

Queensland



SUPERANNUATION (STATE PUBLIC SECTOR) ACT 1990

**Reprinted as in force on 2 October 1997
(includes amendments up to Act No. 21 of 1997)**

Reprint No. 3

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Information about this reprint

This Act is reprinted as at 2 October 1997. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use standard punctuation consistent with current drafting practice (s 27)
- use conjunctives and disjunctives consistent with current drafting practice (s 28)
- use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints, including table of renumbered provisions.**

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SECTOR) ACT 1990**

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SUPERANNUATION (STATE PUBLIC SECTOR) ACT 1990

[as amended by all amendments that commenced on or before 2 October 1997]

An Act to provide the machinery for the establishment of a new superannuation scheme for the State public sector and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Superannuation (State Public Sector) Act 1990*.

Interpretation

2.(1) In this Act—

“appointed trustee” see section 5.¹

“board” means the Board of Trustees pursuant to section 3.

“deed” means the deed established pursuant to this Act.

“fund” means the State Public Sector Superannuation Fund established pursuant to section 10.

“government superannuation provision fund” means the account established to hold the amounts mentioned in section 10(3).

“scheme” means the scheme for the provision of superannuation, retirement, provident or other benefits established pursuant to the deed

¹ Section 5 (Membership of board)

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in accordance with this Act.

“trustee” means a member of the board of trustees.

“unit of the State public sector” means—

- (a) a public sector unit; or
- (b) the Queensland Police Service within the meaning of the *Police Service Administration Act 1990*; or
- (c) the Criminal Justice Commission within the meaning of the *Criminal Justice Act 1989*; or
- (d) the Queensland Corrective Services Commission within the meaning of the *Corrective Services (Administration) Act 1988*; or
- (e) the Legal Aid Commission within the meaning of the *Legal Aid Act 1978*; or
- (f) the Industrial Relations Commission within the meaning of the *Industrial Relations Act 1990*; or
- (g) every corporate entity (other than a local government) that is constituted by or pursuant to an Act, or that is of a description of entity provided for by an Act, which in either case collects revenues or raises funds under the authority of an Act; or
- (h) every non-corporate entity established or maintained pursuant to an Act, which is funded to any extent with moneys of the Crown, or is assisted in a financial respect by the Crown; or
- (i) the registries and other administrative offices of the courts of the State of whatever jurisdiction; or
- (j) a Magistrates Court; or
- (k) the Parliamentary Service within the meaning of the *Parliamentary Service Act 1988*; or
- (l) the Governor’s official residence (known as ‘Government House’) and the administrative unit maintained in association therewith; or
- (m) a university, university college or a college of advanced education; or

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(n) an entity declared under a regulation to be a unit of the State public sector;

but does not include—

(o) the Executive Council; or

(p) the Legislative Assembly; or

(q) an entity declared under a regulation to not be a unit of the State public sector.

(3) Where the functions or duties of the Crown are transferred to any department or other instrumentality of the government of the Commonwealth, another State or a Territory of the Commonwealth, the power conferred by subsection (1)(n) includes power to declare the department or other instrumentality to be a unit of the State public sector for the purposes of this Act.

PART 2—BOARD OF TRUSTEES

Establishment of board

3.(1) The existing board is continued under the name ‘Board of Trustees of the State Public Sector Superannuation Scheme’.

(2) The board—

(a) is a body corporate; and

(b) has perpetual succession; and

(c) has a common seal; and

(d) may sue and be sued in its corporate name.

(3) The board is—

(a) a statutory body under the *Financial Administration and Audit Act 1977*; and

(b) an exempt public authority under the Corporations Law.

(4) The board represents the State.

(5) Without limiting subsection (4), the corporation has all the privileges and immunities of the State.

(6) In this section—

“existing board” means the board established under this Act and existing immediately before the commencement of the *Superannuation and Other Legislation Amendment Act 1997*.

Board’s principal function

4. The board’s principal function is to administer the scheme.

Membership of board

5.(1) The board consists of the chief executive, who is chairperson of the board, and the following members (the **“appointed trustees”**)—

- (a) 4 individuals nominated by the Minister;
- (b) 5 individuals nominated by member entities.

(2) The appointed trustees must be appointed by the Governor in Council by gazette notice.

(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.

(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—

- (a) the Minister may nominate an individual for appointment to the vacancy; and
- (b) the nominee is taken to have been nominated by a member entity.

(5) In this section—

“member entity” means an industrial union, or another entity that represents its members on matters relevant to their financial wellbeing, whose members include persons who are eligible for membership of the scheme.

