

Queensland



**SUPERANNUATION AND
OTHER LEGISLATION
AMENDMENT BILL 1997**

Queensland



**SUPERANNUATION AND OTHER
LEGISLATION AMENDMENT BILL 1997**

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1997

A BILL

FOR

An Act to amend or repeal certain Acts establishing superannuation schemes, to provide for the amalgamation of the schemes, and for other purposes

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The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Superannuation and Other Legislation Amendment Act 1997*.

4

5

Commencement

6

Clause **2.(1)** The following provisions commence on assent—

7

- part 1
- section 23 so far as it inserts a heading for new part 5 and new sections 32 and 44
- part 4.

8

9

10

11

(2) Part 5 is taken to have commenced on 27 March 1997.

12

(3) The remaining provisions of this Act commence on 30 June 1997, immediately before the end of the day.

13

14

**PART 2—AMENDMENT OF SUPERANNUATION
(STATE PUBLIC SECTOR) ACT 1990**

15

16

Amended Act

17

Clause **3.** This part amends the *Superannuation (State Public Sector) Act 1990*.

18

Amendment of s 2 (Interpretation)

19

Clause **4.(1)** Section 2(1), definitions “**board member**” and “**Government**”

20

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	Superannuation Provision Fund” —	1
	<i>omit.</i>	2
	(2) Section 2(1)—	3
	<i>insert</i> —	4
	‘ “appointed trustee” see section 5. ¹	5
	‘ “government superannuation provision fund” means the account established to hold the amounts mentioned in section 10(3).	6 7
	‘ “trustee” means a member of the board of trustees.’.	8
	 Replacement of ss 3–6	 9
Clause	5. Sections 3 to 6—	10
	<i>omit, insert</i> —	11
	‘ Establishment of board	12
	‘ 3.(1) The existing board is continued under the name ‘Board of Trustees of the State Public Sector Superannuation Scheme’.	13 14
	‘ (2) The board—	15
	(a) is a body corporate; and	16
	(b) has perpetual succession; and	17
	(c) has a common seal; and	18
	(d) may sue and be sued in its corporate name.	19
	‘ (3) The board is—	20
	(a) a statutory body under the <i>Financial Administration and Audit Act 1977</i> ; and	21 22
	(b) an exempt public authority under the Corporations Law.	23
	‘ (4) The board represents the State.	24
	‘ (5) Without limiting subsection (4), the corporation has all the privileges	25

¹ Section 5 (Membership of board)

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and immunities of the State.	1
‘(6) In this section—	2
“existing board” means the board established under this Act and existing immediately before the commencement of the <i>Superannuation and Other Legislation Amendment Act 1997</i> .	3 4 5
‘Board’s principal function	6
‘4. The board’s principal function is to administer the scheme.	7
‘Membership of board	8
‘5.(1) The board consists of the chief executive, who is chairperson of the board, and the following members (the “appointed trustees”)—	9 10
(a) 4 individuals nominated by the Minister;	11
(b) 5 individuals nominated by member entities.	12
‘(2) The appointed trustees must be appointed by the Governor in Council by gazette notice.	13 14
‘(3) Before, or as soon as practicable after, a vacancy arises in the office of an appointed trustee mentioned in subsection (1)(b), the Minister must, by written notice, ask as many member entities as the Minister considers appropriate to nominate 1 or more individuals for appointment to the vacancy.	15 16 17 18 19
‘(4) If the Minister gives a notice under subsection (3) and does not receive a nomination for the vacancy within the time stated in the notice—	20 21
(a) the Minister may nominate an individual for appointment to the vacancy; and	22 23
(b) the nominee is taken to have been nominated by a member entity.	24
‘(5) In this section—	25
“member entity” means an industrial union, or another entity that represents its members on matters relevant to their financial well-being, whose members include persons who are eligible for membership of the scheme.	26 27 28 29

