



New South Wales

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

under the

Superannuation Administration Act 1996

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Superannuation Administration Act 1996*.

MICHAEL EGAN, M.L.C.,  
Treasurer

## Explanatory note

The object of this Regulation is to make transitional provisions consequent on the establishment, by trust deed, of the local government superannuation scheme. This Regulation provides for the transfer of employees currently employed by certain local government employers and currently covered by various State public sector superannuation schemes, and certain beneficiaries entitled to pensions under those schemes, from those superannuation schemes to the new scheme. This Regulation also provides for the following matters:

- (a) the Divisions of the new scheme to which the persons are to be transferred,
- (b) the transfer of assets by the trustees of the existing schemes to the new scheme for the purpose of meeting the assets attributable to the transferred employees,

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- (c) the provision of superannuation scheme administration services by the Superannuation Administration Authority to the new scheme,
- (d) the provision of superannuation investment management services by Axiom. Funds Management Limited.

This Regulation is made under the *Superannuation Administration Act 1996*, including sections 127 and 129.

This Regulation contains matters of a transitional nature.

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Clause 1 Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) 1997

Part 1 Preliminary

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# **Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997**

## **Part 1 Preliminary**

### **1 Name of Regulation**

This Regulation is the *Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997*.

### **2 Commencement**

This Regulation commences on 1 July 1997.

### **3 Definitions**

In this Regulation:

*First State Superannuation Scheme* means the superannuation scheme established under the *First State Superannuation Act 1992*.

*local government superannuation scheme* means the superannuation scheme established under a trust deed entered into by the Treasurer and LGSS Pty Ltd, as trustee, in accordance with section 127 of the Act.

*Public Sector Executives Superannuation Scheme* means the superannuation scheme established under the *Public Sector Executives Superannuation Act 1989*.

*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*.

*the Act* means the *Superannuation Administration Act 1996*.

*transfer day* means:

- (a) except as provided by paragraph (b), 1 July 1997, or
- (b) in relation to an employee referred to in clause 11 (1), the day the employee transfers to the county council referred to in clause 11 (2).

transferred employer means an employer listed in Schedule 1 who is bound by the terms of the trust deed establishing the local government superannuation scheme.

transferred member means a person transferred to the local government superannuation scheme under clause 5 or 11 or a person to whom a pension referred to in clause 12 (1) (a), (b) or (c) is payable.

#### 4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

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Part 2 Transfer of employees and other beneficiaries

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## Part 2 Transfer of employees and other beneficiaries

### 5 Transfer of employees

- (1) On and from the transfer day, the persons described in clauses 6, 7, 8, 9 and 10 are transferred from the superannuation schemes referred to in those clauses to the local government superannuation scheme.
- (2) The persons so transferred are to be members of the following Divisions of the local government superannuation scheme, to the extent that they are described in the clause concerned:
  - (a) a person described in clause 6 is to be a member of Division A,
  - (b) a person described in clause 7 is to be a member of Division B,
  - (c) a person described in clause 8 is to be a member of Division C,
  - (d) a person described in clause 9 is to be a member of Division D,
  - (e) a person described in clause 10 is to be a member of Division E.
- (3) A person who is a person described in more than one of clauses 6, 7, 8, 9 or 10 may be a member of one or more Divisions of the local government superannuation scheme.

### 6 Members of First State Superannuation Scheme

- (1) For the purposes of clause 5, this clause describes the following persons:
  - (a) a person who was, at any time within the period of 6 months immediately preceding the transfer day, a full member of the First State Superannuation Scheme who was employed solely by a transferred employer,
  - (b) a person who was, at any time within the period of 6 months immediately preceding the transfer day, a full member of the First State Superannuation Scheme who was employed by a transferred employer and who was also employed by one or more other employers under the *First State Superannuation Act 1992*,

- (c) an optional member of the First State Superannuation Scheme who is also a person referred to in clause 7 or 9.
- (2) Despite subclause (1) this clause does not describe members of the First State Superannuation Scheme whose accounts consist of amounts contributed in respect of employment with a transferred employer and other employers if, at the transfer day:
  - (a) the total amount in the member's account relating to employment with transferred employers is less than \$500 and the total amount relating to employment with other employers is \$500 or more,
  - (b) the total amount in the member's account relating to employment with transferred employers is less than the total amount relating to employment with other employers and each such total amount is less than \$500.
- (3) On and from the transfer day, the entitlement of a person referred to in subclause (1) (b) to preserved amounts related to previous employment by one or more other employers under the *First State Superannuation Act 1992* is to be paid from the local government superannuation scheme if, at the transfer day:
  - (a) the total amount in the member's account relating to employment with transferred employers is \$500 or more and the total preserved amount relating to employment with other employers is less than \$500, or
  - (b) the total amount in the member's account relating to employment with transferred employers is more than the total preserved amount relating to employment with other employers and each such total amount is less than \$500.
- (4) Despite subclause (1), this clause does not describe a member of the First State Superannuation Scheme if the member has ceased to be employed by a transferred employer before the transfer day and notice has been received of the cessation by FTC before the transfer day.
- (5) Except as provided by subclause (3) in respect of preserved amounts, this Regulation does not transfer a person from the First State Superannuation Scheme in respect of contributions that are or have been made by or on behalf of the person in respect of the person's employment by an employer that is not a transferred employer.

