



Queensland

Superannuation (State Public Sector) Amendment of Deed Regulation (No. 1) 2015

Subordinate Legislation 2015 No. 72

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) 2015*.

2 Deed amended

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

3 Insertion of new ch 1, pts 7G and 7H

Chapter 1—

insert—

**Part 7G Access on
compassionate and
severe financial
hardship grounds**

Division 1 Preliminary

29U Definitions for pt 7G

In this part—

accessible amount, for a member, means the total of the following amounts—

- (a) the amount (if any) in the member's accumulation account but, if contributions are being made for the member's membership in the State 72 or police 74 category, excluding—
 - (i) each amount paid by an employer under section 72 (the *first amount*), less an amount mentioned in section 77(3) applicable to the first amount; and

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- (ii) earnings under section 78 on each amount paid by an employer under section 72;
- (b) the amount (if any) in the member's non-public sector accumulation account;
- (c) if the member is a member in the standard defined benefit category—the member's defined benefit amount.

Commonwealth income support agency means a Commonwealth department or agency responsible for administering a class of Commonwealth income support payments.

Commonwealth income support payment has the meaning given by the SIS regulation, regulation 6.01(2).

component, of a member's accessible amount, means an amount mentioned in definition *accessible amount*, paragraph (a), (b) or (c).

defined benefit amount, for a member in the standard defined benefit category, means—

- (a) if the member has attained the age of 55 years—the amount that would be payable from the fund to the member as a member in the standard defined benefit category if the member retires; or
- (b) if the member is under the age of 55 years and is an employed member—
 - (i) the amount that would be credited to the member's accumulation account under section 52 for the member's current employment if the member resigns and makes a request under section 52(8); and
 - (ii) the amount (if any) mentioned in section 52(2) that would be credited to the member's accumulation account for

the member's previous employment if the member makes a request under section 52(8); or

- (c) if the member is under the age of 55 years and is not an employed member—the amount mentioned in section 52(2) that would be credited to the member's accumulation account if the member makes a request under section 52(8).

severe financial hardship ground means a ground applying to a member under section 29X.

Division 2 Access on compassionate grounds

29V Access to accessible amount on compassionate grounds

- (1) This section applies if under the SIS regulation, regulation 6.19A—
 - (a) a member applies to the Commonwealth decision-maker for payment of the whole, or a part, of the member's accessible amount; and
 - (b) the Commonwealth decision-maker decides that the member is entitled to a release of benefits on compassionate grounds.
- (2) The board must pay to the member the amount approved by the Commonwealth decision-maker (the *approved amount*).
- (3) If the approved amount is less than the member's accessible amount and the member's accessible amount comprises more than 1 component, the member may elect the component that is to be used for paying the approved amount to the member.

[s 3]

- (4) The election must—
 - (a) be made in writing to the board; and
 - (b) state how much of the approved amount is to come from each component of the member's accessible amount.
- (5) If the member elects for all or part of the member's defined benefit amount to be used for paying the approved amount to the member, the board must reduce the member's defined benefit amount by the part of it used for paying the approved amount.
- (6) The reduction in the defined benefit amount mentioned in subsection (5) must be made in the way decided by the board on the advice of the actuary.

Division 3 Access on ground of severe financial hardship

29W Application for access

- (1) A member may apply to the board for payment of the whole, or a part, of the member's accessible amount on a severe financial hardship ground (*financial hardship payment*).
- (2) An application under subsection (1) must—
 - (a) be made in writing; and
 - (b) if the application relates to only part of the member's accessible amount and the member's accessible amount comprises more than 1 component, state the component that is to be used for making the financial hardship payment to the member.

