

Queensland



Subordinate Legislation 1993 No. 275

*Local Government Superannuation Act 1985*

**LOCAL GOVERNMENT SUPERANNUATION  
(RELEVANT PERSONS SCHEME)  
REGULATION 1993**

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**Short title**

1. This regulation may be cited as the *Local Government Superannuation (Relevant Persons Scheme) Regulation 1993*.

**Approval of rule**

2. The *Local Government Superannuation (Relevant Persons Scheme) Rule 1993* set out in the Schedule is approved.

## **SCHEDULE**

### **LOCAL GOVERNMENT SUPERANNUATION (RELEVANT PERSONS SCHEME) RULE 1993**

section 2

#### **PART 1—PRELIMINARY**

##### **Short title**

1. This rule may be cited as the *Local Government Superannuation (Relevant Persons Scheme) Rule 1993*.

##### **Commencement**

2.(1) Sections 1 to 9 and 12 to 31 are taken to have commenced on 1 July 1992.

(2) Sections 10 and 11 commence on 23 July 1993.

##### **Definitions**

3. In this rule—

“**child**” means a child, stepchild or adopted child;

“**Commissioner**” has the same meaning as in the *Occupational Superannuation Standards Act 1987* (Commonwealth);

“**dependant**” means a person who is wholly or substantially maintained by another person;

“**employer**” means a local authority to which the Plan applies;

“**employer contributions**”, in relation to a member, means the amount of

contributions payable by an employer necessary to avoid payment of the superannuation guarantee charge under the *Superannuation Guarantee Charge Act 1992* (Commonwealth);

**“member”** means a relevant person employed by a local authority to which the Plan applies;

**“member voluntary contributions”** means contributions made by a member under section 10;

**“Plan”** means the Local Government Superannuation (Relevant Persons) Plan;

**“Preserved Money Account”** of a member means the account to which are credited—

- (a) employer contributions; and
- (b) any preserved amount transferred from another scheme;

**“relevant law”** means—

- (a) the *Occupational Superannuation Standards Act 1987* (Commonwealth); or
- (b) the *Income Tax Assessment Act 1936* (Commonwealth); or
- (c) an Act of the State or the Commonwealth that the Plan or the Board must comply with to secure, or better secure, a tax concession or to avoid a penalty, detriment or disadvantage;

**“relevant person”** has the meaning given by section 33B(1)(a) of the Act;

**“Relevant Persons Fund”** means money standing to the credit of the Preserved Money Accounts and the Voluntary Contributions Accounts of all members under the Plan;

**“spouse”** has the meaning given by section 4;

**“Voluntary Contributions Account”** of a member means the account to which are credited—

- (a) member voluntary contributions; and
- (b) any non-preserved amount transferred from another scheme.

### **Meaning of “spouse”**

**4.(1)** A “spouse” of a deceased member is—

- (a) a person who was legally married to the member at the member’s death; or
- (b) a person who—
  - (i) was divorced from the member at the member’s death; and
  - (ii) had not legally married another person before the member’s death; and
  - (iii) was receiving, or entitled to receive, maintenance from the member at the member’s death; or
- (c) a person who, in the Board’s opinion—
  - (i) lived with the member at the member’s death as a husband or wife on a genuine domestic basis (although not legally married to the member); and
  - (ii) had so lived with the member for a continuous period of at least 3 years before the member’s death.

**(2)** A “spouse” of a beneficiary is—

- (a) a person who is legally married to the beneficiary; or
- (b) a person who, in the Board’s opinion—
  - (i) lives with the beneficiary as a husband or wife on a genuine domestic basis (although not legally married to the beneficiary); and
  - (ii) has so lived with the beneficiary for a continuous period of at least 3 years before the person became a beneficiary.

## **PART 2—SUPERANNUATION SCHEME**

### **Establishment**

5. There is established a superannuation scheme under section 33B(2)(b) of the Act to provide superannuation benefits in relation to relevant persons.

### **Name of scheme**

6. The scheme is called the Local Government Superannuation (Relevant Persons) Plan.

### **Board is trustee**

7. The Board is the trustee of the Plan.

### **Application of Plan**

8. The Plan applies to a local authority that has chosen to contribute to the Plan in relation to a relevant person.

## **PART 3—OBLIGATIONS, RIGHTS AND ENTITLEMENTS OF CONTRIBUTORS**

### ***Division 1—Contributions into Plan***

#### **Employer contributions**

9.(1) The employer must pay the employer contributions in relation to a member to the Board.

(2) The Board must credit the employer contributions in relation to the member to the member's Preserved Money Account.

### **Member voluntary contributions**

**10.(1)** A member may make voluntary contributions to the Plan in accordance with the relevant law.

**(2)** Voluntary contributions may be made—

- (a) at any time in multiples of \$100; or
- (b) by regular payments paid in a way and at a rate approved by the Board.

