



# **Superannuation (State Public Sector) Act 1990**

**Reprinted as in force on 19 November 2009**

**Reprint No. 7D**

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

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Queensland

# Superannuation (State Public Sector) Act 1990

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# Superannuation (State Public Sector) Act 1990

[as amended by all amendments that commenced on or before 19 November 2009]

**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

### 1 Short title

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

### 2 Interpretation

(1) In this Act—

*alternate trustee* means a person holding an appointment as an alternate trustee under section 6C.

*appropriately qualified*, for a person to whom functions or powers are delegated, includes having qualifications, experience or standing appropriate to perform the delegated functions or exercise the delegated powers.

*Example of standing—*

a person's classification level in the public service

*AWUQ* means the Australian Workers' Union Queensland.

*board* means the Board of Trustees pursuant to section 3.

*CEO* see section 6DA(1).

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***chairperson*** means the trustee holding office as the chairperson under section 6D.

***commencement day***, for part 6, division 4, see section 36.

***deed*** means the deed established pursuant to this Act.

***disqualified person*** means a disqualified person under the SIS Act, section 120.

***eligible scheme*** means a scheme declared under a regulation under section 2A to be an eligible scheme.

***employee***, of a unit of the State public sector, means a person who is a member or employee of, or engaged by, the unit.

***employer trustee*** see section 5(11).

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

***independent director*** see the SIS Act, section 10(1) and (2).

***investment manager*** see the SIS Act, section 10(1).

***member entity trustee*** see section 5(11).

***new***, for part 6, division 4, see section 36.

***officer***, for part 3A, see section 15I(1).

***Parliamentary Benefits Committee*** see section 32K(6).

***police 74 member*** means a member of the scheme—

- (a) who, immediately before the repeal of the *Police Superannuation Act 1974*, was a member of a scheme for the provision of superannuation benefits operated under that Act; and
- (b) whose membership category is the same as it was immediately after the repeal of that Act.

***QCU*** means the Queensland Council of Unions.

***QIC*** means Queensland Investment Corporation established under the *Queensland Investment Corporation Act 1991*.

***QSL***, for part 4B, see section 31C.

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**quorum**, at any given time, means the number that is two-thirds of the number of trustees holding appointment under section 5 at the time or, if that is not a whole number, the next highest whole number.

**relevant employee**, for part 4B, see section 31C.

**repealed**, for part 6, division 4, see section 36.

**scheme** means the scheme for the provision of superannuation, retirement, provident or other benefits established pursuant to the deed in accordance with this Act.

**SIS Act** means the *Superannuation Industry (Supervision) Act 1993* (Cwlth).

**State 72 member** means a member of the scheme—

- (a) who, immediately before the repeal of the *State Service Superannuation Act 1972*, was a member of a scheme for the provision of superannuation benefits operated under that Act; and
- (b) whose membership category is the same as it was immediately after the repeal of that Act.

**subsidiary** see the Corporations Act, section 9.

**surcharge debt account**, for a member of the scheme, means the surcharge debt account kept for the member under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* (Cwlth), section 16.

**transfer day**, for part 4B, see section 31C.

**trustee** means a member of the board.

**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 Crime and Misconduct Commission within the meaning of the *Crime and Misconduct Act 2001*; or

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- (e) Legal Aid Queensland within the meaning of the *Legal Aid Queensland Act 1997*; or
  - (f) the industrial relations commission; 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) the Legislative Assembly; or
  - (n) a university, university college or a college of advanced education; or
  - (o) an entity declared under a regulation to be a unit of the State public sector; or
  - (p) a body corporate that is wholly owned by the State; or
  - (q) a wholly-owned subsidiary of a body corporate that is a unit of the State public sector under another paragraph of this definition;
- but does not include—
- (r) the Executive Council; or
  - (s) an entity declared under a regulation to not be a unit of the State public sector.

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*wholly-owned subsidiary* see the Corporations Act, section 9.

- (2) 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), definition *unit of the State public sector*, paragraph (o), includes power to declare the department or other instrumentality to be a unit of the State public sector for the purposes of this Act.

## **2A Eligible schemes**

The Governor in Council may, by regulation, declare a stated superannuation scheme to be an eligible scheme for this Act if—

- (a) the scheme is established or approved under an Act; or  
(b) at the time of the declaration, most of the members of the scheme are current or previous members of the scheme established under this Act.

# **Part 2 Board of trustees**

## **3 Establishment of board**

- (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.

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- (3) The board is not a statutory body under the *Financial Accountability Act 2009*.
- (4) The board is declared to be an excluded matter for the Corporations Act, section 5F, in relation to the provisions of that Act for which a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982* is declared to be an excluded matter under section 13A of that Act.
- (5) The board represents the State.
- (6) However, for the purposes of the *Corporations Act 2001 (Cwlth)*, chapter 7 and the *Superannuation Industry (Supervision) Act 1993 (Cwlth)* the board—
  - (a) does not represent the State; and
  - (b) is not an agent or instrumentality of the State; and
  - (c) does not have the immunities and privileges of the State.
- (7) 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*.

#### **4 Board's function**

The board's function is to administer the scheme.

#### **5 Membership of the board**

- (1) The board consists of the trustees appointed under this Act.
- (2) The Minister must appoint—
  - (a) the prescribed number of employer trustees; and
  - (b) the prescribed number of member entity trustees, of whom—
    - (i) one is to be nominated by AWUQ; and
    - (ii) the remainder are to be nominated by QCU.

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- (3) The prescribed number is—
    - (a) the number, at least 4 and not more than 6, prescribed under a regulation; or
    - (b) if no regulation is in force under paragraph (a)—5.
  - (4) The same prescribed number applies to the employer trustees and to the member entity trustees.
  - (5) With the board's written consent, the Minister may also appoint 1 other person as a trustee if, when appointed, the person will be an independent director of the board.
  - (6) An appointment of a trustee must be made by gazette notice.
  - (7) The Minister may appoint a person as a trustee only with the person's written consent and only if the person is eligible to be a trustee.
  - (8) An appointment must be for a stated term of not longer than 3 years.
  - (9) The office of a trustee becomes vacant if—
    - (a) the trustee resigns by signed notice given to the Minister; or
    - (b) the trustee becomes a disqualified person.
  - (10) The Minister must not revoke a member entity trustee's appointment except on a request under section 6A.
  - (11) In this section—

*employer trustee* means a trustee appointed on the nomination of the Minister.

*member entity trustee* means a trustee appointed on the nomination of AWUQ or QCU.

## 6 Eligibility to be a trustee

- (1) A person is eligible to be a trustee only if the person is an adult and is not a disqualified person.

[s 6A]

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- (2) A person appointed as a trustee must immediately give written notice to the board on becoming aware he or she is a disqualified person.
- (3) In this section—  
*trustee* includes an alternate trustee.

## **6A Board may ask Minister to revoke trustee's appointment**

- (1) The board may ask the Minister to revoke a trustee's appointment—
  - (a) if the trustee is absent from 3 board meetings in a financial year, of which the trustee has been given notice under procedures approved by the board, without the board's leave and without reasonable excuse; or
  - (b) if the board is satisfied the trustee is unable to perform the trustee's functions because of a physical or mental incapacity; or
  - (c) if the board is satisfied that, if the trustee remains as a trustee, it is likely the board will not meet the requirements of standards prescribed under the SIS Act, part 3, relating to fitness and propriety that apply to the board; or
  - (d) in the circumstances prescribed under the SIS Act, section 107(2)(a)(ii)(G).
- (2) Before asking the Minister to revoke a trustee's appointment, the board must—
  - (a) give the trustee a written notice stating—
    - (i) that the board proposes to ask the Minister to revoke the trustee's appointment; and
    - (ii) the reason for making the request; and
    - (iii) that the trustee may, within a stated reasonable time of not less than 14 days, give the board a written submission about why the board should not make the request; and



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- (b) have regard to any submissions received from the trustee within the stated time.
  - (3) Also, before asking the Minister to revoke a member entity trustee's appointment under subsection (1)(a), (b) or (d), the board must obtain the written approval of AWUQ or QCU, whichever nominated the trustee for appointment.
  - (4) The Minister must comply with a request from the board under this section.
  - (5) To remove any doubt, it is declared that this section does not apply to the office of a trustee that has become vacant under section 5(9).

#### **6AA Filling a vacancy in the office of a trustee**

- (1) This section applies if the office of a trustee becomes vacant before the end of the term of his or her appointment (the *original term*).
- (2) Before, or as soon as practicable after, the vacancy arises, the Minister must—
  - (a) for an employer trustee—nominate another person for appointment to the office; or
  - (b) for a member entity trustee nominated by AWUQ—ask AWUQ to nominate another person for appointment to the office; or
  - (c) for a member entity trustee nominated by QCU—ask QCU to nominate another person for appointment to the office.
- (3) The Minister must appoint a trustee to fill the vacancy within 90 days after the vacancy happens.
- (4) However, if, for a vacancy in the office of a member entity trustee, the Minister does not receive a nomination from the relevant entity under subsection (2)(b) or (c) in time to fill the vacancy within 90 days after the vacancy happens, the Minister must appoint a trustee to fill the vacancy as soon as practicable after receiving the nomination.

