

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, October 2021*



Queensland

**No.
A BILL for**

An Act to amend the Governors (Salary and Pensions) Act 2003, the Public Officers Superannuation Benefits Recovery Act 1988, the Right to Information Act 2009, the Superannuation (State Public Sector) Act 1990 and the legislation mentioned in schedule 1 for particular purposes, and to repeal the Superannuation (State Public Sector) Deed 1990



Queensland

Superannuation (State Public Sector) (Scheme Administration) Amendment Bill 2021

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2021

A Bill

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An Act to amend the *Governors (Salary and Pensions) Act 2003*, the *Public Officers Superannuation Benefits Recovery Act 1988*, the *Right to Information Act 2009*, the *Superannuation (State Public Sector) Act 1990* and the legislation mentioned in schedule 1 for particular purposes, and to repeal the *Superannuation (State Public Sector) Deed 1990*

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Superannuation (State Public Sector) (Scheme Administration) Amendment Act 2021*.

2 Commencement

This Act, other than part 2, divisions 1 and 2 and part 2A, commences on a day to be fixed by proclamation.

Part 2 Amendment of Superannuation (State Public Sector) Act 1990

Division 1 Preliminary

3 Act amended

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

Division 2 Amendments commencing on assent

4 Amendment of s 15D (Employer contributions if another fund chosen)

Section 15D(2)—

omit, insert—

- (2) The employer must pay the employer's contributions into the fund at the rate the employer would have paid contributions into the scheme under the deed if the employee were a member of the scheme, having regard to—
 - (a) the category of membership in the scheme for which the employee is eligible under a declaration under section 14B; and
 - (b) if applicable, the contributions the employee pays into the fund under section 15DA.

5 Insertion of new s 15DA

After section 15D—

insert—

15DA Employee contributions if another fund chosen

- (1) This section applies to a core government employee who, under section 15C, directs the employee's employer to pay contributions payable for the employee into a fund other than the scheme if—
 - (a) the employee was a member of the scheme in the comprehensive accumulation category immediately before giving the direction; or
 - (b) under a declaration under section 14B, the employee is eligible for membership in the scheme only in the comprehensive accumulation category.
- (2) The employee must pay contributions into the fund at the following rate of the employee's salary—
 - (a) if the employee nominates a rate under this section—that rate;

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- (b) otherwise—the rate at which the employee would have paid contributions into the scheme under the deed if the employee were a member of the scheme in the comprehensive accumulation category.
- (3) The employee may give the employee’s employer a written notice nominating a rate at which the employee wishes to pay contributions into the fund under subsection (2).
- (4) However, a nomination under subsection (3)—
 - (a) can not be made by an employee who, if the employee were a member of the scheme in the comprehensive accumulation category, would be required under the deed to pay contributions into the scheme at a rate stated in a declaration under section 14B; and
 - (b) may only nominate a rate that the employee would be permitted to nominate under the deed for the employee’s contributions into the scheme if the employee were a member of the scheme in the comprehensive accumulation category.
- (5) The employee is taken to pay the contributions required under subsection (2) into the fund if, under an arrangement with the employee’s employer, the contributions are paid into the fund by the employer.

6 Replacement of pt 6, hdg (Transitional and declaratory provisions for Revenue and Other Legislation Amendment Act 2016)

Part 6, heading—

omit, insert—

Part 10

**Transitional and
declaratory provisions**

**Division 1 Provisions for Revenue
and Other Legislation
Amendment Act 2016**

7 Renumbering of ss 33–35

Sections 33 to 35—

renumber as sections 49 to 52.

8 Insertion of new pt 10, div 2

Part 10, as renumbered by this Act—

insert—

**Division 2 Provisions for
Superannuation (State
Public Sector) (Scheme
Administration)
Amendment Act 2021**

**Subdivision 1 Amendments commencing
on assent**

**53 Contributions for core government employees
if another fund chosen**

- (1) The requirement for a core government employee to make contributions into a fund, other than the scheme, under section 15DA is taken to have been in effect from the start of 30 June 2017.
- (2) An employer to whom section 15D applied at any time before the commencement is taken to have complied with section 15D(2) if the employer paid the employer's contributions into the fund at the rate taken to have been required by section

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15D(2) by the operation of subsection (1) or a higher rate.

- (3) An employee to whom section 15DA is taken to have applied at any time before the commencement is taken to have complied with section 15DA(2) if the employee paid the employee's contributions into the fund at the rate taken to have been required by section 15DA(2) or a higher rate.
- (4) An employee is taken to have paid the employee's contributions for subsection (3) if, under an arrangement with the employee's employer, the contributions were paid into the fund by the employer.

Division 3 Amendments commencing by proclamation

9 Replacement of s 2 (Interpretation)

Section 2—

omit, insert—

2 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

10 Insertion of new s 3

After section 2—

insert—

3 Meaning of *unit of the State public sector*

- (1) Each of the following entities is a *unit of the State public sector*—
 - (a) an entity mentioned in schedule 1;

-
- (b) an entity declared under section 4 to be a unit of the State public sector.
 - (2) However, the Executive Council is not a unit of the State public sector.

11 **Amendment and renumbering of s 2A (Units of the State public sector)**

- (1) Section 2A, heading, 'Units'—

omit, insert—

Minister may declare units

- (2) Section 2A(3), 'or (2)'—

omit, insert—

or (4)

- (3) Section 2A(2) and (3)—

renumber as section 2A(4) and (5).

- (4) Section 2A—

insert—

- (2) The power of the Minister under subsection (1) includes the power—
 - (a) to declare a department or other agency of the Commonwealth or another State on which functions of this State have been conferred to be a unit of the State public sector; and
 - (b) to declare an entity to be a unit of the State public sector only in relation to particular employees.
- (3) However, the Minister may declare an entity to be a unit of the State public sector only if—
 - (a) the entity performs functions for the State, employs public service employees or is otherwise connected to the State; or

[s 12]

- (b) for a declaration under subsection (2)(b), the entity employs persons whose membership in the scheme is continued under part 3, division 2.

