



New South Wales

# Superannuation Administration (Cbus Transitional Provisions) Regulation 2022

under the

Superannuation Administration Act 1996

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

MATT KEAN, MP  
Treasurer

## Explanatory note

The object of this Regulation is to facilitate a successor fund transfer of members and benefits from the electricity industry superannuation scheme to the Cbus superannuation fund.

This Regulation is made under the *Superannuation Administration Act 1996*, including sections 127B, 128, 128A and 129, the general regulation-making power.

This Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely matters of a savings or transitional nature.

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## Superannuation Administration (Cbus Transitional Provisions) Regulation 2022

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Superannuation Administration Act 1996

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Superannuation Administration (Cbus Transitional Provisions) Regulation 2022*.

#### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

#### 3 Definitions

In this Regulation—

**Cbus superannuation fund** means the Construction and Building Unions Superannuation Fund established by trust deed dated 29 May 1984.

**claim** about the former scheme includes the following matters, but only to the extent that the matter relates to Pool B—

- (a) a complaint about the former scheme or the trustee of the former scheme,
- (b) a complaint about a matter involving the former scheme or the trustee of the former scheme that may give rise to a financial loss to a member or beneficiary of the former scheme,
- (c) an application for a benefit or entitlement under the former scheme,
- (d) a matter that was to be treated, because of a transitional provision in an Act or Regulation, as if it were a claim against the trustee of the former scheme.

**former scheme** means the electricity industry superannuation scheme.

**Pool B** means Energy Industries Superannuation Scheme Pool B, ABN 64 322 090 181 RSE R1004878.

**successor fund** means the Cbus superannuation fund.

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

**transfer day** means a day specified as the transfer day in a notice by the Minister published in the Gazette.

**transferred employer** means an employer listed in Schedule 1 and includes a successor of an employer listed in Schedule 1.

**transferred member** means a member of Pool B who is transferred to the successor fund under section 5.

**Note**— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

## Part 2 Transfer of members and employers

### 4 Part has no effect before transfer day

This Part does not have effect before the transfer day.

### 5 Transfer of members

A member of the former scheme is transferred to the successor fund.

### 6 Transfer of payment of certain benefits

A benefit payable under the former scheme becomes payable in accordance with the governing rules of the successor fund.

### 7 Effect of transfer

A transferred member ceases to have any entitlements, rights and obligations under the former scheme and in lieu of this has entitlements, rights and obligations under the successor fund.

### 8 Existing claims about former scheme

- (1) Management of an existing claim becomes the responsibility of the trustee of the successor fund if the claim has not been finally dealt with before the transfer day.
- (2) The trustee of the successor fund must deal with the existing claim in accordance with procedures under the successor fund.
- (3) In this section—  
*existing claim* means a claim about the former scheme made to the trustee of the former scheme before the transfer day.

### 9 Other claims about former scheme

- (1) A claim about the former scheme made after the transfer day must be managed and decided by the trustee of the successor fund.
- (2) The trustee of the successor fund must deal with the claim in accordance with procedures under the successor fund.
- (3) For the avoidance of doubt, a claim is a claim to which this section applies if—
  - (a) the claim relates to service with an employer before the transfer day by the following (a *relevant person*)—
    - (i) the member of the former scheme who is transferred under section 5,
    - (ii) the former member of a STC scheme, and
  - (b) the service was with a transferred employer who was responsible for the payment of benefits under the former scheme in respect of the service, and
  - (c) the claim is about entitlements or obligations of—
    - (i) a relevant person, or
    - (ii) a beneficiary of a relevant person.

### 10 Status of employers

A transferred employer—

- (a) is taken to no longer be an employer in respect of a transferred member for the purposes of the former scheme, and
- (b) is instead taken to be an employer in respect of the transferred member for the purposes of the successor fund, and

- (c) is bound by the terms of the trust deed establishing the successor fund, and
- (d) must make payments and contributions to the successor fund—
  - (i) in respect of the transferred member, and
  - (ii) in accordance with the trust deed.

## 11 Mobility rights

- (1) For the Act, section 128(1)(c), the eligibility criteria for an employee are—
  - (a) the employee is an employee of a transferred employer, and
  - (b) since the employment that made the employee eligible to be a member of or contributor to the STC scheme, the employee has—
    - (i) remained an employee of an STC employer, or
    - (ii) been employed by a succession of employers with no break in service longer than the prescribed time and each employer was, at the time of the employment—
      - (A) a transferred employer, or
      - (B) an STC employer.
- (2) For the Act, section 128(2)(e), the eligibility criteria for an employee are—
  - (a) the employee was a transferred member, and
  - (b) since being transferred, the employee has—
    - (i) remained an employee of a transferred employer, or
    - (ii) been employed by a succession of employers with no break in service longer than the prescribed time and each employer was, at the time of the employment—
      - (A) a transferred employer, or
      - (B) an STC employer.
- (3) In this section—
  - prescribed time*** means a period of 3 months.
  - STC employer*** means an employer responsible for making contributions under an STC scheme.

## **Schedule 1 Transferred employers**

Aurecon Australasia Pty Ltd

Ausgrid Management Pty Ltd

Coal Services Pty Ltd

Endeavour Energy Network Management Pty Ltd

Energy Industries Superannuation Scheme Pty Ltd

Essential Energy

NSW Electricity Network Operations Pty Limited

Snowy Hydro Limited