Eligibility to be an appointed trustee

- 6.** A person is not eligible to be an appointed trustee if the person—
- (a) is a minor; or
 - (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
 - (c) has been convicted of an indictable offence or an offence involving dishonesty.

Appointed trustees' term of office

6A.(1) An appointed trustee holds office for the term, not longer than 3 years, stated in the trustee's appointment.

(2) The office of an appointed trustee becomes vacant if the trustee—

- (a) dies; or
- (b) resigns by signed notice given to the Minister; or
- (c) becomes ineligible to be an appointed trustee;² or
- (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.

(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.

Appointment not affected by other laws restricting employment

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—

- (a) being appointed to the board; or
- (b) carrying out the person's functions as a trustee; or

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

- (c) being paid a fee or allowance to which the person is entitled because of the appointment.

Deputies for trustees

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

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

(3) In subsection (1)—

“appropriately qualified person” means a person who—

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

Executive officer

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

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

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

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

Common seal

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

(2) Subject to the board's directions, the executive officer may execute a document on the board's behalf by signing the document and attaching the board's common seal.

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

Delegation by board

6F.(1) The board may delegate its powers under this Act to the executive officer, a trustee or an appropriately qualified person.

(2) A delegation of a power may permit the subdelegation of the power to the executive officer, a trustee or an appropriately qualified person.

(3) In subsection (1)—

“appropriately qualified” means having the qualifications, experience or standing appropriate to exercise the power.

Conduct of business

6G. Subject to this Act, the board may conduct its business, including its meetings, in the way it considers appropriate.

Time and place of meetings

6H.(1) Board meetings are to be held at the times and places the board decides.

(2) The chairperson—

- (a) may call a meeting at any time; and
- (b) must call a meeting on the written request of at least 7 trustees.

Conduct of meetings

6I.(1) The chairperson is to preside at all board meetings at which the chairperson is present.

(2) In the chairperson’s absence—

- (a) if the chairperson has a deputy who is present at the meeting—the deputy is to preside; or
- (b) otherwise—another trustee chosen by the trustees present is to 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.

Powers etc. of board

7.(1) The powers, authorities, duties or functions of the board and the exercise of discretion by the board are, except as specified in this Act, to be as set out in the deed.

(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
- (c) appoint attorneys and agents; and
- (d) engage consultants; and
- (e) do anything else necessary or convenient to be done for, or in

connection with, the performance of its functions.

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

Trustee indemnified

8. A trustee or the executive officer of the board or any member of the board's staff is not to incur liability at law on account of loss or damage sustained by reason of any act done or omission made under the authority of this Act or done or made in good faith by that person purporting to act under the authority of this Act and without negligence.

Remuneration of trustees

9. A trustee is entitled to such remuneration as may be approved for the time being by the Governor in Council.

PART 3—FUND AND DEED

Division 1—The fund

Establishment of fund

10.(1) There is to be established and maintained in the Queensland Treasury a fund under the title 'State Public Sector Superannuation Fund'.

(2) To remove any doubt, it is declared that the Government Superannuation Provision Fund forms part of the assets of the fund.

(3) The following amounts must be held in the government superannuation provision fund—

- (a) an amount transferred to the fund on a person's election, under the repealed *State Service Superannuation Act 1972* or the repealed *Police Superannuation Act 1974*, to become a member of the scheme;

- (b) an amount that—
 - (i) was previously held in the Government Officers' Superannuation Fund established under the repealed *Superannuation (Government and Other Employees) Act 1988*; and
 - (ii) became part of the fund on the commencement of the *Superannuation and Other Legislation Amendment Act 1997*.

Investment of fund

11.(1) Queensland Investment Corporation ("QIC") is appointed investment manager of the fund.

(2) The board must establish investment policies and objectives for the fund.

(3) The investment manager must operate under the investment policies and objectives.

(4) The investment manager must give the board or its agent all necessary information to enable them to monitor the investment manager's performance.

(5) If the Governor in Council is satisfied it is appropriate for another investment manager to be appointed for the fund or a stated part of the fund in the interests of the board's fiduciary responsibilities or the members of the fund generally, the Governor in Council may, by regulation—

- (a) revoke QIC's appointment as investment manager in whole or in part from a stated date; and
- (b) make provision for anything necessary to secure the fund.

(6) If QIC's appointment is revoked, the board may appoint a new investment manager of the fund, or a stated part of the fund, with the Governor in Council's approval.

