

Queensland



**SUPERANNUATION  
LEGISLATION  
AMENDMENT ACT 1996**

**Act No. 52 of 1996**



Queensland



**SUPERANNUATION LEGISLATION  
AMENDMENT ACT 1996**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title .....	4
<b>PART 2—AMENDMENT OF STATE SERVICE SUPERANNUATION ACT 1972</b>		
2	Act amended .....	4
3	Replacement of s 49 (Benefits payable to certain members) .....	4
49	Definitions for div 8 .....	4
49A	Benefits payable to certain contributors .....	6
49B	Special provisions for regulation-making power under division ....	7
49C	Benefits payable to declared relevant officers .....	7
49D	Restitution if regulation stops applying .....	8
<b>PART 3—AMENDMENT OF SUPERANNUATION (STATE PUBLIC SECTOR) ACT 1990</b>		
4	Act amended .....	8
5	Insertion of pt 3, division headings .....	8
6	Replacement of s 15 (Benefits payable to certain members) .....	9
<i>Division 3—Miscellaneous</i>		
15	Definitions for div 3 .....	9
15A	Benefits payable to certain scheme members .....	11
15B	Special provisions for regulation-making power under division ....	12
15C	Benefits payable to declared relevant employees .....	13
15D	Restitution if regulation stops applying .....	13
7	Amendment of s 18 (Recovery of overpayments) .....	14



Queensland



# Superannuation Legislation Amendment Act 1996

**Act No. 52 of 1996**

---

**An Act to amend certain Acts about superannuation**

*[Assented to 20 November 1996]*

The Parliament of Queensland enacts—

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Superannuation Legislation Amendment Act 1996*.

## PART 2—AMENDMENT OF STATE SERVICE SUPERANNUATION ACT 1972

### Act amended

2. This part amends the *State Service Superannuation Act 1972*.

### Replacement of s 49 (Benefits payable to certain members)

3. Section 49—

*omit, insert—*

#### ‘Definitions for div 8

‘49. In this division—

“**application date**” means the day this section commences.

“**award**” means an award, certified agreement, enterprise flexibility agreement or industrial agreement under the *Industrial Relations Act 1990* or an award under the *Industrial Relations Act 1988* (Cwlth), and includes a properly varied award.

“**class 1 marine officer**” means a person who—

(a) was employed by the State on 30 June 1994 under—

(i) the Public Service Award—State—Hours of Duty and

Working Conditions of Queensland Government Marine Pilots—Industrial Agreement; or

- (ii) the Public Service Award—State—Employees of the Department of Harbours and Marine Employed on Pilot Vessels at Queensland Outports (excluding Mooloolaba)—Industrial Agreement; and
- (b) continued to be employed by the State after 30 June 1994 under the Marine Operations Enterprise Development Agreement.<sup>1</sup>

**“class 2 marine officer”** means a person who—

- (a) was employed by the State on 30 June 1995 under the Conditions of Employment—Shipping Information Officers, Lytton Hill and Caloundra Signal Stations, Department of Harbours and Marine—Industrial Agreement; and
- (b) continued to be employed by the State after 30 June 1995 under the Marine Operations Enterprise Development Agreement.

**“declared relevant officer”** means an officer declared under a regulation to be a declared relevant officer for this division.

**“fresh award”**, for a declared relevant officer, means the award declared under a regulation to be the fresh award for the officer.

**“miscellaneous officer”** means a person who—

- (a) was employed by the State on 11 November 1993 under the Miscellaneous Workers Award—State Government at a rate of pay of not more than 30 hours per week; and
- (b) continued to be employed by the State after 11 November 1993 under the Employees of Queensland Government Departments (Other than Public Servants) Award.

**“officer”** includes a former officer.

**“old award”**, for a declared relevant officer, means the award declared under a regulation to be the old award for the officer.

**“relevant officer”** means—

- (a) a miscellaneous officer; or

---

<sup>1</sup> The agreement is an industrial agreement under the *Industrial Relations Act 1990*.

- (b) a class 1 or 2 marine officer; or
- (c) a declared relevant officer.