**(3)** Subject to subsection (2), a member may vary or discontinue voluntary contributions.

**(4)** The Board must credit a member's voluntary contributions to the member's Voluntary Contributions Account.

### **Transfer of benefits from other schemes**

**11.(1)** The Board may accept an amount in relation to a member from another superannuation scheme, a rollover fund or like fund.

**(2)** The amount accepted by the Board is vested in the member.

**(3)** The Board must credit to the member's Preserved Money Account the part of the amount that is required to be vested in, and preserved for, the member under—

- (a) an Act of the State or the Commonwealth; or
- (b) an agreement registered or recognised under an Act of the State or the Commonwealth; or
- (c) an order of a court or tribunal acting under the authority of an Act of the State or the Commonwealth.

**(4)** The Board must credit to the member's Voluntary Contributions Account the part of the amount that is required to be vested in, but not preserved for, the member under—

- (a) an Act of the State or the Commonwealth; or
- (b) an agreement registered or recognised under an Act of the State or the Commonwealth; or



- (c) an order of a court or tribunal acting under the authority of an Act of the State or the Commonwealth.

## ***Division 2—Payments from Plan***

### **Payment to member from Preserved Money Account**

**12.(1)** The Board must pay to, or in relation to, a member, the amount standing to the credit of the member's Preserved Money Account on the happening of the earliest of any of the following events—

- (a) the member retires from the workforce on or after turning 55 or another age specified by the relevant law;
- (b) the member retires from the workforce on the grounds of permanent incapacity or permanent invalidity;
- (c) the member dies;
- (d) the member leaves Australia to reside overseas permanently;
- (e) the member attains the maximum age for payment of benefits under the standards specified in the relevant law;
- (f) any other event approved by the Commissioner under the relevant law.

**(2)** If a person ceases to be a member of the Plan in circumstances other than those mentioned in subsection (1) and subsection (3) does not apply, the amount standing to the credit of the member's Preserved Money Account must be—

- (a) preserved in the Relevant Persons Fund ; or
- (b) if the person nominates another superannuation scheme, rollover fund or like fund that complies with the relevant law—transferred directly to the other scheme or fund for preservation in it.

**(3)** A person who ceases to be a member of the Plan in circumstances other than those mentioned in subsection (1) may elect to be paid the amount standing to the credit of the member's Preserved Money Account if the amount is less than—

- (a) \$500; or
- (b) if another amount is specified by a relevant law—the other amount.

### **Payment to member from Voluntary Contributions Account**

**13.(1)** If a person ceases to be a member of the Plan, the person may elect to have the amount standing to the credit of the member's Voluntary Contributions Account—

- (a) paid to the person; or
- (b) paid to another superannuation scheme, rollover fund or like fund; or
- (c) preserved in the Relevant Persons Fund.

**(2)** If a person elects to have an amount preserved in the Relevant Persons Fund, the election is irrevocable and the benefit is not payable until one of the events mentioned in section 12(1) happens.

### **Death benefits**

**14.(1)** If a member dies, the Board must pay or apply the benefit payable under this rule in accordance with this section.

**(2)** The Board may pay the whole benefit to 1 or more of the following persons—

- (a) a spouse of the deceased;
- (b) a child of the deceased or of the deceased's spouse if, at the deceased's death, the child was—
  - (i) under 18; and
  - (ii) a dependant of the deceased;
- (c) a person or body to be held on trust for the maintenance of a person mentioned in paragraph (a) or (b);
- (d) the person (if any) who was nominated by the member as beneficiary;

- (e) the deceased's legal personal representative;
- (f) another person that appears to the Board to be legally entitled to the benefit.

(3) If the Board pays the whole benefit to more than 1 person, it may allocate the benefit between any 2 or more persons or groups of persons as it considers appropriate.

(4) A payment made under this section in good faith is a defence to a demand made against the Board in relation to a benefit payable on the death of a member by any other person as next of kin, legatee, nominated beneficiary or legal personal representative of the deceased.

(5) An acknowledgment of a payment of the whole of a benefit signed by the person or persons receiving it releases the Board from the obligation to pay a further benefit from the Plan in relation to the deceased member.

### **Nomination of beneficiary**

**15.(1)** A member may nominate a person who is to be paid the benefit payable on the member's death.

(2) If more than 1 person is nominated, the nomination may specify the proportion of the benefit to be paid to each person.

(3) A member may revoke a nomination.

(4) This section does not limit section 14 but the Board must consider the member's nomination.

### ***Division 3—Membership matters***

### **Continuation of membership**

**16.** A person continues to be a member of the Plan even though the person ceases employment with an employer if the Board is satisfied that the person will, within 60 days of ceasing the employment—

- (a) resume employment with the same employer; or
- (b) commence employment with another employer.

### **Transfer**

**17.(1)** This section applies if a member ceases employment with an employer.

**(2)** The Board must transfer a benefit that is payable to the member to another superannuation scheme, a rollover fund or like fund in the name of the member, if the member requests the Board to do so.

