing an STC fund, or part of a fund, STC must enter into a contract or an arrangement under section 53 with an investment manager or managers who undertake to provide superannuation investment management services for a superannuation fund or part of a fund under the STC scheme concerned, on behalf of STC. STC may not itself provide such services.
- (2) STC must ensure that the investment manager or managers operate within the investment powers of STC and comply with the investment strategy determined by STC.

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- (3) STC may enter into contracts or arrangements for the provision of superannuation investment management services with more than one provider of services.
 - (4) This section is subject to section 60.
 - (5) For the purposes of this section:

superannuation investment management services include (but are not limited to) the following:

- (a) acting as investment manager for any superannuation fund or funds concerned or part of any such fund,
- (b) advising on investments and investment strategies and other related strategies for any superannuation fund or funds concerned or part of any such fund.

Note. The Minister's consent is required to any such contract or arrangement (see section 54).

60 AFMC to be first investment manager

- (1) The first investment manager for the STC schemes is to be AFMC. For this purpose, STC must enter into a contract or an arrangement under section 53 (1) (a) with AFMC for the provision by AFMC (or its successors) of all superannuation investment management services for all the STC schemes on behalf of STC.
- (2) Any such contract or arrangement must be entered into for a fixed period, determined by the Minister for the purposes of this section, from a specified date determined by the Minister.
- (3) Any such contract or arrangement may provide for the circumstances in which it may be ended before that period expires. Any such termination of the contract has no effect unless it is approved in writing by the Minister.
- (4) On or after the end of the contract or arrangement referred to in subsection (1), STC is not required to enter into a contract or an arrangement under section 53 with AFMC but may enter into a contract or an arrangement with AFMC (or its successors) or any other person for the provision of one or more superannuation investment management services for a superannuation fund or part of a fund under one or more of the STC schemes.

61 Custodian to be appointed

- (1) STC may exercise its function of providing for the custody of the assets and securities of an STC scheme only by entering into a contract or an arrangement under section 53 with a person who undertakes to provide custodial services for the scheme on behalf of STC.
- (2) STC must ensure that the person operates within the powers of STC and complies with the policies determined by STC.

62 Borrowing and investment powers

- (1) STC may:
 - (a) obtain financial accommodation, and
 - (b) effect financial adjustments, and
 - (c) make investments,under and subject to the *Public Authorities (Financial Arrangements) Act 1987*.
- (2) STC may take appropriate action to control or to enhance or protect the value of any investment made from the STC funds or to enhance or protect the return on any such investment.

63 Restrictions on investment powers

- (1) STC must not, from the assets of the funds under administration or in obtaining financial accommodation:
 - (a) lend money to a contributor to, or to a person entitled to or receiving a benefit under, an STC scheme, either by lending the money directly or by lending it under arrangements entered into in the exercise of a general power of investment of the assets of the scheme, or
 - (b) borrow money or maintain an existing borrowing of money, whether by way of a secured or unsecured loan, otherwise than to obtain temporary finance, or
 - (c) invest any of the assets of an STC fund otherwise than on an arms-length basis, unless it is an in-house asset within the meaning of Part 8 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

- (2) Subsection (1) does not prohibit the lending of money of an STC fund established before 25 May 1988 to a contributor if the trustee of the fund, on or before that date:
- (a) had express power to lend money to contributors, or
 - (b) lent money to contributors and that lending was not expressly prohibited by the legislation establishing the fund.

Division 3 Administration of STC schemes

64 Administrator to be appointed

- (1) STC may exercise its function of administering an STC scheme only by entering into a contract or an arrangement under section 53 with SAA for SAA to provide superannuation scheme administration services for the STC schemes on behalf of STC.
- (2) STC must ensure that SAA operates within the powers of STC and complies with the policies determined by STC.

65 Provision of additional benefits

STC may enter into a contract or an arrangement under section 53 with any person:

- (a) for the insurance by that person, or the arranging of insurance by that person (on an individual or a group basis), of members of an STC scheme for the purpose of paying death or invalidity benefits (not being benefits based on past service) to or in respect of them, or
- (b) for the management of a scheme, carried out by or on behalf of that person, for the purpose of paying any such benefits to or in respect of any such members.

66 STC may compromise or settle claims

- (1) STC may compromise or otherwise settle any claim made against it.

- (2) If STC compromises or otherwise settles a claim in relation to a benefit, the compromise or settlement discharges STC's obligations as regards the benefit, and the amount payable is to be regarded as a benefit under the STC scheme concerned and is payable from the appropriate STC fund accordingly.
- (3) To the extent that an amount payable by STC following a compromise or settlement is not a benefit under the relevant STC scheme, the amount is payable from whichever fund or funds that STC considers appropriate.
- (4) STC may make such inquiries and investigations with respect to a claim made against it as it thinks fit.

67 Determination of disputes

- (1) STC must determine any dispute under this or any other Act relating to an STC scheme.
- (2) STC may, in determining any such dispute, inform itself on any matter in such manner as it thinks fit and, in so doing, is not bound to observe rules of law relating to evidence.

68 Evidence from third parties

- (1) STC may request a person who has made a claim against STC, or who has a dispute with STC, to provide STC with an authority to obtain from a third person any information or evidence that is relevant to the subject-matter of the claim or dispute.
- (2) If such a person does not comply with any such request, STC is not obliged to proceed to process the claim or determine the dispute concerned.

Division 4 Management of STC

69 STC Board

- (1) STC is to have a Board consisting of 8 part-time members and 1 full-time member appointed by the Minister.

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- (2) Of the members:
 - (a) 1 is to be appointed as Chairperson of the STC Board, and
 - (b) 4 are to be appointed as employer representatives, and
 - (c) 4 are to be appointed as employee representatives.
 - (3) Of the members appointed as employee representatives, 1 is to be a full-time member.
 - (4) Schedule 2 has effect with respect to the members and procedure of the Board.
 - (5) The STC Board has the function of managing and controlling the affairs of STC.
 - (6) Any act, matter or thing done in the name of, or on behalf of, STC by the STC Board is taken to have been done by STC.

70 Chairperson of STC Board

- (1) The Chairperson of the STC Board is to be appointed by the Minister.
- (2) To be eligible for appointment as Chairperson, a person must:
 - (a) have significant knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration, and
 - (b) be independent of employers and employees and their respective interests.
- (3) The Minister must not appoint a person as Chairperson without having consulted the Labor Council of New South Wales.

71 Employer representative members

- (1) Of the members of the STC Board appointed as employer representatives, one is to be appointed on the recommendation of the Treasurer.
- (2) To be eligible for appointment as a member to represent the interests of employers a person must have knowledge of, and experience in, the conduct of superannuation schemes, investments, financial management or public administration.

72 Employee representative members

- (1) The members of the STC Board appointed as employee representatives are to be nominated by the Labor Council of New South Wales.
- (2) The Labor Council must not nominate a person to be a member unless it has consulted with organisations representing members of the STC schemes.
- (3) If the Labor Council fails to nominate persons for the purposes of this section within the period specified in a written request by the Minister to do so, the Minister may appoint a member or members as employee representatives. Any such member is taken to be properly appointed under this section.
- (4) A person may hold the office of a full-time or part-time member of the STC Board (as an employee representative) and also the office of a member of the FTC Board (as an employee representative).

73 Duties of members of STC Board

- (1) A member of the STC Board must exercise a reasonable degree of care and diligence for the purposes of ensuring that STC carries out the duties referred to in section 51.
- (2) For the purposes of this section, a reasonable degree of care and diligence is the degree of care and diligence that a reasonable person in the position of the member would exercise in STC's circumstances.

74 Chief executive officer of STC

- (1) The Minister, on the recommendation of the STC Board, is to appoint a person as the chief executive officer of STC.
- (2) The chief executive officer has the function of exercising the day-to-day management of STC and has such other functions as may be conferred or imposed by or under this or any other Act.
- (3) The chief executive officer is subject to the control and direction of the STC Board.

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- (4) The employment of the chief executive officer is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act. The chief executive officer is taken, while holding that office, to be employed by STC but STC may not remove the chief executive officer from office.
 - (5) The Minister may, from time to time, appoint a person to act in the office of the chief executive officer during the illness or absence of the chief executive officer (or during a vacancy in the office of chief executive officer) and the person, while so acting, has all the functions of the chief executive officer and is taken to be the chief executive officer.
 - (6) The Minister may, at any time, remove a person from office as acting chief executive officer.
 - (7) An acting chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.
 - (8) The same person may hold the office of chief executive officer of STC and the office of chief executive officer of FTC.

75 Staff of STC

- (1) STC may employ such staff as it requires to exercise its functions.
- (2) STC may fix the salary, wages and other conditions of its staff in so far as they are not fixed by or under any other Act or law.
- (3) STC may engage consultants for the purposes of getting expert advice.

76 Agents

- (1) STC may employ and pay an agent to transact any business or do any act (including receiving or paying money) that STC is authorised or required to transact or do in the exercise of its functions.
- (2) An agent may be employed by STC to receive or pay money even though the agent, or any subagent employed by the agent, is not a bank, building society or credit union.

- (3) Section 53 (3) of the *Trustee Act 1925* applies to agents employed under this section.

Note. That provision excuses a trustee from liability for the default of an agent employed in good faith.

77 Delegation of functions

- (1) STC may delegate to an *authorised person* any of its functions, other than this power of delegation.
- (2) STC may also delegate any of its functions relating to the STC schemes:
- (a) to a natural person with whom STC has entered into a contract or an arrangement under this Act, or
 - (b) to the chief executive or Board of any organisation with which STC has entered into such a contract or an arrangement.
- (3) STC may not delegate any of its principal functions as trustee under this section.
- (4) In this section, *authorised person* means a member of the STC Board, the chief executive of STC or a committee that is comprised of or includes members of the Board.
- (5) Section 64 (7) of the *Trustee Act 1925* applies to STC and to a delegate under this section.

