

# Superannuation (State Public Sector) Notice 2021

Explanatory notes for SL 2021 No. 137

made under the

*Superannuation (State Public Sector) Act 1990*

## General Outline

### Short title

*Superannuation (State Public Sector) Notice 2021*

### Authorising law

Sections 2A and 14B of the *Superannuation (State Public Sector) Act 1990*

### Policy objectives and the reasons for them

QSuper was originally established by the Queensland Government to provide superannuation benefits for Queensland's State public sector employees. Under section 14B of the *Superannuation (State Public Sector) Act 1990* (Superannuation Act), the Treasurer declares, by written notice (*Superannuation (State Public Sector) Notice 2010* (Notice 2010)), the QSuper membership categories and other conditions of membership for employees of units of the State public sector. The categories of membership for State public sector employees include defined benefit arrangements for employees with continuous government employment since before November 2008, an accumulation arrangement known as the comprehensive accumulation category (CAC) that requires the employee to contribute as well as receiving employer contributions, and an accumulation arrangement that provides employer contributions only (i.e. Superannuation Guarantee only).

A unit of the State public sector is defined under section 2 of the Superannuation Act and includes government entities such as departments, entities established under a Queensland Act and bodies corporate wholly owned by the State. Section 2A of the Superannuation Act provides that the Minister may, by written notice, declare an entity to be a unit of the State public sector, which is mainly intended to be used for those entities that do not fit within the definition under section 2 but have a link to the Queensland Government. In addition, some entities are declared units of the State public sector but only for guaranteeing the continuation of superannuation arrangements for employees transferring to the entity from an existing unit of the State public sector.

Section 54 of the *Statutory Instruments Act 1992* (SIA) provides that subordinate legislation expires on 1 September first occurring after the 10th anniversary of the day of its making. In accordance with this section, the Notice 2010 was due to expire on 1 September 2020 but, in accordance with section 56A of the SIA, the *Statutory Instruments (Exemptions from Expiry) Amendment Regulation 2020* extended the expiry date by one year to 1 September 2021.

The Notice 2010 needs to be remade to ensure the superannuation arrangements and conditions for employees of units of the State public sector are continued.

## **Achievement of policy objectives**

The *Superannuation (State Public Sector) Notice 2021* (Notice 2021) largely mirrors the provisions of the Notice 2010 and continues the QSuper membership arrangements approved by the Treasurer for employees of a unit of the State public sector, including those who are employed by an employer that has been declared to be a unit of the State public sector.

The Notice 2021 makes the following changes compared to the Notice 2010:

### **Changes to existing arrangements**

Gladstone Marine Services Pty Ltd has requested to remove the CAC category for new casual employees effective 1 September 2021.

### **Changes to names of units of the State public sector and removal of redundant entries**

The names of 14 units of the State public sector have been updated and the entries for three units of the State public sector have been removed as these employers no longer operate (and no members are affected).

### **Various other amendments**

In addition, compared to the Notice 2010, the Notice 2021:

- removes the explicit requirement under current section 12 of the Notice 2010 for the QSuper Board to provide insurance to members, as these requirements are prescribed in Commonwealth superannuation legislation the Board must comply with;
- removes, where possible, references to specific sections in the *Superannuation (State Public Sector) Deed 1990* for simplification purposes;
- inserts new section 9 to clarify who can be a member of the standard defined benefit category and remove any doubt in respect of the application of the Notice 2021 to contract employees and employees whose membership in a category is subject to employer approval;
- amends a transitional provision (section 13) to ensure the continuation of prescribed persons in the basic accumulation category following the expiry of the Notice 2010; and
- makes minor changes to various entries to improve readability, in accordance with current drafting practices.

## **Consistency with policy objectives of authorising law**

The Notice 2021 is consistent with the policy objectives of the *Superannuation (State Public Sector) Act 1990* in that the Minister may, by written notice, declare QSuper membership arrangements for an employee of a unit of the State public sector.

## **Inconsistency with policy objectives of other legislation**

The Notice 2021 is consistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

It is not expected that the implementation of the Notice 2021 will result in significant costs.

## **Consistency with fundamental legislative principles**

The Notice 2021 does not raise any fundamental legislative principles.

## **Consultation**

Consultation has occurred with relevant employers and the Government Superannuation Officer. All parties agree with the amendments.