### **Assignment**

**18.(1)** A member's entitlement under the Plan cannot be assigned, charged or transferred to another person.

**(2)** Subsection (1) does not apply to a nomination under section 15.

## **PART 4—POWERS, RIGHTS AND DUTIES OF BOARD**

### **General powers of the Board**

**19.(1)** The Board may exercise its powers in order to perform its functions under the Plan as trustee.

**(2)** Without limiting subsection (1), the Board may—

- (a)** determine matters that are appropriate to the management of the Plan; and
- (b)** determine, or adopt procedures, in relation to the calculation and rounding-off of benefits or interest; and
- (c)** approve forms to be used for the purposes of the Plan.

### **Payment of taxes**

**20.(1)** The Board must debit each member's Preserved Money Account and Voluntary Contributions Account with superannuation tax payable by the Board in relation to money credited to those accounts.

(2) For the purposes of subsection (1), the Board may determine the amount of the superannuation tax it considers is payable under the relevant law.

### **Investment powers**

21. The Board may arrange with a person authorised under section 33 of the Act to invest, as agent of the Board, money forming part of the Relevant Persons Fund.

### **Overriding provision regarding benefits**

22. The Board must apply a benefit that arises in relation to a member in a way that—

- (a) complies with the relevant law; or
- (b) secures, or better secures, a tax concession under the relevant law.

### **Board's right of set-off**

23. The Board may recover money owing to the Board in relation to a member's membership of the Plan from a benefit payable in relation to the member.

### **Board may enter into arrangement with employer**

24. The Board may enter into an arrangement with an employer in relation to a member's membership of the Plan.

### **Request to give information etc.**

25.(1) The Board may request a person who is entitled to, or claims to be entitled to, a benefit from the Plan—

- (a) to give the Board information and evidence as the Board considers appropriate; and
- (b) to do acts and sign such documents (including the signing of a receipt and discharge) as the Board considers appropriate.

- (2) If a person does not comply with a request, the Board may—
- (a) withhold or suspend payment of the benefit until the request is met; or
  - (b) refuse to recognise or consider the person's claim until the request is met.

### **Receipt is full discharge**

26. A receipt signed by a person is a full and sufficient discharge to the Board and the Board is not bound to see to the application of the payment.

### **Address for payment of benefits**

27.(1) A benefit in relation to a member is payable at the principal office of the Board or otherwise as determined by the Board.

- (2) The Board may send a benefit—
- (a) to the postal address last notified by the member or employer; or
  - (b) to another place that the Board, at the written request of the member, approves.

### **Legal disability etc. of beneficiary**

28.(1) This section applies if a beneficiary—

- (a) is under a legal disability (including, for example, because the beneficiary is a minor); or
- (b) is suffering from physical or mental sickness, injury, deterioration or disorder that the Board considers does not allow the person to administer his or her own affairs.

(2) The Board may pay or apply the whole of the benefit in 1 of the following ways—

- (a) by payment to—
  - (i) a dependant of the beneficiary; or
  - (ii) a spouse of the beneficiary; or

- (iii) a child of the beneficiary; or
- (iv) a parent of the beneficiary; or
- (v) a guardian of the beneficiary;
- (b) by payment to a person who appears to the Board to—
  - (i) be a trustee for the beneficiary; or
  - (ii) have the care or custody of the beneficiary; or
  - (iii) be responsible for the expenses of the care or custody of the beneficiary; or
  - (iv) be responsible for the expenses of the care or custody of a dependant of the beneficiary;
- (c) for or towards the maintenance, education, advancement or benefit of—
  - (i) the beneficiary; or
  - (ii) a dependant of the beneficiary.

(3) The Board may pay or apply the whole of the benefit by way of a lump sum or instalments, as it considers appropriate.

### **Payment of interest**

**29.** The Board must—

- (a) declare the interest rate that it intends to pay to members; and
- (b) credit each member's Preserved Money Account and Voluntary Contributions Account with interest in a way determined by the Board.

### **Expenses of administration**

**30.(1)** Expenses in relation to the administration of the Plan are to be defrayed from the earnings of the Relevant Persons Fund.

**(2)** The amount of the Board's expenses in relation to the administration of the Plan is to be calculated in a way determined by the Board.

## **PART 5—MISCELLANEOUS**

### **Application of relevant law**

**31.(1)** A provision or requirement of a relevant law that is required by the relevant law to be included in this rule in order to comply with a requirement of the relevant law is taken to be included in this rule on the day by which it must be included under the relevant law if the requirement is to be complied with.

**(2)** If there is a conflict between a provision of a relevant law mentioned in subsection (1) and a provision of this rule, the provision of the relevant law prevails.

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### **ENDNOTES**

1. Made by the Board on 8 July 1993.
2. Approved by the Governor in Council on 22 July 1993.
3. Notified in the Gazette on 23 July 1993.
4. Laid before the Legislative Assembly on . . .
5. The administering agency is the Department of Housing, Local Government and Planning.