



Queensland

# Superannuation (State Public Sector) Amendment of Deed Regulation 2019

## Subordinate Legislation 2019 No. 95

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 2019*.

**2 Deed amended**

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

**3 Amendment of s 4 (Definitions)**

(1) Section 4—

*insert—*

***death benefit dependant***, of a member of a superannuation or pension scheme or fund, or a similar scheme or fund, means a person to whom the member's beneficial interest in the scheme or fund may be paid under the SIS regulation, regulation 6.21(2)(b).

***defined benefit amount***, for a person, for chapter 10, see section 389.

***income stream funds***, for a superannuation income stream for a person, means moneys, or an amount, mentioned in section 394(2)(c) that is used to pay or purchase the income stream for the person.

***preservation cashing condition—***

- (a) for chapter 2, see section 32; or
- (b) for chapter 3, see section 68; or
- (c) for chapter 5, see section 165; or
- (d) for chapter 7, see section 280; or
- (e) for chapter 10, see section 389.

***retirement income stream*** means a superannuation income stream other than a transition to retirement income stream.

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*reversionary beneficiary* see section 390.

*superannuation income stream* means an annuity or pension within the meaning of the SIS Act.

*transition to retirement income stream* means a transition to retirement income stream under the SIS regulation, regulation 6.01(2).

- (2) Section 4, definition *preservation age*, ‘member’—  
*omit, insert—*  
person

#### **4 Amendment of s 5 (Meaning of member)**

- (1) Section 5(1)(f), ‘69(1)(a)(i)’—  
*omit, insert—*  
69(1) or (2)

- (2) Section 5(1)—  
*insert—*

- (g) the person becomes a member in the income stream category under chapter 10.

#### **5 Amendment of s 8 (Application of deed to categories of members)**

- Section 8(4), ‘9’—  
*omit, insert—*  
10

#### **6 Amendment of s 22 (Membership categories)**

- (1) Section 22(1), after 10<sup>th</sup> dot point—  
*insert—*

- income stream category

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(2) Section 22(3), after ‘other categories’—

*insert—*

, other than the income stream category,

## **7 Amendment of s 22B (Initial membership category for new members other than employed members)**

Section 22B, from ‘belongs to’—

*omit, insert—*

belongs to—

- (a) the general accumulation category; or
- (b) if the person becomes a member in the income stream category under chapter 10—  
the income stream category.

## **8 Amendment of s 26 (Transfers in)**

(1) Section 26(1), after ‘member’s’—

*insert—*

, or a prospective member’s,

(2) Section 26(1), after ‘member’—

*insert—*

or prospective member

(3) Section 26(2)—

*omit, insert—*

- (2) If the board receives an amount for a member or a prospective member under subsection (1), the board must—
  - (a) pay the amount into the member’s or prospective member’s accumulation account; or
  - (b) if the member or prospective member has applied under section 394 to start a

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superannuation income stream—use the amount as income stream funds for the income stream.

(3) In this section—

***prospective member*** means a person who has applied to the board to become a member.

## 9 Amendment of s 27 (Transfers out)

Section 27(2)—

*insert—*

*Note—*

See also sections 397(2)(c)(ii) and 398(2)(d).

## 10 Omission of ch 1, pt 7B (Transition to retirement pension)

Chapter 1, part 7B—

*omit.*

## 11 Amendment of s 29Q (Definitions for pt 7E)

(1) Section 29Q, definition *eligible death benefit*—

*insert—*

(s) section 396(4).

(2) Section 29Q, definition *eligible death benefit*—

*insert—*

*Note—*

A superannuation income stream is payable under section 396(4) only if there is no reversionary beneficiary for the income stream.

## 12 Amendment of s 50 (Income protection benefit)

(1) Section 50(8)—

*insert—*

(c) a magistrate.

(2) Section 50—

*insert—*

(9) In this section—

***magistrate*** includes an acting magistrate within the meaning of the *Magistrates Act 1991*.

### **13 Amendment of s 89B (Compulsory withdrawals on death)**

(1) Section 89B, after ‘another person’—

*insert—*

(an ***appropriate person***)

(2) Section 89B—

*insert—*

(2) However, the board may use the amount as income stream funds for a superannuation income stream if—

(a) the appropriate person is a death benefit dependant of the member; and

(b) the appropriate person has applied under section 394 to start the income stream.

