



New South Wales

# Superannuation Administration Amendment Bill 2008

## Explanatory note

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

## Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Superannuation Administration Act 1996* to enable STC Trustee Corporation to transfer State sector surplus employer reserves to other such reserves and to return non State sector surplus employer reserves to those employers,
- (b) to insert a two year time limit to dispute an STC Trustee Corporation decision under the *Police Regulation (Superannuation) Act 1906*, the *State Authorities Non-contributory Superannuation Act 1987*, the *State Authorities Superannuation Act 1987* or the *Superannuation Act 1916* from the date of notification of the right to dispute that decision,
- (c) to make other statute law revision amendments.

## 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 the date of assent to the proposed Act.

**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 Acts set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

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

STC Trustee Corporation is the trustee of a number of closed defined benefit superannuation schemes. The proposed amendments will allow the transfer of surplus funds between the reserves of State sector employers and the payment of surplus funds in the reserves of non State sector employers to those employers. Surplus funds are funds that exceed the amount required to meet the current and future liabilities under the scheme to which they relate as determined in accordance with Accounting Standard AASB 119: *Employee Benefits* or another standard prescribed by the regulations.

**Schedule 1 [1]** inserts the definitions of *State sector employer* and *surplus funds*.

**Schedule 1 [6]** inserts a new section 81A. The proposed section provides that:

- (a) the STC may, at the request of the Treasurer, debit all or part of the surplus funds from a State sector employer reserve and credit those funds to a reserve of that employer in another STC scheme, or the reserves of one or more other State sector employers in the same or another STC scheme, and
- (b) the STC may, at the request of an employer who is not a State sector employer, such as a local council, debit all or part of the surplus funds from the employer's reserve and pay that amount to the employer.

**Schedule 1 [2]** inserts an advisory note to explain that the rights of scheme members and other persons to lodge a dispute with STC in relation to STC schemes are set out in the relevant STC scheme statutes.

**Schedule 1 [3], [5] and [7]** make statute law revision amendments following the enactment of the *First State Superannuation Legislation Amendment (Conversion) Act 2005*.

**Schedule 1 [4] and [8]** update references to the *Public Sector Employment and Management Act 2002*.

## **Schedule 2      Amendment of other Acts**

The *Superannuation Administration Act 1996* currently provides for the determination of disputes under section 67 but does not contain any express requirements, including a time frame, for the lodgement of those disputes.

**Schedule 2.1** inserts proposed section 23E into the *Police Regulation (Superannuation) Act 1906*. The proposed section provides expressly for an aggrieved person to dispute a decision made by STC Trustee Corporation under that Act, whether made before or after the commencement of the section, and to have the dispute determined under the *Superannuation Administration Act 1996*. Notice of the decision and the right to dispute it must be provided by STC. Notice of the dispute must be served on STC within 2 years of notification of the right to dispute that decision. The proposed dispute provision does not apply to a decision to which section 21 of that Act applies (which allows for application to the District Court within 6 months of being notified of certain decisions of STC or the Commissioner of Police).

**Schedule 2.2, 2.3 and 2.4** insert proposed sections 33B, 54B and 85A into the *State Authorities Non-contributory Superannuation Act 1987*, *State Authorities Superannuation Act 1987* and *Superannuation Act 1916*, respectively. Each proposed section provides expressly for an aggrieved person to dispute a decision made by STC Trustee Corporation under the respective Act, whether made before or after the commencement of the section, and to have the dispute determined under the *Superannuation Administration Act 1996*. Notice of the decision and the right to dispute it must be provided by STC. Notice of the dispute must be served on STC within 2 years of notification of the right to dispute that decision.





New South Wales

# Superannuation Administration Amendment Bill 2008

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New South Wales

# Superannuation Administration Amendment Bill 2008

No. , 2008

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## A Bill for

An Act to amend the *Superannuation Administration Act 1996* and certain other public sector superannuation Acts with respect to surplus funds in employer reserves and disputes; 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 2008</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5
<b>3 Amendment of Superannuation Administration Act 1996 No 39</b>	6
The <i>Superannuation Administration Act 1996</i> is amended as set out in Schedule 1.	7 8
<b>4 Amendment of other Acts</b>	9
The Acts specified in Schedule 2 are amended as set out in that Schedule.	10 11
<b>5 Repeal of Act</b>	12
(1) This Act is repealed on the day following the day on which this Act commences.	13 14
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	15 16

<b>Schedule 1</b>	<b>Amendment of Superannuation Administration Act 1996</b>	1
		2
	(Section 3)	3
<b>[1] Section 4 Definitions</b>		4
Insert in alphabetical order:		5
	<i>State sector employer</i> means an employer under an STC scheme that is included in the consolidated financial report for the Total State Sector under section 6 (1) of the <i>Public Finance and Audit Act 1983</i> .	6
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	<i>surplus funds</i> means the funds in an employer's reserve in an account maintained under section 81 that are in excess of the amount that is required to meet current and future liabilities under the STC scheme to which the account relates. The amount of surplus funds is the amount that is actuarially determined in accordance with Accounting Standard AASB 119: <i>Employee Benefits</i> made by the Australian Accounting Standards Board (as in force from time to time) or another standard prescribed by the regulations.	10
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<b>[2] Section 67, note</b>		19
Insert at the end of the section:		20
	<b>Note.</b> The rights of a scheme member or other person to lodge a dispute with STC in relation to an STC scheme are set out in the <i>Police Regulation (Superannuation) Act 1906</i> , section 23E; the <i>State Authorities Non-contributory Superannuation Act 1987</i> , section 33B; the <i>State Authorities Superannuation Act 1987</i> , section 54B and the <i>Superannuation Act 1916</i> , section 85A.	21
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<b>[3] Section 72 Employee representative members</b>		26
Omit section 72 (4).		27
<b>[4] Section 74 Chief executive officer of STC</b>		28
Omit "Part 2A of the <i>Public Sector Management Act 1988</i> , but is not subject to Part 2" from section 74 (4).		29
		30
Insert instead "Part 3.1 of the <i>Public Sector Employment and Management Act 2002</i> , but is not subject to Chapter 1A or 2".		31
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<b>[5] Section 74 (8)</b>		33
Omit the subsection.		34

