

Queensland



SUPERANNUATION (GOVERNMENT AND OTHER EMPLOYEES) ACT 1988

**Reprinted as in force on 9 August 1994
(includes amendments up to Act No. 11 of 1993)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 9 August 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use gender neutral office names (s 25)
- use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use conjunctives and disjunctives consistent with current legislative drafting practice (s 28)
- use expressions consistent with current legislative drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (s 39)
- omit the enacting words (s 42A)
- number and renumber provisions and references (s 43)
- correct minor errors (s 44).

Also see Endnotes for—

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint**
- **further information about editorial changes made in the reprint, including—**
 - **Table of changed names and titles**
 - **Table of changed citations and remade laws**
 - **Table of obsolete and redundant provisions**
 - **Table of corrected minor errors**
 - **Table of renumbered provisions.**

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*Superannuation (Government and Other
Employees) Act 1988*

**SUPERANNUATION (GOVERNMENT AND
OTHER EMPLOYEES) ACT 1988**

[as amended by all amendments that commenced on or before 9 August 1994²]

**An Act to provide for a productivity based superannuation scheme of
benefits for persons in government employment, police officers
and other persons**

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Superannuation (Government and Other Employees) Act 1988*³⁻⁹.

Interpretation

3. In this Act—

“Articles” means the Articles of the Government Officer’s Superannuation Scheme, provided for by section 33.

“Board” means the Board of Trustees provided for by section 4.

“fund” means the Government Officers’ Superannuation Fund provided for by section 14.

“scheme” means the scheme for the provision of superannuation benefits as provided for by the Articles.

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PART 2—TRUSTEES

Board of Trustees

4.(1) There shall be constituted and maintained a Board of Trustees, which shall by that name be a body corporate, having perpetual succession and an official seal, and shall be capable in law of—

- (a) suing and being sued in its corporate name; and
- (b) acquiring, holding, leasing, letting and disposing of property, real and personal; and
- (c) doing and suffering all such other acts and things as bodies corporate may in law do or suffer.

(2) All courts, Judges and persons acting judicially shall take judicial notice of—

- (a) the identity of members of the Board and of the signatures of such members;
- (b) the identity of the executive officer of the Board and of the executive officer's signature;
- (c) the seal of the Board;

and, until the contrary is proved, shall presume that any such signature or such seal affixed to any document or writing was duly affixed.

(3) In the discharge of its functions and exercise of its powers for the purposes of this Act or the Articles the Board—

- (a) represents the Crown in right of Queensland; and
- (b) has all the immunities, rights and privileges of the Crown in right of Queensland except where the Governor in Council, by order in council, declares to the contrary.

Constitution of Board

5.(1) The Board shall consist of—

- (a) the person for the time being holding the office of chief executive

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who shall be, ex officio, a member of the Board and chairperson thereof; and

- (b) 3 persons appointed by the Governor in Council as representatives of the Government; and
- (c) 4 persons appointed by the Governor in Council as representatives of the industrial unions of employees whose members are persons who upon retirement might become entitled to benefits from the scheme, which representatives shall, subject to subsection (2), be nominated by or on behalf of those unions.

(2) If at any time when appointments are to be made under subsection (1)(c) there is no person or an insufficient number of persons nominated as required by that paragraph, the Governor in Council may proceed to appoint a person or persons under that paragraph without further reference to the prescribed unions and every person so appointed shall be deemed to have been duly nominated.

(3) The chairperson of the Board may from time to time nominate one person to be the chairperson's deputy in relation to the Board and for as long as the nomination subsists such deputy shall be deemed to be a member of the Board authorised to attend its meetings and to act in accordance with law in the Board's affairs in place of the chairperson.

(4) Notification of appointment of members of the Board (including an appointment to fill a casual vacancy) shall be published in the Gazette.

(5) The Board shall be taken to have been duly constituted upon publication in the Gazette of notification of the first appointment of members of the Board.

