

Schedule 1 — Employers

[r. 7]

Division 1 — State funded employers

1. **Departments** established or continued, or deemed to have been established, under the *Public Sector Management Act 1994*, other than department or parts of departments listed in Division 2
2. **The Government of Western Australia** in relation to a worker in respect of whom the obligations of the Government are being discharged under regulation 9(1)(a) by a Minister
3. **The Government of Western Australia** in relation to a worker in respect of whom the obligations of the Government are being discharged by a person, or by the employing authority of a department or organisation, specified in an order under regulation 9(1)(b) if the order specifies that in relation to that worker the Government is a Division 1 Employer
- 3a. **The Government of Western Australia** in relation to a worker who is a parliamentarian
4. **Agent General** appointed under the *Agent General Act 1895*
5. **Agricultural Produce Commission** established by the *Agricultural Produce Commission Act 1988*
6. **Anti-Corruption Commission** established under the *Anti-Corruption Commission Act 1988*
7. **Chemistry Centre (WA)**
8. **Colleges** established or continued under the *Vocational Education and Training Act 1996*
9. **Commissioner for Public Sector Standards** under the *Public Sector Management Act 1994*
10. **Commissioner for Equal Opportunity** appointed under the *Equal Opportunity Act 1984*
11. **Commissioner of Police** appointed under the *Police Act 1892*
12. **Coordinator of Energy** appointed under the *Energy Coordination Act 1994*
13. **Coordinator of Water Services** appointed under the *Water Services Coordination Act 1995*
14. **Director of Public Prosecutions** under the *Director of Public Prosecutions Act 1991*
15. **Governor** under the *Governor's Establishment Act 1992*
16. **Hospital Boards** constituted under section 15 of the *Hospitals and Health Services Act 1927* and the **Minister** to whom the administration of that Act has for the time being been committed by the Governor in relation to any public hospital under the control of that Minister under section 7 of that Act
17. **Information Commissioner** under the *Freedom of Information Act 1992*
18. **Inspector of Custodial Services** under the *Prisons Act 1981*

19. **Multicultural and Ethnic Affairs Commission** established under the *Multicultural and Ethnic Affairs Commission Act 1983*
20. **Parliamentary Commissioner for Administrative Investigations** appointed under the *Parliamentary Commissioner Act 1971*
21. **Perth Theatre Trust** established by the *Perth Theatre Trust Act 1979*
22. **President of the Legislative Council, Speaker of the Legislative Assembly, President of the Legislative Council and Speaker of the Legislative Assembly acting jointly** under the *Parliamentary and Electorate Staff (Employment) Act 1992*
23. **Rural Business Development Corporation** continued under the *Rural Business Development Corporation Act 2000*
24. **State Supply Commission** established under the *State Supply Commission Act 1991*
25. **The Agriculture Protection Board of Western Australia** constituted under the *Agriculture Protection Board Act 1950*
26. **The Board of the Art Gallery of Western Australia** continued by the *Art Gallery Act 1959*
27. **The Library Board of Western Australia** constituted under the *Library Board of Western Australia Act 1951*
28. **The Western Australian Industrial Relations Commission** continued by the *Industrial Relations Act 1979*
29. **The Western Australian Museum** constituted by the *Museum Act 1969*
30. **Valuer General** appointed under the *Valuation of Land Act 1978*
31. **Western Australian Planning Commission** established by the *Western Australian Planning Commission Act 1985*
32. **WorkSafe Western Australia Commission** established by the *Occupational Safety and Health Act 1984*
[Division 1 amended in Gazette 26 Aug 2003 p. 3757.]

Division 2 — Self funding employers

1. **The Government of Western Australia** in relation to a worker in respect of whom the obligations of the Government are being discharged by a person, or by the employing authority of a department or organisation, specified in an order under regulation 9(1)(b) unless the order specifies that in relation to that worker the Government is a Division 1 Employer
2. **Animal Resources Authority** established by the *Animal Resources Authority Act 1981*
3. **Betting Control Board** established under the *Betting Control Act 1954*
4. **Botanic Gardens and Parks Authority** established under the *Botanic Gardens and Parks Authority Act 1998*
5. **Builders' Registration Board of Western Australia** continued under the *Builders' Registration Act 1939*