78 Committees

- (1) The STC Board may establish committees to give advice and assistance to the Board in connection with any particular matter or function of the Board.
- (2) It does not matter that some or all of the members of any committee are not members of the STC Board.
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

79 Corporate plan

- (1) STC is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of STC, a corporate plan for the financial year.
- (2) A corporate plan must specify:
 - (a) the objectives of STC's activities for the financial year concerned, and
 - (b) the nature and scope of the activities to be undertaken, and
 - (c) the strategies, policies and budgets for achieving those objectives (including the investment strategy and the reserves strategy), and
 - (d) targets and criteria for assessing the performance of STC.
- (3) An annual report of STC must include an assessment of STC's performance, according to the targets and criteria for assessment set out in the corporate plan applicable to the year concerned.
- (4) This section is subject to the requirements of any other Act or law.

Note. STC must prepare annual reports for presentation to Parliament under the *Annual Reports (Statutory Bodies) Act 1984*.

80 Personal and other liability

- (1) A matter or thing done or omitted to be done by STC, the STC Board, a member of the Board or any person acting under the direction of STC or the Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject such a member or a person so acting personally to any action, liability, claim or demand.
- (2) A decision made, or any act or thing done or omitted, by STC, the STC Board, a member of the Board or any person acting under the direction of STC or the Board may not be called into question on any of the following grounds:
 - (a) an alleged conflict of interest because STC, the Board or the person is involved in administering different Acts or different superannuation schemes,

- (b) that knowledge gained by STC, the Board or the person is or may be relevant to the exercise of a function under another such Act or scheme.
- (3) Subsection (1) does not preclude STC from being subject to any action, liability, claim or demand. Any money becoming payable by STC in respect of an action, liability, claim or demand is to be paid out of an STC fund or funds as determined by STC.
- (4) However, money is not payable under subsection (3) in circumstances in which a trustee may not be indemnified under the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

Division 5 Financial provisions

81 Amalgamation of funds

- (1) The STC funds amalgamated as one fund under the *Superannuation Administration Act 1991* continue to be amalgamated.
- (2) STC is to maintain separate accounts in the amalgamated fund in relation to each STC scheme concerned.
- (3) A reference in any provision of this Act or the regulations or any other Act or other instrument (other than this section) to an STC fund is taken to be a reference to that part of the amalgamated fund that is maintained for the purposes of the relevant STC scheme.

82 Re-establishment of separate funds and subsequent amalgamation

- (1) STC may re-establish any of the STC funds as separate funds. On the re-establishment of the funds, section 81 (2) ceases to operate in relation to the funds, but without prejudice to the previous operation of that subsection.
- (2) STC may amalgamate into one fund any 2 or more STC funds separated under this section. Section 81 (2) and (3) apply to any such amalgamated fund.

83 Powers of STC

Without limiting the generality of sections 81 and 82, STC has power in New South Wales and elsewhere to do all things necessary and convenient to be done for, or in connection with, the re-establishment or amalgamation of a fund under this Division.

84 STC to maintain administration account

STC must maintain an account called the STC Administration Account.

85 Administration costs generally

- (1) STC must charge administration costs that it incurs (including the remuneration or allowances of members of the STC Board and the chief executive officer) against the STC Administration Account.
- (2) The administration costs (including costs related to preserved benefits and investment management) that STC incurs in relation to the STC schemes are to be paid in accordance with this section to the STC Administration Account.
- (3) The administration costs (including costs related to preserved benefits and investment management) that STC incurs in relation to the STC schemes are payable by employers and contributors or members and former contributors or former members under the STC schemes, in accordance with the Acts under which those schemes are established.
- (4) If employees are employed by a group of employers, the costs are payable by the group of employers. If a contributor or member belongs or a former contributor or a former member belonged to a group of contributors or members which contributes to a scheme, the costs are payable by the group of contributors or members.
- (5) The amount, the rate and the basis on which an employer, group of employers or contributor or member or former contributor or former member or group of contributors or members is required to pay is to be determined by STC from time to time.

- (6) After calculating the appropriate amount or rate payable, STC may debit the appropriate account, fund or reserve in the relevant STC fund in accordance with this Division.
- (7) If the person who is chief executive officer of STC is also the chief executive officer of FTC, the costs of the remuneration of the chief executive officer are to be apportioned between STC and FTC as determined by STC and FTC.

86 Source of administration costs

The administration costs (including costs relating to preserved benefits and investment management) payable in respect of an STC fund are to be paid in accordance with the Act under which the fund is established or, if the Act makes no provision, from the reserves or accounts established in the fund determined for the purposes of this section by STC.

87 Financial year of STC

- (1) The financial year of STC is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Division 6 Miscellaneous

88 Appeals

- (1) A person aggrieved by a determination of STC under section 67 (relating to determination of disputes) may appeal against the determination to the Industrial Relations Commission in Court Session (the *Commission*).
- (2) The appeal must be made within 6 months after the appellant is notified of the determination of STC or within such further period as the Commission allows.
- (3) In dealing with the appeal, the Commission may exercise any function that could have been exercised by STC in making the determination the subject of the appeal.

- (4) In dealing with the appeal, the Commission is to have regard to this Act and any other relevant provisions regulating the superannuation scheme concerned and such other matters as it considers to be relevant.
- (5) In dealing with the appeal, the Commission is not bound by the rules of evidence and may inform itself in any manner it thinks fit.
- (6) The final determination made by the Commission on the appeal is to be given effect to as if it were a determination of STC.

89 STC Board must report events affecting functions

- (1) If the STC Board becomes aware of the occurrence of an event, or of a change in circumstances, having a significant adverse effect on the exercise of the functions of STC, the Board must give written notice to the Minister setting out particulars of the event or change in circumstances.
- (2) The STC Board must give the notice no later than the third business day after becoming aware of the event or change in circumstances.
- (3) Without limiting subsection (1), the STC Board must give written notice of an event if, as a result of the event, STC will not, or may not, be able to make payments to beneficiaries as and when the obligation to make those payments arises.

90 Provision of information to Minister

- (1) STC must furnish to the Minister such information relating to the general administration and operation of the STC schemes and the STC funds as the Minister may from time to time require.
- (2) Despite subsection (1), STC must not furnish information relating to an individual member of an STC scheme to the Minister, except with the member's consent.

91 Accounts and records of STC

- (1) STC, or any person with whom STC makes a contract or an arrangement, may maintain accounts and other records relating to the STC schemes or any other related functions in or on any

medium, or combination of media, capable of recording information and may, from time to time, vary the manner or form in which those accounts or other records are maintained.

- (2) Subsection (1) is subject to the terms of any contract or arrangement referred to in that subsection.

92 Service of documents

- (1) A document may be served on STC by leaving it at, or by sending it by post to:
- (a) the office of STC, or
 - (b) if it has more than one office, any one of its offices.
- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on STC in any other manner.

93 Proof of certain matters not required

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the STC Board, or
- (b) any resolution of the STC Board, or
- (c) the appointment of, or the holding of office by, any member of the STC Board, or
- (d) the presence or nature of a quorum at any meeting of the STC Board.

94 Recovery of amounts payable by STC

- (1) Any charge, fee or money due to STC may be recovered by STC as a debt in a court of competent jurisdiction.
- (2) Without limiting subsection (1), STC may recover any money owing to it under this or any other Act, together with interest on the money, as a debt in a court of competent jurisdiction.

- (3) Interest at a rate from time to time determined by STC is payable on any amount of money owing to it under this or any other Act calculated from the date on which the amount became due for payment until the date on which the amount is recovered or is otherwise paid.

95 Seal of STC

The seal of STC is to be kept by the chief executive officer of STC and may be affixed to a document only:

- (a) in the presence of the chief executive officer or a member of staff of STC authorised in that behalf by the chief executive officer, and
- (b) with an attestation by the signature of the chief executive officer or that member of the fact of the affixing of the seal.

Part 4 Superannuation Administration Authority (SAA)

Introductory note.

This Part establishes the Superannuation Administration Authority of New South Wales and gives it functions relating to the administration of State public sector superannuation schemes. The Superannuation Administration Authority will be required to supply administration services to STC for the STC schemes and may (subject to an agreement being reached) supply such services to FTC for the FTC schemes.

Division 1 Establishment and principal functions of SAA

96 Establishment of SAA

- (1) There is established by this Act a body corporate with the corporate name of the Superannuation Administration Authority of New South Wales.
- (2) SAA is, for the purposes of any Act, a statutory body representing the Crown.

97 Principal functions of SAA

- (1) The principal functions of SAA are:
 - (a) to provide superannuation scheme administration services for State public sector superannuation schemes on behalf of trustees, and
 - (b) to enter into contracts or arrangements with the trustees of such schemes for that purpose, and
 - (c) to carry out other administrative functions related to State public sector superannuation schemes and legislation.
- (2) SAA has such other functions as may be conferred or imposed on it by or under this or any other Act.

98 Superannuation scheme administration services

The superannuation scheme administration services that may be provided by SAA include (but are not limited to) the following:

- (a) collecting contributions to superannuation schemes,
- (b) keeping and maintaining member records,
- (c) providing information and advice to members,
- (d) preparing financial statements on behalf of trustees,
- (e) processing of claims and payment of benefits.

99 Consideration for provision of services

As consideration for entering into a contract or an arrangement to provide superannuation scheme administration services, SAA must charge the trustee of the scheme concerned or other responsible person an amount sufficient to cover:

- (a) the costs that SAA has actually incurred in providing the services, and
- (b) any other fees or charges that the trustee or person has agreed to pay to SAA for providing the services, and
- (c) if the scheme concerned is not an STC scheme, an appropriate margin of profit.

100 Power to enter into contracts or arrangements

- (1) SAA may enter into contracts or arrangements with FTC under which SAA undertakes to carry out the function of providing superannuation scheme administration services for an FTC scheme on behalf of FTC.
- (2) SAA must enter into contracts or arrangements with STC under which SAA undertakes to carry out the function of providing superannuation scheme administration services for an STC scheme on behalf of STC.
- (3) SAA may enter into contracts or arrangements with trustees of other State public sector superannuation schemes approved by the Minister under which SAA undertakes to carry out the function of providing superannuation scheme administration services for the scheme on behalf of the trustee.

101 Powers of SAA

Without limiting any other function conferred or imposed on it, SAA may do all things that are necessary or convenient to be done for, or in connection with, the exercise of SAA's functions.

