



New South Wales

NSW Generations Funds Bill 2018

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2018



New South Wales

NSW Generations Funds Bill 2018

Act No , 2018

An Act to provide for the establishment of the NSW Generations (Debt Retirement) Fund and the NSW Generations (Community Services and Facilities) Fund for the purposes of providing funding for State debt retirement and certain community purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *NSW Generations Funds Act 2018*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Section 20 commences on the day on which Division 6.4 (Financial arrangements) of the *Government Sector Finance Act 2018* commences.

3 Definitions

- (1) In this Act:

Community Services and Facilities Fund means the NSW Generations (Community Services and Facilities) Fund established under this Act.

Debt Retirement Fund means the NSW Generations (Debt Retirement) Fund established under this Act.

financial year means the year commencing 1 July.

function includes a power, authority or duty, and ***exercise*** a function includes perform a duty.

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

NSW Generations Funds means the Community Services and Facilities Fund and the Debt Retirement Fund.

PFA authority means an authority within the meaning of the *Public Finance and Audit Act 1983*.

Public Service agency has the same meaning as in the *Government Sector Employment Act 2013*.

relevant NSW equity interest means an interest specified by Schedule 1.

State tax means a duty or any other tax imposed by or under an Act.

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

- (2) Notes included in this Act do not form part of this Act.

Part 2 NSW Generations Funds

Division 1 Establishment and operation of NSW Generations Funds

4 Establishment of NSW Generations Funds

The following are to be established in the Special Deposits Account:

- (a) NSW Generations (Debt Retirement) Fund,
- (b) NSW Generations (Community Services and Facilities) Fund.

5 Control and management of NSW Generations Funds

The Minister is to control and manage each of the NSW Generations Funds.

6 Minister may obtain advice etc

The Minister may, in exercising functions under this Act, obtain and have regard to any advice, recommendations or other information provided to the Minister by any person or body that the Minister considers relevant.

7 Annual reports relating to NSW Generations Funds

- (1) The Minister is to produce an annual report.
- (2) The annual report is to be in the form, and contain such information (including details of payments into and out of each of the NSW Generations Funds), as the Treasurer may determine.
- (3) The annual report is to include an audit of each of the NSW Generations Funds by the Auditor-General (including a report of the Auditor-General on whether the payments from the Funds have been made in accordance with this Act).
- (4) The annual report is to be made publicly available within 6 months after the end of the financial year to which it relates.

Division 2 Debt Retirement Fund

8 Purpose of Debt Retirement Fund

The purpose of the Debt Retirement Fund is to provide funding for reducing the debt of the State in accordance with the principles of sound financial management set out in section 7 of the *Fiscal Responsibility Act 2012*.

9 Payment into Debt Retirement Fund

- (1) The following are to be paid into the Debt Retirement Fund:
 - (a) all money appropriated by Parliament, or advanced by the Treasurer, for payment into the Fund,
 - (b) all money appropriated by Parliament to the Treasurer for the general purposes of the Government (and not for the purposes of individual PFA authorities) and directed by the Treasurer to be paid into the Fund,
 - (c) any money that is directed by the Treasurer under subsection (2) to be paid into the Fund,
 - (d) all money that is income (including distributions, dividends and interest) paid to the holder of any relevant NSW equity interest,
 - (e) the proceeds of the sale of any relevant NSW equity interest,
 - (f) the proceeds of the investment of money in the Fund,

- (g) all other money directed or authorised to be paid into the Fund by or under any Act or law.
- (2) The Treasurer may direct that an amount of money be paid into the Debt Retirement Fund if the Treasurer is satisfied that it is windfall tax revenue in excess of Budget forecasts.
- (3) The Treasurer is taken to have been given an appropriation out of the Consolidated Fund under the authority of this section, on the day a direction is given under subsection (2), for the amount specified in the direction for the purpose of its payment into the Debt Retirement Fund.

10 Payments out of Debt Retirement Fund

The following may be paid out of the Debt Retirement Fund:

- (a) the payment of all or any part of a debt of the State that the Minister is satisfied is a payment that promotes the purpose of the Fund,
- (b) administrative expenses relating to the control and management of the Fund.

11 Investment of money in Debt Retirement Fund

The Minister may invest money in the Debt Retirement Fund:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Minister to invest the money, in any other manner approved by the Treasurer.

Division 3 Community Services and Facilities Fund

12 Purpose of Community Services and Facilities Fund

- (1) The purpose of the Community Services and Facilities Fund is to provide funding for cost-effective facilities and services throughout New South Wales that improve the wellbeing of communities and the lives of the people of New South Wales, including facilities and services for the purposes of:
 - (a) protecting public health and preventing disease, illness, injury, disability or premature death, and
 - (b) promoting conditions in which persons can be healthy and safe, and
 - (c) promoting involvement with community or culture, and
 - (d) increasing participation in programs, services or activities that aim to improve the overall wellbeing of the community, and
 - (e) any other purposes prescribed by the regulations.
- (2) The Minister is not to recommend the making of a regulation for the purposes of subsection (1) (e) unless the Minister certifies that the Minister is satisfied that the purpose to be prescribed is a purpose that relates to the improvement of the wellbeing of communities and the lives of the people of New South Wales.

