



*Superannuation (State Public Sector) Act 1990*

# **Superannuation (State Public Sector) Regulation 2023**

**Current as at 1 July 2023**

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Queensland

# Superannuation (State Public Sector) Regulation 2023

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# Superannuation (State Public Sector) Regulation 2023

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Superannuation (State Public Sector) Regulation 2023*.

### 2 Commencement

This regulation commences on 1 July 2023.

### 3 Definitions

The dictionary in schedule 2 defines particular words used in this regulation.

### 4 Meaning of *salary*

- (1) The *salary* of an employee means the total of the following—
- (a) earnings for ordinary hours of work, other than any of the following payments made to an employee on the termination of the employee's employment—
    - (i) a payment for unused sick leave;
    - (ii) an unused annual leave payment, or unused long service leave payment, within the meaning of the *Income Tax Assessment Act 1997* (Cwlth);
  - (b) amounts for over-award payments, shift loadings or commissions;
  - (c) any payments made when on paid leave, including, for example, parental leave and ancillary leave.

- (2) However, if a unit of the State public sector and an employee of the unit make an agreement under section 15, the **salary** of the employee, for the purposes of calculating the employer contributions payable by the unit, means the salary agreed on.
- (3) Terms used in subsection (1)(a) and (b) have the same meanings as they have in the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 6(1), definition *ordinary time earnings*.

## 5 Meaning of **superannuable salary**

- (1) The **superannuable salary** of an employee who is not a member of the Legislative Assembly means the total worked out under section 4(1), other than the following—
  - (a) amounts for over-award payments, shift loadings or commissions;
  - (b) an amount paid to the employee by way of fee or allowance, unless the Governor in Council decides the amount is to be included for the purposes of this paragraph.
- (2) The **superannuable salary** of an employee who is a member of the Legislative Assembly means the total of the following—
  - (a) the salary paid to the employee under the *Queensland Independent Remuneration Tribunal Act 2013*, section 41;
  - (b) any additional salary paid to the employee under the *Queensland Independent Remuneration Tribunal Act 2013*, section 42.
- (3) However, if a unit of the State public sector and an employee of the unit make an agreement under section 15, the **superannuable salary** of the employee, for the purposes of calculating the employer contributions payable by the unit, means the superannuable salary agreed on.

- (4) Terms used in subsection (1)(a) have the same meanings as they have in the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 6(1), definition *ordinary time earnings*.

## **Part 2**                      **Compulsory contributions by employers and employees**

### **Division 1**                **Rate and frequency in relation to part 1 employers**

#### **6**            **Application of division**

This division applies in relation to a unit of the State public sector mentioned in the *Superannuation (State Public Sector) Notice 2021*, schedule 2, part 1, column 1 (a ***part 1 employer***).

#### **7**            **Rate and frequency for compulsory contributions—Act, s 23**

- (1) For section 23(1) of the Act, the rate and frequency at which a part 1 employer must pay contributions for each of its employees mentioned in schedule 1, part 1, column 1 is the rate stated in schedule 1, part 1, column 2 at the required frequency for the employee.
- (2) For section 23(2) of the Act, the rate and frequency at which a State public sector employee mentioned in schedule 1, part 1, column 1 must pay contributions is the rate stated in schedule 1, part 1, column 3 at the required frequency for the employee.

## **Division 2                      Rate and frequency in relation to part 2 employers**

### **8                      Application of division**

This division applies in relation to a unit of the State public sector mentioned in the *Superannuation (State Public Sector) Notice 2021*, schedule 2, part 2, column 1 (a **part 2 employer**).

### **9                      Rate and frequency for compulsory contributions—Act, s 23**

- (1) For section 23(1) of the Act, the rate and frequency at which a part 2 employer must pay contributions for each of its employees mentioned in schedule 1, part 2, column 1 is the rate stated in schedule 1, part 2, column 2 at the required frequency for the employee.
- (2) For section 23(2) of the Act, the rate and frequency at which a State public sector employee mentioned in schedule 1, part 2, column 1 must pay contributions is the rate stated in schedule 1, part 2, column 3 at the required frequency for the employee.