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‘Eligibility to be an appointed trustee	1
‘6. A person is not eligible to be an appointed trustee if the person—	2
(a) is a minor; or	3
(b) is bankrupt, has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounded with his or her creditors or made an assignment of his or her remuneration for their benefit; or	4 5 6 7
(c) has been convicted of an indictable offence or an offence involving dishonesty.	8 9
 ‘Appointed trustees’ term of office	 10
‘6A.(1) An appointed trustee holds office for the term, not longer than 3 years, stated in the trustee’s appointment.	11 12
‘(2) The office of an appointed trustee becomes vacant if the trustee—	13
(a) dies; or	14
(b) resigns by signed notice given to the Minister; or	15
(c) becomes ineligible to be an appointed trustee; ² or	16
(d) is absent from 3 consecutive board meetings, of which the trustee has been given notice under procedures approved by the board, without the board’s leave and without reasonable excuse.	17 18 19
‘(3) For subsection (2)(d), a trustee is taken not to be absent from a board meeting if the trustee’s deputy attends the meeting.	20 21
 ‘Appointment not affected by other laws restricting employment	 22
‘6B. If another Act prohibits or regulates a person’s employment, or other engagement in activities, outside of a stated office or position, the Act does not prevent the person from—	23 24 25
(a) being appointed to the board; or	26

² See section 6 (Eligibility to be an appointed trustee).

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- (b) carrying out the person's functions as a trustee; or 1
- (c) being paid a fee or allowance to which the person is entitled 2
because of the appointment. 3

'Deputies for trustees' 4

'6C.(1) A trustee may, by written notice, appoint an appropriately 5
qualified person as his or her deputy. 6

'(2) A trustee's deputy may attend a board meeting in the trustee's 7
absence and exercise the trustee's powers under this Act at the meeting. 8

'(3) In subsection (1)— 9

"appropriately qualified person" means a person who— 10

- (a) is eligible to be an appointed trustee;³ and 11
- (b) has the qualifications, experience or standing appropriate to 12
exercise the trustee's powers. 13

'Executive officer' 14

'6D.(1) There is to be an executive officer of the board. 15

'(2) The executive officer must be appointed under the *Public Service Act* 16
1996. 17

'(3) A person may be appointed as executive officer whether or not the 18
person is a trustee. 19

'(4) The executive officer has the functions given by this Act and any 20
other functions given by the board. 21

'Common seal' 22

'6E.(1) The executive officer has custody of the board's common seal. 23

'(2) Subject to the board's directions, the executive officer may execute a 24

³ See section 6 (Eligibility to be an appointed trustee).

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document on the board’s behalf by signing the document and attaching the board’s common seal.	1 2
‘Delegation by board	3
‘6F.(1) The board may delegate it’s powers under this Act to the executive officer, a trustee or an appropriately qualified person.	4 5
‘(2) A delegation of a power may permit the subdelegation of the power to the executive officer, a trustee or an appropriately qualified person.	6 7
‘(3) In subsection (1)—	8
“appropriately qualified” means having the qualifications, experience or standing appropriate to exercise the power.	9 10
‘Conduct of business	11
‘6G. Subject to this Act, the board may conduct its business, including its meetings, in the way it considers appropriate.	12 13
‘Time and place of meetings	14
‘6H.(1) Board meetings are to be held at the times and places the board decides.	15 16
‘(2) The chairperson—	17
(a) may call a meeting at any time; and	18
(b) must call a meeting on the written request of at least 7 trustees.	19
‘Conduct of meetings	20
‘6I.(1) The chairperson is to preside at all board meetings at which the chairperson is present.	21 22
‘(2) In the chairperson’s absence—	23
(a) if the chairperson has a deputy who is present at the meeting—the deputy is to preside; or	24 25
(b) otherwise—another trustee chosen by the trustees present is to	26

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preside.

‘(3) A resolution is passed at a board meeting only if at least 7 trustees vote in favour of the resolution.

‘(4) The trustee presiding at a meeting has a deliberative vote only.

