



New South Wales

Coal Industry (Joint Coal Board Employees' Superannuation) Transitional Regulation 2002

under the

Coal Industry Act 2001

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Coal Industry Act 2001*.

JOHN DELLA BOSCA, M.L.C.,
Minister for Industrial Relations

Explanatory note

The Joint Coal Board has been dissolved and its employees transferred to Coal Services Pty Limited (a company registered under the *Corporations Act 2001* of the Commonwealth). Some of those employees (being contributors to the State Superannuation Fund established under the *Superannuation Act 1916* or the State Authorities Superannuation Fund established under the *State Authorities Superannuation Act 1987*) have elected (pursuant to clause 6 of Schedule 1 to the *Coal Industry Act 2001*) to transfer to the electricity industry superannuation scheme (*the EISS*) established under section 127 of the *Superannuation Administration Act 1996*.

The object of this Regulation is to make provision with respect to the following:

- (a) the Division of the EISS into which the employees are transferred,
- (b) the effect of the transfer,
- (c) the transfer of certain assets from the SAS Trustee Corporation (the trustee of the superannuation schemes from which the employees are transferred) to the trustee of the EISS,
- (d) the determination of certain disputes.

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Explanatory note

This Regulation is made under the *Coal Industry Act 2001*, and, in particular, under clause 7 of Schedule 1 and section 53 (the general regulation-making power).

This Regulation is concerned with matters of a transitional nature.

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Clause 1 Coal Industry (Joint Coal Board Employees' Superannuation) Transitional Regulation 2002

Part 1 Preliminary

Coal Industry (Joint Coal Board Employees' Superannuation) Transitional Regulation 2002

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Coal Industry (Joint Coal Board Employees' Superannuation) Transitional Regulation 2002*.

2 Definitions

In this Regulation:

EISS has the same meaning as it has in Part 2 of Schedule 1 to the Act.

Note. Part 2 of Schedule 1 to the *Coal Industry Act 2001* defines **EISS** as the electricity industry superannuation scheme (which is the scheme established under a trust deed entered into by the Treasurer and Energy Industries Superannuation Scheme Pty Ltd, as trustee).

order of the Treasurer means an order of the Treasurer under clause 6 of Schedule 1 to the Act.

State Authorities Non-contributory Superannuation Scheme means the superannuation scheme established under the *State Authorities Non-contributory Superannuation Act 1987*.

State Authorities Superannuation Scheme means the superannuation scheme established under the *State Authorities Superannuation Act 1987*.

State Superannuation Scheme means the superannuation scheme established under the *Superannuation Act 1916*.

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

the Act means the *Coal Industry Act 2001*.

transfer day, in relation to a transferred employee, means the day on which the transferred employee is or was transferred to the EISS by order of the Treasurer.

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Clause 2

Preliminary

Part 1

transferred employee has the same meaning as it has in Part 2 of Schedule 1 to the Act.

Note. Part 2 of Schedule 1 to the *Coal Industry Act 2001* defines ***transferred employee*** as (effectively) a former member of the staff of the Joint Coal Board who was transferred, under clause 1 of Schedule 1 to that Act, to a company approved by the Minister and specified, in relation to the former member of staff, in an order of the Minister under section 5 (2) of the Act.

transferred member means a transferred employee who is or was transferred to the EISS by order of the Treasurer.

3 Notes

Notes in the text of this Regulation do not form part of this Regulation.

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Clause 4 Coal Industry (Joint Coal Board Employees' Superannuation) Transitional Regulation 2002

Part 2 Transferred members

Part 2 Transferred members

4 Transferred members

- (1) On and from the transfer day, the transferred members described in clauses 5, 6 and 7 are members of the following Divisions of the EISS, to the extent that they are described in the clause concerned:
 - (a) a transferred member described in clause 5 is a member of Division B,
 - (b) a transferred member described in clause 6 is a member of Division C,
 - (c) a transferred member described in clause 7 is a member of Division D.
- (2) A transferred member who is a transferred member described in more than one of clauses 5, 6 or 7 may be a member of one or more Divisions of the EISS.

