

South Australia

# **Local Government (Superannuation Scheme) (Merger) Amendment Act 2012**

An Act to amend the *Local Government (Superannuation Scheme) Amendment Act 2008*.

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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 *Local Government (Superannuation Scheme) (Merger) Amendment Act 2012*.

### **2—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 *Local Government (Superannuation Scheme) Amendment Act 2008***

### **3—Amendment of Schedule 1—Transitional provisions**

- (1) Schedule 1 clause 1—after "In this Schedule" insert:  
    , unless the contrary intention appears

- (2) Schedule 1 clause 1, definition of *new scheme*—delete "a trust deed pursuant to this Schedule" and substitute:

the trust deed prepared by the Board in accordance with clause 3 (but a reference in this Schedule to the new scheme does not apply in relation to the Local Government Superannuation Scheme insofar as it is continued in existence following any merger of the scheme with another superannuation scheme as contemplated by clause 2(1)(b))

- (3) Schedule 1 clause 1—after the definition of *relevant day* insert:

*successor fund*, in relation to a transfer of benefits of a member from a superannuation fund (the *original fund*), means a superannuation fund that satisfies the following conditions:

- (a) the fund confers on the member equivalent rights to the rights that the member had under the original fund in respect of the benefits;
- (b) before the transfer, the trustee of the fund has agreed with the trustee of the original fund that the fund will confer on the member equivalent rights to the rights that the member had under the original fund in respect of the benefits;

*superannuation fund* means a fund that is, under section 45 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth, a complying superannuation fund for the purposes of the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997* of the Commonwealth;

- (4) Schedule 1 clause 2(1)—delete "continue in existence under a trust deed." and substitute:

continue in existence under—

- (a) the trust deed prepared by the Board in accordance with clause 3; or
- (b) another trust deed as part of a superannuation fund following a merger of the scheme (or a subsequent merger of the scheme) with another superannuation scheme pursuant to a transfer of the benefits of the members of the scheme to a successor fund.

- (5) Schedule 1 clause 2—after subclause (4) insert:

- (5) If there is a merger of the new scheme with another superannuation scheme as contemplated by clause 2(1)(b), a council or other authority or body that is a participating employer for the purposes of the new scheme immediately before the merger occurs will be taken to be a signatory to the trust deed under which the Local Government Superannuation Scheme continues in existence following the merger.

- (6) If, following a merger of the new scheme with another superannuation scheme, there is a subsequent merger of the scheme with another superannuation scheme, a council or other authority or body that is, immediately before the merger, a participating employer for the purposes of the successor fund to which member benefits were transferred under the previous merger will be taken to be a signatory to the trust deed under which the fund is continued following the subsequent merger.
  - (7) A participating employer that is taken under subclause (5) or (6) to be a signatory to a trust deed cannot be required under the deed to remain as a participating employer for the purposes of the scheme except in relation to an employee who is continuing to accrue new service benefits under the scheme.
- (6) Schedule 1 clause 5(4)—after "trust deed" insert:
  - or there is a merger of the new scheme with another superannuation scheme as contemplated by clause 2(1)(b)
- (7) Schedule 1 clause 8(1)—after "this Schedule" insert:
  - (including in relation to a merger of the new scheme with another superannuation scheme as contemplated by clause 2(1)(b))