‘(5) A trustee present at a meeting who abstains from voting is taken to have voted for the negative.

‘(6) The board may hold meetings, or permit trustees to take part in meetings, by telephone, video link, or another form of communication that allows reasonably contemporaneous and continuous communication between the trustees taking part in the meeting.

‘(7) A trustee who takes part in a meeting under a permission under subsection (6) is taken to be present at the meeting.

‘Resolutions other than at meetings

‘6J.(1) A resolution may be made by the board, other than at a board meeting, if—

- (a) at least 7 trustees give written agreement to the resolution; and
- (b) notice of the resolution is given under procedures approved by the board.

‘(2) The resolution is taken to have been made on the day that the seventh trustee gives written agreement to it.’

Amendment of s 7 (Powers etc. of board)

Clause 6. Section 7—

insert—

‘(2) Without limiting subsection (1), the board has, for or in connection with the performance of its functions, all the powers of an individual, including, for example, the power to—

- (a) enter into contracts; and
- (b) acquire, hold, dispose of and deal with property; and

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- (c) appoint attorneys and agents; and 1
- (d) engage consultants; and 2
- (e) do anything else necessary or convenient to be done for, or in 3
connection with, the performance of its functions. 4

‘(3) Also, without limiting subsection (1), the board has the powers 5
conferred on it by this or another Act.’ 6

Amendment of s 8 (Board member indemnified) 7

- Clause 7. Section 8, ‘board member’— 8
omit, insert— 9
‘trustee’. 10

Amendment of s 9 (Remuneration of board members) 11

- Clause 8.(1) Section 9, heading, ‘board members’— 12
omit, insert— 13
‘trustees’. 14
- (2) Section 9, ‘board member’— 15
omit, insert— 16
‘trustee’. 17

Amendment of s 10 (Establishment of fund) 18

- Clause 9. Section 10— 19
insert— 20
- ‘(3) The following amounts must be held in the government 21
superannuation provision fund— 22
- (a) an amount transferred to the fund on a person’s election, under 23
the repealed *State Service Superannuation Act 1972* or the 24
repealed *Police Superannuation Act 1974*, to become a member 25
of the scheme; 26

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- (b) an amount that— 1
- (i) was previously held in the Government Officers’ 2
Superannuation Fund established under the repealed 3
Superannuation (Government and Other Employees) Act 4
1988; and 5
- (ii) became part of the fund on the commencement of the 6
Superannuation and Other Legislation Amendment Act 7
1997.’. 8

Insertion of new s 12A 9

- Clause **10.** After section 12— 10
- insert—* 11
- ‘Membership categories** 12
- ‘12A.** The deed must provide for different categories of members.’. 13

Amendment of s 13 (Membership of scheme) 14

- Clause **11.** Section 13(2)— 15
- omit, insert—* 16
- ‘(2)** The notice must declare— 17
- (a) whether membership of the scheme is compulsory or 18
discretionary; and 19
- (b) any conditions applying to membership; and 20
- (c) the membership category or categories for which the person, or a 21
member of the class of person, is eligible.’. 22

Amendment of s 15 (Definitions for div 3) 23

- Clause **12.(1)** Section 15, definitions “**application date**”, “**award**”, “**class 1** 24
marine employee”, “**class 2 marine employee**”, “**declared relevant** 25
employee”, “**miscellaneous employee**” and “**relevant employee**”— 26
- omit.* 27

