



PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

SEVENTY-SIXTH REPORT TO THE PARLIAMENT

Report on trustee arrangements for governing the Parliamentary Contributory Superannuation Fund

OCTOBER 2007

Ordered to be
printed

By Authority
Government Printer for the State of Victoria

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Parliament of Victoria

Public Accounts and Estimates Committee

*Report on trustee arrangements for governing the
Parliamentary Contributory Superannuation Fund*

ISBN 0 9758189 7 X

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PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE MEMBERSHIP – 56TH PARLIAMENT

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DUTIES OF THE COMMITTEE

The Public Accounts and Estimates Committee is a joint parliamentary committee constituted under the *Parliamentary Committees Act 2003*.

The Committee comprises ten members of Parliament drawn from both Houses of Parliament.

The Committee carries out investigations and reports to Parliament on matters associated with the financial management of the state. Its functions under the Act are to inquire into, consider and report to the Parliament on:

- any proposal, matter or thing concerned with public administration or public sector finances;
- the annual estimates or receipts and payments and other Budget Papers and any supplementary estimates of receipts or payments presented to the Assembly and the Council; and
- any proposal, matter or thing that is relevant to its functions and has been referred to the Committee by resolution of the Council or the Assembly or by order of the Governor in Council published in the *Government Gazette*.

The Committee also has a number of statutory responsibilities in relation to the Office of the Auditor-General. The Committee is required to:

- recommend the appointment of the Auditor-General and the independent performance and financial auditors to review the Victorian Auditor-General's Office;
- consider the budget estimates for the Victorian Auditor-General's Office;
- review the Auditor-General's draft annual plan and, if necessary, provide comments on the plan to the Auditor-General prior to its finalisation and tabling in Parliament;
- have a consultative role in determining the objectives and scope of performance audits by the Auditor-General and identifying any other particular issues that need to be addressed;
- have a consultative role in determining performance audit priorities; and
- exempt, if ever deemed necessary, the Auditor-General from legislative requirements applicable to government agencies on staff employment conditions and financial reporting practices.

CHAIR'S INTRODUCTION

On 29 March 2007, the Committee received from the Governor in Council an inquiry into the trustee arrangements governing the Parliamentary Contributory Superannuation Fund.

The terms of reference required the Committee to:

... inquire into and report to Parliament on the most appropriate trustee arrangements for governing the Parliamentary Contributory Superannuation Fund, having regard to the governance structures of comparable Commonwealth and interstate schemes, other public and private sector schemes and industry funds.

The Committee's deliberations in this inquiry have centred mainly on the adequacy of the fund's enabling legislation and its supporting policies and procedures governing the appointment and composition of the fund's trustee and the adequacy of the approach adopted by the trustee when reaching decisions on non standard or potentially contentious issues. These issues mainly relate to an individual member's claim for entitlement benefits which require the trustee to consider a range of circumstances before reaching a final decision.

In line with its terms of reference, the Committee has included within its report a comparison of the main features of the structure and membership for trustees within the legislation governing the operation of equivalent superannuation funds in the Commonwealth, States and Territories and a small selection of other public and private sector schemes and industry funds. For this aspect of the inquiry, the Committee concluded there were no significant differences between the various jurisdictions and superannuation schemes.

As there are important public perception implications arising from the exercise of discretion by the trustee, the Committee has concluded that the trustee should be advised by an independent expert, preferably a former judicial officer, as its primary source of advice on matters requiring an expert and impartial opinion. The Committee sees this approach as critical to the maintenance of public confidence on potentially contentious decisions reached by the trustee. The Committee also believes that over time consideration will need to be given to representation of members of the fund, given that it is now a closed fund and fewer and fewer serving members of Parliament will be actual members of the fund.

The Committee is particularly grateful to Mr Brian Frazer, Secretary of the Parliamentary Trustee for the information he conveyed to the Committee at a private hearing. The Committee also thanks the Department of Treasury and Finance for its most informative submission relating to the inquiry. The submission is available for viewing on the Committee's website www.parliament.vic.gov.au/paec

The Committee also thanks the professionalism of the Public Accounts and Estimates Committee secretariat for its research assistance in relation to the inquiry and in particular Ms Joanne Marsh.



Bob Stensholt MP

Chair

RECOMMENDATIONS

The Public Accounts and Estimates Committee recommends that:

Recommendation 1:

The fund's trustee appoint an independent expert, preferably a former judicial officer, to advise, where necessary, on potentially contentious issues or matters requiring impartial opinion.