[s 6B]

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- (5) An appointment to fill the vacancy must be for a term ending at the end of the original term.

## **6B Appointment not affected by other laws restricting employment**

- (1) 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
  - (c) being paid a fee or allowance to which the person is entitled because of the appointment.
- (2) In this section—

*trustee* includes an alternate trustee.

## **6C Alternate trustees**

- (1) The board may appoint alternate trustees under this section.
- (2) If it decides to appoint alternate trustees, the board must establish a policy (the *alternate trustees policy*) that includes provision for the nomination, appointment and acting of alternate trustees.
- (3) The board may appoint a person as an alternate trustee only—
  - (a) under the alternate trustees policy; and
  - (b) with the person's written consent; and
  - (c) if the person is eligible to be a trustee.

*Note—*

See section 6 (Eligibility to be a trustee).

- (4) At any given time, there may not be more than 2 alternate trustees.
- (5) An appointment must be for a stated term of not longer than 3 years.

- (6) The office of an alternate trustee becomes vacant if—
  - (a) the board revokes the alternate trustee's appointment under the alternate trustees policy; or
  - (b) the alternate trustee resigns by signed notice given to the board; or
  - (c) the alternate trustee becomes a disqualified person.
- (7) In the circumstances stated in the alternate trustees policy, an alternate trustee may attend a board meeting in place of a trustee who is absent from the meeting and exercise the absent trustee's powers at the meeting.
- (8) The board must give a copy of the alternate trustees policy to anyone on request, free of charge, and make the policy publicly available in any other way the board considers appropriate.

## **6D Chairperson**

- (1) The Minister must appoint one of the trustees as chairperson of the board.
- (2) The Minister may appoint a trustee as chairperson only with the trustee's written consent.
- (3) The Minister must consult with the board before making or revoking an appointment.
- (4) An appointment must be signed by the Minister.
- (5) An appointment must be for a stated term of not longer than 3 years.
- (6) An appointee stops being the chairperson if—
  - (a) he or she stops being a trustee; or
  - (b) he or she resigns the office of chairperson by signed notice given to the Minister.

[s 6DAA]

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### **6DAA Deputy chairperson**

- (1) The trustees may elect one of their number as deputy chairperson of the board if the person consents to their election.
- (2) The person elected must be—
  - (a) a member entity trustee if the chairperson is an employer trustee; or
  - (b) an employer trustee if the chairperson is a member entity trustee.
- (3) A person is elected deputy chairperson if at least a quorum of trustees vote for the person to be deputy chairperson.
- (4) A person elected stops being deputy chairperson if—
  - (a) the person's term of appointment as trustee ends; or
  - (b) he or she resigns the office of deputy chairperson by written notice given to the board; or
  - (c) he or she stops being a trustee; or
  - (d) he or she stops being a person who may be elected under subsection (2).

### **6DA Chief executive officer**

- (1) There is to be a chief executive officer of the board (the *CEO*).
- (2) The CEO is to be employed by the board or a subsidiary of the board.

### **6E Common seal**

- (1) The CEO has custody of the board's common seal.
- (2) Subject to the board's directions, the CEO may execute a document on the board's behalf by signing the document and attaching the board's common seal.

**6F Delegation by board**

- (1) The board may delegate its powers under this Act to the CEO, a trustee or an appropriately qualified person.
- (2) A delegation of a power may permit the subdelegation of the power to the CEO, a trustee or an appropriately qualified person.

**6G Conduct of business**

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

**6H Time and place of meetings**

- (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 a quorum of trustees.

**6I Conduct of meetings**

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.
- (2) In the chairperson's absence, the deputy chairperson is to preside if present at the meeting.
- (3) In the absence of the chairperson and deputy chairperson, another trustee chosen by the trustees present is to preside.
- (4) A resolution is passed at a board meeting only if at least a quorum of trustees vote in favour of the resolution.
- (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

[s 6J]

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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.

## **6J Resolutions other than at meetings**

- (1) A resolution may be made by the board, other than at a board meeting, if—
- (a) at least a quorum of 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 as soon as the number of trustees who have given written agreement to the resolution is at least a quorum.

## **7 Powers of board**

- (1) The board's powers 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 function, 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) employ staff; and
  - (d) appoint attorneys and agents; and
  - (e) engage consultants; and
  - (f) do anything else necessary or convenient to be done for, or in connection with, the performance of its function.

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

## 8 Protection from liability

- (1) A person who is or was an official is entitled to be indemnified from the fund for a liability incurred by the person for an act done, or omission made, while acting as an official.
- (2) The liability to which subsection (1) applies—
- (a) includes an amount of legal costs decided by the board to be reasonable; but
  - (b) does not include—
    - (i) a liability that arises because the person—
      - (A) fails to act honestly in a matter concerning the fund; or
      - (B) intentionally or recklessly fails to exercise, in relation to a matter affecting the fund, the degree of care and diligence that the official is required to exercise; or
    - (ii) a liability for a monetary penalty under a civil penalty order under the SIS Act.

*Note—*

See the SIS Act, section 57 (Indemnification of directors of trustee from assets of entity).

- (3) The board may effect insurance for liability to which subsection (1) applies and pay the cost of the insurance from the fund.
- (4) In this section—
- official*** means a trustee, an alternate trustee, a member of the Parliamentary Benefits Committee, the CEO or a member of the board's staff.

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**9 Remuneration and allowances payable to trustees and alternate trustees**

- (1) A trustee or alternate trustee is entitled to be paid the remuneration and allowances decided by the Minister after consulting the board.
- (2) The costs of the remuneration and allowances may be paid from the fund.

**9A Assignment of departmental employees to perform work for the board**

- (1) At the board's request, the chief executive may assign public service employees of the department to perform work for the board.
- (2) A person performing work for the board under an assignment under subsection (1) is not an employee of the board but remains a public service employee of the department.
- (3) In this section—  
*board* includes a subsidiary of the board.

## **Part 3 Fund and deed**

### **Division 1 The fund**

**10 Establishment of fund**

The State Public Sector Superannuation Fund (the *fund*) is continued in existence.

**11 Investment of fund**

- (1) The board may, in compliance with the SIS Act, appoint 1 or more investment managers for the fund or parts of the fund.



- (2) The board must, in compliance with the SIS Act, set investment objectives for the fund and establish investment strategies and policies to achieve the objectives.
- (3) An investment objective, strategy or policy under this section may relate to the whole fund, or a particular part of the fund.

## **Division 2            The deed**

### **12        Deed to establish scheme**

- (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 is subordinate legislation.
- (3) The deed may be amended by regulation.
- (4) The Governor in Council must not make a regulation amending the deed without the board's consent.
- (5) Subsection (4) does not apply to an amendment mentioned in the SIS Act, section 60(1)(b) or (c).

### **12A      Membership categories**

The deed must provide for different categories of members.

### **13        Membership of scheme**

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

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- (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 an employee of a unit of the State public sector, the Governor in Council may, by regulation, declare whether the person is or is not an employee of 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 an employee of 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) The Minister may, by written notice, declare that a person is eligible for membership of the scheme if the person is—
- (a) the spouse of a member of the scheme; or
  - (b) an entitled former spouse; or
  - (c) a person for whom an amount is paid to the fund under—
    - (i) the *Governors (Salary and Pensions) Act 2003*, section 16C; or
    - (ii) the *Judges (Pensions and Long Leave) Act 1957*, section 11.
- (6A) A notice under subsection (6)(a) may be limited in its application to particular classes of spouse or by reference to factors stated in the notice.
- (6B) Subsection (6A) does not limit the *Statutory Instruments Act 1992*, section 24 or 25.
- (7) The Minister may, by written notice, declare that a person who is a member of a stated eligible scheme is eligible for membership of the scheme established under this Act on ceasing to be a member of the eligible scheme.

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- (8) A notice under subsection (6) or (7) must declare—
    - (a) that membership of the scheme is discretionary; and
    - (b) any conditions applying to membership; and
    - (c) the membership category or categories for which the person is eligible; and
    - (d) for a notice under subsection (7)—any time limit for becoming a member of the scheme after ceasing to be a member of the eligible scheme.
  - (9) The current employer of a member of the scheme may make contributions to the scheme for the member whether or not the current employer is a unit of the State public sector.
  - (10) A notice made under subsection (1), (4), (6) or (7) is subordinate legislation.
  - (11) In this section—

*entitled former spouse* means a person who is entitled or conditionally entitled, under an agreement under the *Family Law Act 1975* (Cwlth) or a court order under that Act, to payment of an amount from the fund.

### **13A Continuation of eligibility for membership after transfer of employment**

- (1) This section applies if—
  - (a) a person ceases to be an employee of a unit of the State public sector and becomes an employee of another entity (the *new employer*) that is not a unit of the State public sector; and
  - (b) immediately before becoming an employee of the new employer, the person is a member of the scheme; and
  - (c) either—
    - (i) the transfer happens under an Act that provides that, on becoming an employee of the new employer, the person keeps all the person's

[s 13AA]

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existing and accruing rights relating to superannuation; or

- (ii) the person and the new employer each gives written notice to the board that he, she or it agrees to the person's continued membership of the scheme; and
  - (d) for a new employer who has given notice under paragraph (c)(ii)—the Minister approves the new employer for this section.
- (2) This Act applies in relation to the employment of the person as if the new employer were a unit of the State public sector.
  - (3) While a notice declaring that the person is eligible for membership of the scheme is in force under section 13, the person or the new employer may not revoke a notice given under subsection (1)(c)(ii).

