

Queensland



Subordinate Legislation 1999 No. 65

Superannuation (State Public Sector) Act 1990

SUPERANNUATION (STATE PUBLIC SECTOR) AMENDMENT OF DEED REGULATION (No. 2) 1999

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Short title

1. This regulation may be cited as the *Superannuation (State Public Sector) Amendment of Deed Regulation (No. 2) 1999*.

Approval of amendments of deed

2. This regulation approves the amendments of the *Superannuation (State Public Sector) Deed 1990* in the schedule.

SCHEDULE

AMENDMENTS OF SUPERANNUATION (STATE PUBLIC SECTOR) DEED 1990

section 2

Amendment of s 4 (Definitions)

1. Section 4—

insert—

‘ **“accessible amount”** means—

- (a) for a defined benefit member—the amount in the member’s voluntary contribution account; or
- (b) for an accumulation member who is also a State 72 member or a police 74 member—the amount in the member’s account, other than the total of—
 - (i) an amount paid by an employer under section 72¹ (**“the first amount”**), less an amount mentioned in section 77(3)² applicable to the first amount; and
 - (ii) interest, under section 78³, on an amount paid by an employer under section 72; or
- (c) for another accumulation member—the amount in the member’s account; or
- (d) for a preservation member—the amount in the member’s voluntary preservation account.

“compassionate grounds” see section 27B.

¹ Section 72 (Payment of contributions)

² Section 77 (Member’s account)

³ Section 78 (Interest)

SCHEDULE (continued)

“severe financial hardship ground” means the ground applying to the member under section 27F(3) or (4).’.

Insertion of new ch 1, pt 6A

2. Chapter 1, after section 27—

insert—

**‘PART 6A—ACCESS ON COMPASSIONATE AND
SEVERE FINANCIAL HARDSHIP GROUNDS**

‘Division 1—Preliminary

‘Definitions for pt 6A

‘27A. In this part—

“access member” means a member to whom an access provision applies.

“access provision” means section 61A, 79A or 338A.⁴

“accessible amount” means—

- (a) for a defined benefit member—an amount in a voluntary contribution account; or
- (b) for an accumulation member who is also a State 72 member or a police 74 member—a preserved amount, other than an amount paid by an employer under section 72 and interest, under section 78, on an amount paid by an employer under section 72; or
- (c) for another accumulation member—a preserved amount; or
- (d) for a preservation member—an amount in a voluntary

⁴ Sections 61A (Access on compassionate or severe financial hardship grounds), 79A (Access on compassionate or severe financial hardship grounds) and 338A (Access on compassionate or severe financial hardship grounds)

SCHEDULE (continued)

preservation account.

“Commonwealth income support agency” means a Commonwealth department or agency responsible for administering a class of Commonwealth income support payments.

“Commonwealth income support payment” has the meaning given by the *Superannuation Industry (Supervision) Regulations 1994* (Cwlth), regulation 6.01(2).

“medical transport”, of a member or a dependant of a member, means transport, by land, water or air, of the person to receive medical treatment.

“specialist” has the meaning given by the *Medical Act 1939*, section 4.

‘Division 2—Access on compassionate grounds

‘Access to accessible amount on compassionate grounds

‘27B.(1) The board may pay the whole, or a part, of an accessible amount to an access member, under an access provision, if the board is satisfied—

- (a) a compassionate ground applies to the member; and
- (b) the member does not have the financial capacity to meet an expense arising from the ground unless the payment is made.

‘(2) The payment may only be made as a single lump sum.

‘(3) The following grounds (the **“compassionate grounds”**) are the grounds on which an access member may apply for payment under an access provision—

- (a) to pay for medical treatment of the member or a dependant of the member;
- (b) to pay for medical transport of the member or a dependant of the member;
- (c) to enable the member to make a payment on a loan, so as to

SCHEDULE (continued)

prevent—

- (i) foreclosure of a mortgage on the member's principal place of residence; or
- (ii) exercise by a mortgagee of an express or statutory power of sale over the member's principal place of residence;
- (d) to modify the member's principal place of residence or vehicle to accommodate the special needs of the member, or a dependant of the member, because of severe disability;
- (e) to pay for expenses associated with the palliative care of the member, or a dependant of the member, that is needed because of the impending death of the member or dependant;
- (f) to pay for expenses associated with the death, funeral or burial of a dependant of the member.

‘Payment for medical treatment

‘27C.(1) This section applies to the compassionate ground stated in section 27B(3)(a).

‘(2) The ground applies to the member only if 2 doctors (at least 1 of whom is a specialist) certify—

- (a) the medical treatment is needed—
 - (i) to treat a life-threatening illness or injury; or
 - (ii) to alleviate acute or chronic pain; or
 - (iii) to alleviate an acute or chronic mental condition; and
- (b) the treatment is not readily available to the member, or the dependant, under the public health system.

‘Payment for medical transport

‘27D.(1) This section applies to the compassionate ground stated in section 27B(3)(b).