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Recommendation 2:

The legislative arrangements for trustee membership of the fund be reviewed again, soon after the 2010 state election, to address the likely future impact on trustee and member profiles of the fund's 2004 closure.

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CHAPTER 1: PARLIAMENTARY CONTRIBUTORY SUPERANNUATION FUND INQUIRY

1.1 Introduction

This report examines the trustee arrangements for governing Victoria's Parliamentary Contributory Superannuation Fund (the fund).

The fund was established as a continuing fund on 1 December 1968 by the *Parliamentary Salaries and Superannuation Act 1968* (the Act). The fund was closed to new members on 9 November 2004. New members of Parliament elected after this date receive superannuation contributions from the state equal to the superannuation guarantee level (currently 9 per cent of salary). These superannuation contributions are paid into a fund chosen by the member.¹

The fund provides for the retirement needs of members of Parliament and their dependants. As at 30 June 2007, the fund had 91 contributory members and 174 pensioners, with net assets totalling \$306.3 million. As at 30 June 2005, an Actuarial Investigation of the fund was completed. The Actuary advised that assets exceeded accrued liabilities by \$32.5 million and recommended that no employer contributions need to be made from the consolidated fund subject to the next Actuarial Investigation at 30 June 2008.² The Auditor-General performs an audit of the fund's finances each year and has issued a confirming audit opinion.

Day-to-day administration of the fund, such as the processing of member contributions and the payment of benefits, is undertaken by Emergency Services and State Super (ESSSuper) on behalf of the fund's trustee (referred to in the Act as the Parliamentary Trustee). Details of the trustee are described in Chapters 2 and 4 of this report. The Victorian Funds Management Corporation (VFMC) manages the fund's investments under contract with the trustee.

1.2 Background to the inquiry

On 29 March 2007, under section 33 of the *Parliamentary Committees Act 2003*, the Governor in Council referred the following terms of reference to the Public Accounts and Estimates Committee (the Committee) for an inquiry into the trustee arrangements governing the Parliamentary Contributory Superannuation Fund.

The terms of reference require the Committee to:

... inquire into and report to Parliament on the most appropriate trustee arrangements for governing the Parliamentary Contributory Superannuation Fund, having regard to the governance structures of comparable Commonwealth and interstate schemes, other public and private sector schemes and industry funds.

The Committee is to make its final report to the Parliament no later than 31 December 2007.

¹ Parliamentary Contributory Superannuation Fund, *Annual Report 2006*, 30 June 2006, p.2

² *ibid.*, p.5

1.3 Conduct of the inquiry

The Committee invited submissions through advertisements placed in *The Age* and the *Herald Sun* newspapers on 21 April 2007. The Department of Treasury and Finance (DTF) provided an informative submission to the Committee in response to this advertisement. A private hearing to take evidence from the fund's trustee was held on 1 August 2007. Details of the submission and witness who appeared at the private hearing can be found in Appendix 2.

Additional material was provided to the Committee during the course of the inquiry by the fund's trustee and other superannuation schemes as detailed in Appendix 2.

In preparing this report, the Committee has drawn extensively on the material and views presented in DTF's submission and from the trustee. The Committee is very grateful to both parties for their time and effort in developing such valuable input.

The cost of this inquiry was approximately \$21,300.

CHAPTER 2: THE PARLIAMENTARY CONTRIBUTORY SUPERANNUATION FUND

2.1 Establishment and purpose of the fund

The Parliamentary Contributory Superannuation Fund was established as a continuing fund on 1 December 1968 by the *Parliamentary Salaries and Superannuation Act 1968*.³

The purpose of the fund is to provide benefits to members of Parliament on ceasing their Parliamentary positions. The fund also provides death benefits for spouses of deceased members if the member was in receipt of a pension benefit, or in the event of the member's death while the member remains in Parliamentary Service.⁴

The fund was closed to new members on 9 November 2004 and membership of the fund is compulsory for members of the Victorian Parliament who were elected prior to the closure of the fund. Members must contribute at a rate of 11.5 per cent of salary.⁵

The trustee has entered into contractual arrangements with the Emergency Services and State Super (ESSSuper) Board for the day-to-day administration of the fund and with the VFMC for the management of fund investments.

2.2 Relationship of the fund with the national legislation

The *Superannuation Industry (Supervision) Act 1993* (SIS Act) establishes the national legislative framework for most Australian superannuation entities, approved deposit funds and pooled superannuation trusts. This Act also provides for the supervision of superannuation schemes by the Australian Prudential Regulatory Authority (APRA), the Australian Securities and Investments Commission (ASIC) and the Commissioner of Taxation.⁶

The fund is prescribed as a body exempt for the provisions of the SIS Act.⁷ However, under a 1996 heads of government agreement, the Commonwealth and Victorian Governments have agreed that the fund will, for all intents and purposes, comply with the provisions of the principles of the national legislation.