- (5) Section 2A—
renumber as section 4.

12 Replacement of pt 2 (Board of trustees)

Part 2—

omit, insert—

Part 2 Public sector superannuation scheme

5 Continuation of scheme

- (1) The scheme established under this Act and the repealed *Superannuation (State Public Sector) Deed 1990* is continued in existence.
- (2) The scheme continues under subsection (1) despite any change to the scheme's name from time to time.

Note—

See also section 65.

6 Deed for scheme

- (1) The 1990 deed continues in existence as the trust deed for the scheme in the form of the instrument prepared under section 54.
- (2) The continuation of the 1990 deed under subsection (1) does not—

- (a) affect, or purport to affect, the continuation of the scheme or the fund for the scheme; or
 - (b) otherwise resettle or redeclare the scheme or the fund for the scheme.
- (3) Subsections (1) and (2) apply even though the 1990 deed stopped being subordinate legislation on the repeal of the 1990 regulation.
- (4) The trust deed may be amended by the trustee in accordance with this Act and the deed.

Note—

See section 26 in relation to amendments of the trust deed relating to government defined benefit categories.

- (5) The amendment of the trust deed by the trustee does not affect the operation of subsections (1) to (3).

7 Fund for scheme

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

8 Administration of scheme

- (1) The trustee's scheme operations must be based in Queensland.
- (2) For subsection (1), the trustee's scheme operations are based in Queensland only if—
- (a) the trustee's registered office, and principal place of business, under the Corporations Act is in Queensland; and
 - (b) each of the following persons ordinarily reside in Queensland—
 - (i) the trustee's chief executive officer (however called);
 - (ii) a majority of the trustee's directors;

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- (iii) a majority of the trustee's key management personnel who are not mentioned in subparagraph (i) or (ii); and
 - (c) the main office of the majority of the trustee's business areas for the scheme operations is in Queensland.
- (3) In this section—

director, of the trustee, means a director of the trustee within the meaning of the Corporations Act, section 9.

key management personnel, of the trustee, means a member of the trustee's key management personnel within the meaning of the Corporations Act, section 9.

scheme operations, of the trustee, means the trustee's operations relating to the administration of the scheme.

9 Membership open to everyone

The scheme is open to membership by any person, subject to the requirements about membership in the deed.

13 Replacement of pt 3, hdg (Fund and deed)

Part 3, heading—

omit, insert—

Part 3

Membership of scheme by State public sector employees

14 Omission of pt 3, divs 1 and 2

Part 3, divisions 1 and 2—

omit.

15 Replacement of pt 3, div 3, hdg (General provisions about membership of scheme)

Part 3, division 3, heading—

omit, insert—

**Division 1 General matters about
State public sector
employees**

16 Omission of s 14A (Membership open to everyone)

Section 14A—

omit.

17 Amendment and renumbering of s 14B (Minister may declare matters about membership by particular employees)

(1) Section 14B, heading, ‘by particular employees’—

omit.

(2) Section 14B(1), ‘an employee of a unit of the State public sector’—

omit, insert—

a State public sector employee

(3) Section 14B—

insert—

(1A) The Minister may declare an employee’s membership in the scheme is compulsory under subsection (1)(c) only if the employee’s employer

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has given the Minister a written notice requesting the declaration.

(4) Section 14B(1A) and (2)—
renumber as section 14B(2) and (3).

(5) Section 14B—
renumber as section 10.

18 Renumbering of pt 3, div 4 (Continuation of membership after particular events)

Part 3, division 4—
renumber as part 3, division 2.

19 Amendment and renumbering of s 14C (Application of division)

(1) Section 14C(c)(iii)(A)—
omit, insert—

(A) the Minister includes the employer in a membership declaration; and

(2) Section 14C—
renumber as section 11.

20 Amendment and renumbering of s 14D (Continuation of membership)

(1) Section 14D(2)(b)—
omit, insert—

(b) if subsection (1) applies to a person who is a member in the standard defined benefit category—the person's membership or entitlement to membership of the standard defined benefit category is unaffected by the happening of the relevant event.

(2) Section 14D(3), ‘section 14C(c)(ii)’—

omit, insert—

section 11(c)(ii)

(3) Section 14D—

renumber as section 12.

21 Amendment and renumbering of s 14E (Employer may not revoke agreement)

(1) Section 14E, ‘section 14(c)(iii)(B)’—

omit, insert—

section 11(c)(iii)(B)

(2) Section 14E—

renumber as section 13.

22 Amendment and renumbering of s 14F (Minister’s power to declare particular matters unaffected)

(1) Section 14F(1)(a), ‘section 2A’—

omit, insert—

section 4

(2) Section 14F(1)(b) and (2), ‘section 14B’—

omit, insert—

section 10

(3) Section 14F(2), ‘section 14D’—

omit, insert—

section 12

(4) Section 14F—

renumber as section 14.

[s 23]

23 Insertion of new pt 3, div 3

Part 3—

insert—

Division 3 Continued membership in standard defined benefit category by State public sector employees

15 Application of division

This division applies in relation to a member of the scheme in the standard defined benefit category.

Note—

On 12 November 2008, the standard defined benefit category was closed to persons who were not already members of the scheme in that category immediately before that day. See—

- (a) part 5B of this Act, as in force before its repeal by the *Superannuation (State Public Sector) (Scheme Administration) Amendment Act 2021*, for the closure of the standard defined benefit category to new members; and
- (b) the *Revenue and Other Legislation Amendment Act (No. 2) 2008*, sections 2(14) and 125 for the commencement of part 5B of this Act as in force before its repeal; and
- (c) section 67 for the continued effect of part 5B of this Act as in force before its repeal.

