



# **Superannuation (State Public Sector) Act 1990**

**Reprinted as in force on 17 December 2004  
(includes commenced amendments up to 2004 Act No. 42)**

**Reprint No. 5D revised edition**

**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 17 December 2004. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.

Revised edition indicates further material has affected existing material. For example—

- a correction
- a retrospective provision
- other relevant information.



Queensland

# Superannuation (State Public Sector) Act 1990

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	5
2	Interpretation . . . . .	5
2A	Eligible schemes . . . . .	7
<b>Part 2</b>	<b>Board of trustees</b>	
3	Establishment of board. . . . .	8
4	Board's principal function . . . . .	9
5	Membership of board . . . . .	9
6	Eligibility to be an appointed trustee. . . . .	10
6A	Appointed trustees' term of office. . . . .	10
6B	Appointment not affected by other laws restricting employment . . . . .	10
6C	Deputies for trustees . . . . .	11
6D	Executive officer . . . . .	11
6E	Common seal . . . . .	11
6F	Delegation by board . . . . .	12
6G	Conduct of business. . . . .	12
6H	Time and place of meetings . . . . .	12
6I	Conduct of meetings . . . . .	12
6J	Resolutions other than at meetings . . . . .	13
7	Powers etc. of board. . . . .	13
8	Protection from liability . . . . .	14
9	Remuneration of trustees . . . . .	14
<b>Part 3</b>	<b>Fund and deed</b>	
<b>Division 1</b>	<b>The fund</b>	
10	Establishment of fund. . . . .	14
11	Investment of fund . . . . .	14

<b>Division 2</b>	<b>The deed</b>	
12	Deed to establish scheme . . . . .	15
12A	Membership categories . . . . .	16
13	Membership of scheme . . . . .	16
13A	Continuation of eligibility for membership after transfer of employment . . . . .	18
13B	Continuation of eligibility for membership after ceasing to be an employee, spouse or entitled former spouse. . . . .	18
14	Contents of deed . . . . .	19
<b>Division 3</b>	<b>Miscellaneous</b>	
15	Definitions for div 3. . . . .	21
15B	Special provisions for regulation-making power under division . .	21
15C	Benefits payable to declared employees . . . . .	22
15D	Restitution if regulation stops applying. . . . .	22
<b>Division 4</b>	<b>Superannuation contributions surcharge</b>	
15E	References in div 4 to benefits payable to members . . . . .	23
15F	Amount to be deducted from benefits . . . . .	23
15G	Limit on deduction on refund of certain contributions. . . . .	23
15H	Deduction from benefits paid as pension . . . . .	24
<b>Part 4</b>	<b>Administration</b>	
17	Returns. . . . .	24
18	Recovery of overpayments. . . . .	25
19	Recovery of unpaid contributions. . . . .	26
20	Reports. . . . .	26
20A	Auditing. . . . .	27
21	Protection of expressions associated with scheme . . . . .	27
22	Publicity of scheme . . . . .	28
23	Unclaimed benefits. . . . .	28
24	Barring of claims for compensation . . . . .	29
26	False declarations . . . . .	29
27	Exemption from taxation. . . . .	30
28	Contributions by units. . . . .	30
29	Appropriation of contribution . . . . .	31
30	Assignment of benefit. . . . .	31
30A	Judicial notice of certain matters . . . . .	32
30B	References to discontinued schemes. . . . .	32
30C	No appeal to industrial commission . . . . .	32

*Superannuation (State Public Sector) Act 1990*


---

30D	Commencement of Superannuation (State Public Sector) Notice 2000 .....	33
31	Regulations .....	33
<b>Part 5</b>	<b>Validation provision for appointment of executive officer of board</b>	
32	Validation provision for appointment of executive officer of board	33
<b>Part 6</b>	<b>Transitional provision for Financial Sector Reform (Queensland) Act 1999</b>	
33	APRA or ASIC may be declared to be a unit of the State public sector .....	34
<b>Part 7</b>	<b>Transitional provision for South East Queensland Water Board (Reform Facilitation) Act 1999</b>	
34	SEQWB officers or employees who become SEQWCo employees .....	35
<b>Endnotes</b>		
1	Index to endnotes .....	37
2	Date to which amendments incorporated .....	37
3	Key .....	38
4	Table of reprints .....	38
5	Tables in earlier reprints .....	39
6	List of legislation .....	39
7	List of annotations .....	42
8	Table of renumbered provisions .....	48



# Superannuation (State Public Sector) Act 1990

[as amended by all amendments that commenced on or before 17 December 2004]

**An Act to provide the machinery for the establishment of a new superannuation scheme for the State public sector and for related purposes**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Superannuation (State Public Sector) Act 1990*.

### 2 Interpretation

(1) In this Act—

*appointed trustee* see section 5.<sup>1</sup>

*board* means the Board of Trustees pursuant to section 3.

*deed* means the deed established pursuant to this Act.

*eligible scheme* means a scheme declared under a regulation under section 2A to be an eligible scheme.

*employee*, of a unit of the State public sector, means a person who is a member or employee of, or engaged by, the unit.

*fund* means the State Public Sector Superannuation Fund established pursuant to section 10.

*police 74 member* means a member of the scheme—

---

<sup>1</sup> Section 5 (Membership of board)

*Superannuation (State Public Sector) Act 1990*

---

- (a) who, immediately before the repeal of the *Police Superannuation Act 1974*, was a member of a scheme for the provision of superannuation benefits operated under that Act; and
- (b) whose membership category is the same as it was immediately after the repeal of that Act.

***scheme*** means the scheme for the provision of superannuation, retirement, provident or other benefits established pursuant to the deed in accordance with this Act.

***State 72 member*** means a member of the scheme—

- (a) who, immediately before the repeal of the *State Service Superannuation Act 1972*, was a member of a scheme for the provision of superannuation benefits operated under that Act; and
- (b) whose membership category is the same as it was immediately after the repeal of that Act.

***surcharge debt account***, for a member of the scheme, means the surcharge debt account kept for the member under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cwlth), section 16.

***trustee*** means a member of the board of trustees.

***unit of the State public sector*** means—

- (a) a public sector unit; or
- (b) the Queensland Police Service within the meaning of the *Police Service Administration Act 1990*; or
- (c) the Crime and Misconduct Commission within the meaning of the *Crime and Misconduct Act 2001*; or
- (e) Legal Aid Queensland within the meaning of the *Legal Aid Queensland Act 1997*; or
- (f) the Industrial Relations Commission; or
- (g) every corporate entity (other than a local government) that is constituted by or pursuant to an Act, or that is of a description of entity provided for by an Act, which in either case collects revenues or raises funds under the authority of an Act; or



*Superannuation (State Public Sector) Act 1990*

---

- (h) every non-corporate entity established or maintained pursuant to an Act, which is funded to any extent with moneys of the Crown, or is assisted in a financial respect by the Crown; or
  - (i) the registries and other administrative offices of the courts of the State of whatever jurisdiction; or
  - (j) a Magistrates Court; or
  - (k) the Parliamentary Service within the meaning of the *Parliamentary Service Act 1988*; or
  - (l) the Governor's official residence (known as 'Government House') and the administrative unit maintained in association therewith; or
  - (m) the Legislative Assembly; or
  - (n) a university, university college or a college of advanced education; or
  - (o) an entity declared under a regulation to be a unit of the State public sector;
- but does not include—
- (p) the Executive Council; or
  - (q) an entity declared under a regulation to not be a unit of the State public sector.
- (2) Where the functions or duties of the Crown are transferred to any department or other instrumentality of the government of the Commonwealth, another State or a Territory of the Commonwealth, the power conferred by subsection (1), definition *unit of the State public sector*, paragraph (o), includes power to declare the department or other instrumentality to be a unit of the State public sector for the purposes of this Act.

