



Queensland

Superannuation (State Public Sector) Amendment of Deed Regulation (No. 1) 2005

Subordinate Legislation 2005 No. 45

made under the

Superannuation (State Public Sector) Act 1990

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1 Short title

This regulation may be cited as the *Superannuation (State Public Sector) Amendment of Deed Regulation (No. 1) 2005*.

2 Approval of amendments of deed

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

3 Repeals

The following regulations are repealed—

- Superannuation (State Public Sector—Membership) Amendment Regulation (No. 1) 1993 SL No. 248
- Superannuation (State Public Sector—Membership) Amendment Regulation (No. 2) 1993 SL No. 316
- Superannuation (State Public Sector) Amendment Regulation (No. 1) 1993 SL No. 419
- Superannuation (State Public Sector) Amendment Regulation (No. 2) 1993 SL No. 463.

Schedule 1 Amendments of Superannuation (State Public Sector) Deed 1990

section 2

1 Chapter 1, after part 6—

insert—

‘Part 6A Election to stop compulsory contributions

‘27A Election

- ‘(1) A member may make an election under this part.
- ‘(2) The effect of an election is as follows—
 - (a) if the member is required to make contributions to the fund under this deed, the requirement stops;
 - (b) the member’s employer stops being required to make contributions to the fund for the member;
 - (c) the member stops being eligible for income protection insurance, or insurance in case of death or total and permanent disablement, under this deed;
 - (d) if the member is in a category other than the basic accumulation category, the member is transferred to the basic accumulation category.

‘27B How election is made

- ‘(1) To make an election, a member must give the member’s employer—
 - (a) a written notice—
 - (i) stating that the member wishes to stop being required to make contributions to the fund under this deed; and

Schedule 1 (continued)

- (ii) asking the employer to stop making contributions for the member; and
 - (b) the statements mentioned in the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 19(4)(b); and
 - (c) a certificate, signed by a financial advisor, stating that the financial advisor has given the member financial advice about the effect of making the election.
- ‘(2) After receiving all the documents under subsection (1), the employer must give the documents to the board with a request, signed by the employer, to be exempt from the requirement to make further contributions to the fund for the member.
- ‘(3) However, the employer is not required to give the documents mentioned in subsection (2) to the board if the effect of the election would breach the terms of the member’s contract of employment with the employer or a relevant award or industrial agreement.
- ‘(4) If the employer gives the documents to the board, the election takes effect on the day the board decides it is satisfied the documents comply with subsections (1) and (2).
- ‘(5) The board must give the member and the employer a notice stating the day on which the election takes effect.
- ‘(6) The election is irrevocable.
- ‘(7) If the member is in a category other than the basic accumulation category, the board must transfer the member to the basic accumulation category.
- ‘(8) If the member is transferred from a defined benefit category, the board must transfer the following amount to the member’s accumulation account—
 - (a) for a member in the standard defined benefit category—the transfer amount stated in section 23F(3);
 - (b) for a member in the State 72 category—the transfer amount stated in section 23F(4);

Schedule 1 (continued)

- (c) for a member in the police 74 category—the transfer amount stated in section 23F(5);
 - (d) for a member in the State 58 category—the amount that would be payable to the member under chapter 4 if the member had been retrenched on the transfer day;
 - (e) for a member in the police 68 category—the amount that would be payable to the member under chapter 6 if the member had been retrenched on the transfer day.
- ‘(9) For calculating an amount under subsection (8)(a) to (e), the transfer day is the day the election takes effect.
- ‘(10) In this section—
- financial advisor* means—
- (a) a financial services licensee under the *Corporations Act 2001* (Cwlth); or
 - (b) another person who, under the *Corporations Act 2001* (Cwlth), part 7.6, may provide a financial service that includes giving financial advice about the effect of making an election under this section.

‘27C Transitional—election may be retrospective

- ‘(1) This section applies to a member who makes an election on or before 30 June 2005.
- ‘(2) The member may state, in the notice under section 27B(1)(a), an effective day for the election (the *stated day*).
- ‘(3) The stated day may be a day before the day the member makes the election but no earlier than 1 July 2004.
- ‘(4) Despite section 27B(4), the election is taken to have had effect on the stated day.’.

2 Section 41—

omit.