### **14 Omission of ss 89L and 89M**

Sections 89L and 89M—

*omit.*

### **15 Amendment of s 91 (Preservation and portability while member)**

Section 91(4) to (6)—

*omit.*

## 16 Insertion of new ch 10

After section 388—

*insert—*

# Chapter 10 Income stream category

## Part 1 Preliminary

### 389 Definitions for chapter

In this chapter—

***defined benefit amount***, for a person, means the amount that would be payable from the fund to the person as a member in the standard defined benefit category.

***preservation cashing condition—***

- (a) for a member in the standard defined benefit category—see section 32; or
- (b) for a member in an accumulation category—see section 68; or
- (c) for another person—means a preservation cashing condition within the meaning of section 68, definition *preservation cashing condition* as if—
  - (i) a reference to member in that definition, other than in paragraphs (b)(viii) and (ix) of that definition, were a reference to person; and
  - (ii) a reference to member's in paragraphs (b)(viii) and (ix) of that definition were a reference to person's.



### **390 Meaning of *reversionary beneficiary***

A person is a *reversionary beneficiary* for a member's superannuation income stream if—

- (a) the nomination of a reversionary beneficiary is a feature of the income stream; and
- (b) the person is a death benefit dependant of the member; and
- (c) the member has nominated the person, in a way acceptable to the board, to receive the income stream after the death of the member; and
- (d) the member has not, at a later time, nominated another person under paragraph (c).

### **391 Features of superannuation income stream**

- (1) The board may offer features in a superannuation income stream that comply with the SIS Act.

*Examples of features—*

- the frequency and the amount of payments for the income stream
  - the period during which the income stream is payable
  - the nomination of a reversionary beneficiary
- (2) The board may change the features of a superannuation income stream to comply with the SIS Act.

## **Part 2                      Membership**

### **392 When person becomes member in income stream category**

A person becomes a member in the income stream category when the board—

- (a) establishes an account for a superannuation income stream for the person and pays the person's income stream funds into the account; or
- (b) uses the person's income stream funds to purchase a superannuation income stream for the person.

### **393 Membership of other categories continues**

- (1) If a member in an accumulation category or a defined benefit category (each the *first category*) becomes a member in the income stream category, the member does not stop being a member in the first category.
- (2) This section applies even if the total amount in the member's accumulation account, or all of the member's defined benefit amount, is used to pay a superannuation income stream.

## **Part 3                      Superannuation income streams**

### **394 Application to start superannuation income stream**

- (1) A person may apply to the board to start a superannuation income stream whether or not the person is a member of the fund.
- (2) The application must—
  - (a) be in writing; and
  - (b) state what features, offered by the board under section 391(1), the person wishes the superannuation income stream to have; and

- 
- (c) state whether the income stream funds for the income stream will come from all or part of—
    - (i) if the person is a member in an accumulation category—the amount in the person’s accumulation account; or
    - (ii) if the person is a member in the standard defined benefit category and the application is for a transition to retirement income stream—the person’s defined benefit amount; or
    - (iii) an amount payable to the person under section 89B or 396(4) and (5); or
    - (iv) moneys the board has received for the person under section 26.

### **395 Establishment of superannuation income stream**

- (1) This section applies if—
  - (a) a person makes an application under section 394; and
  - (b) for an application for a transition to retirement income stream—
    - (i) the person has reached preservation age; and
    - (ii) a preservation cashing condition for the person has not happened; and
  - (c) for an application for a retirement income stream—a preservation cashing condition for the person has happened, other than the person—
    - (i) dying; or
    - (ii) permanently departing from Australia following the expiry or cancellation of

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the person's eligible temporary resident visa; and

- (d) the board and the person agree on the features, offered by the board under section 391(1), the person's superannuation income stream will have.
- (2) As soon as practicable after receiving the application, the board must—
  - (a) establish an account for the superannuation income stream and pay the person's income stream funds into the account; or
  - (b) use the person's income stream funds to purchase the income stream.
- (3) If the income stream funds for the income stream are taken from the person's accumulation account or defined benefit amount, the board must reduce the account or amount by the amount of the income stream funds.
- (4) The reduction of a defined benefit amount under subsection (3) must be made in the way decided by the board on the advice of the actuary.
- (5) If the person is an employed member in the basic accumulation category and also a member in the State 72 or police 74 category, the income stream funds for the income stream must not include an amount paid into the person's accumulation account under section 73(1).