## **2A Eligible schemes**

The Governor in Council may, by regulation, declare a stated superannuation scheme to be an eligible scheme for this Act if—

- (a) the scheme is established or approved under an Act; or

- (b) at the time of the declaration, most of the members of the scheme are current or previous members of the scheme established under this Act.

## Part 2 Board of trustees

### 3 Establishment of board

- (1) The existing board is continued under the name ‘Board of Trustees of the State Public Sector Superannuation Scheme’.
- (2) The board—
  - (a) is a body corporate; and
  - (b) has perpetual succession; and
  - (c) has a common seal; and
  - (d) may sue and be sued in its corporate name.
- (3) The board is not a statutory body under the *Financial Administration and Audit Act 1977*.
- (3A) The board is declared to be an excluded matter for the Corporations Act, section 5F,<sup>2</sup> in relation to the provisions of that Act<sup>3</sup> for which a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982* is declared to be an excluded matter under section 13A of that Act.
- (4) The board represents the State.
- (5) Without limiting subsection (4), the corporation has all the privileges and immunities of the State.

---

2 Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)

3 Corporations Act, parts 2D.1 (Duties and powers), 2D.6 (Disqualification from managing corporations), chapter 2K (Charges), chapter 2L (Debentures), part 5.7 (Winding up bodies other than companies), part 5.7B (Recovering property or compensation for the benefit of creditors of insolvent company), 5.9 (Miscellaneous) and part 5B.2 (Registrable bodies)

(6) In this section—

*existing board* means the board established under this Act and existing immediately before the commencement of the *Superannuation and Other Legislation Amendment Act 1997*.

#### 4 **Board's principal function**

The board's principal function is to administer the scheme.

#### 5 **Membership of board**

(1) The board consists of the chief executive, who is chairperson of the board, and the following members (the *appointed trustees*)—

- (a) 4 individuals nominated by the Minister;
- (b) 5 individuals nominated by member entities.

(2) The appointed trustees must be appointed by the Governor in Council by gazette notice.

(3) Before, or as soon as practicable after, a vacancy arises in the office of an appointed trustee mentioned in subsection (1)(b), the Minister must, by written notice, ask as many member entities as the Minister considers appropriate to nominate 1 or more individuals for appointment to the vacancy.

(4) If the Minister gives a notice under subsection (3) and does not receive a nomination for the vacancy within the time stated in the notice—

- (a) the Minister may nominate an individual for appointment to the vacancy; and
- (b) the nominee is taken to have been nominated by a member entity.

(5) In this section—

*member entity* means an industrial union, or another entity that represents its members on matters relevant to their financial wellbeing, whose members include persons who are eligible for membership of the scheme.

**6 Eligibility to be an appointed trustee**

A person is not eligible to be an appointed trustee if the person—

- (a) is a minor; or
- (b) is bankrupt, has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit; or
- (c) has been convicted of an indictable offence or an offence involving dishonesty.

**6A Appointed trustees' term of office**

- (1) An appointed trustee holds office for the term, not longer than 3 years, stated in the trustee's appointment.
- (2) The office of an appointed trustee becomes vacant if the trustee—
  - (a) dies; or
  - (b) resigns by signed notice given to the Minister; or
  - (c) becomes ineligible to be an appointed trustee;<sup>4</sup> or
  - (d) is absent from 3 consecutive board meetings, of which the trustee has been given notice under procedures approved by the board, without the board's leave and without reasonable excuse.
- (3) For subsection (2)(d), a trustee is taken not to be absent from a board meeting if the trustee's deputy attends the meeting.

**6B Appointment not affected by other laws restricting employment**

If another Act prohibits or regulates a person's employment, or other engagement in activities, outside of a stated office or position, the Act does not prevent the person from—

- (a) being appointed to the board; or

---

<sup>4</sup> See section 6 (Eligibility to be an appointed trustee).

- (b) carrying out the person's functions as a trustee; or
- (c) being paid a fee or allowance to which the person is entitled because of the appointment.

### **6C Deputies for trustees**

- (1) A trustee may, by written notice, appoint an appropriately qualified person as his or her deputy.
- (2) A trustee's deputy may attend a board meeting in the trustee's absence and exercise the trustee's powers under this Act at the meeting.
- (3) In subsection (1)—  
*appropriately qualified person* means a person who—
  - (a) is eligible to be an appointed trustee;<sup>5</sup> and
  - (b) has the qualifications, experience or standing appropriate to exercise the trustee's powers.

### **6D Executive officer**

- (1) There is to be an executive officer of the board.
- (2) The executive officer must be appointed by the Governor in Council.
- (3) A person may be appointed as executive officer whether or not the person is a trustee.
- (4) The executive officer has the functions given by this Act and any other functions given by the board.

### **6E Common seal**

- (1) The executive officer has custody of the board's common seal.
- (2) Subject to the board's directions, the executive officer may execute a document on the board's behalf by signing the document and attaching the board's common seal.

---

<sup>5</sup> See section 6 (Eligibility to be an appointed trustee).

**6F Delegation by board**

- (1) The board may delegate its powers under this Act to the executive officer, a trustee or an appropriately qualified person.
- (2) A delegation of a power may permit the subdelegation of the power to the executive officer, a trustee or an appropriately qualified person.
- (3) In subsection (1)—  
*appropriately qualified* means having the qualifications, experience or standing appropriate to exercise the power.

**6G Conduct of business**

Subject to this Act, the board may conduct its business, including its meetings, in the way it considers appropriate.

**6H Time and place of meetings**

- (1) Board meetings are to be held at the times and places the board decides.
- (2) The chairperson—
  - (a) may call a meeting at any time; and
  - (b) must call a meeting on the written request of at least 7 trustees.

**6I Conduct of meetings**

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.
- (2) In the chairperson's absence—
  - (a) if the chairperson has a deputy who is present at the meeting—the deputy is to preside; or
  - (b) otherwise—another trustee chosen by the trustees present is to preside.
- (3) A resolution is passed at a board meeting only if at least 7 trustees vote in favour of the resolution.

- (4) The trustee presiding at a meeting has a deliberative vote only.
- (5) A trustee present at a meeting who abstains from voting is taken to have voted for the negative.
- (6) The board may hold meetings, or permit trustees to take part in meetings, by telephone, video link, or another form of communication that allows reasonably contemporaneous and continuous communication between the trustees taking part in the meeting.
- (7) A trustee who takes part in a meeting under a permission under subsection (6) is taken to be present at the meeting.

## **6J Resolutions other than at meetings**

- (1) A resolution may be made by the board, other than at a board meeting, if—
  - (a) at least 7 trustees give written agreement to the resolution; and
  - (b) notice of the resolution is given under procedures approved by the board.
- (2) The resolution is taken to have been made on the day that the seventh trustee gives written agreement to it.

## **7 Powers etc. of board**

- (1) The powers, authorities, duties or functions of the board and the exercise of discretion by the board are, except as specified in this Act, to be as set out in the deed.
- (2) Without limiting subsection (1), the board has, for or in connection with the performance of its functions, all the powers of an individual, including, for example, the power to—
  - (a) enter into contracts; and
  - (b) acquire, hold, dispose of and deal with property; and
  - (c) appoint attorneys and agents; and
  - (d) engage consultants; and

- (e) do anything else necessary or convenient to be done for, or in connection with, the performance of its functions.
- (3) Also, without limiting subsection (1), the board has the powers conferred on it by this or another Act.

## **8 Protection from liability**

- (1) An official does not incur civil liability for an act done, or omission made, honestly and without gross negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (3) In this section—  
*official* means a trustee, the board's executive officer or a member of the board's staff.