Division 2—The deed**Deed to establish scheme**

12.(1) Not later than 30 days after the commencement of this section, or such longer period as may be approved by the Governor in Council by order in council, there is to be established by deed a scheme for the provision of superannuation, retirement, provident or other similar benefits payable from the fund.

(2) The deed—

- (a) is subordinate legislation; and
- (b) may be amended by the board.

(3) An amendment of the deed is of no effect until approved by a regulation that sets out the amendment.

Membership categories

12A. The deed must provide for different categories of members.

Membership of scheme

13.(1) The Minister may, by written notice, declare that a person or member of a class of person who is a member or employee of, or engaged by, a unit of the State public sector is eligible for membership of the scheme.

(2) The notice must declare—

- (a) whether membership of the scheme is compulsory or discretionary; and
- (b) any conditions applying to membership; and
- (c) the membership category or categories for which the person, or a member of the class of person, is eligible.

(3) If there is any doubt that a person is a member or employee of, or engaged by a unit of the State public sector, the Governor in Council may, by regulation, declare whether the person is or is not a member or employee of, or engaged by, a unit of the State public sector.

(4) The Minister may, by written notice, declare that a person or member of a class of person who is a member or employee of, or engaged by, a unit of the State public sector is excepted from this Act.

(5) Before the Minister makes a notice under subsection (4), the Minister must consult with the board.

(6) A notice made under subsection (1) or (4) is subordinate legislation.

Contents of deed

14. Save as otherwise provided by this Act and in addition to any other provisions which the board considers may be necessary or desirable, the deed may make provision for the following matters—

- (a) definitions to be used in the deed;
- (b) the operation, management and investment of the fund;
- (c) the liability for the payment of member contributions to the fund;
- (d) the level of member contributions to the fund;
- (e) the level of contribution by a unit of the State public sector in relation to members of the scheme;
- (f) the circumstances whereby, and the level of contributions in relation thereto, members may make additional contributions to the fund;
- (g) conditions for the transfer of members and amounts representing contributions to and from the scheme;
- (h) the keeping of accounts for members of the scheme and the payment of interest on such accounts;
- (i) the level of and conditions relating to the payment of benefits under the scheme to and in respect of a member, including—
 - (i) benefits on attaining the age of 55 years or older;
 - (ii) benefits for total and permanent incapacity;
 - (iii) benefits for permanent but partial incapacity;
 - (iv) benefits for short term incapacity;
 - (v) benefits on death prior to the age of 55 years;

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- (vi) benefits on—
 - (A) compulsory retrenchment from employment;
 - (B) involuntary termination of employment;
 - (C) voluntary resignation from employment;
 - (D) dismissal from employment;
- (vii) benefits on the occurrence of such other eventuality as may be specified;
- (j) the obtaining and use of medical or like evidence in determining the payment of benefits under the scheme;
- (k) a mechanism for a review by a member dissatisfied with the grant or payment of benefits or any other decision under the scheme;
- (l) a method for the preservation of member entitlements in the fund;
- (m) the terms and conditions upon which a pension or annuity may be purchased or paid from the fund;
- (n) the terms and conditions upon which the board is to obtain actuarial advice in relation to the fund;
- (o) the payment of the expenses of operating the scheme from the fund.

Division 3—Miscellaneous

Definitions for div 3

15. In this division—

“actuary” means the person appointed under the deed by the board to advise it.

“award” means a Commonwealth award, industrial agreement or industrial instrument, within the meaning of the *Workplace Relations Act 1997*.

“declared employee” means an employee declared under a regulation to be an employee to whom this division applies.

“employee” 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.

“fresh award”, for a declared employee, means the award declared under a regulation to be the fresh award for the employee.

“old award”, for a declared employee, means the award declared under a regulation to be the old award for the employee.

Special provisions for regulation-making power under division

15B.(1) A regulation may declare an employee to be a declared employee only if—

- (a) the employee was bound by an award that—
 - (i) was properly varied; or
 - (ii) was rescinded and a fresh award binding on the employee was made in substitution for it; and
- (b) the employee’s salary has changed under the varied or fresh award; and
- (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.

(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 employee.

(3) A regulation made under this section expires 1 year after it is made, unless it is earlier repealed.

Benefits payable to declared employees

15C. Despite the deed, benefits payable under the scheme for a declared employee are the benefits calculated as if the employee were still employed under the old award.