## **Division 3                      General provisions for part 1 employers and part 2 employers**

### **10                      References to salary etc.**

- (1) For a period for which a compulsory contribution is to be made for an employee, a reference in a relevant provision to the employee's salary, superannuable salary or ordinary time earnings is a reference to the salary, superannuable salary or ordinary time earnings paid to the employee for the period.

*Example—*

For an employee mentioned in schedule 1, part 1, item 2—



- (a) the required frequency for the employee is within 1 week after the end of a pay period in which the salary of the employee is paid to the employee; and
  - (b) the rate at which the employee's employer must pay a contribution is 12.75% of the employee's salary for the pay period.
- (2) In this section—
- relevant provision* means—
- (a) schedule 1, part 1 or 2, column 2 or 3; or
  - (b) schedule 2, definition *required frequency*.

## 11 Nomination of rate for employee contributions

- (1) If an item in schedule 1, part 1 or 2, column 3 entitles a State public sector employee to nominate a rate, the employee may nominate a rate by giving their employer written notice nominating the rate at which they wish to pay contributions to their chosen fund.
- (2) However, an employee mentioned in schedule 1, part 2, item 3 who may nominate a rate at which they wish to pay contributions to their chosen fund may only nominate a rate that is 2%, 3%, 4% or 5%.

## 12 Employee contributions not required if rate is 0%

A reference in schedule 1, part 1 or 2, column 3 to the contribution rate for an employee being 0% means that no employee contribution is required under section 23(2) of the Act.

## 13 Employer contributions while employee is on workers' compensation

- (1) This section applies—
  - (a) in relation to an employee of a unit of the State public sector—

[s 14]

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- (i) who is a core government employee; or
  - (ii) whose chosen fund is the scheme; and
  - (b) if the employee is receiving compensation under the *Workers' Compensation and Rehabilitation Act 2003* instead of remuneration paid by the unit.
- (2) While the employee is receiving the compensation, the unit must pay contributions under section 23(1) of the Act as if the employee were engaged in the employee's normal work.

## **Division 4                      Agreement on salary or superannuable salary for purposes of employer contributions**

### **14            Application of division**

This division applies if the total of employer contributions payable for a financial year by a unit of the State public sector to the chosen fund of an employee of the unit would, but for section 15, be more than the concessional contributions cap.

### **15            Agreement on salary or superannuable salary for purposes of employer contributions**

- (1) A unit of the State public sector and an employee of the unit may agree on a salary or superannuable salary for the employee, for the purposes of calculating the employer contributions payable by the unit, that would result in the total of employer contributions payable by the unit for the financial year being equal to the concessional contributions cap.
- (2) The agreement must—
  - (a) be in writing; and
  - (b) apply for a particular financial year.

## **16 Employer contribution rate for particular employees if agreement made**

- (1) This section applies if a unit of the State public sector and an employee mentioned in schedule 1, part 2, item 3 make an agreement under section 15.
- (2) Despite section 9(1), the rate at which the unit must pay contributions is the rate stated in paragraph (b) of column 2 of the item.

## **Division 5 Agreement on employer contribution rate**

### **17 Application of division**

- (1) This division applies if an employee of a part 1 employer has a total remuneration package with the employer.
- (2) However, this division does not apply if an employee of a part 1 employer and the employer make an agreement under section 15.
- (3) In this section—

*total remuneration package* means an arrangement under which an employee receives a salary package, expressed as a fixed amount, that includes the employee's salary and the cost of all other benefits paid to the employee, including superannuation.

### **18 Agreement on employer contribution rate**

- (1) A part 1 employer and an employee of the employer may agree that the rate at which the employer must pay contributions for the employee is a rate that is not less than the charge percentage of the employee's salary.
- (2) The agreement must be in writing.