DTF informed the Committee that under the criteria set out in the SIS Act the fund might be best described as a 'standard employer-sponsored'⁸ fund on the basis that membership is limited to a particular group of employees, namely members of Parliament, and the fund is sponsored by the Victorian Government, with employer contributions made as necessary from the Consolidated Fund.⁹ For the purposes of the report, the Committee has adopted this classification for the fund.

³ Parliamentary Contributory Superannuation Fund, *Annual Report 2006*, 30 June 2006, p.2

⁴ *ibid.*

⁵ *ibid.*

⁶ *Superannuation Industry (Supervision) Act 1993*, s.3

⁷ 'The Commonwealth and state and territory governments recognise the need to apply national standards to certain aspects of superannuation without distinguishing between employees of the public and private sector. There are, however, substantial differences between public sector superannuation schemes and those in the private sector. In recognition of the circumstances surrounding many public sector schemes, the Commonwealth agrees that certain state and territories public sector schemes may appropriately be exempted from the SIS Act', Victorian Heads of Government Agreement signed 1996.

⁸ *Superannuation Industry (Supervision) Act 1993*, s.16 (2)

⁹ Department of Treasury and Finance, submission no.1, p.2

2.3 Powers and responsibilities of the fund's trustee

Key governance provisions within the Act cover the establishment, objectives, powers and functions of the fund's trustee. These provisions are set out in sections 11A, 11B, 11C and 12 of the Act.

These governance provisions are extensive and include:

- the establishment of the trustee as a body corporate with perpetual succession and a common seal who may sue and be sued;
- identification of the responsibilities of the trustee which encompasses:
 - having regard for the interests of persons entitled to benefits from the fund;
 - its decisions and operations are directed towards achieving its objectives;
 - accessing the skills, facilities and resources to ensure the fund's operations are conducted in an efficient manner;
 - formulating policies and strategies for the management of investments; and
- articulation of the functions of the trustee relating to day-to-day administration of the fund such as the collection of contributions and the payment of benefits.

An important function of the trustee is to exercise reasonable care and prudence so as to maintain the integrity of the fund.

Section 12 of the Act specifies the membership of the fund's trustee and states that:

The trustees of the fund shall be –

- (a) the Minister who shall be the chairman;*
- (b) the President;*
- (c) the Speaker;*
- (d) a member of the Council appointed by the Governor in Council; and*
- (e) two members of the Assembly appointed by the Governor in Council.*

A comparison with other jurisdictions is discussed in Chapter 3.

CHAPTER 3: JURISDICTIONAL COMPARISON

3.1 Jurisdictional comparison

The Committee has gathered information comparing the trustee structures of parliamentary superannuation funds of other states and territories in Australia. Appendix 3 summarises the legislative provisions relating to these trustee structures.

3.1.1 *States and territories*

It can be seen from Appendix 3 that the majority of parliamentary superannuation funds are structured in a similar way to the Victorian fund, with members of Parliament holding trustee positions. Two states (New South Wales and South Australia) have also included senior employees of Treasury and two states (Queensland and Tasmania) have a separate structure.

In 2003, the Tasmanian Parliamentary Superannuation Fund was transferred as a sub fund of the Retirement Benefits Fund (RBF) resulting in the RBF Board becoming trustees. This has introduced a mix of employer and member representative trustees. The Board consists of six voting members and a non-voting President. Three of the members are nominated by the government, two members are elected by members of the fund, one member is nominated by the Tasmanian Trades and Labor Council (TTLC), operating as Unions Tasmanian and the President is nominated by the government with the agreement of the TTLC.¹⁰

On 1 July 2007, the Queensland Parliamentary Contributory Superannuation Fund was transferred as a sub fund of QSuper. This move has also introduced a mix of employer and member representatives. The QSuper Board consists of ten appointed trustees, including the chairman. An equal nomination of trustees is provided to employer and member representative entities. The Under Treasurer of Queensland is ex-officio chairman of the board, with another four members nominated by the Queensland Government as the employer representatives. The Combined Public Sector Unions' Superannuation Committee provides five nominees to the Treasurer for the member representatives.¹¹

These two funds now explicitly meet the requirements of the SIS legislation by ensuring their trustee arrangements have both employer and member representatives.

