

# STATUTORY AUTHORITIES SUPERANNUATION LEGISLATION AMENDMENT BILL 1995

## EXPLANATORY NOTE

### GENERAL OUTLINE

#### Objectives of the Legislation

The objectives of the Bill are twofold:

- 1 To remove the requirement for Ministerial or Governor in Council approval for superannuation arrangements entered into by Statutory Authorities in recognition of new Commonwealth Government's *Superannuation Industry (Supervision) Act 1993* (SIS). The Acts concerned, which authorise the authorities' superannuation arrangements, are listed in Attachment A.
- 2 To amend the *Electricity Act 1994* to clarify that the "approved industry superannuation scheme" is a continuation of the Queensland Electricity Supply Industry Employees' Superannuation Scheme, and the Queensland Electricity Supply Industry Employer-funded Accumulations Superannuation Fund, established under the *Electricity Act 1976* ("QESIESS").

The legislation affected is—

Electricity Act 1994

Ambulance Service Act 1991

Central Queensland University Act 1989

City of Brisbane Market Act 1960

Criminal Justice Act 1989

Dairy Industry Act 1993

Egg Industry (Restructuring) Act 1993  
Fisheries Act 1994  
Fruit Marketing Organisation Act 1923  
Gladstone Area Water Board Act 1984  
Government Owned Corporations Act 1993  
Grammar Schools Act 1975  
Griffith University Act 1971  
James Cook University of North Queensland Act 1970  
Meat Industry Act 1993  
National Trust of Queensland Act 1963  
Nursing Act 1992  
Primary Producers' Organisation and Marketing Act 1926  
Queensland Institute of Medical Research Act 1945  
Queensland Office of Financial Supervision Act 1992  
Queensland Performing Arts Trust Act 1977  
Queensland Small Business Corporation Act 1990  
The Queensland University of Technology Act 1988  
Racing and Betting Act 1980  
Racing Venues Development Act 1982  
Royal Queensland Theatre Company Act 1970  
South East Queensland Water Board Act 1979  
Sugar Industry Act 1991  
Suncorp Insurance and Finance Act 1985  
Townsville/Thuringowa Water Supply Board Act 1987  
University of Queensland Act 1965  
University of Southern Queensland Act 1989  
Water Resources Act 1989

**Reason for Bill**

The reason for this Bill is to introduce amendments to the legislation governing the superannuation schemes of Queensland Statutory Authorities.

The Bill amends the Acts listed above (other than the Electricity Act) to remove the requirement for Ministerial or Governor in Council approval for superannuation arrangements made by Statutory Authorities.

The Trustees of public sector funds need to elect to be regulated under SIS by 30 June 1995 in order to retain concessional taxation treatment. The rationale of the Commonwealth Government's supervision legislation is that the Trustees of superannuation funds are responsible and accountable for all aspects of the operation of the fund. The Trustees are accountable under SIS for ensuring that the fund complies with the SIS Act and regulations.

To prevent them being thwarted in carrying out their statutory and fiduciary responsibilities, the SIS legislation states that the governing rules of a superannuation entity must generally not permit the trustees to be subject to direction by any other person in the exercise of any of the trustees' powers under those rules.

Now that the role and responsibilities of the Trustees of regulated funds have been prescribed by the Commonwealth Government, it is unnecessary for the Queensland Government to continue its supervisory role. The requirement for Ministerial or Governor in Council approval could also be seen as directing the trustees and thus breach the SIS legislation.

The Bill amends the *Electricity Act 1994* to provide that the 'approved industry superannuation scheme' is a continuation of QESI ESS which was established under the *Electricity Act 1976*. The restructure of electricity industry superannuation arrangements is also needed to meet the Commonwealth Government's SIS legislation.

When the approved industry superannuation scheme is in place all the assets and liabilities of QESI ESS will become assets and liabilities of the approved industry scheme. Also all rights, entitlement and obligations of QESI ESS become the rights, entitlements and obligations of the trustees of the new scheme. Therefore the new scheme is a continuation of the old scheme, however the legislation needs to be amended to specifically state this to ensure continuity of some benefit conditions and taxation treatment.

