Superannuation (State Public Sector) Amendment of Deed Regulation (No. 4) 2013

Explanatory notes for SL 2013 No. 226

made under the

Superannuation (State Public Sector) Act 1990

General Outline

Short title

Superannuation (State Public Sector) Amendment of Deed Regulation (No. 4) 2013

Authorising law

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

Policy objectives and the reasons for them

The Commonwealth Government has introduced reforms aimed at making the superannuation system stronger and more efficient, termed Stronger Super. One of these reforms involves the creation of a simple, low cost default superannuation product, called MySuper, that superannuation funds must offer by 1 January 2014 in order to be able to receive default employer contributions.

The State Public Sector Superannuation Scheme (QSuper) has received authorisation from the Australian Prudential Regulation Authority to offer a MySuper product, which will become the default investment option for Accumulation account members on 16 December 2013. To obtain the authorisation, QSuper undertook to provide all its MySuper members with death and permanent incapacity insurance, including those members who are currently not insured (e.g. members who no longer receive a contribution from an employer sponsor).

In addition to extending the insurance cover to a broader membership, the QSuper Board of Trustees (QSuper Board) has approved beneficial changes to its insurance terms for QSuper's accumulation account members, which are equally to be applied to its standard defined benefit category members. These changes are also to commence on 16 December 2013.

MySuper legislation prescribes that QSuper members who retained benefits in QSuper's closed defined benefit schemes (termed "deferred retirement benefit amounts") are considered defined benefit members and exempt from most MySuper provisions. Although used in member communication, "deferred retirement benefit amount" was not prescribed in the *Superannuation (State Public Sector) Deed 1990* (QSuper Deed).

Members, other than defined benefit members, who have their moneys invested in QSuper's default investment option will have these moneys transferred to a MySuper product, as required under Commonwealth legislation. However, there are other circumstances where the QSuper Board may want to change a member's investment option, for example where an investment option is no longer viable or it makes sense, from a risk/return and cost perspective, to transfer the member to an alternative option.

Provided that the QSuper Board can demonstrate that a transfer is in the best interest of members, the QSuper Deed's general administrative powers allow the transfer of members' benefits between investment options. However, to remove any doubt, an express provision clearly articulating this power would be beneficial.

Further, the Commonwealth Government introduced additional circumstances where a member or the Commissioner of taxation can provide a superannuation fund with a release authority, requiring the fund to release the amount prescribed in the authority. A simplification of the QSuper Deed's provisions to accommodate for the increased use of release authorities would therefore be beneficial.

Achievement of policy objectives

The policy objectives are achieved by amending the QSuper Deed to:

- simplify and consolidate the insurance powers, ensuring that the rights of currently insured members are maintained; insurance is provided to inactive members from 16 December 2013; and the arrangements for standard defined benefit category members and accumulation account members are consistent by removing the pre-existing condition exclusion for default death and TPD cover and reducing the exclusion term from 7 to 5 years for Income Protection cover;
- define what is a deferred retirement benefit amount;
- introduce an express power for the QSuper Board to change the investment objective, strategy or policy that applies to whole or part of a member's benefit (e.g. to change a member's investment option), subject to prescribed disclosure requirements;
- broaden the provision to allow the QSuper Board to act on any release authorities issued under taxation legislation; and
- make a minor technical correction clarifying that it is the receiving spouse's age that determines whether an eligible spouse contribution can be received and other minor consequential amendments resulting from the above and to improve readability.

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

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

In particular, based on claim experience and considering the level of insurance premiums raised, the beneficial changes to the insurance arrangements are not expected to significantly increase future insurance liabilities.

Consistency with fundamental legislative principles

The Amendment of Deed Regulation is consistent with fundamental legislative principles.

Consultation

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

All parties agreed to the amendments.