

South Australia

Statutes Amendment and Repeal (Superannuation) Bill 2012

A BILL FOR

An Act to amend the *Judges' Pensions Act 1971*, the *Parliamentary Superannuation Act 1974*, the *Police Superannuation Act 1990*, the *Southern State Superannuation Act 2009*, the *Subordinate Legislation Act 1978*, the *Superannuation Act 1988* and the *Superannuation Funds Management Corporation of South Australia Act 1995*; and to repeal the *Unclaimed Superannuation Benefits Act 1997*.

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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 and Repeal (Superannuation) Act 2012*.

5 **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.

10 **Part 2—Amendment of *Judges' Pensions Act 1971***

4—Amendment of section 5—Certain pensions not payable

Section 5(2)—delete subsection (2) and substitute:

- 15 (2) If, immediately before his or her appointment as a Judge, a Judge, to or in respect of whom a pension is not payable by virtue of subsection (1), was a contributor within the meaning of the *Superannuation Act 1988*, then despite anything in that Act, that Act applies to, and has effect in relation to, the Judge as if—
- 20 (a) he or she were an employee within the meaning of that Act; and
- (b) his or her judicial service were service as such an employee; and

- (c) he or she contributed, during the period of his or her judicial service, at the standard contribution rate within the meaning of that Act.

5—Repeal of section 16

5 Section 16—delete the section

6—Amendment of section 17C—Interpretation

Section 17C, definition of *Southern State Superannuation Fund*—delete "established under the *Southern State Superannuation Act 1994*" and substitute:

continued in existence under the *Southern State Superannuation Act 2009*

10 7—Repeal of section 17D

Section 17D—delete the section

8—Amendment of section 17G—Entitlement where pension is in growth phase

15 Section 17G(2)(a)—delete "by applying that percentage split to the member spouse's interest under this Act based on the relevant accrued benefit multiple and by applying any relevant method or factor that applies under section 17E" and substitute:

in accordance with the Commonwealth regulations

Part 3—Amendment of *Parliamentary Superannuation Act 1974*

9—Amendment of section 5—Interpretation

Section 5(1)—after the definition of *additional salary* insert:

20 *approved form* means a form approved by the Board;

10—Repeal of section 23C

Section 23C—delete the section

11—Amendment of section 23F—Non-member spouse's entitlement where pension is in growth phase

25 Section 23F(2)(a)—delete "by applying that percentage split to the member spouse's superannuation interest based on the relevant accrued benefit multiple and by applying any relevant method or factor that applies under section 23D" and substitute:

in accordance with the Commonwealth regulations

Part 4—Amendment of *Police Superannuation Act 1990*

12—Insertion of section 45B

After section 45A insert:

45B—Unclaimed superannuation benefits

- 5 (1) If an amount of the Fund is attributable to an unclaimed
superannuation benefit of a contributor, the Treasurer may, in
accordance with the *Superannuation (Unclaimed Money and Lost
Members) Act 1999* of the Commonwealth, pay an amount equal to
10 the unpaid superannuation benefit, or any amount required to be paid
under that Act on account of the unclaimed superannuation benefit,
from the Consolidated Account to the Commissioner of Taxation.
- (2) The Treasurer must reimburse the Consolidated Account by charging
the Fund with an amount equal to—
- 15 (a) the balance of the contributor's contribution account; and
(b) the balance (if any) of the contributor's co-contribution
account; and
(c) the balance (if any) of the contributor's rollover account.
- (3) The Board must then close all accounts maintained by the Board in
the name of the contributor, after which—
- 20 (a) he or she will cease to be a contributor; and
(b) his or her rights in relation to superannuation under this Act
will be taken to have been exhausted and no derivative
rights will exist in relation to him or her under this Act.
- (4) In this section—
- 25 *unclaimed superannuation benefit* means an amount of money that
is taken by Part 3 of the *Superannuation (Unclaimed Money and Lost
Members) Act 1999* of the Commonwealth to be unclaimed money.

Part 5—Amendment of *Southern State Superannuation Act 2009*

13—Amendment of section 3—Interpretation

- 30 (1) Section 3(1), definition of *salary*—delete "member other than" and substitute:
member except
- (2) Section 3(1), definition of *salary*, (b)—delete paragraph (b) and substitute:
- 35 (b) an amount paid in lieu of—
- (i) recreation leave; or
(ii) long service leave; or
(iii) any other kind of leave,
on the termination of the member's employment; or

- (ba) an amount paid in respect of parental leave; or
- (3) Section 3(1), definition of *salary*—after paragraph (c) insert:
 - or
 - (d) remuneration of a prescribed kind;

14—Insertion of section 23A

After section 23 insert:

23A—Unclaimed superannuation benefits

- (1) If an amount of the Fund is attributable to an unclaimed superannuation benefit of a member or spouse member, the Treasurer may, in accordance with any relevant law of the Commonwealth, pay an amount equal to the unpaid superannuation benefit from the Consolidated Account to the Commissioner of Taxation.
- (2) The Treasurer must reimburse the Consolidated Account by charging the Fund with the amount of the unclaimed superannuation benefit.
- (3) The Board must then close all accounts maintained by the Board in the name of the member or spouse member, after which—
 - (a) he or she will cease to be a member or spouse member; and
 - (b) his or her rights in relation to superannuation under this Act will be taken to have been exhausted and no derivative rights will exist in relation to him or her under this Act.
- (4) In this section—

unclaimed superannuation benefit means an amount of money that is taken by Part 3 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth to be unclaimed money.