24 Renumbering of pt 3AA (Choice of fund provisions)

Part 3AA—

renumber as part 4.

25 Omission of s 15 (Definition for division)

Section 15—

omit.

26 Amendment and renumbering of s 15A (Core government employees)

(1) Section 15A(1), ‘employees of a unit of the State public sector’—

omit, insert—

State public sector employees

(2) Section 15A—

renumber as section 17.

27 Amendment and renumbering of s 15B (Scheme is default fund for core government employees)

(1) Section 15B, ‘section 15C’—

omit, insert—

section 19

(2) Section 15B—

renumber as section 18.

28 Amendment and renumbering of s 15C (Core government employee may choose another fund)

(1) Section 15C(2), ‘defined benefit category under the deed’—

omit, insert—

government defined benefit category

(2) Section 15C—

renumber as section 19.

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29 Omission of ss 15D and 15DA

Sections 15D and 15DA—

omit.

30 Amendment and renumbering of s 15E (Scheme is default fund for particular employees)

- (1) Section 15E(1), ‘an employee of a unit of the State public sector’—

omit, insert—

a State public sector employee

- (2) Section 15E(1)(a)(i) and (b), ‘declaration under section 14B’—

omit, insert—

membership declaration

- (3) Section 15E(1)(a)(ii), ‘section 14B(1)(c)’—

omit, insert—

section 10(1)(c)

- (4) Section 15E(3), definition *default fund*—

relocate to schedule 2 as inserted by this Act.

- (5) Section 15E(3)—

omit.

- (6) Section 15E—

renumber as section 20.

31 Insertion of new pts 5 and 6

After section 20, as renumbered by this Act—

insert—

Part 5 Compulsory contributions for State public sector employees

21 Application of part

This part applies in relation to a State public sector employee mentioned in a membership declaration, other than an employee who is a government defined benefit member.

22 Meaning of *chosen fund*

A State public sector employee's *chosen fund* is—

- (a) for a core government employee—
 - (i) if the employee has given a notice under section 19—the fund the subject of the notice; or
 - (ii) otherwise—the scheme; or
- (b) for a State public sector employee for whom membership in the scheme is compulsory under a declaration under section 10(1)(c)—the scheme; or
- (c) for another State public sector employee—
 - (i) if the employee has given the employer a written notice stating the employee wants a fund other than the employee's default fund to be the person's chosen fund under the *Superannuation Guarantee (Administration) Act 1992* (Cwlth)—the person's chosen fund under that Act; or

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- (ii) otherwise—the default fund for the employee.

Note—

For particular State public sector employees to whom paragraph (c) applies, the employee's default fund is the scheme—see section 20.

23 Compulsory contributions by employers and employees

- (1) A unit of the State public sector must pay contributions for each of its employees into the employee's chosen fund at the rate and frequency prescribed by regulation.
- (2) A State public sector employee must pay contributions into the employee's chosen fund at the rate and frequency prescribed by regulation.

24 Deduction of compulsory employee contributions by employer

- (1) The employer of a State public sector employee may—
 - (a) deduct from the employee's salary the contributions required under section 23(2); and
 - (b) pay the amount deducted under paragraph (a) into the employee's chosen fund on behalf of the employee.
- (2) The employee is taken to have paid the contributions required under section 23(2) into the employee's chosen fund if the contributions are paid into the fund by the employer under subsection (1).

Part 6 Government defined benefit categories

25 Application of part

This part applies in relation to members of the scheme in a government defined benefit category and their rights to superannuation or other benefits attributable to that category.

26 Preservation of existing entitlements

- (1) The trustee may amend the deed in a way that affects the rights to superannuation or other benefits of members only if—
 - (a) all of the following apply—
 - (i) the trustee, acting on the advice of an actuary, believes the amendment will not affect the Treasurer’s contributions under section 31;
 - (ii) the amendment does not affect entitlements to defined benefits, or defined benefit contributions, of the members;
 - (iii) the Minister has been given written notice of the amendment; or
 - (b) the Minister has consented to the amendment.
- (2) In this section—

defined benefit contributions means contributions to the scheme required under the deed by members in relation to their membership in a government defined benefit category.

[s 31]

27 No compensation payable for lawful changes

No member is entitled to any compensation for any change of a superannuation or other benefit payable to the member, under the scheme, to the extent the change is—

- (a) made under section 26; or
- (b) otherwise lawfully made because of an actuarial investigation.

28 Investment manager for defined benefit assets

- (1) The Minister may give the trustee a written notice (an *approval notice*) stating each person who is an approved investment manager for the investment of defined benefit assets.
- (2) The Minister may include a person in an approval notice—
 - (a) only if the person is appropriately qualified; and
 - (b) only after consulting the person and the trustee.
- (3) An approval notice takes effect in relation to a person included in the notice on the day stated in the notice.
- (4) If the Minister has given an approval notice, the trustee—
 - (a) must appoint a defined benefits investment manager; and
 - (b) may appoint only an approved investment manager to be a defined benefits investment manager.
- (5) The defined benefits investment manager must invest defined benefit assets in a way that is consistent with—

- (a) the deed; and
 - (b) the investment objectives, strategies or policies set by the trustee for the investment of the assets; and
 - (c) this Act, the *Superannuation Industry (Supervision) Act 1993* (Cwlth) and any other law.
- (6) In this section—

defined benefit assets means the assets of the scheme fund attributable to a government defined benefit category.

defined benefits investment manager means the investment manager, within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth), who invests defined benefit assets under the deed.