**‘Benefits payable to certain contributors**

**‘49A.(1)** Despite divisions 1 to 7, benefits paid or payable from the fund for a contributor who is a relevant officer are—

- (a) for a miscellaneous officer—
  - (i) for employment before 12 November 1993—the benefits calculated as at 12 November 1993; and
  - (ii) for employment on and after 12 November 1993—the benefits payable under divisions 1 to 7; or
- (b) for a class 1 marine officer—
  - (i) for employment before 1 July 1994—the benefits calculated as at 1 July 1994; and
  - (ii) for employment on and after 1 July 1994—the benefits payable under divisions 1 to 7; or
- (c) for a class 2 marine officer—
  - (i) for employment before 1 July 1995—the benefits calculated as at 1 July 1995; and
  - (ii) for employment on and after 1 July 1995—the benefits payable under divisions 1 to 7.

**‘(2)** The actuary must calculate the officer’s benefits under subsection (1)(a)(i), (1)(b)(i) or (1)(c)(i).

**‘(3)** For a class 1 or 2 marine officer, the calculation must be made as soon as practicable after the officer’s application date.

**‘(4)** However, the benefits calculated—

- (a) for a miscellaneous officer—must not be less than the benefits to which the officer was entitled under divisions 1 to 7 as at 11 November 1993; or
- (b) for a class 1 marine officer—must be equivalent to the benefits to which the officer would have been entitled under divisions 1 to 7



as at 30 June 1994; or

- (c) for a class 2 marine officer—must be equivalent to the benefits to which the officer would have been entitled under divisions 1 to 7 as at 30 June 1995.

‘(5) If, under the calculation, the amount of the officer’s benefits is less than the amount paid or held in the fund on account of the officer under this Act before the application date, the board may, under section 46A, recover from the officer the difference between the amounts.

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

‘**49B.(1)** A regulation may declare an officer to be a declared relevant officer only if—

- (a) the officer was bound by an award that—
  - (i) was properly varied; or
  - (ii) was rescinded and a fresh award binding on the officer was made in substitution for it; and
- (b) the officer’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 the making of the varied or fresh award, the officer’s benefits under this Act were changed in an unintended way in relation to the officer’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 officer.

‘(3) A regulation made under this section expires 1 year after it is made, unless it is earlier repealed.

### **‘Benefits payable to declared relevant officers**

‘**49C.** Despite divisions 1 to 7, benefits payable from the fund for a contributor who is a declared relevant officer are the benefits calculated as if the officer were still employed under the old award.

**‘Restitution if regulation stops applying**

**‘49D.(1)** This section applies if—

- (a) a benefit becomes payable to a declared relevant officer; and
- (b) the amount of the benefit is different to the amount (the “**notional amount**”) that would have been payable if the officer were not a declared relevant officer; and
- (c) after the benefit is paid, the regulation declaring the officer to be a declared relevant officer expires or otherwise stops applying to the officer.

**‘(2)** If the amount of the benefit paid to the officer is less than the notional amount, the board must pay to the officer 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 officer is more than the notional amount, the board may, by written notice, require the officer 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 officer must pay the amount.

**‘(5)** If the officer does not comply with the notice, the board may recover the amount as a debt, together with interest at the rate fixed by regulation.’

## **PART 3—AMENDMENT OF SUPERANNUATION (STATE PUBLIC SECTOR) ACT 1990**

### **Act amended**

- 4.** This part amends the *Superannuation (State Public Sector) Act 1990*.

### **Insertion of pt 3, division headings**

- 5.(1)** Part 3, after part heading—

*insert—*

*‘Division 1—The fund’.*

(2) Part 3, after section 11—

*insert—*

*‘Division 2—The deed’.*

**Replacement of s 15 (Benefits payable to certain members)**

6. Section 15—

*omit, insert—*

*‘Division 3—Miscellaneous*

**‘Definitions for div 3**

**‘15.** In this division—

**“actuary”** means the person appointed under the deed by the board to advise it.

**“application date”** means the day this section commences.

**“award”** means an award, certified agreement, enterprise flexibility agreement or industrial agreement under the *Industrial Relations Act 1990* or an award under the *Industrial Relations Act 1988* (Cwlth), and includes a properly varied award.