Board membership not to disqualify from office

6. Where by or under any Act provision is made requiring the holder of an office to devote the whole of his or her time to the duties of the office, or prohibiting the person from engaging in employment outside the duties of the office, such provision shall not operate to disqualify a person from holding that office and an office as member of the Board or deputy for a member or from accepting and retaining any remuneration payable to a member of the Board.

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Deputies for members

7. In the event of the absence of a member of the Board, other than the chairperson, from a meeting of the Board the member may by writing signed by the member nominate one person to be the member's deputy in relation to the Board and for as long as the member's absence continues and the nomination subsists such deputy shall be deemed to be a member of the Board authorised to attend its meetings and to act in accordance with law in the Board's affairs in place of the absent member.

Term of appointment

8.(1) A member of the Board other than the chairperson shall be appointed for 3 years and, subject to subsection (2), is eligible for reappointment.

(2) Where this Act requires that appointment as a member of the Board shall be of a person nominated, a member of the Board is eligible for reappointment only if the member is duly nominated, unless the member is to be duly appointed under section 5(2).

(3) The term of appointment of the whole number of appointed members of the Board shall commence on the publication of notification of the appointment in the Gazette or on such later date as is therein specified.

Casual vacancy in Board's membership

9.(1) If a casual vacancy occurs in the office of an appointed member of the Board, the Governor in Council may appoint another person to fill the vacancy.

(2) If the vacancy is in an office that this Act requires to be filled by appointment of a nominated member the person appointed to fill the vacancy shall be one duly nominated, unless the person is to be duly appointed under section 5(2).

(3) A person appointed to fill a casual vacancy in the membership of the Board shall hold office for the balance of the person's predecessor's term of appointment.

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Vacation of office

10.(1) A casual vacancy shall be taken to occur in the office of an appointed member of the Board if the member dies during the member's term of appointment or if the member—

- (a) is admitted to a hospital as a patient within the meaning of the *Mental Health Act 1974*; or
- (b) becomes bankrupt, compounds with the member's creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) resigns the office by writing signed by the member delivered to the Minister; or
- (d) is absent without leave of the Board from 4 consecutive ordinary meetings of the Board of which due notice has been given to the member; or
- (e) is convicted in Queensland of an indictable offence or is convicted elsewhere in respect of an act or omission that, if it had occurred in Queensland, would constitute an indictable offence; or
- (f) is removed from the office by the Governor in Council by notification published in the Gazette.

(2) Attendance at a time and place appointed for an ordinary meeting of the Board shall constitute presence at an ordinary meeting notwithstanding that, due to lack of a quorum, no meeting is actually held on that day.

Board's executive officer

11.(1) The executive officer of the Board—

- (a) shall be the person who for the time being holds the appointment, manager of the State Service Superannuation Fund; and
- (b) may be a member of the Board.

(2) The executive officer shall have, exercise and perform such powers, authorities, duties and functions as are prescribed or as the Board may authorise or direct.

(3) The executive officer shall have custody of the Board's official seal

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and, subject to the Board, is authorised to execute documents and other writings on behalf of the Board and to affix the Board's seal thereto.

Delegation by Board

12. The Board may delegate its powers under this Act—

- (a) to a member or officer of the Board; or
- (b) to an officer of the public service.

Proceedings of Board

13.(1) The Board shall meet at such times and places and conduct its business in such manner as is prescribed or, in so far as it is not prescribed, as the Board determines.

(2) The chairperson shall preside at all meetings of the Board at which the chairperson is present.

(2A) If the chairperson is not present at a meeting the chairperson's nominee (referred to in section 5(3)) shall preside at the meeting and act in place of the chairperson and, while so acting, shall have all the powers and authorities of the chairperson.

(2B) If neither the chairperson nor the chairperson's nominee is present at a meeting the Board members present shall elect one of their number who shall preside at the meeting.