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	(2) Section 15—	1
	<i>insert—</i>	2
	‘ “award” means a Commonwealth award, industrial agreement or industrial instrument, within the meaning of the <i>Workplace Relations Act 1997</i> .	3
		4
		5
	“declared employee” means an employee declared under a regulation to be an employee to whom this division applies.’.	6
		7
	(3) Section 15, definition “fresh award” , ‘relevant’—	8
	<i>omit.</i>	9
	(4) Section 15, definition “old award” , ‘relevant’—	10
	<i>omit.</i>	11
	Omission of s 15A (Benefits payable to certain scheme members)	12
Clause	13. Section 15A—	13
	<i>omit.</i>	14
	Amendment of s 15B (Special provisions for regulation-making power under division)	15
		16
Clause	14. Section 15B(1), ‘relevant’—	17
	<i>omit.</i>	18
	Amendment of s 15C (Benefits payable to declared relevant employees)	19
		20
Clause	15.(1) Section 15C, heading, ‘ relevant ’—	21
	<i>omit.</i>	22
	(2) Section 15C, ‘part 7 of’—	23
	<i>omit.</i>	24
	(3) Section 15C, ‘an employee who is a declared relevant employee’	25

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	<i>omit, insert—</i>	1
	‘a declared employee’.	2
	Amendment of s 15D (Restitution if regulation stops applying)	3
Clause	16. Section 15D(1), ‘relevant’—	4
	<i>omit.</i>	5
	Omission of s 16 (Accounts relating to fund)	6
Clause	17. Section 16—	7
	<i>omit.</i>	8
	Amendment of s 21 (Protection of scheme’s name)	9
Clause	18.(1) Section 21, heading, ‘scheme’s name’—	10
	<i>omit, insert—</i>	11
	‘ expressions associated with scheme ’.	12
	(2) Section 21(1), (2)(a) and (2)(b), ‘the expression ‘Q Super’ ’—	13
	<i>omit, insert—</i>	14
	‘a declared expression’.	15
	(3) Section 21—	16
	<i>insert—</i>	17
	‘ (4) In this section—	18
	“ declared expression ” means an expression, associated with the scheme, declared under a regulation to be an expression to which this section applies.	19 20 21
	<i>Examples of expressions associated with the scheme—</i>	22
	1. A name given to the scheme.	23
	2. A name given to a category of member.’.	24

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	Amendment of s 22 (Publicity of scheme)	1
Clause	19. Section 22(b)—	2
	<i>omit.</i>	3
	Omission of s 25 (Rates or amounts of benefit etc. to be rounded off)	4
Clause	20. Section 25—	5
	<i>omit.</i>	6
	Replacement of s 28 (Contributions by units)	7
Clause	21. Section 28—	8
	<i>omit, insert—</i>	9
	‘Contributions by units	10
	‘28.(1) The Treasurer may require a unit of the State public sector to pay, for each member of the scheme employed or engaged by the unit, the amount the Treasurer decides is necessary to provide for the payment of benefits to the member under the scheme.	11 12 13 14
	‘(2) The unit must pay the amount within 1 week after the end of each pay period for the member.	15 16
	‘(3) If the amount is not paid within the time required under subsection (2), interest accrues on the outstanding amount at the rate prescribed under a regulation for this section.	17 18 19
	‘(4) The amount must be paid—	20
	(a) if a regulation requires payment to the board—to the board; or	21
	(b) otherwise—to the Treasurer.’.	22
	Insertion of new ss 30A and 30B	23
Clause	22. After section 30—	24
	<i>insert—</i>	25

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‘Judicial notice of certain matters

‘**30A.(1)** Judicial notice must be taken of the imprint of the board’s seal appearing on a document and the document must be presumed to have been properly sealed unless the contrary is proved.

‘(2) Judicial notice also must be taken of—

- (a) the signature of a trustee or the executive officer; and
- (b) the fact that the person holds or has held the relevant office.

‘References to discontinued schemes

‘**30B.(1)** In an Act or document, a reference to a discontinued scheme or a matter relating to a discontinued scheme may, if the context permits, be taken as a reference to the scheme established under this Act or the equivalent matter relating to the scheme established under this Act.

‘(2) In subsection (1)—

“discontinued scheme” means a superannuation scheme previously operated under any of the following Acts—

- the *Fire and Rescue Authority Act 1990*
- the repealed *Superannuation (Government and Other Employees) Act 1988*
- the repealed *Police Superannuation Act 1968*
- the repealed *Police Superannuation Act 1974*
- the repealed *Public Service Superannuation Act 1958*
- the repealed *State Service Superannuation Act 1972*.