6. **Building and Construction Industry Training Board** established under the *Building and Construction Industry Training Fund and Levy Collection Act 1990*
7. **Commissioner of Main Roads** appointed under the *Main Roads Act 1930*
- [8. *deleted*]
9. **Construction Industry Long Service Leave Payments Board** established under *Construction Industry Portable Paid Long Service Leave Act 1985*
10. **Country High School Hostels Authority** established under the *Country High School Hostels Authority Act 1960*
11. **Country Housing Authority** established under the *Country Housing Act 1998*
12. **Curriculum Council** established under the *Curriculum Council Act 1997*
13. **Department of Conservation and Land Management**
14. **Department of Transport**
15. **Disability Services Commission** continued under the *Disability Services Act 1993*
16. **East Perth Redevelopment Authority** established under the *East Perth Redevelopment Act 1991*
17. **Eastern Goldfields Transport Board** continued under the *Eastern Goldfields Transport Board Act 1984*
18. **Family Court of Western Australia** continued by the *Family Court Act 1997*
19. **Fire and Emergency Services Authority of Western Australia** established under the *Fire and Emergency Services Authority of Western Australia Act 1998*
20. **Forest Products Commission** established by the *Forest Products Act 2000*
21. **Fremantle Cemetery Board** established by the Governor under the *Cemeteries Act 1986*
22. **Gaming Commission of Western Australia** established under the *Gaming Commission Act 1987*
23. **Government Employees' Housing Authority** established under the *Government Employees' Housing Act 1964*
24. **Government Employees Superannuation Board** under the Act
25. **Heritage Council of Western Australia** established under the *Heritage of Western Australia Act 1990*
26. *Hospitals and Health Services Act 1927* — all **agencies** established under section 7B(1) of that Act
27. **Insurance Commission of Western Australia** continued under the *Insurance Commission of Western Australia Act 1986*
28. **Keep Australia Beautiful Council (W.A.)** established under the *Litter Act 1979*

29. **Legal Aid Commission of Western Australia** established under the *Legal Aid Commission Act 1976*
30. **Lotteries Commission** preserved and continued under the *Lotteries Commission Act 1990*
31. **Metropolitan (Perth) Passenger Transport Trust** (Metrobus) constituted under the *Metropolitan (Perth) Passenger Transport Trust Act 1957*
32. **Metropolitan Cemeteries Board** established under the *Cemeteries Act 1986*
33. **Midland Redevelopment Authority** established under the *Midland Redevelopment Act 1999*
34. **Minerals and Energy Research Institute of Western Australia** established under the *Minerals and Energy Research Act 1987*
35. **Nurses Board of Western Australia** established under the *Nurses Act 1992*
36. **Office of Health Review** established under the *Health Services (Conciliation and Review) Act 1995*
37. **Perth International Centre for Application of Solar Energy** established under the *Perth International Centre for Application of Solar Energy Act 1994*
38. **Perth Market Authority** preserved and continued under the *Perth Market Act 1926*
39. **Port authorities** established under the *Port Authorities Act 1999*
40. **Potato Marketing Corporation of Western Australia** preserved and continued under the *Marketing of Potatoes Act 1946*
41. **Public Trust Office** established by the *Public Trustee Act 1941*
42. **Racing and Wagering Western Australia** established by the *Racing and Wagering Western Australia Act 2003*
43. **Regional development commissions** established under the *Regional Development Commissions Act 1993*
44. **Rottneest Island Authority** established under the *Rottneest Island Authority Act 1987*
45. **Small Business Development Corporation** established under the *Small Business Development Corporation Act 1983*
46. **Subiaco Redevelopment Authority** established under the *Subiaco Redevelopment Act 1994*
47. **The Aboriginal Affairs Planning Authority** continued by the *Aboriginal Affairs Planning Authority Act 1972*
48. **The Burswood Park Board** established under the *Parks and Reserves Act 1895*
49. **The National Trust of Australia (W.A.)** established and incorporated under the *National Trust of Australia (W.A.) Act 1964*
50. **The State Housing Commission** (Homeswest) preserved and continued under the *Housing Act 1980*