15—Amendment of section 30—Regulations

- (1) Section 30(7) and (8)—delete subsections (7) and (8)
- (2) Section 30(12)—delete subsection (12)

16—Amendment of Schedule 1—Related amendments, repeal and transitional provisions

Schedule 1—after clause 16 insert:

16A—Definition of salary

If a member is on parental leave when paragraph (ba) of the definition of *salary* in section 3(1) of this Act, inserted by the *Statutes Amendment and Repeal (Superannuation) Act 2012*, comes into operation, an amount received by the member in respect of that period of leave pursuant to an enterprise agreement will, despite that paragraph, be taken to be salary for the purposes of this Act.

Part 6—Amendment of *Subordinate Legislation Act 1978*

17—Amendment of section 16A—Regulations to which this Part applies

- (1) Section 16A(ab)—delete paragraph (ab) and substitute:
- (ab) by-laws made under the *Local Government Act 1934*; and
- 5 (2) Section 16A—after paragraph (eb) insert:
- (ec) regulations under Schedule 1A clause 1(1) of the *Superannuation Act 1988* (including regulations in force when this paragraph comes into operation); and

Part 7—Amendment of *Superannuation Act 1988*

18—Amendment of section 4—Interpretation

- 10 (1) Section 4(1)—after the definition of *adjusted salary* insert:
- Administered Electricity Industry Superannuation Scheme*—see Schedule 1B Part 2A;
- (2) Section 4(1)—after the definition of *age of retirement* insert:
- 15 *approved form* means a form approved by the Board;
- (3) Section 4(1), definition of *contributor*—after "as a member of" insert:
- the Administered Electricity Industry Superannuation Scheme or
- (4) Section 4(1), definition of *pensioner*—after "as a member of" insert:
- the Administered Electricity Industry Superannuation Scheme or
- 20 (5) Section 4(1), definition of *the Scheme*—after "does not include" insert:
- the Administered Electricity Industry Superannuation Scheme or
- (6) Section 4(1)—after the definition of *the Scheme* insert:
- SIS Act* means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;
- 25 (7) Section 4(1)—after the definition of *Triple S scheme* insert:
- unclaimed superannuation benefit* means an amount of money that is taken by Part 3 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth to be unclaimed money.
- (8) Section 4(3)—delete "subsection (4)" and substitute:
- 30 this section
- (9) Section 4(4)(a) and (b)—delete paragraphs (a) and (b) and substitute:
- (a) before the commencement of subsection (4a)—
- (i) there was a reduction in a contributor's rate of salary (not being a reduction resulting from disciplinary action against the contributor or a reduction in the contributor's hours of employment); and
- 35

(ii) the contributor elected under this subsection to contribute as if the reduction had not occurred; and

(b) after the commencement of subsection (4a), the contributor elects, in a manner approved by the Board, to have his or her contributions determined under this subsection,

(10) Section 4—after subsection (4) insert:

(4a) If (whether before or after the commencement of this subsection) there has been a reduction in a contributor's rate of salary (not being a reduction resulting from disciplinary action against the contributor or a reduction in the contributor's hours of employment) and—

(a) the contributor—

(i) elected, before the commencement of this subsection, to contribute as if the reduction had not occurred; and

(ii) has not made an election under subsection (4)(b); or

(b) the contributor elects, in a manner approved by the Board, to contribute as if the reduction had not occurred,

then the following provisions apply:

(c) the contributor's contributions will be based on his or her notional contribution salary;

(d) the contributor's actual or attributed salary as at a particular date will be determined as if his or her notional contribution salary on that date were the contributor's actual salary.

(4b) For the purposes of subsection (4a), a contributor's *notional contribution salary* is—

(a) the salary of the position or office held by the contributor immediately before the reduction occurred; or

(b) if that position or office ceases to exist or the classification of the position or office is changed—the salary of that position or office immediately before it ceased to exist or its classification was changed (adjusted if any increase occurs in the rate of salary payable in respect of the contributor's position or office by a percentage equal to the percentage that the increase bears to that salary).

(4c) The fixing of a contributor's contributions in relation to a financial year under section 23(4)(a) following a reduction in a contributor's rate of salary will be based on the contributor's notional contribution salary pursuant to an election under subsection (4a) only if the contributor made the election under that subsection on or before the 31 March last preceding the commencement of the financial year.