## **9 Remuneration of trustees**

A trustee is entitled to such remuneration as may be approved for the time being by the Governor in Council.

# **Part 3 Fund and deed**

## **Division 1 The fund**

### **10 Establishment of fund**

The State Public Sector Superannuation Fund (the *fund*) is continued in existence.

### **11 Investment of fund**

- (1) Queensland Investment Corporation (*QIC*) is appointed investment manager of the fund.



- (2) The board must establish investment policies and objectives for the fund.
- (3) The investment manager must operate under the investment policies and objectives.
- (4) The investment manager must give the board or its agent all necessary information to enable them to monitor the investment manager's performance.
- (5) If the Governor in Council is satisfied it is appropriate for another investment manager to be appointed for the fund or a stated part of the fund in the interests of the board's fiduciary responsibilities or the members of the fund generally, the Governor in Council may, by regulation—
  - (a) revoke QIC's appointment as investment manager in whole or in part from a stated date; and
  - (b) make provision for anything necessary to secure the fund.
- (6) If QIC's appointment is revoked, the board may appoint a new investment manager of the fund, or a stated part of the fund, with the Governor in Council's approval.

## **Division 2            The deed**

### **12        Deed to establish scheme**

- (1) Not later than 30 days after the commencement of this section, or such longer period as may be approved by the Governor in Council by order in council, there is to be established by deed a scheme for the provision of superannuation, retirement, provident or other similar benefits payable from the fund.
- (2) The deed—
  - (a) is subordinate legislation; and
  - (b) may be amended by the board.
- (3) An amendment of the deed is of no effect until approved by a regulation that sets out the amendment.

**12A Membership categories**

The deed must provide for different categories of members.

**13 Membership of scheme**

- (1) The Minister may, by written notice, declare that a person or member of a class of person who is an employee of a unit of the State public sector is eligible for membership of the scheme.
- (2) The notice must declare—
  - (a) whether membership of the scheme is compulsory or discretionary; and
  - (b) any conditions applying to membership; and
  - (c) the membership category or categories for which the person, or a member of the class of person, is eligible.
- (3) If there is any doubt that a person is an employee of a unit of the State public sector, the Governor in Council may, by regulation, declare whether the person is or is not an employee of a unit of the State public sector.
- (4) The Minister may, by written notice, declare that a person or member of a class of person who is an employee of a unit of the State public sector is excepted from this Act.
- (5) Before the Minister makes a notice under subsection (4), the Minister must consult with the board.
- (6) The Minister may, by written notice, declare that a person is eligible for membership of the scheme if the person is—
  - (a) the spouse of a member of the scheme; or
  - (b) an entitled former spouse; or
  - (c) a person for whom an amount is paid to the fund under—
    - (i) the *Governors (Salary and Pensions) Act 2003*, section 16C;<sup>6</sup> or

---

<sup>6</sup> *Governors (Salary and Pensions) Act 2003*, section 16C (Agreement or court order—minimum benefit)

*Superannuation (State Public Sector) Act 1990*

---

- (ii) the *Judges (Pensions and Long Leave) Act 1957*, section 11;<sup>7</sup> or
- (6A) A notice under subsection (6)(a) may be limited in its application to particular classes of spouse or by reference to factors stated in the notice.
- (6B) Subsection (6A) does not limit the *Statutory Instruments Act 1992*, section 24 or 25.<sup>8</sup>
- (7) The Minister may, by written notice, declare that a person who is a member of a stated eligible scheme is eligible for membership of the scheme established under this Act on ceasing to be a member of the eligible scheme.
- (8) A notice under subsection (6) or (7) must declare—
- (a) that membership of the scheme is discretionary; and
  - (b) any conditions applying to membership; and
  - (c) the membership category or categories for which the person is eligible; and
  - (d) for a notice under subsection (7)—any time limit for becoming a member of the scheme after ceasing to be a member of the eligible scheme.
- (9) Contributions may not be made for a member of the scheme by the member's employer if the employer is not a unit of the State public sector.
- (10) A notice made under subsection (1), (4), (6) or (7) is subordinate legislation.
- (11) In this section—
- entitled former spouse*** means a person who is entitled or conditionally entitled, under an agreement under the *Family Law Act 1975* (Cwlth) or a court order under that Act, to payment of an amount from the fund.

---

<sup>7</sup> *Judges (Pensions and Long Leave) Act 1957*, section 11 (Agreement or court order—minimum benefit)

<sup>8</sup> *Statutory Instruments Act 1992*, section 24 (Statutory instrument may be of general or limited application) or 25 (Statutory instrument may make different provision for different categories)

**13A Continuation of eligibility for membership after transfer of employment**

- (1) This section applies if—
  - (a) a person ceases to be an employee of a unit of the State public sector and becomes an employee of another entity (the *new employer*) that is not a unit of the State public sector; and
  - (b) immediately before becoming an employee of the new employer, the person is a member of the scheme; and
  - (c) either—
    - (i) the transfer happens under an Act that provides that, on becoming an employee of the new employer, the person keeps all the person's existing and accruing rights relating to superannuation; or
    - (ii) the person and the new employer each gives written notice to the board that he, she or it agrees to the person's continued membership of the scheme.
- (2) The new employer is taken to be a unit of the State public sector in relation to the employment of the person.
- (3) While a notice declaring that the person is eligible for membership of the scheme is in force under section 13, the person or the new employer may not revoke a notice given under subsection (1)(c)(ii).

**13B Continuation of eligibility for membership after ceasing to be an employee, spouse or entitled former spouse**

- (1) To remove doubt, it is declared that, if a person's contributory membership has ended, the person continues to be eligible for membership of the scheme while the person is entitled to a benefit, under the scheme, relating to the person's contributory membership.

- (2) In this section—

*contributory membership* means a person's membership of the scheme, while the person is an employee of a unit of the State public sector, the spouse of a member or an entitled

former spouse, on the basis of the person's eligibility under a notice under section 13.

*entitled*, to a benefit, includes conditionally entitled to the benefit.

*Example for definition entitled—*

Under the deed, a benefit is payable to a person when the person reaches a particular age or when a particular event happens. The person is conditionally entitled to the benefit.

## 14 Contents of deed

Save as otherwise provided by this Act and in addition to any other provisions which the board considers may be necessary or desirable, the deed may make provision for the following matters—

- (a) definitions to be used in the deed;
- (b) the operation, management and investment of the fund;
- (c) the liability for the payment of member contributions to the fund;
- (d) the level of member contributions to the fund;
- (e) the level of contribution by a unit of the State public sector in relation to members of the scheme;
- (f) the circumstances whereby, and the level of contributions in relation thereto, members may make additional contributions to the fund;
- (g) conditions for the transfer of members and amounts representing contributions to and from the scheme;
- (h) the keeping of accounts for members of the scheme and the payment of interest on such accounts;
- (i) the level of and conditions relating to the payment of benefits under the scheme to and in respect of a member, including the following—
  - (i) benefits on attaining the age of 55 years or older;
  - (ii) benefits for total and permanent incapacity;
  - (iii) benefits for permanent but partial incapacity;

*Superannuation (State Public Sector) Act 1990*

---

- (iv) benefits for short term incapacity;
- (v) benefits on death prior to the age of 55 years;
- (vi) benefits on—
  - (A) compulsory retrenchment from employment; and
  - (B) involuntary termination of employment; and
  - (C) voluntary resignation from employment; and
  - (D) dismissal from employment;
- (vii) benefits on the occurrence of such other eventuality as may be specified;
- (j) the obtaining and use of medical or like evidence in determining the payment of benefits under the scheme;
- (k) a mechanism for a review by a member dissatisfied with the grant or payment of benefits or any other decision under the scheme;
- (l) a method for the preservation of member entitlements in the fund;
- (m) the terms and conditions upon which a pension or annuity may be purchased or paid from the fund;
- (n) the terms and conditions upon which the board is to obtain actuarial advice in relation to the fund;
- (o) the payment of the expenses of operating the scheme from the fund.