5 Contributors to State Authorities Superannuation Scheme

For the purposes of clause 4, this clause describes a transferred member who, immediately before the transfer day, was a contributor to the State Authorities Superannuation Scheme.

6 Employees under State Authorities Non-contributory Superannuation Scheme

For the purposes of clause 4, this clause describes a transferred member who, immediately before the transfer day, was a contributing employee (within the meaning of section 26C of the *State Authorities Non-contributory Superannuation Act 1987*) under the State Authorities Non-contributory Superannuation Scheme and who is a person described in clause 5 or 7.

7 Contributors to State Superannuation Scheme

For the purposes of clause 4, this clause describes a transferred member who, immediately before the transfer day, was a contributor to the State Superannuation Scheme.

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Clause 8

Transferred members

Part 2

8 Effect of transfers

- (1) On transfer by order of the Treasurer:
 - (a) a transferred member ceases to have any entitlements, rights and obligations under the scheme from which the member was transferred, and
 - (b) the EISS applies in respect of the transferred member as if that member had become a member of the EISS on the dissolution date.
- (2) A right of appeal available to a transferred member before the transfer of the member by order of the Treasurer in respect of a matter involving a dispute with the trustee of the transferred member's previous superannuation scheme, and not finally dealt with before the transfer day, is to be dealt with in accordance with procedures under the EISS as if the dispute were with Energy Industries Superannuation Scheme Pty Ltd.

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Clause 9 Coal Industry (Joint Coal Board Employees' Superannuation) Transitional Regulation 2002

Part 3 Transfer of assets

Part 3 Transfer of assets

9 Transfer of assets to EISS

- (1) STC must transfer to Energy Industries Superannuation Scheme Pty Ltd, as the trustee of the EISS, assets equivalent to an amount calculated in accordance with this clause in respect of the assets of the STC scheme or fund attributable in respect of:
 - (a) the transferred members, and
 - (b) the Joint Coal Board employer reserves.
- (2) The assets are to be calculated and transferred in accordance with the transfer agreements entered into, with the concurrence of the Treasurer, by STC and Energy Industries Superannuation Scheme Pty Ltd in connection with the transfer of transferred members.
- (3) The transfer agreements referred to in subclause (2) are to provide for the transfer of all amounts standing to the credit of the employer reserves maintained by STC in relation to the Joint Coal Board, other than the amounts (determined by an actuary) required to fund the entitlements of those former employees of the Joint Coal Board who are not transferred members (being entitlements arising from their former employment with the Joint Coal Board under any superannuation scheme of which STC is trustee). This subclause does not limit the transfer agreements.
- (4) Every asset of STC in the nature of a right, entitlement, privilege, claim or chose in action against a person who is:
 - (a) a transferred member, or
 - (b) a claimant against STC through any such transferred member, that arises by virtue of the former employment by the Joint Coal Board of the transferred member is by this subclause transferred to Energy Industries Superannuation Scheme Pty Ltd as the trustee of the EISS.
- (5) Every asset of STC in the nature of a right, entitlement, privilege, claim or chose in action against the Joint Coal Board is by this subclause transferred to Energy Industries Superannuation Scheme Pty Ltd as the trustee of the EISS.

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Clause 9

Transfer of assets

Part 3

(6) Nothing in this clause transfers a right, entitlement, privilege, claim or chose in action for the enforcement of which any proceedings were instituted before the commencement of this subclause.

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Clause 10 Coal Industry (Joint Coal Board Employees' Superannuation) Transitional Regulation 2002

Part 4 Determination of disputes

Part 4 Determination of disputes

10 Disputes concerning entitlements or obligations of transferred members or associated beneficiaries under STC schemes

A dispute concerning the entitlements or obligations of a transferred member or beneficiary arising in respect of service by the transferred member, before the transfer day, with the Joint Coal Board in relation to the payment of benefits under an STC scheme in respect of that service is to be determined, not by STC, but by the trustee of the EISS.

BY AUTHORITY