



New South Wales

Superannuation Administration Amendment Act 2004 No 10

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New South Wales

Superannuation Administration Amendment Act 2004 No 10

Act No 10, 2004

An Act to amend the *Superannuation Administration Act 1996* with respect to the provision of information by, and the prudential monitoring of, the trustees of public sector superannuation funds; the internal management of those trustees; disputes concerning certain entitlements and obligations; and for other purposes. [Assented to 17 March 2004]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Superannuation Administration Amendment Act 2004*.

2 Commencement

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

3 Amendment of Superannuation Administration Act 1996 No 39

The *Superannuation Administration Act 1996* is amended as set out in Schedule 1.

4 Amendment of Regulations

The Regulations specified in Schedule 2 are amended as set out in that Schedule.

Schedule 1 Amendment of Superannuation Administration Act 1996

(Section 3)

[1] Long title

Omit “to confer on the Axiom Funds Management Corporation power to provide investment services for State public sector superannuation schemes and other schemes;”.

[2] Section 3 Objects of Act

Omit the note to the section.

[3] Section 4 Definitions

Omit the definition of *AFMC*.

[4] Section 4, definition of “Insurance and Superannuation Commissioner”

Omit the definition.

[5] Section 4, definition of “SAA”

Omit the definition.

[6] Section 15 Investment manager to be appointed

Omit section 15 (4).

[7] Section 15, note

Omit the note.

[8] Section 19 Administrator to be appointed

Omit section 19 (3)–(7).

[9] Section 42 Provision of information to relevant Ministers

Insert “administering this Act or the Minister administering the FTC fund Acts” after “Minister” where firstly occurring in section 42 (1).

[10] Section 42 (1)

Insert “concerned” after “Minister” where secondly occurring.

[11] Section 42 (2)

Omit “the Minister”. Insert instead “a Minister under this section”.

[12] Section 42 (3)

Insert after section 42 (2):

- (3) In this section, *FTC fund Acts* mean the Acts referred to in the definition of *FTC fund* in section 4.

[13] Section 42A Provision of information to Insurance and Superannuation Commissioner

Omit the section.

[14] Section 59 Investment manager to be appointed

Omit section 59 (4).

[15] Section 60 AFMC to be first investment manager

Omit the section.

[16] Section 64 Administrator to be appointed

Omit section 64 (3)–(7).

[17] Section 90 Provision of information to relevant Ministers

Insert “administering this Act or the Minister administering the STC fund Acts” after “Minister” where firstly occurring in section 90 (1).

[18] Section 90 (1)

Insert “concerned” after “Minister” where secondly occurring.

[19] Section 90 (2)

Omit “the Minister”. Insert instead “a Minister under this section”.

[20] Section 90 (3)

Insert after section 90 (2):

- (3) In this section, *STC fund Acts* mean the Acts referred to in the definition of *STC fund* in section 4.

[21] Section 90A Provision of information to Insurance and Superannuation Commissioner

Omit the section.

[22] Part 4

Insert after section 95:

Part 4 Monitoring superannuation authorities

96 Definitions

In this Part:

authorised person means a person appointed in writing by the Minister as an authorised person for the purposes of this Part.

97 Information to be given to Minister and authorised persons

- (1) The Minister or an authorised person may, by written notice to a superannuation authority, require the superannuation authority, within a specified period, to give to the Minister or authorised person in relation to a specified year of income the information, or a report on matters, specified in the notice.
- (2) A superannuation authority must comply with any notice given to it under subsection (1).
Maximum penalty: 50 penalty units.
- (3) The information or report required to be provided under subsection (1) must relate to the superannuation authority's exercise of its functions.
- (4) If the superannuation authority gives information or a report to the Minister or authorised person as required by this section, the Minister or authorised person must give to the superannuation authority a written statement that the information or report has been received.

98 Minister and authorised persons may require production of books

- (1) The Minister or an authorised person may, by written notice to a superannuation authority, require the superannuation authority to produce to the Minister or authorised person, at a reasonable time and reasonable place specified in the notice, any books relating to the affairs of the authority.
- (2) A superannuation authority must comply with a requirement referred to in subsection (1).
Maximum penalty: 50 penalty units.
- (3) The Minister or an authorised person may inspect, take extracts from and make copies of any book, or of any version of any book, produced to the Minister or authorised person under this section.