Restitution if regulation stops applying

15D.(1) This section applies if—

- (a) a benefit becomes payable to a declared employee; and
- (b) the amount of the benefit is different to the amount (the “**notional amount**”) that would have been payable if the employee were not a declared employee; and
- (c) after the benefit is paid, the regulation declaring the employee to be a declared employee expires or otherwise stops applying to the employee.

(2) If the amount of the benefit paid to the employee is less than the notional amount, the board must pay to the employee the difference between the amount of the benefit paid and the notional amount, together with interest at the rate fixed by regulation.

(3) If the amount of the benefit paid to the employee is more than the notional amount, the board may, by written notice, require the employee to pay to the board the difference between the amount of the benefit paid and the notional amount.

(4) The notice must state a reasonable time, not less than 30 days after the notice is given, by which the employee must pay the amount.

(5) If the employee does not comply with the notice, the board may recover the amount as a debt, together with interest at the rate fixed by regulation.

PART 4—ADMINISTRATION

Returns

17.(1) Throughout each year, each unit of the State public sector which employs or otherwise engages a person who might become entitled to a benefit from the fund in accordance with the deed is to furnish to the board, in such form and at or within such times as the board directs, returns with respect to such matters as the board directs.

(2) A person who—

- (a) is an employee of or engaged by a unit of the State public sector who might become entitled to a benefit from the fund; or
- (b) was an employee of or engaged by a unit of the State public sector who being entitled to a benefit from the fund preserved that entitlement;

is to furnish to the board information with respect to such matters concerning that person as the board may require.

(3) If a person referred to in subsection (2) fails to comply with a requisition for information as required under subsection (2) directed to that person by the board, a benefit from the fund to which that person has become entitled is to be withheld until the requisition is complied with.

Recovery of overpayments

18.(1) Where a person has received payment of a benefit from the fund in excess of the payment to which that person is entitled under this Act or the deed, the board may recover from that person or that person's estate (if that person has died) in a court of competent jurisdiction as a debt due and owing to the board the difference between the payment received by that person and the payment to which that person was entitled under this Act or the deed.

(2) Where a person who has received payment of a benefit from the fund in excess of the payment to which that person is entitled under this Act or the deed, is entitled to a further payment from the fund, that excess may be deducted from the further payment prior to it being paid to that person or that person's estate.

(3) The board may also deduct interest on the overpayment from the person's entitlement to a further payment from the fund if the overpayment has been made—

- (a) because the member or person receiving the payment gave false or misleading information to the board; or
- (b) in circumstances prescribed under the deed.

(4) However, the board may deduct interest on the overpayment only if the board gives written notice to the person—

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- (a) stating the amount of the overpayment; and
- (b) requiring the person to pay the amount before a stated date (at least 30 days after receiving the notice); and
- (c) stating that if the person does not pay the amount before the stated date, the board may deduct the amount together with interest at a stated rate from the person's entitlement to a further payment from the fund.

(5) The rate of interest is to be decided by the board but must not be more than the rate prescribed under a regulation.

(6) Interest on the amount is payable from the stated date.

(7) In subsection (3)—

“false or misleading information” means information that the person giving it—

- (a) knows is false or misleading in a material particular; or
- (b) has omitted something from it, knowing the omission makes the information misleading in a material particular.

Recovery of unpaid contributions

19.(1) Any amount (including an amount of contribution to the fund) that is payable to the board under the scheme may be recovered in a court of competent jurisdiction as a debt due and owing to the board.

(2) Any amount of contributions to the fund unpaid at the time a person ceases to be a member may be deducted from any benefits payable under the scheme before any payment is made to or in respect of that person.

Reports

20.(1) In each year the board is to make to the Minister a report on the administration of this Act and of the scheme.

(2) The Minister is to lay a copy of the board's annual report before the Legislative Assembly within 14 sitting days after the Minister receives the report.

(3) When, and as often as, the Minister may require, the board is to make

to the Minister a report on such matters concerning the administration of this Act or the scheme as the Minister may direct.

Protection of expressions associated with scheme

21.(1) A person is not to use a declared expression in connection with selling the right to participate in any superannuation, insurance or provident scheme unless—

- (a) the scheme is that to which this Act relates; and
- (b) that person does so on behalf of the board.

(2) A person is not to—

- (a) use any variation of a declared expression; or
- (b) use any word (either alone or in conjunction with any other word) similar in sight or sound to a declared expression;

in connection with selling the right to participate in any superannuation, insurance, provident or other benefit scheme, being, in either case, a use likely to afford reasonable grounds for believing the scheme is or is associated with the scheme to which this Act relates, unless—

- (c) the scheme in question is one to which this Act relates; and
- (d) that person does so on behalf of the board.

