



Superannuation Legislation Amendment Bill 2007

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Extract from NSW Legislative Assembly Hansard and Papers Friday 8 June 2007.

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Parliamentary Secretary) [10.02 a.m.], on behalf of Mr John Watkins: I move:
That this bill be now agreed to in principle.

The Superannuation Legislation Amendment Bill 2007 introduces amendments to various Acts governing superannuation arrangements for New South Wales public sector employees. The main purpose of the bill is to allow members of the State Superannuation Scheme to salary sacrifice their compulsory member contributions to the scheme. The bill also contains amendments to allow the Treasurer to authorise the SAS Trustee Corporation to enter into indemnity agreements with the corporation's board members and chief executive. The corporation is trustee for the defined benefits schemes known collectively as the pooled fund. Finally, the bill makes minor amendments to clarify the intention of certain legislative provisions. The proposed amendments do not affect the value of members' superannuation benefits or increase the Government's superannuation liabilities.

I will first detail the amendments that will allow members of the State Superannuation Scheme to salary sacrifice their compulsory member contributions to that scheme. Members of the State Superannuation Scheme are required to pay contributions to entitle them to the employer-funded superannuation benefits payable from the scheme. Currently members can pay these member contributions only from after-tax salary. Some members will recall that amendments were passed by the Parliament last year to allow members of another public sector superannuation scheme, the State Authorities Superannuation Scheme, to pay their compulsory contributions from pre-tax salary. This commenced operating on 1 April 2007.

The amendments in this bill extend these salary sacrifice arrangements to members of the State Superannuation Scheme. Members will be able to pay some or all of the compulsory member contributions from pre-tax salary. These arrangements may provide tax advantages to some members, depending on their individual financial circumstances. The capacity to pay member superannuation contributions from pre-tax income on a salary sacrifice basis will potentially benefit around 28,600 members of the State Superannuation Scheme as well as approximately 60,000 State Authorities Superannuation Scheme [SASS] members who are already eligible to salary sacrifice their compulsory contributions.

I briefly turn to proposed amendments to the Superannuation Administration Act 1996. Section 80 of this Act deals with the liability of the SAS Trustee Corporation and its board members for things done or omitted to have been done in good faith and the circumstances in which a trustee may be indemnified. As a matter of good practice, and in keeping with standard corporate practices, the other corporations governed by the Corporations Act, the corporation enters into indemnity agreements

for these purposes. Following a review of its indemnity agreements in 2004, the SAS Trustee Corporation requested legislative amendments to put beyond doubt that board members are adequately protected from liability for actions taken in good faith, along similar lines to the protection available in State-owned corporations. The bill introduces machinery amendments to address the concerns of the SAS Trustee Corporation by expressly providing the corporation with the power to enter into indemnity agreements with current and former board members and the chief executive officer against a liability incurred while an officer of the corporation. The bill provides that such agreements can be entered into only with the approval of the Treasurer. It is intended to provide indemnification only for actions or omissions that may attract a liability but are made in good faith. Indemnification is not intended to be available for actions that arise, for example, from failure to act honestly, or without the required degree of care or diligence.

I note that the SAS Trustee Corporation's investment performance was well rated with their returns for one and three years being in the top half of Australian superannuation funds as at 31 December 2006. The opportunity is taken in this bill to make minor amendments to provisions in various superannuation Acts to remove ambiguity of interpretation. The bill contains amendments that will clarify provisions relating to the superannuation entitlements applying to executive officers who are members of the State Superannuation Scheme and the State Authorities Superannuation Scheme. When the senior executive service was established in 1989, legislation was introduced to allow, among other things, executive officers to transfer their benefits from these schemes to the Public Sector Executive Superannuation Scheme, or, since its closure in 1999, to First State Super or another complying superannuation fund.

The current provisions are capable of being misinterpreted to mean that executive officers have to first cease employment before the benefits can be transferred. This was never intended and has caused confusion in the administration of the superannuation schemes. The bill clarifies that executive officers continue to have the right to transfer their benefits out of their scheme at any time. I commend the bill to the House.