- (3) Despite section 7(1), if an agreement is made under subsection (1), the rate at which the employer must pay contributions for the employee is the rate agreed on.

## **Part 3 Contributions by units**

### **19 Payment of particular amounts to be made to trustee—Act, s 29**

For section 29(6)(a) of the Act, payment of an amount must be made to the trustee if the amount is an amount decided by the Treasurer to be paid by a unit of the State public sector to an accumulation account of a member of the scheme in the government defined benefit category.

## **Part 4 Repeal and transitional provisions**

### **Division 1 Repeal**

#### **20 Repeal**

The Superannuation (State Public Sector) Regulation 2022, SL No. 183 is repealed.

### **Division 2 Transitional provisions**

#### **21 Amounts decided by Governor in Council before commencement**

- (1) This section applies if—
- (a) immediately before the commencement, an amount paid to an employee by way of fee or allowance was included

for determining the salary of an employee for the purposes of calculating the compulsory contributions for the employee; and

- (b) the amount had been decided to be included for those purposes by the Governor in Council.
- (2) On the commencement, the amount is taken to have been decided by the Governor in Council to be included for the purposes of section 5(1)(b).
- (3) In this section—

*salary* has the meaning given by section 68 of the 1990 deed, definition *salary*, paragraph (d), as in force immediately before the repeal of the 1990 regulation.

## **22 Continuation of monthly frequency of particular compulsory contributions before commencement**

- (1) This section applies if—
  - (a) an employee of a unit of the State public sector is a core government employee or the employee's chosen fund is the scheme; and
  - (b) immediately before the commencement, the frequency at which the unit and employee were required to pay compulsory contributions under section 23 of the Act was within 1 week after the end of a month in which earnings of the employee were paid to the employee.
- (2) Despite schedule 2, definition *required frequency*, paragraph (a), the required frequency for the employee, for the purposes of sections 7(1) and (2) and 9(1) and (2) is within 1 week after the end of a month in which the salary, superannuable salary or ordinary time earnings of the employee is paid to the employee.
- (3) This section stops applying on 1 July 2026.

**23 Employee-nominated contribution rates in effect immediately before commencement**

A contribution rate for an employee nominated by the employee that was in effect immediately before the commencement continues to be the nominated rate for the employee until the employee nominates another rate.

# Schedule 1      Compulsory contributions by employers and employees

sections 7 and 9

## Part 1      Compulsory contributions in relation to part 1 employers

	<b>Column 1 Employee</b>	<b>Column 2 Employer rate</b>	<b>Column 3 Employee rate</b>
1	an employee— (a) who is not a core government employee; and (b) whose chosen fund is not the scheme	the rate at which the employer is required to pay contributions under the superannuation arrangements applying to the employee's employment with the employer	the rate (if any) at which the employee is required to pay contributions under the superannuation arrangements applying to the employee's employment with the employer
2	an employee who— (a) is not an employee mentioned in item 1; and (b) is— (i) a police recruit; or (ii) a special constable (State officer) under the age of 75 years; or (iii) a casual employee under the age of 75 years	12.75% of the employee's salary	the following rate of the employee's superannuable salary— (a) if the employee nominates a rate—the nominated rate; (b) otherwise—0%

Schedule 1

	<b>Column 1 Employee</b>	<b>Column 2 Employer rate</b>	<b>Column 3 Employee rate</b>
3	an employee who— (a) is a police officer other than a special constable (State officer); and (b) is under the age of 60 years	18% of the employee's salary	the following rate of the employee's superannuable salary— (a) if the employee nominates a rate—the nominated rate; (b) otherwise—6%
4	an employee who is a fire service officer	14.25% of the employee's salary	the following rate of the employee's superannuable salary— (a) if the employee nominates a rate—the nominated rate; (b) otherwise—5%
5	an employee who— (a) is not an employee mentioned in item 1, 2, 3 or 4; and (b) is under the age of 75 years	12.75% of the employee's salary	the following rate of the employee's superannuable salary— (a) if the employee nominates a rate—the nominated rate; (b) otherwise—5%
6	an employee who— (a) is not an employee mentioned in item 1; and (b) has reached the age of 75 years	the charge percentage of the employee's ordinary time earnings	0%