(3) A quorum of the Board consists of 5 members and any duly convened meeting at which a quorum is present shall be competent to transact the business of the Board.

(4) The person presiding at a meeting shall have a deliberative vote only and, in the event of an equality of votes on any matter, the question shall be taken to have been decided in the negative.

(5) No act or proceeding of the Board shall be invalid or be affected by reason only of one or all of the following—

- (a) the number of members of the Board was not complete at the time of such act or proceeding;

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- (b) a defect in the appointment of any member of the Board;
- (c) any member of the Board was disqualified from participating or disentitled to participate in the act or proceeding.

PART 3—FUND

Establishment of fund

14. There shall be established and maintained in Queensland Treasury a fund under the name Government Officers' Superannuation Fund.

Contributions to fund

15.(1) The employer of each employee who upon retirement might become entitled to a benefit from the fund in accordance with the Articles shall pay to the Board for payment into the fund in respect of the employee such sums as the employer is required to pay from time to time in accordance with the Articles.

(2) Contributions payable in accordance with the Articles in respect of employees shall be in the hands of the Board within 7 days after the end of the pay period for which those employees are paid salary or wages.

(3) If any contribution is not in the hands of the Board within the time limited by subsection (2) the Board may determine that interest shall accrue on that contribution at a rate determined by the Board while the contribution remains outstanding, and, if the Board does so determine, interest shall so accrue and become payable to the Board and in the hands of the Board shall become part of the fund.

Recovery of outstanding moneys

16. The Board may recover all moneys due and owing to it in accordance with the Articles or pursuant to this Act by way of action for debt in a court of competent jurisdiction.

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Commencement of employer's obligation

17. The obligation of an employer to pay contribution to the fund in respect of an employee in accordance with the Articles shall commence on the day that is the first payday in July 1988 for that employee.

Investment of fund

18.(1) The Board shall arrange for the investment, in accordance with this Act, of all moneys for the time being standing to the credit of the fund that in the Board's opinion are not immediately required for the payment of benefits in accordance with the Articles or for the purposes of this Act.

(2) Moneys for the time being standing to the credit of the fund shall be invested in a manner approved for the time being by the Governor in Council whose approval may be of a particular investment or of a class of investment.

Appointment of investment manager

19.(1) The Board shall appoint an investment manager or investment managers to act as agent or agents of the Board in the investment of moneys for the time being standing to the credit of the fund that are available for investment.

(2) All investment of moneys by the Board shall be arranged through the investment manager or, as the case may be, the appropriate investment manager.

Obligations of investment manager

20. An investment manager—

- (a) shall comply with all requirements approved by the Governor in Council with respect to the manner in which the Board's moneys may be invested; and
- (b) shall operate within the investment strategy and policy as determined for the time being by the Board; and
- (c) shall report to the Board on the state of the Board's investment

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and the investment market at such times and in such manner as the Board determines.

Payment from fund

21. There shall be paid from the fund all moneys payable in accordance with the Articles to persons who are entitled to benefits from the fund in accordance with the Articles.

PART 4—ADMINISTRATION

Investment strategy and policy

22.(1) As soon as is practicable after—

- (a) the commencement of this Act; and
- (b) the Governor in Council has approved of the manner in which the Board's money may be invested;

the Board shall determine an investment strategy and policy and thereafter shall review and, where the Board thinks it necessary or desirable, vary its existing investment strategy and policy.

(2) In determining or reviewing its investment strategy and policy the Board shall consult with—

- (a) such persons or bodies as the Board thinks fit; and
- (b) such other persons or bodies as the Minister approves;

and the Board shall give due regard to advice provided by such persons or bodies.

Accounts relating to fund

23.(1) For the purpose of the application of the provisions of the *Financial Administration and Audit Act 1977* to the accounts relating to the fund the accounts shall be deemed to be miscellaneous departmental

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accounts within the meaning of that Act.

