

Queensland



Subordinate Legislation 2002 No. 360

Superannuation (State Public Sector) Act 1990

SUPERANNUATION (STATE PUBLIC SECTOR) AMENDMENT OF DEED REGULATION (No. 3) 2002

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1 Short title

This regulation may be cited as the *Superannuation (State Public Sector) Amendment of Deed Regulation (No. 3) 2002*.

2 Commencement

(1) The following provisions are taken to have commenced on 1 July 2002—

- section 3 so far as it relates to sections 1, 7 and 9 of the schedule;
- sections 1, 7 and 9 of the schedule.

(2) The remaining provisions commence on 28 December 2002.

3 Approval of amendments of deed

This regulation approves the amendments of the *Superannuation (State Public Sector) Deed 1990* stated in the schedule.

4 Repeal

The following subordinate legislation is repealed—

- Superannuation (State Public Sector) Variation of Deed Order (No. 3) 1992 SL No. 397
- Superannuation (State Public Sector) Variation of Deed Regulation (No. 1) 1993 SL No. 138
- Superannuation (State Public Sector) Variation of Deed Regulation (No. 2) 1993 SL No. 148
- Superannuation (State Public Sector) Variation of Deed Regulation (No. 1) 1994 SL No. 71
- Superannuation (State Public Sector) Variation of Deed Regulation (No. 2) 1994 SL No. 223.

SCHEDULE

AMENDMENTS OF SUPERANNUATION (STATE PUBLIC SECTOR) DEED 1990

1 Commencement

Sections 7 and 9 are taken to have been made on 1 July 2002, at the beginning of the day.

2 Amendment of s 4 (Definitions)

Section 4, definition “discontinued scheme”, ‘*Fire and Rescue Authority Act 1990*’—

omit, insert—

‘*Fire and Rescue Service Act 1990*’.

3 Amendment of s 15 (Income and expenditure)

Section 15(a), after ‘paid by’—

insert—

‘, or for,’.

4 Insertion of new ch 1, pt 7A

After section 29—

insert—

‘PART 7A—PARTICULAR AGREEMENTS AND COURT ORDERS UNDER FAMILY LAW ACT 1975 (CWLTH)

‘29A Definitions for pt 7A

‘In this part—

“**agreement or court order**” means an agreement or court order mentioned in the definition “entitled former spouse”.

SCHEDULE (continued)

“1999 cashable amount”, for a member, means the amount that is the 1999 cashable amount for the member under the chapter for the particular category of members to which the member belongs.¹

“component”, of a member’s fund amount, means the member’s 1999 cashable amount, non-preserved transfer amount or preserved amount under the scheme.

“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.

“fund amount” see section 29C(4).

“operative time”, for an agreement or court order, means the operative time, under the *Family Law Act 1975* (Cwlth), part VIIIIB,² for the agreement or order.

“preserved amount”, for a member, means the amount that is the member’s preserved amount for the scheme under the chapter for the particular category of members to which the member belongs.³

“transfer amount” see section 29C(3).

‘29B Calculating member’s entitlement

‘The board must calculate a member’s entitlement for an agreement or court order in the way decided by the board on the advice of the actuary.

‘29C Dealing with agreement or court order

‘(1) This section applies if the board receives an agreement or court order.

1 For a particular member’s 1999 cashable amount, see definition “1999 cashable amount” in section 32 (Definitions for ch 2), 68 (Definitions for ch 3), 165 (Interpretation) or 280 (Interpretation).

2 *Family Law Act 1975* (Cwlth), part VIIIIB (Superannuation interests)

3 For a particular member’s preserved amount for the scheme, see section 55A (Preserved amount), 82A (Preserved amount), 165A (Preserved amount) or 280A (Preserved amount).

SCHEDULE (continued)

‘(2) If the entitled former spouse for the agreement or court order does not have an accumulation account when the board receives the agreement or order, the board must establish an accumulation account for the entitled former spouse by the operative time for the agreement or order.

‘(3) The board must transfer the amount to which the entitled former spouse is entitled under the agreement or court order (the “**transfer amount**”) to the entitled former spouse’s accumulation account by the operative time for the agreement or order.

‘(4) The board must reduce the amount that, other than for the agreement or court order, would have been payable from the fund to a member (the “**fund amount**”) by the transfer amount.

‘(5) The board must reduce the member’s fund amount in the way decided by the board on the advice of the actuary.

‘(6) However, the board must reduce each component of the member’s fund amount in equal proportions.

‘29D How transfer amount is dealt with

‘(1) Subject to subsection (2), each part of a component of a member’s fund amount that is transferred, under an agreement or court order, to an entitled former spouse’s accumulation account is taken to be an amount of that type of component for the entitled former spouse.

‘(2) If a part of the member’s 1999 cashable amount is transferred, the part is taken to be a preserved amount for the scheme.

‘29E Effect of agreement or court order on particular benefit

‘(1) This section applies to a person who—

- (a) is an entitled former spouse who receives a transfer amount in relation to a member; and

SCHEDULE (continued)

- (b) after receiving the transfer amount, becomes eligible under chapter 4, 5, 6 or 7⁴ to receive a benefit in the person's capacity as the member's spouse.

'(2) Despite chapter 4, 5, 6 or 7, the person is not entitled to receive the benefit.

'29F Agreement or court order does not affect particular members' benefits

'If a member's fund amount is reduced under an agreement or court order, the reduction does not reduce or otherwise affect any of the following benefits the member is entitled to under the scheme—

- (a) income protection benefit payable under section 50;⁵
- (b) incapacity benefit payable under chapter 4;
- (c) incapacity pension payable under chapter 5.