19—Amendment of section 8—Board's membership

(1) Section 8(1)(b)—delete paragraph (b) and substitute:

(b) 2 members elected by—

(i) the contributors; and

(ii) the members and spouse members of the Triple S scheme;
and

(iii) persons provided with investment services or other products
or services pursuant to regulations under section 30(2)(g) of
the *Southern State Superannuation Act 2009*; and

(2) Section 8(2)—delete ", the *Superannuation (Benefit Scheme) Act 1992* or the *Southern State Superannuation Act 1994*" and substitute:

or the *Southern State Superannuation Act 2009*

20—Amendment of section 9—Board proceedings

Section 9—after subsection (4a) insert:

(4b) A proposed resolution of the Board becomes a valid decision of the Board despite the fact that it is not voted on at a meeting of the Board if—

(a) notice of the proposed resolution is given to all members in accordance with procedures determined by the Board; and

(b) a majority of the members express concurrence in the proposed resolution by letter, telegram, telex, fax, email or other written communication setting out the terms of the resolution.

21—Amendment of section 20B—Payment of benefits

Section 20B(4)—after "in relation to" insert:

the Administered Electricity Industry Superannuation Scheme or

22—Amendment of section 43AB—Purpose of Part

Section 43AB—after "arising under" insert:

the Administered Electricity Industry Superannuation Scheme or

23—Amendment of section 43AC—Interpretation

Section 43AC, definition of *SIS Act*—delete the definition

24—Insertion of section 50A

After section 50 insert:

50A—Unclaimed superannuation benefits

- 5
- (1) If an amount of the Fund is attributable to an unclaimed superannuation benefit of a contributor, the Treasurer may, in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth, pay an amount equal to the unpaid superannuation benefit, or any amount required to be paid under that Act on account of the unclaimed superannuation benefit, from the Consolidated Account to the Commissioner of Taxation.
- 10
- (2) The Treasurer must reimburse the Consolidated Account by charging the Fund with an amount equal to—
- (a) the balance of the contributor's contribution account; and
- (b) the balance (if any) of the contributor's co-contribution account; and
- 15
- (c) the balance (if any) of the contributor's rollover account.
- (3) The Board must then close all accounts maintained by the Board in the name of the contributor, after which—
- (a) he or she will cease to be a contributor; and
- 20
- (b) his or her rights in relation to superannuation under this Act will be taken to have been exhausted and no derivative rights will exist in relation to him or her under this Act.

25—Amendment of section 55—Confidentiality

- (1) Section 55(1)—after "including under" insert:

25 the Administered Electricity Industry Superannuation Scheme or

- (2) Section 55(1)(d)—after "if relevant," insert:

the Administered Electricity Industry Superannuation Scheme or

- (3) Section 55(1)(f)—after "rules of" insert:

the Administered Electricity Industry Superannuation Scheme or

30 26—Amendment of section 59—Regulations

Section 59(1a)—before paragraph (a) insert:

- (aa) set out the procedures for the election of a member of the Board (including procedures that determine eligibility to vote in the election);

35 27—Amendment of heading to Schedule 1B

Heading to Schedule 1B—delete "to the State Scheme"

**28—Amendment of Schedule 1B—Transfer of certain members of the
Electricity Industry Superannuation Scheme**

- (1) Schedule 1B, clause 1—after the definition of *the State Scheme* insert:

taxed fund—a fund is a taxed fund if tax is payable on the income of the fund
under a law of the Commonwealth;

- (2) Schedule 1B, heading to Part 2—delete the heading and substitute:

Part 2—Transfer of members to State Scheme

- (3) Schedule 1B, clause 3(2)(a)—after "pension" insert:

to which this subclause applies

- (4) Schedule 1B, clause 3(2)(b)—after "pension" second occurring insert:

to which this subclause applies

- (5) Schedule 1B, clause 3(2)(c)—after "pension" first occurring insert:

to which this subclause applies

- (6) Schedule 1B, clause 3—after subclause (2) insert:

(2a) Subclause (2) applies to a pension under the Electricity Industry
Superannuation Scheme if the taxable component of the pension
consists wholly of an element untaxed in the fund from which the
pension is payable.

- (7) Schedule 1B, clause 3(5)(a) and (b)—delete "three years" wherever occurring and
substitute in each case:

4.5 years

- (8) Schedule 1B, clause 3(5)(e) and (f)—delete "the third anniversary of" wherever
occurring and substitute in each case:

the date falling 4.5 years after

- (9) Schedule 1B, clause 5(3)—after "before the transfer" insert:

(to be determined on the basis that no tax is payable on the income of the
account under a law of the Commonwealth)

- (10) Schedule 1B, clause 5(6)—after "appointed by the Treasurer" insert:

on the basis that no tax is payable on the income of the Scheme assets under a
law of the Commonwealth

(11) Schedule 1B—after Part 2 insert:

**Part 2A—Transfer of certain members of Electricity
Industry Superannuation Scheme to scheme
administered by South Australian
Superannuation Board**

