

# Queensland Future Fund Bill 2020

## Explanatory Notes

### Short title

The short title of the Bill is the Queensland Future Fund Bill 2020.

### Policy objectives and the reasons for them

The objectives of the Bill are to:

1. Establish a Queensland Future Fund under an Act of Parliament, replicating, as far as possible, the legislative model set up by the *NSW Generations Funds Act 2018*;
2. Establish the first Queensland Future Fund, the Debt Retirement Fund, to quarantine funding to reduce the debt of the State;
3. Provide for the establishment and ongoing administration of Queensland Future Funds; and
4. Provide an additional guarantee of the State's defined benefit liabilities.

The Bill implements a commitment announced by the Government in the Mid-Year Fiscal and Economic Review 2019-20 ('MYFER') to establish a Queensland Future Fund. The first future fund to be established will be the Queensland Future (Debt Retirement) Fund ('Debt Retirement Fund').

### Achievement of policy objectives

To achieve its objectives, the Bill will establish a framework for individual Queensland Future Funds, and set out the administration of the Funds with reference to the *Financial Accountability Act 2009* (FA Act).

The Bill establishes the first Queensland Future Fund – the 'Debt Retirement Fund'. The value of the Debt Retirement Fund will be netted off against the debt of the State to support Queensland's credit rating.

While only the Debt Retirement Fund will be established initially, the Bill will enable the establishment of other Queensland Future Funds in the future. A new fund may be added in the future by amending the legislation to include a new division to establish the new fund, state its purpose and set out the terms that apply specifically to that fund. This is similar to the approach taken in the NSW legislation.

The Bill will achieve its objective of establishing a framework for Queensland Future Funds and establishing the Debt Retirement Fund by:

1. Modelling the legislative structure on the *NSW Generations Funds Act 2018*.
  - a. Rating agencies have accepted the model established by the NSW legislation. Accordingly, the NSW legislation has been replicated as far as possible to reduce

- the possibility of rating agencies not recognising the Debt Retirement Fund when undertaking Queensland's credit rating assessments.
2. Providing clarity on the purposes, administration and reporting processes for a proposed Queensland Future Fund.
    - a. A Queensland Future Fund will be established as a 'special purpose account' to ring-fence the fund from the consolidated fund and departmental accounts.
    - b. All interest and investment returns will be quarantined in this ring-fenced special purpose account.
    - c. Moneys from the Debt Retirement Fund can only be used for reducing debt and for administrative expenses related to its control and management.
    - d. Each Queensland Future Fund will be reported as part of Treasury's annual financial statements which are prepared by the authorised officer and audited under the *Auditor-General Act 2009*. These audited financial statements will contain a separate report in the form of notes for the Debt Retirement Fund.

The Bill will also achieve its objectives by the following consequential amendments:

1. The *Superannuation (State Public Sector) Act 1990* will be amended to provide additional protection to guarantee defined benefit members their superannuation entitlements.
2. The FA Act will be amended to provide for the establishment of special purpose accounts and their administration.
  - a. Special purpose accounts will be separate to departmental accounts.
  - b. Special purpose accounts will be established where an Act establishes a fund that requires accounts for the fund to be kept as special purpose accounts.
  - c. Investment earnings from special purpose accounts will be retained within the account and can only be used for the purposes set out in the Act which establishes the fund.

Establishing Queensland Future Funds pursuant to legislation is reasonable and appropriate as it ensures there is full transparency with respect to reporting and governance.

In particular, establishing the Debt Retirement Fund by legislation will ensure the money set aside for reducing debt (and related administrative expenses) is ring-fenced and cannot be used for other purposes, and the Treasurer will have full oversight and administration of the Fund.

## **Alternative ways of achieving policy objectives**

One option considered for the structure of the Queensland Future Funds was to establish them as departmental accounts, similar to other government funds.

However, it was considered that this would not provide sufficient ring-fencing for the Debt Retirement Fund to satisfy the requirements of the rating agencies. Accordingly, the FA Act is to be amended to create a new category of 'special purpose accounts' which enable the purpose of such an account to be clearly stated and restrict the type of withdrawals that can be made from such accounts.

