Superannuation (State Public Sector) Amendment of Deed Regulation (No. 2) 2019

Explanatory notes for SL 2019 No. 96

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

General Outline

Short title

Superannuation (State Public Sector) Amendment of Deed Regulation (No. 2) 2019

Authorising law

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

Policy objectives and the reasons for them

The *Superannuation (State Public Sector) Deed 1990* (Deed) establishes the QSuper scheme.

Various chapters of the Deed contain provisions, which are prescriptive in nature, that prescribe when the QSuper Board can accept contributions made by or for a member and replicate the provisions of regulation 7.04 of the *Superannuation Industry (Supervision) Regulations 1994* (Cwlth) (SIS Regs). As such, the Deed requires amendments each time the Australian Government amends the SIS Regs.

In December 2018, the Australian Government amended the SIS Regs to provide an additional circumstance where superannuation funds can accept contributions from persons aged 65 to 74, subject to conditions and effective from 1 July 2019.

Given the historical frequency and likelihood of future changes to the SIS Regs regarding when superannuation funds can accept contributions, it is proposed that regulation 7.04 of the SIS Regs be incorporated in the Deed by reference, replacing the current prescriptive approach. This will ensure that the Deed does not require amendment when the Australian Government changes its rules as to when superannuation funds can accept contributions and ensures ongoing compliance with national legislation.

On 1 November 2018, the Australian Financial Complaints Authority (AFCA) replaced the Superannuation Complaints Tribunal (SCT) as the body to deal with superannuation complaints. The Deed includes a reference to the SCT which requires a change to reference AFCA instead.

Achievement of policy objectives

The Regulation consolidates the rules currently contained in various chapters of the Deed prescribing when contributions made by or for a member can be accepted by the QSuper Board into Chapter 1. In addition, the prescriptive contribution acceptance rules within the Deed are amended by incorporating the relevant SIS Regs by reference, so that any future amendments to the SIS Regs automatically flow onto the Deed.

In addition, a minor change is made to reflect that external dispute resolution is now handled by the Australian Financial Complaints Authority (which has replaced the Superannuation Complaints Tribunal).

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy of the authorising law in that regulations can be made to administer QSuper.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

Implementation of the Regulation will be of benefit by reducing the need to make amendments to the Deed and ensuring that any changes by the Australian Government to the rules as to when superannuation funds can accept contributions can be readily implemented by QSuper.

It is not expected that the implementation of the Regulation will result in significant costs.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles and ensures QSuper's governing rules are consistent with national superannuation legislation.

Consultation

The QSuper Board and the Government Superannuation Officer have been consulted.

All parties agree with the amendment to the Deed.

The Queensland Productivity Commission (QPC) was consulted regarding the regulatory impact analysis requirements under the *Queensland Government Guide to Better Regulation.*

QPC advised that the amendments appear to be consequential and machinery in nature and ensure that QSuper's governing rules are consistent with Commonwealth superannuation legislation. Therefore, the Regulation can be excluded from further regulatory impact assessment.