31 State's contribution from consolidated fund

- (1) The Treasurer must make, on behalf of the State, the following contributions to the scheme fund—
 - (a) contributions to satisfy defined benefits that become payable to government defined benefit members under the deed;
 - (b) any other contributions the Treasurer considers necessary for the efficient and effective operation of the scheme in relation to government defined benefit members.
- (2) The amounts of the contributions payable under subsection (1)(a) are the amounts decided by the trustee on the advice of an actuary.
- (3) The amounts of the contributions payable under subsection (1)(b) are the amounts decided by the Treasurer in consultation with the trustee.
- (4) The contributions under subsection (1) in a

[s 32]

financial year must be at least the amount required to meet defined benefits under the deed that become payable in the financial year less—

- (a) any share of the defined benefits satisfied by contributions already made to the scheme fund by the Treasurer under this section or former section 29; and
 - (b) any share of the defined benefits satisfied by—
 - (i) contributions already made by the government defined benefit members to whom the defined benefits are payable; and
 - (ii) accumulated interest on the contributions mentioned in subparagraph (i).
- (5) A contribution under subsection (1) must be paid out of the consolidated fund, which is appropriated accordingly.
- (6) In this section—

accumulated interest, on contributions made by a government defined benefit member, means interest credited to the member's account under the deed that is attributable to the amount of the contributions.

former section 29 means section 29 of this Act as in force before the commencement.

32 Renumbering of pt 3A (Government superannuation officer)

Part 3A—

renumber as part 7.

33 Renumbering of s 15I (Appointment)

Section 15I—
renumber as section 33.

34 Amendment and renumbering of s 15J (Functions)

(1) Section 15J(2)(a)—

omit, insert—

(a) arranging an independent review of the scheme default fund arrangements and LGIA^{super} default fund arrangements at least 10 years after the commencement of part 10, division 2, subdivision 3; and

(2) Section 15J(3), definition *QSuper default fund arrangements—*

omit.

(3) Section 15J(3)—

insert—

scheme default fund arrangements means the arrangements applying under part 4.

(4) Section 15J—

renumber as section 34.

35 Amendment and renumbering of s 15K (Staff services from department and board)

(1) Section 15K, heading, ‘board’—

omit, insert—

trustee

(2) Section 15K(1)(b)—

omit, insert—

[s 36]

- (b) the trustee may assign an officer or employee of the trustee to perform work for the officer.
- (3) Section 15K(2), ‘board’—
omit, insert—
trustee
- (4) Section 15K(3), definition *board*—
omit.
- (5) Section 15K(3)—
insert—
trustee means—
(a) the trustee of the scheme under the deed; or
(b) an entity ultimately owned or controlled by the trustee of the scheme under the deed.
- (6) Section 15K—
renumber as section 35.

36 Amendment and renumbering of s 15L (Delegation)

- (1) Section 15L(1), ‘section 15K’—
omit, insert—
section 35
- (2) Section 15L—
renumber as section 36.

37 Amendment and renumbering of s 15M (CEO to act as officer while no appointee)

- (1) Section 15M, heading, ‘CEO’—
omit, insert—

Chief executive

-
- (2) Section 15M(a) and (b), ‘CEO’—
omit, insert—
chief executive
- (3) Section 15M(b), ‘sections 15J to 15L’—
omit, insert—
sections 34 to 36
- (4) Section 15M—
renumber as section 37.

38 Replacement of pt 4, hdg (Administration)

Part 4, heading—

omit, insert—

**Part 8 Miscellaneous
provisions**

39 Insertion of new s 38

Part 8, as inserted by this Act—

insert—

38 Nature of benefit payable

- (1) A benefit payable under the scheme in relation to a member of the scheme can not, by operation of law or otherwise, be—
- (a) assigned, charged, taken in execution, attached or passed to a person other than the member or the member’s estate; or
 - (b) used to set off a claim by payment to a person other than the member or the member’s estate.
- (2) A benefit payable under the scheme in relation to a member of the scheme on the death of the

[s 40]

member is not an asset for the payment of the member's debts or liabilities from the member's estate.

- (3) Any agreement or arrangement relating to, or transfer or other dealing with, a benefit payable under the scheme that is inconsistent with subsection (1) or (2) is void to the extent of the inconsistency.

40 Omission of ss 17–19

Sections 17 to 19—

omit.

41 Replacement of s 20 (Reports)

Section 20—

omit, insert—

39 Reports to be given to Minister on request

- (1) The Minister may, at any time, ask the trustee to give the Minister a report about the administration of the scheme to the extent that it applies to government defined benefit members.
- (2) The trustee must comply with a request under subsection (1).
- (3) A request or report under this section must not be about, or include information that identifies, an individual government defined benefit member or the member's entitlement.

42 Omission of ss 20A–26

Sections 20A to 26—

omit.

**43 Amendment, relocation and renumbering of s 28
(Contributions by units)**

- (1) Section 28(1A)—
omit.
- (2) Section 28(3) and (5)(a), ‘under a regulation’—
omit, insert—
by regulation
- (3) Section 28(4)(b)—
omit, insert—
 - (b) the trustee 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, is not accurate or complete.
- (4) Section 28(6)(a), ‘board’—
omit, insert—
trustee
- (5) Section 28(7), definition *member’s appropriate account*, ‘this Act’—
omit, insert—
the deed
- (6) Section 28—
relocate to part 6, as inserted by this Act, and *renumber* as section 29.

**44 Amendment, relocation and renumbering of s 28A
(Adjustment of multiples for particular standard defined benefit members)**

- (1) Section 28A(1)(b), ‘section 15I’—
omit, insert—
section 33

[s 45]

- (2) Section 28A(3), ‘board’—
omit, insert—
trustee
- (3) Section 28A(3A), after ‘despite’—
insert—
any other provision of this Act and
- (4) Section 28A(4), fourth dot point—
omit.
- (5) Section 28A(4)—
insert—
- employed member
- (6) Section 28A(4A), ‘part 3A’—
omit, insert—
part 7
- (7) Section 28A(3A) to (5)—
renumber as section 28A(4) to (7).
- (8) Section 28A—
relocate to part 6, as inserted by this Act, and *renumber* as section 30.

45 Omission of s 29 (Appropriation of contribution)

Section 29—

omit.