51. **The Western Australian Government Railways Commission** (Westrail) constituted under the *Government Railways Act 1904*
52. **Totalisator Agency Board** constituted under the *Totalisator Agency Board Betting Act 1960*
53. **Water and Rivers Commission** established under the *Water and Rivers Commission Act 1995*
54. **Water Corporation** established under the *Water Corporation Act 1995*
55. **Waterways Conservation Act 1976** — all **management authorities** constituted under section 10 and 14 of that Act
56. **Western Australian Alcohol and Drug Authority** established under the *Alcohol and Drug Authority Act 1974*
57. **Western Australian Coastal Shipping Commission** established under the *Western Australian Coastal Shipping Commission Act 1965*
58. **Western Australian Egg Marketing Board** constituted under the *Marketing of Eggs Act 1945*
59. **Western Australian Greyhound Racing Association** established under the *Western Australian Greyhound Racing Association Act 1981*
60. **Western Australian Health Promotion Foundation** established under the *Tobacco Control Act 1990*
61. **Western Australian Land Authority** (Landcorp) established under the *Western Australian Land Authority Act 1992*
62. **Western Australian Meat Industry Authority** established under the *Western Australian Meat Industry Authority Act 1976*
63. **Western Australian Mint** preserved and continued in existence under the *Gold Corporation Act 1987*
64. **Western Australian Sports Centre Trust** established under the *Western Australian Sports Centre Trust Act 1986*
65. **Western Australian Tourism Commission** established under the *Western Australian Tourism Commission Act 1983*
66. **Western Australian Treasury Corporation** established under the *Western Australian Treasury Corporation Act 1986*
67. **Western Power Corporation** established under the *Electricity Corporation Act 1994*
68. **Workers' Compensation and Rehabilitation Commission** (Workcover Western Australia) constituted under the *Workers' Compensation and Rehabilitation Act 1981*
69. **Zoological Parks Authority** established under the *Zoological Parks Authority Act 2001*

[Division 2 amended in Gazette 15 Aug 2003 p. 3692; 26 Aug 2003 p. 3757; 25 Jun 2004 p. 2234.]

[Schedule 1 amended in Gazette 29 Jun 2001 p. 3105; 15 Aug 2003 p. 3692; 26 Aug 2003 p. 3757; 25 Jun 2004 p. 2234.]

Schedule 2 — Special provisions for certain Gold State Super Members and West State Super Members

[r. 252]

Part 1 — Gold State Super Members who transferred from the Pension Scheme or Provident Scheme

1. Interpretation

(1) In this Part —

“1987 part-time transferee” means a person who became a member of the 1987 scheme under the GES Act under clause 14 of Schedule 4 to that Act;

“adjusted final remuneration” means a Part 1 Member’s final remuneration calculated as if the Member’s contributory membership period included the Member’s transferred service;

“compulsory transferee” means a person who became a member of the 1987 scheme under the GES Act under clause 6 of Schedule 4 to that Act;

“Part 1 Member” means —

- (a) a voluntary transferee;
- (b) a compulsory transferee;
- (c) a 1987 part-time transferee;
- (d) a post-1987 part-time transferee; or
- (e) a retrenched transferee;

“post-1987 part-time transferee” means a person who —

- (a) became a member of the 1987 scheme under the GES Act under clause 14A of Schedule 4 to that Act; or
- (b) becomes a Gold State Super Member under regulation 19(1)(b);

“retrenched transferee” means a person who —

- (a) became a member of the 1987 scheme under the GES Act by making an election under clause 7B of Schedule 4 to that Act; or
- (b) becomes a Gold State Super Member under regulation 19(1)(c);

“transfer day” means —

- (a) for a voluntary transferee, the day on which the Member’s election to transfer under Schedule 4 to the GES Act was lodged with the Board;
- (b) for a compulsory transferee, 1 July 1987;

- (c) for a 1987 part-time transferee, the day on which the Member elected to become a member of the 1987 scheme under the GES Act;
- (d) for a post-1987 part-time transferee, the day on which the Member ceased to be a contributor under the S&FB Act because he or she was no longer required to give his or her whole time to the duties of his or her employment; and
- (e) for a retrenched transferee, the day on which the Member is or was retrenched;