Division 2 Management of SAA

102 Chief executive officer of SAA

- (1) The Minister may appoint a chief executive officer of SAA.
- (2) The employment of the chief executive officer is subject to Part 2A of the *Public Sector Management Act 1988*, but is not subject to Part 2 of that Act.
- (3) The Minister may, from time to time, appoint a person to act in the office of the chief executive officer during the illness or absence of the chief executive officer (or during a vacancy in the office of chief executive officer) and the person, while so acting, has all the functions of the chief executive officer and is taken to be the chief executive officer.
- (4) The Minister may, at any time, remove a person from office as acting chief executive officer.
- (5) An acting chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

103 Chief executive officer to manage and control affairs of SAA

- (1) The affairs of SAA are to be managed and controlled by the chief executive officer of SAA.
- (2) Any act, matter or thing done in the name of, or on behalf of, SAA by the chief executive officer is taken to have been done by SAA.

104 Ministerial control of SAA

- (1) SAA is, in the exercise of its functions, subject to the control and direction of the Minister.

- (2) However, the Minister must not give to SAA a direction that is inconsistent with:
 - (a) any contract or arrangement that SAA has lawfully entered into, or
 - (b) any duty, obligation or responsibility imposed on SAA by or under this or any other Act.
- (3) Any direction given by the Minister in contravention of subsection (2) is void to the extent of the inconsistency.

105 Staff of SAA

- (1) SAA may employ such staff as it requires to exercise its functions.
- (2) SAA may fix the salary, wages and other conditions of its staff in so far as they are not fixed by or under any other Act or law.
- (3) SAA may engage consultants for the purposes of getting expert advice.

106 Delegation of functions

- (1) SAA may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) In this section, *authorised person* means a member of staff of SAA or a person of a class prescribed by the regulations.

107 Corporate plan

- (1) SAA is required to prepare and deliver to the Minister, at least 3 months before the beginning of each financial year of SAA, a draft corporate plan for the financial year.
- (2) SAA:
 - (a) must consider any comments on the draft corporate plan that are made by the Minister within 2 months after the plan is delivered to the Minister, and
 - (b) must deliver the completed corporate plan to the Minister before the beginning of the financial year concerned.

- (3) A corporate plan must specify:
 - (a) the objectives of SAA's activities for the financial year concerned and for such future financial years as the Minister directs, and
 - (b) the strategies, policies and budgets for achieving those objectives, and
 - (c) targets and criteria for assessing the performance of SAA.
- (4) An annual report of SAA must include an assessment of SAA's performance, according to the targets and criteria for assessment set out in the corporate plan applicable to the year concerned.
- (5) This section is subject to the requirements of any other Act or law.

Note. SAA must prepare annual reports for presentation to Parliament under the *Annual Reports (Statutory Bodies) Act 1984*.

108 Personal liability

A matter or thing done or omitted to be done by SAA, the chief executive officer of SAA, or any person acting under the direction of SAA or the chief executive officer, does not, if the matter or thing was done or omitted in good faith for the purpose of executing this or any other Act, subject the member or a person so acting personally to any action, liability, claim or demand.

Division 3 Financial provisions

109 SAA Account

- (1) SAA must maintain an account called the SAA Account.
- (2) There is payable into the Account all money received by SAA (other than money belonging to a superannuation fund), including interest received in respect of investments, and all money directed to be paid into the Account by this or any other Act.

- (3) There is payable from the Account all payments made on account of SAA or otherwise required to meet the expenditure incurred in relation to the functions of SAA (including the remuneration (including travelling and subsistence allowances) of the chief executive officer and staff of SAA) and all money directed to be paid from the Account by this or any other Act.
- (4) All money payable into the Account is to be paid into an account with a bank, building society or credit union in New South Wales.

110 Costs relating to STC schemes

- (1) The administration and other costs that SAA incurs, including remuneration of the chief executive officer and staff salaries, in relation to the STC funds are to be paid to the SAA Fund by STC.
- (2) The amount and the rate of payment, and when payments are to be made, are to be determined by agreement between SAA and STC.
- (3) The Minister is to determine any dispute between SAA and STC, if SAA and STC fail to reach agreement under subsection (2).
- (4) For the purposes of this section, SAA must, not later than 3 months before the end of the financial year, submit to STC a detailed estimate of its operating and capital costs for the next financial year.

111 Borrowing and investment powers and other matters

- (1) SAA may:
 - (a) obtain financial accommodation, and
 - (b) effect financial adjustments, and
 - (c) make investments,under and subject to the *Public Authorities (Financial Arrangements) Act 1987*.
- (2) Subsection (1) does not apply in respect of money belonging to a superannuation fund.

- (3) SAA is not liable for stamp duty under the *Stamp Duties Act 1920* in respect of anything done by SAA for the purposes of this Act or any other Act.

112 Financial year of SAA

- (1) The financial year of SAA is the year commencing on 1 July.
- (2) A different financial year may be determined by the Treasurer under section 4 (1A) of the *Public Finance and Audit Act 1983*.

Division 4 Miscellaneous

113 Chief executive officer must report events affecting functions

- (1) If the chief executive officer of SAA becomes aware of the occurrence of an event, or of a change in circumstances, having a significant adverse effect on the exercise of the functions of SAA, the chief executive officer must give written notice to the Minister setting out particulars of the event or change in circumstances.
- (2) The chief executive officer must give the notice no later than the third business day after becoming aware of the event or change in circumstances.

114 Provision of information to Minister

- (1) SAA must furnish to the Minister such information relating to the general administration and operation of SAA and any State public sector superannuation schemes for which SAA provides superannuation scheme administration services as the Minister may from time to time require.
- (2) Despite subsection (1), SAA must not furnish information relating to an individual member of an SAA scheme to the Minister, except with the member's consent.

115 Service of documents

- (1) A document may be served on SAA by leaving it at, or by sending it by post to:
 - (a) the office of SAA, or
 - (b) if it has more than one office, any one of its offices.

- (2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on SAA in any other manner.

116 Recovery of amounts payable to SAA

- (1) Any charge, fee or money due to SAA may be recovered by SAA as a debt in a court of competent jurisdiction.
- (2) Without limiting subsection (1), SAA may recover any money owing to it under this or any other Act, together with interest on the money, as a debt in a court of competent jurisdiction.
- (3) Interest at a rate from time to time determined by SAA is payable on any amount of money owing to it under this or any other Act calculated from the date on which the amount became due for payment until the date on which the amount is recovered or is otherwise paid.

117 SAA to publish procedures or guidelines with respect to conflicts of interest

SAA may publish procedures or guidelines with respect to:

- (a) the disclosure of conflicts of interest associated with the exercise of SAA's functions, including for example the disclosure of conflicts of interest that may or may not preclude participation by individuals or bodies in contracts with SAA, and
- (b) the exclusion or participation by consultants to SAA in other commercial arrangements involving SAA, and
- (c) other related matters.

118 Seal of SAA

The seal of SAA is to be kept by the chief executive officer of SAA and may be affixed to a document only:

- (a) in the presence of the chief executive officer or a member of staff of SAA authorised in that behalf by the chief executive officer, and
- (b) with an attestation by the signature of the chief executive officer or that member of the fact of the affixing of the seal.

Part 5 Miscellaneous

Division 1 Offences and remedies relating to officers

119 Duties and liabilities of persons involved in management

- (1) An officer must act honestly in the exercise of powers, and discharge of functions, as an officer of a superannuation authority.

Maximum penalty:

- (a) if the contravention is committed with intent to deceive or defraud the authority, creditors of the authority or creditors of another person or for another fraudulent purpose—500 penalty units or imprisonment for 5 years, or
- (b) in any other case—100 penalty units.
- (2) In the exercise of powers and the discharge of functions, an officer must exercise the degree of care and diligence that a reasonable person in a like position would exercise in the same circumstances.

Maximum penalty: 100 penalty units.

- (3) An officer, or a person who has been an officer, must not make improper use of information acquired because of his or her position as an officer:
- (a) to gain, directly or indirectly, an advantage for himself or herself or for another person, or
- (b) to cause detriment to the superannuation authority.

Maximum penalty: 500 penalty units or imprisonment for 5 years.

- (4) An officer must not make improper use of his or her position as an officer:
- (a) to gain, directly or indirectly, an advantage for himself or herself or for another person, or
- (b) to cause detriment to the superannuation authority.

Maximum penalty: 500 penalty units or imprisonment for 5 years.

- (5) In this section:

officer means the chief executive officer of a superannuation authority, a member of the Board of a superannuation authority or another person who is concerned, or takes part, in a superannuation authority's management.

superannuation authority means FTC, STC, SAA or AFMC.

- (6) AFMC ceases to be a superannuation authority for the purposes of this section on the commencement of Division 3 of Part 3 of the *Superannuation (Axiom Funds Management Corporation) Act 1996*.

120 Recovery of profits from officers

- (1) If a person contravenes section 119, the superannuation authority concerned may recover from the person as a debt due to the authority:
- (a) if the person or another person made a profit because of the contravention—an amount equal to the profit, and
 - (b) if the authority suffered loss or damage because of the contravention—an amount equal to the loss or damage.
- (2) An amount may be recovered from the person under this section whether or not the person has been convicted of an offence in relation to the contravention.
- (3) This section is in addition to, and does not limit, the *Confiscation of Proceeds of Crime Act 1989*.

121 Contraventions of trustee duties

- (1) A person (other than FTC or STC) who suffers loss or damage as a result of conduct of another person who was engaged in a contravention of, or failed to comply with, section 10, 28, 51 or 73 may recover the amount of the loss or damage by action against that other person or any other person knowingly involved in the contravention.
- (2) An action under this section may be begun at any time within 6 years after the day on which the cause of action arose.

- (3) For the purposes of this section, a person is knowingly involved in a contravention if, and only if, the person:
- (a) has aided, abetted, counselled or procured the contravention, or
 - (b) has induced, whether by threats or promises or otherwise, the contravention, or
 - (c) has been in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the contravention, or
 - (d) has conspired with others to effect the contravention.

122 Defence relating to investment strategy

It is a defence to an action under section 121 for loss or damage suffered by a person as a result of the making of an investment by or on behalf of FTC or STC if the defendant establishes that the investment was made in accordance with an investment strategy formulated in accordance with this Act.

123 Defence relating to management of reserves

It is a defence to an action under section 121 for loss or damage suffered by a person as a result of the management of any reserves by FTC or STC if the defendant establishes that the management of the reserves was in accordance with a reserves strategy formulated in accordance with this Act.