Although the chairperson for all states and territories is different in each case, New South Wales, South Australia, Western Australia and Northern Territory are similar to Victoria in that they have the position of chairperson specified in legislation. The person holding the position of chairperson is either the Minister for Finance, the Treasurer, the President or the Speaker.

Appendix 4 provides a comparison of the appointment of the chairperson of other parliamentary funds.

¹⁰ www.rbf.com.au, accessed 21 June 2007

¹¹ www.qsuper.qld.gov.au, accessed 17 July 2007

3.1.2 Commonwealth

The Commonwealth's Parliamentary Contributory Superannuation Scheme was closed to new members on 9 October 2004 and membership of the fund is compulsory for Commonwealth members of Parliament who were elected prior to this date. The scheme is administered by the Department of Finance and Administration on behalf of the Minister for Finance and Administration.¹² The Committee observed that the Commonwealth scheme is structured in the same way as the Victorian fund in that the five appointed trustees are all current members of Parliament and the chair of the trustee is legislated as the Minister for Finance and Administration.

3.2 Public and private sector schemes and industry funds comparison

The Committee has also considered the structure of other public and private sector superannuation schemes and industry funds. The funds selected by the Committee have either received a platinum rating (top 15 per cent of all funds reviewed) for 2006 by *SuperRatings*¹³ or a five star rating (top 10 per cent of all funds reviewed) as at May 2007 by *Morningstar*¹⁴. ESSSuper has also been selected as it currently provides day-to-day administrative services to the fund.

The *SuperRatings* superannuation industry review for 2006 assessed over 200 funds/products in the following areas: fees and charges; investments; competitive environment; service delivery; education and advice; governance; and insurance. *Morningstar* ratings are issued and reviewed each month for 150 funds and compare funds' risk-adjusted historical performance.

The funds selected for comparison are:

- AMP Superannuation Ltd;
- AustralianSuper;
- Colonial Mutual Superannuation Pty Ltd;
- Emergency Services and State Super (ESSSuper);
- Public Sector Superannuation Scheme (PSS);
- Victorian State Superannuation Fund; and
- UniSuper.

Appendix 5 provides summary information from relevant acts, trust deeds, charters etc. of the current trustee/board structures of these public and private sector schemes and industry funds in Australia. Comparison of these funds has been restricted to the current trustee/board structures.

Although each fund has minor differences, particularly in the number of members on the trustees/boards, generally all funds meet the requirements of the SIS legislation and have an equal number of employer and member representatives on the trustee/board.

¹² Australian Government, Department of Finance and Administration, *Parliamentary Contributory Superannuation Scheme Handbook*, May 2007, p.1

¹³ www.superratings.com.au, accessed 6 July 2007

¹⁴ www.morningstar.com.au, accessed 6 July 2007

Of particular interest is the arrangement of ESSSuper. As discussed earlier, this fund is responsible for the day-to-day administration of the Parliamentary Contributory Superannuation Fund. Relevant legislation¹⁵ provides for the Emergency Services Superannuation Board (ESSB) to consist of 12 members, six nominated by the Minister and six member representatives. The mix of representatives, especially from a number of different emergency service organisations, ensures member interests are protected.

3.3 Comparison summary

The Committee observed that the Victorian fund is structured in a similar way to other state, territory and commonwealth parliamentary superannuation funds with the majority of funds with trustee positions held by members of Parliament and the role of chairperson specified in relevant legislation.

A requirement of the SIS legislation is that there must be equal representation of employers and fund members on a board or trust, discussed in Chapter 4. The Committee has identified that generally all funds compared have ensured they meet this requirement with many of the state and territory and other private sector schemes and industry funds represented by fund members on their boards or as trustees.

The Committee is of the view that the current trustee arrangements of the Victorian fund is similar to many other state and territory parliamentary funds and private sector superannuation schemes and industry superannuation funds. This is further explored in Chapter 4.

¹⁵ *Emergency Services Superannuation Act 1986*, s.7

CHAPTER 4: QUALIFICATIONS, DECISION MAKING AND MEMBERSHIP OF THE FUND'S TRUSTEE

4.1 Qualifications of members of the trustee

Under the governance arrangements within the Act, individual members of the fund are not required to have specific qualifications in order to be appointed as a trustee. However, the trustee must ensure it has, or has access to, the necessary skills, facilities and resources to conduct its legislative responsibilities in an efficient manner.

This obligation is similar to the relevant provisions of the SIS legislation that sets out the minimum standard concerning the fitness and propriety of trustees licensed by APRA.

