

Queensland



**SUPERANNUATION  
LEGISLATION  
AMENDMENT BILL 1996**

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**SUPERANNUATION LEGISLATION  
AMENDMENT BILL 1996**

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**1996**

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**A BILL**

**FOR**

**An Act to amend certain Acts about superannuation**

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**The Parliament of Queensland enacts—**

1

**PART 1—PRELIMINARY**

2

**Short title**

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Clause **1.** This Act may be cited as the *Superannuation Legislation Amendment Act 1996*.

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**PART 2—AMENDMENT OF STATE SERVICE  
SUPERANNUATION ACT 1972**

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7

**Act amended**

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Clause **2.** This part amends the *State Service Superannuation Act 1972*.

9

**Replacement of s 49 (Benefits payable to certain members)**

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Clause **3.** Section 49—

11

*omit, insert—*

12

**‘Definitions for div 8**

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**‘49.** In this division—

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**“application date”** means—

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(a) for a class 1 or 2 marine officer—the commencement of this section; or

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17

(b) for a declared relevant officer—the date of declaration as a relevant officer.

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**“award”** means an award, certified agreement, enterprise flexibility agreement or industrial agreement under the *Industrial Relations Act 1990* or an award under the *Industrial Relations Act 1988* (Cwlth), and

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- includes a properly varied award. 1
- “class 1 marine officer”** means a person who— 2
- (a) was employed by the State on 30 June 1994 under— 3
- (i) the Public Service Award—State—Hours of Duty and 4  
Working Conditions of Queensland Government Marine 5  
Pilots—Industrial Agreement; or 6
- (ii) the Public Service Award—State—Employees of the 7  
Department of Harbours and Marine Employed on Pilot 8  
Vessels at Queensland Outports (excluding 9  
Mooloolaba)—Industrial Agreement; and 10
- (b) continued to be employed by the State after 30 June 1994 under 11  
the Marine Operations Enterprise Development Agreement.<sup>1</sup> 12
- “class 2 marine officer”** means a person who— 13
- (a) was employed by the State on 30 June 1995 under the Conditions 14  
of Employment—Shipping Information Officers, Lytton Hill and 15  
Caloundra Signal Stations, Department of Harbours and 16  
Marine—Industrial Agreement; and 17
- (b) continued to be employed by the State after 30 June 1995 under 18  
the Marine Operations Enterprise Development Agreement. 19
- “declared relevant officer”** means an officer declared under a regulation to 20  
be a declared relevant officer for this division. 21
- “fresh award”**, for a declared relevant officer, means the award declared 22  
under a regulation to be the fresh award for the officer. 23
- “fresh award date”**, for a declared relevant officer, means the date the 24  
fresh award for the officer commences. 25
- “miscellaneous officer”** means a person who— 26
- (a) was employed by the State on 11 November 1993 under the 27  
Miscellaneous Workers Award—State Government at a rate of 28  
pay of not more than 30 hours per week; and 29
- (b) continued to be employed by the State after 11 November 1993 30

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<sup>1</sup> The agreement is an industrial agreement under the *Industrial Relations Act 1990*.

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under the Employees of Queensland Government Departments (Other than Public Servants) Award.	1 2
<b>“officer”</b> includes a former officer.	3
<b>“old award”</b> , for a declared relevant officer, means the award declared under a regulation to be the old award for the officer.	4 5
<b>“old award date”</b> , for a declared relevant officer, means the date the old award for the officer ceases to be binding on the officer.	6 7
<b>“relevant officer”</b> means—	8
(a) a miscellaneous officer; or	9
(b) a class 1 or 2 marine officer; or	10
(c) a declared relevant officer.	11
 <b>‘Benefits payable to certain contributors</b>	 12
<b>‘49A.(1)</b> Despite divisions 1 to 7, benefits paid or payable from the fund for a contributor who is a relevant officer are—	13 14
(a) for a miscellaneous officer—	15
(i) for employment before 12 November 1993—the benefits calculated as at 12 November 1993; and	16 17
(ii) for employment on and after 12 November 1993—the benefits payable under divisions 1 to 7; or	18 19
(b) for a class 1 marine officer—	20
(i) for employment before 1 July 1994—the benefits calculated as at 1 July 1994; and	21 22
(ii) for employment on and after 1 July 1994—the benefits payable under divisions 1 to 7; or	23 24
(c) for a class 2 marine officer—	25
(i) for employment before 1 July 1995—the benefits calculated as at 1 July 1995; and	26 27
(ii) for employment on and after 1 July 1995—the benefits payable under divisions 1 to 7; or	28 29