SCHEDULE (continued)

‘(2) The ground applies to the member only if 2 doctors (at least 1 of whom is a specialist) certify the medical transport is needed for the member or dependant to receive treatment for a reason stated in section 27C(2)(a).

‘Payment to avoid exercise of mortgagee’s powers

‘27E.(1) This section applies to the compassionate ground stated in section 27B(3)(c).

‘(2) The ground applies to the member only if the member gives the board a written statement from the mortgagee that—

- (a) payment of an amount under the mortgage is overdue; and
- (b) if the member does not pay the amount, the mortgagee will—
 - (i) foreclose the mortgage on the member’s principal place of residence; or
 - (ii) exercise an express or statutory power of sale over the member’s principal place of residence.

‘(3) The statement must include the following information—

- (a) the amount equal to 3 months’ repayments under the mortgage;
- (b) the amount equal to 12 months’ interest on the outstanding balance of the loan at the time of the statement.

‘(4) The maximum amount the board may pay the member is the total of the amounts mentioned in subsection (3).

‘(5) The board may not make a further payment to the member on the ground within 12 months after the payment.

‘Division 3—Access on ground of severe financial hardship

‘Access to accessible amount on severe financial hardship ground

‘27F.(1) The board may pay the whole, or a part, of an accessible amount to an access member, under an access provision, on the severe

SCHEDULE (continued)

financial hardship ground only if the board is satisfied the severe financial hardship ground applies to the member.

‘(2) The payment may only be made as a single lump sum.

‘(3) The severe financial hardship ground applies to a member if—

- (a) the member gives the board a written statement from a Commonwealth income support agency stating—
 - (i) the member has received Commonwealth income support payments for a continuous period of 26 weeks; and
 - (ii) the member was receiving the income support payments at the date of the statement; and
- (b) the board is satisfied the member can not meet reasonable and immediate family living expenses.

‘(3A) Also, for a member who is 55 years and 39 weeks or more, the severe financial hardship ground applies to a member if—

- (a) the member gives the board a written statement from a Commonwealth income support agency stating the member received Commonwealth income support payments for a cumulative period of 39 weeks after the member turned 55 years; and
- (b) the board is satisfied the member was not employed for at least 10 hours a week on the date of the member’s application to the board.

‘(4) The date of the statement mentioned in subsection (3)(a)(i) must not be more than 21 days before the date of the member’s application to the board.

‘Limitations on access

‘27G.(1) This section applies to a payment to an access member on the severe financial hardship ground stated in section 27F(3).

‘(2) The board may pay the member—

SCHEDULE (continued)

- (a) a minimum amount of—
 - (i) if the member's accessible amount is \$1 000 or more—\$1 000; or
 - (ii) if the member's accessible amount is less than \$1 000—the member's accessible amount; and
- (b) a maximum amount of \$10 000.

‘(3) The board may not make a further payment to the member on the ground within 12 months after the payment.’.

Insertion of new s 61A**3. After section 61—**

insert—

‘Access on compassionate or severe financial hardship grounds

‘**61A.(1)** On application by a member, the board may pay the whole, or a part, of the member's accessible amount on a compassionate ground or the severe financial hardship ground.⁵

‘(2) This section applies despite section 61.’.

Insertion of new s 79A**4. After section 79—**

insert—

‘Access on compassionate or severe financial hardship grounds

‘**79A.** On application by a member, the board may pay the whole, or a

⁵ See Chapter 1, part 6A (Access on compassionate and severe financial hardship grounds).

SCHEDULE (continued)

part, of the member's accessible amount on a compassionate ground or severe financial hardship ground.⁶.

Amendment of s 82 (Transfer of benefits)

5. Section 82, 'the member's accumulated employer contributions must be applied to the payment.'—

omit, insert—

'there must be applied to the payment an amount that is the total of—

- (a) an amount paid by an employer under section 72⁷ ("**the first amount**"), less an amount mentioned in section 77(3)⁸ applicable to the first amount; and
- (b) interest, under section 78,⁹ on an amount paid by an employer under section 72.'

Omission of ss 82A–82D

6. Sections 82A to 82D—

omit.

Insertion of new s 338A

7. After section 338—

insert—

⁶ See Chapter 1, part 6A (Access on compassionate and severe financial hardship grounds).

⁷ Section 72 (Payment of contributions)

⁸ Section 77 (Member's account)

⁹ Section 78 (Interest)

SCHEDULE (continued)

‘Access on compassionate or severe financial hardship grounds

‘338A.(1) On application by a member, the board may pay the whole, or a part, of the member’s accessible amount on a compassionate ground or severe financial hardship ground.¹⁰

‘(2) This section applies despite section 338.’.

ENDNOTES

1. Made by the Governor in Council on 22 April 1999.
2. The amendments approved by this regulation were made by the Board of Trustees of the State Public Sector Superannuation Scheme on 24 March 1999.
3. Notified in the gazette on 23 April 1999.
4. Laid before the Legislative Assembly on . . .
5. The administering agency is the Government Superannuation Office.

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¹⁰ See chapter 1, part 6A (Access on compassionate and severe financial hardship grounds).