(3) A person who contravenes subsection (1) or (2) commits an offence against this Act.

Maximum penalty—40 penalty units.

(4) In this section—

“declared expression” means an expression, associated with the scheme, declared under a regulation to be an expression to which this section applies.

Examples of expressions associated with the scheme—

1. A name given to the scheme.
2. A name given to a category of member.

Publicity of scheme

22. The board is to take all reasonable steps—

- (a) to ensure that all persons eligible for membership of the scheme are made aware of the benefits that arise from membership of the scheme.

Unclaimed benefits

23.(1) This section applies if a benefit payable under this Act is not claimed by a person entitled to it (the “**beneficiary**”) within 6 months after it becomes payable.

(2) The board must keep the benefit in the fund for the beneficiary.

(3) The board may pay a person the benefit only if the board is satisfied the person is the beneficiary.

(4) Payment of a benefit to a person (the “**first claimant**”) under this section releases the board from the obligation to pay another person (a “**subsequent claimant**”) a further benefit from the fund in relation to a member.

(5) Subsection (4) does not prevent the subsequent claimant from claiming the amount of the value of the benefit from the first claimant.

(6) In this section—

“**benefit**” includes interest payable on the benefit at the rate decided by the board.

Barring of claims for compensation

24. No member is entitled to any compensation by reason of the alteration of any benefit payable under the scheme which may lawfully be made in consequence of any actuarial investigation or otherwise.

False declarations

26.(1) No person is to—

- (a) in a certificate, return, declaration, or other document given or sent to, or lodged with, the board by or on behalf of that person

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for any of the purposes of the scheme, knowingly furnish information as to age or state of health that is false or misleading; or

- (b) for the purposes of a medical examination required to be undergone under the scheme, knowingly furnish the medical practitioner by whom the examination is made with information as to state of health or medical history that is false or misleading.

Maximum penalty—10 penalty units.

(2) If a person is convicted of an offence against this section the board may order—

- (a) in the case of a member—
- (i) that the person is ineligible, either permanently or for such time as the board may determine, to contribute to the fund; or
- (ii) if contributions have not commenced—that the person is ineligible to commence to contribute to the fund either permanently or for such time as the board may determine; or
- (b) in the case of a recipient of a benefit—that the benefit be cancelled forthwith; or
- (c) in the case of a person other than a member or recipient of a benefit—that that person be ineligible to commence to contribute to the fund either permanently or for such time as the board may determine.

(3) Where the board makes a determination under this section in respect of a member whereby the member is precluded from contributing to the fund for a time only, any period of employment by the member during that time is to be disregarded in the calculation of a period of employment for the purpose of determining a member's entitlement, or that of a person deriving an entitlement through that member, to benefits under this Act or the scheme.

Exemption from taxation

27. Except as may be specifically provided the board and the fund are not liable to any taxation imposed under a law of Queensland.

Contributions by units

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.

(2) The unit must pay the amount within 1 week after the end of each pay period for the member.

(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.

(4) The amount must be paid—

- (a) if a regulation requires payment to the board—to the board; or
- (b) otherwise—to the Treasurer.

Appropriation of contribution

29. A contribution to the fund by the Crown in accordance with the deed is to be paid by the Treasurer—

- (a) at any such time and in such manner as prescribed by the deed;
- (b) out of the Consolidated Fund or such other fund as the Treasurer may determine which is appropriated accordingly.

Assignment of benefit

30. No benefit payable under the scheme is capable of being assigned, charged, taken in execution, attached or passed by operation of law or otherwise howsoever to any person other than the member or the member's estate nor is any claim to be set off against the same and any moneys payable out of the fund on the death of the member is not assets for the payment of the member's debts or liabilities.

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*.

Regulations

31. The Governor in Council may make regulations for the purposes of this Act.

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 *State Service Superannuation Act 1972*.

Superannuation (State Public Sector) Act 1990

“police superannuation board” means the police superannuation board established under the *Police Superannuation Act 1974*, section 6.

“police superannuation schemes” means the schemes for the provision of superannuation benefits operated under the *Police Superannuation Act 1968* and the *Police Superannuation Act 1974*.

“Qsuper board” means the board of trustees continued under section 3.

“Qsuper scheme” means the scheme established under this Act.

“replaced superannuation Act” means any of the following Acts—

- *Police Superannuation Act 1968*
- *Police Superannuation Act 1974*
- *Public Service Superannuation Act 1958*
- *State Service Superannuation Act 1972*
- *Superannuation (Government and Other Employees) Act 1988*.

