

Legislative Council—No 45

As introduced and read a first time, 17 June 2020

South Australia

**Southern State Superannuation (Choice of Fund)
Amendment Bill 2020**

A BILL FOR

An Act to amend the *Southern State Superannuation Act 2009*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

5 This Act may be cited as the *Southern State Superannuation (Choice of Fund) Amendment Act 2020*.

2—Commencement

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

3—Amendment provisions

10 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 *Southern State Superannuation Act 2009*

4—Amendment of section 19—Membership of scheme

Section 19(2)—delete subsection (2) and substitute:

(2) However, a person—

- 15 (a) who is—
 - (i) a member of a scheme of superannuation established by or under some other Act; or
 - 20 (ii) a member of a scheme of superannuation established for the benefit of the employees of an agency or instrumentality of the Crown (not being a scheme referred to in subparagraph (i)); or
 - (b) who makes an election under section 19A,
- is not, subject to regulations under subsection (3), a member of the Triple S scheme.

5—Insertion of sections 19A and 19B

After section 19 insert:

19A—Member may elect to participate in other schemes

- 5 (1) A person who is a member of the Triple S scheme by virtue of section 19(1) may, by notice in writing to the Board, elect to transfer the person's superannuation arrangements under this Act to a complying fund.
- 10 (2) A notice under subsection (1) must—
- (a) specify the name of, and contact details for, the relevant fund; and
 - (b) comply with requirements set out in the regulations; and
 - (c) contain or be accompanied by such information (if any) as may be required by the Board.
- 15 (3) If a person makes an election under subsection (1)—
- (a) the person will cease to be a member of the Triple S scheme; and
 - (b) the Board will cease to maintain (or, if relevant, will not be required to establish) any account in the name of the person under this Act; and
 - 20 (c) any amount standing to the credit of the person's contribution account, or any other account maintained by the Board for the person, is to be dealt with in accordance with procedures set out in the regulations; and
 - (d) the person's employer will cease to be liable to make contributions to the Treasurer on behalf of the member under section 21; and
 - 25 (e) no entitlement or benefit will be payable to the person, or to any other person in respect of the person, under this Act (other than in accordance with regulations under section 21(3c)).
- 30 (4) A person cannot make an election under this section if the Board has been served with a splitting instrument in respect of the member's superannuation interest under this Act.
- (5) An election under subsection (1) is irrevocable.
- 35 (6) However, a person may, by notice in writing to the Board, vary an election under this section so as to select another complying fund for the purposes of this section.
- (7) A notice under subsection (6) must—
- 40 (a) specify the name of, and contact details for, the relevant fund; and
 - (b) comply with requirements set out in the regulations; and

(c) contain or be accompanied by such information (if any) as may be required by the Board.

(8) A notice under subsection (6) will take effect on a date determined by the Board after consultation with the person who has given the notice.

(9) There can only be 1 fund that applies in relation to a person under this section at any particular time.

(10) If—

(a) a person makes an election under this section; and

(b) the specified fund applying for the purposes of the election—

(i) ceases to exist; or

(ii) ceases to accept contributions under this section; or

(iii) ceases to be a complying fund; and

(c) the person does not, within the prescribed period, vary the election to specify another complying fund for the purposes of this section,

then the Treasurer may, after consultation with the Board, specify another complying fund (which will then be taken to be a fund specified by the person for the purposes of this section).

(11) A notice under this section must be in a form approved by the Board.

(12) In this section—

complying fund means—

(a) a complying superannuation fund, other than a self managed superannuation fund; or

(b) an RSA;

complying superannuation fund has the meaning given by section 45 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

flag lifting agreement has the same meaning as in Part VIIIIB of the *Family Law Act 1975* of the Commonwealth;

fund includes a scheme or account;

payment split has the same meaning as in Part VIIIIB of the *Family Law Act 1975* of the Commonwealth;

RSA has the same meaning as in the *Retirement Savings Accounts Act 1997* of the Commonwealth;

self managed superannuation fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

specified fund means a fund specified in a notice under subsection (2) or (7);

splitting instrument means—

- (a) a superannuation agreement; or
- (b) a flag lifting agreement that provides for a payment split; or
- (c) a splitting order;

splitting order has the same meaning as in Part VIIIIB of the *Family Law Act 1975* of the Commonwealth;

superannuation agreement has the same meaning as in Part VIIIIB of the *Family Law Act 1975* of the Commonwealth.

19B—Private employer contributions

- (1) Subject to this section, a member may, under a scheme prescribed by the regulations, require the member's employer, where that employer is not the Crown, or an agency or instrumentality of the Crown, to make contributions on behalf of the member for the purposes of section 21.
- (2) Without limiting the matters that may be addressed in a scheme prescribed for the purposes of subsection (1), regulations under that subsection may—
 - (a) provide that only prescribed members, or members of a prescribed class, may participate in the scheme; and
 - (b) modify the provisions of this Act in their application to, or in relation to, employees and employers that participate in the scheme; and
 - (c) make provision in relation to requirements of the Commonwealth Act that are to be met by employers in respect of participants in the scheme.

6—Amendment of section 21—Payments by employers

Section 21—after subsection (3b) insert:

- (3c) The regulations may make provision in relation to requirements of the Commonwealth Act that are to be met by employers in respect of persons who have made elections under section 19A.