### **396 Payment of superannuation income stream**

- (1) A superannuation income stream must be paid to—
  - (a) the member for whom the income stream was established; or

- 
- (b) if the member dies and there is a reversionary beneficiary for the income stream—the reversionary beneficiary.
  - (2) However, the board must not pay a superannuation income stream in the form of a pension out of assets of the fund that are attributable to a MySuper product.
  - (3) Subsections (4) and (5) apply if—
    - (a) a member who has a superannuation income stream dies; and
    - (b) there is no reversionary beneficiary for the income stream.
  - (4) Any remaining income stream funds for the income stream must be paid to the member’s legal personal representative or another person (an **appropriate person**) who applies to the board to be paid the amount and who the board considers appropriate.

*Note—*

See section 29S for payment if there is a binding death benefit nomination in effect for the member.

- (5) However, the board may use the amount, or part of the amount, as income stream funds for a superannuation income stream if—
  - (a) the appropriate person is a death benefit dependant of the member; and
  - (b) the appropriate person has applied under section 394 to start the income stream.

### **397 Commuting superannuation income stream**

- (1) A member who has a retirement income stream may direct the board to commute part of the income stream for a lump sum payment (the **commuted amount**).
- (2) The board must, at the direction of the member,

do 1 of the following—

- (a) if the member is a member in an accumulation category—transfer the commuted amount to the member's accumulation account;
  - (b) if the member is not a member in an accumulation category—
    - (i) transfer the member to the general accumulation category; and
    - (ii) transfer the commuted amount to the member's accumulation account;
  - (c) pay the commuted amount to—
    - (i) the member; or
    - (ii) another superannuation or pension scheme or fund, or a similar scheme or fund.
- (3) The board must adjust the payment of the income stream to take account of the transfer or payment of the commuted amount.
- (4) Subsection (2) applies even if the commuted amount came from a member's defined benefit amount.

### **398 Cancelling superannuation income stream**

- (1) A member who has a superannuation income stream may cancel the income stream by giving written notice to the board.
- (2) If a superannuation income stream is cancelled, the board must, at the direction of the member, do 1 of the following—
  - (a) if the member is a member in an accumulation category—transfer any remaining income stream funds for the

- 
- income stream to the member's accumulation account;
- (b) if the member is not a member in an accumulation category—
    - (i) transfer the member to the general accumulation category; and
    - (ii) transfer any remaining income stream funds for the income stream to the member's accumulation account;
  - (c) if the income stream is a retirement income stream, or is being paid under the SIS regulation, regulation 6.21(2)(b)—pay any remaining income stream funds for the income stream to the member;
  - (d) pay any remaining income stream funds for the income stream to another superannuation or pension scheme or fund, or a similar scheme or fund.
- (3) Subsection (2) applies even if the remaining income stream funds for the income stream came from a member's defined benefit amount.

### **399 Payments to particular death benefit dependants**

Sections 396 to 398 are subject to the SIS regulation, regulation 6.21(2B).

## **Part 4                      Transitional provisions for Superannuation (State Public Sector) Amendment of Deed Regulation 2019**

#### **400 Definition for part**

In this part—

*former*, for a provision of this deed, means the provision as in force immediately before the commencement.

#### **401 Existing transition to retirement pensions**

- (1) This section applies if a member was, immediately before the commencement, entitled to be paid a transition to retirement pension (the *existing pension*) under chapter 1, former part 7B.
- (2) From the commencement—
  - (a) the member is a member in the income stream category; and
  - (b) the existing pension to be paid to the member is taken to be a transition to retirement income stream with the same rate and features as the existing pension.

#### **402 Existing pensions**

- (1) This section applies if a member was, immediately before the commencement, entitled to be paid a pension (the *existing pension*) purchased under former section 89L.
- (2) From the commencement—
  - (a) the member is a member in the income stream category; and
  - (b) the existing pension to be paid to the member is taken to be a retirement income stream in the form of a pension with the same rate and features as the existing pension.



### **403 Existing annuities**

- (1) This section applies if a member was, immediately before the commencement, entitled to be paid an annuity (the *existing annuity*) purchased under former section 89M.
- (2) From the commencement—
  - (a) the member is a member in the income stream category; and
  - (b) the existing annuity to be paid to the member is taken to be a retirement income stream in the form of an annuity with the same rate and features as the existing annuity.

ENDNOTES

- 1 Consented to by the QSuper Board on 13 December 2018.
- 2 Made by the Governor in Council on 13 June 2019.
- 3 Notified on the Queensland legislation website on 14 June 2019.
- 4 The administering agency is Queensland Treasury.

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