

# Superannuation (State Public Sector) (Parental Leave) and Other Legislation Amendment Regulation 2025

Explanatory notes for SL 2025 No. 28

made under the

*Superannuation (State Public Sector) Act 1990*

## General Outline

### Short title

Superannuation (State Public Sector) (Parental Leave) and Other Legislation Amendment Regulation 2025

### Authorising law

Section 10 and section 23 of the *Superannuation (State Public Sector) Act 1990*

### Policy objectives and the reasons for them

*Superannuation for Queensland's State public sector employees*

The superannuation arrangements for Queensland's State public sector employees are provided for in Queensland's *Superannuation (State Public Sector) Act 1990* (Superannuation Act).

The Treasurer has powers under section 10 of the Superannuation Act to approve the type of superannuation product public sector employees are eligible to be in – for example, a defined benefit account – and the conditions, if any, related to being in that product. The Treasurer's approvals under section 10 are recorded in the *Superannuation (State Public Sector) Notice 2021* (Superannuation Notice), subordinate legislation under the Superannuation Act.

It is a policy objective of the Queensland Government to maintain an up-to-date legislative record of the superannuation arrangements (i.e. products and conditions) for Queensland's State public sector employees. The reason for the policy objective is to ensure the record can be reliably depended on by employees of the Queensland Government to correctly show their superannuation arrangements.

Some recent changes related to the superannuation arrangements for specific employees has resulted in a need to update the Superannuation Notice.

The changes are:

1. Remove compulsory membership of QSuper for employees of Gladstone Ports Corporation Limited (GPC). QSuper is part of Australian Retirement Trust and is the default superannuation fund for Queensland's State public sector employees. The change means that employees can choose the superannuation fund to which GPC pays their superannuation contributions.
2. In June 2024, the Queensland Government established the Games Venue and Legacy Delivery Authority (Authority) to deliver the infrastructure that's needed to successfully hold the 2032 Brisbane Olympic and Paralympic Games. The Authority employs staff for whom superannuation is paid. The name of the authority was recently changed to the Games Independent Infrastructure and Coordination Authority.

#### *Superannuation for employees on parental leave with no pay*

The *Superannuation (State Public Sector) Regulation 2023* (Superannuation Regulation), which is also subordinate legislation under the Superannuation Act, prescribes the amount of superannuation contributions that are paid for State public sector employees in an accumulation account and how often they are paid.

In May 2024 the former Queensland Government announced that Queensland's public sector employees would be paid superannuation contributions on parental leave up to 52 weeks, regardless of whether the leave is paid or unpaid. The Government proposed to start the change from 1 July 2024, but with retrospective application to give enough time to consult on the change and to implement the necessary payroll changes. The Government subsequently announced that the policy would also apply to employees of government owned corporations and other government commercial businesses – for example, The Queensland Music Festival Pty Ltd. The current Queensland Government supports the policy to pay superannuation for public sector employees when they are on parental leave with no pay.

The policy seeks to improve the superannuation balances of State public sector employees — especially female employees — who take time off work without pay to have children. Research indicates that taking time off work without pay to have children is a significant contributor to low superannuation balances when compared to those who do not take time off work to have children. The research shows that women are more impacted by this issue than men.

## **Achievement of policy objectives**

The policy objectives outlined above can only be achieved by amending Queensland subordinate legislation. The *Superannuation (State Public Sector) (Parental Leave) and Other Legislation Amendment Regulation 2025* (Amendment Regulation) amends the Superannuation Notice and the Superannuation Regulation.

### *Superannuation Notice amendment*

Schedule 2 of the Superannuation Notice is a table that lists employees who have had superannuation arrangements approved by the Treasurer under section 10 of the Superannuation Act. The employees are grouped by employer.