**5A—Establishment of trust deed and fund for Administered
Electricity Industry Superannuation Scheme**

- (1) A trust deed is to be prepared by the Board for the purposes of establishing a scheme of superannuation that provides persons transferred from the Electricity Industry Superannuation Scheme under this Part with rights and benefits equivalent to the rights and benefits to which they were entitled in respect of a taxed pension under that Scheme.
- (2) The scheme of superannuation established under subclause (1) is to be known as the *Administered Electricity Industry Superannuation Scheme*.
- (3) The trust deed establishing the Administered Electricity Industry Superannuation Scheme—
- (a) is to provide for the establishment by the Board of a fund, to be administered by the Board, for the purposes of the Scheme; and
 - (b) is to provide that the trustee for the Scheme will be the Board; and
 - (c) will commence on a day specified by the Treasurer by notice in the Gazette.
- (4) The Administered Electricity Industry Superannuation Scheme is to have a set of rules.
- (5) The trust deed and the rules of the Administered Electricity Industry Superannuation Scheme will be contained in instruments recognised by the Treasurer by notice in the Gazette.
- (6) The Treasurer must not publish a notice under subclause (5) unless the Treasurer—
- (a) is acting on the basis of an application made by the Board; and
 - (b) is satisfied that the trust deed and rules of the Administered Electricity Industry Superannuation Scheme confer on members of the Scheme equivalent rights and benefits to the rights and benefits that members had under the Electricity Industry Superannuation Scheme; and
 - (c) is otherwise satisfied that the trust deed and rules meet the requirements specified in this clause.

- (7) In preparing the trust deed and rules of the Administered Electricity Industry Superannuation Scheme, the Board must consult and have regard to the views of the Electricity Industry Superannuation Board.

5B—Transfer to Administered Electricity Industry Superannuation Scheme

- (1) The Board may, with the approval of the Treasurer, enter into an agreement with the Trustee under which a person or persons referred to in subclause (2) may be transferred from the Electricity Industry Superannuation Scheme to the Administered Electricity Industry Superannuation Scheme.
- (2) The following persons may be transferred pursuant to an agreement under subclause (1):
- (a) a person who is in receipt of a pension payable from a taxed fund under the Electricity Industry Superannuation Scheme;
 - (b) a person who is a member of the Electricity Industry pension scheme and who is presently entitled to receive, but is not yet in receipt of, a pension payable from a taxed fund following the termination of his or her employment;
 - (c) a person who has terminated his or her employment with a business in the electricity generating and distribution industry but is entitled to a preserved pension benefit payable from a taxed fund under the Electricity Industry Superannuation Scheme;
 - (d) a person who is entitled to a pension payable from a taxed fund as a derivative benefit under the Electricity Industry Superannuation Scheme but who is not yet in receipt of the pension.
- (3) A person may not be transferred from the Electricity Industry Superannuation Scheme to the Administered Electricity Industry Superannuation Scheme unless—
- (a) the Electricity Industry Superannuation Board has—
 - (i) provided the person with a copy of the set of rules of the Administered Electricity Industry Superannuation Scheme; and
 - (ii) offered to facilitate the transfer of the person to the Administered Electricity Industry Superannuation Scheme; and
 - (b) the person has notified the Electricity Industry Superannuation Board in writing that he or she accepts the offer.

5C—Management and investment of Scheme assets

- 5
- (1) The assets of the Administered Electricity Industry Superannuation Scheme will be invested, managed and held for the benefit of that Scheme and will not belong to the Crown.
- (2) The fund established for the purposes of the Scheme pursuant to clause 5A(3) will be—
- (a) subject to the management of the Superannuation Funds Management Corporation of South Australia; and
- (b) invested by the Corporation.
- 10
- (3) The Corporation may enter into transactions affecting the fund—
- (a) for the purposes of investment; or
- (b) for purposes incidental, ancillary or otherwise related to investment.
- 15
- (4) The Corporation must consult with the Board to determine the risk/return objectives and strategic asset allocation policies to be adopted with respect to the management and investment of the fund.
- (5) Subject to subclause (6), the Board will be ultimately responsible for setting the risk/return objectives and the Corporation will be ultimately responsible for determining the strategic asset allocation policies.
- 20
- (6) If a disagreement arises between the Board and the Corporation with respect to the investment of the fund, the matter must be referred to the Treasurer and a decision of the Treasurer will determine the matter (and will have effect according to its terms).
- 25
- (7) Subject to any other arrangements under the rules of the Scheme, or approved by the Board—
- (a) the Board must pay into the fund all contributions received for the purposes of the Scheme; and
- (b) all interest and accretions arising from the investment of the fund must be paid into the fund; and
- 30
- (c) all benefits under the Scheme must be paid from the fund.
- (8) The Corporation will also pay from the fund—
- (a) administrative costs and other expenses related to the management and investment of the fund by the Corporation; and
- 35
- (b) any other amount payable in connection with the management or operation of the Scheme determined to be payable from the fund pursuant to the rules of the Scheme or a determination of the Board.
- 40
- (9) The Corporation must determine the value of the fund as at the end of each financial year.

