



New South Wales

# Superannuation Administration Amendment Bill 2003

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Superannuation Administration Act 1996* (the *Principal Act*) and certain regulations under that Act with respect to:

- (a) the provision of information relating to the general administration of FSS Trustee Corporation (*FTC*) and SAS Trustee Corporation (*STC*) superannuation schemes and funds to the Minister administering the Acts relating to those schemes and funds (currently the Special Minister of State), and
- (b) monitoring the activities of FTC and STC, and
- (c) clarifying the role of various superannuation trustees in resolving disputes concerning entitlements and obligations of members and former members of certain superannuation funds, and
- (d) quorums and voting procedures of the boards of FTC and STC.

The Bill also makes a number of amendments by way of statute law revision.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Superannuation Administration Act 1996* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the Regulations set out in Schedule 2.

## **Schedule 1 Amendment of Superannuation Administration Act 1996**

### **Provision of information to Minister administering FTC and STC Acts**

Sections 42 and 90 of the Principal Act provide that FTC and STC must furnish to the Minister administering the Principal Act (currently the Treasurer) such information relating to the general administration and operation of the FTC and STC superannuation schemes and funds as that Minister may from time to time require. **Schedule 1 [9]–[12] and [17]–[20]** amend sections 42 and 90 to provide that the Minister administering the Acts under which the FTC and STC superannuation schemes and funds are established or constituted (currently the Special Minister of State) may also require that information.

### **Monitoring superannuation authorities**

**Schedule 1 [22]** inserts proposed Part 4 (sections 96–99) into the Principal Act. The proposed Part (which mirrors in certain respects sections 254–256 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth) makes provision for the monitoring of superannuation authorities (being FTC and STC). Specific provision is made for written notices issued by the Minister administering the Principal Act (currently the Treasurer) or an authorised person requiring specified information, or reports on matters, to be supplied by the superannuation authorities. That Minister or an authorised person is also given the power to require the production of books relating to the affairs of a superannuation authority and authorised persons are given the power to enter business premises for the purpose of monitoring the superannuation authorities.

### **Quorum and voting of FTC and STC Boards**

**Schedule 1 [26] and [28]** amend clause 10 of Schedule 1 and clause 11 of Schedule 2 to the Principal Act to increase the quorum for a meeting of the boards of FTC and STC from 5 members to 6 members.

**Schedule 1 [27] and [29]** amend clause 12 of Schedule 1 and clause 13 of Schedule 2 to the Principal Act to provide that a decision supported by two-thirds of the members of the board of FTC or STC, respectively, is a decision of the board concerned. Each board has 9 members. Therefore a decision must be supported by 6 members to be a decision of the board of either of those corporations.

### **Amendments by way of statute law revision**

**Schedule 1 [1]–[8], [13]–[16], [21], [23]–[25] and [31]** make amendments by way of statute law revision. The amendments are made for a variety of reasons including redundancy of certain provisions relating to initial contracts or arrangements with investment managers and administrators, the corporatisation and sale of Axiom Funds Management Corporation, the abolition of the role of Insurance and Superannuation Commissioner and the dissolution of the Superannuation Administration Authority.

### **Savings and transitional provision**

**Schedule 1 [30]** makes an amendment to Schedule 3 to the Principal Act to allow savings and transitional regulations consequent on the enactment of the the proposed Act to be made.

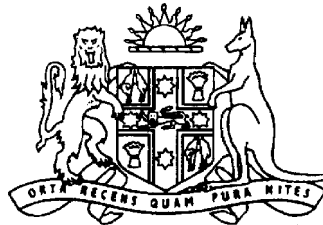
## **Schedule 2 Amendment of Regulations**

**Schedule 2.1 [1]** inserts proposed clause 12 (3) into the *Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Regulation 1997*. The amendment provides for the preservation of any 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 to the electricity superannuation scheme. Such an appeal 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 (that scheme's trustee).