<b>[6] Section 81A</b>	1
Insert after section 81:	2
<b>81A Adjustment of employer reserves for surplus funds</b>	3
(1) STC may, at the request of the Treasurer, debit all or part of the surplus funds from an employer reserve of a State sector employer and credit that amount to any one or more of the following:	4
(a) an employer reserve of that employer in an account maintained in relation to another STC scheme,	5
(b) the employer reserve of one or more other State sector employers in an account maintained in relation to the same or another STC scheme.	6
(2) STC may, at the request of an employer who is not a State sector employer and with the approval of the Treasurer, debit all or part of the surplus funds from the employer's reserve and pay that amount to that employer.	7
<b>[7] Section 85 Administration costs generally</b>	8
Omit section 85 (7).	9
<b>[8] Schedule 2 Provisions relating to STC Board</b>	10
Omit "Part 2 of the <i>Public Sector Management Act 1988</i> " from clause 9 (1).	11
Insert instead "Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> ".	12
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<b>Schedule 2</b>	<b>Amendment of other Acts</b>	1
	(Section 4)	2
<b>2.1</b>	<b>Police Regulation (Superannuation) Act 1906 No 28</b>	3
	<b>Section 23E</b>	4
	Insert after section 23D:	5
<b>23E</b>	<b>Disputes</b>	6
(1)	If STC makes a decision under this Act in relation to a contributor or other person, STC must give to the contributor or other person notice in writing of:	7
	(a) the decision, and	8
	(b) the right to dispute the decision, and	9
	(c) the time within which notice of a dispute must be served on STC.	10
(2)	A contributor or other person who is aggrieved by a decision made by STC has a right to dispute that decision and to have the dispute determined under the <i>Superannuation Administration Act 1996</i> .	11
(3)	Notice of the dispute must be served on STC within 2 years after the aggrieved person is notified in writing of the right to dispute that decision.	12
(4)	This section applies to a decision made before, on or after the commencement of this section, except a decision in respect of which a dispute has been notified to STC before the commencement of this section.	13
(5)	This section does not apply to a decision to which section 21 applies.	14
<b>2.2</b>	<b>State Authorities Non-contributory Superannuation Act 1987 No 212</b>	15
	<b>Section 33B</b>	16
	Insert after section 33A:	17
<b>33B</b>	<b>Disputes</b>	18
(1)	If STC makes a decision under this Act in relation to an employee or other person, STC must give to the employee or other person notice in writing of:	19
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- (a) the decision, and 1
- (b) the right to dispute the decision, and 2
- (c) the time within which notice of a dispute must be served 3  
on STC. 4
- (2) An employee or other person who is aggrieved by a decision 5  
made by STC has a right to dispute that decision and to have the 6  
dispute determined under the *Superannuation Administration Act* 7  
*1996*. 8
- (3) Notice of the dispute must be served on STC within 2 years after 9  
the aggrieved person is notified in writing of the right to dispute 10  
that decision. 11
- (4) This section applies to a decision made before, on or after the 12  
commencement of this section, except a decision in respect of 13  
which a dispute has been notified to STC before the 14  
commencement of this section. 15

**2.3 State Authorities Superannuation Act 1987 No 211** 16

**Section 54B** 17

Insert after section 54A: 18

**54B Disputes** 19

- (1) If STC makes a decision under this Act in relation to a contributor 20  
or other person, STC must give to the contributor or other person 21  
notice in writing of: 22
  - (a) the decision, and 23
  - (b) the right to dispute the decision, and 24
  - (c) the time within which notice of a dispute must be served 25  
on STC. 26
- (2) A contributor or other person who is aggrieved by a decision 27  
made by STC has a right to dispute that decision and to have the 28  
dispute determined under the *Superannuation Administration Act* 29  
*1996*. 30
- (3) Notice of the dispute must be served on STC within 2 years after 31  
the aggrieved person is notified in writing of the right to dispute 32  
that decision. 33
- (4) This section applies to a decision made before, on or after the 34  
commencement of this section, except a decision in respect of 35  
which a dispute has been notified to STC before the 36  
commencement of this section. 37

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<b>2.4 Superannuation Act 1916 No 28</b>	1
<b>Section 85A</b>	2
Insert after section 85:	3
<b>85A Disputes</b>	4
(1) If STC makes a decision under this Act in relation to a contributor or other person, STC must give to the contributor or other person notice in writing of:	5
(a) the decision, and	6
(b) the right to dispute the decision, and	7
(c) the time within which notice of a dispute must be served on STC.	8
(2) A contributor or other person who is aggrieved by a decision made by STC has a right to dispute that decision and to have the dispute determined under the <i>Superannuation Administration Act 1996</i> .	9
(3) Notice of the dispute must be served on STC within 2 years after the aggrieved person is notified in writing of the right to dispute that decision.	10
(4) This section applies to a decision made before, on or after the commencement of this section, except a decision in respect of which a dispute has been notified to STC before the commencement of this section.	11
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