

DRAFT AMENDMENTS TO CLAUSE 18
SUPERANNUATION ADMINISTRATION CORPORATION (PILLAR)
(AUTHORISED TRANSACTION) BILL 2016

Part 4 Arrangements for transfer of staff

15 Interpretation

In this Part, **Pillar employee** means an employee of Pillar or a wholly-owned subsidiary of Pillar, and includes a person who was an employee of Pillar or a wholly-owned subsidiary of Pillar immediately before the person's employment was transferred under this Part to the employment of another public sector agency.

16 Transfers of staff within public sector

- (1) The Treasurer may, for the purposes of the authorised transaction, by order in writing transfer the employment of a Pillar employee to the employment of another public sector agency.
- (2) A transfer of employment under this section does not require the consent of the person transferred.
- (3) An employee whose employment is transferred under this section is (until other provision is duly made under any Act or law) to be employed in accordance with any relevant statutory provisions, awards, agreements and determinations that would have applied to the employee had the employee remained an employee of Pillar.
- (4) The Treasurer may negotiate and enter into agreements or industrial instruments concerning workplace relations for or on behalf of a public sector agency in connection with the operation of this section.

17 Transfers of staff to private sector employment

- (1) The Treasurer may, for the purposes of the authorised transaction, by order in writing transfer the employment of a Pillar employee (a **transferred employee**) to the employment of a private sector entity (the **new employer**).
- (2) A transfer of employment under this section does not require the consent of the Pillar employee transferred.
- (2A) On transfer the Treasurer will pay the transferred employee a transfer payment equivalent to 30 weeks of pay at the rate of the employee's base salary (that is, salary less any allowances)

- (3) The employment of a transferred employee with the new employer is to be on the same terms and conditions as applied under a relevant award to the employee as a Pillar employee immediately before the transfer of employment.
- (4) Those terms and conditions cannot be varied during any employment guarantee period for the transferred employee except by agreement entered into by or on behalf of the transferred employee or in accordance with the *Fair Work Act 2009* of the Commonwealth.
- (5) The employment of a transferred employee with the new employer cannot be terminated by the new employer during any employment guarantee period for the transferred employee, except:
 - (a) for serious misconduct, or
 - (b) pursuant to the proper application of reasonable disciplinary procedures, or
 - (c) by agreement with the employee.
- (6) There is an **employment guarantee period** for transferred employees who are permanent or temporary employees, as follows:
 - (a) for permanent employees the employment guarantee period is 5 years after the transfer date,
 - (b) for temporary employees the employment guarantee period is the remainder of the employee's current term of employment (as specified in the arrangements under which the employee was engaged as a temporary employee) immediately before the transfer date or the period of 5 years after the transfer date, whichever period ends first.

Note. There is no employment guarantee period for contract employees or casual employees.

The employment of a transferred employee who is a contract employee remains governed by the contract of employment.

- (7) In this section:

casual employee means an employee whose employment is in a category of employment that is described in or classified under a relevant award as casual employment or who is otherwise engaged as a casual employee.

contract employee means an employee whose terms and conditions of employment are provided by an individual contract and not by a relevant award.

permanent employee means an employee whose employment is of indefinite duration and who is not a casual employee, temporary employee or contract employee.

relevant award means any award, agreement or other industrial instrument (under a law of the State or the Commonwealth) that provides for the terms and conditions of employment of employees.

temporary employee means an employee (other than a casual employee or contract employee) whose employment is in a category of employment that is described in or classified under a relevant award as temporary employment or whose employment is, under the terms of his or her employment, for a limited period.

transfer date means the date on which the employment of a transferred employee is transferred under this section to the new employer.