46 Amendment, relocation and renumbering of s 29A (State to hold assets in relation to defined benefit liabilities)

- (1) Section 29A(2) and (3), before ‘defined benefit members’—
insert—

government

- (2) Section 29A(2) and (3), before ‘fund’—
insert—

scheme

- (3) Section 29A(4)—
omit.
- (4) Section 29A—
relocate to part 6, as inserted by this Act, and *renumber* as section 32.

47 Omission of ss 30–30B

Sections 30 to 30B—
omit.

48 Renumbering of s 30C (No appeal to industrial commission)

Section 30C—
renumber as section 40.

49 Amendment and renumbering of s 31 (Regulation-making power)

- (1) Section 31(2)—
omit.
- (2) Section 31—
renumber as section 41.

50 Amendment, relocation and renumbering of s 32P (Membership taken to continue in particular circumstances)

- (1) Section 32P(1)(a), ‘on or after the commencement day,’—

[s 51]

omit.

(2) Section 32P(1)—

insert—

- (d) the person has not made a withdrawal from the member's accumulation account in relation to a defined benefit credited to the account under the terms of the deed governing the standard defined benefit category.

(3) Section 32P—

relocate to part 3, division 3, as inserted by this Act, and *renumber* as section 16.

51 Omission of pt 5B (Closure of standard defined benefit category)

Part 5B—

omit.

52 Insertion of new pt 9

Before part 10, as renumbered by this Act—

insert—

Part 9 QSuper Board

Division 1 QSuper Board continues

42 Continuation of QSuper Board

- (1) QSuper Board is continued in existence.
- (2) The former board provisions continue to apply in relation to QSuper Board until the board becomes a proprietary company under division 2.

- (3) For subsection (2), the former board provisions apply as if they had not been repealed by the *Superannuation (State Public Sector) (Scheme Administration) Amendment Act 2021*.
- (4) However, former section 4 applies in relation to QSuper Board only while the board is the trustee of the scheme.
- (5) In this section—
former, for a provision of this Act, means the provision as in force immediately before the commencement.
former board provisions means former part 2 and former section 31(2).

Division 2 QSuper Board as proprietary company

43 Definitions for division

In this division—

QSuper Board Pty Ltd means QSuper Board after its registration as a proprietary company limited by shares under the Corporations Act.

registration day see section 44(2)(a).

44 QSuper Board to be registered as proprietary company

- (1) QSuper Board is a deemed registration company for the purposes of the Corporations Act, section 5H.
- (2) For the Corporations Act, section 5H(1)(b)—

[s 52]

- (a) QSuper Board is to be taken to be registered on the day (the *registration day*) declared by the Minister under section 45; and
- (b) QSuper Board is to be registered as a proprietary company limited by shares; and
- (c) QSuper Board's proposed name is 'QSuper Board Pty Ltd'.

45 Minister may declare registration day

- (1) The Minister may, by notice published in the gazette, declare the day QSuper Board is to be taken to be registered as a proprietary company limited by shares under the Corporations Act.
- (2) The Minister's power to declare a day under subsection (1) includes the power to declare a day, that is after the notice is published, by reference to the day on which the appointment of a new trustee for the scheme takes effect under an instrument executed by QSuper Board and the new trustee.

46 Constitution, shareholding and other matters about company on registration

QSuper Board must decide, in consultation with the Minister, the matters the details of which are to be included in the notice lodged under the Corporations Act, section 5H(2).

47 Effect of QSuper Board becoming proprietary company

- (1) QSuper Board Pty Ltd is taken for all purposes to be a continuation of, and the same legal entity as, QSuper Board.
- (2) Without limiting subsection (1), the registration of QSuper Board as a proprietary company limited by shares under the Corporations Act does

not—

- (a) create a new legal entity; or
 - (b) affect QSuper Board's existing assets, rights or liabilities (other than in relation to the members of QSuper Board as provided in section 48); or
 - (c) affect any legal proceedings by or against QSuper Board or its members; or
 - (d) affect the employment, or entitlements as an employee, of a person who was a member of staff of QSuper Board other than the board's chief executive officer, immediately before the registration day.
- (3) Despite subsections (1) and (2), QSuper Board Pty Ltd does not represent the State.
- (4) Subsections (1) and (2) are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the Corporations Act in relation to the provisions of the Corporations legislation generally.

48 QSuper Board's members and CEO

- (1) On the registration day, the members and chief executive officer of QSuper Board go out of office.
- (2) No compensation is payable because of subsection (1).
- (3) To remove any doubt, it is declared that subsection (2) does not limit or otherwise affect a person's right to a benefit or entitlement that had accrued before the commencement.
- (4) Also, nothing in this section prevents a person who was a member or chief executive officer of QSuper Board from becoming an officer or

[s 53]

employee of QSuper Board Pty Ltd.

53 Insertion of new pt 10, div 2, sdivs 2–6

Part 10, division 2, as inserted by this Act—

insert—

Subdivision 2 Provision about repeal of 1990 regulation

54 Instrument restating 1990 deed

- (1) QSuper Board must prepare an instrument that restates the provisions of the 1990 deed, subject only to—
 - (a) amendments necessary as a consequence of the provisions of the 1990 deed being restated as provisions of an instrument that is not subordinate legislation, including, for example, amendments—
 - (i) to update references to this Act; or
 - (ii) to remove provisions that have been included in this Act or a regulation; or
 - (iii) to add provisions that have been removed from this Act or a regulation; or
 - (iv) to enable the deed to be amended by the trustee; and
 - (b) amendments to correct a minor error or make another change that is not a change of substance.

Note—

See section 6 in relation to the instrument prepared under this section continuing as the trust deed for the scheme.

- (2) Any provision of the instrument that is

inconsistent with subsection (1) is void to the extent of the inconsistency.