**Estimated Cost for Government Implementation**

Nil

**Consultation**

Consultation has occurred with all relevant Ministers, the Office of Parliamentary Counsel, Queensland Electricity Supply Industry Superannuation Scheme and the Government Superannuation Office.

**NOTES ON PROVISIONS****PART 1—PRELIMINARY**

*Clause 1* specifies the short title of the Act.

*Clause 2* provides for the retrospective commencement of Part 2, section 8 and schedule 1 on 1 December 1994, with the balance commencing on proclamation.

**PART 2—AMENDMENT OF ELECTRICITY ACT 1994**

*Clause 3* provides for the amendment of the *Electricity Act 1994*.

*Clause 4* amends the heading of section 279 by removing reference to QESI ESS and inserting a reference to the provisions of the *Electricity Act 1976*. This clause also amends section 279(3) by removing the reference in the clause which states that the section will expire on ‘transfer’ day and replacing with ‘approval’ day, being the day that the regulation giving approval for the approved industry scheme receives Governor in Council approval.

*Clause 5* amends section 280(1) by replacing ‘transfer day’ with ‘approval day’ as explained under Clause 4. The amendment to section 280 (2) provides for the Minister to be satisfied that the conditions in the approved industry scheme are an acceptable replacement of the conditions of the current scheme. This is to ensure there is a nexus between the conditions of both schemes. This clause also inserts section 280(3) which states that the approved industry superannuation scheme is a continuation of QESI ESS to provide that benefit conditions and taxation treatment are unaffected by the change.

*Clause 6* omits section 281 and separates the previous provision into two separate sections to reflect current drafting practice. This clause also replaces any reference to ‘transfer day’ with a reference to ‘approval day’ as explained under Clause 4.

*Clause 7* removes the definition of ‘transfer day’ in the dictionary (Schedule 5) and includes a definition of ‘approval day’ as explained under Clause 4.

### **PART 3—AMENDMENT OF OTHER ACTS**

*Clause 8* amends the Acts in Schedule 1.

Schedule 1 makes consequential amendments to the *Electricity Superannuation Restoration Act 1990* and *Electricity Supply Industry Employees Superannuation Restoration Act 1985* by removing references to ‘transfer day’ and replacing them with references to ‘approval day’ as explained under Clause 4.

*Clause 9* amends the Acts in Schedule 2.

Schedule 2 amends the Acts in Table 1 to remove the requirement for Ministerial or Governor in Council approval in the respective sections dealing with superannuation arrangements. This is needed to reflect changes by the Commonwealth Government of the supervision of superannuation schemes.

**Table 1**

Act	Section
Ambulance Service Act 1991	8.5
Central Queensland University Act 1989	66
City of Brisbane Market Act 1960	12A (Minister)
Criminal Justice Act 1989	68
Dairy Industry Act 1993	27
Egg Industry (Restructuring) Act 1993	67
Fisheries Act 1994	210
Fruit Marketing Organisation Act 1923	14C (Minister)
Gladstone Area Water Board Act 1984	115
Government Owned Corporations Act 1993	172 & 173
Grammar Schools Act 1975	19
Griffith University Act 1971	17A
James Cook University of North Queensland Act 1970	16A
Meat Industry Act 1993	157 & 43
National Trust of Queensland Act 1963	18A
Nursing Act 1992	41 & 42
Primary Producers' Organisation and Marketing Act 1926	29B (Minister)
Queensland Institute of Medical Research Act 1945	11B
Queensland Office of Financial Supervision Act 1992	50 & 51
Queensland Performing Arts Trust Act 1977	38A
Queensland Small Business Corporation Act 1990	4.3
Queensland University of Technology Act 1988	67
Racing and Betting Act 1980	254A
Racing Venues Development Act 1982	15
Royal Queensland Theatre Company Act 1970	29A
South East Queensland Water Board Act 1979	129
Sugar Industry Act 1991	231
Suncorp Insurance and Finance Act 1985	19
Townsville/Thuringowa Water Supply Board Act 1987	94
University of Queensland Act 1965	11B
University of Southern Queensland Act 1989	66
Water Resources Act 1989	144 & 169

(Minister)—refer to Acts which provide for the Minister to approve superannuation arrangements. The balance of the Acts require Governor in council approval.