**Division 3                      Miscellaneous****15        Definitions for div 3**

In this division—

*award* see the *Industrial Relations Act 1999*, schedule 5, definition *award*, paragraph (a).<sup>9</sup>

*declared employee* means an employee declared under a regulation to be an employee to whom this division applies.

*employee* means an employee or former employee of a unit of the State public sector.

*fresh award*, for a declared employee, means the award declared under a regulation to be the fresh award for the employee.

*old award*, for a declared employee, means the award declared under a regulation to be the old award for the employee.

**15B      Special provisions for regulation-making power under division**

- (1) A regulation may declare an employee to be a declared employee only if—
  - (a) the employee was bound by an award that—
    - (i) was properly varied; or
    - (ii) was rescinded and a fresh award binding on the employee was made in substitution for it; and
  - (b) the employee's salary has changed under the varied or fresh award; and
  - (c) the Governor in Council declares under the regulation that the Governor in Council is satisfied that, because of

---

<sup>9</sup> *Industrial Relations Act 1999*, schedule 5—

*award*—

- (a) generally, means—
  - (i) an award made under chapter 5 or continued in force under this Act; or
  - (ii) an award as amended under chapter 5;

the making of the varied or fresh award, the employee's benefits under the scheme were changed in an unintended way in relation to the employee's employment before the making of the varied or fresh award.

- (2) To remove any doubt, it is declared that a regulation made under the definition *fresh award* may declare an award that commenced before the regulation commences to be the fresh award for the employee.
- (3) A regulation made under this section expires 1 year after it is made, unless it is earlier repealed.

### **15C Benefits payable to declared employees**

Despite the deed, benefits payable under the scheme for a declared employee are the benefits calculated as if the employee were still employed under the old award.

### **15D Restitution if regulation stops applying**

- (1) This section applies if—
  - (a) a benefit becomes payable to a declared employee; and
  - (b) the amount of the benefit is different to the amount (the *notional amount*) that would have been payable if the employee were not a declared employee; and
  - (c) after the benefit is paid, the regulation declaring the employee to be a declared employee expires or otherwise stops applying to the employee.
- (2) If the amount of the benefit paid to the employee is less than the notional amount, the board must pay to the employee the difference between the amount of the benefit paid and the notional amount, together with interest at the rate fixed by regulation.
- (3) If the amount of the benefit paid to the employee is more than the notional amount, the board may, by written notice, require the employee to pay to the board the difference between the amount of the benefit paid and the notional amount.



- (4) The notice must state a reasonable time, not less than 30 days after the notice is given, by which the employee must pay the amount.
- (5) If the employee does not comply with the notice, the board may recover the amount as a debt, together with interest at the rate fixed by regulation.

## **Division 4                      Superannuation contributions surcharge**

### **15E      References in div 4 to benefits payable to members**

In this division, a reference to a benefit payable under the deed to a member of the scheme includes a reference to a benefit payable under the deed to someone else who has derived an entitlement to the benefit through the member.

### **15F      Amount to be deducted from benefits**

- (1) If a benefit is payable under the deed to a member of the scheme, the board must deduct from the employer-financed component of the benefit an amount equal to the balance of the member's surcharge debt account.
- (2) This section applies subject to sections 15G and 15H.

### **15G      Limit on deduction on refund of certain contributions**

- (1) This section applies if a benefit is payable, to a police 74 member or State 72 member, as a refund of contributions.
- (2) The amount deducted under section 15F must not be more than the total of the following amounts—
  - (a) 15% of the employer-financed component of the part of the benefit that accrued after 20 August 1996 and before 1 July 2003;
  - (b) 14.5% of the employer-financed component of the part of the benefit that accrued after 30 June 2003 and before 1 July 2004;

- (c) 12.5% of the employer-financed component of the part of the benefit that accrued after 30 June 2004 and before 1 July 2005;
- (d) 10% of the employer-financed component of the part of the benefit that accrued after 30 June 2005.

## **15H Deduction from benefits paid as pension**

- (1) This section applies if—
  - (a) a benefit is payable to a member of the scheme on ceasing to be an employee of a unit of the State public sector; and
  - (b) the benefit is payable in the form of a pension.
- (2) However, this section does not apply to the payment of a pension to a child who has derived an entitlement to the pension through a member.
- (3) The board must comply with section 15F by reducing the pension, by an amount equal to the balance of the member's surcharge debt account, in the way decided by the Minister on the advice of an actuary.

## **Part 4 Administration**

### **17 Returns**

- (1) Throughout each year, each unit of the State public sector which employs a person who might become entitled to a benefit from the fund in accordance with the deed is to 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 of a unit of the State public sector who might become entitled to a benefit from the fund; or

(b) was an employee of a unit of the State public sector who being entitled to a benefit from the fund preserved that entitlement; or

(c) is a member of the scheme;

is to furnish to the board information with respect to such matters concerning that person as the board may require.

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

## **18 Recovery of overpayments**

- (1) Where a person has received payment of a benefit from the fund in excess of the payment to which that person is entitled under this Act or the deed, the board may recover from that person or that person's estate (if that 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 that person and the payment to which that person was entitled under this Act or the deed.
- (2) Where a person who has received payment of a benefit from the fund in excess of the payment to which that person is entitled under this Act or the deed, is entitled to a further payment from the fund, that excess may be deducted from the further payment prior to it being paid to that person or that person's estate.
- (3) The board may also deduct interest on the overpayment from the person's entitlement to a further payment from the fund if the overpayment has been made—
- (a) because the member or person receiving the payment gave false or misleading information to the board; or
  - (b) in circumstances prescribed under the deed.
- (4) However, the board may deduct interest on the overpayment only if the board gives written notice to the person—
- (a) stating the amount of the overpayment; and

- (b) requiring the person to pay the amount before a stated date (at least 30 days after receiving the notice); and
  - (c) stating that if the person does not pay the amount before the stated date, the board may deduct the amount together with interest at a stated rate from the person's entitlement to a further payment from the fund.
- (5) The rate of interest is to be decided by the board but must not be more than the rate prescribed under a regulation.
  - (6) Interest on the amount is payable from the stated date.
  - (7) In subsection (3)—

*false or misleading information* means information that the person giving it—

- (a) knows is false or misleading in a material particular; or
- (b) has omitted something from it, knowing the omission makes the information misleading in a material particular.

## **19 Recovery of unpaid contributions**

- (1) Any amount (including an amount of contribution to the fund) that is payable to the board under the scheme may be recovered in a court of competent jurisdiction as a debt due and owing to the board.
- (2) Any amount of contributions to the fund unpaid at the time a person ceases to be a member may be deducted from any benefits payable under the scheme before any payment is made to or in respect of that person.

## **20 Reports**

- (1) In each year the board is to make to the Minister a report on the administration of this Act and of the scheme.
- (2) The Minister is to lay a copy of the board's annual report before the Legislative Assembly within 14 sitting days after the Minister receives the report.
- (3) When, and as often as, the Minister may require, the board is to make to the Minister a report on such matters concerning

the administration of this Act or the scheme as the Minister may direct.

## **20A Auditing**

- (1) The board must—
  - (a) keep appropriate financial statements about the administration of the scheme; and
  - (b) have the financial statements for each financial year audited by the auditor-general.
- (2) As soon as practicable after the auditor-general certifies the financial statements and prepares a report about the certified statements under the audit, the auditor-general must—
  - (a) give the certified statements and report to the board; and
  - (b) give a copy of the certified statements and report to the Minister.