99 Access to premises

- (1) An authorised person may, for the purpose of monitoring the exercise by any superannuation authority of its functions under this Act:
 - (a) enter, at any reasonable time, any premises, other than any part of premises used for residential purposes, at which the authorised person has reason to believe books relating to the affairs of the superannuation authority are kept, and
 - (b) inspect any book found on the premises that relates to those affairs or that the authorised person believes on reasonable grounds to relate to those affairs, and
 - (c) make copies of, or take extracts from, any such book.
- (2) The power of entry conferred by subsection (1) may only be exercised while business is being carried on, or during the hours that business is usually carried on, at or from the premises.

[23] Section 119 Duties and liabilities of persons involved in management

Omit the definition of *superannuation authority* from section 119 (5).

Insert instead:

superannuation authority means FTC or STC.

[24] Section 119 (6) and (7)

Omit the subsections.

[25] Section 128 Provisions consequent on establishment of additional superannuation schemes

Omit “or AFMC (or its successors), or both” from section 128 (1) (h).

Insert instead “(or its successors)”.

[26] Schedule 1 Provisions relating to FTC Board

Omit “5 members” from clause 10. Insert instead “6 members”.

[27] Schedule 1, clause 12

Omit the clause. Insert instead:

12 Voting

A decision supported by two-thirds of the members of the Board is the decision of the Board.

[28] Schedule 2 Provisions relating to STC Board

Omit “5 members” from clause 11. Insert instead “6 members”.

[29] Schedule 2, clause 13

Omit the clause. Insert instead:

13 Voting

A decision supported by two-thirds of the members of the Board is the decision of the Board.

[30] Schedule 3 Savings and transitional provisions

Insert at the end of clause 1 (1):

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[31] Schedule 3, clause 2

Insert in alphabetical order:

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

SAA means the Superannuation Administration Authority formerly established by this Act, and dissolved by the *Superannuation Administration Authority Corporatisation Act 1999*.

Schedule 2 Amendment of Regulations

(Section 4)

2.1 Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Regulation 1997

[1] Clause 12 Effect of transfers

Insert after clause 12 (2):

- (3) A right of appeal available to a former member of or contributor to a FTC scheme or STC scheme in respect of a matter involving a dispute with the trustee of that scheme, and not finally dealt with before the transfer of assets and liabilities of the scheme in respect of the former member or contributor under clause 15 or 15A, is to be dealt with in accordance with procedures under the electricity superannuation scheme as if the dispute were with Energy Industries Superannuation Scheme Pty Ltd.

[2] Clause 40 Disputes concerning entitlements or obligations of transferred or former members or associated beneficiaries under FTC schemes

Insert “, former member of a FTC scheme” after “transferred member” where firstly occurring.

[3] Clause 40

Insert “or former member” after “transferred member” where secondly occurring.

[4] Clause 41 Disputes concerning entitlements or obligations of transferred or former members or associated beneficiaries under STC schemes

Insert “, former member of a STC scheme” after “transferred member” where firstly occurring.

[5] Clause 41

Insert “or former member” after “transferred member” where secondly occurring.

2.2 Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997

[1] Clause 13 Effect of transfers

Insert after clause 13 (2):

- (3) A right of appeal available to a former member of or contributor to a FTC scheme or STC scheme in respect of a matter involving a dispute with the trustee of that scheme, and not finally dealt with before the transfer of assets and liabilities of the scheme in respect of the former member or contributor under clause 16 or 16A, is to be dealt with in accordance with procedures under the local government superannuation scheme as if the dispute were with LGSS Pty Ltd.

[2] Clause 41 Disputes concerning entitlements or obligations of transferred or former members or associated beneficiaries under FTC schemes

Insert “, former member of a FTC scheme” after “transferred member” where firstly occurring.

[3] Clause 41

Insert “or former member” after “transferred member” where secondly occurring.

[4] Clause 42 Disputes concerning entitlements or obligations of transferred or former members or associated beneficiaries under STC schemes

Insert “, former member of a STC scheme” after “transferred member” where firstly occurring.

[5] Clause 42

Insert “or former member” after “transferred member” where secondly occurring.

[Second reading speech made in—

Legislative Assembly on 4 December 2003

Legislative Council on 10 March 2004]

BY AUTHORITY