

## **Legislative Council**

As passed all stages and awaiting assent.

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South Australia

# **Statutes Amendment (Electricity Industry Superannuation Scheme) Bill 2006**

A BILL FOR

An Act to amend the *Electricity Corporations Act 1994* and the *Electricity Corporations (Restructuring and Disposal) Act 1999*.

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**The Parliament of South Australia enacts as follows:**

## **Part 1—Preliminary**

### **1—Short title**

This Act may be cited as the *Statutes Amendment (Electricity Industry Superannuation Scheme) Act 2006*.

### **2—Commencement**

This Act will come into operation on a day to be fixed by proclamation.

### **3—Amendment provisions**

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *Electricity Corporations Act 1994*

### 4—Amendment of Schedule 1—Superannuation

- (1) Schedule 1, The Electricity Industry Superannuation Scheme Trust Deed, clause 2(1)—after the definition of *actuary* insert:

*amending Act* means the *Statutes Amendment (Electricity Industry Superannuation Scheme) Act 2006*;

- (2) Schedule 1, The Electricity Industry Superannuation Scheme Trust Deed, clause 2(7)—delete "(however effected)" and substitute:

, however effected, and whether voluntary or involuntary,

- (3) Schedule 1, The Electricity Industry Superannuation Scheme Trust Deed, clause 2(8)—delete subclause (8) and substitute:

- (8) If a person ceases employment with 1 employer under the Scheme in order to take up employment with another employer under the Scheme within 1 month after that cessation of employment but dies or becomes an invalid before commencing employment with that other employer, the person will be taken to have terminated his or her employment for reason of such death or invalidity on the date of the cessation of his or her employment with the first employer.

- (9) In subclauses (7) and (8)—

*employer*—

- (a) includes a person or body who was not an employer for the purposes of this Deed until the employment of the member referred to in that subclause was transferred to the person or body; but
- (b) does not include a person or body if the member referred to in the subclause is employed by the person or body in another State or a Territory (unless the person or body has commenced making payments on behalf of the member or has otherwise agreed with the Board to be treated as an employer for the purposes of subclause (7));

*transfer of employment*—

- (a) a transfer of employment includes a case where a member resigns his or her employment with 1 employer under the Scheme and commences employment with another employer under the Scheme; and
- (b) a person will be taken to have transferred his or her employment if, and only if—
- (i) the person's employment with a new employer under the Scheme commenced within 1 month after the cessation of employment with his or her previous employer under the Scheme; or

- (ii) the person—
    - (A) ceased his or her employment with 1 employer under the Scheme and commenced employment with another employer under the Scheme before the commencement of the amending Act; and
    - (B) is taken by the Board to have transferred his or her employment.
- (10) Subclause (9) applies as follows:
  - (a) paragraph (b) of the definition of *employer* applies both prospectively and retrospectively;
  - (b) the definition of *transfer of employment* applies—
    - (i) in relation to a person who has, before the commencement of the amending Act, been paid, or elected to preserve, a benefit on account of the cessation of his or her employment with an employer under the Scheme—prospectively only; and
    - (ii) in relation to any other person—both prospectively and retrospectively.
- (4) Schedule 1, The Electricity Industry Superannuation Scheme Trust Deed, clause 6—after subclause (3) insert:
  - (4) A person who has, before the commencement of the amending Act—
    - (a) accepted an offer of public sector employment under section 24 of the *Electricity Corporations (Restructuring and Disposal) Act 1999*; and
    - (b) been paid his or her accrued entitlements under the Scheme as at the date of the cessation of his or her private sector employment,will be taken to have ceased to be a member of the Scheme when those entitlements were paid.
- (5) Schedule 1, The Electricity Industry Superannuation Scheme Trust Deed, clause 8—after its present contents (now to be designated as subclause (1)) insert:
  - (2) A person who, whether before or after the commencement of this subclause—
    - (a) has been paid, or has elected to preserve, his or her accrued entitlements under the Scheme as at the date of the cessation of his or her employment with an employer; and
    - (b) has subsequently commenced employment with another employer (the *new employer*),is not entitled to a benefit arising from his or her membership of the Scheme before the commencement of his or her employment with the new employer (other than in respect of a preserved benefit).

- (6) Schedule 1, The Electricity Industry Superannuation Scheme Trust Deed, clause 18(2)—delete subclause (2) and substitute:
- (2) Subject to subclause (2a), the Auditor-General must, on an annual basis, audit the accounts and financial statements referred to in subclause (1).
  - (2a) The Auditor-General may, as the Auditor-General thinks fit, appoint or authorise another person to conduct an audit on behalf of, or instead of, the Auditor-General.

### **Part 3—Amendment of *Electricity Corporations (Restructuring and Disposal) Act 1999***

#### **5—Amendment of section 24—Separation packages and offers of alternative public sector employment**

Section 24(9)—after "other than" insert:

, if the employee accepts (or is taken to have accepted) a separation package,