124 Defences relating generally to actions arising from breach of duties

- (1) It is a defence to an action under section 121 for loss or damage suffered by a person if the defendant establishes that:
- (a) the contravention was due to reasonable mistake, or
 - (b) the contravention was due to reasonable reliance on information supplied by another person, or
 - (c) the contravention was due to the act or default of another person, or an accident, or some other cause beyond the person's control and that the defendant took reasonable precautions and exercised due diligence to avoid the contravention.

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- (2) For the purposes of subsection (1) (b), a reference to another person does not include a reference to a person who was, when the contravention occurred, an employee or agent of the defendant or, if the defendant is a corporation, a director, employee or agent of the defendant.
- (3) A defendant is not entitled to rely on a defence under subsection (1) that a contravention was due to reliance on information supplied by another person or the act or default of another person unless:
- (a) the court grants leave, or
 - (b) the defendant has, not later than 7 days before the day on which the hearing of the proceedings begins, served on the person bringing the action a written notice containing information that:
 - (i) identifies, or would assist to identify, the other person, and
 - (ii) was in the defendant's possession at the time of the contravention.

Division 2 General provisions

125 Act binds Crown

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

126 Proceedings for offences

- (1) Proceedings for an offence against this Act are to be dealt with summarily before:
- (a) a Local Court constituted by a Magistrate sitting alone, or
 - (b) the Supreme Court in its summary jurisdiction.
- (2) The maximum penalty that may be imposed by a Local Court for an offence under this Act is 50 penalty units or imprisonment for 12 months, or both.

127 Additional State public sector superannuation schemes

- (1) The Minister may approve the preparation of a trust deed providing for a superannuation scheme for the benefit of State public sector employees, or a class or classes of State public sector employees (including employees of a local authority or a public authority).
- (2) The trust deed may reflect the provisions of any other superannuation schemes, whether established by or under an Act, and may apply different provisions and benefits to different employees, according to the entitlements of the employees under existing State public sector superannuation schemes.
- (3) Further arrangements may be made for the incorporation of a body to be the trustee of the proposed superannuation scheme.
- (4) The trust deed must include provisions to ensure that a right that a contributor to, or a member of, the scheme it establishes has immediately before the deed takes effect is not removed or restricted. The rules included in the deed may, however, confer additional rights on a contributor or member.
- (5) The trust deed must be consistent with the requirements of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth for a regulated fund within the meaning of that Act and any trustee must satisfy the requirements of that Act for a trustee.
- (6) Before approving the preparation of a trust deed under this section, the Minister must consult with the Labor Council of New South Wales.

128 Provisions consequent on establishment of additional superannuation schemes

- (1) Regulations may be made for or with respect to the following matters, in relation to the establishment of a superannuation scheme by a trust deed as referred to in section 127:
 - (a) the transfer of members of, or contributors to, an FTC scheme or an STC scheme from that scheme to the new superannuation scheme,
 - (b) the rights of persons who are eligible to become members of the new superannuation scheme to remain as members of, or contributors to, an FTC scheme or an STC scheme,

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- (c) the transfer of assets and liabilities of an FTC scheme or an STC scheme, in respect of transferred members or contributors or former members or contributors, to the new superannuation scheme,
 - (d) the payment of pensions and other benefits in respect of former members of, or former contributors to, an FTC scheme or an STC scheme under the new superannuation scheme,
 - (e) the funds and reserves to be established in respect of the new superannuation scheme,
 - (f) the preservation of benefits of persons transferring to the new superannuation scheme,
 - (g) the entitlements, rights and obligations of a member of, or contributor to, an FTC scheme or an STC scheme who joins the new superannuation scheme,
 - (h) the provision of services in relation to the new superannuation scheme by SAA or AFMC (or its successors), or both,
 - (i) the deeming of employers to be no longer employers under an FTC scheme or an STC scheme where all the relevant employees are transferred from the FTC scheme or the STC scheme to the new superannuation scheme.
- (2) A regulation made under this section has effect despite any provision of an Act under which an FTC scheme or an STC scheme is constituted.

129 Regulations

- (1) 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.
- (2) In particular, the regulations may make provision for or with respect to:
 - (a) the administration of the funds and accounts maintained under this Act and the Acts under which the FTC schemes and the STC schemes are established,
 - (b) the procedure of the FTC Board, the STC Board or SAA.

130 Repeals

The following Acts are repealed:

Superannuation Administration Act 1991 No 96

Superannuation Administration Amendment Act 1995 No 29.

131 Savings and transitional provisions

Schedule 3 has effect.

132 Consequential amendment of other Acts

Schedule 4 has effect.

133 Review of Act

- (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.
- (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.
- (3) A report of 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.

Schedule 1 Provisions relating to FTC Board

(Section 24)

Part 1 Definitions

1 Definitions

In this Schedule:

Chairperson means the Chairperson of the Board.

Board means the FTC Board.

member means a member of the Board, including the Chairperson.

Part 2 Members

2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy:
 - (a) may, if available, act in the place of a member, and
 - (b) while so acting, has all the functions of the member and is taken to be a member.

- (3) The deputy of a member who is the Chairperson does not (because of this clause) have the member's functions as Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

5 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
 - (i) becomes a disqualified person within the meaning of Part 15 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

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- (2) The Minister may remove a member from office at any time for any or no reason and without notice.

6 Filling of vacancy in office of member

- (1) If the office of any member becomes vacant, the Minister must arrange for a suitably qualified person to be appointed to fill the vacancy in accordance with this Act within 60 days after the date on which the vacancy occurred.
- (2) Subclause (1) does not apply if the term of office of the member concerned was due to expire within 60 days after the vacancy occurred.

7 Disclosure of pecuniary interests

- (1) If:
- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a member at a meeting of the Board that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee (if any) determined by the Board.
- (4) After a member has disclosed the nature of any interest in any matter, the member must not, unless the Board otherwise determines:
 - (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.
- (7) This clause does not apply to or in respect of an interest of a member in a matter or thing which arises merely because the member is a contributor to a superannuation scheme.

8 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Part 3 Procedure

9 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

10 Quorum

The quorum for a meeting of the Board is 5 members, of whom at least one must be an employer representative and at least one must be an employee representative.

11 Presiding member

- (1) A meeting of the Board is to be presided over by:
- (a) the Chairperson, or
 - (b) in the absence of the Chairperson, a member elected by the members present at the meeting.
- (2) The presiding member has a deliberative vote.

12 Voting

A decision supported by a two-thirds majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

13 Transaction of business otherwise than at ordinary meetings

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being. A resolution approved in writing by a two-thirds majority of those members is taken to be a decision of the Board.

- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the members have the same voting rights as they have at an ordinary meeting of the Board.
- (4) Papers may be circulated among members for the purposes of subclause (1) by fax or other transmission of the information in the papers concerned.

14 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

Schedule 2 Provisions relating to STC Board

(Section 69)

Part 1 Definitions

1 Definitions

In this Schedule:

Chairperson means the Chairperson of the Board.

Board means the STC Board.

member means a member of the Board, including the Chairperson.

Part 2 Members

2 Terms of office of members

Subject to this Schedule, a member holds office for such period (not exceeding 4 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

3 Remuneration

A member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

4 Deputies

- (1) The Minister may, from time to time, appoint a person to be the deputy of a member, and the Minister may revoke any such appointment.
- (2) In the absence of a member, the member's deputy:
 - (a) may, if available, act in the place of a member, and
 - (b) while so acting, has all the functions of the member and is taken to be a member.

- (3) The deputy of a member who is the Chairperson does not (because of this clause) have the member's functions as Chairperson.
- (4) A person while acting in the place of a member is entitled to be paid such allowances as the Minister may from time to time determine in respect of the person.

5 Full-time member

- (1) The Board may determine additional functions to be performed by the person holding the office of full-time employee representative member.
- (2) The full-time employee representative member is to report to the Board in respect of the performance of the additional functions.

6 Vacancy in office of member

- (1) The office of a member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or

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- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable, or
 - (i) becomes a disqualified person within the meaning of Part 15 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.
- (2) The Minister may remove a member from office at any time for any or no reason and without notice.

7 Filling of vacancy in office of member

- (1) If the office of any member becomes vacant, the Minister must arrange for a suitably qualified person to be appointed to fill the vacancy in accordance with this Act within 60 days after the date on which the vacancy occurred.
- (2) Subclause (1) does not apply if the term of office of the member concerned was due to expire within 60 days after the vacancy occurred.

8 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

- (2) A disclosure by a member at a meeting of the Board that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or

- (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee (if any) determined by the Board.
 - (4) After a member has disclosed the nature of any interest in any matter, the member must not, unless the Board otherwise determines:
 - (a) be present during any deliberation of the Board with respect to the matter, or
 - (b) take part in any decision of the Board with respect to the matter.
 - (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
 - (6) A contravention of this clause does not invalidate any decision of the Board.
 - (7) This clause does not apply to or in respect of an interest of a member in a matter or thing which arises merely because the member is a contributor to a superannuation scheme.

9 Effect of certain other Acts

- (1) Part 2 of the *Public Sector Management Act 1988* does not apply to or in respect of the appointment of a member.

- (2) If by or under any Act provision is made:
- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,
- the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.
- (3) The office of a member is not, for the purposes of any Act, an office or place of profit under the Crown.

Part 3 Procedure

10 General procedure

The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

11 Quorum

The quorum for a meeting of the Board is 5 members, of whom at least one must be an employer representative and at least one must be an employee representative.

12 Presiding member

- (1) A meeting of the Board is to be presided over by:
- (a) the Chairperson, or
 - (b) in the absence of the Chairperson, a member elected by the members present at the meeting.

- (2) The presiding member has a deliberative vote.

13 Voting

A decision supported by a two-thirds majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

14 Transaction of business otherwise than at ordinary meetings

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members for the time being. A resolution approved in writing by a two-thirds majority of those members is taken to be a decision of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
- (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),
- the members have the same voting rights as they have at an ordinary meeting of the Board.
- (4) Papers may be circulated among members for the purposes of subclause (1) by fax or other transmission of the information in the papers concerned.