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- (d) for a declared relevant officer— 1
- (i) for employment before the fresh award date for the 2  
officer—the benefits calculated as at the fresh award date; 3  
and 4
- (ii) for employment on and after the fresh award date for the 5  
officer—the benefits payable under divisions 1 to 7. 6
- ‘(2) The actuary must calculate the officer’s benefits under 7  
subsection (1)(a)(i), (1)(b)(i), (1)(c)(i) or (1)(d)(i). 8
- ‘(3) For a class 1 or 2 marine officer or a declared relevant officer, the 9  
calculation must be made as soon as practicable after the officer’s 10  
application date. 11
- ‘(4) However, the benefits calculated— 12
- (a) for a miscellaneous officer—must not be less than the benefits to 13  
which the officer was entitled under divisions 1 to 7 as at 14  
11 November 1993; or 15
- (b) for a class 1 marine officer—must be equivalent to the benefits to 16  
which the officer would have been entitled under divisions 1 to 7 17  
as at 30 June 1994; or 18
- (c) for a class 2 marine officer—must be equivalent to the benefits to 19  
which the officer would have been entitled under divisions 1 to 7 20  
as at 30 June 1995; or 21
- (d) for a declared relevant officer—must be equivalent to the benefits 22  
to which the officer would have been entitled under divisions 1 to 23  
7 as at the old award date for the officer. 24
- ‘(5) If, under the calculation, the amount of the officer’s benefits is less 25  
than the amount paid or held in the fund on account of the officer under this 26  
Act before the application date, the board may, under section 46A, recover 27  
from the officer the difference between the amounts. 28
- ‘Special provisions for regulation-making power under division 29**
- ‘49B.(1) A regulation may declare an officer to be a declared relevant 30  
officer only if— 31
- (a) the officer was bound by an award that— 32



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(i) was properly varied; or	1
(ii) was rescinded and a fresh award binding on the officer was made in substitution for it; and	2 3
(b) the officer’s salary has changed under the varied or fresh award; and	4 5
(c) the Governor in Council declares under the regulation that the Governor in Council is satisfied that, because of the making of the varied or fresh award, the officer’s benefits under this Act were changed in an unintended way in relation to the officer’s employment before the making of the varied or fresh award.	6 7 8 9 10
‘(2) To remove any doubt, it is declared that a regulation made under the definition “fresh award” may declare an award that commenced before the regulation commences to be the fresh award for the officer.’.	11 12 13

<b>PART 3—AMENDMENT OF SUPERANNUATION</b>	14
<b>(STATE PUBLIC SECTOR) ACT 1990</b>	15

<b>Act amended</b>	16
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Clause 4. This part amends the <i>Superannuation (State Public Sector) Act 1990</i> .	17
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<b>Insertion of pt 3, division headings</b>	18
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Clause 5.(1) Part 3, after part heading—	19
<i>insert—</i>	20
‘ <i>Division 1—The fund</i> ’.	21
(2) Part 3, after section 11—	22
<i>insert—</i>	23
‘ <i>Division 2—The deed</i> ’.	24

	<b>Replacement of s 15 (Benefits payable to certain members)</b>	1
Clause	<b>6. Section 15—</b>	2
	<i>omit, insert—</i>	3
	<b><i>‘Division 3—Miscellaneous</i></b>	4
	<b>‘Definitions for div 3</b>	5
	<b>‘15. In this division—</b>	6
	<b>“actuary”</b> means the person appointed under the deed by the board to advise it.	7 8
	<b>“application date”</b> means—	9
	(a) for a class 1 or 2 marine employee—the commencement of this section; or	10 11
	(b) for a declared relevant employee—the date of declaration as a relevant employee.	12 13
	<b>“award”</b> means an award, certified agreement, enterprise flexibility agreement or industrial agreement under the <i>Industrial Relations Act 1990</i> or an award under the <i>Industrial Relations Act 1988</i> (Cwlth), and includes a properly varied award.	14 15 16 17
	<b>“class 1 marine employee”</b> means—	18
	(a) a person who—	19
	(i) was employed by a unit of the State public sector on 30 June 1994 under the Public Service Award—State—Hours of Duty and Working Conditions of Queensland Government Marine Pilots—Industrial Agreement or the Public Service Award—State—Employees of the Department of Harbours and Marine Employed on Pilot Vessels at Queensland Outports (excluding Mooloolaba)—Industrial Agreement; and	20 21 22 23 24 25 26 27
	(ii) continued to be employed by the unit of the State public sector after 30 June 1994 under the Marine Operations	28 29

