

Local Government Legislation (Superannuation) Amendment Regulation 2024

Explanatory notes for SL 2024 No. 75

made under the

City of Brisbane Act 2010

Local Government Act 2009

General Outline

Short title

Local Government Legislation (Superannuation) Amendment Regulation 2024

Authorising law

Sections 194 and 252 of the *City of Brisbane Act 2010*.

Sections 105, 197, 220, 220A, and 270 of the *Local Government Act 2009*.

Policy objectives and the reasons for them

On 23 May 2024, the Legislative Assembly passed the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024* (the Act) which included changes to the superannuation contribution requirements for local government employees prescribed by the *Local Government Act 2009*.

The policy objectives of the *Local Government Legislation (Superannuation) Amendment Regulation 2024* (the Regulation) are to make additional amendments to local government superannuation arrangements to complement the changes made by the Act, and to other matters as follows:

- to further align the superannuation contribution rates payable by local government employers with the Commonwealth charge percentage in the *Superannuation Guarantee (Administration) Act 1992* (Cwth) (the Commonwealth Superannuation Act);

- to ensure that local government superannuation arrangements for employees 75 years of age or older are consistent with Commonwealth superannuation legislation;
- to provide that permanent Brisbane City Council (BCC) employees 70 years of age or older but under the age of 75 are entitled to the same employer superannuation contributions as other permanent BCC employees;
- to align the definition of ‘salary’ used in the *Local Government Act 2009* and *Local Government Regulation 2012* (LGR) with the equivalent definition in the Commonwealth Superannuation Act;
- removing the option for a chief executive officer of a local government to make a deduction from the salary or wages of a local government employee as a disciplinary action; and
- amending how the class of large local governments is prescribed for the purposes of section 105 of the *Local Government Act 2009*. The Regulation does not alter which local governments are deemed large local governments.

Achievement of policy objectives

Superannuation

The Regulation will complement the changes made by the *Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Act 2024* to the local government superannuation scheme, align the scheme with the arrangements under Australian Government legislation, and amends other local government matters. The Regulation achieves its policy objectives by:

- providing that Brisbane City Council is to make superannuation contributions for permanent standard employees under 75 years of age equal to 14% of the employees’ salary;
- prescribing that all other local governments are to make superannuation contributions for permanent employees under 75 years of age equal to the charge percentage stated in the Commonwealth Superannuation Act; and
- amending the definition of ‘salary’ in the *Local Government Regulation 2012* to align with the Commonwealth definition of ‘ordinary time earnings’ in the Commonwealth Superannuation Act, providing a consistent basis for the calculation of superannuation entitlements for local government employees.

To ensure that standard local government employees continue to receive a superannuation contribution equal to 12 percent of their salary (as the Commonwealth charge percentage will not equal 12 percent until 1 July 2025), while also providing local governments adequate time to transition to the new arrangements, the Regulation includes a transitional period of one year from the commencement of the Regulation which varies employers’ contribution obligations as follows:

- Brisbane City Council is to make superannuation contributions for permanent employees under the age of 75 equal to 14 percent of the employee’s salary (using the definition of ‘salary’ in the LGR immediately prior to the commencement of the Regulation).

- other local governments are to make superannuation contributions for standard permanent employees under the age of 75 equal to 12 percent of the employee's salary (using the definition of 'salary' in the LGR immediately prior to the commencement of the Regulation).

The Regulation also includes a transitional arrangement to ensure that local government employees' superannuation contributions pursuant to section 220A of the Act are not increased by the new definition of 'salary' in the Regulation. Employees who made contributions to their superannuation accounts prior to the commencement of the Regulation are deemed to have their prescribed contribution rate following commencement the rate equivalent to the amount of the person's yearly contribution prior to commencement.

Additionally, to preserve the existing contribution arrangements for local government employees who are defined benefit members the Regulation includes a transitional arrangement that provides that when calculating a defined benefit member's employee contribution, the former definition of salary is to be used.

Other amendments

The Regulation also amends the *City of Brisbane Regulation 2012* and the LGR to remove the option for a chief executive officer of a local government to make a deduction from the salary or wages of a local government employee as a disciplinary action. This change has been made as deducting from an employee's salary or wages may result in financial hardship and other options for disciplinary action are available.

The Regulation also amends how the class of large local governments is prescribed under the LGR for the purposes of section 105 of the LGA in response to a change to the categorisation of the remuneration schedule set by the Local Government Remuneration Commission. The Regulation does not alter which local governments are deemed large local governments.

Consistency with policy objectives of authorising laws

The Regulation is consistent with the policy objectives of the LGA.

Inconsistency with policy objectives of other legislation

The Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Regulation aligns the superannuation arrangements for local government employees with the Commonwealth superannuation scheme and provides consistent standards for the calculation of superannuation entitlements across the local government sector.

There are no anticipated costs of implementation.

Consistency with fundamental legislative principles

The Regulation is consistent with the fundamental legislative principles.

Consultation

Brighter Super, Brisbane City Council, the Local Government Association of Queensland (LGAQ), Local Government Managers Australia (LGMA), The Services Union (TSU), and the Rail, Tram & Bus Union (RTBU) were consulted during the development of the Regulation.

While stakeholders support the proposed amendments, LGAQ and LGMA did not support the removal of the chief executive officer of a local government to make a deduction from the salary or wages of a local government employee as a disciplinary action. However, it is understood that only some chief executives elect to use this power and most were indifferent to its removal.

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