5D—Transfer of funds

- 5 (1) When a person is transferred to the Administered Electricity Industry Superannuation Scheme under this Part, the following amounts (to be determined by an actuary appointed by the Treasurer) must be paid by the Trustee from the Scheme assets of the Electricity Industry Superannuation Scheme to the Board:
- 10 (a) an amount equivalent in value to that part of the Scheme assets of the Electricity Industry Superannuation Scheme that is attributable to the full actuarial value of the entitlements of the person (whether payable on a taxed or untaxed basis) under the Scheme;
- 15 (b) an amount representing a fair and reasonable estimate of the costs and expenses likely to be incurred by the Board in administering the payment of benefits under the Scheme to the person.
- (2) The Treasurer must pay into the fund of the Administered Electricity Industry Superannuation Scheme a contribution reflecting the amount paid to the Board under subclause (1).

5E—Unclaimed superannuation benefits

20 If an amount of the fund established for the purposes of the Administered Electricity Industry Superannuation Scheme is attributable to an unclaimed superannuation benefit, the Board may, in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth, pay an amount equal to

25 the unpaid superannuation benefit, or any amount required to be paid under that Act on account of the unclaimed superannuation benefit, from the fund to the Commissioner of Taxation.

5F—Accounts and audit

- 30 (1) The Board must, in respect of each financial year for which it is the trustee of the Administered Electricity Industry Superannuation Scheme—
- 35 (a) maintain proper accounts of amounts paid to the Board for the purposes of the Scheme; and
- (b) maintain proper accounts of payments to, on behalf of, or in respect of, members of the Scheme; and
- (c) maintain proper accounts of any other associated receipts or payments; and
- (d) prepare financial statements in relation to those receipts and payments.
- 40 (2) Subject to subclause (3), the Auditor-General must, on an annual basis, audit—
- (a) the accounts and financial statements referred to in subclause (1); and

- (b) any other accounts or financial statements of the Administered Electricity Industry Superannuation Scheme.
- (3) 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.
- (4) The Auditor-General may, at any other time, audit the accounts and financial statements of the Board under this Part, or of the Administered Electricity Industry Superannuation Scheme.

5G—Reports

- (1) The Board must, in conjunction with each annual report under this Act, provide a report on the operation of this Part in relation to the Administered Electricity Industry Superannuation Scheme during the financial year to which the annual report relates.
- (2) A report under subclause (1) must include—
- (a) a copy of any accounts or financial statements that are required to be audited under this Part in respect of the Part for the financial year; and
- (b) a copy of the audited accounts and financial statements for the fund established for the purposes of the Administered Electricity Industry Superannuation Scheme provided by the Superannuation Funds Management Corporation of South Australia.
- (3) The Minister must, within 6 sitting days after receiving a report under this clause, have copies of the report laid before both Houses of Parliament.
- (4) The Board must also report in accordance with any requirements imposed on the Board under the rules of the Administered Electricity Industry Superannuation Scheme, or under the regulations.
- (12) Schedule 1B, clause 8—after "State Scheme" insert:
- or the Administered Electricity Industry Superannuation Scheme
- (13) Schedule 1B, clause 8—after "cease" insert:
- and the Trustee, and any other past or future trustee of the Electricity Industry Superannuation Scheme, is by force of this clause freed and discharged from liability in respect of any claim made by or in respect of the person against the Trustee (or other trustee) in relation to the person's entitlements under the Scheme
- (14) Schedule 1B, clause 9(1)—after "State Scheme" insert:
- or the Administered Electricity Industry Superannuation Scheme

(15) Schedule 1B—after clause 10 insert:

10A—Costs of actuarial determinations

Costs incurred in relation to the appointment by the Treasurer of an actuary to determine an amount to be paid by the Trustee to the Treasurer or the Board under this Schedule are to be met from the component of the amount determined by the actuary that is attributable to employer contributions.

(16) Schedule 1B, clause 11(1)—after "State Scheme" insert:

or the Administered Electricity Industry Superannuation Scheme

29—Amendment of Schedule 3—Administered schemes

(1) Schedule 3, clause 4(1)—delete "clause 2" and substitute:

clause 2(1)(c)

(2) Schedule 3, clause 4(2)—delete "established for the purposes of the administered scheme"

(3) Schedule 3, clause 5—delete clause 5 and substitute:

5—Management and establishment of funds

(1) If a declaration is made under clause 2(1)(c), the Superannuation Funds Management Corporation of South Australia may, depending on arrangements determined or approved by the Minister and the other requirements of this Schedule—

(a) assume the management of an existing fund (and make investments accordingly); or

(b) establish a fund for the purposes of the administered scheme (and invest assets of the relevant scheme transferred to or held by the Corporation for the purposes of management by the Corporation).

(2) The assets of an administered scheme that is subject to a declaration under clause 2(1)(c) will be invested, managed and held for the benefit of that scheme and will not belong to the Crown.

(3) Subject to the following subclauses, the Corporation may enter into transactions affecting any assets held in a fund under subclause (1)(a) or (b)—

(a) for the purposes of investment; or

(b) for purposes incidental, ancillary or otherwise related to investment.

(4) The Corporation must consult with the trustee of the relevant superannuation scheme to determine the risk/return objectives and strategic asset allocation policies to be adopted with respect to the management and investment of the fund.