**“class 1 marine employee”** means—

(a) a person who—

(i) was employed by a unit of the State public sector on 30 June 1994 under the Public Service Award—State—Hours of Duty and Working Conditions of Queensland Government Marine Pilots—Industrial Agreement or the Public Service Award—State—Employees of the Department of Harbours and Marine Employed on Pilot Vessels at Queensland Outports (excluding Mooloolaba)—Industrial Agreement; and

(ii) continued to be employed by the unit of the State public

sector after 30 June 1994 under the Marine Operations Enterprise Development Agreement;<sup>2</sup> or

- (b) a person who—
- (i) was employed by a unit of the State public sector on 11 November 1993 under the Employees on Survey Launches—Department of Harbours and Marine—Industrial Agreement; and
  - (ii) continued to be employed by the unit of the State public sector after 11 November 1993 under the Employees of Queensland Government Departments (Other than Public Servants) Award.

**“class 2 marine employee”** means a person who—

- (a) was employed by a unit of the State public sector on 30 June 1995 under the Conditions of Employment—Shipping Information Officers, Lytton Hill and Caloundra Signal Stations, Department of Harbours and Marine—Industrial Agreement; and
- (b) continued to be employed by the unit of the State public sector after 30 June 1995 under the Marine Operations Enterprise Development Agreement.

**“declared relevant employee”** means an employee declared under a regulation to be a declared relevant employee for this division.

**“employee”** means a person who is a member or employee of, or engaged by, a unit of the State public sector, and includes a former employee.

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

**“miscellaneous employee”** means a person who—

- (a) was employed by a unit of the State public sector on 11 November 1993 under the Miscellaneous Workers Award—State Government at a rate of pay of not more than 30 hours per week; and
- (b) continued to be employed by the unit of the State public sector

---

<sup>2</sup> The agreement is an industrial agreement under the *Industrial Relations Act 1990*.

after 11 November 1993 under the Employees of Queensland Government Departments (Other than Public Servants) Award.

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

**“relevant employee”** means—

- (a) a miscellaneous employee; or
- (b) a class 1 or 2 marine employee; or
- (c) a declared relevant employee.

### **‘Benefits payable to certain scheme members**

**‘15A.(1)** Despite part 7 of the deed, benefits paid or payable under the scheme for a member who is a relevant employee are—

- (a) for a miscellaneous employee—
  - (i) for employment before 1 July 1994—the benefits calculated as at 1 July 1994; and
  - (ii) for employment on and after 1 July 1994—the benefits payable under the deed; or
- (b) for a class 1 marine employee—
  - (i) for employment before 1 July 1994—the benefits calculated as at 1 July 1994; and
  - (ii) for employment on and after 1 July 1994—the benefits payable under the deed; or
- (c) for a class 2 marine employee—
  - (i) for employment before 1 July 1995—the benefits calculated as at 1 July 1995; and
  - (ii) for employment on and after 1 July 1995—the benefits payable under the scheme.

**‘(2)** The actuary must calculate the employee’s benefits under subsection (1)(a)(i), (1)(b)(i) or (1)(c)(i).

**‘(3)** For a class 1 or 2 marine employee, the calculation must be made as soon as practicable after the employee’s application date.

‘(4) However, the benefits calculated—

- (a) for a miscellaneous employee—must not be less than the benefits to which the employee was entitled under the scheme as at 30 June 1994; or
- (b) for a class 1 marine employee—must be equivalent to the benefits to which the employee would have been entitled under the scheme as at 30 June 1994; or
- (c) for a class 2 marine employee—must be equivalent to the benefits to which the employee would have been entitled under the scheme as at 30 June 1995.

‘(5) If, under the calculation, the amount of the employee’s benefits is less than the amount paid or credited to an account of the employee under the scheme before the application date, the board may—

- (a) under section 18, recover from the employee the difference between the amounts; or
- (b) debit to the employee’s account the difference between the amounts.

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

‘15B.(1) A regulation may declare an employee to be a declared relevant 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 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.

### **‘Benefits payable to declared relevant employees**

‘15C. Despite part 7 of the deed, benefits payable under the scheme for an employee who is a declared relevant employee are the benefits calculated as if the employee were still employed under the old award.

### **‘Restitution if regulation stops applying**

‘15D.(1) This section applies if—

- (a) a benefit becomes payable to a declared relevant 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 relevant employee; and
- (c) after the benefit is paid, the regulation declaring the employee to be a declared relevant 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.’.

**Amendment of s 18 (Recovery of overpayments)**

7. Section 18(1) and (2), ‘in accordance with’—  
*omit, insert—*  
‘under this Act or’.