### **13AA Continuation of eligibility for membership after employer ceases to be unit of State public sector**

- (1) This section applies if—
  - (a) a person's employer ceases to be a unit of the State public sector (the *relevant event*) and the person continues to be an employee of the employer; and
  - (b) immediately before the relevant event, the person is a member of the scheme; and
  - (c) the relevant event happens under an Act that provides that, on the happening of the relevant event, the person keeps all the person's existing and accruing rights relating to superannuation.
- (2) This Act continues to apply in relation to the employment of the person as if the employer were a unit of the State public sector.

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**13B Continuation of eligibility for membership after ceasing to be an employee, spouse or entitled former spouse**

- (1) To remove doubt, it is declared that, if a person's contributory membership has ended, the person continues to be eligible for membership of the scheme while the person is entitled to a benefit, under the scheme, relating to the person's contributory membership.
- (2) In this section—

*contributory membership* means a person's membership of the scheme, while the person is an employee of a unit of the State public sector, the spouse of a member or an entitled former spouse, on the basis of the person's eligibility under a notice under section 13.

*entitled*, to a benefit, includes conditionally entitled to the benefit.

*Example for definition entitled—*

Under the deed, a benefit is payable to a person when the person reaches a particular age or when a particular event happens. The person is conditionally entitled to the benefit.

**14 Contents of deed**

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;

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- (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 the following—
  - (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;
  - (vi) benefits on—
    - (A) compulsory retrenchment from employment; and
    - (B) involuntary termination of employment; and
    - (C) voluntary resignation from employment; and
    - (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

### 15            Definitions for div 3

In this division—

**award** see the *Industrial Relations Act 1999*, schedule 5, definition *award*, paragraph (a).

*Editor's note—*

*Industrial Relations Act 1999*, schedule 5—

**award**—

(a) generally, means—

- (i) an award made under chapter 5 or continued in force under this Act; or
- (ii) an award as amended under chapter 5;

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

**employee** means an employee or former employee of a unit of the State public sector.

**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.

[s 15B]

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### **15B Special provisions for regulation-making power under division**

- (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.

### **15C Benefits payable to declared employees**

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.

### **15D Restitution if regulation stops applying**

- (1) This section applies if—
  - (a) a benefit becomes payable to a declared employee; and



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- (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.

## **Division 4                      Superannuation contributions surcharge**

### **15E      References in div 4 to benefits payable to members**

In this division, a reference to a benefit payable under the deed to a member of the scheme includes a reference to a benefit payable under the deed to someone else who has derived an entitlement to the benefit through the member.

### **15F      Amount to be deducted from benefits**

- (1) If a benefit is payable under the deed to a member of the scheme, the board must deduct from the employer-financed

[s 15G]

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component of the benefit an amount equal to the balance of the member's surcharge debt account.

- (2) This section applies subject to sections 15G and 15H.

### **15G Limit on deduction on refund of certain contributions**

- (1) This section applies if a benefit is payable, to a police 74 member or State 72 member, as a refund of contributions.
- (2) The amount deducted under section 15F must not be more than the total of the following amounts—
- (a) 15% of the employer-financed component of the part of the benefit that accrued after 20 August 1996 and before 1 July 2003;
  - (b) 14.5% of the employer-financed component of the part of the benefit that accrued after 30 June 2003 and before 1 July 2004;
  - (c) 12.5% of the employer-financed component of the part of the benefit that accrued after 30 June 2004 and before 1 July 2005.

### **15H Deduction from benefits paid as pension**

- (1) This section applies if—
- (a) a benefit is payable to a member of the scheme on ceasing to be an employee of a unit of the State public sector; and
  - (b) the benefit is payable in the form of a pension.
- (2) However, this section does not apply to the payment of a pension to a child who has derived an entitlement to the pension through a member.
- (3) The board must comply with section 15F by reducing the pension, by an amount equal to the balance of the member's surcharge debt account, in the way decided by the Minister on the advice of an actuary.

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## Part 3A Government superannuation officer

### 15I Appointment

- (1) There is to be a government superannuation officer (the *officer*).
- (2) The officer is to be appointed by the Governor in Council.
- (3) The officer may be appointed under this Act or the *Public Service Act 2008*.

### 15J Functions

The officer's functions are, as directed by the Minister, to give advice, prepare reports and carry on other activities relating to superannuation and public service employee entitlements.

### 15K Staff services from department and board

- (1) At the officer's request—
  - (a) the chief executive may assign public service employees of the department to perform work for the officer; or
  - (b) the board may assign a member of the board's staff to perform work for the officer.
- (2) A person assigned to perform work for the officer under this section is not subject to the direction of the chief executive or board in relation to the performance of the work.
- (3) In this section—

*board* includes a subsidiary of the board.

### 15L Delegation

- (1) The officer may delegate the officer's functions to an appropriately qualified person assigned to perform work for the officer under section 15K.

[s 15M]

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- (2) In this section—  
*functions* includes powers.

### **15M CEO to act as officer while no appointee**

At any time there is no-one holding an appointment as the officer—

- (a) the CEO is to perform the officer's functions; and
- (b) for that purpose, sections 15J to 15L apply as if references in the sections to the officer were references to the CEO.

## **Part 4 Administration**

### **17 Returns**

- (1) Throughout each year, each unit of the State public sector which employs 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 a unit of the State public sector who might become entitled to a benefit from the fund; or
  - (b) was an employee of a unit of the State public sector who being entitled to a benefit from the fund preserved that entitlement; or
  - (c) is a member of the scheme;
- is to furnish to the board information with respect to such matters concerning that person as the board may require.

- (3) If a person fails to comply with a requirement under subsection (2) relevant to establishing the person's entitlement to a benefit, the board must withhold the benefit until the entitlement can be established.

## **18 Recovery of overpayments**

- (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—
- (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.

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- (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) This section applies subject to a standard prescribed under the SIS Act, section 31.
- (8) 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.

## **19 Recovery of unpaid contributions**

- (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.

## **20 Reports**

- (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

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the administration of this Act or the scheme as the Minister may direct.

*Note—*

See also the SIS Act for other provisions about reports.

## **20A Auditing**

- (1) The board must—
  - (a) keep appropriate financial statements about the administration of the scheme; and
  - (b) have the financial statements for each financial year audited by the auditor-general.
- (2) As soon as practicable after the auditor-general certifies the financial statements and prepares a report about the certified statements under the audit, the auditor-general must—
  - (a) give the certified statements and report to the board; and
  - (b) give a copy of the certified statements and report to the Minister.

*Note—*

See also the SIS Act for other provisions about auditing.

## **21 Protection of expressions associated with scheme**

- (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;

[s 22]

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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

## 22 Publicity of scheme

The board is to take all reasonable steps to ensure that all persons eligible for membership of the scheme are made aware of the benefits that arise from membership of the scheme.

## 23 Unclaimed benefits

- (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.



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- (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) This section does not apply to a benefit, or any part of a benefit, that is unclaimed money under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (Cwlth).
  - (7) In this section—  
*benefit* includes interest payable on the benefit at the rate decided by the board.

## **24 Barring of claims for compensation**

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.

## **26 False declarations**

- (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 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.

[s 28]

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- (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.

## **28 Contributions by units**

- (1) The Treasurer may require a unit of the State public sector to pay, for each member of the scheme employed 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 or, for a payment other than a periodic payment, by the time stated by the Treasurer.

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- (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.
  - (4) Subsection (5) applies if—
    - (a) the amount is paid within the time required under subsection (2); and
    - (b) the board can not pay the amount or a part of the amount into the member's appropriate account because information received for the member, from the unit of the State public sector in a return mentioned in section 17(1), is not accurate or complete.
  - (5) Interest accrues on the amount that can not be paid into the member's appropriate account—
    - (a) at the rate prescribed under a regulation; and
    - (b) for the period in which the amount can not be paid into the account.
  - (6) The amount mentioned in subsection (1), and interest that accrues under subsection (3) or (5), must be paid—
    - (a) if a regulation requires payment to the board—to the board; or
    - (b) otherwise—to the Treasurer.
  - (7) In this section—

*member's appropriate account*, in relation to an amount received for a member of the scheme, means the member's account under the scheme into which the amount must be paid under this Act.

## 29 Appropriation of contribution

- (1) 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;

[s 30]

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- (b) out of the consolidated fund which is appropriated accordingly.
- (2) The contribution by the Crown under subsection (1) in a financial year must be at least the amount required to meet the defined benefits under the deed that fall due for payment in the financial year less—
  - (a) any share of the defined benefits satisfied by contributions already paid by the Crown; and
  - (b) any share of the defined benefits satisfied by contributions already paid by the defined benefit members to whom the benefits are payable and accumulated interest on the contributions.
- (3) In this section—

*accumulated interest*, on contributions paid by a defined benefit member, means interest credited to the member's account under the deed that is attributable to the amount of the contributions.