Insertion of new pt 5

Clause **23.** After section 31—
insert—

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‘PART 5—TRANSITIONAL

‘Definitions for pt 5

‘32. In this part—

“commencement” means the commencement of this part, other than the part heading, this section and section 44.

“discontinued fund” means a fund mentioned in section 37(1).

“discontinued scheme” means a scheme mentioned in section 33.

“fire service superannuation scheme” means the fire service superannuation scheme established under the *Fire and Rescue Authority Act 1990*, section 41.

“fire superannuation board” means the entity constituted by the trustees of the fire service superannuation scheme appointed under the *Fire and Rescue Authority Act 1990*, section 42.

“Gosuper Act” means the *Superannuation (Government and Other Employees) Act 1988*.

“Gosuper board” means the board of trustees established under section 4 of the Gosuper Act.

“Gosuper fund” means the Government Officers’ Superannuation Fund established under section 14 of the Gosuper Act.

“Gosuper scheme” means the scheme for the provision of superannuation benefits operated under the Gosuper Act.

“member”, of a discontinued scheme, means—

(a) for the fire service superannuation scheme—a participant in the scheme; or

(b) for the Gosuper scheme—a member of the scheme; or

(c) for the police superannuation schemes—a contributor within the meaning of the *Police Superannuation Act 1968* or the *Police Superannuation Act 1974*; or

(d) for the State superannuation schemes—a contributor within the meaning of the *Public Service Superannuation Act 1958* or the

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<i>State Service Superannuation Act 1972.</i>	1
“police superannuation board” means the police superannuation board established under the <i>Police Superannuation Act 1974</i> , section 6.	2 3
“police superannuation schemes” means the schemes for the provision of superannuation benefits operated under the <i>Police Superannuation Act 1968</i> and the <i>Police Superannuation Act 1974</i> .	4 5 6
“Qsuper board” means the board of trustees continued under section 3.	7
“Qsuper scheme” means the scheme established under this Act.	8
“replaced superannuation Act” means any of the following Acts—	9
• <i>Police Superannuation Act 1968</i>	10
• <i>Police Superannuation Act 1974</i>	11
• <i>Public Service Superannuation Act 1958</i>	12
• <i>State Service Superannuation Act 1972</i>	13
• <i>Superannuation (Government and Other Employees) Act 1988.</i>	14
“State service superannuation board” means the State service superannuation board established under the <i>State Service Superannuation Act 1972</i> , section 6.	15 16 17
“State superannuation schemes” means the schemes for the provision of superannuation benefits operated under the <i>Public Service Superannuation Act 1958</i> and the <i>State Service Superannuation Act 1972</i> .	18 19 20 21
“transferring member” means a person who, under this part, becomes a member of the Qsuper scheme.	22 23
“trustees for a discontinued scheme” means—	24
(a) for the fire service superannuation scheme—the fire superannuation board; or	25 26
(b) for the Gosuper scheme—the Gosuper board; or	27
(b) for the police superannuation schemes—the police superannuation board; or	28 29

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(d) for the State superannuation schemes—the State service superannuation board.	1 2
‘Discontinued schemes	3
‘33. The following schemes are discontinued—	4
• the fire service superannuation scheme	5
• the Gosuper scheme	6
• the police superannuation schemes	7
• the State superannuation schemes.	8
‘Members	9
‘34. On the commencement, a person who was a member of a discontinued scheme immediately before the commencement becomes a member of the Qsuper scheme in the membership category stated for the person in the deed.	10 11 12 13
‘Entitlements	14
‘35.(1) This section applies to a person who, immediately before the commencement—	15 16
(a) was a member of a discontinued scheme; or	17
(b) was otherwise entitled to a benefit under a discontinued scheme.	18
‘(2) On the commencement, the person has the entitlements that applied to the person immediately before the commencement.	19 20
‘(3) This section does not affect section 12.4	21
‘Trustees	22
‘36.(1) Each member of the existing board, holding office immediately before the commencement, continues to hold office as a trustee under this	23 24