29X Access to accessible amount on severe financial hardship ground

- (1) The board may make a financial hardship payment to the member only if the board is satisfied a severe financial hardship ground applies to the member.
- (2) The payment may only be made as a single lump sum.
- (3) A severe financial hardship ground applies to a member if—
 - (a) the member gives the board a written statement from a Commonwealth income support agency stating—
 - (i) the member has received Commonwealth income support payments for a continuous period of 26 weeks; and
 - (ii) the member was receiving the income support payments at the date of the statement; and
 - (b) the board is satisfied the member can not meet reasonable and immediate family living expenses.
- (4) Also, for a member who has reached preservation age and 39 weeks or more, a severe financial hardship ground applies to a member if—
 - (a) the member gives the board a written statement from a Commonwealth income support agency stating the member received Commonwealth income support payments for a cumulative period of 39 weeks after the member reached preservation age; and
 - (b) the board is satisfied the member was not employed for at least 10 hours a week on the date of the member's application to the board.

[s 3]

- (5) The date of the statement mentioned in subsection (3)(a) must not be more than 21 days before the date of the member's application to the board.
- (6) If an application made under section 29W(2) states that all or part of the member's defined benefit amount is to be used for making a financial hardship payment to the member, the board must reduce the member's defined benefit amount by the part of it used for making the financial hardship payment.
- (7) The reduction in the defined benefit amount mentioned in subsection (6) must be made in the way decided by the board on the advice of the actuary.

29Y Limitations on access

- (1) This section applies to a payment to a member on the severe financial hardship ground stated in section 29X(3).
- (2) The board may pay the member—
 - (a) a minimum amount of the lower of the following—
 - (i) \$1000;
 - (ii) the member's accessible amount; and
 - (b) a maximum amount of \$10,000.
- (3) The board may not make a further payment to the member on the ground within 12 months after the payment.

Part 7H Withdrawals from account under taxation legislation

29Z Definitions for pt 7H

In this part—

commissioner means the commissioner of taxation under the *Income Tax Assessment Act 1997* (Cwlth).

debt account discharge liability, for a superannuation interest, see the *Taxation Administration Act 1953* (Cwlth), schedule 1, section 133-120.

29ZA Payments under release authority generally

- (1) This section applies if the board—
 - (a) is given a release authority under taxation legislation for an amount held in a member's account; and
 - (b) is, because of receiving the release authority, required, under the taxation legislation, to pay an amount (the *release amount*) to the commissioner or the member (the *proper recipient*).
- (2) The board must withdraw the release amount from the member's account and pay the amount to the proper recipient.

Note—

For examples of provisions of taxation legislation providing for payment of amounts under a release authority, see—

- the *Income Tax Assessment Act 1997* (Cwlth), subdivision 292-G

[s 3]

- the *Taxation Administration Act 1953* (Cwlth), schedule 1, divisions 96 and 135.

(3) In this section—

account means accumulation account or non-public sector accumulation account.

taxation legislation means the *Income Tax Assessment Act 1997* (Cwlth) or the *Taxation Administration Act 1953* (Cwlth).

29ZB Payments under release authority using pension for particular members

(1) This section applies if—

- (a) under section 29ZA, the board is required to pay a release amount to the commissioner; and
- (b) the release amount relates to the member's debt account discharge liability for a superannuation interest; and
- (c) the member belongs to a closed defined benefit category and—
 - (i) has elected to take all or part of the benefit payable to the member for membership of that category in the form of a pension (the **member's pension**); or
 - (ii) is receiving an incapacity pension, other than an incapacity pension for a period of sick leave of absence without salary (also the **member's pension**).

(2) The member may elect that all or part of the release amount be paid from the member's pension—

- (a) as a lump sum; or
- (b) at periodic intervals.

- (3) The election must—
 - (a) be made in writing to the board; and
 - (b) state the amount that is to be paid from the member's pension as mentioned in subsection (2)(a) or (b).
- (4) The amount mentioned in subsection (3)(b) must be paid from the member's defined benefit amount in the way decided by the board on the advice of the actuary.
- (5) The maximum amount of the member's pension that may be used to pay the release amount under this part is the amount stated under subsection (3)(b).