15 First meeting

The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

Schedule 3 Savings and transitional provisions

(Section 131)

Part 1 Preliminary

1 Savings and transitional regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act and the *Superannuation (Axiom Funds Management Corporation) Act 1996*.
- (2) Any such savings or transitional provision may, if the regulations so provide, take effect on the date of assent to this Act or the *Superannuation (Axiom Funds Management Corporation) Act 1996* or a later date.
- (3) To the extent to which any such savings or transitional provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on the enactment of this Act and the Superannuation (Axiom Funds Management Corporation) Act 1996

2 Definitions

In this Part:

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action, and documents.

business undertaking of a body means all the assets, rights and liabilities of the body.

Corporation means the State Superannuation Investment and Management Corporation constituted by the *Superannuation Administration Act 1991*.

liabilities means all liabilities, debts and obligations (whether present or future and whether vested or contingent).

PSES Board means the Public Sector Executives Superannuation Board constituted by the *Public Sector Executives Superannuation Act 1989*.

SAS Board means the State Authorities Superannuation Board continued by the *Superannuation Administration Act 1991*.

State tax means application or registration fees, stamp duty or any other tax, duty, fee or charge imposed by any Act or law of the State.

the 1991 Act means the *Superannuation Administration Act 1991*.

transferred employee means a member of staff of the SAS Board, the PSES Board or the Corporation transferred by order under clause 16.

3 State Authorities Superannuation Board

- (1) A person who, immediately before the repeal of the 1991 Act, held office as a trustee of the SAS Board:
 - (a) ceases to hold that office, and
 - (b) is eligible (if otherwise qualified) to be appointed as a member of the STC Board or the FTC Board under this Act.
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

4 References to State Authorities Superannuation Board

On and from the repeal of the 1991 Act, a reference in any Act (other than this Act) or in any instrument made under any Act or in any other instrument of any kind to the State Authorities Superannuation Board is to be read:

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- (a) as a reference to STC, if the reference is to the Board in its capacity as trustee of, or in relation to any of its functions relating to, any of the STC funds or the STC schemes, and
 - (b) as a reference to FTC, if the reference is to the Board in its capacity as trustee of, or in relation to any of its functions relating to, the First State Superannuation Scheme or the First State Superannuation Fund established under the *First State Superannuation Act 1992*.

5 State Superannuation Investment and Management Corporation

- (1) A person who, immediately before the repeal of the 1991 Act, held office as a director of the Board of the Corporation:
 - (a) ceases to hold that office, and
 - (b) is eligible (if otherwise qualified) to be appointed as a member of the STC Board or the FTC Board under this Act or the AFMC Board under the *Superannuation (Axiom Funds Management Corporation) Act 1996*.
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.
- (3) A person who holds office as the Managing Director of the Corporation and who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office under the *Public Sector Management Act 1988*.

6 References to State Superannuation Investment and Management Corporation

On and from the repeal of the 1991 Act, a reference in any Act (other than this Act) or in any instrument made under any Act or in any other instrument of any kind to the State Superannuation Investment and Management Corporation is to be read:

- (a) as a reference to AFMC, if the reference to the Corporation relates to any of its functions relating to the investment of any of the STC or FTC funds or related functions, or

- (b) as a reference to SAA, if the reference relates to any of its functions relating to the administration of the STC schemes or the First State Superannuation Scheme established under the *First State Superannuation Act 1992*.

7 Public Sector Executives Superannuation Board

- (1) A person who, immediately before the repeal of Part 2 of the *Public Sector Executives Superannuation Act 1989* by this Act, held office as a member of the PSES Board:
 - (a) ceases to hold that office, and
 - (b) is eligible (if otherwise qualified) to be appointed as a member of the FTC Board or the STC Board under this Act.
- (2) A person who so ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.

8 References to Public Sector Executives Superannuation Board

On and from the repeal of Part 2 of the *Public Sector Executives Superannuation Act 1989* by this Act, a reference in any Act (other than this Act) or in any instrument made under any Act or in any other instrument of any kind to the Public Sector Executives Superannuation Board is to be read as a reference to FTC.

9 Trustees' role

- (1) For the avoidance of doubt, it is declared that STC and its predecessors have always held the STC funds in trust for the persons entitled to receive benefits under the STC schemes.
- (2) For the avoidance of doubt, it is declared that FTC and its predecessors have always held the FTC funds in trust for the persons entitled to receive benefits under the FTC schemes.

10 Assets of SAS Board and PSES Board

- (1) Any assets, rights or liabilities that are part of the business undertaking of the SAS Board or the PSES Board may be transferred to STC, FTC, AFMC or SAA, as directed by the Minister by order in writing.

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- (2) An order under this section may be made before, on or after the commencement of any provision of this Act or the *Superannuation (Axiom Funds Management Corporation) Act 1996*.
 - (3) An order may specify the consideration on which the order is made and the value or values at which the assets, rights or liabilities are transferred.

11 Assets of the Corporation

- (1) Any assets, rights or liabilities that are part of the business undertaking of the Corporation are to be transferred to STC, FTC, AFMC or SAA, as directed by the Minister by order in writing.
- (2) An order under this section may be made before, on or after the commencement of any provision of this Act or the *Superannuation (Axiom Funds Management Corporation) Act 1996*.
- (3) An order may specify the consideration on which the order is made and the value or values at which the assets, rights or liabilities are transferred.

12 Vesting of undertaking

- (1) When any part of the business undertaking of the SAS Board, the PSES Board or the Corporation is transferred by an order made under clause 10 or 11, the following provisions have effect (subject to the order directing the transfer):
 - (a) the assets of the SAS Board, the PSES Board or the Corporation comprised in that part of the undertaking vest in the transferee by force of this clause and without the need for any conveyance, transfer, assignment or assurance,
 - (b) the rights and liabilities of the SAS Board, the PSES Board or the Corporation comprised in that part of the undertaking become by force of this clause the rights and liabilities of the transferee,

- (c) all proceedings relating to that part of the undertaking commenced before the transfer by or against the SAS Board, the PSES Board or the Corporation and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
 - (d) anything done or omitted to be done in relation to that part of the undertaking before the transfer by, to or in respect of the SAS Board, the PSES Board or the Corporation is (to the extent that it has any force or effect) taken to have been done or omitted to be done by, to or in respect of the transferee,
 - (e) a reference in any other Act, in any instrument, made under any Act or in any document of any kind to the SAS Board, the PSES Board or the Corporation is (to the extent that it relates to that part of the undertaking but subject to the regulations) to be read as, or as including, a reference to the transferee.
- (2) The operation of this clause is not to be regarded:
- (a) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (b) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (3) The operation of this section is not to be regarded as an event of default under any contract or other instrument.
- (4) No attornment to the transferee by a lessee from the SAS Board, the PSES Board or the Corporation is required.
- (5) Any instrument executed only for:
- (a) a purpose ancillary to or consequential on the operation of this clause, or
 - (b) the purpose of giving effect to this clause,
- is not chargeable with State tax.

13 Delegations

- (1) A delegation effected by the SAS Board of a function related to the STC schemes or STC funds, and in force immediately before the repeal of the 1991 Act, is taken to have been effected under this Act by STC (but only if STC could have lawfully made the delegation under this Act).
- (2) A delegation effected by the SAS Board of a function related to the FTC schemes or FTC funds, and in force immediately before the repeal of the 1991 Act, is taken to have been effected under this Act by FTC (but only if FTC could have lawfully made the delegation under this Act).
- (3) A delegation effected by the PSES Board of a function related to the Public Sector Executives Superannuation Scheme established under the *Public Sector Executives Superannuation Act 1989*, and in force immediately before the repeal of Part 2 of the *Public Sector Executives Superannuation Act 1989*, is taken to have been effected under this Act by FTC (but only if FTC could have lawfully made the delegation under this Act).
- (4) A delegation continued by this clause may be revoked or amended in the same way as any delegation made under this Act.

14 Annual reports and other matters of trustee

- (1) If, before the commencement of this clause, the SAS Board, or the PSES Board, has not complied with a requirement made by or under an Act relating to an annual report or a statement of accounts, being a report or statement required to be made in respect of a period which expired before that day, the relevant trustee must comply with the requirement despite the repeal.
- (2) The relevant trustee is STC, in relation to a report or statement relating to an STC fund or scheme, or FTC, in relation to a report or statement relating to an FTC fund or scheme.

- (3) The first annual report and statement of accounts of STC and FTC after the commencement of the relevant provisions of this Act must deal with any matters relating to the SAS Board or the PSES Board (other than matters dealt with in the report referred to in subclause (1)) that would have been required to be included in an annual report or statement of accounts of the SAS Board or the PSES Board had the former Act and provisions relating to the PSES Board contained in the *Public Sector Executives Superannuation Act 1989* not been repealed.

15 Annual reports and other matters of Corporation

- (1) If, before the repeal of the 1991 Act, the Corporation has not complied with a requirement made by or under an Act relating to an annual report or a statement of accounts, being a report or statement required to be made in respect of a period which expired before that day, SAA must comply with the requirement despite the repeal.
- (2) The first annual report and statement of accounts of SAA after the commencement of the relevant provisions of this Act must deal with any matters relating to the Corporation (other than matters dealt with in the report referred to in subclause (1)) that would have been required to be included in an annual report or statement of accounts of the Corporation had the former Act not been repealed.

16 Transfer of staff from repealed bodies

- (1) The Minister may, by order in writing, direct that a member of staff of the SAS Board is to be taken to be an employee of FTC or STC by virtue of this clause.
- (2) The Minister may, by order in writing, direct that a member of staff of the PSES Board is to be taken to be an employee of FTC or STC by virtue of this clause.
- (3) The Minister may, by order in writing, direct that a member of staff of the Corporation is to be taken to be an employee of SAA or AFMC by virtue of this clause.

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- (4) In this section, a reference to a member of staff includes a reference to an employee of another Government agency whose services are being made use of by virtue of the 1991 Act or the *Public Sector Executives Superannuation Act 1989*.

17 Conditions of employment of transferred employees

- (1) Except as otherwise provided by this Act or the regulations, the terms and conditions of employment of a transferred employee (including conditions as to remuneration and duration of employment) are to be the same as they were immediately before the commencement of the relevant order under clause 16 and are to continue to have effect.
- (2) Neither the contract of employment nor the period of employment of each transferred employee is taken to have been broken by the operation of this Act for the purposes of any law, award or agreement relating to the employment of that employee.
- (3) The transfer of a transferred employee does not affect any right to leave of absence (including long service leave) accrued before the repeal of the 1991 Act.
- (4) The terms and conditions of employment referred to in subclause (1) may be varied but only by the means by which they could be varied immediately before the commencement of this clause.