⁴ Section 12 (Deed to establish scheme)

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Act until—	1
(a) the end of the member’s term of office; or	2
(b) the member earlier vacates office.	3
‘(2) A member of the existing board appointed under section 5(1)(b) of the Gosuper Act is taken to have been appointed under section 5(1)(a) of this Act.	4 5 6
‘(3) A member of the existing board appointed under section 5(1)(c) of the Gosuper Act is taken to have been appointed under section 5(1)(b) of this Act.	7 8 9
‘(4) The fire superannuation board is dissolved and the trustees constituting the board go out of office.	10 11
‘(5) The police superannuation board is dissolved and its members go out of office.	12 13
‘(6) The State service superannuation board is dissolved and its members go out of office.	14 15
‘(7) To remove any doubt, section 5(3) and (4) apply to a vacancy in the office of an appointed trustee existing on the commencement.	16 17
‘(8) In this section—	18
“existing board” means the board established under this Act and existing immediately before the commencement.	19 20
‘Discontinued funds	21
‘37.(1) The following funds are discontinued—	22
• the fund consisting of the amounts held by the fire superannuation board under the fire service superannuation scheme	23 24 25
• the Gosuper fund	26
• the police superannuation fund established under the <i>Police Superannuation Act 1974</i>	27 28
• the State service superannuation fund established under the <i>State Service Superannuation Act 1972</i> .	29 30

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‘(2) On the commencement, an amount that, immediately before the commencement, was contained in a discontinued fund, becomes part of the State Public Sector Superannuation Fund. 1
2
3

‘Agreements and legal proceedings 4

‘38.(1) An agreement or arrangement in force immediately before the commencement, between the trustees for a discontinued scheme and another entity, is taken to be an agreement or arrangement between the Qsuper board and the entity. 5
6
7
8

‘(2) A legal proceeding started but not finished, before the commencement, by or against the trustees for a discontinued scheme, may be continued and finished by or against the Qsuper board. 9
10
11

‘(3) In this section, a reference to the trustees for a discontinued scheme includes a reference to an entity acting for the trustees for a discontinued scheme. 12
13
14

‘Assets and liabilities 15

‘39. On the commencement, an asset or liability of the trustees for a discontinued scheme immediately before the commencement becomes an asset or liability of the Qsuper board. 16
17
18

‘Executive officer 19

‘40. The person holding office as the executive officer of the Qsuper board immediately before the commencement continues to hold office under section 6D until the person’s appointment is ended. 20
21
22

‘Annual report 23

‘41.(1) The next annual report made after the commencement must include a report on the administration of each of the discontinued schemes during the financial year ending 30 June 1997. 24
25
26

‘(2) In subsection (1)— 27

“**annual report**” means a report made by the board under section 20. 28

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‘Application of laws to discontinued boards	1
‘42.(1) This section applies to a law that, but for the <i>Superannuation and Other Legislation Amendment Act 1997</i> , would apply to a discontinued board in relation to a period before the commencement.	2 3 4
<i>Example of a law mentioned in subsection (1)—</i>	5
A law under which, if a discontinued board still existed, it would be required to lodge a return for the financial year ending 30 June 1997.	6 7
‘(2) If the context permits, the law applies to the Qsuper board as if it were the discontinued board.	8 9
 ‘Liability for tax	 10
‘43.(1) State tax is not payable in relation to anything done (including, for example, a transaction entered into or an instrument made, executed, lodged or given) because of, or for a purpose connected with or arising out of, this part.	11 12 13 14
‘(2) In this section—	15
“State tax” means tax imposed under an Act.	16
“tax” includes any fee, duty, levy or charge.	17
 ‘Deed making power for transferring members	 18
‘44.(1) This section provides for the amendment, under section 12, ⁵ of the deed to provide for transferring members.	19 20
‘(2) An amendment of the deed may be expressed as a relocation to the deed of a provision (with or without stated changes) of—	21 22
(a) a replaced superannuation Act; or	23
(b) an instrument made under a replaced superannuation Act.	24
‘(3) To remove any doubt, it is declared that the amendment does not amend the replaced superannuation Act or instrument.	25 26
‘(4) The amendment must not commence until the repeal of the replaced	27