Schedule 1 (continued)

3 Section 42—

omit, insert—

‘42 Acceptance of contributions—member aged at least 65

- ‘(1) This section relates to contributions paid for a member who is at least 65 years.
- ‘(2) The board may accept a contribution paid by the member only if—
 - (a) the member is less than 75 years; and
 - (b) the member has worked, in the financial year in which the contribution is made, for at least 40 hours in a period of not more than 30 consecutive days.
- ‘(3) The board may accept a contribution paid by the member’s employer only if the member is less than 70 years.’.

4 Section 55, ‘and is not employed for at least 10 hours a week’—

omit, insert—

‘but less than 75 years, and did not work at least 240 hours in the previous financial year’.

5 Section 55AA—

omit, insert—

‘55AA Benefit on employed member aged at least 70

‘The board must pay to a member’s accumulation account the amount of the benefit to which the member is entitled under this chapter if—

- (a) the member is at least 70 years and asks the board in writing to make the payment; or
- (b) the member—
 - (i) was, on 1 July 2004, at least 75 years; and

Schedule 1 (continued)

- (ii) is not employed for at least 30 hours per week; or
- (c) the member turns 75 after 1 July 2004.’.

6 Section 69—

omit.

7 Section 70—

omit, insert—

‘70 Acceptance of contributions—member aged at least 65

- ‘(1) This section relates to contributions paid for a member who is at least 65 years.
- ‘(2) The board may accept a contribution paid by the member only if—
 - (a) the member is less than 75 years; and
 - (b) the member has worked, in the financial year in which the contribution is made, for at least 40 hours in a period of not more than 30 consecutive days.
- ‘(3) The board may accept a contribution paid by the member’s employer only if the member is less than 70 years.’.

8 Section 72(3), ‘section 69’—

omit, insert—

‘part 2’.

9 Section 72(4), definition *prescribed percentage*—

insert—

- ‘(ba) for an employed member in the basic accumulation category who has made an election under chapter 1, part 6A—nil; or’.

Schedule 1 (continued)

- 10 Section 74(2), ‘section 69’—**
omit, insert—
‘part 2’.
- 11 Section 89(1)—**
insert—
‘(c) the member has made an election under chapter 1, part 6A.’.
- 12 Section 89A(1)(b)(i) and (ii)—**
omit, insert—
‘(i) is at least 65 years, but less than 75 years, and did not work at least 240 hours in the previous financial year; or
(ii) was, on 1 July 2004, at least 75 years and is not employed for at least 30 hours per week; or
(iii) turned 75 after 1 July 2004; and’.
- 13 Section 89A—**
insert—
‘(4) Despite subsection (3), the prescribed time for an affected member is 28 days after the commencement day.
(5) For subsection (4), a member is an *affected member* if—
(a) on the commencement day, subsection (1)(a) and (b) apply to the member; and
(b) immediately before the commencement day, subsection (1)(b), as in force at that time, did not apply to the member.
(6) In this section—
commencement day means the day this definition commences.’.

Schedule 1 (continued)

14 Section 89D—

insert—

‘(g) another ground that the board is satisfied is consistent with a ground mentioned in paragraphs (a) to (f).’.

15 Section 118(4) and (5)—

omit.

16 Section 118(6), ‘having remarried or married’—

omit.

17 Section 118(6), ‘pursuant to subsection (5)’—

omit, insert—

‘under this section’.

18 Section 118—

insert—

‘(8) If a person was entitled to a pension under this section but, under subsection (4) as in force before the commencement day, the pension stopped being payable—

(a) subject to subsection (6), the person’s entitlement to a pension under this section resumes from the commencement day; and

(b) if subsection (6) applies to the person, the person may make an election under subsection (6) within 6 months after the commencement day.

‘(9) In this section—

commencement day means the day subsection (8) commences.’.

Schedule 1 (continued)

- 19 Section 160(5)—**
omit.
- 20 Section 160(6), ‘Subsection (5)’—**
omit, insert—
‘This section’.
- 21 Section 160—**
insert—
‘(21) Subsection (22) applies if a person was entitled to a pension under this section but, under section 118(4) as in force before the commencement day, the pension stopped being payable.
‘(22) Subject to subsection (6), the person’s entitlement to a pension under this section resumes from the commencement day.
‘(23) In this section—
commencement day means the day section 118(8) commences.’.
- 22 Section 186(5) and (6)—**
omit.
- 23 Section 186(7), ‘having remarried or married’—**
omit.
- 24 Section 186(7), ‘pursuant to subsection (6)’—**
omit, insert—
‘under this section’.