**Schedule 2.2 [1]** makes the equivalent amendment to the *Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997*.

**Schedule 2.1 [2]–[5]** make amendments to clauses 40 and 41 of the *Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Regulation 1997* to clarify that a dispute concerning a former member or beneficiary of a FTC or STC scheme arising in respect of service by the former member with an employer before the transfer of the employer's employees to the electricity superannuation scheme is to be determined, not by FTC or STC, but by the trustee of the electricity superannuation scheme. **Schedule 2.2 [2]–[5]** makes the equivalent amendments to clauses 41 and 42 of the *Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997*.

First print



New South Wales

# Superannuation Administration Amendment Bill 2003

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New South Wales

# Superannuation Administration Amendment Bill 2003

No. , 2003

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## A Bill for

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.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Superannuation Administration Amendment Act 2003</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Superannuation Administration Act 1996 No 39</b>	8
The <i>Superannuation Administration Act 1996</i> is amended as set out in Schedule 1.	9 10
<b>4 Amendment of Regulations</b>	11
The Regulations specified in Schedule 2 are amended as set out in that Schedule.	12 13



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**Schedule 1 Amendment of Superannuation  
Administration Act 1996**

(Section 3)

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<b>[1] Long title</b>	4
Omit “to confer on the Axiom Funds Management Corporation power to provide investment services for State public sector superannuation schemes and other schemes;”.	5 6 7
<b>[2] Section 3 Objects of Act</b>	8
Omit the note to the section.	9
<b>[3] Section 4 Definitions</b>	10
Omit the definition of <i>AFMC</i> .	11
<b>[4] Section 4, definition of “Insurance and Superannuation Commissioner”</b>	12 13
Omit the definition.	14
<b>[5] Section 4, definition of “SAA”</b>	15
Omit the definition.	16
<b>[6] Section 15 Investment manager to be appointed</b>	17
Omit section 15 (4).	18
<b>[7] Section 15, note</b>	19
Omit the note.	20
<b>[8] Section 19 Administrator to be appointed</b>	21
Omit section 19 (3)–(7).	22
<b>[9] Section 42 Provision of information to relevant Ministers</b>	23
Insert “administering this Act or the Minister administering the FTC fund Acts” after “Minister” where firstly occurring in section 42 (1).	24 25
<b>[10] Section 42 (1)</b>	26
Insert “concerned” after “Minister” where secondly occurring.	27

<b>[11] Section 42 (2)</b>	1
Omit “the Minister”. Insert instead “a Minister under this section”.	2
<b>[12] Section 42 (3)</b>	3
Insert after section 42 (2):	4
(3) In this section, <i>FTC fund Acts</i> mean the Acts referred to in the definition of <i>FTC fund</i> in section 4.	5 6
<b>[13] Section 42A Provision of information to Insurance and Superannuation Commissioner</b>	7 8
Omit the section.	9
<b>[14] Section 59 Investment manager to be appointed</b>	10
Omit section 59 (4).	11
<b>[15] Section 60 AFMC to be first investment manager</b>	12
Omit the section.	13
<b>[16] Section 64 Administrator to be appointed</b>	14
Omit section 64 (3)–(7).	15
<b>[17] Section 90 Provision of information to relevant Ministers</b>	16
Insert “administering this Act or the Minister administering the STC fund Acts” after “Minister” where firstly occurring in section 90 (1).	17 18
<b>[18] Section 90 (1)</b>	19
Insert “concerned” after “Minister” where secondly occurring.	20
<b>[19] Section 90 (2)</b>	21
Omit “the Minister”. Insert instead “a Minister under this section”.	22
<b>[20] Section 90 (3)</b>	23
Insert after section 90 (2):	24
(3) In this section, <i>STC fund Acts</i> mean the Acts referred to in the definition of <i>STC fund</i> in section 4.	25 26