“State service superannuation board” means the State service superannuation board established under the *State Service Superannuation Act 1972*, section 6.

“State superannuation schemes” means the schemes for the provision of superannuation benefits operated under the *Public Service Superannuation Act 1958* and the *State Service Superannuation Act 1972*.

“transferring member” means a person who, under this part, becomes a member of the Qsuper scheme.

“trustees for a discontinued scheme” means—

- (a) for the fire service superannuation scheme—the fire superannuation board; or
- (b) for the Gosuper scheme—the Gosuper board; or
- (b) for the police superannuation schemes—the police superannuation board; or
- (d) for the State superannuation schemes—the State service superannuation board.

Discontinued schemes

33. The following schemes are discontinued—

- the fire service superannuation scheme
- the Gosuper scheme
- the police superannuation schemes
- the State superannuation schemes.

Members

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.

Entitlements

35.(1) This section applies to a person who, immediately before the commencement—

- (a) was a member of a discontinued scheme; or
- (b) was otherwise entitled to a benefit under a discontinued scheme.

(2) On the commencement, the person has the entitlements that applied to the person immediately before the commencement.

(3) This section does not affect section 12.⁴

Trustees

36.(1) Each member of the existing board, holding office immediately before the commencement, continues to hold office as a trustee under this Act until—

- (a) the end of the member's term of office; or
- (b) the member earlier vacates office.

⁴ Section 12 (Deed to establish scheme)

Superannuation (State Public Sector) Act 1990

(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.

(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.

(4) The fire superannuation board is dissolved and the trustees constituting the board go out of office.

(5) The police superannuation board is dissolved and its members go out of office.

(6) The State service superannuation board is dissolved and its members go out of office.

(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.

(8) In this section—

“**existing board**” means the board established under this Act and existing immediately before the commencement.

Discontinued funds

37.(1) The following funds are discontinued—

- the fund consisting of the amounts held by the fire superannuation board under the fire service superannuation scheme
- the Gosuper fund
- the police superannuation fund established under the *Police Superannuation Act 1974*
- the State service superannuation fund established under the *State Service Superannuation Act 1972*.

(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.

Agreements and legal proceedings

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.

(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.

(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.

Assets and liabilities

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.

Executive officer

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.

Annual report

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.

(2) In subsection (1)—

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

Application of laws to discontinued boards

42.(1) This section applies to a law that, but for the *Superannuation and Other Legislation Amendment Act 1997*, would apply to a discontinued

board in relation to a period before the commencement.

Example of a law mentioned in subsection (1)—

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.

(2) If the context permits, the law applies to the Qsuper board as if it were the discontinued board.

Liability for tax

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.

(2) In this section—

“**State tax**” means tax imposed under an Act.

“**tax**” includes any fee, duty, levy or charge.

Deed making power for transferring members

44.(1) This section provides for the amendment, under section 12,⁵ of the deed to provide for transferring members.

(2) An amendment of the deed may be expressed as a relocation to the deed of a provision (with or without stated changes) of—

(a) a replaced superannuation Act; or

(b) an instrument made under a replaced superannuation Act.

(3) To remove any doubt, it is declared that the amendment does not amend the replaced superannuation Act or instrument.

(4) The amendment must not commence until the repeal of the replaced superannuation Act.

⁵ Section 12 (Deed to establish scheme)

Superannuation (State Public Sector) Act 1990

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

(6) This section does not limit section 12.

Expiry

45. This part expires 1 year after it commences.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 2 October 1997. Future amendments of the Superannuation (State Public Sector) Act 1990 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R [X]	=	Reprint No. [X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 11 of 1993	20 May 1993
2	to Act No. 27 of 1995	29 August 1995
2A	to Act No. 52 of 1996	20 February 1997
2B	to Act No. 21 of 1997	5 September 1997

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Changed citations and remade laws	2
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

6 List of legislation

Superannuation (State Public Sector) Act 1990 No. 20

date of assent 13 June 1990

ss 1–1.2 commenced on date of assent

remaining provisions commenced 14 June 1990 (proc pubd gaz 14 June 1990 p 833)

as amended by—

Superannuation (Miscellaneous Acts) Amendment Act 1991 No. 11 pts 1, 7

date of assent 15 April 1991

ss 1.1–1.2, 7.1 commenced on date of assent (see s 1.2(1))

ss 7.2–7.3, 7.5, 7.9 and 7.11 commenced 11 May 1991 (proc pubd gaz 4 May 1991 p 73)

remaining provisions never proclaimed into force and rep 1997 No. 21 s 39

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 2 (as amd 1992 No. 36 s 2 sch 2)

date of assent 17 December 1991

commenced 11 May 1991 (see Act)