18 Superannuation—employer's liability

- (1) If, before the repeal of the 1991 Act:
- (a) a person died or retired or was retrenched, and
- (b) at the date of death, retirement or retrenchment:
- (i) the person was an employee of the SAS Board, the PSES Board or the Corporation, or
- (ii) the SAS Board, the PSES Board or the Corporation was, for the purposes of any superannuation scheme, the employer of the person,

then, for the purposes of the Act by or under which the scheme is established, the relevant body is, on and after the day on which the 1991 Act is repealed, taken to be the employer in the service of whom the person was employed at the date of death, retirement or retrenchment for the purposes of any provision in that Act under which payments may be required to be made by the employer of that person in respect of that scheme.

- (2) For the purposes of this section, the relevant body:
 - (a) in relation to a person whose employer was the SAS Board is STC, and
 - (b) in relation to a person whose employer was the Corporation is SAA, and
 - (c) in relation to a person whose employer was the PSES Board is FTC.

19 Appeals

- (1) An appeal pending immediately before the repeal of the 1991 Act under any provision of that Act may be dealt with and determined as if that Act had not been repealed.
- (2) Until the commencement of section 153 (1) (h) of the *Industrial Relations Act 1996*, a reference in section 40 or section 88 of this Act to the Industrial Relations Commission in Court Session is taken to be a reference to the Industrial Court.

20 Contracts

- (1) Any contract for the performance of services entered into with the SAS Board by another person or body (other than the Corporation), and in force immediately before the repeal of the 1991 Act and relating to the STC schemes, becomes, on the repeal of that Act, a contract for the performance of services entered into with STC.
- (2) Any contract for the performance of services entered into with the SAS Board or the PSES Board by another person or body (other than the Corporation), and in force immediately before the repeal of the 1991 Act and relating to the FTC schemes, becomes, on the commencement of this subclause, a contract for the performance of services entered into with FTC.

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- (3) Any contract for the performance of services entered into with the Corporation by another person or body (other than the SAS Board or the PSES Board), and in force immediately before the repeal of the 1991 Act and relating to the investment of the FTC or STC funds or related matters, becomes, on the repeal of that Act, a contract for the performance of services entered into with AFMC.
 - (4) Any contract for the performance of services entered into with the Corporation by another person or body (other than the SAS Board or the PSES Board), and in force immediately before the repeal of the 1991 Act and relating to the scheme administration of the FTC or STC schemes or related matters, becomes, on the repeal of that Act, a contract for the performance of services entered into with SAA.

21 Effect of organisational changes

- (1) This section applies to the following:
 - (a) the repeal of the 1991 Act, the amendment of the *Public Sector Executives Superannuation Act 1989* by this Act and the operation of this Schedule, and
 - (b) the establishment of STC, FTC, SAA and AFMC, and
 - (c) any agreement or other arrangement entered into for purposes connected with a matter referred to in paragraph (a) or (b).
- (2) None of the matters or things referred to in subclause (1) are to be regarded:
 - (a) as a breach of a contract or of an arrangement, or
 - (b) as giving rise to any right or remedy by a party to a contract or other arrangement, or
 - (c) as a breach of confidence or a civil wrong.

22 Amalgamated funds

For the avoidance of doubt, it is declared that for any period during which superannuation funds were treated as one fund under:

- (a) section 20 of the 1991 Act before its amendment by the *Superannuation Administration Amendment Act 1995*, or
- (b) section 19 of the *Superannuation Administration Act 1987* before its repeal by the 1991 Act,

those funds were part of an amalgamated fund.

23 State Super Financial Services Limited

For the purposes of this Act, State Super Financial Services Limited is taken to be a company established by STC and STC is taken to have power to establish such a company.

24 Union representation

- (1) This clause applies to the following trade unions:
 - (a) The Federated Municipal and Shire Council Employees' Union of Australia, New South Wales Division,
 - (b) The Public Service Association of New South Wales.
- (2) Each trade union to which this clause applies:
 - (a) may have employees of SAA as members, and
 - (b) may represent the interests of employees of SAA in industrial matters,

whether or not any such power or authority is conferred by the rules of the union or any Act or law.

Schedule 4 Consequential amendments to other Acts

(Section 132)

4.1 First State Superannuation Act 1992 No 100

- [1] Sections 10, 11 (2), 12, 13 (1), 14 (1), 15, 18 (3), 19, 21, 22 (1), 23 (2), 24, 25 (2) and (3), 26, 27 (1), 28 (1) and (3), 29, 30, 31 (2), 32, 33, 34 (1) and (2), 36 (1), 37 (1) and (2), 38, 39, 42 (1), 43, 45 (1) and (3), 46 (1), 46A (1), 47 (4), 48 (2) and (3), 51 (1) (a), 54 (c), 56 (1), (2) and (3), 57, 60, 61, 62, 64 (1), 65, 67, 69, 70 (1), 71, 72, 73 (2), 74, 75 (2), (3) and (4), Schedule 2

Omit "the Board" wherever occurring. Insert instead "FTC".

- [2] Sections 11, 14 (2), 17, 20, 24 (1), 25, 28, 30, 30B, 32 (2), 34 (1), 35, 41, 45 (2), 49, 50, 51 (1), 52, 55 (1), 56, 57 (1) and (2), 59, 64 (2), 65, 67, 70, 73 (1), 75 (1)

Omit "The Board" wherever occurring. Insert instead "FTC".

- [3] Sections 60 (2), 61

Omit "*Superannuation Administration Act 1991*" wherever occurring.

Insert instead "*Superannuation Administration Act 1996*".

- [4] Schedule 1 Employers

Omit "State Superannuation Investment and Management Corporation" from Part 1.

Insert instead:

Superannuation Administration Authority of New South Wales
Axiom Funds Management Corporation

[5] Schedule 1, Part 1 (The Crown and other employers)

Omit "State Authorities Superannuation Board".

Insert instead:

FSS Trustee Corporation

SAS Trustee Corporation

[6] Schedule 2 Employees who are not full members of the Fund

Omit "associated superannuation scheme (within the meaning of the *Superannuation Administration Act 1991*)" from clause 1 (1) (a).
Insert instead "FTC scheme or an STC scheme (within the meaning of the *Superannuation Administration Act 1996*)".

[7] Dictionary

Omit the definition of *Board*.

[8] Dictionary

Insert in alphabetical order:

FTC means the FSS Trustee Corporation established under the *Superannuation Administration Act 1996*.

4.2 Freedom of Information Act 1989 No 5

[1] Schedule 2 Exempt bodies and offices

Omit:

The State Authorities Superannuation Board—investment functions.

The State Superannuation Investment and Management Corporation—investment functions.

[2] Schedule 2

Insert in alphabetical order:

The FSS Trustee Corporation—investment functions.

The SAS Trustee Corporation—investment functions.

4.3 Government and Related Employees Appeal Tribunal Act 1980 No 39

[1] Schedule 4 Employing authorities

Omit:

State Authorities Superannuation Board.

State Superannuation Investment and Management Corporation.

[2] Schedule 4

Insert in alphabetical order:

Axiom Funds Management Corporation.

FSS Trustee Corporation.

SAS Trustee Corporation.

Superannuation Administration Authority of New South Wales.

4.4 Industrial Relations Act 1996

Omit section 153 (1) (h). Insert instead:

- (h) proceedings on a superannuation appeal under section 40 or 88 of the *Superannuation Administration Act 1996*,

4.5 Land Tax Management Act 1956 No 26

Section 10B Taxation of land owned by certain authorities

Omit “the State Authorities Superannuation Board” from section 10B (1) (a).

Insert instead “the FSS Trustee Corporation and the SAS Trustee Corporation”.

**4.6 Local Government and other Authorities
(Superannuation) Act 1927 No 35**

[1] Section 3 Definitions

Omit the definition of *Administration Account*.

Insert instead:

Administration Account means the STC Administration Account maintained under the *Superannuation Administration Act 1996*.

[2] Section 3, definition of "Board"

Omit the definition. Insert instead:

Board means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

[3] Section 15CP Person eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit "Public Sector Executives Superannuation Board established under the *Public Sector Executives Superannuation Act 1989*" from section 15CP (5) (b).

Insert instead "FSS Trustee Corporation established under the *Superannuation Administration Act 1996*".

[4] Section 15CP (5) (c)

Omit the paragraph. Insert instead:

- (c) FTC must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund under the *Public Sector Executives Superannuation Act 1989*.

4.7 New South Wales Retirement Benefits Act 1972 No 70

Section 3 Definitions

Omit the definition of *Board* from section 3 (1).

Insert instead:

Board means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

4.8 Police Association Employees (Superannuation) Act 1969 No 33

[1] Section 2 Definitions

Insert in alphabetical order in section 2 (1):

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

[2] Section 2 (1)

Omit the definition of *Board*.

[3] Sections 2B (4) and (7), 3 (2AA), (2AB), (2B), (5), (5A), (6A) and (11D), 4 (2), (3), (4), (6) and (7)

Omit "the Board" wherever occurring. Insert instead "STC".

[4] Sections 3 (2) and 4 (4)

Omit "The Board" wherever occurring. Insert instead "STC".

4.9 Police Regulation (Superannuation) Act 1906 No 28

[1] Section 1 Short title, commencement and definitions

Insert in alphabetical order in section 1 (2):

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

- [2] Sections 1AA (4) and (7), 2H (3), 2I, 3 (1) and (2), 5A (2), (3), (3A) and (5), 5AB (1), 7 (3), 7AA (2B), 8 (1), 9A (4), 9B (1A), (3), (5), (6AB), (6AC), (6A), (9), (10), (11), (12), (13) and (14), 9C (1), (2), (3) and (4), 10 (1A), (1AA) and (1D), 10B (1) and (2), 10C, 11C (7), 12 (1), (1AA), (1A), (1C), (3B) and (4), 12A (2) and (4), 12B (2) and (3), 12C, 12D (1) and (4), 12E (1), 13 (1) and (2A), 14, 14AA (1), 14AB (1), (2), (3), (4), (6) and (7), 14AC (1), (2) and (3), 14J (3) and (5), 14K (3) and (5), 14L, 14M (2), 15 (3), 15AA, 16 (1), (2) and (4), 17 (1), (1A) and (4), 17A (2), (3), (4) (b), (7) and (8), 18A (1), 18B, 20, 21 (1), (4), (5) and (6), 23 (3), 23A, 23B (1) and (2), 23C

Omit "the Board" wherever occurring. Insert instead "STC".