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<b>[21] Section 90A Provision of information to Insurance and Superannuation Commissioner</b>	1 2
Omit the section.	3
<b>[22] Part 4</b>	4
Insert after section 95:	5
<b>Part 4 Monitoring superannuation authorities</b>	6
<b>96 Definitions</b>	7
In this Part:	8
<i>authorised person</i> means a person appointed in writing by the Minister as an authorised person for the purposes of this Part.	9 10
<b>97 Information to be given to Minister and authorised persons</b>	11
(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.	12 13 14 15 16
(2) A superannuation authority must comply with any notice given to it under subsection (1). Maximum penalty: 50 penalty units.	17 18 19
(3) The information or report required to be provided under subsection (1) must relate to the superannuation authority's exercise of its functions.	20 21 22
(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.	23 24 25 26 27

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<b>98</b>	<b>Minister and authorised persons may require production of books</b>	1 2
(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.	3 4 5 6 7
(2)	A superannuation authority must comply with a requirement referred to in subsection (1).  Maximum penalty: 50 penalty units.	8 9 10
(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.	11 12 13 14
<b>99</b>	<b>Access to premises</b>	15
(1)	An authorised person may, for the purpose of monitoring the exercise by any superannuation authority of its functions under this Act:	16 17 18
(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	19 20 21 22 23
(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	24 25 26
(c)	make copies of, or take extracts from, any such book.	27
(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.	28 29 30 31
<b>[23]</b>	<b>Section 119 Duties and liabilities of persons involved in management</b>	32 33
	Omit the definition of <i>superannuation authority</i> from section 119 (5).	34
	Insert instead:	35
	<i>superannuation authority</i> means FTC or STC.	36

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<b>[24] Section 119 (6) and (7)</b>	1
Omit the subsections.	2
<b>[25] Section 128 Provisions consequent on establishment of additional superannuation schemes</b>	3
Omit “or AFMC (or its successors), or both” from section 128 (1) (h).	4
Insert instead “(or its successors)”.	5
<b>[26] Schedule 1 Provisions relating to FTC Board</b>	6
Omit “5 members” from clause 10. Insert instead “6 members”.	7
<b>[27] Schedule 1, clause 12</b>	8
Omit the clause. Insert instead:	9
<b>12 Voting</b>	10
A decision supported by two-thirds of the members of the Board is the decision of the Board.	11
<b>[28] Schedule 2 Provisions relating to STC Board</b>	12
Omit “5 members” from clause 11. Insert instead “6 members”.	13
<b>[29] Schedule 2, clause 13</b>	14
Omit the clause. Insert instead:	15
<b>13 Voting</b>	16
A decision supported by two-thirds of the members of the Board is the decision of the Board.	17
<b>[30] Schedule 3 Savings and transitional provisions</b>	18
Insert at the end of clause 1 (1):	19
<i>Superannuation Administration Amendment Act 2003</i>	20
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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*.

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## 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.

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<b>2.2 Superannuation Administration (Local Government Superannuation Scheme Transitional Provisions) Regulation 1997</b>	1 2 3
<b>[1] Clause 13 Effect of transfers</b>	4
Insert after clause 13 (2):	5
(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.	6 7 8 9 10 11 12 13 14
<b>[2] Clause 41 Disputes concerning entitlements or obligations of transferred or former members or associated beneficiaries under FTC schemes</b>	15 16 17
Insert “, former member of a FTC scheme” after “transferred member” where firstly occurring.	18 19
<b>[3] Clause 41</b>	20
Insert “or former member” after “transferred member” where secondly occurring.	21 22
<b>[4] Clause 42 Disputes concerning entitlements or obligations of transferred or former members or associated beneficiaries under STC schemes</b>	23 24 25
Insert “, former member of a STC scheme” after “transferred member” where firstly occurring.	26 27
<b>[5] Clause 42</b>	28
Insert “or former member” after “transferred member” where secondly occurring.	29 30