29ZC Payments under release authority using defined benefit amount

- (1) This section applies if—
 - (a) under section 29ZA, the board is required to pay a release amount to the commissioner; and
 - (b) the release amount relates to the member's debt account discharge liability for a superannuation interest; and
 - (c) the member belongs to the standard defined benefit category.
- (2) The member may elect that all or part of the release amount be paid from the member's defined benefit amount.
- (3) The election must—
 - (a) be made in writing to the board; and
 - (b) state the amount that is to be paid from the member's defined benefit amount as mentioned in subsection (2).

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- (4) The amount mentioned in subsection (3)(b) must be paid from the member's defined benefit amount in the way decided by the board on the advice of the actuary.
- (5) The maximum amount of the member's defined benefit amount that may be used to pay the release amount under this part is the amount stated under subsection (3)(b).
- (6) In this section—
defined benefit amount see section 29U.

4 Replacement of s 30D (Application for payment on compassionate or severe financial hardship ground)

Section 30D—

omit, insert—

30D Application for payment on compassionate or severe financial hardship ground

- (1) This section applies to an application by a member for a payment under section 89D, 89I, 411 or 412, as in force before the commencement.
- (2) If, immediately before the commencement, the application had not been decided, it is taken to have been made—
 - (a) for an application for payment on a compassionate ground—under section 29V; or
 - (b) for an application for payment on a severe financial hardship ground—under section 29W.

5 Replacement of s 64 (Salary reduction)

Section 64—

omit, insert—

64 Salary reduction

- (1) This section applies if—
 - (a) an employed member's annual review date salary for a year of membership of the scheme is less than for a previous year or years of membership; and
 - (b) the board, after consulting the actuary and having regard to the reduction in salary and benefits that occurred and to the length of time the member received the higher salary, decides in its discretion that an additional amount to compensate wholly or partly for the reduction in salary should be paid to the member's accumulation account.
- (2) The board must pay the additional amount to the member's accumulation account.

6 Amendment of s 70 (Acceptance of contributions—member aged at least 65)

Section 70(2)(a)—

omit, insert—

- (a) the contribution is received on or before the day that is 28 days after the end of the month in which the member turns 75; and

7 Omission of s 70A (Acceptance of contributions for certain members)

Section 70A—

omit.

8 Amendment of s 72 (Payment of contributions)

- (1) Section 72(1), 'who has not attained the age of 70 years shall'—

[s 9]

omit, insert—

must

(2) Section 72(2)—

omit.

(3) Section 72(3), ‘Subsections (1) and (2) apply’—

omit, insert—

Subsection (1) applies

9 Omission of s 89BA, ch 3, pt 4A and ch 10, pt 4

Section 89BA, chapter 3, part 4A and chapter 10, part 4—

omit.

10 Insertion of new s 91B

Chapter 3, part 5—

insert—

91B Transitional—repealed section 72(2)

A reference in this deed to section 72(2) is taken to be a reference to section 72(2) as in force before its repeal.

11 Amendment of s 340 (Members’ superannuation benefit)

(1) Section 340(9), definition *resignation matter*—

omit.

(2) Section 340(9)—

insert—

Parliamentary Benefits Committee means a committee consisting of the following persons—

- (a) the Premier;
- (b) the Speaker of the Legislative Assembly;

- (c) the member of the Legislative Assembly who is recognised as the Leader of the Opposition.

resignation matter means a matter about whether a person has resigned, or not sought re-election, as a member of the Legislative Assembly for good and sufficient reasons.

ENDNOTES

- 1 Consented to by the Board of Trustees of the State Public Sector Superannuation Scheme on 25 June 2015.
- 2 Made by the Governor in Council on 9 July 2015.
- 3 Notified on the Queensland legislation website on 10 July 2015.
- 4 The administering agency is Queensland Treasury.

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