## **21 Protection of expressions associated with scheme**

- (1) A person is not to use a declared expression 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) that person does so on behalf of the board.
- (2) A person is not to—
  - (a) use any variation of a declared expression; or
  - (b) use any word (either alone or in conjunction with any other word) similar in sight or sound to a declared expression;

in connection with selling the right to participate in any superannuation, insurance, provident or other benefit 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 one to which this Act relates; and
  - (d) that person does so on behalf of the board.
- (3) A person who contravenes subsection (1) or (2) commits an offence against this Act.

Maximum penalty—40 penalty units.

- (4) In this section—

***declared expression*** means an expression, associated with the scheme, declared under a regulation to be an expression to which this section applies.

*Examples of expressions associated with the scheme—*

- 1 A name given to the scheme.
- 2 A name given to a category of member.

## 22 Publicity of scheme

The board is to take all reasonable steps to ensure that all persons eligible for membership of the scheme are made aware of the benefits that arise from membership of the scheme.

## 23 Unclaimed benefits

- (1) This section applies if a benefit payable under this Act is not claimed by a person entitled to it (the ***beneficiary***) within 6 months after it becomes payable.
- (2) The board must keep the benefit in the fund for the beneficiary.
- (3) The board may pay a person the benefit only if the board is satisfied the person is the beneficiary.
- (4) Payment of a benefit to a person (the ***first claimant***) under this section releases the board from the obligation to pay another person (a ***subsequent claimant***) a further benefit from the fund in relation to a member.
- (5) Subsection (4) does not prevent the subsequent claimant from claiming the amount of the value of the benefit from the first claimant.

(6) In this section—

*benefit* includes interest payable on the benefit at the rate decided by the board.

## 24 Barring of claims for compensation

No member is entitled to any compensation by reason of the alteration of any benefit payable under the scheme which may lawfully be made in consequence of any actuarial investigation or otherwise.

## 26 False declarations

(1) No person is to—

- (a) in a certificate, return, declaration, or other document given or sent to, or lodged with, the board by or on behalf of that person for any of the purposes of the scheme, knowingly furnish information as to age or state of health that is false or misleading; or
- (b) for the purposes of a medical examination required to be undergone under the scheme, knowingly furnish the medical practitioner by whom the examination is made with information as to state of health or medical history that is false or misleading.

Maximum penalty—10 penalty units.

(2) If a person is convicted of an offence against this section the board may order—

- (a) in the case of a member—
  - (i) that the person is ineligible, either permanently or for such time as the board may determine, to contribute to the fund; or
  - (ii) if contributions have not commenced—that the person is ineligible to commence to contribute to the fund either permanently or for such time as the board may determine; or
- (b) in the case of a recipient of a benefit—that the benefit be cancelled forthwith; or

- (c) in the case of a person other than a member or recipient of a benefit—that that person be ineligible to commence to contribute to the fund either permanently or for such time as the board may determine.
- (3) Where the board makes a determination under this section in respect of a member whereby the member is precluded from contributing to the fund for a time only, any period of employment by the member during that time is to be disregarded in the calculation of a period of employment for the purpose of determining a member's entitlement, or that of a person deriving an entitlement through that member, to benefits under this Act or the scheme.

## **27 Exemption from taxation**

Except as may be specifically provided the board and the fund are not liable to any taxation imposed under a law of Queensland.

## **28 Contributions by units**

- (1) The Treasurer may require a unit of the State public sector to pay, for each member of the scheme employed by the unit, the amount the Treasurer decides is necessary to provide for the payment of benefits to the member under the scheme.
- (2) The unit must pay the amount within 1 week after the end of each pay period for the member.
- (3) If the amount is not paid within the time required under subsection (2), interest accrues on the outstanding amount at the rate prescribed under a regulation.
- (4) Subsection (5) applies if—
  - (a) the amount is paid within the time required under subsection (2); and
  - (b) the board can not pay the amount or a part of the amount into the member's appropriate account because information received for the member, from the unit of the State public sector in a return mentioned in section 17(1), is not accurate or complete.



- (5) Interest accrues on the amount that can not be paid into the member's appropriate account—
- (a) at the rate prescribed under a regulation; and
  - (b) for the period in which the amount can not be paid into the account.
- (6) The amount mentioned in subsection (1), and interest that accrues under subsection (3) or (5), must be paid—
- (a) if a regulation requires payment to the board—to the board; or
  - (b) otherwise—to the Treasurer.
- (7) In this section—

*member's appropriate account*, in relation to an amount received for a member of the scheme, means the member's account under the scheme into which the amount must be paid under this Act.

## **29 Appropriation of contribution**

A contribution to the fund by the Crown in accordance with the deed is to be paid by the Treasurer—

- (a) at any such time and in such manner as prescribed by the deed;
- (b) out of the consolidated fund which is appropriated accordingly.

## **30 Assignment of benefit**

Subject to part 3A, no benefit payable under the scheme is capable of being assigned, charged, taken in execution, attached or passed by operation of law or otherwise howsoever to any person other than the member or the member's estate nor is any claim to be set off against the same and any amount payable out of the fund on the death of the member is not an asset for the payment of the member's debts or liabilities.

**30A Judicial notice of certain matters**

- (1) Judicial notice must be taken of the imprint of the board's seal appearing on a document and the document must be presumed to have been properly sealed unless the contrary is proved.
- (2) Judicial notice also must be taken of—
  - (a) the signature of a trustee or the executive officer; and
  - (b) the fact that the person holds or has held the relevant office.

**30B References to discontinued schemes**

- (1) In an Act or document, a reference to a discontinued scheme or a matter relating to a discontinued scheme may, if the context permits, be taken as a reference to the scheme established under this Act or the equivalent matter relating to the scheme established under this Act.
- (2) In subsection (1)—

*discontinued scheme* means a superannuation scheme previously operated under any of the following Acts—

  - the *Fire and Rescue Authority Act 1990*
  - the repealed Police Superannuation Act 1968
  - the repealed Police Superannuation Act 1974
  - the repealed Public Service Superannuation Act 1958
  - the repealed State Service Superannuation Act 1972
  - the repealed Superannuation (Government and Other Employees) Act 1988.

**30C No appeal to industrial commission**

No appeal lies to the industrial commission in relation to any decision under this Act.

**30D Commencement of Superannuation (State Public Sector) Notice 2000**

The *Superannuation (State Public Sector) Notice 2000* is taken to have commenced on 1 May 2000.

**31 Regulations**

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

**Part 5 Validation provision for appointment of executive officer of board****32 Validation provision for appointment of executive officer of board**

- (1) For this Act, the person appointed as the executive officer of the board by the Governor in Council on 24 July 2003 is taken to have been validly appointed as the executive officer of the board on 2 July 1997 for the relevant period.
- (2) Anything done or omitted to be done during the relevant period that would have been valid and lawful under this Act had the person been validly appointed as the executive officer on 2 July 1997 is taken to be, and always to have been, as valid and lawful as if the person had been validly appointed as the executive officer on that day.
- (3) In this section—

*relevant period* means the period starting on 2 July 1997 and ending at the end of 23 July 2003.

## Part 6 Transitional provision for Financial Sector Reform (Queensland) Act 1999

### 33 **APRA or ASIC may be declared to be a unit of the State public sector**

- (1) Subsection (2) applies if, on or after the transfer date, a person who was an employee of QOFS immediately before the transfer date becomes—
  - (a) an employee of APRA under a transfer agreement; or
  - (b) an employee of ASIC under the *Public Service Act 1922* (Cwlth), section 81B(1).<sup>10</sup>
- (2) A regulation may, under section 2(1), definition *unit of the State public sector*, paragraph (o), declare—
  - (a) APRA to be a unit of the State public sector, if the person becomes an employee of APRA under a transfer agreement; or
  - (b) ASIC to be a unit of the State public sector, if the person becomes an employee of ASIC under the *Public Service Act 1922* (Cwlth), section 81B(1).
- (3) In this section—

**APRA** means the Australian Prudential Regulation Authority established under the *Australian Prudential Regulation Authority Act 1998* (Cwlth).