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Part 2 Transfer of employees and other beneficiaries

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(6) In this clause:

*transferred employer* includes a predecessor of a transferred employer.

### 7 Contributors to State Authorities Superannuation Scheme

For the purposes of clause 5, this clause describes the following persons:

- (a) a person who, immediately before the transfer day, was a contributor to the State Authorities Superannuation Scheme who was employed by a transferred employer,
- (b) a person who, immediately before the transfer day, had a preserved benefit under the *State Authorities Superannuation Act 1987*, the *Public Authorities Superannuation Act 1985* or the *State Public Service Superannuation Act 1985* and who, immediately before the benefit was preserved, was employed by a transferred employer or a predecessor of a transferred employer.

### 8 Employees under State Authorities Non-contributory Superannuation Scheme

For the purposes of clause 5, this clause describes the following persons:

- (a) a person who, immediately before the transfer day, was a contributing employee, under the State Authorities Non-contributory Superannuation Scheme, within the meaning of section 26C of the *State Authorities Non-contributory Superannuation Act 1987* and who is a person described in clause 7 or 9,
- (b) a person who, immediately before the transfer day, had a preserved benefit in the State Authorities Non-contributory Superannuation Scheme and who is a person described in clause 7 or 9.

### 9 Contributors to State Superannuation Scheme

For the purposes of clause 5, this clause describes the following persons:

- (a) a person who, immediately before the transfer day, was a contributor to the State Superannuation Scheme who was employed by a transferred employer,



- (b) a person who, immediately before the transfer day, had a preserved or deferred benefit under Division 3A or 3B of Part 4 of the *Superannuation Act 1916* and who, immediately before the benefit was preserved or deferred, was employed by a transferred employer or a predecessor of a transferred employer.

#### **10 Members of Public Sector Executives Superannuation Scheme**

For the purposes of clause 5, this clause describes a person who was, immediately before the transfer day:

- (a) employed by a transferred employer, and
- (b) a member of the Public Sector Executives Superannuation Scheme.

#### **11 Employees of new county councils**

- (1) On and from the day an employee described in subclause (2) transfers from a body referred to in that subclause to a county council referred to in that subclause, the employee is transferred from the superannuation scheme referred to in subclause (2) to the local government superannuation scheme.
- (2) For the purposes of this clause, the employees to be transferred are:
  - (a) employees of Great Southern Energy who transfer to the Riverina Water County Council and who, if Great Southern Energy were treated as a transferred employer as at the date of transfer, would be persons described in clause 6, 7, 8, 9 or 10 in respect of a superannuation scheme referred to in any of those clauses,
  - (b) employees of North Power who transfer to the MidCoast County Council and who, if North Power were treated as a transferred employer as at the date of transfer, would be persons described in clause 6, 7, 8, 9 or 10 in respect of a superannuation scheme referred to in any of those clauses,
  - (c) employees of the Department of Public Works and Services who transfer to the Goldenfields Water County Council and who, if the Department were treated as a transferred employer as at the date of transfer, would be persons described in clause 6, 7, 8, 9 or 10 in respect of a superannuation scheme referred to in any of those clauses.

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- (3) An employee so transferred is to be a member of the Division of the local government superannuation scheme applicable if the assumptions set out in subclause (2) applied.
- (4) An employee cannot transfer to a superannuation scheme under this clause after 1 October 1997.

### 12 Transfer of payment of certain pensions

- (1) On and from the transfer day, the following pensions are payable under the local government superannuation scheme:
  - (a) a pension payable to a person who, immediately before the transfer day, received a pension under any of the following Acts or regulation:
    - (i) *New South Wales Retirement Benefits Act 1972,*
    - (ii) *Local Government and Other Authorities (Superannuation) Act 1927,*
    - (iii) *Public Authorities Superannuation Act 1985,*
    - (iv) *Transport Employees Retirement Benefits Act 1967,*
    - (v) Part 2, 3 or 6 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988,*and who was employed by a transferred employer, or a predecessor of the employer, immediately before becoming entitled to the pension, or a pension payable (before or after the transfer day) to the spouse or a child of such a person,
  - (b) a pension payable to a person who, immediately before the transfer day, received a pension under the *Superannuation Act 1916* and who was employed by a transferred employer, or a predecessor of the employer, immediately before becoming entitled to the pension, or a pension payable (before or after the transfer day) to the spouse or a child of such a person,
  - (c) a pension payable (before or after the transfer day) under section 15BV (14) of the *Local Government and Other Authorities (Superannuation) Act 1927.*

- (2) For the purposes of the local government superannuation scheme:
  - (a) a person to whom a pension referred to in subclause (1) (a) or (c) is payable is taken to be a member of Division B of that scheme, and
  - (b) a person to whom a pension referred to in subclause (1) (b) is payable is taken to be a member of Division D of that scheme.