(5) Subject to subclause (6), the trustee of the scheme will be ultimately responsible for setting the risk/return objectives and the Corporation will be ultimately responsible for determining the strategic asset allocation policies.

5 (6) If a disagreement arises between the trustee and the Corporation with respect to the investment of the fund, the matter must be referred to the Treasurer and a decision of the Treasurer will determine the matter (and will have effect according to its terms).

10 (7) If the assets of a superannuation scheme are being managed under this Schedule, then, subject to any other arrangements under the rules of the scheme or approved by the trustee of the scheme—

(a) Super SA must pay to the credit of the fund maintained for the purposes of the scheme all contributions received by Super SA for the purposes of the scheme; and

15 (b) all interest and accretions arising from the investment of the assets of the scheme must be paid into a fund managed or established under this Schedule for the benefit of the scheme; and

20 (c) all benefits under the scheme will be paid from a fund managed or established under this Schedule for the benefit of the scheme.

(8) The Corporation may pay from a fund managed by the Corporation under this Schedule—

25 (a) administrative costs and other expenses related to the management and investment activities of the Corporation in connection with the fund; and

(b) if relevant, administrative charges payable under clause 11; and

30 (c) any other amount payable in connection with the management or operation of the relevant superannuation scheme determined to be payable from the fund pursuant to the rules of the scheme or a determination of the trustee of the scheme.

35 (9) The Corporation must determine the value of a fund managed under this clause as at the end of each financial year.

(4) Schedule 3, clause 6(1)(a)—delete "established" and substitute:
managed by the Corporation

(5) Schedule 3, clause 10(2)(b)—delete "in existence" and substitute:
managed

- (6) Schedule 3—after clause 12 insert:

12A—Unclaimed superannuation benefits

If an amount of a superannuation fund of an administered scheme is attributable to an unclaimed superannuation benefit, the trustees of the scheme may, in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth, pay an amount equal to the unpaid superannuation benefit, or any amount required to be paid under that Act on account of the unclaimed superannuation benefit, from the fund to the Commissioner of Taxation.

Part 8—Amendment of *Superannuation Funds Management Corporation of South Australia Act 1995*

30—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *contributor*, (b)—after "member" insert:

or spouse member

- (2) Section 3(1), definition of *contributor*—after paragraph (b) insert:

or

- (c) a person provided with investment services or other products or services pursuant to regulations under section 30(2)(g) of the *Southern State Superannuation Act 2009*;

- (3) Section 3(1), definition of *the funds*, (c)—delete paragraph (c) and substitute:

(c) the funds (if any) established by—

- (i) the South Australian Superannuation Board for the purposes of Schedule 1B Part 2A of the *Superannuation Act 1988*; or
(ii) the Corporation for the purposes of Schedule 3 of the *Superannuation Act 1988*; and

31—Amendment of section 10—Conditions of membership

Section 10(5)—delete "South Australian Institute of Teachers" and substitute:

Australian Education Union (S.A. Branch)

32—Amendment of section 20B—Other performance plans

- (1) Section 20B(1)—delete "established by the Corporation for the purposes of" and substitute:

managed by the Corporation for the purposes of Schedule 1B Part 2A or

- (2) Section 20B(3)—delete "Schedule 3" and substitute:

Schedules 1B and 3

33—Amendment of section 39—Regulations

Section 39(2)(b)—after "board" insert:

(including procedures that determine eligibility to vote in the election)

Part 9—Repeal of *Unclaimed Superannuation Benefits Act 1997*

5 34—Repeal of Act

The *Unclaimed Superannuation Benefits Act 1997* is repealed.

Schedule 1—Transitional provisions

1—Superannuation Act and Superannuation Funds Management Corporation of South Australia Act

- 10 (1) Regulations made under the *Superannuation Act 1988* or the *Superannuation Funds Management Corporation of South Australia Act 1995* before the commencement of this clause are to be read as if the amendments to the regulation making powers under those Acts effected by this Act had been in force when the regulations were made.
- 15 (2) The person holding the office of elected member of the South Australian Superannuation Board pursuant to section 8(1)(b) of the *Superannuation Act 1988* (the *principal Act*) immediately before the commencement of section 19 of this Act will, despite the amendments effected by that section, continue to hold office for the balance of his or her term of election (subject to any provision of the principal Act relating to the conditions of his or her office).
- 20 (3) The person holding the office of elected member of the board of directors of the Superannuation Funds Management Corporation of South Australia pursuant to section 9(2)(a) of the *Superannuation Funds Management Corporation of South Australia Act 1995* (the *principal Act*) immediately before the commencement of section 30 of this Act will, despite the amendments effected by that section, continue to hold office for the balance of his or her term of election (subject to any provision of the principal Act relating to the conditions of his or her office).
- 25