*defined benefit members* means members in a defined benefit category under the deed.

*defined benefits* means benefits payable under the deed to defined benefit members.

### **30 Assignment of benefit**

Subject to part 3, 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 amount payable out of the fund on the death of the member is not an asset for the payment of the member's debts or liabilities.

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### 30A Judicial notice of certain matters

- (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, an alternate trustee or the CEO; and
  - (b) the fact that the person holds or has held the relevant office.

### 30B References to discontinued schemes

- (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 Parliamentary Contributory Superannuation Act 1970
- 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
- the repealed Superannuation (Government and Other Employees) Act 1988.

### 30C No appeal to industrial commission

No appeal lies to the industrial commission in relation to any decision under this Act.

[s 30D]

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**30D Commencement of Superannuation (State Public Sector) Notice 2000**

The *Superannuation (State Public Sector) Notice 2000* is taken to have commenced on 1 May 2000.

**31 Regulations**

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

**Part 4A Transfer of employees, assets and liabilities to the board**

**31A Transfer of employees**

- (1) With the consent of a public service employee of the department, the Minister may, by written notice, transfer the employee to the board.
- (2) The transfer does not—
  - (a) affect the employee's benefits, entitlements or remuneration; or
  - (b) prejudice the employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (c) interrupt continuity of service; or
  - (d) constitute a retrenchment or redundancy; or
  - (e) entitle the employee to a payment or other benefit merely because he or she is no longer employed in the department.
- (3) If the employee is employed on contract, the transfer has effect despite anything in the contract.

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- (4) On becoming an employee of the board, the employee stops being a public service employee.
  - (5) Subsection (4) does not apply if the board is a public service office at the time of the transfer and it employs the employee under the *Public Service Act 2008*.
  - (6) The Minister may delegate the Minister's power under subsection (1) to the chief executive.
  - (7) In this section—  
*board* includes a subsidiary of the board.

### **31B Transfer of assets and liabilities**

- (1) This section applies to assets and liabilities of the State that are controlled by the office known as the Government Superannuation Office within the department.
- (2) The Minister may, by gazette notice, transfer stated assets and liabilities (the *transferred assets and liabilities*) to the board.
- (3) The gazette notice may identify the transferred assets and liabilities by reference to a register of assets and liabilities approved by the Minister.
- (4) On the day the gazette notice takes effect (the *effective day*)—
  - (a) the State is divested of the transferred assets and liabilities and the transferred assets and liabilities become the assets and liabilities of the board; and
  - (b) contracts, agreements, arrangements and deeds, relating to the transferred assets and liabilities, to which the State is a party, in force immediately before the effective day, are taken to have been entered into by the board and may be enforced against or by the board; and
  - (c) any property relating to the transferred assets and liabilities that, immediately before the effective day, was held on trust, or subject to a condition, by the State continues to be held on the same trust, or subject to the same condition, by the board; and

[s 31C]

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- (d) a lease relating to the transferred assets and liabilities granted by, or to, the State, in force immediately before the effective day, is taken to have been granted by, or to, the board; and
  - (e) proceedings by or against the State, or that could have been started by or against the State before the effective day, relating to the transferred assets or liabilities may be continued or started by or against the board.
- (5) The transfer of a liability of the State under this section discharges the State from the liability.
- (6) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by the board, record the vesting of the property under this section in the board.
- (7) In this section—  
*board* includes a subsidiary of the board.

## Part 4B                      Transfer of employees to QSL

### 31C    Definitions for pt 4B

In this part—

*QSL* means QSuper Limited ACN 125 248 286.

*relevant employee* means a person who, immediately before the transfer day, was—

- (a) an employee of the department; and
- (b) included, for this part, in a list of employees—
  - (i) signed by the Minister; and
  - (ii) available, in the head office of the department, for inspection by employees to whom the list relates.

*transfer day* means the later of the following—



- (a) 1 July 2009;
- (b) the day this section commences.

### **31D Transfer of relevant employees**

- (1) On the transfer day—
  - (a) all relevant employees are transferred to become employees of QSL; and
  - (b) the records of the department, to the extent they relate to the employment of relevant employees, become the records of QSL.
- (2) The transfer does not—
  - (a) affect a relevant employee's benefits, entitlements or remuneration; or
  - (b) prejudice the relevant employee's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (c) interrupt the relevant employee's continuity of service; or
  - (d) constitute, for the relevant employee, a termination of the employee's employment by the department, a retrenchment or a redundancy; or
  - (e) entitle the relevant employee to a payment or other benefit merely because the employee is no longer employed in the department.
- (3) If a relevant employee is employed on contract, the transfer has effect despite anything in the contract.
- (4) On becoming an employee of QSL, a relevant employee stops being a public service employee.

[s 31E]

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### **31E Right to return to public service**

- (1) A relevant employee transferred under section 31D may, within 1 year after the transfer day, elect to return to being a public service employee.
- (2) Subsection (1) does not apply to—
  - (a) a relevant employee mentioned in section 31D(3); or
  - (b) a relevant employee who, by written notice given to the chief executive officer of QSL, has waived the employee's right under subsection (1).
- (3) If a relevant employee is appointed to a position in QSL at a higher level from the position to which the employee was transferred, the appointment may include a condition that the employee waive the employee's right under subsection (1).
- (4) An election under subsection (1) must be made by giving written notice (an *election notice*) to the chief executive officer of QSL.
- (5) At least 7 days but not more than 21 days after receiving an election notice, the chief executive officer must give a copy of the notice to the chief executive of the department.
- (6) A relevant employee may withdraw an election notice by giving written notice (a *withdrawal notice*) to the chief executive officer of QSL.
- (7) The withdrawal notice has effect only if it is given to the chief executive officer before the chief executive officer has given a copy of the election notice to the chief executive of the department.
- (8) A relevant employee who has given a withdrawal notice under subsection (6) may not give a further election notice under subsection (1).

### **31F Conditions on return to public service**

- (1) This section applies to a relevant employee who, under section 31E, elects to return to being a public service employee.

- 
- (2) On the relevant employee's return—
    - (a) the employee is taken not to have stopped being a public service employee when the employee was transferred; and
    - (b) the employee's service as a public service employee is taken to have continued while the employee was employed by QSL; and
    - (c) the records held by QSL that relate to the employee's employment become the records of the department.
  - (3) Subsection (2) does not allow the relevant employee to claim a benefit of the employee's service more than once for the same period of time.

## **Part 5**

### **Validation provision for appointment of executive officer of board**

#### **32 Validation provision for appointment of executive officer of board**

- (1) For this Act, the person appointed as the executive officer of the board by the Governor in Council on 24 July 2003 is taken to have been validly appointed as the executive officer of the board on 2 July 1997 for the relevant period.
- (2) Anything done or omitted to be done during the relevant period that would have been valid and lawful under this Act had the person been validly appointed as the executive officer on 2 July 1997 is taken to be, and always to have been, as valid and lawful as if the person had been validly appointed as the executive officer on that day.
- (3) In this section—

*relevant period* means the period starting on 2 July 1997 and ending at the end of 23 July 2003.



### **32C Entitlements**

- (1) On the commencement, each transferring member has the entitlements that applied to him or her immediately before the commencement.
- (2) This section does not affect section 12.

### **32D Trustees of the Parliamentary fund**

- (1) The Parliamentary trustees go out of office and the trustees body corporate is dissolved.
- (2) In this section—

*Parliamentary trustees* means the trustees of the Parliamentary fund under the repealed Act, section 7(1).

*trustees body corporate* means the Trustees of the Parliamentary Contributory Superannuation Fund under the repealed Act, section 7(2).

### **32E Parliamentary fund**

- (1) The Parliamentary fund is discontinued.
- (2) On the commencement, an amount that, immediately before the commencement, was contained in the Parliamentary fund becomes part of the State Public Sector Superannuation Fund.

### **32F Agreements and legal proceedings**

- (1) An agreement or arrangement in force immediately before the commencement, between the trustees body corporate and another entity is taken to be an agreement or arrangement between the board and the entity.
- (2) A legal proceeding started but not finished, before the commencement, by or against the trustees body corporate may be continued and finished by or against the board.

[s 32G]

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### **32G Assets and liabilities**

On the commencement, an asset or liability of the trustees body corporate immediately before the commencement becomes an asset or liability of the board.

### **32H Annual report**

(1) The next annual report made after the commencement must include a report on the administration of the Parliamentary fund under the repealed Act during the period from 1 July 2006 until immediately before the commencement.

(2) In this section—

*annual report* means a report under section 20.

### **32I Auditing**

(1) The former trustees must give to the board the accounts under the repealed Act, section 14, relating to the period from 1 July 2006 until immediately before the commencement.

(2) A reference in section 20A(1)(b) or (2) to financial statements includes the accounts received by the board under subsection (1).

(3) In this section—

*former trustees* means the persons who were the Parliamentary trustees immediately before the commencement.

### **32K Deed making power for transferring members**

(1) This section provides for the amendment of the deed under section 12 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 the repealed Act.

