Queensland

Superannuation (State Public Sector) Amendment of Deed Regulation (No. 3) 2013

Explanatory Notes for SL 2013 No. 94

made under the

Superannuation (State Public Sector) Act 1990

General outline

Short title

Superannuation (State Public Sector) Amendment of Deed Regulation (No. 3) 2013.

Authorising law

Sections 12 and 31 of the *Superannuation (State Public Sector) Act 1990* (Act)

Policy objectives and the reasons for them

The Board of Trustees of the State Public Sector Superannuation Scheme (QSuper Board) will allow a member of the State Public Sector Superannuation Scheme (QSuper) to:

- submit a binding death benefit nomination, in accordance with the Commonwealth's *Superannuation Industry (Supervision) Act 1993* (SIS Act); and

- transfer an amount from their accumulation account to another superannuation fund while they are employed with the Queensland Government.

Binding death benefit nominations

Section 59(1A) of the SIS Act states that the governing rules of a superannuation entity may permit a member to direct the trustee to pay the member's death benefit to the member's legal personal representative or dependant. The member directs the trustee by written notice, known as a binding death benefit nomination (BDBN), and on the member's death, the trustee must pay the death benefit as directed in the BDBN.

Historically, the QSuper Board has not given members the option to submit a binding death benefit nomination. Instead, death benefits were generally paid to the member's legal personal representative so it could be paid in accordance with the deceased's will. However, if there was a dispute over who should receive the death benefit, the QSuper Board had the discretion to decide how it should be paid, which it did after consulting with the disputing parties. Over the years this approach has proven successful, as demonstrated by less than ten unresolved disputes being escalated to the Superannuation Complaints Tribunal, an independent body established by the Australian Government to resolve complaints between a trustee and a fund member.

The QSuper Board regularly reviewed this position, and at its December 2012 meeting decided that it would accept a BDBN from a member from 1 July 2013. The QSuper Board's decision was in response to growing demand from members to be able to give a BDBN. However, a BDBN will not override situations where a pension is prescribed as payable to a widow, child or reversionary beneficiary such as can be the case for QSuper's closed defined benefit pension schemes (State Super, Police Super and Parliamentary) and for account based pensions.

Transfers out

Division 6.5 of the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regs) sets out the rules for transferring superannuation benefits from a regulated superannuation fund to another superannuation fund. Generally, the rules prescribe that a trustee must transfer an amount out of the fund on the member's request. However, as an unfunded public sector superannuation scheme, QSuper is exempt from these rules.

Despite the exemption, the QSuper Board decided at its February 2013 meeting that from 1 July 2013, it would allow a member who is employed with the Queensland Government (employed member) to transfer an amount from their accumulation account to another superannuation fund, on the conditions approved by the Board. The conditions set by the Board are consistent with the SIS Regs, and in some areas more flexible than those of other funds. Employed members will be able to transfer the money in their accumulation account once every twelve months but must leave at least $2,000 in their account to cover insurance premiums and other administrative charges. No withdrawal fees will be charged on the transfer.

Due to a design technicality of the closed State Super and Police Super schemes, employed members cannot transfer their full account balance, as a portion that represents the accumulated 3% award contributions may be required in the future to fund an ill health or death benefit.

Achievement of policy objectives

Binding death benefit nominations

The Amendment of Deed Regulation achieves the policy objective by inserting a new part into the *Superannuation (State Public Sector) Deed 1990* (QSuper Deed) to allow a member to give the QSuper Board a BDBN for their eligible death benefits. Various consequential amendments to a number of sections in the various membership categories were also required to achieve the policy objective.

Transfers out

The Amendment of Deed Regulation achieves the policy objective by amending section 27 of the QSuper Deed, titled *Transfers out*. The amendment includes the omission of two subsections which became redundant as a consequence of the policy objective.

Consistency with policy objectives of authorising law

This amendment is consistent with the policy of the authorising law in that regulations can be made in order to administer QSuper.

Inconsistency with policy objectives of other legislation

This amendment is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The amendment provides greater flexibility for QSuper members by providing two options that weren't previously available.

It is not expected that the implementation of this amendment will result in significant costs.

Consistency with fundamental legislative principles

The Amendment of Deed Regulation is consistent with fundamental legislative principles. The amendment ensures QSuper's governing rules remain an accurate reflection of intention and consistent with Commonwealth superannuation legislation.

Consultation

Consultation has occurred with the QSuper Board, the Government Superannuation Officer and the Office of the Queensland Parliamentary Counsel.

ENDNOTES

1 Laid before the Legislative Assembly on . . .

2 The administering agency is the Queensland Treasury and Trade.