### **13 Effect of transfers**

- (1) On transfer under this Regulation, a transferred member (except as provided by clause 14) ceases to have any entitlements, rights and obligations under the scheme from which the member was transferred to the extent to which the member is transferred.
- (2) A right of appeal available to a transferred member before the transfer of the member under this regulation in respect of a matter involving a dispute with the trustee of the 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 local government superannuation scheme as if the dispute were with LGSS Pty Ltd.

### **14 Adjustment of transfers**

- (1) Despite any other provision of this Regulation, a person who has been mistakenly identified as a transferred member within the meaning of this regulation and transferred to or dealt with under the local government superannuation scheme may be transferred back to or dealt with under the scheme from which the person was originally transferred.
- (2) Any person referred to in subclause (1) is taken to have always been a member of or to have been dealt with under the original superannuation scheme and FTC and STC must make any necessary adjustments to contributions, accounts and benefits accordingly.
- (3) Despite any other provision of this Regulation, a person who has been mistakenly not identified as a transferred member within the meaning of this regulation and has not been transferred to or dealt with under the local government superannuation scheme may be transferred to or dealt with under the local government superannuation scheme.

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- (4) Any person referred to in subclause (3) is taken to have been a member of or to have been dealt with under the local government superannuation scheme on and from the transfer day for the person and LGSS Pty Ltd must make any necessary adjustments to contributions, accounts and benefits accordingly.
- (5) Despite any other provision of this Regulation, a person described in clause 6 may, if so permitted by LGSS Pty Ltd, elect to transfer back to the First State Superannuation Scheme and subclause (2) applies to any such person in the same way it applies to a person mistakenly transferred.
- (6) For the purposes of clause 15 (1), a person who makes an election referred to in subclause (5) is not a transferred member.

### **15 Status of employers**

- (1) A transferred employer is taken not to be an employer in respect of a transferred member for the purposes of an Act establishing an STC scheme or FTC scheme.
- (2) This clause applies only to a transferred employer who is an “Employer” within the meaning of the trust deed establishing the local government superannuation scheme and who is bound by the terms of the trust deed.

## **Part 3      Transfer of assets relating to transferred members and employers**

### **16 Transfer of assets**

- (1) FTC and STC must transfer to LGSS Pty Ltd, as the trustee of the local government superannuation scheme, assets equivalent to an amount calculated in accordance with this section in respect of the assets of the FTC or STC scheme or fund attributable in respect of the transferred members and the transferred employers covered by the local government superannuation scheme.
- (2) The assets are to be transferred and calculated in accordance with the transfer agreements entered into between FTC and STC with LGSS Pty Ltd, in connection with the transfer of transferred members under this Regulation.

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Part 4 Administration and investment services

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### **Part 4 Administration and investment services**

#### **17 Provision of superannuation scheme administration services**

- (1) LGSS Pty Ltd, as the trustee of the local government superannuation scheme, must enter into a contract or arrangement with the SAA for the provision by the SAA of superannuation scheme administration services for the local government superannuation scheme.
- (2) The contract or arrangement is to cover a period commencing on or before the transfer day and ending on 31 December 1997.
- (3) The superannuation scheme administration services that may be provided under the contract or arrangement 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 the trustee,
  - (e) processing of claims and payment of benefits.
- (4) On or after the end of the contract or arrangement referred to in subclause (1), LGSS Pty Ltd is not required to enter into a further contract or arrangement with the SAA but may enter into a contract or arrangement with the SAA (or its successors) or any other person for the provision of superannuation scheme administration services.

#### **18 Provision of superannuation investment management services**

- (1) The trustee of the local government superannuation scheme must enter into a contract or an arrangement with AFML (or its successors) for the provision by AFML of superannuation investment management services for Divisions B, C and D of the local government superannuation scheme.
- (2) The contract or arrangement is to cover a period commencing on or before the transfer day and ending on a date determined by the Minister (not being a date later than 30 June 2002) for the purposes of this clause.

- (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 subclause (1), LGSS Pty Ltd is not required to enter into a further contract or arrangement with AFML but may enter into a contract or arrangement with AFML (or its successors) or any other person for the provision of superannuation investment management services.
- (5) For the purposes of this clause:  
AFML means Axiom Funds Management Limited.  
*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.

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Schedule 1 Transferred employers

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**Schedule 1 Transferred employers**

(Clause 3)

A body corporate constituted, or taken to be constituted, under the *Local Government Act 1993* as a council or a county council