Schedule 1 (continued)

25 Section 186—

insert—

‘(11) If a person was entitled to a pension under this section but, under subsection (5) as in force before the commencement day, the pension stopped being payable—

(a) subject to subsection (7), the person’s entitlement to a pension under this section resumes from the commencement day; and

(b) if subsection (7) applies to the person, the person may make an election under subsection (7) within 6 months after the commencement day.

‘(12) In this section—

commencement day means the day subsection (11) commences.’.

26 Section 242(4) and (5)—

omit.

27 Section 242(6), ‘having remarried’—

omit.

28 Section 242(6), ‘pursuant to subsection (5)’—

omit, insert—

‘under this section’.

29 Section 242—

insert—

‘(8) If a person was entitled to a pension under this section but, under subsection (4) as in force before the commencement day, the pension stopped being payable—

Schedule 1 (continued)

- (a) subject to subsection (6), the person's entitlement to a pension under this section resumes from the commencement day; and
- (b) if subsection (6) applies to the person, the person may make an election under subsection (6) within 6 months after the commencement day.

'(9) In this section—

commencement day means the day subsection (8) commences.'

30 Section 295(6) and (7)—

omit.

31 Section 295(8), 'having remarried'—

omit.

32 Section 295(8), 'pursuant to subsection (7)'—

omit, insert—

'under this section'.

33 Section 295—

insert—

- '(11) If a person was entitled to a pension under this section but, under subsection (6) as in force before the commencement day, the pension stopped being payable—
- (a) subject to subsection (8), the person's entitlement to a pension under this section resumes from the commencement day; and
 - (b) if subsection (8) applies to the person, the person may make an election under subsection (8) within 6 months after the commencement day.

Schedule 1 (continued)

‘(12) In this section—

commencement day means the day subsection (11) commences.’.

Schedule 2 Minor or technical amendments of the Superannuation (State Public Sector) Deed 1990

section 2

- 1 Section 29DA(1), ‘chapters’—**
omit, insert—
‘chapter’.

- 2 Section 92A, after ‘means’—**
insert—
‘a woman’.

- 3 Section 92A(a) and (b), ‘a woman’—**
omit.

- 4 Section 92A(a), after ‘;’—**
insert—
‘or’.

- 5 Section 102(1)(a) and (b), after ‘;’—**
insert—
‘and’.

- 6 Section 102(2)(a)(i), ‘and’—**
omit, insert—
‘or’.

Schedule 2 (continued)

- 7 Section 102(2)(a)(ii), after ‘;’—**
insert—
‘or’.
- 8 Section 103(4)(a)(i)(A), ‘and’—**
omit, insert—
‘or’.
- 9 Section 103(4)(a)(i)(B), after ‘;’—**
insert—
‘or’.
- 10 Section 107(1)(a) and (b), after ‘;’—**
insert—
‘or’.
- 11 Section 120(2)(a)(i), after ‘;’—**
insert—
‘and’.
- 12 Section 127(1)(a) and (b), after ‘;’—**
insert—
‘or’.
- 13 Section 128(6)(a), after ‘;’—**
insert—
‘and’.

Schedule 2 (continued)

- 14 Section 139(5)(b) ‘WorkCover Queensland Act 1996’—**
omit, insert—
‘Workers’ Compensation and Rehabilitation Act 2003’.
- 15 Section 143(1) and (2), ‘part 4’—**
omit, insert—
‘part’.
- 16 Section 145(5), ‘part 4’—**
omit, insert—
‘part’.
- 17 Section 160(11), from ‘and the reference’ to ‘approved by the board’—**
omit.
- 18 Section 185(6), ‘definition d’ —**
omit, insert—
‘definition D’.
- 19 Section 186(7), ‘of chapter 4’—**
omit.
- 20 Section 191(2)(c), from ‘pursuant’ to ‘(g)’—**
omit, insert—
‘under section 13(4) of the Act’.