(3) To remove any doubt, it is declared the amendment does not amend the repealed Act.

- 
- (4) The amendment must not commence until the repeal of the repealed Act.
  - (5) The deed must be amended to provide for the membership category or categories of transferring members.
  - (6) The deed must be amended to include provision for a resignation matter to be decided by the board after consulting with a committee (the *Parliamentary Benefits Committee*) consisting of the following persons—
    - (a) the Premier;
    - (b) the Speaker of the Legislative Assembly;
    - (c) the member of the Legislative Assembly who is recognised as the Leader of the Opposition.
  - (7) This section does not limit section 12.
  - (8) In this section—

*resignation matter* means a matter about whether a transferring member has resigned, or not sought re-election, as a member of the Legislative Assembly for good and sufficient reasons.

### **32L Repeal**

The Parliamentary Contributory Superannuation Act 1970 No. 1 is repealed.

## **Part 5B Closure of standard defined benefit category**

### **32M Definitions for pt 5B**

In this part—

*commencement day* means the day this part commences.

[s 32N]

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*standard defined benefit category* means the membership category under the deed that was of that name immediately before the commencement day.

### **32N Closure of standard defined benefit category**

- (1) A person may not become a member in the standard defined benefit category.
- (2) A person who is not a member in the standard defined benefit category in relation to particular employment may not become a member in the standard defined benefit category in relation to that employment.
- (3) To remove any doubt, it is declared that—
  - (a) subsections (1) and (2) apply despite anything in the deed or other instrument in force under this Act; and
  - (b) subsection (1) prevents a person becoming a member in the standard defined benefit category even if the person was previously in that category (before or after the commencement day); and
  - (c) subsection (2) prevents a person becoming a member in the standard defined benefit category in relation to particular employment even if the person was previously in that category in relation to that employment (before or after the commencement day).
- (4) This section does not apply to a person with approval given under section 32O.

### **32O Approval to join after commencement day in particular circumstances**

- (1) Within 6 months after the commencement day, a person may give a written application to the government superannuation officer (the *officer*) for approval to become a member in the standard defined benefit category in relation to particular employment.



- 
- (2) The person must give the officer the information reasonably required by the officer to decide the application.
  - (3) The officer may approve the application if satisfied that, before the commencement day, the applicant—
    - (a) took a step for the purpose of becoming a member in the standard defined benefit category; or

*Example—*

The applicant completed a form required to become a member in the standard defined benefit category but, on the commencement day, the form was with the applicant's employer.

- (b) took a step for the purpose of deciding whether to become a member in the standard defined benefit category.

*Example—*

The applicant arranged before the commencement day to obtain financial advice for the purpose of deciding whether to become a member in the standard defined benefit category.

- (4) The officer must decide the application as soon as is practicable.
- (5) The officer must give the applicant written notice of the decision and, if the decision is not to give the approval, the reasons for the decision.
- (6) If the officer decides not to give approval, the applicant may, within 28 days after receiving notice of the decision, give a written application to the chief executive for a review of the decision.
- (7) The chief executive must review the decision as soon as is practicable and either confirm the officer's decision or give the approval.
- (8) The chief executive must give the applicant written notice of the chief executive's decision on the review and, if the decision is to confirm the officer's decision, the reasons for the chief executive's decision.
- (9) For part 3A, the officer's functions include the functions under this section.

[s 32P]

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**32P Membership taken to continue in particular circumstances**

- (1) This section applies if—
  - (a) on or after the commencement day, a person who is a member of the standard defined benefit category in relation to employment with a particular unit of the State public sector stops being employed by that unit; and
  - (b) within 1 month after ceasing the employment mentioned in paragraph (a), the person starts employment with the same or another unit of the State public sector (the *new employment*); and
  - (c) the person is eligible for membership in the standard defined benefit category in relation to the new employment.
- (2) The person's membership in the standard defined benefit category continues until it ends under the deed.

## **Part 6 Transitional provisions**

### **Division 1 Financial Sector Reform (Queensland) Act 1999**

**33 APRA or ASIC may be declared to be a unit of the State public sector**

- (1) Subsection (2) applies if, on or after the transfer date, a person who was an employee of QOFS immediately before the transfer date becomes—
  - (a) an employee of APRA under a transfer agreement; or
  - (b) an employee of ASIC under the *Public Service Act 1922* (Cwlth), section 81B(1).

- 
- (2) A regulation may, under section 2(1), definition *unit of the State public sector*, paragraph (o), declare—
- (a) APRA to be a unit of the State public sector, if the person becomes an employee of APRA under a transfer agreement; or
  - (b) ASIC to be a unit of the State public sector, if the person becomes an employee of ASIC under the *Public Service Act 1922* (Cwlth), section 81B(1).

- (3) In this section—

**APRA** means the Australian Prudential Regulation Authority established under the *Australian Prudential Regulation Authority Act 1998* (Cwlth).

**ASIC** means the Australian Securities and Investments Commission established under the *Australian Securities and Investments Commission Act 2001* (Cwlth).

**QOFS** means the Queensland Office of Financial Supervision established under the *Queensland Office of Financial Supervision Act 1992*.

**transfer agreement** means a transfer agreement under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), schedule 8, part 1, division 2.

**transfer date** means the date that, under the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (Cwlth), section 3(16), is specified as the transfer date for the purposes of that Act.

## Division 2                      South East Queensland Water Board (Reform Facilitation) Act 1999

### 34      SEQWB officers or employees who become SEQWCo employees

- (1) This section applies if, on or after the settlement day, a person who is an officer or employee of SEQWB immediately before

[s 34]

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the settlement day becomes an employee of SEQWCo under the sale of business agreement.

- (2) A regulation may, under section 2(1), definition *unit of the State public sector*, paragraph (o), declare SEQWCo to be a unit of the State public sector.
- (3) A declaration under subsection (2) operates only for the purpose of this Act and must not be taken to indicate that SEQWCo has a status for the purpose of any other Act.
- (4) If SEQWCo is declared to be a unit of the State public sector, the only persons, in relation to SEQWCo, who may be declared eligible for membership of the scheme, by a written notice under section 13(1), are transferred employees.
- (5) In this section—

***sale of business agreement*** means the agreement called the Sale of Business Agreement entered into between SEQWB and SEQWCo on 20 September 1999 under the *South East Queensland Water Board (Reform Facilitation) Act 1999*, section 5(1).

***SEQWB*** means the South East Queensland Water Board established under the *South East Queensland Water Board Act 1979*.

***SEQWCo*** means South East Queensland Water Corporation Limited ACN 088 729 766.

***settlement day*** means the settlement day declared under the *South East Queensland Water Board (Reform Facilitation) Act 1999*, section 8.

***transferred employees*** means persons who are officers or employees of SEQWB immediately before the settlement day and become employees of SEQWCo under the sale of business agreement.

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## Division 3                      Revenue Legislation Amendment Act 2005

### 35      Transitional provision about superannuation contributions surcharge

To work out the amount equal to the balance of a member's surcharge debt account under part 3, division 4, the amendment of section 15G by the *Revenue Legislation Amendment Act 2005* applies as if the amendment had commenced on 1 July 2005.

## Division 4                      Superannuation (State Public Sector) Amendment Act 2007

### 36      Definitions for div 4

In this division—

*commencement day* means the day of commencement of the provision in which the term appears.

*new* means as in force from the commencement day.

*repealed* means repealed by the *Superannuation (State Public Sector) Amendment Act 2007*.

### 37      Continuation of chief executive as a trustee

- (1) The chief executive continues from the commencement day as an employer trustee.
- (2) For subsection (1), there is taken to be an appointment of the chief executive under new section 5 (the *deemed appointment*).
- (3) Despite new section 5(8), the deemed appointment is not taken to be for a limited term.
- (4) To remove any doubt, it is declared that—

[s 38]

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- (a) the deemed appointment may be ended under this Act; and

*Example—*

The chief executive may resign as trustee by signed notice given to the Minister.

- (b) the ending of the deemed appointment does not prevent a future appointment of the chief executive as a trustee under new section 5.
- (5) The operation of this section is not affected by a change of the individual holding office as the chief executive.

### **38 Continuation of other trustees**

- (1) An existing appointment continues from the commencement day until the end of the term stated in the existing appointment, unless it ends earlier under this Act.
- (2) For subsection (1), the current appointed trustees are taken to have been appointed under new section 5.
- (3) A current appointed trustee who was nominated for appointment under repealed section 5(1)(a) is taken to be an employer trustee.
- (4) A current appointed trustee who was nominated for appointment under repealed section 5(1)(b) is taken to be a member entity trustee.
- (5) In this section—

*current appointed trustee* means a person holding office as a trustee under an existing appointment.

*existing appointment* means an appointment under repealed section 5 that was in force immediately before the commencement day.

### **39 Remuneration of trustees**

The persons continued in office as trustees under this division continue to be entitled to the remuneration that applied to

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them immediately before the commencement day under repealed section 9 until the Minister makes a decision under new section 9.