“transferred contributions” means, subject to subclause (2) —

- (a) for a Part 1 Member who was, immediately before the Member’s transfer day, a subscriber or contributor to the Provident Account (within the meaning of the S&FB Act) — the amount, including interest, that was standing to the credit of the Member in the Provident Account on that day; or
- (b) for a Part 1 Member who was, immediately before the Member’s transfer day, contributing for units of pension under the S&FB Act —
 - (i) the amount of the contributions made by the Member under the S&FB Act excluding moneys held to the credit of the Member under section 38(2) or 41(3a) of the S&FB Act; plus
 - (ii) compound interest calculated at the rate of 10% from the time the contributions were made up to and including the Member’s transfer day;

“transferred service” means —

- (a) the period of service or employment of a Part 1 Member that constituted service for the purposes of the S&FB Act before the Member’s transfer day; plus
- (b) for a 1987 part-time transferee — the number of complete months of full-time service that the Board considers equivalent to the number of days of part-time service actually completed by the Member before 1 July 1987;

“voluntary transferee” means a person who became a member of the 1987 scheme under the GES Act by making an election under clause 4, 5, 7 or 7A of Schedule 4 to that Act.

- (2) The transferred contributions for a 1987 part-time transferee are nil.

2. Contributions by the Crown for unfunded liability

The Crown is to contribute to the Fund under regulation 31 for a Part 1 Member even if he or she is not a Member of the kind described in regulation 31(1)(a) or (b).

3. Benefit on retirement, death or disablement

- (1) If a benefit becomes payable to or in respect of a Part 1 Member under regulations 38 to 43 the benefit is increased by adding an amount calculated in accordance with subclause (2).
- (2) The amount calculated under this subclause is B in the formula —

$$B = \left(FR \times \frac{TS}{12} \times \frac{C}{5} \times \frac{12}{100} \right) + A$$

where —

FR is the Member's adjusted final remuneration;

TS is the number of complete months of the Member's transferred service;

C is —

(i) for a retrenched transferee, 5%; or

(ii) otherwise, the Member's average contribution rate;

A is the Member's transferred contributions plus compound interest calculated —

(i) at the rate of the CPI rate plus 2%;

(ii) from the Member's transfer day up to, but not including, the day on which the benefit becomes payable.

4. Benefit on other termination of work

- (1) If a Part 1 Member becomes entitled to a benefit under regulation 44 because the Member withdraws from the Gold State Super Scheme under regulation 24, the Member is also entitled to either —
- (a) both —
- (i) a preserved benefit under subclause (3); and
- (ii) a preserved benefit under subclause (4);
- or
- (b) a benefit under subclause (4) that is not preserved.
- (2) If a Part 1 Member becomes entitled to a benefit under regulation 44 for any other reason the Member is also entitled to —
- (a) a preserved benefit under subclause (3); and
- (b) either —
- (i) a preserved benefit under subclause (4); or
- (ii) a benefit under subclause (4) that is not preserved.
- (3) The benefit under this subclause is an amount equal to B in the formula —

$$B = FR \times \frac{TS}{12} \times \frac{C}{5} \times \frac{12}{100}$$

where —

FR is the Member's adjusted final remuneration;

TS is the number of complete months of the Member's transferred service;

C is —

(i) for a retrenched transferee 5%;

(ii) for a Part 1 Member who withdrew from the Gold State Super Scheme under regulation 24 and elected in the Member's application under that regulation to take the Member's transferred contributions immediately — zero; or

(iii) otherwise, the Member's average contribution rate.

- (4) The benefit under this subclause is an amount equal to the Member's transferred contributions plus compound interest calculated —
- (a) at the rate of the CPI rate plus 2%;
- (b) from the Member's transfer day up to, but not including, the day on which the member becomes entitled to it.
- (5) Despite the definition of "preserved benefit" in regulation 3, a benefit described in subclause (1) or (2) as a preserved benefit is a preserved benefit for the purposes of regulations 45 and 46.
- (6) Despite regulation 46(a), the interest rate to be applied under regulation 46 to a benefit under subclause (4) is a rate equal to the CPI rate plus 2%.

[Clause 5 amended in Gazette 13 Jun 2003 p. 2114.]