APRA has released superannuation guidance note SGN 110.1 which contains guidance on the application of the standard relating to the fitness and propriety of trustees. Paragraph 9 and 10 of the guidance note state:

9. *The government has made it clear that it does not intend the fit and proper standard to prevent individuals from being part of a group or body corporate that is being licensed (or is an RSE licensee) merely because they are not technical experts in the superannuation field. This is particularly so where there is a requirement under the SIS Act for equal representation of member and employer interests at the trustee level.*
10. *The requirements of the standard do not prevent an applicant for a Registrable Superannuation Entity (RSE) license, or an RSE licensee, from employing or using in-house and/or external service providers to assist in the performance of its duties and responsibilities. However an applicant (group or corporate) for an RSE license, and a licensee on an ongoing basis, should be able to demonstrate sufficient knowledge regarding the duties and responsibilities of an RSE licensee to make informed decisions in the best interest of beneficiaries based on the advice of technical experts.*

In effect, APRA is adopting a non-prescriptive approach to the matter of skills and qualifications and has indicated that trustees do not necessarily need to possess the minimum standard as long as they have access to internal or external providers of these skills and are competent in understanding any information that is received.

The Committee considers no action nor changes are required on this matter as the fund's legislative framework is consistent with the non-prescriptive approach adopted by APRA.

4.2 Discretionary decision making

The legislative responsibility of the trustee to ensure it has access to appropriate skills, facilities and resources are relevant to the trustee's deliberations and decisions on discretionary matters. The application of discretion by the trustee to a particular issue can, from time to time, be viewed as contentious because an individual member's entitlement to a benefit may not be clear cut and could require the trustee to assess a range of factors before reaching a decision.

DTF advised the Committee that it understands three of the most contentious issues that arise with the fund are: ¹⁶

- *whether a member of Parliament's retirement is voluntary or involuntary. This is important as it can have a significant impact on the level of benefit, both pension and lump sum paid to the member;*
- *whether a member has retired on the grounds of ill-health. In order to grant a pension on retirement on grounds of ill-health, the trustee must be satisfied that a member ceased to be a member of Parliament because they were rendered incapable of being a member of Parliament by reason of ill health; and*
- *whether the member of Parliament will ever be capable of working as a member of Parliament again.*

Extensive guidance for addressing claims that fall within these categories is set out in Part 3 ¹⁷ of the Act. In addition the Committee was informed that the ESSB, in the exercise of its administrative function, has in place specific policies which can support the trustee's discretionary decision making. These policies encompass such matters: as periods of notice for lodging information; how the trustee can seek expert professional advice; and who can be selected as a medical practitioner.

The Committee therefore considers that the extensive legislative provisions governing discretionary matters coupled with the ESSB's policy material provides an adequate framework to support the trustee in the reaching of non-standard or contentious decisions.

4.2.1 Public perception implications arising from the exercise of trustee discretion

In addition to providing the three earlier mentioned examples of contentious issues likely to be addressed by the trustee, DTF informed the Committee that the related matter of public perception of the trustee was an issue which required attention. DTF expressed the view that: ¹⁸

While trustees of other superannuation funds face similar issues, because all members of the trustee are also members of the fund there may be a public perception that the trustee has adopted a lower standard of proof or is less rigorous in its analysis of such claims. This perception could be mitigated by establishing an independent panel to consider such cases and to provide a recommendation to the trustee.

Public perception is a relevant consideration in this respect given that the costs of providing benefits under the fund are effectively born by Victorian taxpayers.

The Secretary of the Trustee advised the Committee that, although the fund has closed to new members, it still has an estimated life of more than 50 years, which will involve payments to pensioners, spouses and dependents. The Secretary indicated that when all members have passed 12 years of service, which will be reached in around seven years, all members will have an automatic right to a pension on completion of service as a member of Parliament. In these circumstances, involvement of the trustee with non-standard or contentious cases is likely to cease after seven years.

¹⁶ Department of Treasury and Finance, submission no.1, p.5

¹⁷ Part 3 of the *Parliamentary Salaries and Superannuation Act 1996* is to be read as one with Part V of the *Commonwealth Parliamentary Contributory Superannuation Act 1948*

¹⁸ Department of Treasury and Finance, submission no.1, p.5

Arguably, the Minister for Finance, who chairs the trustee and whose portfolio responsibilities involve managing the state's finances, could be considered an employer representative. It might also be considered that the Minister for Finance together with the other two prescribed appointees (that is, the President of the Council and Speaker of the Assembly) constitute the employer representatives and the remaining three trustees are member representatives.