#### **40 Chairperson**

- (1) The chief executive continues from the commencement day as chairperson.
- (2) For subsection (1), there is taken to be an appointment of the chief executive under new section 6D(1) (the *deemed appointment*).
- (3) Despite new section 6D(5), the deemed appointment is not taken to be for a limited term.
- (4) To remove any doubt, it is declared that—
  - (a) the deemed appointment may be ended under this Act; and

*Example—*

The chief executive may resign the office of chairperson by signed notice given to the Minister.

  - (b) the ending of the deemed appointment does not prevent a future appointment of the chief executive as chairperson under new section 6D.
- (5) The operation of this section is not affected by a change of the individual holding office as the chief executive.

#### **41 Transfer of previous executive officer to CEO**

- (1) To remove any doubt, it is declared that, if the previous executive officer is a public service employee of the department, he or she may be transferred under new section 31A to the position of CEO.
- (2) In this section—

*previous executive officer* means the person who, immediately before the commencement day, was the executive officer under repealed section 6D.

[s 42]

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**42 Other matters relating to the executive officer**

- (1) A reference in new section 8 to a person who was an official includes a person who was the executive officer at a time before the commencement day.
- (2) A reference in new section 30A(2)(a) to the signature of the CEO includes the signature of the executive officer made at a time before the commencement day.

**43 QIC continues as investment manager**

- (1) QIC continues from the commencement day as investment manager of the fund.
- (2) For subsection (1), QIC is taken to have been appointed under new section 11.
- (3) The appointment continues until it is revoked by the board.



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## 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 19 November 2009. 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

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1993 Act No. 11	1 July 1993	20 May 1994
2	1995 Act No. 27	18 August 1995	29 August 1995
2A	1996 Act No. 52	1 December 1996	20 February 1997
2B	1997 Act No. 21	30 June 1997	5 September 1997
3	1997 Act No. 21	30 June 1997	2 October 1997
3A	1997 Act No. 81	5 December 1997	16 July 1998
3B	1999 Act No. 33	1 July 1999	29 October 1999
3C	1999 Act No. 75	14 December 1999	4 January 2000
4	1999 Act No. 75	14 December 1999	2 June 2000
4A	2000 Act No. 52	17 November 2000	1 December 2000
4B	2001 Act No. 31	7 June 2001	21 June 2001
4C	2001 Act No. 45	15 July 2001	10 August 2001
4D	2001 Act No. 69	1 January 2002	2 January 2002
5	2001 Act No. 69	1 January 2002	1 January 2002

Reprint No.	Amendments included	Effective	Notes
5A rv	2002 Act No. 66	6 December 2002	
5B rv	2002 Act No. 74	1 April 2003	
5C	2002 Act No. 66	29 November 2004	
5D rv	2004 Act No. 42	17 December 2004	
5E	2004 Act No. 42	8 April 2005	R5E withdrawn, see R6
6	—	8 April 2005	
6A	2005 Act No. 60	28 November 2005	
6B	2007 Act No. 7	27 April 2007	
6C	2007 Act No. 7	1 July 2007	
6D	2007 Act No. 58	16 November 2007	
6E	2008 Act No. 75	12 November 2008	
6F	2008 Act No. 75	11 December 2008	
6G	2007 Act No. 7	1 March 2009	R6G withdrawn, see R7
7	—	1 March 2009	
7A	2009 Act No. 11	28 May 2009	
7B	2009 Act No. 9	1 July 2009	
7C	2009 Act No. 25	2 November 2009	
7D	2009 Act No. 48	19 November 2009	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	1
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 1.1–1.2 commenced on date of assent

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

amending legislation—

### **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 (this Act is amended, see amending legislation below)**

date of assent 17 December 1991  
commenced 11 May 1991 (see Act)

amending legislation—

**Statute Law (Miscellaneous Provisions) Act 1992 No. 36 s 2 sch 2 (amends 1991 No. 97 above)**

date of assent 2 July 1992  
commenced on date of assent

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

date of assent 28 May 1993  
ss 1–2 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 (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 ss 1, 2(1), (3) pt 2 (this Act is amended, see amending legislation below)**

date of assent 15 May 1997  
pt 1, pt 2 hdg, ss 3, 23 (so far as it ins new pt 5 hdg and new ss 32, 44) commenced on date of assent (see s 2(1) and 1997 No. 81 s 3 sch)  
remaining provisions commenced 30 June 1997 (see s 2(3))

amending legislation—

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1, 3 sch (amends 1997 No. 21 above)**

date of assent 5 December 1997  
commenced 15 May 1997 (see s 3 sch)

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3 sch**

date of assent 5 December 1997  
commenced on date of assent

**Corrective Services Legislation Amendment Act 1999 No. 9 pt 1 sch**

date of assent 30 March 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 May 1999 (1999 SL No. 72)

**Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch**

date of assent 30 April 1999  
commenced on date of assent

**Financial Sector Reform (Queensland) Act 1999 No. 27 ss 1–2(1), (4), 76 sch 1 pt 3**

date of assent 16 June 1999  
ss 1–2, 76 commenced on date of assent  
remaining provisions commenced 1 July 1999 (see s 2(1) and proc pubd Cwlth of  
Australia gaz 29 June 1999, No. S283)

**Superannuation (State Public Sector) Amendment Act 1999 No. 28**

date of assent 16 June 1999  
commenced on date of assent

**Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch**

date of assent 16 June 1999  
ss 1–2, 50 commenced on date of assent  
remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL  
No. 119, 1999 SL No. 70 s 2(3))

**Industrial Relations Act 1999 No. 33 ss 1, 2(2), 747 sch 3**

date of assent 18 June 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1999 (1999 SL No. 159)

**Superannuation Legislation Amendment Act 1999 No. 74 s 1 pt 5**

date of assent 14 December 1999  
commenced on date of assent

**Superannuation (State Public Sector) Amendment Act (No. 2) 1999 No. 75**

date of assent 14 December 1999  
commenced on date of assent

**Superannuation and Other Legislation Amendment Act 2000 No. 52 s 1 pt 5**

date of assent 17 November 2000  
commenced on date of assent

**Financial Administration and Other Legislation Amendment Act 2001 No. 31 ss 1, 48  
sch**

date of assent 7 June 2001  
commenced on date of assent

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001

ss 1–2 commenced on date of assent

sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1**

date of assent 8 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2002 (2001 SL No. 221)

**Treasury Legislation Amendment Act (No. 2) 2002 No. 66 pts 1, 7**

date of assent 28 November 2002

ss 1–2 commenced on date of assent

s 26 commenced 29 November 2004 (automatic commencement under AIA s 15DA(2) (2003 SL No. 284 s 2))

remaining provisions commenced 6 December 2002 (2002 SL No. 336)

**Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch**

date of assent 13 December 2002

ss 1–2 commenced on date of assent

s 90 commenced 31 March 2003 (2003 SL No. 51)

remaining provisions commenced 1 April 2003 (2003 SL No. 51)

**Superannuation Legislation Amendment Act 2003 No. 93 ss 1, 2(2), pt 3 (this Act is amended, see amending legislation below)**

date of assent 3 December 2003

ss 1–2 commenced on date of assent

remaining provision never proclaimed into force and om 2004 No. 42 s 24

amending legislation—

**Superannuation Legislation Amendment Act 2004 No. 42 ss 1–2, 21, 24 (amends 2003 No. 93 above)**

date of assent 18 November 2004

commenced on date of assent (see s 2)

**Superannuation Legislation Amendment Act 2004 No. 42 pts 1, 6, s 33 sch**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

s 27 (to the extent it ins new s 13(6)(c)(iii)) commenced 8 April 2005 (2005 SL No. 56)

remaining provisions commenced 17 December 2004 (2004 SL No. 284)

**Revenue Legislation Amendment Act 2005 No. 60 ss 1, 35 sch 1**

date of assent 28 November 2005

commenced on date of assent

**Superannuation (State Public Sector) Amendment Act 2007 No. 7 pts 1–2**

date of assent 28 February 2007

ss 1–2 commenced on date of assent

pt 2 hdg, ss 3, 4 (other than s 4(2) to the extent it ins new defs “alternate trustee”, “CEO”, “Parliamentary Benefits Committee”), 5, 6 (except to the extent it ins new s 6(3)), 8 (to the extent it ins new s 6D), 10(2), 11–14, 15 (to the extent it om s 9 and ins new ss 9–9A), 16–18, 19 (except to the extent it ins new s 15M), 20, 22–23, 26, 27 (except to the extent it ins new ss 41–42) commenced 27 April 2007 (2007 SL No. 63)

ss 4(2) (to the extent it ins new defs “CEO”, “Parliamentary Benefits Committee”), 8 (to the extent it om s 6D and ins new s 6DA), 9, 10(1), 19 (to the extent it ins new s 15M), 25, 25A, 26A, 27 (to the extent it ins new ss 41, 42 other than 42(1)) commenced 1 July 2007 (2007 SL No. 138)

remaining provisions commenced 1 March 2009 (automatic commencement under AIA s 15DA(2) (2008 SL No. 30 s 2))