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Enterprise Development Agreement; <sup>2</sup> or	1
(b) a person who—	2
(i) was employed by a unit of the State public sector on 11 November 1993 under the Employees on Survey Launches—Department of Harbours and Marine—Industrial Agreement; and	3 4 5 6
(ii) continued to be employed by the unit of the State public sector after 11 November 1993 under the Employees of Queensland Government Departments (Other than Public Servants) Award.	7 8 9 10
<b>“class 2 marine employee”</b> means a person who—	11
(a) was employed by a unit of the State public sector on 30 June 1995 under the Conditions of Employment—Shipping Information Officers, Lytton Hill and Caloundra Signal Stations, Department of Harbours and Marine—Industrial Agreement; and	12 13 14 15
(b) continued to be employed by the unit of the State public sector after 30 June 1995 under the Marine Operations Enterprise Development Agreement.	16 17 18
<b>“declared relevant employee”</b> means an employee declared under a regulation to be a declared relevant employee for this division.	19 20
<b>“employee”</b> means a person who is a member or employee of, or engaged by, a unit of the State public sector, and includes a former employee.	21 22
<b>“fresh award”</b> , for a declared relevant employee, means the award declared under a regulation to be the fresh award for the employee.	23 24
<b>“fresh award date”</b> , for a declared relevant employee, means the date the fresh award for the employee applies to the employee’s salary under the scheme.	25 26 27
<b>“miscellaneous employee”</b> means a person who—	28
(a) was employed by a unit of the State public sector on 11 November 1993 under the Miscellaneous Workers Award—State Government at a rate of pay of not more than	29 30 31

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<sup>2</sup> The agreement is an industrial agreement under the *Industrial Relations Act 1990*.

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30 hours per week; and	1
(b) continued to be employed by the unit of the State public sector after 11 November 1993 under the Employees of Queensland Government Departments (Other than Public Servants) Award.	2 3 4
<b>“old award”</b> , for a declared relevant employee, means the award declared under a regulation to be the old award for the employee.	5 6
<b>“old award date”</b> , for a declared relevant employee, means the date the old award for the employee ceases to apply to the employee’s salary under the scheme.	7 8 9
<b>“relevant employee”</b> means—	10
(a) a miscellaneous employee; or	11
(b) a class 1 or 2 marine employee; or	12
(c) a declared relevant employee.	13
<b>‘Benefits payable to certain scheme members</b>	14
<b>‘15A.(1)</b> Despite part 7 of the deed, benefits paid or payable under the scheme for a member who is a relevant employee are—	15 16
(a) for a miscellaneous employee—	17
(i) for employment before 1 July 1994—the benefits calculated as at 1 July 1994; and	18 19
(ii) for employment on and after 1 July 1994—the benefits payable under the deed; or	20 21
(b) for a class 1 marine employee—	22
(i) for employment before 1 July 1994—the benefits calculated as at 1 July 1994; and	23 24
(ii) for employment on and after 1 July 1994—the benefits payable under the deed; or	25 26
(c) for a class 2 marine employee—	27
(i) for employment before 1 July 1995—the benefits calculated as at 1 July 1995; and	28 29
(ii) for employment on and after 1 July 1995—the benefits	30

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- payable under the scheme; or
- (d) for a declared relevant employee—
- (i) for employment before the fresh award date for the employee—the benefits calculated as at the fresh award date; and
- (ii) for employment on and after the fresh award date for the employee—the benefits payable under the scheme.
- ‘(2) The actuary must calculate the employee’s benefits under subsection (1)(a)(i), (1)(b)(i), (1)(c)(i) or (1)(d)(i).
- ‘(3) For a class 1 or 2 marine employee or a declared relevant employee, the calculation must be made as soon as practicable after the employee’s application date.
- ‘(4) However, the benefits calculated—
- (a) for a miscellaneous employee—must not be less than the benefits to which the employee was entitled under the scheme as at 30 June 1994; or
- (b) for a class 1 marine employee—must be equivalent to the benefits to which the employee would have been entitled under the scheme as at 30 June 1994; or
- (c) for a class 2 marine employee—must be equivalent to the benefits to which the employee would have been entitled under the scheme as at 30 June 1995; or
- (d) for a declared relevant employee—must be equivalent to the benefits to which the employee would have been entitled under the scheme as at the old award date for the employee.
- ‘(5) If, under the calculation, the amount of the employee’s benefits is less than the amount paid or credited to an account of the employee under the scheme before the application date, the board may—
- (a) under section 18, recover from the employee the difference between the amounts; or
- (b) debit to the employee’s account the difference between the amounts.

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<b>‘Special provisions for regulation-making power under division</b>	1
<b>‘15B.(1)</b> A regulation may declare an employee to be a declared relevant employee only if—	2 3
(a) the employee was bound by an award that—	4
(i) was properly varied; or	5
(ii) was rescinded and a fresh award binding on the employee was made in substitution for it; and	6 7
(b) the employee’s salary has changed under the varied or fresh award; and	8 9
(c) the Governor in Council declares under the regulation that the Governor in Council is satisfied that, because of the making of the varied or fresh award, the employee’s benefits under the scheme were changed in an unintended way in relation to the employee’s employment before the making of the varied or fresh award.	10 11 12 13 14 15
<b>‘(2)</b> To remove any doubt, it is declared that a regulation made under the definition “fresh award” may declare an award that commenced before the regulation commences to be the fresh award for the employee.’.	16 17 18
 <b>Amendment of s 18 (Recovery of overpayments)</b>	 19
Clause <b>7.</b> Section 18(1) and (2), ‘in accordance with’—	20
<i>omit, insert—</i>	21
‘under this Act or’.	22
	23