It is also worth noting that prior to the 2006 Victorian state election all members of the trustee were members of the fund. Given that the fund is now closed to new members, the trustee will, in time, inevitably include members of Parliament who are not members of the fund. While this may have benefits in terms of introducing a degree of independence to the trustee, it may also raise concerns about the representation of members.

As mentioned in an earlier paragraph, section 12 of the fund's enabling legislation sets out the provisions relating to the membership of the trustee. The earlier paragraph identifies that three positions, the chairman (the Minister for Finance) and the two Presiding Officers, are specified in the legislation and the remaining three positions are appointed by the Governor in Council (which, in practice, is on the nomination of the government).

The Committee shares the view expressed by DTF that the three prescribed appointees could reasonably be categorised as employer representatives and the three remaining appointees from the Legislative Assembly and Legislative Council as member representatives. Its employer representatives are also members of the fund, the perception of diffusion of roles may appear to be accentuated.

In its submission to the Committee, DTF compared the fund's appointment arrangements with the SIS legislation and commented on the issue and related matters as follows: ²¹

There is no requirement under SIS that member representatives be elected by the membership or even that the member representatives be members of the scheme. Therefore, the current arrangements for the appointment of members of the trustee are not inconsistent with SIS requirements.

While it would be possible to implement an election process for member representatives of the trustee, DTF believes that there is little to be gained from this.

One further issue is the representation of the various political parties on the trustee. While it is convention to include the Leader of the Opposition on the trustee this is not a legislative requirement. To ensure that the views of members of Parliament from both sides of Parliament are considered it may be worthwhile structuring the legislation to ensure that the primary political parties are appropriately represented on the trustee. One means of doing so would be to formalise the inclusion of the Leader of the Opposition, or their delegate, on the trustee.

However, it is important to consider the need to retain some flexibility in the appointment of trustees to ensure that appointees are sufficiently interested in their role and that MPs with appropriate skills can be selected when necessary. Therefore, it is important to consider the balance between prescribing the composition of the trustee and enabling interested members with the relevant skills to be appointed.

²¹ *ibid.*, p.4

APPENDIX 1: ACRONYMS AND ABBREVIATIONS

APRA	Australian Prudential Regulatory Authority
ASIC	Australian Securities and Investment Commission
DTF	Department of Treasury and Finance
ESSB	Emergency Services Superannuation Board
ESSSuper	Emergency Services and State Super
PSS	Public Sector Superannuation Scheme
RBF	Retirement Benefits Fund
RSE	Registrable Superannuation Entities
the Act	Parliamentary Salaries and Superannuation Act 1968
the Committee	Public Accounts and Estimates Committee
the fund	Parliamentary Contributory Superannuation Fund
the SIS Act	Superannuation Industry (Supervision) Act 1993
the trustee	Parliamentary Trustee
TTLIC	Tasmanian Trades and Labor Council
VFMC	Victorian Funds Management Corporation

APPENDIX 2: LIST OF ORGANISATIONS PROVIDING EVIDENCE AND/OR SUBMISSIONS

Evidence

Wednesday 1 August 2007 – Private Hearing

Mr B Frazer, Secretary, Parliamentary Trustee

Submission

Mr G Hehir, Secretary, Department of Treasury and Finance (submission no.1)

The submission is available for viewing on the Committee's website www.parliament.vic.gov.au/paec

Additional material was provided by the following agencies

- AMP Superannuation Ltd
- Australian Reward Investment Alliance
- AustralianSuper
- Colonial Mutual Superannuation Pty Ltd
- Emergency Services and State Super (ESSSuper)
- Parliamentary Trustee
- UniSuper