The Amendment Regulation amends the table listings for the employees of GPC and the employees of the Games Independent Infrastructure and Coordination Authority to align them with the changes outlined above. The Amendment Regulation also makes:

- a consequential amendment to schedule 1 of the Superannuation Notice to update the name of the Games Independent Infrastructure and Coordination Authority; and
- a minor technical amendment to correct an incorrect term used in the schedule 2 table listing for employees of a public sector entity.

### *Superannuation Regulation amendment*

Part 2 of the Superannuation Regulation prescribes the amount of superannuation contributions that employers must pay for public sector employees and, if relevant for the superannuation product, that employees must also pay in personal contributions towards their superannuation. The Superannuation Regulation only applies for employees who have contributions paid to an accumulation account (see the section below titled *Defined benefit* for information about employees with a defined benefit account).

The employers that pay superannuation under the Superannuation Regulation are divided across two groups:

1. one group for public sector employers of the general government sector, which includes departments and many statutory authorities (termed a 'part 1 employer' in the Superannuation Regulation); and
2. the other group for employers that are not neatly defined as being part of the general government sector, which includes some employers with historical ties to government and some government commercial businesses (termed a 'part 2 employer' in the Superannuation Regulation).

The Amendment Regulation inserts new sections 13A, 13B and 13C in part 2 of the Superannuation Regulation to provide for employer superannuation contributions to be paid to a public sector employee when they are on parental leave with no pay. The new sections:

- provide for the employer superannuation contributions to be based on leave at full pay, whether the employee is on parental leave without pay or parental leave on half pay;
- only require employer superannuation contributions, thereby waiving any requirement to make personal superannuation contributions for employees who would ordinarily be required to pay personal superannuation contributions; and
- specify the part 1 employers and part 2 employers that must pay the employer superannuation contributions for employees, to align with the 2024 announcements of the policy.

The amendment to the Superannuation Regulation commences retrospectively from 1 July 2024.

### *Defined benefit*

Employees who have superannuation contributions paid to a defined benefit account will also receive superannuation when they are on unpaid parental leave, but the amounts are prescribed in a document the Treasurer makes under section 29 of the Superannuation Act. The document is not related to the Superannuation Regulation.

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

The Amendment Regulation is consistent with the objective of the Superannuation Act as it amends existing subordinate legislation under the Superannuation Act to provide for proposed changes to public sector employees' superannuation arrangements.

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

The Amendment Regulation is consistent with the policy objectives of other legislation, including the Australian Government's superannuation legislation.

## **Benefits and costs of implementation**

From 1 July 2024 Queensland's public sector employers will pay more superannuation for employees who take parental leave, which, as the primary funding body of employers' budgets, is a cost to the Queensland Government of \$83.8 million over the forward estimates.

There is also a cost to relevant employers' payroll providers/areas to make the payroll system changes that are needed to implement the new policy as part of their overall and ongoing system change programs.

The benefits to public sector employees' superannuation, particularly women, is significant and goes at least some way to resolve an often publicly debated issue about the financial security of retiring Australians whose superannuation is impacted by periods of unpaid leave to raise children. The increase in superannuation entitlements also aligns the Queensland Government's public sector employment superannuation entitlements with those of many other governments in Australia.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with Queensland's fundamental legislative principles.

The amendment to the Superannuation Regulation commences retrospectively from 1 July 2024. It is a fundamental legislative principle that legislation does not adversely affect rights and liberties, or impose obligations, retrospectively. Paying employer superannuation contributions for public sector employees who are on parental leave without pay is beneficial to employees and does not adversely affect their rights and liberties.

## Consultation

Queensland Treasury, on behalf of the Queensland Government, has consulted with all public sector employers listed in the Superannuation Notice, and with relevant employee unions, about the superannuation for employees on unpaid parental leave policy.

All the parties/stakeholders that were consulted agree with the amendments to the Superannuation Notice and Superannuation Regulation.

In accordance with *The Queensland Government Better Regulation Policy*, the amendments to the Superannuation Notice and Superannuation Regulation relate to the internal management of the public sector. Therefore, no impact analysis beyond a Summary Impact Analysis Statement is required.