**South East Queensland Water (Restructuring) Act 2007 No. 58 s 1, pt 3 div 1**

date of assent 16 November 2007

commenced on date of assent

**Revenue and Other Legislation Amendment Act (No. 2) 2008 No. 75 ss 1, 2(14), pt 19**

date of assent 11 December 2008

ss 1–2 commenced on date of assent

s 125 commenced 12 November 2008 (see s 2(14))

remaining provisions commenced on date of assent

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Superannuation (State Public Sector) Amendment Act 2009 No. 11**

date of assent 28 May 2009

commenced on date of assent

**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

**State Penalties Enforcement and Other Legislation Amendment Act 2009 No. 48 s 1, ch 5 pt 8**

date of assent 19 November 2009

commenced on date of assent

## 7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

### 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; 1997 No. 81 s 3 sch; 1999 No. 27 s 76 sch 1 pt 3; 2004 No. 42 s 26(4)–(5)
- def “**alternate trustee**” ins 2007 No. 7 s 4(2)
- def “**appointed trustee**” ins 1997 No. 21 s 4(2)  
om 2007 No. 7 s 4(1)
- def “**appropriately qualified**” ins 2007 No. 7 s 4(2)
- def “**AWUQ**” ins 2007 No. 7 s 4(2)
- def “**board member**” om 1997 No. 21 s 4(1)
- def “**CEO**” ins 2007 No. 7 s 4(2)
- def “**chairperson**” ins 2007 No. 7 s 4(2)
- def “**commencement day**” ins 2007 No. 7 s 4(2)
- def “**defined benefit asset**” ins 2007 No. 7 s 4(2)  
om 2007 No. 58 s 105
- def “**defined benefit member**” ins 2007 No. 7 s 4(2)  
om 2007 No. 58 s 105
- def “**disqualified person**” ins 2007 No. 7 s 4(2)
- def “**eligible scheme**” ins 2000 No. 52 s 36(2)
- def “**employee**” ins 2000 No. 52 s 36(2)
- def “**employer trustee**” ins 2007 No. 7 s 4(2)
- def “**government superannuation provision fund**” ins 1995 No. 27 s 61(2)  
sub 1997 No. 21 s 4  
om 2000 No. 52 s 36(1)
- def “**independent director**” ins 2007 No. 7 s 4(2)
- def “**investment manager**” ins 2007 No. 7 s 4(2)
- def “**member entity trustee**” ins 2007 No. 7 s 4(2)
- def “**new**” ins 2007 No. 7 s 4(2)
- def “**officer**” ins 2007 No. 7 s 4(2)
- def “**Parliamentary Benefits Committee**” ins 2007 No. 7 s 4(2)
- def “**police 74 member**” ins 1999 No. 74 s 13  
amd 2004 No. 42 s 33 sch
- def “**QCU**” ins 2007 No. 7 s 4(2)
- def “**QIC**” ins 2007 No. 7 s 4(2)
- def “**QSL**” ins 2009 No. 11 s 3
- def “**Queensland Treasury Corporation**” om 1995 No. 27 s 61(1)
- def “**quorum**” ins 2007 No. 7 s 4(2)
- def “**relevant employee**” ins 2009 No. 11 s 3
- def “**repealed**” ins 2007 No. 7 s 4(2)
- def “**SIS Act**” ins 2007 No. 7 s 4(2)
- def “**State 72 member**” ins 1999 No. 74 s 13
- def “**subsidiary**” ins 2007 No. 7 s 4(2)
- def “**surcharge debt account**” ins 1999 No. 74 s 13



def “**transfer day**” ins 2009 No. 11 s 3  
 def “**trustee**” ins 1997 No. 21 s 4(2)  
     sub 2007 No. 7 s 4(1)–(2)  
 def “**unit of the State public sector**” amd 1993 No. 11 s 45 sch 3; 1996 No.  
     37 s 147 sch 2; 1999 No. 9 s 3 sch; 1999 No. 19 s 3 sch; 2001 No. 69 s 378  
     sch 1; 2004 No. 42 s 26(1)–(3); 2007 No. 7 s 4(3)–(4)  
 def “**wholly-owned subsidiary**” ins 2007 No. 7 s 4(2)

**Eligible schemes**

s 2A ins 2000 No. 52 s 37

**Establishment of board**

s 3 sub 1997 No. 21 s 5  
 amd 2001 No. 45 s 29 sch 3; 2002 No. 66 s 26; 2007 No. 58 s 106; 2009 No. 9  
 s 136 sch 1; 2009 No. 48 s 236

**Board’s function**

prov hdg amd 2007 No. 7 s 5

s 4 sub 1997 No. 21 s 5  
 amd 2007 No. 7 s 5

**Membership of the board**

s 5 sub 1993 No. 11 s 45 sch 3; 1997 No. 21 s 5; 2007 No. 7 s 6

**Eligibility to be a trustee**

s 6 sub 1997 No. 21 s 5; 2007 No. 7 s 6

**Board may ask Minister to revoke trustee’s appointment**

s 6A ins 1997 No. 21 s 5  
 sub 2007 No. 7 s 6  
 amd 2008 No. 75 s 119

**Filling a vacancy in the office of a trustee**

s 6AA ins 2007 No. 7 s 6

**Appointment not affected by other laws restricting employment**

s 6B ins 1997 No. 21 s 5  
 amd 2007 No. 7 s 7

**Alternate trustees**

s 6C ins 1997 No. 21 s 5  
 sub 2007 No. 7 s 8

**Chairperson**

s 6D ins 1997 No. 21 s 5  
 amd 1998 No. 81 s 3 sch  
 sub 2007 No. 7 s 8

**Deputy chairperson**

s 6DAA ins 2009 No. 48 s 237

**Chief executive officer**

s 6DA ins 2007 No. 7 s 8

Endnotes

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**Common seal**

**s 6E** ins 1997 No. 21 s 5  
amd 2007 No. 7 s 9

**Delegation by board**

**s 6F** ins 1997 No. 21 s 5  
amd 2007 No. 7 s 10; 2007 No. 58 s 107

**Conduct of business**

**s 6G** ins 1997 No. 21 s 5

**Time and place of meetings**

**s 6H** ins 1997 No. 21 s 5  
amd 2007 No. 7 s 11

**Conduct of meetings**

**s 6I** ins 1997 No. 21 s 5  
amd 2007 No. 7 s 12; 2009 No. 48 s 238

**Resolutions other than at meetings**

**s 6J** ins 1997 No. 21 s 5  
amd 2007 No. 7 s 13

**Powers of board**

**prov hdg** amd 2007 No. 7 s 14(1)  
**s 7** amd 1997 No. 21 s 6; 2007 No. 7 s 14(2)–(5)

**Protection from liability**

**prov hdg** amd 1997 No. 21 s 7  
**s 8** amd 1997 No. 21 s 7  
sub 2000 No. 52 s 38; 2007 No. 7 s 15

**Remuneration and allowances payable to trustees and alternate 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)  
sub 2007 No. 7 s 15

**Assignment of departmental employees to perform work for the board**

**s 9A** ins 2007 No. 7 s 15

**PART 3—FUND AND DEED**

**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; 1999 No. 29 s 50 sch; 2000 No. 52 s 39; 2002 No. 66 s 27

**Investment of fund**

**s 11** sub 1995 No. 27 s 63; 2007 No. 7 s 16  
amd 2007 No. 58 s 108

**Investment of defined benefit assets**

**s 11A** ins 2007 No. 7 s 16  
om 2007 No. 58 s 109

**Division 2—The deed**

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

**Deed to establish scheme**

**s 12** amd 1993 No. 11 s 45 sch 3; 2007 No. 7 s 17

**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; 1999 No. 28 s 3(1)–(3); 2000 No. 52 s 40; 2002 No. 66  
s 28; 2002 No. 74 s 90 sch; 2004 No. 42 s 27; 2007 No. 7 s 18; 2009 No. 11  
s 4

**Continuation of eligibility for membership after transfer of employment**

**s 13A** ins 2000 No. 52 s 41  
amd 2009 No. 11 s 5

**Continuation of eligibility for membership after employer ceases to be unit of State public sector**

**s 13AA** ins 2009 No. 11 s 6

**Continuation of eligibility for membership after ceasing to be an employee, spouse or entitled former spouse**

**prov hdg** amd 2002 No. 66 s 29(1)  
**s 13B** ins 2000 No. 52 s 41  
amd 2002 No. 66 s 29(2)

**Contents of deed**

**s 14** amd 2001 No. 31 s 48 sch

**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 “**actuary**” om 1999 No. 28 s 4  
def “**application date**” om 1997 No. 21 s 12(1)  
def “**award**” sub 1997 No. 21 s 12(1)–(2); 2000 No. 52 s 42  
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 “**employee**” sub 2000 No. 52 s 41  
def “**fresh award**” amd 1997 No. 21 s 12(3)

Endnotes

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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