'29G Board may charge reasonable fee

'The board may, for an agreement or court order, charge a reasonable fee for a matter mentioned in the *Family Law (Superannuation) Regulations 2001* (Cwlth), section 59(1).⁶'

5 Amendment of s 30 (Appeal to board)

Section 30(1), after 'his'—

insert—

'or her'.

4 Chapter 4 (State 58 category), 5 (State 72 category), 6 (Police 68 category) or 7 (Police 74 category)

5 Section 50 (Income protection benefit)

6 *Family Law (Superannuation) Regulations 2001* (Cwlth), section 59 (Fees payable to trustee (Act s 90MY))

SCHEDULE (continued)

6 Amendment of s 32 (Definitions for ch 2)

Section 32, definition, “compulsory contributions”, ‘section 35.’—
omit, insert—

‘section 35, other than a part of the contributions that is for tax paid under the *Income Tax Rates Act 1986* (Cwlth), section 26(1)(a).’⁷.

7 Amendment of s 42 (Acceptance of contributions—member 65 or over)

Section 42—

insert—

‘(2) Despite subsection (1), the board may accept voluntary contributions from a member who is 70 years or more, but less than 75 years, if the member is employed for at least 10 hours a week.’

8 Amendment of s 45 (Member’s basic benefit)

(1) Section 45(2), ‘where **A** is that part’—

omit, insert—

‘where—

“**A**” is that part’.

(2) Section 45(2), ‘**B** is the basic’—

omit, insert—

‘“**B**” is the basic’.

9 Amendment of s 70 (Acceptance of contributions—member 65 or over)

Section 70—

insert—

⁷ *Income Tax Rates Act 1986* (Cwlth), section 26 (Rates of tax payable by trustees of superannuation funds)

SCHEDULE (continued)

‘(2) Despite subsection (1), the board may accept personal contributions from a member who is 70 years or more, but less than 75 years, if the member is employed for at least 10 hours a week.’.

10 Amendment of s 76 (Acceptance of personal and spouse contributions)

(1) Section 76(2), after ‘part 2’—

insert—

‘and subsection (3)’.

(2) Section 76—

insert—

‘(3) Despite subsection (1), the board must not accept eligible spouse contributions from a member who is more than 70 years.’.

11 Amendment of s 89A (Compulsory withdrawals by member)

Section 89A(1)(b)(ii), ‘70’—

omit, insert—

‘75’.

12 Amendment of s 89L (Purchase of pension from fund)

Section 89L(1)—

omit, insert—

‘(1) This section applies if—

(a) a preservation cashing condition for a member has happened, other than the member—

(i) dying; or

SCHEDULE (continued)

- (ii) having been the holder of an eligible temporary resident visa that has expired or been cancelled and having permanently departed from Australia; or
- (b) a member otherwise ceases to be an employed member.’.

13 Amendment of s 89M (Purchase of annuity)

(1) Section 89M(1)—

omit, insert—

‘(1) This section applies if—

- (a) a preservation cashing condition for a member has happened, other than the member—
 - (i) dying; or
 - (ii) having been the holder of an eligible temporary resident visa that has expired or been cancelled and having permanently departed from Australia; or
- (b) a member otherwise ceases to be an employed member.’.

(2) Section 89M(2), ‘from a registered life office’—

omit.

14 Amendment of s 91 (Preservation and portability while member)

Section 91—

insert—

‘(4) Also, the board may—

- (a) offer the member the option to buy, with all or part of the amount the member may withdraw under this section, a pension with features agreed with the member; or
- (b) on the member’s request, buy, with all or part of the amount the member may withdraw under this section, an annuity in the member’s name.

SCHEDULE (continued)

‘(5) The board must decide the rates on which it will offer a pension after receiving the advice of the actuary.

‘(6) The features that may be offered in a pension include—

- (a) a guaranteed period of payment; and
- (b) a level of reversion to another person; and
- (c) a level of indexation.’.

15 Amendment of s 95 (Scale of units of annuity, incapacity, and, in the case of male officers, assurance benefits)

Section 95(2)(a), ‘schedule 1’—

omit, insert—

‘schedule 2’.

16 Amendment of s 119 (Entitlement of widow of person on staff of agent-general)

Section 119(1), paragraphs (a) and (b), second occurring—

renumber as section 119(1)(c) and (d).

17 Amendment of s 121 (Amount of additional assurance benefit)

Section 121(1)(b), ‘1958—1978’—

omit, insert—

‘1958’.

18 Amendment of s 149 (When evidence of good health required)

Section 149(c), ‘1959; or’—

omit, insert—

‘1959;’.

SCHEDULE (continued)

19 Amendment of s 161 (Benefits upon retirement before age 60)

Section 161(1), ‘schedule 5’—

omit, insert—

‘schedule 8’.

20 Amendment of s 188 (Child’s pension—when payable)

Section 188(5), ‘and (5)’—

omit, insert—

‘and (4)’.

21 Amendment of s 244 (Amount of additional assurance benefit)

Section 244(1)(b), ‘1968—1979’—

omit, insert—

‘1968’.

22 Amendment of s 321 (Definitions for ch 8)

Section 321, definition “discontinued scheme”, ‘*Fire and Rescue Authority Act 1990*’—

omit, insert—

‘*Fire and Rescue Service Act 1990*’.

23 Amendment of sch 9

Schedule 9, ‘section 161(2)’—

omit, insert—

‘section 161(2) and (3)’.

ENDNOTES

1. Approved by the Governor in Council on 19 December 2002.
2. The amendments approved by this regulation were made by the Board of Trustees of the State Public Sector Superannuation Scheme on 9 December 2002.
3. Notified in the gazette on 20 December 2002.
4. Laid before the Legislative Assembly on . . .
5. The administering agency is the Treasury Department.