⁵ Section 12 (Deed to establish scheme)

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superannuation Act. 1

‘(5) The deed must also be amended to provide for the membership 2
categories of transferring members. 3

‘(6) This section does not limit section 12. 4

‘Expiry 5

‘45. This part expires 1 year after it commences.’. 6

**PART 3—AMENDMENT OF FIRE AND RESCUE 7
AUTHORITY ACT 1990 8**

Act amended 9

Clause 24. This part amends the *Fire and Rescue Authority Act 1990*. 10

Amendment of s 6 (Definitions) 11

Clause 25. Section 6, definitions “**approved superannuation scheme**” and 12
“**fire service superannuation scheme**”— 13

omit. 14

Omission of pt 4, div 4 15

Clause 26. Part 4, division 4— 16

omit. 17

**Amendment of sch 4 (Matters concerning the operation of the rural 18
fire council and the trustees of the fire service superannuation scheme) 19**

Clause 27.(1) Schedule 4, ‘sections 45 and 51’— 20

omit, insert— 21

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‘section 51’.	1
(2) Schedule 4, heading ‘and the trustees of the fire service superannuation scheme’—	2 3
<i>omit.</i>	4
(3) Schedule 4, section 1, definitions “ board ” and “ member ”—	5
<i>omit.</i>	6
(4) Schedule 4, section 1—	7
<i>insert—</i>	8
‘ “board” means the rural fire council.	9
‘ “member” means a member of the rural fire council.’.	10

PART 4—AMENDMENT OF PUBLIC OFFICERS	11
SUPERANNUATION BENEFITS RECOVERY ACT	12
1988	13

Amended Act	14
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Clause 28. This part amends the <i>Public Officers Superannuation Benefits Recovery Act 1988</i> .	15 16
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Amendment of s 4 (Interpretation)	17
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Clause 29.(1) Section 4(1)—	18
<i>insert—</i>	19
‘ “preserved benefits” means superannuation or retirement benefits that, under a superannuation scheme, are payable at a future date.	20 21
“trustees” , of a superannuation scheme, means the trustees or other authority controlling the funds of the scheme.’.	22 23
(2) Section 4(1), definition “ superannuation or retirement benefits ”,	24

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	paragraphs (a) to (d)—	1
	<i>omit, insert</i> —	2
	‘(a) benefits payable under, or preserved in, a superannuation scheme for a person whose employment has ended; and’.	3 4
	Insertion of new s 5A	5
Clause	30. Part 1, after section 5—	6
	<i>insert</i> —	7
	‘Non-application of non-assignment provisions	8
	‘5A. To remove any doubt, it is declared that this Act applies despite any other law—	9 10
	(a) providing that claims cannot be set off against a person’s superannuation or retirement benefits; or	11 12
	(b) providing that amounts payable out of a superannuation scheme on a person’s death are not assets for the payment of the person’s debts or liabilities; or	13 14 15
	(c) otherwise prohibiting or regulating the payment or assignment of, or other dealing with, a person’s superannuation or retirement benefits.’.	16 17 18
	Insertion of new s 7A	19
Clause	31. After section 7—	20
	<i>insert</i> —	21
	‘Nature of application	22
	‘7A. For the <i>Limitation of Actions Act 1974</i> , an application under section 7 is not an action to recover a penalty or forfeiture or sum by way or a penalty or forfeiture.’.	23 24 25