Subdivision 3 Provisions about Sunsuper transfer

55 Definition for subdivision

In this subdivision—

Sunsuper transfer means the transfer of the benefits of all members of Sunsuper Superannuation Fund (ABN 98 503 137 921) to the scheme.

56 Amendment of deed to facilitate Sunsuper transfer

- (1) The trustee must, in accordance with the deed and before the Sunsuper transfer is completed, amend the deed to provide for and facilitate the implementation of the Sunsuper transfer.
- (2) An amendment under subsection (1) must not amend the deed in a way that—
 - (a) adversely affects the rights to superannuation or other benefits of members of the scheme accrued before the amendment; or
 - (b) affects, or purports to affect, the continuation of the scheme or the fund for the scheme; or
 - (c) otherwise resettles or redeclares the scheme or the fund for the scheme.
- (3) An amendment of the deed under subsection (1) that is inconsistent with subsection (2) is void to the extent of the inconsistency.

57 MySuper products

- (1) This section applies if, when the Sunsuper transfer is completed, more than 1 MySuper products are offered for the scheme.
- (2) A regulation may prescribe matters about the eligibility of members of the scheme to hold each of the MySuper products.
- (3) Without limiting subsection (2), a regulation under the subsection may, to the extent permitted by the *Superannuation Industry (Supervision) Act 1993* (Cwlth), prescribe—
 - (a) the members of the scheme who are eligible for a stated MySuper product; or
 - (b) conditions applying to a member's eligibility for a stated MySuper product.
- (4) In this section—

MySuper product see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10(1).

Subdivision 4 Provisions about trustee changeover

58 Definitions for subdivision

In this subdivision—

new trustee means the trustee of the scheme immediately after the trustee changeover.

trustee changeover means the time at which the appointment of a new trustee of the scheme takes effect under an instrument executed by QSuper Board and the new trustee.

59 Existing standard employer-sponsors

- (1) This section applies in relation to a standard employer-sponsor arrangement in effect immediately before the trustee changeover.
- (2) From the trustee changeover, the standard employer-sponsor arrangement and any agreement relating to the arrangement is taken to have been entered into by the new trustee in its capacity as trustee of the scheme.
- (3) In this section—

standard employer-sponsor arrangement means an arrangement between QSuper Board and an entity under which the entity becomes a standard employer-sponsor within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 16(2).

60 Protection from liability

- (1) This section applies in relation to a person who, at any time before the trustee changeover, was an official.
- (2) The person is entitled to be indemnified from the scheme fund for a liability incurred by the person for an act done, or omission made, while acting as an official.
- (3) The liability to which subsection (2) applies—
 - (a) includes an amount of legal costs decided by the trustee to be reasonable; but
 - (b) does not include a liability—
 - (i) of a kind to which former section 8 did not apply; or
 - (ii) that the person cannot be indemnified for, from the scheme fund, under the

[s 53]

*Superannuation Industry (Supervision)
Act 1993 (Cwlth).*

(4) The costs incurred by QSuper Board or the new trustee for effecting insurance for liability to which subsection (2) applies may be paid out of the scheme fund.

(5) In this section—

former section 8 means section 8 of this Act as in force immediately before the commencement.

official means official within the meaning of former section 8.

QSuper Board includes QSuper Board after it becomes QSuper Board Pty Ltd.

61 Application of Act until trustee changeover

(1) Until the trustee changeover, a reference in this Act to the trustee is taken to be a reference to QSuper Board in its capacity as trustee of the scheme.

(2) However, section 8 does not apply to QSuper Board even while it is the trustee of the scheme.

62 Residence requirement for trustee's chief executive officer (however called)

Section 8(2)(b)(i) does not apply in relation to the trustee of the scheme after the trustee changeover until—

(a) if a regulation prescribes a day earlier than 3 years after the commencement—the prescribed day; or

(b) otherwise—3 years after the commencement.

Subdivision 5 Matters about membership and entitlements

63 Existing membership and entitlements

- (1) The amendment of this Act by the *Superannuation (State Public Sector) (Scheme Administration) Amendment Act 2021* does not affect—
 - (a) the membership of a current member; or
 - (b) any entitlement the member accrued under this Act before the commencement.
- (2) In this section—

current member means a person who was a member of the scheme immediately before the commencement.

64 Compulsory contributions for particular State public sector employees

- (1) This section applies—
 - (a) in relation to a State public sector employee if—
 - (i) the employee is a core government employee; or
 - (ii) the employee's chosen fund is the scheme; and
 - (b) if, on the commencement, a regulation has not been made under section 23.
- (2) A unit of the State public sector must pay contributions for each of its employees into the employee's chosen fund at the rate and frequency at which the employer was required to pay contributions under this Act or the 1990 deed immediately before the commencement.

[s 53]

- (3) A State public sector employee must pay contributions into the employee's chosen fund at the rate and frequency at which the employee was required to pay contributions under this Act or the 1990 deed immediately before the commencement.
- (4) A State public sector employee is taken to comply with subsection (3) if, under an arrangement with the employee's employer, the contributions are paid into the fund by the employer.
- (5) This section stops applying on the earlier of the following—
 - (a) a regulation under section 23 comes into force;
 - (b) 1 year after the commencement.

Subdivision 6 Other matters

65 Declaration about continuation of scheme and fund

- (1) To remove any doubt, it is declared that the amendment of this Act by the *Superannuation (State Public Sector) (Scheme Administration) Amendment Act 2021* (the **amendment Act**)—
 - (a) did not establish a new scheme or new fund for the scheme; and
 - (b) is not intended to—
 - (i) affect, or purport to affect, the continuation of the scheme or the fund for the scheme; or
 - (ii) otherwise resettle or redeclare the scheme or the fund for the scheme.
- (2) Also, to remove any doubt, it is declared that the

declaration under subsection (1) applies despite—

- (a) the provisions of the 1990 deed being continued as the trust deed for the scheme in the form of the instrument prepared under section 54; and
- (b) the Sunsuper transfer within the meaning of section 55, including—
 - (i) the amendment of the deed under section 56 relating to the Sunsuper transfer; and
 - (ii) any change to the scheme's name arising from the Sunsuper transfer; and
- (c) the appointment of a new trustee of the scheme under an instrument executed by QSuper Board and the new trustee; and
- (d) any other changes affecting the operation or management of the scheme or scheme fund arising from the amendment of this Act by the amendment Act.

