Superannuation (State Public Sector) Regulation 2022

Explanatory notes for SL 2022 No. 183

made under the

Superannuation (State Public Sector) Act 1990

General Outline

Short title

Superannuation (State Public Sector) Regulation 2022

Authorising law

Sections 23 and 41 of the *Superannuation (State Public Sector) Act 1990*

Policy objectives and the reasons for them

The *Superannuation (State Public Sector) Act 1990* (Superannuation Act) was amended on 28 February 2022 to support the merger between QSuper and Sunsuper to form Australian Retirement Trust (ART).

Prior to the merger, the rate and frequency of member and employer contributions that applied to core government employees and other employees of units of the State public sector who had contributions made to QSuper (now the Government Division of ART) were prescribed under the *Superannuation (State Public Sector) Deed 1990* (1990 Deed).

A unit of the State public sector is defined under section 4 and Schedule 1 of the Superannuation Act and includes government entities such as departments, entities established under a Queensland Act, body corporates wholly owned by the State and employers with a close link to 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 from an existing unit of the State public sector.

The 1990 Deed was repealed on 28 February 2022 and its provisions were continued under the Government Division Rules of the ART trust deed. Section 64 of the Superannuation Act continues the existing contribution arrangements for the employees mentioned above by reference to the repealed 1990 Deed. Section 64 applies to Accumulation account members only, not Defined Benefit members as their arrangements are preserved.

Section 64 ceases to apply on 28 February 2023, or when a regulation is made under section 23 of the Superannuation Act that prescribes the rate and frequency of superannuation contributions to be made by units of the State public sector and State public sector employees (which includes core government employees and other employees mentioned in the *Superannuation (State Public Sector) Notice 2021*).

The Queensland Government has announced changes to the superannuation arrangements for public sector employees, with the implementation details being finalised. The objective of the regulation is to prescribe the frequency and rate of member and employer contributions at the frequency and rate that currently apply. It ensures the regulation is made by 28 February 2023 whilst allowing sufficient time to prepare amendments to reflect the new arrangements.

Achievement of policy objectives

The *Superannuation (State Public Sector) Regulation 2022* prescribes the compulsory contributions by employers and employees under section 23 of the Superannuation Act.

For core government employees and employees of a unit of the State public sector who have their contributions made to the Government Division of ART, the *Superannuation (State Public Sector) Regulation 2022* specifies that the rate and frequency at which the employee and the unit of the State public sector must make contributions are the rate and frequency that applied prior to the Regulation by virtue of section 64 of the Superannuation Act.

For non-core government employees who have chosen another fund for their superannuation contributions, the member and employer contributions required are those under the arrangements that apply to the employee's employment with the unit of the State public sector, in line with current arrangements.

Consistency with policy objectives of authorising law

The *Superannuation (State Public Sector) Regulation 2022* is consistent with the policy objectives of the legislation.

Inconsistency with policy objectives of other legislation

The *Superannuation (State Public Sector) Regulation 2022* is consistent with the policy objectives of other legislation, as it continues current superannuation contribution arrangements.

Benefits and costs of implementation

The implementation of the *Superannuation (State Public Sector) Regulation 2022* will not impose a direct cost to Government, as it continues the current superannuation contribution arrangements until the new arrangements, which are expected to commence on 1 July 2023. The benefit of the regulation is that it provides certainty to employees and employers about employees' superannuation contribution entitlements until the new arrangements are in place.

Consistency with fundamental legislative principles

Prescribing the rates and frequency of contributions by way of a transitional arrangement that does not state the actual rates or frequency introduces a potential inconsistency with fundamental legislative principles because employers and individuals will not know on the face of the legislation what their obligations and entitlements are. The inconsistency is alleviated by a requirement under the regulation for the Chief Executive to publish the rates and frequency for contributions on a Queensland Government website (in line with current arrangements).

Consultation

No public consultation was undertaken on the regulation as it is continuing current contribution arrangements until the new superannuation contribution arrangements can be implemented.

In accordance with *The Queensland Government Guide to Better Regulation*, the proposed regulation does not require further regulatory impact analysis as it falls within an exclusion category (category (g) – regulatory proposals that are of a machinery nature in that no substantive policy change has been made).