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	Amendment of s 11 (Effect of order on pension benefits)	1
Clause	32. Section 11(3), ‘or other authority (the “ trustees ”) having the control of the funds’—	2
	<i>omit.</i>	3 4
	Insertion of new s 11C	5
Clause	33. Part 2, after section 11B—	6
	<i>insert—</i>	7
	‘Effect of order on preserved benefits	8
	‘11C.(1) This section applies if—	9
	(a) an order is made under section 7(2) against a person who has preserved benefits under a superannuation scheme; and	10 11
	(b) there is a judgement debt due to the Crown under section 9 in relation to the order.	12 13
	‘(2) The Minister may, by written notice given to the trustees of the scheme, require the trustees to pay an amount from the scheme in satisfaction, or part satisfaction, of the judgement debt.	14 15 16
	‘(3) On receiving the notice, the trustees must—	17
	(a) calculate, under actuarial principles, the current value of the person’s preserved benefits; and	18 19
	(b) pay to the Minister the amount of the judgement debt or the value of the benefits, whichever is the lesser; and	20 21
	(c) if the amount of the judgement debt is less than the value of the benefits—keep the balance in the scheme and deal with it as a preserved benefit.’.	22 23 24

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**PART 5—AMENDMENT OF BUILDING AND
CONSTRUCTION INDUSTRY (PORTABLE LONG
SERVICE LEAVE) ACT 1991**

Act amended in this part

Clause **34.** This part amends the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

Amendment of s 3 (Interpretation)

Clause **35.(1)** Section 3, definitions “**award**” and “**industrial agreement**”—
omit.

(2) Section 3—

insert—

‘**“award”** means—

(a) an award under the *Workplace Relations Act 1997*; or

(b) an award or AWA under the *Workplace Relations Act 1996* (Cwlth).

“**industrial agreement**” means an industrial agreement, QWA, certified agreement or EFA under the *Workplace Relations Act 1997*.’.

**Amendment of s 61 (Election to take benefits under this Act or
Industrial Relations Act)**

Clause **36.(1)** Section 61, heading, ‘**Industrial**’—

omit, insert—

‘**Workplace**’.

(2) Section 61(1)(aa)—

insert—

‘(aa) a benefit for the period under the *Workplace Relations Act 1997*,

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chapter 4, part 4⁶ or a law of another State that corresponds to that part; or’.

(3) Section 61(1)(aa) and (b)—

renumber as section 61(1)(b) and (c) respectively.

(4) Section 61(4), from ‘Part 12’—

omit, insert—

‘the *Workplace Relations Act 1997*, chapter 4, part 4⁷ or a benefit in the nature of long service leave under a scheme to which an exemption granted to an employer under section 207 of that Act relates.’.

Amendment of s 62 (Payments to employers)

Clause 37. Section 62(8), ‘section 248 of the *Industrial Relations Act 1990*’—

omit, insert—

‘the *Workplace Relations Act 1997*, section 203 or 204 (as the case requires)’.

Amendment of s 107 (Powers of Industrial Magistrate)

Clause 38. Section 107, ‘*Industrial Relations Act 1990*’—

omit, insert—

‘*Workplace Relations Act 1997*’.

⁶ Chapter 4 (General employment conditions), part 4 (Long service leave)

⁷ Chapter 4 (General employment conditions), part 4 (Long service leave)

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PART 6—REPEALS

	Repeals	1
Clause	39. The following Acts are repealed—	2 3
	• Commissioner of Police (Vacation of Office) Act 1989 No. 26	4
	• Police Superannuation Act 1968 No. 58	5
	• Police Superannuation Act 1974 No. 53	6
	• Public Service Superannuation Act 1958 No. 73	7
	• State Service Superannuation Act 1972 No. 22	8
	• Superannuation (Government and Other Employees) Act 1988 No. 46	9 10
	• Superannuation (Miscellaneous Acts) Amendment Act 1991 No. 11	11 12
	• Superannuation (Part-time Officers) Act 1988 No. 111.	13 14