# Superannuation (State Public Sector) Amendment of Deed Regulation (No. 2) 2020

Explanatory notes for SL 2020 No. 217

made under the *Superannuation (State Public Sector) Act 1990*

# General Outline

## Short title

*Superannuation (State Public Sector) Amendment of Deed Regulation (No. 2) 2020*

## Authorising law

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

## Policy objectives and the reasons for them

On 1 July 2017, Commonwealth regulations were amended to facilitate the development and introduction of innovative lifetime retirement income stream products by superannuation funds.

The products facilitated by the regulations allow individuals to invest in retirement income stream products that pool their savings with those of others to secure lifetime payments. By pooling people's savings, these products can provide protection against longevity risk (an individual's risk of outliving their savings). Lifetime products offered under the Commonwealth regulations must meet prescribed conditions, including the amount that can be commuted to a lump sum by a person after commencing the product.

The *Superannuation (State Public Sector) Deed 1990* (Deed) allows the QSuper Board to offer retirement income stream products as per the Commonwealth regulations, but minor changes to the Deed's provisions are required to meet the lifetime product requirements under these regulations. The Deed's Family Law (FL) provisions, which provide for the splitting of superannuation by court order or agreement following a divorce or relationship breakdown, also require amending to cater for these types of products.

It is expected that members who hold a current superannuation income stream would like to use some or all of their moneys held in their income stream to commence a lifetime retirement product, but under the current provisions of the Deed these members would first have to transfer the moneys to an accumulation account, and then purchase a lifetime product. An amendment to the Deed allowing these members to directly purchase a product with moneys from their current superannuation income stream would improve the member experience for these members.

Under the Deed, when a standard defined benefit member resigns under age 55, the employer component is held in the defined benefit pool (deferred retirement benefit) and grows in line with average weekly ordinary time earnings until the member turns age 55, at which point it is transferred to an accumulation account. A member can elect to transfer the deferred retirement benefit to an accumulation account prior to this age, but a discount is applied which is greater the younger the member is. However, if a member becomes totally and permanently disabled or dies, the deferred retirement benefit is transferred without a discount, and it was intended a similar beneficial treatment would apply from 1 July 2020 to members who suffer a terminal medical condition (TMC), the date from which standard defined benefit members can apply for a TMC benefit.

# Achievement of policy objectives

The *Superannuation (State Public Sector) Amendment of Deed Regulation (No. 2) 2020* (Amendment Regulation) resolves these issues by:

- facilitating the conditions that apply to lifetime products and ensuring the FL provisions comply with the *Family Law Act 1975* (Cwlth) (FL Act) as they apply to these type of products, to ensure that the QSuper Board can offer a lifetime retirement income product as part of its future product suite;
- clarifying that members can commence a superannuation income stream with moneys held in their current income stream (either by partially commuting or ceasing the income stream), instead of first having to transfer these moneys to an accumulation account and then starting the new income stream;
- providing that members who suffer a TMC have their deferred retirement benefit transferred to an accumulation account without the discount that would usually apply, similar to the treatment on total and permanent disablement or death, to apply retrospectively from 1 July 2020 in line with original policy intent; and
- making minor renumbering changes consistent with the FL Act.

# Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising law.

# Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation. In particular, the legislation is consistent with the *Superannuation Industry (Supervision) Act 1993 (Cwlth)* and *Family Law Act 1975 (Cwlth)*.

# Benefits and costs of implementation

It is not expected that the implementation of the Amendment Regulation will result in significant costs and the amendments provide benefits to the QSuper membership as a whole.

# Consistency with fundamental legislative principles

The Amendment Regulation does not raise any fundamental legislative principle issues.

# Consultation

The QSuper Board, the Government Superannuation Officer, the State Actuary, the Queensland Productivity Commission (QPC) and the Department of the Premier and Cabinet have been consulted. All parties consulted agreed with the proposed changes made by the Amendment Regulation and QPC advised no further regulatory impact analysis is required under the Queensland Government Guide to Better Regulation.