(2) The Board may appropriate earnings received by it from investment of the fund to its several accounts in such amounts as the Board, in its discretion, thinks fit.

Repayment of indebtedness

24. The Board shall repay to Queensland Treasury in such manner and upon such terms and conditions (including the payment of interest, if agreed) as agreed between them moneys at any time (whether before or after the commencement of this Act) applied by Queensland Treasury on behalf of the Board for the purposes of this Act.

Returns

25.(1) Throughout each year, each employer of an employee who upon retirement might become entitled to a benefit from the fund in accordance with the Articles shall furnish to the Board, in such form and at or within such times as the Board directs, returns with respect to such matters as the Board directs.

(2) A person who—

- (a) is an employee who upon retirement might become entitled to a benefit from the fund; or
- (b) was an employee who upon retirement might become entitled to a benefit from the fund and has preserved that entitlement;

shall furnish to the Board information with respect to such matters concerning himself or herself as the Board may require of the person.

(3) If a person referred to in subsection (2) fails to comply with a requisition for information such as is referred to in subsection (2) directed to the person by the Board, a benefit from the fund to which the person has become entitled shall be withheld until the requisition is complied with.

Recovery of overpayments

26. Where a person has received payment of a benefit from the fund in

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excess of the payment to which the person is entitled in accordance with the Articles, the Board may recover from that person or the person's estate (if the person has died) in a court of competent jurisdiction as a debt due and owing to the Board the difference between the payment received by the person and the payment to which the person was entitled in accordance with the Articles.

Consultation with actuary

27.(1) In its administration of the scheme the Board—

- (a) may consult with the actuary on such actuarial matters as the Board thinks fit; and
- (b) shall consult with the actuary on such actuarial matters as the Minister may direct.

(2) In subsection (1)—

“the actuary” means the person who for the time being holds the appointment as actuary under the *State Service Superannuation Act 1972*.

Reports

28.(1) In each year the Board shall make to the Minister a report on the administration of this Act and of the scheme.

(1A) The Minister shall lay a copy of the Board's annual report before the Legislative Assembly within 14 sitting days after the Minister receives the report.

(2) When and as often as the Minister may require, the Board shall make to the Minister a report on such matters concerning the administration of this Act or the scheme as the Minister may direct.

Board members indemnified

29. A member or the executive officer of the Board or any member of the Board's staff shall not incur liability at law on account of loss or damage sustained by reason of any act done or omission made under the authority

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of this Act or done or made in good faith by him or her purporting to act under the authority of this Act and without negligence.

Remuneration of Board members

30. A member of the Board shall be entitled to such remuneration as may be approved for the time being by the Governor in Council.

Expenses of scheme

31. Expenses that are identified as having been incurred in the administration of this Act or the scheme shall be borne by the fund.

Regulations

32. The Governor in Council may make regulations for the purposes of this Act.

PART 5—SCHEME

Articles governing scheme

33.(1) The terms, conditions, obligations, benefits and rules of the scheme and for its administration shall be as contained for the time being in a document to be called the Articles of the Government Officers' Superannuation Scheme.

(2) The Articles are subordinate legislation.

Amendment of Articles

34.(1) The Articles may be amended by the Board.

(2) An amendment of the Articles is of no effect until approved by a regulation that sets out the amendment.

PART 6—MISCELLANEOUS PROVISIONS

Protection of scheme's name

35.(1) A person shall not use the expression 'Gosuper' in connection with selling the right to participate in any superannuation, insurance or provident scheme unless—

- (a) the scheme is that to which this Act relates; and
- (b) the person does so on behalf of the Board.

(2) A person shall not—

- (a) use any variation of the expression 'Gosuper'; or
- (b) use any word (either alone or in conjunction with any other word) similar in sight or sound to the expression 'Gosuper';

in connection with selling the right to participate in any superannuation, insurance or provident scheme, being, in either case, a use likely to afford reasonable grounds for believing the scheme is or is associated with the scheme to which this Act relates, unless—

- (c) the scheme in question is that to which this Act relates; and
- (d) the person does so on behalf of the Board.