Superannuation Legislation Amendment Act 1993 No. 11 pts 1, 8 s 45 sch 3

date of assent 28 May 1993

pt 1 commenced on date of assent

remaining provisions commenced 1 July 1993 (1993 SL No. 207)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2

date of assent 1 December 1994

commenced on date of assent

Superannuation Legislation Amendment Act 1995 No. 27 pts 1, 11

date of assent 14 June 1995

ss 1–2 commenced on date of assent

ss 60, 61(2), 62 commenced 1 July 1991 (see s 2(2))

ss 61(1), 63 commenced 14 June 1994 (see s 2(6))

s 64 commenced 1 February 1996 (1996 SL No. 3)

s 65 commenced 30 June 1994 (see s 2(5))
 remaining provisions commenced 18 August (1995 SL No. 229)

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
 ss 1–2 commenced on date of assent
 remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Superannuation Legislation Amendment Act 1996 No. 52 pts 1, 3

date of assent 20 November 1996
 commenced on date of assent

Superannuation and Other Legislation Amendment Act 1997 No. 21 pts 1–2

date of assent 15 May 1997
 ss 1–2, 23 so far as it inserts a heading for new pt 5 and new ss 32, 44
 commenced on date of assent (see s 2(1))
 remaining provisions commenced 30 June 1997 (see s 2(3))

7 List of annotations

Commencement

s 1.2 om R2 (see RA s 37)

Interpretation

s 2 amd 1991 No. 11 s 7.2; 1993 No. 11 s 45 sch 3
 def “**appointed trustee**” ins 1997 No. 21 s 4(2)
 def “**board member**” om 1997 No. 21 s 4(1)
 def “**government superannuation provision fund**” ins 1995 No. 27
 s 61(2)
 sub 1997 No. 21 s 4
 def “**Queensland Treasury Corporation**” om 1995 No. 27 s 61(1)
 def “**trustee**” ins 1997 No. 21 s 4(2)
 def “**unit of the State public sector**” amd 1993 No. 11 s 45 sch 3; 1996
 No. 37 s 147 sch 2

Establishment of board

s 3 sub 1997 No. 21 s 5

Board’s principal function

s 4 sub 1997 No. 21 s 5

Membership of board

s 5 sub 1993 No. 11 s 45 sch 3; 1997 No. 21 s 5

Eligibility to be an appointed trustee

s 6 sub 1997 No. 21 s 5

Appointed trustees’ term of office

s 6A ins 1997 No. 21 s 5

Appointment not affected by other laws restricting employment

s 6B ins 1997 No. 21 s 5

Deputies for trustees

s 6C ins 1997 No. 21 s 5

Executive officer

s 6D ins 1997 No. 21 s 5

Common seal

s 6E ins 1997 No. 21 s 5

Delegation by board

s 6F ins 1997 No. 21 s 5

Conduct of business

s 6G ins 1997 No. 21 s 5

Time and place of meetings

s 6H ins 1997 No. 21 s 5

Conduct of meetings

s 6I ins 1997 No. 21 s 5

Resolutions other than at meetings

s 6J ins 1997 No. 21 s 5

Powers etc. of board

s 7 amd 1997 No. 21 s 6

Trustee indemnified

prov hdg amd 1997 No. 21 s 7

s 8 amd 1997 No. 21 s 7

Remuneration of trustees

prov hdg amd 1997 No. 21 s 8(1)

s 9 amd 1991 No. 11 s 7.3; 1997 No. 21 s 8(2)

Division 1—The fund

div hdg ins 1996 No. 52 s 5(1)

Establishment of fund

s 10 amd 1995 No. 27 s 62; 1997 No. 21 s 9

Investment of fund

s 11 sub 1995 No. 27 s 63

Division 2—The deed

div hdg ins 1996 No. 52 s 5(2)

Deed to establish scheme

s 12 amd 1991 No. 11 s 7.4 (never proclaimed into force and om 1997 No. 21 s 39); 1993 No. 11 s 45 sch 3