## Part 2 Compulsory contributions in relation to part 2 employers

	<b>Column 1 Employee</b>	<b>Column 2 Employer rate</b>	<b>Column 3 Employee rate</b>
1	an employee whose chosen fund is not the scheme	the rate at which the employer is required to pay contributions under the superannuation arrangements applying to the employee's employment with the employer	the rate (if any) at which the employee is required to pay contributions under the superannuation arrangements applying to the employee's employment with the employer
2	an employee— (a) whose chosen fund is the scheme; and (b) who is— (i) under the age of 75 years; and (ii) subject to the basic accumulation arrangement (BAA) under the <i>Superannuation (State Public Sector) Notice 2021</i>	the charge percentage of the employee's salary	0%

Schedule 1

	<b>Column 1 Employee</b>	<b>Column 2 Employer rate</b>	<b>Column 3 Employee rate</b>
3	<p>an employee—</p> <p>(a) whose chosen fund is the scheme; and</p> <p>(b) who is—</p> <p>(i) under the age of 75 years; and</p> <p>(ii) subject to the comprehensive accumulation arrangement (CAA) under the <i>Superannuation (State Public Sector) Notice 2021</i></p>	<p>the higher of the following rates—</p> <p>(a) the charge percentage of the employee's salary;</p> <p>(b) the following rate of the employee's superannuable salary—</p> <p>(i) if the employee contribution rate is 2%—9.75%;</p> <p>(ii) if the employee contribution rate is 3%—10.75%;</p> <p>(iii) if the employee contribution rate is 4%—11.75%;</p> <p>(iv) if the employee contribution rate is 5%—12.75%</p>	<p>the following rate of the employee's superannuable salary—</p> <p>(a) for an employee for whom a rate applies under a condition of membership stated in the <i>Superannuation (State Public Sector) Notice 2021</i>—the applicable rate;</p> <p>(b) if the employee nominates a rate of 2%, 3%, 4% or 5%—the nominated rate;</p> <p>(c) otherwise—5%</p>
4	<p>an employee—</p> <p>(a) whose chosen fund is the scheme; and</p> <p>(b) who has reached the age of 75 years</p>	<p>the charge percentage of the employee's ordinary time earnings</p>	<p>0%</p>

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## Schedule 2 Dictionary

### section 3

***casual employee*** means an employee who, under the terms of their employment, is not entitled to annual leave, sick leave or payment for a public holiday.

***charge percentage*** means the charge percentage under the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 19(2), divided by 100.

***concessional contributions cap*** see the *Income Tax Assessment Act 1997* (Cwlth), section 291-20.

***fire service officer*** see the *Fire and Emergency Services Act 1990*, schedule 6.

***ordinary time earnings***, in relation to an employee, see the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 6(1).

***part 1 employer*** see section 6.

***part 2 employer*** see section 8.

***police recruit*** means a person who holds a position in the Queensland Police Service as a police recruit.

***required frequency***, for an employee of a unit of the State public sector, means—

- (a) if the employee is a core government employee or the employee's chosen fund is the scheme—within 1 week after the end of a pay period in which the salary, superannuable salary or ordinary time earnings of the employee is paid to the employee; or
- (b) if the employee is not a core government employee and the employee's chosen fund is not the scheme—the frequency (if any) at which the employer or employee is required to pay contributions under the superannuation arrangements applying to the employee's employment with the unit.

*salary*, of an employee, see section 4.

*special constable (State officer)* see the *Police Service Administration Act 1990*, section 1.4.

*superannuable salary*, of an employee, see section 5.