APPENDIX 3: JURISDICTIONAL COMPARISON OF TRUSTEE STRUCTURES COMMONWEALTH AND INTERSTATE SCHEMES

Jurisdiction	No. of trustees	Trustee	Trustee/Board composition
Victoria			
Parliamentary Contributory Superannuation Fund	6	Parliamentary Trustee	<p><i>Parliamentary Salaries and Superannuation Act (Vic) 1968</i></p> <p>12. Trustees of the Fund</p> <p>(1) The trustee of the Fund shall be –</p> <ul style="list-style-type: none"> (a) the Minister who shall be the chairman; (b) the President; (c) the Speaker; (d) a member of the Council appointed by the Governor in Council; and (e) two members of the Assembly appointment by the Governor in Council.
New South Wales			
Parliamentary Contributory Superannuation Fund	8	Trustees of the Parliamentary Contributory Superannuation Fund	<p><i>Parliamentary Contributory Superannuation Act (NSW) 1971</i></p> <p>14. Trustees of the Fund</p> <p>(1) The trustees of the Fund shall be:</p> <ul style="list-style-type: none"> (a) two members of the Legislative Council who shall be appointed and may be removed by order of the Legislative Council, (b) five members of the Legislative Assembly (of whom at least one shall be a Minister of the Crown) who shall be appointed and may be removed by order of the Legislative Assembly, and (c) the Secretary of the Treasury.
Queensland			
Parliamentary Contributory Superannuation Fund	10	All members and assets have been transferred to QSuper. The QSuper Board is the Trustee.	<p><i>Superannuation (State Public Sector) Act (QLD) 1990</i></p> <p>5. Membership of board</p> <p>(1) The board consists of the chief executive, who is chairperson of the board, and the following members –</p> <ul style="list-style-type: none"> (a) 4 individuals nominated by the Minister; (b) 5 individuals nominated by member entities.

Report on trustee arrangements for governing the Parliamentary Contributory Superannuation Fund

Jurisdiction	No. of trustees	Trustee	Trustee/Board composition
South Australia			
Parliamentary Superannuation Fund	3	South Australian Parliamentary Superannuation Board	<p><i>Parliamentary Superannuation Act (SA) 1974</i></p> <p>9. The Board's membership</p> <p>(1) The Board consists of the following members:</p> <ul style="list-style-type: none"> (a) the President for the time being of the Legislative Council; (b) the Speaker for the time being of the House of Assembly; and (c) a person appointed by the Governor on the nomination of the Treasurer.
Western Australia			
Parliamentary Superannuation Scheme	5	Parliamentary Superannuation Board	<p><i>Parliamentary Superannuation Act (WA) 1970</i></p> <p>6. The Board</p> <p>(3) The Board consists of –</p> <ul style="list-style-type: none"> (a) the Treasurer, who is the Chairperson; (b) 4 other Board members, of whom 2 are to be appointed by the Legislative Council and 2 by the Legislative Assembly from members of the Council and the Assembly respectively.
Tasmania			
Parliamentary Superannuation Fund	7	All members and assets have been transferred to the Retirement Benefits Fund (RBF). The RBF Board is the Trustee.	<p><i>Retirement Benefits Act (TAS) 1993</i></p> <p>8. Constitution of Board</p> <p>(1) The Board consists of 7 members, including a President and Deputy President of the Board, to be appointed by the Governor in accordance with the regulations.</p>
Northern Territory			
Legislative Assembly Members' Superannuation Fund	4	Legislative Assembly Members' Superannuation Trust	<p><i>Legislative Assembly Members' Superannuation Fund Act (NT) 1979</i></p> <p>12. Constitution of Trust</p> <p>(1) The Trust shall be constituted by 4 Trustees, namely –</p> <ul style="list-style-type: none"> (a) the Speaker; (b) 2 members of the Assembly; and (c) the Under Treasurer. <p>(2) The Trustees referred to in subsection (1)(b) shall be appointed by the Speaker, one on the recommendation of the Chief Minister, and the other on the recommendation of the Leader of the Opposition.</p>

Appendix 3: Jurisdictional comparison of trustee structures Commonwealth and interstate schemes

Jurisdiction	No. of trustees	Trustee	Trustee/Board composition
Commonwealth			
Parliamentary Contributory Superannuation Scheme	5	Parliamentary Retiring Allowances Trust	<i>Parliamentary Contributory Superannuation Act (Commonwealth) 1948</i> 5. The Parliamentary Retiring Allowances Trust (3) The Trust shall be constituted by 5 trustees, namely: (a) the Minister for Finance; (b) 2 senators; and (c) 2 members of the House of Representatives.

APPENDIX 4: JURISDICTIONAL COMPARISON OF THE APPOINTMENT OF THE CHAIRPERSON

Jurisdiction	Appointment of the Chairperson
Victoria	
Parliamentary Contributory Superannuation Fund	The Minister for Finance shall be the Chairman
New South Wales	
Parliamentary Contributory Superannuation Fund	The Chairperson shall be appointed by the trustees and shall be a member of the Legislative Assembly who is also a Minister of the Crown
Queensland	
Parliamentary Contributory Superannuation Fund	The Chief Executive is the Chairperson of the board
South Australia	
Parliamentary Superannuation Fund	The President of the Legislative Council is the Chairman
Western Australia	
Parliamentary Superannuation Scheme	The Treasurer, who is the Chairperson
Tasmania	
Parliamentary Superannuation Fund	The President of the Board is nominated by the government with the agreement of the Tasmanian Trades and Labor Council (TTLC)
Northern Territory	
Legislative Assembly Members' Superannuation Fund	The Speaker is the presiding trustee
Commonwealth	
Parliamentary Contributory Superannuation Scheme	The Minister for Finance shall preside