**ASIC** means the Australian Securities and Investments Commission established under the *Australian Securities and Investments Commission Act 2001* (Cwlth).

**QOFS** means the Queensland Office of Financial Supervision established under the *Queensland Office of Financial Supervision Act 1992*.

**transfer agreement** means a transfer agreement under the *Financial Sector Reform (Amendments and Transitional*

---

<sup>10</sup> *Public Service Act 1922* (Cwlth), section 81B (Appointment or employment of persons where functions to be performed by Commonwealth etc.)

*Provisions) Act (No. 1) 1999* (Cwlth), schedule 8, part 1, division 2.<sup>11</sup>

**transfer date** means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.

## Part 7 Transitional provision for South East Queensland Water Board (Reform Facilitation) Act 1999

### 34 **SEQWB officers or employees who become SEQWCo employees**

- (1) This section applies if, on or after the settlement day, a person who is an officer or employee of SEQWB immediately before the settlement day becomes an employee of SEQWCo under the sale of business agreement.
- (2) A regulation may, under section 2(1), definition *unit of the State public sector*, paragraph (o), declare SEQWCo to be a unit of the State public sector.
- (3) A declaration under subsection (2) operates only for the purpose of this Act and must not be taken to indicate that SEQWCo has a status for the purpose of any other Act.
- (4) If SEQWCo is declared to be a unit of the State public sector, the only persons, in relation to SEQWCo, who may be declared eligible for membership of the scheme, by a written notice under section 13(1), are transferred employees.
- (5) In this section—

**sale of business agreement** means the agreement called the Sale of Business Agreement entered into between SEQWB

---

<sup>11</sup> *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), schedule 8 (Transitional, saving and application provisions), part 1 (Transitional provisions relating to transfer from State and Territory regulatory regimes), division 2 (Transitional provisions relating to staff)

and SEQWCo on 20 September 1999 under the *South East Queensland Water Board (Reform Facilitation) Act 1999*, section 5(1).

**SEQWB** means the South East Queensland Water Board established under the *South East Queensland Water Board Act 1979*.

**SEQWCo** means South East Queensland Water Corporation Limited ACN 088 729 766.

**settlement day** means the settlement day declared under the *South East Queensland Water Board (Reform Facilitation) Act 1999*, section 8.

**transferred employees** means persons who are officers or employees of SEQWB immediately before the settlement day and become employees of SEQWCo under the sale of business agreement.

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	37
3 Key . . . . .	38
4 Table of reprints . . . . .	38
5 Tables in earlier reprints . . . . .	39
6 List of legislation . . . . .	39
7 List of annotations . . . . .	42
8 Table of renumbered provisions . . . . .	48

### 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 17 December 2004. Future amendments of the Superannuation (State Public Sector) Act 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Reprint date
1	to 1993 Act No. 11	1 July 1993	20 May 1994
2	to 1995 Act No. 27	18 August 1995	29 August 1995
2A	to 1996 Act No. 52	1 December 1996	20 February 1997
2B	to 1997 Act No. 21	30 June 1997	5 September 1997
3	to 1997 Act No. 21	30 June 1997	2 October 1997
3A	to 1997 Act No. 81	5 December 1997	16 July 1998
3B	to 1999 Act No. 33	1 July 1999	29 October 1999
3C	to 1999 Act No. 75	14 December 1999	4 January 2000
4	to 1999 Act No. 75	14 December 1999	2 June 2000
4A	to 2000 Act No. 52	17 November 2000	1 December 2000
4B	to 2001 Act No. 31	7 June 2001	21 June 2001
4C	to 2001 Act No. 45	15 July 2001	10 August 2001
4D	to 2001 Act No. 69	1 January 2002	2 January 2002
5	to 2001 Act No. 69	1 January 2002	1 January 2002

(Column discontinued)



Reprint No.	Amendments included	Effective	Notes
5A rv	to 2002 Act No. 66	6 December 2002	
5B rv	to 2002 Act No. 74	1 April 2003	
5C	to 2002 Act No. 74	29 November 2004	
5D rv	to 2004 Act No. 42	17 December 2004	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

## 6 List of legislation

### **Superannuation (State Public Sector) Act 1990 No. 20**

date of assent 13 June 1990

ss 1–1.2 commenced on date of assent

remaining provisions commenced 14 June 1990 (proc pubd gaz 14 June 1990 p 833)

amending legislation—

### **Superannuation (Miscellaneous Acts) Amendment Act 1991 No. 11 pts 1, 7**

date of assent 15 April 1991

ss 1.1–1.2, 7.1 commenced on date of assent (see s 1.2(1))

ss 7.2–7.3, 7.5, 7.9 and 7.11 commenced 11 May 1991 (proc pubd gaz 4 May 1991 p 73)

remaining provisions never proclaimed into force and rep 1997 No. 21 s 39

### **Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2 (this Act is amended, see amending legislation below)**

date of assent 17 December 1991

commenced 11 May 1991 (see Act)

amending legislation—

#### **Statute Law (Miscellaneous Provisions) Act 1992 No. 36 s 2 sch 2 (amends 1991 No. 97 above)**

date of assent 2 July 1992

commenced on date of assent

### **Superannuation Legislation Amendment Act 1993 No. 11 pts 1, 8 s 45 sch 3**

date of assent 28 May 1993

ss 1–2 commenced on date of assent

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

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994  
 commenced on date of assent

**Superannuation Legislation Amendment Act 1995 No. 27 pts 1, 11**

date of assent 14 June 1995  
 ss 1–2 commenced on date of assent  
 ss 60, 61(2), 62 commenced 1 July 1991 (see s 2(2))  
 ss 61(1), 63 commenced 14 June 1994 (see s 2(6))  
 s 64 commenced 1 February 1996 (1996 SL No. 3)  
 s 65 commenced 30 June 1994 (see s 2(5))  
 remaining provisions commenced 18 August 1995 (1995 SL No. 229)

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Superannuation Legislation Amendment Act 1996 No. 52 pts 1, 3**

date of assent 20 November 1996  
 commenced on date of assent

**Superannuation and Other Legislation Amendment Act 1997 No. 21 ss 1, 2(1), (3) pt 2 (this Act is amended, see amending legislation below)**

date of assent 15 May 1997  
 pt 1, pt 2 hdg, ss 3, 23 (so far as it ins new pt 5 hdg and new ss 32, 44) commenced  
 on date of assent (see s 2(1) and 1997 No. 81 s 3 sch)  
 remaining provisions commenced 30 June 1997 (see s 2(3))  
 amending legislation—

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1, 3 sch (amends 1997 No. 21 above)**

date of assent 5 December 1997  
 commenced 15 May 1997 (see s 3 sch)

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3 sch**

date of assent 5 December 1997  
 commenced on date of assent

**Corrective Services Legislation Amendment Act 1999 No. 9 pt 1 sch**

date of assent 30 March 1999  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 May 1999 (1999 SL No. 72)

**Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch**

date of assent 30 April 1999  
 commenced on date of assent

**Financial Sector Reform (Queensland) Act 1999 No. 27 ss 1–2(1), (4), 76 sch 1 pt 3**

date of assent 16 June 1999  
 ss 1–2, 76 commenced on date of assent  
 remaining provisions commenced 1 July 1999 (see s 2(1) and proc pubd Cwlth of  
 Australia gaz 29 June 1999, No. S283)