**Division 4—Superannuation contributions surcharge**

**div hdg** ins 1999 No. 74 s 14

**References in div 4 to benefits payable to members**

**s 15E** ins 1999 No. 74 s 14

**Amount to be deducted from benefits**

**s 15F** ins 1999 No. 74 s 14

**Limit on deduction on refund of certain contributions**

**s 15G** ins 1999 No. 74 s 14  
amd 2004 No. 42 s 28; 2005 No. 60 s 35 sch 1

**Deduction from benefits paid as pension**

**s 15H** ins 1999 No. 74 s 14  
amd 2000 No. 52 s 43

**PART 3A—GOVERNMENT SUPERANNUATION OFFICER**

**pt hdg** ins 2007 No. 7 s 19

**Appointment**

**s 15I** ins 2007 No. 7 s 19  
amd 2009 No. 25 s 83 sch

**Functions**

**s 15J** ins 2007 No. 7 s 19

**Staff services from department and board**

**s 15K** ins 2007 No. 7 s 19

**Delegation**

**s 15L** ins 2007 No. 7 s 19

**CEO to act as officer while no appointee**

s 15M ins 2007 No. 7 s 19

**Accounts relating to fund**

s 16 om 1997 No. 21 s 17

**Returns**

s 17 amd 1999 No. 28 s 5; 2000 No. 52 s 44; 2007 No. 7 s 20

**Recovery of overpayments**

s 18 amd 1995 No. 27 s 66; 1996 No. 52 s 6; 2007 No. 7 s 21

**Reports**

s 20 amd 2007 No. 7 s 22

**Auditing**

s 20A ins 2004 No. 42 s 29  
amd 2007 No. 7 s 23

**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; 1997 No. 81 s 3 sch

**Offender to be punished summarily**

s 4.7 om 1995 No. 27 s 67

**Unclaimed benefits**

s 23 sub 1995 No. 27 s 68  
amd 2007 No. 7 s 24

**Rates or amounts of benefit etc. to be rounded off**

s 25 om 1997 No. 21 s 20

**Exemption from taxation**

s 27 om 2008 No. 75 s 120

**Contributions by units**

s 28 ins 1991 No. 11 s 7.11  
sub 1997 No. 21 s 21  
amd 2000 No. 52 s 45; 2004 No. 42 s 30; 2008 No. 75 s 121

**Appropriation of contribution**

s 29 amd 1999 No. 29 s 50 sch; 2008 No. 75 s 122

**Assignment of benefit**

s 30 amd 2000 No. 52 s 46; 2004 No. 42 s 31; 2005 No. 60 s 35 sch 1

**Judicial notice of certain matters**

s 30A ins 1997 No. 21 s 22  
amd 2007 No. 7 s 25

Endnotes

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**References to discontinued schemes**

s 30B ins 1997 No. 21 s 22  
amd 2007 No. 7 s 25A

**No appeal to industrial commission**

s 30C ins 1999 No. 33 s 747 sch 3

**Commencement of Superannuation (State Public Sector) Notice 2000**

s 30D ins 2000 No. 52 s 47

**Regulations**

s 31 sub 1993 No. 11 s 45 sch 3

**PART 4A—TRANSFER OF EMPLOYEES, ASSETS AND LIABILITIES TO THE BOARD**

pt hdg ins 2007 No. 7 s 26

**Transfer of employees**

s 31A ins 2007 No. 7 s 26  
amd 2007 No. 58 s 110; 2009 No. 25 s 83 sch

**Transfer of assets and liabilities**

s 31B ins 2007 No. 7 s 26

**PART 4B—TRANSFER OF EMPLOYEES TO QSL**

pt 4B (ss 31C–31F) ins 2009 No. 11 s 7

**PART 5—VALIDATION PROVISION FOR APPOINTMENT OF EXECUTIVE OFFICER OF BOARD**

pt hdg prev pt 5 hdg ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
ins 1999 No. 27 s 76 sch 1 pt 3  
pres pt 5 hdg (prev pt 4A hdg) ins 2004 No. 42 s 32  
renum 2004 No. 42 s 33 sch

**Validation provision for appointment of executive officer of board**

s 32 prev s 32 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
ins 1999 No. 27 s 76 sch 1 pt 3  
pres s 32 (prev s 31A) ins 2004 No. 42 s 32  
renum 2004 No. 42 s 33 sch

**PART 5A—TRANSFER OF PARLIAMENTARY SCHEME**

pt hdg ins 2007 No. 7 s 26A

**Definitions for pt 5A**

s 32A ins 2007 No. 7 s 26A

**Transferring members**

s 32B ins 2007 No. 7 s 26A

**Entitlements**

s 32C ins 2007 No. 7 s 26A

**Trustees of the Parliamentary fund**

s 32D ins 2007 No. 7 s 26A

**Parliamentary fund**

s 32E ins 2007 No. 7 s 26A

**Agreements and legal proceedings**

s 32F ins 2007 No. 7 s 26A

**Assets and liabilities**

s 32G ins 2007 No. 7 s 26A

**Annual report**

s 32H ins 2007 No. 7 s 26A

**Auditing**

s 32I ins 2007 No. 7 s 26A

**Liability for tax**s 32J ins 2007 No. 7 s 26A  
om 2008 No. 75 s 123**Deed making power for transferring members**s 32K ins 2007 No. 7 s 26A  
amd 2008 No. 75 s 124**Repeal**

s 32L ins 2007 No. 7 s 26A

**PART 5B—CLOSURE OF STANDARD DEFINED BENEFIT CATEGORY**

pt 5B (ss 32M–32P) ins 2008 No. 75 s 125 (retro)

**PART 6—TRANSITIONAL PROVISIONS**pt hdg (prev pt 5 hdg) ins 1999 No. 75 s 3  
renum 2004 No. 42 s 33 sch  
sub 2005 No. 60 s 35 sch 1**Division 1—Financial Sector Reform (Queensland) Act 1999**

div hdg ins 2005 No. 60 s 35 sch 1

**APRA or ASIC may be declared to be a unit of the State public sector**s 33 prev s 33 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 33 (prev s 32) ins 1999 No. 27 s 76 sch 1 pt 3  
amd 2001 No. 45 s 29 sch 3  
renum 2004 No. 42 s 33 sch  
amd 2004 No. 42 s 33 sch**PART 7—TRANSITIONAL PROVISION FOR SOUTH EAST QUEENSLAND WATER BOARD (REFORM FACILITATION) ACT 1999**pt hdg (prev pt 6 hdg) ins 1999 No. 75 s 3  
renum 2004 No. 42 s 33 sch  
om 2005 No. 60 s 35 sch 1

**Division 2—South East Queensland Water Board (Reform Facilitation) Act 1999**

**div hdg** ins 2005 No. 60 s 35 sch 1

**SEQWB officers or employees who become SEQWCo employees**

**s 34** prev s 34 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 34 (prev s 33) ins 1999 No. 75 s 3  
renum 2004 No. 42 s 33 sch  
amd 2004 No. 42 s 33 sch

**Division 3—Revenue Legislation Amendment Act 2005**

**div hdg** ins 2005 No. 60 s 35 sch 1

**Transitional provision about superannuation contributions surcharge**

**s 35** prev s 35 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 35 ins 2005 No. 60 s 35 sch 1

**Division 4—Superannuation (State Public Sector) Amendment Act 2007**

**div hdg** ins 2007 No. 7 s 27

**Definitions for div 4**

**s 36** prev s 36 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 36 ins 2007 No. 7 s 27

**Continuation of chief executive as a trustee**

**s 37** prev s 37 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 37 ins 2007 No. 7 s 27

**Continuation of other trustees**

**s 38** prev s 38 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 38 ins 2007 No. 7 s 27

**Remuneration of trustees**

**s 39** prev s 39 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 39 ins 2007 No. 7 s 27

**Chairperson**

**s 40** prev s 40 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 40 ins 2007 No. 7 s 27

**Transfer of previous executive officer to CEO**

**s 41** prev s 41 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 41 ins 2007 No. 7 s 27

**Other matters relating to the executive officer**

**s 42** prev s 42 ins 1997 No. 21 s 23



exp 30 June 1998 (see s 45)  
pres s 42 ins 2007 No. 7 s 27

**QIC continues as investment manager**

**s 43** prev s 43 ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)  
pres s 43 ins 2007 No. 7 s 27  
amd 2007 No. 58 s 111

**Deed making power for transferring members**

**s 44** ins 1997 No. 21 s 23  
exp 30 June 1998 (see s 45)

**Expiry**

**s 45** ins 1997 No. 21 s 23  
sub 1997 No. 81 s 3 sch  
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

under the Reprints Act 1992 s 43 as required by the Superannuation (State Public Sector) Act 1990 s 4.18 [Reprint No. 2]

Previous	Renumbered as
1.1	1
1.3	2
2.1	3
2.2	4
2.3	5
2.4	6
2.4(2A)	6(3)
2.4(2B)	6(4)
2.4(3)	6(5)
2.4(4)	6(6)
2.4(5)	6(7)
2.4(6)	6(8)
2.5	7
2.6	8
2.7	9
3.1	10

Endnotes

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Previous	Renumbered as
3.2 .....	11
3.3 .....	12
3.4 .....	13
3.5 .....	14
3.6 .....	15
4.1 .....	16
4.2 .....	17
4.3 .....	18
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4.5(1A) .....	20(2)
4.5(2) .....	20(3)
4.6 .....	21
4.8 .....	22
4.9 .....	23
4.10 .....	24
4.11 .....	25
4.12 .....	26
4.13 .....	27
4.13.1 .....	28
4.14 .....	29
4.15 .....	30
4.16 .....	31

## 9 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.

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