APPENDIX 5: JURISDICTIONAL COMPARISON OF TRUSTEE STRUCTURES PUBLIC AND PRIVATE SECTOR SCHEMES AND INDUSTRY FUNDS

Jurisdiction	No. of trustees	Trustee	Trustee/Board composition
Victorian State Superannuation Fund (Defined Benefits Scheme)	12	All members and assets have been transferred to ESSSuper. The Emergency Services Superannuation Board is the Trustee.	<p><i>Emergency Services Superannuation Act 1986</i></p> <p>7. Membership of the Board</p> <p>(1) The Board is to consist of 12 members appointed by the Governor in Council of whom –</p> <p>(a) 1 is to be a contributor elected by contributors who are employed under the Police Regulation Act 1958 or by the employee organisations representing those contributors; and</p> <p>(b) 1 is to be a contributor elected by contributors who are officers or employees of the Metropolitan Fire and Emergency Services Board or persons appointed by the Country Fire Authority under section 17 of the Country Fire Authority Act 1958 or by the employees of the unions representing those contributors; and</p> <p>(c) 1 is to be a contributor elected by contributors who are employees appointed by Ambulance Services – Victoria under the Ambulance Service Act 1986 or by an other ambulance service specified by the Minister under this Act and by contributors who are not employees referred to in paragraph (a) or (b); and</p> <p>(d) 3 are to be members of the scheme elected by members of the scheme; and</p> <p>(e) 6 are to be persons nominated by the Minister.</p>
Emergency Services and State Super (ESSSuper)	12	Emergency Services Superannuation Board	As above

Report on trustee arrangements for governing the Parliamentary Contributory Superannuation Fund

Jurisdiction	No. of trustees	Trustee	Trustee/Board composition
Public Sector Superannuation Scheme (PSS) (Defined Benefits Scheme)	7	Australian Reward Investment Alliance	<i>Superannuation Act 1990</i> 7. Membership of Board (1) The Board is to consist of: (a) a Chairperson; and (b) 6 other trustees; appointed on a part-time basis. (2) The trustees are appointed, and hold office, as provided in the Trust Deed. The current Board includes three members nominated by the Australian Council of Trade Unions.
AMP Superannuation Ltd (a)	5	AMP Superannuation Limited Board	<i>Fund Charter of AMP Superannuation Ltd</i> 2.5 Board Structure 2.5.2 Board composition and size – The Board will comprise a minimum of 4 directors and a maximum of 12 directors. The Board has a majority of independent non-executive directors. The current Board structure comprises 2 executive directors and 3 non executive directors.
Colonial Mutual Superannuation Pty Ltd (a)		Colonial Mutual Superannuation Pty Ltd	<i>Registrable Superannuation Entity (RSE) Licence</i> The Colonial Mutual Superannuation Trustee Board currently has four members, consisting of two independent non executive directors and two executive directors.
AustralianSuper	13	AustralianSuper Trustee Board	<i>Articles of Association of AustralianSuper Pty Ltd</i> The AustralianSuper Trustee Board is made up of six member representatives appointed by the Australian Industry Group, six employer representatives appointed by the ACTU and one independent director.

Appendix 5: Jurisdictional comparison of trustee structures public and private sector schemes and industry funds

Jurisdiction	No. of trustees	Trustee	Trustee/Board composition
UniSuper	11	UniSuper Trustee	<p><i>UniSuper Trustee Constitution</i></p> <p>33. (1) The number of Directors must be not less than eight nor more than eleven.</p> <p>34. (2) The directors appointed under this Rule shall be appointed as follows:</p> <ul style="list-style-type: none"> • two directors are elected by vice chancellors • two directors are elected by Shareholders' Consultative Committee members who represent employers; • one director is elected by Shareholders' Consultative Committee members who represent academic staff; • one director is elected by Shareholders' Consultative Committee members who represent general staff; • two directors are nominated by the national unions who represent a significant number of members of Unisuper; and • three further independent directors are appointed on the basis of their knowledge and experience.

Note: (a) Superannuation funds regulated by APRA are required to hold a Registrable Superannuation Entity (RSE) License. This license requires the superannuation fund board to have equal representation of executive and non-executive directors