(3) A person who contravenes subsection (1) or (2) commits an offence against this Act and is liable to a penalty of 40 penalty units.

Offender to be punished summarily

36.(1) A person who commits an offence against this Act may be prosecuted therefor in a summary way under the *Justices Act 1886* on the complaint of the executive officer of the Board or of any person authorised by the Board.

(2) In any proceeding authority of the complainant to lay the complaint shall be presumed in the absence of evidence to the contrary.

(3) Proceedings in respect of an offence against this Act may be commenced at any time within 1 year from the time when the matter of

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complaint arose or within 6 months after the offence comes to the knowledge of the complainant, whichever period is the later to expire.

Saving of existing orders in council

37. An order in council in force under section 33 or 34 immediately before the commencement of this subsection continues to have effect after the commencement and is taken to be a regulation.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 August 1994. Future amendments of the Superannuation (Government and Other Employees) Act 1988 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 List of legislation

Superannuation (Government and Other Employees) Act 1988 No. 46

date of assent 3 May 1988
 commenced on date of assent
 as amended by—

Superannuation (Miscellaneous Acts) Amendment Act 1991 No. 11 Pt 8

date of assent 15 April 1991
 s 8.1 commenced on date of assent
 s 8.2 commenced 11 May 1991 (proc pubd Gaz 4 May 1991 p 73)

Superannuation Legislation Amendment Act 1992 No. 31 Pts 1, 5

date of assent 23 June 1992
 commenced on date of assent

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Superannuation Legislation Amendment Act 1993 No. 11 Pts 1, 6 s 39 Sch 2

date of assent 28 May 1993

Pt 1 commenced on date of assent

remaining provisions commenced 1 July 1993 (1993 SL No. 207)

4 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Arrangement

s 2 om 1992 No. 31 s 15

Interpretation

s 3 def “Minister” om 1992 No. 31 s 16

Constitution of Board

s 5 amd 1991 No. 11 s 8.2; 1992 No. 31 s 17

Delegation by Board

s 12 sub 1993 No. 11 s 39 Sch 2

Regulations

s 32 sub 1993 No. 11 s 39 Sch 2

Articles governing scheme

s 33 amd 1993 No. 11 s 39 Sch 2

Amendment of Articles

s 34 sub 1993 No. 11 s 39 Sch 2

Saving of existing orders in council

s 37 ins 1993 No. 11 s 39 Sch 2

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5 Table of changed names titles

TABLE OF CHANGED NAMES AND TITLES
under the Reprints Act 1992 ss 23 and 23A

Old	New	Reference provision
Director-General (or a similar title)	chief executive	see Reprints Act 1992 s 29 example 27
member (of the police force)	police officer	Police Service Administration Act 1990 s 11.1(1)(c) (see also s 1.4)

6 Table of changed citations and remade laws

TABLE OF CHANGED CITATIONS AND REMADE LAWS
under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Mental Health Services Act 1974	Mental Health Act 1974	Health Services Act 1991 s 9.1(2)

7 Table of obsolete and redundant provisions

TABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A
references included in citation of law	Acts Interpretation Act 1954 s 14H
references to Queensland implied	Acts Interpretation Act 1954 s 35

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8 Table of corrected minor errors

TABLE OF CORRECTED MINOR ERRORS
under the Reprints Act 1992 s 44

Provision	Description
10(1)(a)	om 'an hospital' ins 'a hospital'
12(b)	om 'an officer' ins 'to an officer'

9 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS
under the Reprints Act 1992 s 43

Previous	Renumbered as
13(2), 2nd sentence	13(2A)
13(2), 3rd sentence	13(2B)
28(1), 2nd sentence	28(1A)