2—Unclaimed Superannuation Benefits Act

- (1) If—
- 30 (a) an unclaimed superannuation benefit has been paid to the Treasurer by the superannuation provider of a fund under the *Unclaimed Superannuation Benefits Act 1997* (the *repealed Act*); and
- (b) an amount equal to the amount of that unclaimed superannuation benefit (less any amount refunded to the superannuation provider under section 7 of the repealed Act) has not, before the repeal of the repealed Act by this Act, been paid to any person,
- 35
- the Treasurer must, within 1 month of the commencement of this clause—
- (c) pay an amount equal to the amount of the unclaimed superannuation benefit to the Commissioner of Taxation; and

- (d) provide the Commissioner of Taxation with all information relating to the unclaimed superannuation benefit kept in the register of unclaimed superannuation benefits under section 8 of the repealed Act.
- 5 (2) The Consolidated Account is appropriated to the extent necessary for the purposes of this clause.
- (3) In this clause—
- superannuation provider* has the same meaning as in the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth;
- 10 *unclaimed superannuation benefit* means an amount of money that is taken by Part 3 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth to be unclaimed money.

Schedule 2—Statute law revision amendment of *Superannuation Act 1988*

Provision amended	How amended
Section 4(1), definition of <i>actuary</i>	Delete "the Institute" and substitute: The Institute
Section 4(1), definition of <i>adjusted salary</i> , (a) and (b)	Delete "where" wherever occurring and substitute in each case: if
Section 4(1), definition of <i>the Board</i>	Delete "the" from the defined term
Section 4(1), definition of <i>the Commonwealth Act</i>	Delete "the" from the defined term
Section 4(1), definition of <i>the Consumer Price Index</i>	Delete "the" from the defined term
Section 4(1), definition of <i>employee</i> , (b)(ii)	Delete " <i>Further Education Act 1975</i> " and substitute: <i>Technical and Further Education Act 1975</i>
Section 4(1), definition of <i>employee</i> , (b)(iii)	Delete "TransAdelaide" and substitute: the Rail Commissioner
Section 4(1), definition of <i>employee</i> , (b)(iii)	Delete "— the South Australian Health Commission"
Section 4(1), definition of <i>employee</i> , (b)(iv)	Delete "Chief Executive Officer" and substitute: chief executive
Section 4(1), definition of <i>the Fund</i>	Delete "the" from the defined term
Section 4(1), definition of <i>preservation age</i>	Delete "SIS Act" and substitute: <i>Superannuation Industry (Supervision) Act 1993</i> of the Commonwealth
Section 4(1), definition of <i>private sector employer</i>	Delete "upon" and substitute: on

Provision amended	How amended
Section 4(1), definition of <i>the repealed Act</i>	Delete "the" from the defined term
Section 4(1), definition of <i>to retrench</i>	Delete "to" from the defined term and second occurring in the definition
Section 4(1), definition of <i>the Scheme</i>	Delete "the" from the defined term
Section 4(1), definition of <i>Southern State Superannuation Fund</i>	Delete "established under the <i>Southern State Superannuation Act 1994</i> " and substitute: continued in existence under the <i>Southern State Superannuation Act 2009</i>
Section 4(1), definition of <i>the Superannuation Funds Management Corporation of South Australia and the Corporation</i>	Delete "the" from each defined term
Section 4(1), definition of <i>Triple S scheme</i>	Delete "established by the <i>Southern State Superannuation Act 1994</i> " and substitute: continued in existence under the <i>Southern State Superannuation Act 2009</i>
Section 4(2)	Delete "Where" and substitute: If
Section 4(3)(a)	Delete "where" and substitute: if
Section 4(5)	Delete "Where" first occurring and substitute: If Delete ", if" and substitute: and
Section 4(6)(b)	Delete "where" and substitute: if After "expires" insert: ,
Section 4A(1)(b)	Delete "where" and substitute: if
Section 5(2a)	Delete "Where" and substitute: If
Section 6(3)	Delete "any"
Section 6(4)	Delete "Where" and substitute: If
Section 8(7)	Delete "South Australian Institute of Teachers" and substitute: Australian Education Union (S.A. Branch)

Provision amended	How amended
Section 9(2)	Delete "notwithstanding" and substitute: despite
Section 17(7)(c)	Delete "in pursuance of" and substitute: under
Section 20A(2)	Delete "in pursuance of" and substitute: under
Section 20A(5)	Delete "Where, in pursuance of" and substitute: If, in accordance with
Section 20A(6)	Delete "Where" and substitute: If
Section 20ABA(d)(ii)	Delete "section 14 of the <i>Southern State Superannuation Act 1994</i> " and substitute: the <i>Southern State Superannuation Act 2009</i>
Section 20B(1)	Delete "Any" and substitute: A
Section 20B(2)	Delete "in pursuance of" and substitute: under
Section 22(5)	Delete "any such condition prevails to the extent of any inconsistency with any provision of this Act" and substitute: such a condition prevails over this Act to the extent of any inconsistency
Section 22(13)(a)	Delete "Southern State Superannuation Scheme established by the Southern State Superannuation Act 1994" and substitute: Triple S scheme
Section 22(13)(b)	Delete "Southern State Superannuation Scheme" and substitute: Triple S scheme
Section 23(3a)	Delete "Where" and substitute: If
Section 23(6a)	Delete "Where" and substitute: If
Section 24(3)	Delete "where" and substitute: if
Section 28(1c), (2) and (5)	Delete "Where" wherever occurring and substitute in each case: If
Section 28(4), definition of X, (a)	Delete "where" and substitute: if
Section 28B(4)	Delete "Where" and substitute: If