66 Continued application of s 51

From the commencement, section 51 applies as if—

- (a) the reference in subsection (4), definition *default arrangement*, paragraph (a) to section 14B(1)(c) were a reference to section 10(1)(c); and
- (b) the reference in subsection (4), definition *default arrangement*, paragraph (b) to section 15A were a reference to section 17; and
- (c) the reference in subsection (4), definition *default fund*, to section 15E were a reference to schedule 2.

[s 54]

67 Declaration for Acts Interpretation Act 1954, s 20A

Section 30B and part 5B as in force before the commencement are declared to be laws to which the *Acts Interpretation Act 1954*, section 20A applies.

54 Insertion of new schs 1 and 2

After part 10, as renumbered by this Act—

insert—

Schedule 1 Units of the State public sector

section 3(1)(a)

- 1 a public sector unit
- 2 the Queensland Police Service under the *Police Service Administration Act 1990*
- 3 the Crime and Corruption Commission
- 4 Legal Aid Queensland established under the *Legal Aid Queensland Act 1997*, section 41
- 5 the industrial relations commission
- 6 a corporate entity (other than a local government) constituted, or otherwise provided for, under an Act that collects revenues or raises funds under the authority of an Act
- 7 a non-corporate entity established, or otherwise provided for, under an Act that is funded or financially assisted to any extent by the State

-
- 8 a registry or other administrative office of a court of the State
- 9 a Magistrates Court
- 10 the parliamentary service under the *Parliamentary Service Act 1988*
- 11 the Governor's official residence (known as 'Government House') and its associated administrative unit
- 12 the Legislative Assembly
- 13 a registered higher education provider, within the meaning of the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth), that is established under an Act
- 14 a body corporate wholly owned by the State
- 15 a wholly-owned subsidiary, within the meaning of the Corporations Act, section 9, of a body corporate that is a unit of the State public sector under another item of this schedule

Schedule 2 Dictionary

section 2

1990 deed means the deed under the 1990 regulation.

1990 regulation means the repealed *Superannuation (State Public Sector) Deed 1990* as in force immediately before its repeal.

actuarial investigation means an investigation of the state and sufficiency of the scheme fund carried out by an actuary under the deed.

[s 54]

chosen fund, for a State public sector employee, see section 22.

core government employee means a State public sector employee who is declared, under section 17, to be a core government employee for this Act.

deed means the trust deed for the scheme under section 6.

defined benefits means benefits payable under the deed to government defined benefit members.

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 a superannuation fund, superannuation scheme, approved deposit fund, or RSA, as defined under the *Superannuation Guarantee (Administration) Act 1992* (Cwlth).

government defined benefit category means each of the following categories under the 1990 deed—

- standard defined benefit category
- State 58 category
- State 72 category
- police 68 category
- police 74 category
- fire category
- parliament 70 category.

government defined benefit member means a member of the scheme in a government defined benefit category.

membership declaration means a declaration under section 10.

officer, for part 7, see section 33(1).

QSuper Board means the board continued under section 3 of this Act as in force immediately before the commencement.

Note—

See section 42 for the continuation of QSuper Board from the commencement.

QSuper Board Pty Ltd see section 43.

registration day, for part 9, division 2, see section 44(2)(a).

scheme means the scheme mentioned in section 5.

scheme fund see section 7.

standard defined benefit category means the defined benefit category of that name under the 1990 deed.

State public sector employee means an employee of a unit of the State public sector.

trustee means the company, within the meaning of the Corporations Act, that is the trustee of the scheme under the deed.

unit of the State public sector see section 3.

Part 2A

Amendment of Governors (Salary and Pensions) Act 2003

54A Act amended

This part amends the *Governors (Salary and Pensions) Act 2003*.

Note—

See also the amendments in schedule 1.

[s 54B]

54B Amendment of long title

Long title, from ‘the salary’ to ‘pensions,’—

omit, insert—

**salary and pensions for the Governor of the
State of Queensland,**

54C Insertion of new s 4A

Part 3, division 1—

insert—

4A Application of part

This part does not apply in relation to a person appointed as Governor who elected, under section 20C, to have the superannuation arrangements under part 3A, division 2 apply to the person’s appointment as Governor.

54D Insertion of new pt 3, div 5, hdg

After section 19—

insert—

**Division 5 Other matters relating to
pensions**

54E Insertion of new pt 3A

After part 3—

insert—

Part 3A Superannuation

Division 1 Preliminary

20B Application of part

This part applies to a person who is appointed Governor after the commencement.

20C Election for superannuation arrangements

- (1) The person may elect to have the superannuation arrangements under division 2 apply to the person's appointment as Governor.
- (2) An election under subsection (1)—
 - (a) must be made within 1 month after the person takes or makes the oath or affirmation of allegiance and of office under the *Constitution of Queensland 2001*, section 31; and
 - (b) must be made by written notice given to the chief executive of the department that administers the *Superannuation (State Public Sector) Act 1990*; and
 - (c) cannot be rescinded.

Division 2 Superannuation arrangements

20D Definitions for division

In this division—

State public sector employee means an employee of a unit of the State public sector under the *Superannuation (State Public Sector) Act 1990*.

State public sector scheme means the scheme under the *Superannuation (State Public Sector) Act 1990*.

State public sector scheme membership

[s 54E]

declaration means a declaration under the *Superannuation (State Public Sector) Act 1990*, section 14B.

20E Application of division

This division applies if the person makes an election under section 20C.