- [3] Sections 2J, 3 (3), 5AB (2), 8 (2), 10 (1D), 10B (2A) and (2B), 12 (4) and (5), 12A (5), 12D (1), (2) and (3), 15 (1), 17A (4), 18C, 18D, 20 (2), 21 (3), 23A, 23B (4)

Omit "The Board" wherever occurring. Insert instead "STC".

- [4] Section 3 Police Superannuation Fund

Omit "section 22 of the *Superannuation Administration Act 1991*" from section 3 (3) (c).

Insert instead "section 85 of the *Superannuation Administration Act 1996*".

- [5] Section 5AA

Insert after section 5:

5AA Source of administration costs payments

The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from the Fund.

[6] Section 5B Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 5B (6) (b). Insert instead:

- (b) STC must, as soon as practicable thereafter, pay to the FSS Trustee Corporation established under the *Superannuation Administration Act 1996* the amount of the benefit to which the contributor is entitled, and

[7] Section 5B (6) (c)

Omit the paragraph. Insert instead:

- (c) the FSS Trustee Corporation must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund under the *Public Sector Executives Superannuation Act 1989*, and

[8] Sections 7 (3), 7AA (2B), 9B (6A), 10 (1AA), 12 (3B), 13 (2A), 14 (3), 14AA (1) (d), 14J (5), 14K (5)

Omit “the Board’s” wherever occurring. Insert instead “STC’s”.

[9] Sections 8 (3), 10B (2C)

Omit “State Authorities Superannuation Board” wherever occurring. Insert instead “STC”.

**4.10 Public Authorities (Financial Arrangements) Act 1987
No 33**

[1] Schedule 1 Authorities

Omit “Public Sector Executives Superannuation Board of New South Wales.”.

[2] Schedule 1

Omit "State Authorities Superannuation Board."

[3] Schedule 1

Omit "State Superannuation Investment and Management Corporation."

[4] Schedule 1

Insert in alphabetical order:

Axiom Funds Management Corporation.

FSS Trustee Corporation.

SAS Trustee Corporation.

Superannuation Administration Authority of New South Wales.

4.11 Public Authorities Superannuation Act 1985 No 41

Section 5 Definitions

Omit the definition of *Board* from section 5 (1). Insert instead:

Board means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

4.12 Public Finance and Audit Act 1983 No 152

[1] Schedule 2 Statutory bodies

Omit "Public Sector Executives Superannuation Board of New South Wales."

[2] Schedule 2

Omit "State Authorities Superannuation Board."

[3] Schedule 2

Omit "State Superannuation Investment and Management Corporation."

[4] Schedule 2

Insert in alphabetical order:

Axiom Funds Management Corporation.

FSS Trustee Corporation.

SAS Trustee Corporation.

Superannuation Administration Authority of New South Wales.

4.13 Public Sector Executives Superannuation Act 1989 No 106

[1] Section 3 Definitions

Omit the definition of *Board* from section 3 (1).

[2] Section 3 (1)

Insert in alphabetical order:

FTC means the FSS Trustee Corporation established under the *Superannuation Administration Act 1996*.

[3] Sections 4A (4) and (7), 24 (2) (b) and (3) (a), 25, 26 (1) and (3), 28 (2) and (3), 31, 32 (2), 33 (1) and (2), 34 (1), (2), (3), (5) and (6), 35 (1), (2), (3), (4) and (6), 36, 37 (1), (3) and (4), 38 (1), (3) and (4), 39 (2), 40, 41 (1), (2), (3) and (4), 42, 43, 43A (4), 44, 44A (1), 45, 46 (1), (3) and (4), 47, 48 (1) and (3), 49 (1) and (4), 49A (1), (5), (6) and (8), 50 (1), (3), (4) and (6), 51 (2), (3), (4) and (6), 52 (4), (6) and (7), 52A, 53 (1) and (2), 55 (1), 56 (2) and (3), 59, 60, 61 (1) and (3), 62 (2), (3), (4), (5) and (6), 63 (4), 64, 65, 66, 67 (1) and (3), 68 (1), Schedule 4

Omit "the Board" wherever occurring. Insert instead "FTC".

[4] Part 2 The Public Sector Executives Superannuation Board

Omit the Part.

[5] Sections 22 (1), (2) and (3), 23 (1), 24 (1), 25 (1), 26 (1) and (2), 28 (1), 30 (1), 32, 33 (3), 36 (2), 39 (1), 44A (2), 45, 49 (3), 51 (2A), 53 (3), 54, 59 (6), 61 (1), 65 (1), 67 (2) and (3)

Omit "The Board" wherever occurring. Insert instead "FTC".

[6] Section 22 Establishment of the Fund

Omit "Management Account (subject to the terms and conditions of any contract or arrangement made or entered into under section 9)" from section 22 (3) (a).

Insert instead "FTC Administration Account established under the *Superannuation Administration Act 1996* (subject to the terms and conditions of any contract or arrangement made or entered into under that Act)".

[7] Section 24 Additional Benefit Management Fund

Omit "section 9 or 10" from section 24 (2) (b) where firstly occurring.

Insert instead "sections 12 and 20 of the *Superannuation Administration Act 1996*".

[8] Section 24 (3)

Omit "section 9 or 10" where firstly occurring.

Insert instead "sections 12 and 20 of the *Superannuation Administration Act 1996*".

[9] Section 24 (2) (b) and (3) (a)

Omit "a contract or arrangement under section 9 or 10" wherever occurring.

Insert instead "any such contract or arrangement".

[10] Section 29 Management Account and costs

Omit the section.

[11] Section 30 Management costs arising from preserved benefits

Omit section 30 (3). Insert instead:

- (3) An amount so debited is required to be paid to the FTC Administration Account or otherwise in accordance with any relevant contract or arrangement made or entered into under section 12 of the *Superannuation Administration Act 1996*.

[12] Sections 47 (3), 48 (3), 49 (4), 49A (8), 50 (3), 51 (4) (c) and (6)

Omit “the Board’s” wherever occurring. Insert instead “FTC’s”.

[13] Section 59 Limits on liability of FTC and associated persons

Omit section 59 (2) and (3).

[14] Section 69 Payment where beneficiary incapable

Omit the section.

[15] Section 70 Service of documents

Omit section 70 (1) and (3).

[16] Section 71 Recovery of charges etc by Board

Omit the section.

[17] Section 73 Review of operation of Act etc

Omit the section.

[18] Schedule 2 Provisions relating to members of Board

Omit the Schedule.

[19] Schedule 3 Provisions relating to Board procedure

Omit the Schedule.

4.14 Public Sector Management Act 1988 No 33

[1] Schedule 3 Declared authorities

Omit "State Authorities Superannuation Board."

[2] Schedule 3

Omit "State Superannuation Investment and Management Corporation."

[3] Schedule 3

Insert in alphabetical order:
FSS Trustee Corporation.
SAS Trustee Corporation.
Superannuation Administration Authority of New South Wales.

[4] Schedule 3A Chief executive positions

Omit "Managing Director of the State Superannuation Investment and Management Corporation" from Part 3.

[5] Schedule 3A, Part 3

Insert in alphabetical order:
Chief Executive of the FSS Trustee Corporation.
Chief Executive of the SAS Trustee Corporation.
Chief Executive of the Superannuation Administration Authority of New South Wales.

[6] Schedule 3B Senior executive positions

Omit the matter relating to the State Superannuation Investment and Management Corporation from Part 1.

[7] Schedule 3B, Part 2

Omit "Any full-time director of the State Superannuation Investment and Management Corporation (other than the managing director of the Corporation)".

4.15 State Authorities Non-contributory Superannuation Act 1987 No 212

[1] Section 3 Definitions

Omit the definition of *Board* from section 3 (1).

[2] Section 3 (1)

Insert in alphabetical order:

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

[3] Sections 3 (1) (definition of "resign"), 4 (1) and (3), 4A (4) and (7), 9 (1), 10 (1), (2), (4) and (6), 10A (1) and (2), 11, 13 (1) and (2), 14, 15, 16, 17 (1), 18 (1), 18A (1), 19 (1), 19A (1), 20, 20A (3), 21, 22 (4), 23, 24, 24B (2), (3), (4), (6) and (7), 25, 25A, 26, 26A (1), 26B (1), 26H (1), (3), (4), (5) and (6), 27AA, 27AB (3) and (5), 28, 29 (1) and (3), 30 (4), 31, 32, 32A (1), 33 (1), 33A

Omit "the Board" wherever occurring. Insert instead "STC".

[4] Sections 4 (1B), 9 (1), (2) and (3), 10 (1), (2) and (6), 11, 13 (3), 15 (4), 18A (2), 19 (2), 19A (2), 24B (4), 26, 26G (2), 26H (1) and (2), 27AB (1), (2) and (4), 29 (1), 31A, 32 (1), 33A

Omit "The Board" wherever occurring. Insert instead "STC".

[5] Section 9 Funds etc

Omit section 9 (3) (a). Insert instead:

- (a) by transfer from the fund to the STC Administration Account maintained under the *Superannuation Administration Act 1996* administration costs incurred by STC,

[6] Sections 10 (4), 25 (1)

Omit "*Superannuation Administration Act 1991*" wherever occurring.

Insert instead "*Superannuation Administration Act 1996*".

[7] Section 11A

Insert after section 11:

11A Source of administration costs payments

- (1) The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from employer reserves established in accordance with this Act.
- (2) The administration costs payable in respect of preserved benefits are to be paid from employees' accounts established in accordance with this Act.

[8] Sections 22 (4), 26A (1), 27AB (4)

Omit "the Board's" wherever occurring. Insert instead "STC's".

[9] Section 26H Transfers of contributions to FSS Scheme

Omit "The Board's" from section 26H (4). Insert instead "STC's".

[10] Schedule 1 Employers

Omit "State Superannuation Investment and Management Corporation" from Part 1.