Membership categories

s 12A ins 1997 No. 21 s 10

Membership of scheme

s 13 sub 1991 No. 11 s 7.5

amd 1991 No. 97 s 3 sch 2; 1993 No. 11 s 45 sch 3

sub 1995 No. 27 s 64
amd 1997 No. 21 s 11

Contents of deed

s 14 amd 1991 No. 11 s 7.6 (never proclaimed into force and om 1997 No. 21 s 39)

Division 3—Miscellaneous

div hdg ins 1996 No. 52 s 6

Definitions for div 3

s 15 ins 1995 No. 27 s 65
sub 1996 No. 52 s 6
def “**application date**” om 1997 No. 21 s 12(1)
def “**award**” sub 1997 No. 21 s 12(1)–(2)
def “**class 1 marine employee**” om 1997 No. 21 s 12(1)
def “**class 2 marine employee**” om 1997 No. 21 s 12(1)
def “**declared employee**” ins 1997 No. 21 s 12(2)
def “**declared relevant employee**” om 1997 No. 21 s 12(1)
def “**fresh award**” amd 1997 No. 21 s 12(3)
def “**miscellaneous employee**” om 1997 No. 21 s 12(1)
def “**old award**” amd 1997 No. 21 s 12(4)
def “**relevant employee**” om 1997 No. 21 s 12(1)

Benefits payable to certain scheme members

s 15A ins 1996 No. 52 s 6
om 1997 No. 21 s 13

Special provisions for regulation-making power under division

s 15B ins 1996 No. 52 s 6
amd 1997 No. 21 s 14

Benefits payable to declared employees

prov hdg amd 1997 No. 21 s 15(1)
s 15C ins 1996 No. 52 s 6
amd 1997 No. 21 s 15(2)–(3)

Restitution if regulation stops applying

s 15D ins 1996 No. 52 s 6
amd 1997 No. 21 s 16

Accounts relating to fund

s 16 om 1997 No. 21 s 17

Returns

s 17 amd 1991 No. 11 s 7.7 (never proclaimed into force and om 1997 No. 21 s 39)

Recovery of overpayments

s 18 amd 1991 No. 11 s 7.8 (never proclaimed into force and om 1997 No. 21 s 39); 1995 No. 27 s 66; 1996 No. 52 s 6

Protection of expressions associated with scheme

prov hdg sub 1991 No. 11 s 7.9(a)
amd 1997 No. 21 s 18(1)

s 21 amd 1991 No. 11 s 7.9(b)–(c); 1997 No. 21 s 18(2)–(4)

Publicity of scheme

s 22 amd 1997 No. 21 s 19

Offender to be punished summarily

s 4.7 om 1995 No. 27 s 67

Unclaimed benefits

s 23 amd 1991 No. 11 s 7.10 (never proclaimed into force and om 1997 No. 21 s 39)
sub 1995 No. 27 s 68

Rates or amounts of benefit etc. to be rounded off

s 25 om 1997 No. 21 s 20

Contributions by units

s 28 ins 1991 No. 11 s 7.11
sub 1997 No. 21 s 21

Appropriation of contribution

s 29 amd 1991 No. 11 s 7.12 (never proclaimed into force and om 1997 No. 21 s 39)

Assignment of benefit

s 30 amd 1991 No. 11 s 7.13 (never proclaimed into force and om 1997 No. 21 s 39)

Judicial notice of certain matters

s 30A ins 1997 No. 21 s 22

References to discontinued schemes

s 30B ins 1997 No. 21 s 22

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s 31 sub 1993 No. 11 s 45 sch 3

PART 5—TRANSITIONAL

pt hdg ins 1997 No. 21 s 23
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Definitions for pt 5

s 32 ins 1997 No. 21 s 23
exp 15 May 1998 (see s 45)

Discontinued schemes

s 33 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Members

s 34 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Entitlements

s 35 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Trustees

s 36 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

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s 37 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Agreements and legal proceedings

s 38 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Assets and liabilities

s 39 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Executive officer

s 40 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Annual report

s 41 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Application of laws to discontinued boards

s 42 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Liability for tax

s 43 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Deed making power for transferring members

s 44 ins 1997 No. 21 s 23
exp 15 May 1998 (see s 45)

Expiry

s 45 ins 1997 No. 21 s 23
exp 30 June 1998 (see s 45)

Saving of existing orders in council

s 4.17 ins 1993 No. 11 s 45 sch 3
om 1995 No. 27 s 69

Numbering and renumbering of Act

s 4.18 ins 1994 No. 87 s 3 sch 2
om R2 (see RA s 37)

8 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS (Reprint No. 2)
under the Reprints Act 1992 s 43 as required by the Superannuation (State Public
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