13 Payment into Community Services and Facilities Fund

The following are to be paid into the Community Services and Facilities Fund:

- (a) all money appropriated by Parliament, or advanced by the Treasurer, for payment into the Fund,
- (b) all money appropriated by Parliament to the Treasurer for the general purposes of the Government (and not for the purposes of individual PFA authorities) and directed by the Treasurer to be paid into the Fund,

- (c) the repayment of the principal, or payment of interest, on money loaned from the Fund (including fees associated with the loan),
- (d) the repayment of any other money provided from the Fund by way of any other financial assistance,
- (e) all other money directed or authorised to be paid into the Fund by or under any Act or law.

Note. Section 14 (2) provides that payments from the Fund for the cost of a project, program or initiative may be provided by way of a grant, subsidy, loan or other financial assistance and may be subject to such conditions as the Minister thinks fit to impose.

14 Payments out of Community Services and Facilities Fund

- (1) The following may be paid out of the Community Services and Facilities Fund:
 - (a) all or any part of the cost of any project, program or initiative that the Minister is satisfied promotes the purpose of the Fund,
 - (b) administrative expenses relating to the control and management of the Fund,
 - (c) any money directed or authorised to be paid from the Fund by or under this Act or any other Act or law.
- (2) Payments from the Community Services and Facilities Fund for the cost of a project, program or initiative may be provided by way of a grant, subsidy, loan or other financial assistance and may be subject to such conditions as the Minister thinks fit to impose.
- (3) Without limiting subsection (2), those conditions may relate to the following:
 - (a) meeting specified performance targets or outcomes,
 - (b) repayment of the whole or any part of any such financial assistance (including repayment if specified performance targets or outcomes are not met as required under a condition of the provision of the financial assistance),
 - (c) the payment of interest on financial assistance provided by way of a loan,
 - (d) the periods or intervals at which repayments are to be made.

15 Investment of money in Community Services and Facilities Fund

The Minister may invest money in the Community Services and Facilities Fund:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Minister to invest the money, in any other manner approved by the Treasurer.

Part 3 Miscellaneous

16 Schedule 1 may be amended by regulations to add NSW equity interests

The regulations may amend Schedule 1 to insert (but not omit) any of the following kinds of interests:

- (a) an interest of the State or the Crown in right of the State,
- (b) an interest of a PFA authority.

17 Delegation

- (1) The Minister may delegate the exercise of any function of the Minister under this Act (other than this power of delegation) to:
 - (a) the head of a Public Service agency, or
 - (b) any other person employed in a Public Service agency.
- (2) A delegate may subdelegate a delegated function to another person employed in a Public Service agency.

18 Act to bind Crown

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

19 Regulations

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.

20 Amendment of this Act consequent on commencement of Division 6.4 of Government Sector Finance Act 2018

(1) Section 3 Definitions

Omit the definition of *PFA authority* from section 3 (1). Insert in alphabetical order:
GSF agency has the same meaning as in the *Government Sector Finance Act 2018*.

(2) Sections 9 (1) (b) and 13 (b)

Omit “PFA authorities” wherever occurring. Insert instead “GSF agencies”.

(3) Section 11

Omit the section. Insert instead:

11 Investment of money in Debt Retirement Fund

The Minister may invest money in the Debt Retirement Fund:

- (a) if the Minister is a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in any way that the Minister is permitted to invest money under that Part, or
- (b) if the Minister is not a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in any way approved by the Treasurer.

(4) **Section 15**

Omit the section. Insert instead:

15 Investment of money in Community Services and Facilities Fund

The Minister may invest money in the Community Services and Facilities Fund:

- (a) if the Minister is a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in any way that the Minister is permitted to invest money under that Part, or
- (b) if the Minister is not a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*—in any way approved by the Treasurer.

(5) **Section 16 Schedule 1 may be amended by regulations to add NSW equity interests**

Omit section 16 (b). Insert instead:

- (b) an interest of an entity that is a GSF agency for the purposes of Part 6 of the *Government Sector Finance Act 2018*.

Schedule 1 Relevant NSW equity interests

(Sections 3 (1) and 16)

Item	Interest
1	Shares held by the Treasurer in Roads Retained Interest Pty Ltd (ACN 624 812 773)

Schedule 2 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision:
 - (a) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date, and
 - (b) has effect despite anything to the contrary in this Schedule.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, 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.
- (4) Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations.