

Proclamation—Superannuation (State Public Sector) (Scheme Administration) Amendment Act 2021

Explanatory notes for SL 2022 No. 11

made under the

Superannuation (State Public Sector)(Scheme Administration) Amendment Act 2021

General Outline

Short title

Proclamation commencing provisions of the *Superannuation (State Public Sector)(Scheme Administration) Amendment Act 2021* that are not in force.

Authorising law

Section 2 of the *Superannuation (State Public Sector)(Scheme Administration) Amendment Act 2021*.

Policy objectives and the reasons for them

The *Superannuation (State Public Sector)(Scheme Administration) Amendment Act 2021* (Amendment Act) was assented to on 28 October 2021 and provides that Division 3 of Part 2, Parts 3, 4, 5 and 6 and Schedule 1 of the Amendment Act commence on a day to be fixed by proclamation.

Division 3 of Part 2, and Part 6 of the Amendment Act amend the *Superannuation (State Public Sector) Act 1990* (Superannuation Act) to support the merger of QSuper and Sunsuper by:

- converting the *Superannuation (State Public Sector) Deed 1990* (Superannuation Deed) into a non-statutory instrument, with the Superannuation Deed being repealed;
- facilitating the transfer of the Sunsuper fund into the QSuper fund, with the fund to be renamed as Australian Retirement Trust;
- continuing the current trustee of Sunsuper as trustee of the Australian Retirement Trust, with the trustee to be renamed as Australian Retirement Trust Pty Limited;

- retiring the QSuper Board as trustee of QSuper, with the QSuper Board to continue and convert to an entity deemed under the Superannuation Act to be a registered propriety company for the purposes of the *Corporations Act 2001* (Cth), to deal with any potential liabilities related to its time as trustee;
- omitting any provisions from the Superannuation Act related to the QSuper Board and trust deed that are not required for the merged fund;
- inserting provisions that ensure the operations of the Australian Retirement Trust, and its employees, are based in Queensland;
- inserting provisions that protect State public sector employees' defined benefit entitlements;
- incorporate a regulatory framework for the contribution arrangements of State public sector employees by prescribing them in a regulation within one year of commencement; and
- make various consequential amendments as result of the above changes.

Part 3 of the Amendment Act amends the *Public Officers Superannuation Benefits Recovery Act 1988* to allow the Minister to delegate to the chief executive the power to agree on the amount to be recovered and to enter into an agreement with a publicly funded superannuant convicted of a prescribed offence.

Parts 4 and 5 and Schedule 1 make consequential amendments to the *Right to Information Act 2009*, *City of Brisbane Act 2010*, *Governors (Salary and Pensions) Act 2003*, *Industrial Relations Act 2016*, *Judges (Pensions and Long Leave) Act 1957*, *Land Court Act 2000*, *Local Government Act 2009*, *Parliament of Queensland Act 2001*, *Superannuation (Public Employees Portability) Act 1985* and the *Statutory Instruments Act 1992* to reflect the changes made to the Superannuation Act.

Achievement of policy objectives

The commencement of the provisions to support the merger were deferred to enable the QSuper and Sunsuper boards to finalise their due diligence to ensure the merger is in the best interest of members, obtain the required regulatory approvals and implement the changes required to ensure a successful merger.

The QSuper and Sunsuper Boards have completed their due diligence and have agreed to merge on 28 February 2022. Accordingly, the above provisions are to commence on that date.

Consistency with policy objectives of authorising law

The Proclamation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Benefits and costs of implementation

The commencement of the Amendment Act will support the implementation of the merger. While the merger has transaction costs associated with integration of the operations of the funds, the boards of QSuper and Sunsuper have determined the benefits significantly exceed these costs. The merger is expected to reduce costs for members of both funds, with reductions expected in administration fees and investment fees over time. Implementation of the merger will not impose a direct cost on government.

Consistency with fundamental legislative principles

As outlined in the Explanatory Notes to the Amendment Act, a number of provisions raised potential inconsistencies with fundamental legislative principles (FLP), which were considered during the debate in Parliament. The Proclamation does not introduce any additional FLPs.

Consultation

The QSuper Board and the board of Sunsuper Pty Ltd were extensively consulted on the development of the Amendment Act and the date for its commencement. Both boards support the legislation and the commencement date for the remaining provisions of the Amendment Act.

The Proclamation meets category (g) – Regulatory proposals that are of a machinery nature, an agency-assessed exclusion category under *The Queensland Government Guide to Better Regulation* and accordingly does not require consultation with the Queensland Office of Best Practice Regulation.