Insert instead:

Axiom Funds Management Corporation

Superannuation Administration Authority of New South Wales

[11] Schedule 1, Part 1

Omit "State Authorities Superannuation Board". Insert instead:
FSS Trustee Corporation
SAS Trustee Corporation

4.16 State Authorities Superannuation Act 1987 No 211

[1] Section 3 Definitions

Omit the definition of *Administration Account* from section 3 (1).
Insert instead:

Administration Account means the STC Administration Account maintained under the *Superannuation Administration Act 1996*.

[2] Section 3 (1)

Insert in alphabetical order:

STC means the SAS Trustee Corporation established under the *Superannuation Administration Act 1996*.

[3] Sections 4 (1) and (3), 4A (4) and (7), 11 (4), 12 (3) (c), 14 (4) and (6), 14A (1) and (2), 15, 16 (1), 18 (1) and (2), 19 (1), (2), (3), (6), (7) and (8), 20 (1) and (3), 21 (2), (3) and (4), 22, 23, 24, 25 (2), (3), (4) and (5), 27 (1), (2), (4), (5) and (6), 28 (1) and (4), 29 (1) and (4), 30 (2), (3), (4) and (5), 30A (5) and (6), 31, 32, 34, 34A (1), 35A (1), 37 (1) and (3), 38 (1) and (3), 39 (1) and (4), 40 (1) and (4), 41 (1) and (2A), 42 (1) and (2A), 43 (1), (1A), (3), (4), (5), (6) and (7A), 43AAA (1) and (3), 43A, 43AB, 44 (1) and (2), 45A (1), 45B (1), 45C (1), (2) and (3), 45D (3), 45E, 46AC (3) and (5), 47, 48, 49, 50 (4), 51, 52, 53, 53A, 54 (1), 54A, Schedule 5 (clauses 3 (2) (a) and 4C)

Omit "the Board" wherever occurring. Insert instead "STC".

- [4] **Sections 4 (1B), 11 (3) and (4), 12 (1), 13 (1), 14 (1), (2) and (6), 15, 16, 18 (3), 21 (2), 25 (4), 32 (4), 34A (2), 35 (2), 35A (2), 39 (3), 40 (3), 42A (3), 43 (7B), 43AB (4), 44 (3), 45, 45D (1), 46AC (1), (2) and (4), 48 (1), 51A, 52 (1), 54A**

Omit "The Board" wherever occurring. Insert instead "STC".

- [5] **Sections 11 (4) (a), 12 (3) (c), 14 (4) (b)**

Omit "*Superannuation Administration Act 1991*" wherever occurring.

Insert instead "*Superannuation Administration Act 1996*".

- [6] **Section 14B**

Insert after section 14A:

14B Source of administration costs payments

- (1) The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from employer reserves established in accordance with this Act.
- (2) The administration costs payable in respect of preserved benefits are to be paid from employees' accounts established in accordance with this Act.
- (3) The administration costs payable in respect of pensions provided under this Act are to be paid from employees' accounts established in accordance with this Act.

- [7] **Sections 27 (6) (b), 37 (3), 38 (3), 39 (4), 40 (4), 41 (2A), 42 (2A), 43 (7A), 45A (1) (d), 46AC (4)**

Omit "the Board's" wherever occurring. Insert instead "STC's".

- [8] **Section 28 Variations of contribution rate: hardship**

Omit "The Board's" from section 28 (5). Insert instead "STC's".

[9] Section 30A Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit “the Public Sector Executives Superannuation Board established under the *Public Sector Executives Superannuation Act 1989*” from section 30A (6) (b).

Insert instead “the FSS Trustee Corporation established under the *Superannuation Administration Act 1996*”.

[10] Section 30A (6) (c)

Omit the paragraph. Insert instead:

- (c) STC must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund established under the *Public Sector Executives Superannuation Act 1989*.

[11] Schedule 1 Employers

Omit the following from Part 1:

State Superannuation Investment and Management Corporation
State Authorities Superannuation Board

[12] Schedule 1, Part 1

Insert in alphabetical order:

Axiom Funds Management Corporation
FSS Trustee Corporation
SAS Trustee Corporation
Superannuation Administration Authority of New South Wales

4.17 State Public Service Superannuation Act 1985 No 45

[1] Section 5 Definitions

Omit “*Superannuation Administration Act 1987*” from the definition of *administration levy* in section 5 (1).

Insert instead “*Superannuation Administration Act 1996*”.

[2] Section 5 (1)

Omit the definition of *Board*. Insert instead:

Board means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

4.18 Superannuation Act 1916 No 28

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

STC means the SAS Trustee Corporation continued under the *Superannuation Administration Act 1996*.

[2] Sections 3 (1) (definitions of "Exit day", "Part-time employee"), (2), (3) and (9), 3AA (4) and (7), 3A (1) and (3), 4 (4) (a), 5 (3), (4) and (5), 6 (2) (b), 7 (1), 8 (1) and (2), 10 (1) and (3), 10B, 10C, 10D (3) and (4), 10R (1), 10SA, 10T (1), (2) and (5), 10W (5), 10WA (1) and (2), 10WB (3), 10WC (16), 10Z (3), 10AH (1), (2) and (3), 10AJ, 10AK (2), 10AL, 10AM, 10AN, 10AO (1), 12 (1), 12A (1), 12B (1), (3), (3C) and (4), 12BA (1) and (4), 12C (2), (3), (6) and (7), 12CA (2) and (3), 15A (2), (5), (6), (6AB), (6AD) and (6A), 19 (3), (4) and (5), 19A, 20, 20A, 20C, 21 (4), 21A (2), (3), (6), (7) and (9), 21AA (5) and (6), 21C (7), (9), (11), (12), (14) and (19), 21D (3), 22 (2), 23B, 23BA (3), 26A, 27 (3), 28A (9), 28AA (5) and (5A), 29 (2AA), (4), (4A) and (8), 32A (1A) and (2), 32C, 33A (2), (4) and (5), 33B (1), (3) and (6), 37 (1), (2), (4A) and (12), 37A (4), (7) and (10A), 38A (1) and (6), 38B (3), (4) and (5), 38C (1), (3), (4) and (8), 39, 40 (2) and (3), 41, 42, 43 (2), 43A, 46, 46B, 47B (2), 47C (1), (3), (7) and (8), 47D (8), 50, 51 (1), 52, 52A (3) and (6), 52C (1), 52D (1), 52E (1), (3), (4) and (5), 52EA (2), 52F (1), 52H (2), 52I, 52W (4) and (5), 52X (2), 52Y, 61, 61A, 61M (4), 61N (4), 61RA (1), 61RB, 61RC, 61RD (7), 61U (3), 61V, 64 (3) and (5), 84A, 85, 86 (1), 86A, 87, 88 (4), 88A, 89A, 91, 91A, 99 (4) and (5), 100 (4) and (5), 107 (2), 108, Schedule 17, Schedule 19, Schedule 21, Schedule 23

Omit "the Board" wherever occurring. Insert instead "STC".

[3] Section 3 (1)

Omit the definition of *Financial year*.

Insert instead:

Financial year means the year commencing 1 July.

[4] Sections 3A (1B), 4 (2), (3) and (4), 5 (1) and (2), 6, 7 (2), 8 (3), 9, 10 (4), 10D (2) and (3), 10K (1), 10L (1), 10M (1), 10T (1), (3) and (5), 10AJ (4), 10AO (2), 12B (3A), 12BA (3), 12C (4), 15A (6AA), 19A, 20 (3), 33AA, 33A (3), 38C (5), 39 (1) and (2), 46B (4), 52EA (1), 52I (2A), 52W (3), 52X (2), 61 (1), 61A (2), 61U (1), 64 (1), (2) and (4), 85, 86A (5), 87, 89, 91A (3) and (5), Schedule 21 (clause 4)

Omit "The Board" wherever occurring. Insert instead "STC".

[5] Section 5 Board required to establish certain reserves within the Fund

Omit "The Board's" from section 5 (6). Insert instead "STC's".

[6] Sections 6 (2) (b) and 7 (2) (b)

Omit "the Board under the *Superannuation Administration Act 1991*" wherever occurring.

Insert instead "STC under the *Superannuation Administration Act 1996*".

[7] Section 8A

Insert after section 8:

8A Source of administration costs payments

- (1) The administration costs (including costs related to investment management) payable in respect of the superannuation scheme established under this Act are to be paid from employer reserves and the contributors' reserve in the Fund.
- (2) The administration costs payable in respect of preserved benefits are to be paid from employer reserves in the Fund.

- (3) The administration costs payable in respect of pensions provided under this Act are to be paid from employer reserves in the Fund.

[8] Section 20AB Contributor eligible for membership or a member of the Public Sector Executives Superannuation Scheme

Omit section 20AB (6) (b). Insert instead:

- (b) STC must, as soon as practicable thereafter, pay to the FSS Trustee Corporation established under the *Superannuation Administration Act 1996* the amount of benefit to which the contributor is entitled, and

[9] Section 20AB (6) (c)

Omit the paragraph. Insert instead:

- (c) the FSS Trustee Corporation must credit the amount to the account established or to be established for the person in the Public Sector Executives Superannuation Fund established under the *Public Sector Executives Superannuation Act 1989*.

[10] Sections 27 (3), 28A (9), 28AA (5A), 29 (2AA), 37 (4A), 37A (10A), 38A (6), 47D (8), 52A (6), 52E (1) and (6), 61M (4), 61N (4), 61RA (1), 64 (4)

Omit "the Board's" wherever occurring. Insert instead "STC's".

[11] Schedule 3 List of employers

Omit the following from Part 1:

State Superannuation Investment and Management Corporation
State Authorities Superannuation Board

[12] Schedule 3, Part 1

Insert in alphabetical order:

Axiom Funds Management Corporation
FSS Trustee Corporation
SAS Trustee Corporation
Superannuation Administration Authority of New South Wales

**4.19 Transport Employees Retirement Benefits Act 1967
No 96**

Section 3 Definitions

Omit the definition of *Board* from section 3 (1). Insert instead:

Board means the SAS Trustee Corporation continued by
the *Superannuation Administration Act 1996*.

4.20 Treasury Corporation Act 1983 No 75

Section 4C Staff of Corporation and other persons

Omit “*Superannuation Administration Act 1991*” from section 4C
(3).

Insert instead “*Superannuation Administration Act 1996*”.

[Minister's second reading speech made in—
Legislative Assembly on 12 June 1996
Legislative Council on 20 June 1996]