20F Superannuation arrangements generally

- (1) The person has the superannuation arrangements that apply under the *Superannuation (State Public Sector) Act 1990* to a State public sector employee mentioned in a State public sector scheme membership declaration.
- (2) To the extent necessary for applying subsection (1), the person is taken to be an employee in relation to the person's appointment as Governor.

20G Matters about membership of State public sector scheme for particular existing members

- (1) This section applies if, immediately before the person's appointment as Governor, the person was—
 - (a) a State public sector employee mentioned in a State public sector scheme membership declaration; and
 - (b) a member of the State public sector scheme.
- (2) The person's membership of the scheme continues in the same category and subject to the same conditions as applied before the person's appointment as Governor.
- (3) For applying section 20F to the person, the person continues to be eligible, in relation to the person's appointment as Governor, for membership in the

categories of the State public sector scheme for which the person was eligible immediately before the person's appointment as Governor.

20H Matters about membership of State public sector scheme for other persons

- (1) This section applies in relation to the person if section 20G does not apply in relation to the person.
- (2) The Minister administering the *Superannuation (State Public Sector) Act 1990* may declare, by written notice, the following matters about the person's membership of the State public sector scheme—
 - (a) the membership category or categories for which the person is eligible;
 - (b) any conditions applying to the person's membership of the scheme.
- (3) A notice under subsection (2)—
 - (a) is subordinate legislation; and
 - (b) may be combined with a notice making a State public sector scheme membership declaration.

20I Salary sacrifice

- (1) The person may also elect that the person's salary as Governor be provided in part by the payment of salary to the person and in part by the payment of superannuation contributions payable by the person.
- (2) The election—
 - (a) must be made by written notice given to the Official Secretary of the Office of the Governor; and

[s 54F]

- (b) takes effect from the date the notice is received by the Official Secretary or from a later date stated in the election for that purpose.
- (3) Despite the salary of the person being paid under subsection (1), the person is taken, for any purpose relating to superannuation, to have received the salary to which the person is entitled as Governor.

54F Relocation of s 20 (Accrual and payment of pensions)

Section 20—

relocate to part 3, division 5 as inserted by this Act.

54G Amendment of s 21 (Appropriation)

Section 21(1)—

insert—

- (c) under part 3A, division 2 as superannuation contributions payable by the State.

54H Amendment, relocation and renumbering of s 22 (Minister is manager for Commonwealth Act)

- (1) Section 22(3), definition *scheme*, ‘Act’—

omit, insert—

part

- (2) Section 22—

relocate to part 3, division 5 as inserted by this Act and *renumber* as section 20A.

54I Amendment of schedule (Dictionary)

Schedule—

insert—

State public sector employee, for part 3A, division 2, see section 20D.

State public sector scheme, for part 3A, division 2, see section 20D.

State public sector scheme membership declaration, for part 3A, division 2, see section 20D.

Part 3 **Amendment of Public Officers Superannuation Benefits Recovery Act 1988**

55 **Act amended**

This part amends the *Public Officers Superannuation Benefits Recovery Act 1988*.

56 **Amendment of s 6 (Pecuniary liability upon conviction)**

Section 6—

insert—

- (6) The Minister may delegate the Minister's functions or powers under this section to the chief executive.

Part 4 **Amendment of Right to Information Act 2009**

57 **Act amended**

This part amends the *Right to Information Act 2009*.

[s 58]

58 Amendment of sch 2 (Entities to which this Act does not apply)

Schedule 2, part 2, item 9A—

omit.

Part 5 Other amendments

59 Legislation amended

Schedule 1 amends the legislation it mentions.

Part 6 Repeal

60 Repeal

The Superannuation (State Public Sector) Deed 1990 is repealed.

Schedule 1 Other amendments

section 59

City of Brisbane Act 2010

- 1 **Schedule 2, definition *reward*, paragraph (b), after ‘meaning of’—**

insert—

repealed

Governors (Salary and Pensions) Act 2003

- 1 **Section 16C(3), ‘State Public Sector Superannuation Fund’—**

omit, insert—

scheme under the *Superannuation (State Public Sector) Act 1990*

- 2 **Section 16C(6)—**

omit.

- 3 **Section 20D, definition *State public sector employee*, from ‘means’—**

omit, insert—

see the *Superannuation (State Public Sector) Act 1990*, schedule 2.

4 Section 20D, definition *State public sector scheme membership declaration*, ‘section 14B’—

omit, insert—

section 10

Industrial Relations Act 2016

1 Section 589(2)(a), ‘board’—

omit, insert—

trustee

Judges (Pensions and Long Leave) Act 1957

1 Section 11(3), ‘State Public Sector Superannuation Fund’—

omit, insert—

scheme under the *Superannuation (State Public Sector) Act 1990*

2 Section 11(6)—

omit.

Land Court Act 2000

1 Section 40(3)(b), ‘board’—

omit, insert—

trustee

**2 Section 40(5), definition *chosen fund*, paragraph (b),
'section 15D'—**

omit, insert—

part 5

**3 Section 40(5), definition *eligible contributions*,
'prescribed under the deed for the scheme'—**

omit, insert—

and frequency prescribed

Local Government Act 2009

**1 Schedule 4, definition *reward*, paragraph (b), after
'meaning of'—**

insert—

repealed

Parliament of Queensland Act 2001

**1 Section 65(6), definition *reward*, paragraph (aa), after
'meaning of'—**

insert—

repealed

2 Section 70(5), definition *reward*, paragraph (aa), after ‘meaning of’—

insert—

repealed

Statutory Instruments Act 1992

1 Schedule 2A, entry for *Superannuation (State Public Sector) Deed 1990*—

omit.

Superannuation (Public Employees Portability) Act 1985

1 Section 6(1)(b), ‘*Superannuation (State Public Sector) Deed 1990*, section 174’—

omit, insert—

Superannuation (State Public Sector) Act 1990

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