**Superannuation (State Public Sector) Amendment Act 1999 No. 28**

date of assent 16 June 1999  
 commenced on date of assent

**Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch**

date of assent 16 June 1999  
 ss 1–2, 50 commenced on date of assent  
 remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 SL No. 70 s 2(3))

**Industrial Relations Act 1999 No. 33 ss 1, 2(2), 747 sch 3**

date of assent 18 June 1999  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 1999 (1999 SL No. 159)

**Superannuation Legislation Amendment Act 1999 No. 74 s 1 pt 5**

date of assent 14 December 1999  
 commenced on date of assent

**Superannuation (State Public Sector) Amendment Act (No. 2) 1999 No. 75**

date of assent 14 December 1999  
 commenced on date of assent

**Superannuation and Other Legislation Amendment Act 2000 No. 52 s 1 pt 5**

date of assent 17 November 2000  
 commenced on date of assent

**Financial Administration and Other Legislation Amendment Act 2001 No. 31 ss 1, 48 sch**

date of assent 7 June 2001  
 commenced on date of assent

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001  
 ss 1–2 commenced on date of assent  
 sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)  
 remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1**

date of assent 8 November 2001  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 January 2002 (2001 SL No. 221)

**Treasury Legislation Amendment Act (No. 2) 2002 No. 66 pts 1, 7**

date of assent 28 November 2002  
 ss 1–2 commenced on date of assent  
 s 26 commenced 29 November 2004 (automatic commencement under AIA s 15DA(2) (2003 SL No. 284 s 2))  
 remaining provisions commenced 6 December 2002 (2002 SL No. 336)

**Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch**

date of assent 13 December 2002

ss 1–2 commenced on date of assent

s 90 commenced 31 March 2003 (2003 SL No. 51)

remaining provisions commenced 1 April 2003 (2003 SL No. 51)

**Superannuation Legislation Amendment Act 2003 No. 93 ss 1, 2(2), pt 3 (this Act is amended, see amending legislation below)**

date of assent 3 December 2003

ss 1–2 commenced on date of assent

remaining provision never proclaimed into force and om 2004 No. 42 s 24

(proposed automatic commencement under AIA s 15DA(2) deferred to 4 December 2005 (2004 SL No. 254 s 2))

amending legislation—

**Superannuation Legislation Amendment Act 2004 No. 42 ss 1–2, 21, 24 (amends 2003 No. 93 above)**

date of assent 18 November 2004

commenced on date of assent (see s 2)

**Superannuation Legislation Amendment Act 2004 No. 42 pts 1, 6, s 33 sch**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

s 27 (to the extent it ins new s 13(6)(c)(iii)) not yet proclaimed into force (see s 2)

remaining provisions commenced 17 December 2004 (2004 SL No. 284)

## 7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

**Commencement**

s 1.2 om R2 (see RA s 37)

**Interpretation**

s 2 amd 1991 No. 11 s 7.2; 1993 No. 11 s 45 sch 3; 1997 No. 81 s 3 sch; 1999 No. 27 s 76 sch 1 pt 3; 2004 No. 42 s 26(4)–(5)  
 def “**appointed trustee**” ins 1997 No. 21 s 4(2)  
 def “**board member**” om 1997 No. 21 s 4(1)  
 def “**eligible scheme**” ins 2000 No. 52 s 36(2)  
 def “**employee**” ins 2000 No. 52 s 36(2)  
 def “**government superannuation provision fund**” ins 1995 No. 27 s 61(2)  
 sub 1997 No. 21 s 4  
 om 2000 No. 52 s 36(1)  
 def “**police 74 member**” ins 1999 No. 74 s 13  
 amd 2004 No. 42 s 33 sch  
 def “**Queensland Treasury Corporation**” om 1995 No. 27 s 61(1)  
 def “**State 72 member**” ins 1999 No. 74 s 13  
 def “**surcharge debt account**” ins 1999 No. 74 s 13  
 def “**trustee**” ins 1997 No. 21 s 4(2)

def **“unit of the State public sector”** amd 1993 No. 11 s 45 sch 3; 1996 No. 37 s 147 sch 2; 1999 No. 9 s 3 sch; 1999 No. 19 s 3 sch; 2001 No. 69 s 378 sch 1; 2004 No. 42 s 26(1)–(3)

**Eligible schemes**

s 2A ins 2000 No. 52 s 37

**Establishment of board**

s 3 sub 1997 No. 21 s 5  
amd 2001 No. 45 s 29 sch 3; 2002 No. 66 s 26

**Board’s principal function**

s 4 sub 1997 No. 21 s 5

**Membership of board**

s 5 sub 1993 No. 11 s 45 sch 3; 1997 No. 21 s 5

**Eligibility to be an appointed trustee**

s 6 sub 1997 No. 21 s 5

**Appointed trustees’ term of office**

s 6A ins 1997 No. 21 s 5

**Appointment not affected by other laws restricting employment**

s 6B ins 1997 No. 21 s 5

**Deputies for trustees**

s 6C ins 1997 No. 21 s 5

**Executive officer**

s 6D ins 1997 No. 21 s 5  
amd 1998 No. 81 s 3 sch

**Common seal**

s 6E ins 1997 No. 21 s 5

**Delegation by board**

s 6F ins 1997 No. 21 s 5

**Conduct of business**

s 6G ins 1997 No. 21 s 5

**Time and place of meetings**

s 6H ins 1997 No. 21 s 5

**Conduct of meetings**

s 6I ins 1997 No. 21 s 5

**Resolutions other than at meetings**

s 6J ins 1997 No. 21 s 5

**Powers etc. of board**

s 7 amd 1997 No. 21 s 6

**Protection from liability**

prov hdg amd 1997 No. 21 s 7  
s 8 amd 1997 No. 21 s 7  
sub 2000 No. 52 s 38

**Remuneration of trustees**

**prov hdg** amd 1997 No. 21 s 8(1)  
**s 9** amd 1991 No. 11 s 7.3; 1997 No. 21 s 8(2)

**PART 3—FUND AND DEED****Division 1—The fund**

**div hdg** ins 1996 No. 52 s 5(1)

**Establishment of fund**

**s 10** amd 1995 No. 27 s 62; 1997 No. 21 s 9; 1999 No. 29 s 50 sch; 2000 No. 52 s 39; 2002 No. 66 s 27

**Investment of fund**

**s 11** sub 1995 No. 27 s 63

**Division 2—The deed**

**div hdg** ins 1996 No. 52 s 5(2)

**Deed to establish scheme**

**s 12** amd 1993 No. 11 s 45 sch 3

**Membership categories**

**s 12A** ins 1997 No. 21 s 10

**Membership of scheme**

**s 13** sub 1991 No. 11 s 7.5  
 amd 1991 No. 97 s 3 sch 2; 1993 No. 11 s 45 sch 3  
 sub 1995 No. 27 s 64  
 amd 1997 No. 21 s 11; 1999 No. 28 s 3(1)–(3); 2000 No. 52 s 40; 2002 No. 66 s 28; 2002 No. 74 s 90 sch; 2004 No. 42 s 27

