



Queensland

Superannuation (State Public Sector) Amendment of Deed Regulation (No. 1) 2008

Subordinate Legislation 2008 No. 292

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) 2008*.

2 Commencement

- (1) Sections 10 and 13(2) and (3) are taken to have commenced on 1 July 2008.
- (2) Sections 17 and 18 commence on 1 September 2008.

3 Deed amended

This regulation amends the *Superannuation (State Public Sector) Deed 1990*.

4 Amendment of s 4 (Definitions)

Section 4, definition *eligible spouse contributions*—
omit, insert—

‘eligible spouse contributions means contributions, made on behalf of a member’s spouse, that are eligible for a tax offset under the *Income Tax Assessment Act 1997* (Cwlth), section 290-230.’.

5 Replacement of s 16 (Investment)

Section 16—
omit, insert—

‘16 Investment

‘The board must arrange for the investment of all amounts standing to the credit of the fund that in the board’s opinion are not immediately required for the payment of benefits under this deed or for the purposes of the Act.’.

6 Amendment of s 23A (Eligibility to transfer)

Section 23A(a)—

[s 7]

omit, insert—

‘(a) the member is—

- (i) an employed member; or
- (ii) a member in the State 72 category and has made an election under section 191(2); or
- (iii) a member in the police 74 category and has made an election under section 299(2); and’.

7 Amendment of s 23C (Accumulation categories)

(1) Section 23C(6), after ‘section 23F(4)’—

insert—

‘or 23FA(3)’.

(2) Section 23C(7), after ‘section 23F(5)’—

insert—

‘or 23FA(4)’.

8 Amendment of s 23F (Transfer amounts)

Section 23F—

insert—

‘(1A) However, this section does not apply to a member to whom section 23FA applies.’.

9 Insertion of new s 23FA

After section 23F—

insert—

‘23FA Transfer amounts for certain members

‘(1) This section applies to a member in the State 72 or police 74 category—

- (a) on whose account an amount was credited to the fund under section 191(4) or 299(4); and

-
- (b) who transfers from the State 72 or police 74 category to an accumulation category.
- ‘(2) On the transfer of the member to the accumulation category, the board must pay the amount stated in this section (the *transfer amount*) to the member’s accumulation account.
- ‘(3) The transfer amount for a transfer from the State 72 category is the amount credited in the fund on behalf of the member under section 191(4), together with interest, calculated at the rate determined under section 191(9), for the period from the day the amount was credited in the fund to the day of the transfer.
- ‘(4) The transfer amount for a transfer from the police 74 category is the amount credited in the fund on behalf of the member under section 299(4), together with interest, calculated at the rate determined under section 299(10), for the period from the day the amount was credited in the fund to the day of the transfer.’.

10 Replacement of ch 1, pt 6A (Election to stop compulsory contributions)

Chapter 1, part 6A—

omit, insert—

‘Part 6A Superannuation guarantee shortfall

‘27A Additional contributions to be made by employer for certain members

- ‘(1) If, in a period, the contributions paid to the board by an employer of a member on behalf of the member is less than 9% of the ordinary time earnings paid by the employer to the member for the period, the employer must pay an amount (a *top-up amount*) equal to the difference to the board.
- ‘(2) If the board receives a top-up amount on behalf of a member, the board must credit the member’s accumulation account with the amount.

[s 11]

‘(3) In this section—

ordinary time earnings means the total of the following—

- (a) earnings for ordinary hours of work, other than any of the following payments made to an employee on the termination of the employee’s employment—
 - (i) a payment for unused sick leave; or
 - (ii) an unused annual leave payment, or unused long service leave payment, within the meaning of the *Income Tax Assessment Act 1997*;
- (b) amounts for over-award payments, shift loadings or commissions.’.

11 Amendment of s 32 (Definitions for ch 2)

- (1) Section 32, definition *preservation cashing condition*, paragraph (c), before ‘becoming’—

insert—

‘ceasing to be an employed member after’.

- (2) Section 32, definition *preservation cashing condition*, paragraph (d), ‘not mentioned in paragraph (c)’—

omit, insert—

‘other than becoming totally and permanently disabled’.

12 Amendment of s 50 (Income protection benefit)

- (1) Section 50(1A)—

renumber as section 50 (1B).

- (2) Section 50—

insert—

‘(1A) However, subsection (1) does not apply if the member is entitled to be absent from duty on sick leave with salary.’.

- (3) Section 50(1B), as renumbered, ‘However’—

omit, insert—

‘Also’.