Provision amended	How amended
Section 28C(4) and (5)	Delete "Where" wherever occurring and substitute in each case: If
Section 29(1), (4) and (5)	Delete "Where" wherever occurring and substitute in each case: If
Section 30A(1)	Delete "Where" and substitute: If
Section 31(2), definition of X , (a) and (b) and definition of M , (a)	Delete "where" wherever occurring and substitute in each case: if
Section 31(4)	Delete "Notwithstanding" and substitute: Despite
Section 32(1)	Delete "Where" and substitute: The following payments will be made if
Section 32(2)(b)(ii), definitions of X and M	Delete "where" wherever occurring and substitute in each case: if
Section 32(3)(a) and (b)	Delete "where" wherever occurring and substitute in each case: if
Section 32(3a)(a)	Delete "where" wherever occurring and substitute in each case: if
Section 32(3a)(b), definition of M , (a)	Delete "where" and substitute: if
Section 32A(2), (3), (7) and (8)	Delete "Where" wherever occurring and substitute in each case: If
Section 35(1) and (4)	Delete "Where" wherever occurring and substitute in each case: If
Section 36A(1)	Delete "Where" and substitute: If
Section 37(5)	Delete "Notwithstanding" and substitute: Despite
Section 38(1)	Delete "Where a contributor dies" and substitute: If a contributor dies, the following provisions apply:
Section 38(2)(a) and (b)	Delete "where" wherever occurring and substitute in each case: if
Section 38(4)	Delete "where" wherever occurring and substitute in each case: if
Section 38(6)(a)	Delete "where" and substitute: if

Provision amended	How amended
Section 38(7)	Delete "Where" and substitute: If
Section 39(1c), (2), (5), and (8)	Delete "Where" wherever occurring and substitute in each case: If
Section 39(7a), definition of <i>the prescribed age</i>	Delete "the" from the defined term
Section 39B(4) and (5)	Delete "Where" wherever occurring and substitute in each case: If
Section 39C(4) and (7)	Delete "Where" wherever occurring and substitute in each case: If
Section 40A(3)	Delete "Where" and substitute: If
Section 43	Delete "Where" and substitute: If
Section 43AN(2)	Delete "where" wherever occurring and substitute in each case: if
Section 43B(1)	Delete " <i>Industrial Relations Act (S.A.) 1972</i> or by an award, industrial agreement" and substitute: <i>Fair Work Act 1994</i> or by an award, enterprise agreement
Section 43B(2)	Delete " <i>Industrial Relations Act (S.A.) 1972</i> on or after 1 July 1992" and substitute: <i>Fair Work Act 1994</i> Delete "that date" and substitute: 1 July 1992
Section 45(1), (2), (3), (4), (5) and (6)	Delete "Where" wherever occurring and substitute in each case: If
Section 46(2) and (5)	Delete "Where" wherever occurring and substitute in each case: If
Section 47(1)	Delete "Where" and substitute: If
Section 48(1), (2) and (3)	Delete "Where" wherever occurring and substitute in each case: If
Section 49(1) and (2)	Delete "Where" wherever occurring and substitute in each case: If
Section 54(5)	Delete "Where" and substitute: If
Section 57	Delete the section

Provision amended	How amended
Section 58(1)	Delete "Where" and substitute: If
Section 59(1a)(b)	Delete "where" and substitute: if
Section 59(2)	Delete "Any such" and substitute: A
Schedule 1A, clause 1	Insert the following heading to the clause: Regulations relating to other public sector superannuation schemes
Schedule 1A, clause 1(1)(c)	Delete "upon" and substitute: on
Schedule 1A, clause 2	Insert the following heading to the clause: Regulations to offset income tax etc
Schedule 1A, clause 2(1)	Delete "Where" and substitute: If
Schedule 1A, clause 3	Insert the following heading to the clause: Interpretation
Schedule 1B, clause 1, defined terms	Delete "the" from the defined terms wherever occurring
Schedule 1B, clause 2(3)(e) and (f)	Delete "where" wherever occurring and substitute in each case: if
Schedule 1B, clause 2(4)	Delete "Where" and substitute: If
Schedule 1B, clause 3(3)	Delete "in pursuance of" and substitute: under
Schedule 1B, clause 3(5)(e) and (f)	Delete "where" wherever occurring and substitute in each case: if
Schedule 1B, clause 3(6)	Delete "Where" and substitute: If
Schedule 1B, clause 4(7)	Delete "Where" and substitute: If
Schedule 1B, clause 4(7)(b)	Delete "where" wherever occurring and substitute in each case: if
Schedule 1B, clause 4(9)	Delete "where" and substitute: if
Schedule 3, clause 4(1)	Delete "Where" and substitute: If