## **Estimated cost for government implementation**

The legislation will not directly result in additional expenditure.

## **Consistency with fundamental legislative principles**

The legislation is consistent with the fundamental legislative principles.

## **Consultation**

The following entities have been consulted during the drafting of the Bill:

- Department of the Premier and Cabinet
- Queensland Audit Office
- Queensland Treasury Corporation
- Queensland Investment Corporation
- Standard & Poor's, Moody's and Fitch
- Office of Best Practice Regulation
- Office of State Actuary
- QSuper.

## **Consistency with legislation of other jurisdictions**

The Queensland Future Fund model being adopted by Queensland is based on the *NSW Generations Funds Act 2018*.

# Notes on provisions

## Part 1 Preliminary

Clause 1 provides for the short title of the Act.

Clause 2 provides for the definitions in the Act.

Clause 3 provides for the Act to bind all persons, including the State.

## Part 2 Queensland Future Fund

### Division 1 Preliminary

Clause 4 provides that a fund established under this Act is a Queensland Future Fund.

Clause 5 provides that the Treasurer is to administer a Queensland Future Fund, which does not form part of the consolidated fund or a departmental account under the FA Act. This clause also provides that a Queensland Future Fund must be kept as a special purpose account of the department under the FA Act. The 'department' is the Treasury Department, being the department that administers the FA Act.

Amendments to the FA Act will establish the concept of special purpose accounts under section 69A.

Clause 6 provides the Treasurer may receive advice or information in performing a function or exercising a power under the Act.

Clause 7 covers the reporting requirements for financial information about a Queensland Future Fund, as prepared under section 62 of the FA Act. This clause provides the information which must be included, but does not preclude other information being provided.

Clause 8 provides that any prescribed State assets given to a State entity for the purpose of contributing to an investment in a Queensland Future Fund must be held by a State entity in perpetuity. This means that the assets are not to be sold to the private sector and must remain government owned, either by a government entity under the *Public Service Act 2008* or a government owned corporation.

The clause applies to the State asset or an 'interest' in the State asset. Under the *Acts Interpretation Act 1954*, 'interest' is defined as being a legal or equitable interest. For example, an equitable interest would include holding units in a unit trust in which the State asset is held.

The State entity may hold the State asset (or interest in the State asset) directly or indirectly. For example, the State entity may hold the asset (or interest in the State asset), or the State entity may incorporate a company to hold the asset (or interest in the State asset).

### Division 2 Debt Retirement Fund

Clause 9(1) establishes the Debt Retirement Fund, which will constitute the first Queensland Future Fund. Subclause (2) provides the purpose of the Debt Retirement Fund.

If another Queensland Future Fund is to be established in the future, this legislation will be amended to include a new division (e.g. Division 3) which will establish the new fund, state its

purpose and set out the terms that apply specifically to that fund. This is similar to the approach taken in the NSW legislation.

Clause 10 provides for contributions to the Debt Retirement Fund.

Subsection (1) states that the following must be contributed to the Fund:

- (a) an investment directed by Treasurer;
- (b) an amount that must be contributed to the fund under another Act;
- (c) moneys from an investment contributed to the fund.

Subsection (2) provides that other amounts may be contributed to the fund if another Act states the amount may be contributed to the fund.

Clause 11 provides payments from the Debt Retirement Fund can only be made for two purposes: (a) reducing the State's debt; or (b) covering administrative fees or expenses of the fund.

### **Part 3 Miscellaneous**

Clause 12 provides the Treasurer may delegate functions or powers under this Act to the accountable officer of the department (i.e. Under Treasurer). The only exception will be any function or power in relation to the making of a payment from the Debt Retirement Fund to reduce the State's debt, as this power is to be limited to the Treasurer only.

Clause 13 provides the Governor in Council may make regulations under the Act.

### **Part 4 Amendments of Acts**

#### **Division 1 Amendment of this Act**

Clause 14 provides that this division amends this Act (i.e. Queensland Future Fund Act).

Clause 15 amends the long title of this Act.