Schedule 2 (continued)

- 21 Section 191(12), ‘(4) or’—**
omit, insert—
‘(5) or’.
- 22 Section 202(1)(b), ‘WorkCover Queensland Act 1996’—**
omit, insert—
‘Workers’ Compensation and Rehabilitation Act 2003’.
- 23 Section 205(9)(a), (10)(a) and (11)(a), after ‘percentage;’—**
insert—
‘or’.
- 24 Section 205(12)(a), after ‘;’—**
insert—
‘and’.
- 25 Section 207(6), ‘sections 169(13), 191(1) or 191(10) of this chapter and section 167(3) of chapter 4’—**
omit, insert—
‘section 93(8), 169(13), 191(1) or 191(10)’.
- 26 Section 211(5)(c)(i)(A), after ‘;’—**
insert—
‘or’.
- 27 Section 225(1)(a), (b) and (c), after ‘;’—**
insert—
‘or’.

Schedule 2 (continued)

- 28 Section 225(2) and (4), ‘section 265(3)’—**
omit, insert—
‘section 265’.
- 29 Section 225(2)(a)(ii), after ‘;’—**
insert—
‘and’.
- 30 Section 240(2)—**
omit.
- 31 Section 243(2)(a)(i), after ‘;’—**
insert—
‘and’.
- 32 Section 246(5), ‘Subsection (3) applies’—**
omit, insert—
‘Subsections (3) and (4) apply’.
- 33 Section 246(5)(a), after ‘;’—**
insert—
‘and’.
- 34 Section 262(1), ‘or 248’—**
insert—
‘and 248’.

Schedule 2 (continued)

- 35 Section 262(2)(c), ‘to which subsection (1)(a) or (b) apply’—**
insert—
‘to whom subsection (1)(a) or (b) applies’.
- 36 Section 262(2)(e), ‘apply’—**
insert—
‘applies’.
- 37 Section 264(6)(a), ‘section 265(3)’—**
omit, insert—
‘section 265’.
- 38 Section 264(6)(a)(ii), after ‘;’—**
insert—
‘and’.
- 39 Section 275, from ‘Notwithstanding’ to ‘division 4 applies;’—**
omit, insert—
‘Despite anything in this chapter, a member of the police force to whom section 274 applies’.
- 40 Section 280(1), definition *child’s pension*, ‘part 4, division 3’—**
omit, insert—
‘part 3, division 4’.

Schedule 2 (continued)

- 41 Section 285(7), ‘part 4’—**
omit, insert—
‘part 3’.
- 42 Section 286, heading, after ‘3’—**
insert—
‘of the 1974 Act’.
- 43 Section 287(4)(a)(i), (ii) and (iii), ‘and’—**
omit, insert—
‘or’.
- 44 Section 287(4)(b)(i) and (ii), after ‘;’—**
insert—
‘or’.
- 45 Section 299(1)(c), after ‘;’—**
insert—
‘or’.
- 46 Section 299(11), from ‘or under’ to ‘chapter 6’—**
omit, insert—
‘or 223(2)’.
- 47 Section 312(7)(a)(i), after ‘;’—**
insert—
‘or’.

Schedule 2 (continued)

- 48 Section 312(9)(a), (10)(a) and (11)(a), after ‘percentage;’—**
insert—
‘or’.
- 49 Section 314(1)(b), from ‘chapter 1’ to ‘determine’—**
omit, insert—
‘section 19(2)(c), may decide’.
- 50 Schedule 1, section 5(a) and (b), after ‘;’—**
insert—
‘and’.
- 51 Schedule 1, section 6(a), after ‘part 7’—**
insert—
‘, as in force on 30 June 1994,’.
- 52 Schedule 1, section 6(a), ‘before 30 June’—**
omit, insert—
‘on 30 June’.
- 53 Schedule 9, ‘chapter 4, section 161(2) and (3)’—**
omit, insert—
‘section 161(3)’.
- 54 Schedule 18, below schedule heading—**
insert—
‘sections 225, 264 and 265’.

Schedule 2 (continued)

55 Schedule 24—

omit.

56 Schedule 25—

omit.

ENDNOTES

- 1 Made by the Governor in Council on 31 March 2005.
- 2 The amendments approved by this regulation were made by the Board of Trustees of the State Public Sector Superannuation Scheme on 23 February 2005.
- 3 Notified in the gazette on 1 April 2005.
- 4 Laid before the Legislative Assembly on . . .
- 5 The administering agency is the Treasury Department.