13 Amendment of s 68 (Definitions for ch 3)

- (1) Section 68, definition *preservation cashing condition*, paragraphs (a)(iii) and (b)(v), before ‘becoming’—

insert—

‘ceasing to be an employed member after’.

- (2) Section 68, definition *preservation cashing condition*, paragraph (a)—

insert—

‘(v) has a terminal medical condition within the meaning of the *Superannuation Industry (Supervision) Regulations 1994* (Cwlth), section 6.01A; or’.

- (3) Section 68, definition *preservation cashing condition*, paragraph (b)—

insert—

‘(x) has a terminal medical condition within the meaning of the *Superannuation Industry (Supervision) Regulations 1994* (Cwlth), section 6.01A.’.

14 Amendment of s 72 (Payment of contributions)

Section 72(4), definition *prescribed percentage*, paragraph (ba)—

omit.

15 Replacement of s 79 (Time for payment of benefits)

Section 79—

omit, insert—

[s 16]

‘79 Time for payment of benefits

- ‘(1) This section applies if a preservation cashing condition for a member has happened and the member has applied, in writing, to the board for payment to the member of the whole, or part, of the amount in the member’s accumulation account.
- ‘(2) The board must pay to the member the amount in the member’s accumulation account or, if a lesser amount is requested by the member, the lesser amount.’.

16 Amendment of s 89 (Ineligible members)

Section 89(1)(c) and (3)(c)—
omit.

17 Renumbering of s 89KA (Payments from provident fund)

Section 89KA—
renumber as section 89KE

18 Insertion of new ch 3, pt 4AA

Chapter 3, after section 89K—
insert—

‘Part 4AA Tax file number

‘89KA Definitions for pt 4AA

‘In this part—

commencement means the commencement of this section.

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

new member means a person who becomes a member on or after the commencement.

non-concessional contribution means—

- (a) a contribution complying with the *Income Tax Assessment Act 1997* (Cwlth), section 292-90(2); or
- (b) an amount mentioned in the *Income Tax Assessment Act 1997* (Cwlth), section 292-90(4).

tax file number see the *Income Tax Assessment Act 1936* (Cwlth), section 202A.

‘89KB Tax file number not given to board within 30 days

‘(1) This section applies if—

- (a) a current member—
 - (i) has not before the commencement given the board details of the member’s tax file number; and
 - (ii) does not give the board details of the member’s tax file number within 30 days after the commencement (the **30 day period**); or
- (b) a new member does not give the board details of the member’s tax file number within 30 days after becoming a member (also the **30 day period**).

‘(2) The board must—

- (a) return any non-concessional contributions made by, or on behalf of, the current member or new member during the 30 day period; and
- (b) not accept a non-concessional contribution made by, or on behalf of, the current member or new member until the member gives the board details of the member’s tax file number.

‘89KC Tax file number not given to board within 6 months

‘(1) This section applies if—

- (a) a current member—
 - (i) has not before the commencement given the board details of the member’s tax file number; and

[s 19]

- (ii) does not give the board details of the member's tax file number within 6 months after the commencement; or
 - (b) a new member does not give the board details of the member's tax file number within 6 months after becoming a member.
- '(2) However, this section does not apply if the current member or new member belongs to the basic accumulation category.
- '(3) The board must transfer the current member or new member to the basic accumulation category.

'89KD Tax file number given to board after member transferred

- '(1) This section applies if—
 - (a) a member is transferred to the basic accumulation category under section 89KC (the *initial transfer*); and
 - (b) the member later gives the board details of the member's tax file number.
- '(2) The board must transfer the member back to the accumulation category the member belonged to immediately before the initial transfer.'

19 Amendment of s 346 (Benefit of widows of members other than continuing members)

Section 346(2)—

omit, insert—

- '(2) Subsection (3) applies if under subsection (1)(b)—
 - (a) the new member has served as a member for an aggregate period of more than 20 years; and
 - (b) the number (the *actual number*) worked out under subsection (1)(b) by dividing factor D by factor E is less than the highest number that would have been worked out under subsection (1)(b) by dividing factor D by factor E had the new member ceased to be a member at

any earlier time after completing 20 years service in the Assembly.

- ‘(3) The actual number is taken to be the highest number.
- ‘(4) This section is subject to section 347.’.

ENDNOTES

- 1 Consented to by the Board of Trustees of the State Public Sector Superannuation Scheme on 31 July 2008.
- 2 Made by the Governor in Council on 28 August 2008.
- 3 Notified in the gazette on 29 August 2008.
- 4 Laid before the Legislative Assembly on . . .
- 5 The administering agency is the Treasury Department.

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