#### **Division 2 Amendment of the *Financial Accountability Act 2009***

Clause 16 provides that this division amends the FA Act.

Clause 17 provides for amendment to section 51(5) of the FA Act in dealing with moneys earned on investment.

The amendment provides that if moneys for an investment were paid out of a departmental financial institution account for an investment relating to a special purpose account, then any moneys received from the investment must be paid into a special purpose financial institution account established for the purpose of the special purpose account. This provision enables the ring-fencing of investment earnings.

Clause 18 amends section 69 of the FA Act in relation to departmental accounts. A new section 69(3) disapplies section 69(1) so that the latter does not apply to special purpose accounts established by the accountable officer.

Clause 19 provides for a new section 69A to be added after section 69 of the FA Act. Clause 5(3) of the Bill provides that a Queensland Future Fund is to be kept as a 'special purpose

account' under the FA Act. The new section 69A of the FA Act provides for the establishing of 'special purpose accounts' as follows:

- (1) it applies to the accountable officer responsible for administering an Act that establishes a fund which is to be kept as a special purpose account;
- (2) the accountable officer must establish the accounts necessary:
  - to account for contributions made to the fund, moneys paid from the fund and other transactions made in relation to the fund (examples may include market value adjustments or investment returns);
  - to produce financial statements and provide information required by the prescribed requirements or the Treasurer;
- (3) emphasises that special purpose accounts are not and do not form part of departmental accounts.

Clause 20 provides that section 83, subsections (1) to (3) of the FA Act do not apply to special purpose accounts.

Clause 21 inserts a new section 83A into the FA Act to establish special purpose financial institution accounts. Subclause (2) provides that a special purpose financial institution account must be established, if necessary, to administer and conduct banking arrangements for a special purpose account. A financial institution account may not be necessary where the interest earned on investments held in a special purpose account is capitalised back to the special purpose account. A financial institution account will only be necessary if the interest is paid in the form of cash, or if cash is required to pay the administration expenses of the relevant fund.

Subclause (3) provides that amounts may be paid from a special purpose financial institution account only if authorised under the Act that requires the special purpose account to be kept. For example, the Queensland Future Fund Act provides that accounts for the Debt Retirement Fund must be kept as special purpose accounts and that payments may only be made from the Debt Retirement Fund for reducing the State's debt or paying fees or expenses relating to administration of the fund.

Subclause (4) provides that special purpose financial institution accounts are not departmental financial institution accounts.

Clause 22 provides for amendment of Schedule 3 of the FA Act to provide definitions for the following terms:

- Special purpose accounts
- Special purpose financial institution accounts.

### **Division 3 Amendment of *Superannuation (State Public Sector) Act 1990***

Clause 23 provides that this division amends the *Superannuation (State Public Sector) Act 1990* (SSPS Act).

Clause 24 gives effect to the commitment announced in 2019-20 MYFER that legislation would provide a new 100% guarantee of the State's future defined benefit liabilities. This is achieved by amending the *Superannuation (State Public Sector) Act 1990* to include a new section 29A.

Given the high level of technicality and complexity that surrounds superannuation and actuarial investigations, the new section 29A has been drafted in close consultation with the State Actuary and QSuper to ensure that the Government's commitment is met. Key points to note are:

- the guarantee commitment (i.e. full funding) is met by the requirement in subclause (1) for the State to hold assets at least equal in value to the State's accrued defined benefit liabilities.
- subclause (1) also provides that measurement is to occur at least every three years. This aligns with the preparation of the triennial actuarial investigation prepared by the State Actuary, as required by section 19 of the *Superannuation (State Public Sector) Deed 1990*.
- subclause (2) makes it clear that the accrued liability of the State in relation to defined benefits is not to include the value of the fund that is attributed to contributions made by defined benefit members.
- the methodology being used to measure the guarantee is the 'funding basis' and this is met by the technical definition in Actuarial Standard PS 400, being the "actuarial value of accrued benefits of defined benefit members using the assumptions in the actuarial investigation to determine recommended contributions to the fund" (see subsections (3) and (4)).