

Queensland



**SUPERANNUATION  
LEGISLATION  
AMENDMENT ACT 1999**

**Act No. 74 of 1999**



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# Superannuation Legislation Amendment Act 1999

**Act No. 74 of 1999**

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

*[Assented to 14 December 1999]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *Superannuation Legislation Amendment Act 1999*.

### **Commencement**

**2.(1)** Parts 2 and 3 commence on a day to be fixed by proclamation.

**(2)** The *Acts Interpretation Act 1954*, section 15DA does not apply to parts 2 and 3.<sup>1</sup>

## **PART 2—AMENDMENT OF GOVERNORS’ PENSIONS ACT 1977**

### **Act amended in pt 2**

**3.** This part amends the *Governors’ Pensions Act 1977*.

### **Amendment of s 3 (Rate of pension)**

**4.** Section 3(1), ‘sections 4 and 5’—

*omit, insert—*

‘sections 4 to 5A’.

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<sup>1</sup> *Acts Interpretation Act 1954*, section 15DA (Automatic commencement of postponed law)

**Insertion of new s 5A**

5. After section 5—

*insert—*

**‘Election to take part of pension as a lump sum to meet surcharge liability**

‘**5A.(1)** A former Governor, or the surviving spouse of a former Governor, to whom a pension is payable under this Act may elect to be paid a lump sum instead of a part of the pension.

‘**(2)** The maximum amount that may be paid as a lump sum under the election is the amount of the former Governor’s surcharge liability.

‘**(3)** The election must be—

- (a) made in writing to the Minister; and
- (b) accompanied by a copy of the surcharge liability notice stating the amount of the former Governor’s surcharge liability.

‘**(4)** The Minister must act on the election by reducing the pension by the amount of the lump sum.

‘**(5)** The reduction must happen in the way decided by the Minister on the advice of an actuary.

‘**(6)** In this section—

“**former Governor**” means a person who has ceased to hold the office of Governor of the State.

“**surcharge liability**” means the amount a person is liable to pay to the commissioner of taxation, under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth), section 15.

“**surcharge liability notice**” means a notice given to a person by the commissioner of taxation, under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth), section 15.’.

**Amendment of s 6 (Appropriation)****6.** Section 6—*insert—*

‘(2) The amount of a lump sum specified in an election under section 5A must be paid from the consolidated fund, which is appropriated for the purpose.’.

**PART 3—AMENDMENT OF JUDGES (PENSIONS AND LONG LEAVE) ACT 1957****Act amended in pt 3**

7. This part amends the *Judges (Pensions and Long Leave) Act 1957*.

**Amendment of s 2 (Definitions)****8.** Section 2—*insert—*

‘**“eligible child”**, of a judge, see section 8A(1).

**“surcharge liability”** means the amount a person is liable to pay to the commissioner of taxation, under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth), section 15.

**“surcharge liability notice”** means a notice given to a person by the commissioner of taxation, under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* (Cwlth), section 15.’.

**Insertion of new s 8B****9.** After section 8A—*insert—*



**‘Election to take part of pension as a lump sum to meet surcharge liability**

**‘8B.(1)** This section applies to the following persons—

- (a) a judge to whom a pension is payable under sections 3 to 5;
- (b) a judge’s spouse to whom a pension is payable under section 7;
- (c) an eligible child of a judge to whom a pension is payable under section 8A, if the rate of pension is decided under section 8A(3)(b).

**‘(2)** The person may elect to be paid a lump sum instead of a part of the pension.

**‘(3)** The maximum amount that may be paid as a lump sum under the election is the amount of the judge’s surcharge liability.

**‘(4)** The election must be—

- (a) made in writing to the Minister; and
- (b) accompanied by a copy of the surcharge liability notice stating the amount of the judge’s surcharge liability.

**‘(5)** The Minister must act on the election by reducing the pension by the amount of the lump sum.

**‘(6)** The reduction must happen in the way decided by the Minister on the advice of an actuary.’.

**PART 4—AMENDMENT OF PARLIAMENTARY  
CONTRIBUTORY SUPERANNUATION ACT 1970****Act amended in pt 4**

**10.** This part amends the *Parliamentary Contributory Superannuation Act 1970*.

**Insertion of new s 25C**

**11.** Part 3, after section 25B—

*insert—*

**‘Superannuation contributions surcharge**

**‘25C.(1)** This section applies if a benefit is payable to a former member or to someone else who has derived an entitlement to the benefit through a former member.

**‘(2)** Subject to subsection (3), the trustees must deduct, from the State-financed component of the benefit, an amount equal to the balance of the former member’s surcharge debt account.

**‘(3)** The maximum amount that the trustees may deduct is 15% of the State-financed component of that part of the benefit that accrued after 20 August 1996.

**‘(4)** If the benefit is payable in the form of a pension, the trustees must reduce the pension, by the amount required to be deducted under subsections (2) and (3), in the way decided by the Minister on the advice of an actuary.

**‘(5)** This section does not apply to a benefit payable under section 21.<sup>2</sup>

**‘(6)** In this section—

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

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<sup>2</sup> Section 21 (Payments to children)

## **PART 5—AMENDMENT OF SUPERANNUATION (STATE PUBLIC SECTOR) ACT 1990**

### **Act amended in pt 5**

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

### **Amendment of s 2 (Interpretation)**

**13.** Section 2(1)—

*insert—*

‘ **“police 74 member”** means a member of the scheme—

- (a) who, immediately before the repeal of *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.

**“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.’.

### **Insertion of new pt 3, div 4**

**14.** Part 3, after section 15D—

*insert—*

***‘Division 4—Superannuation contributions surcharge*****‘References in div 4 to benefits payable to members**

**‘15E.** 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.

**‘Amount to be deducted from benefits**

**‘15F.(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.

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

**‘15G.(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 15% of the employer-financed component of that part of the benefit that accrued after 20 August 1996.

**‘Deduction from benefits paid as pension**

**‘15H.(1)** This section applies if—

- (a) a benefit is payable to a member of the scheme on ceasing to be a member or employee of, or engaged by, 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.’