**Continuation of eligibility for membership after transfer of employment**

**s 13A** ins 2000 No. 52 s 41

**Continuation of eligibility for membership after ceasing to be an employee, spouse or entitled former spouse**

**prov hdg** amd 2002 No. 66 s 29(1)

**s 13B** ins 2000 No. 52 s 41  
 amd 2002 No. 66 s 29(2)

**Contents of deed**

**s 14** amd 2001 No. 31 s 48 sch

**Division 3—Miscellaneous**

**div hdg** ins 1996 No. 52 s 6

**Definitions for div 3**

**s 15** ins 1995 No. 27 s 65  
 sub 1996 No. 52 s 6  
 def “**actuary**” om 1999 No. 28 s 4  
 def “**application date**” om 1997 No. 21 s 12(1)  
 def “**award**” sub 1997 No. 21 s 12(1)–(2); 2000 No. 52 s 42  
 def “**class 1 marine employee**” om 1997 No. 21 s 12(1)  
 def “**class 2 marine employee**” om 1997 No. 21 s 12(1)  
 def “**declared employee**” ins 1997 No. 21 s 12(2)

def “**declared relevant employee**” om 1997 No. 21 s 12(1)  
 def “**employee**” sub 2000 No. 52 s 41  
 def “**fresh award**” amd 1997 No. 21 s 12(3)  
 def “**miscellaneous employee**” om 1997 No. 21 s 12(1)  
 def “**old award**” amd 1997 No. 21 s 12(4)  
 def “**relevant employee**” om 1997 No. 21 s 12(1)

**Benefits payable to certain scheme members**

s 15A ins 1996 No. 52 s 6  
 om 1997 No. 21 s 13

**Special provisions for regulation-making power under division**

s 15B ins 1996 No. 52 s 6  
 amd 1997 No. 21 s 14

**Benefits payable to declared employees**

prov hdg amd 1997 No. 21 s 15(1)  
 s 15C ins 1996 No. 52 s 6  
 amd 1997 No. 21 s 15(2)–(3)

**Restitution if regulation stops applying**

s 15D ins 1996 No. 52 s 6  
 amd 1997 No. 21 s 16

**Division 4—Superannuation contributions surcharge**

div hdg ins 1999 No. 74 s 14

**References in div 4 to benefits payable to members**

s 15E ins 1999 No. 74 s 14

**Amount to be deducted from benefits**

s 15F ins 1999 No. 74 s 14

**Limit on deduction on refund of certain contributions**

s 15G ins 1999 No. 74 s 14  
 amd 2004 No. 42 s 28

**Deduction from benefits paid as pension**

s 15H ins 1999 No. 74 s 14  
 amd 2000 No. 52 s 43

**Accounts relating to fund**

s 16 om 1997 No. 21 s 17

**Returns**

s 17 amd 1999 No. 28 s 5; 2000 No. 52 s 44

**Recovery of overpayments**

s 18 amd 1995 No. 27 s 66; 1996 No. 52 s 6

**Auditing**

s 20A ins 2004 No. 42 s 29

**Protection of expressions associated with scheme**

- prov hdg** sub 1991 No. 11 s 7.9(a)  
amd 1997 No. 21 s 18(1)
- s 21** amd 1991 No. 11 s 7.9(b)–(c); 1997 No. 21 s 18(2)–(4)

**Publicity of scheme**

- s 22** amd 1997 No. 21 s 19; 1997 No. 81 s 3 sch

**Offender to be punished summarily**

- s 4.7** om 1995 No. 27 s 67

**Unclaimed benefits**

- s 23** sub 1995 No. 27 s 68

**Rates or amounts of benefit etc. to be rounded off**

- s 25** om 1997 No. 21 s 20

**Contributions by units**

- s 28** ins 1991 No. 11 s 7.11  
sub 1997 No. 21 s 21  
amd 2000 No. 52 s 45; 2004 No. 42 s 30

**Appropriation of contribution**

- s 29** amd 1999 No. 29 s 50 sch

**Assignment of benefit**

- s 30** amd 2000 No. 52 s 46; 2004 No. 42 s 31

**Judicial notice of certain matters**

- s 30A** ins 1997 No. 21 s 22

**References to discontinued schemes**

- s 30B** ins 1997 No. 21 s 22

**No appeal to industrial commission**

- s 30C** ins 1999 No. 33 s 747 sch 3

**Commencement of Superannuation (State Public Sector) Notice 2000**

- s 30D** ins 2000 No. 52 s 47

**Regulations**

- s 31** sub 1993 No. 11 s 45 sch 3

**PART 5—VALIDATION PROVISION FOR APPOINTMENT OF EXECUTIVE OFFICER OF BOARD**

- pt hdg** prev pt 5 hdg ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
ins 1999 No. 27 s 76 sch 1 pt 3  
pres pt 5 hdg (prev pt 4A hdg) ins 2004 No. 42 s 32  
renum 2004 No. 42 s 33 sch

**Validation provision for appointment of executive officer of board**

- s 32** prev s 32 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
ins 1999 No. 27 s 76 sch 1 pt 3



pres s 32 (prev s 31A) ins 2004 No. 42 s 32  
renum 2004 No. 42 s 33 sch

**PART 6—TRANSITIONAL PROVISION FOR FINANCIAL SECTOR REFORM  
(QUEENSLAND) ACT 1999**

**pt hdg** (prev pt 5 hdg) ins 1999 No. 75 s 3  
renum 2004 No. 42 s 33 sch

**APRA or ASIC may be declared to be a unit of the State public sector**

**s 33** prev s 33 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 33 (prev s 32) ins 1999 No. 27 s 76 sch 1 pt 3  
amd 2001 No. 45 s 29 sch 3  
renum 2004 No. 42 s 33 sch  
amd 2004 No. 42 s 33 sch

**PART 7—TRANSITIONAL PROVISION FOR SOUTH EAST QUEENSLAND  
WATER BOARD (REFORM FACILITATION) ACT 1999**

**pt hdg** (prev pt 6 hdg) ins 1999 No. 75 s 3  
renum 2004 No. 42 s 33 sch

**SEQWB officers or employees who become SEQWCo employees**

**s 34** prev s 34 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 34 (prev s 33) ins 1999 No. 75 s 3  
renum 2004 No. 42 s 33 sch  
amd 2004 No. 42 s 33 sch

**Entitlements**

**s 35** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Trustees**

**s 36** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Discontinued funds**

**s 37** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Agreements and legal proceedings**

**s 38** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Assets and liabilities**

**s 39** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Executive officer**

**s 40** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Annual report**

**s 41** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Application of laws to discontinued boards**

**s 42** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Liability for tax**

**s 43** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Deed making power for transferring members**

**s 44** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Expiry**

**s 45** ins 1997 No. 21 s 23  
sub 1997 No. 81 s 3 sch  
exp 30 June 1998 (see s 45)

**Saving of existing orders in council**

**s 4.17** ins 1993 No. 11 s 45 sch 3  
om 1995 No. 27 s 69

**Numbering and renumbering of Act**

**s 4.18** ins 1994 No. 87 s 3 sch 2  
om R2 (see RA s 37)

**8 Table of renumbered provisions**

under the Reprints Act 1992 s 43 as required by the Superannuation (State Public Sector) Act 1990 s 4.18 [Reprint No. 2]

Previous	Renumbered as
1.1	1
1.3	2
2.1	3
2.2	4
2.3	5
2.4	6
2.4(2A)	6(3)
2.4(2B)	6(4)
2.4(3)	6(5)
2.4(4)	6(6)
2.4(5)	6(7)
2.4(6)	6(8)
2.5	7
2.6	8
2.7	9
3.1	10
3.2	11
3.3	12
3.4	13

*Superannuation (State Public Sector) Act 1990*

---

Previous	Renumbered as
3.5 .....	14
3.6 .....	15
4.1 .....	16
4.2 .....	17
4.3 .....	18
4.4 .....	19
4.5 .....	20
4.5(1A) .....	20(2)
4.5(2) .....	20(3)
4.6 .....	21
4.8 .....	22
4.9 .....	23
4.10 .....	24
4.11 .....	25
4.12 .....	26
4.13 .....	27
4.13.1 .....	28
4.14 .....	29
4.15 .....	30
4.16 .....	31