5. Transferred contributors for limited benefits — benefit under regulation 43

- (1) In this clause —
- "transferred contributor for limited benefits"** means a Part 1 Member who was, immediately before the Member's transfer day, a contributor for limited benefits for the purposes of section 61 of the S&FB Act.
- (2) If a benefit becomes payable under regulation 43 to or in respect of a transferred contributor for limited benefits, the amount of the benefit is to be calculated as if G in the formula in that regulation was an amount equal to 4 times the Member's average contribution rate.

6. Curtin and Edith Cowan Universities deemed to be Employers for Part 1 Members

- (1) If a Part 1 Member was, immediately before the Member's transfer day, an employee of a University, then while the person remains a Gold State Super Member the University for which that Member works is deemed to be a Division 2 Employer with respect to that Member.
- (2) In this clause —
“University” means the Curtin University of Technology established under the *Curtin University of Technology Act 1966* or the Edith Cowan University established under the *Edith Cowan University Act 1984*.

Part 2 — Gold State Super Members who were formerly non-contributory members

7. Interpretation

In this Part —

“non-contributory period” means the period during which a Part 2 Member was a non-contributory member under the previous law;

“Part 2 Member” means a Gold State Super Member who, under the previous law, was a non-contributory member before becoming a contributory member;

“previous law” means the GES Act as in force before the commencement of Part 2 of the *Superannuation Legislation Amendment Act 1993*.

8. Contributions by the Crown for unfunded benefits

The Crown is to contribute to the Fund under regulation 31 for a Part 2 Member who, at any time during the Member’s non-contributory period was employed by an employer who was, at that time listed, or deemed by or under that Act to be listed, in Part A of Schedule 1 to the GES Act, even if he or she is not a Member of the kind described in regulation 31(1)(a) or (b).

9. Recognition of service as a non-contributory member

When calculating the benefit payable to or in respect of a Part 2 Member —

- (a) the Member’s contributory membership period is to be taken to include the Member’s non-contributory period; and
- (b) the Member’s average contribution rate for the Member’s non-contributory period is to be taken to be —
 - (i) for the part of the non-contributory period that was before 1 July 1992 — 0.825; and
 - (ii) for the part of the non-contributory period that was on or after 1 July 1992 — one quarter of the charge percentage for the quarter during which the Member elected to become a contributory member.

Part 3 — Director of Public Prosecutions

10. Interpretation

In this Part —

“DPP” means the Director of Public Prosecutions under the *Director of Public Prosecutions Act 1991*.

11. Employer

- (1) If an order is in force under regulation 9(1)(b) in relation to the DPP, then in relation to the DPP, the Government of Western Australia is a Division 1 Employer.
- (2) If, on the commencement day, an instrument is in force under clause 3(2) of Schedule 1 to the *Director of Public Prosecutions Act 1991* specifying a person or department that is to be treated as the employer of the DPP, that instrument continues in force on and from that day as if it were an order made under regulation 9(1)(b) specifying that person or department.

12. Member contributions

If the DPP is a Gold State Super Member —

- (a) the DPP is taken to have selected under regulation 33 the highest possible member contribution rate;
- (b) the DPP is not required to pay member contributions;
- (c) the Employer is to pay the contributions that would, but for paragraph (b), be payable by the DPP; and
- (d) those contributions are to be taken to have been made by the DPP.

Part 4 — Members who became ASIC staff

[Heading amended in Gazette 28 September 2001 p.5356.]

13. Interpretation

In this Part —

“ASIC” means —

- (a) the Australian Securities Commission established by the *Australian Securities and Investments Commission Act 1989* of the Commonwealth;
- (b) the Australian Securities and Investments Commission as the Australian Securities Commission became known under that Act; and
- (c) the Australian Securities and Investments Commission as continued in existence by section 261 of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth;

“ASIC worker” means a person who is a member of the staff of ASIC;

“relevant regulations” means in relation to a person who, immediately before becoming an ASIC worker, was —

- (a) a contributory member under the GES Act — so much of these regulations as relate to the Gold State Super Scheme; or
- (b) a non-contributory member under the GES Act — so much of these regulations as relate to the West State Super Scheme.

14. Continuation of membership

- (1) If an ASIC worker —
 - (a) was, immediately before becoming an ASIC worker, a member under the *Government Employees Superannuation Act 1987* as then in force (“old law”);
 - (b) elected under section 83 of the *Corporations (Western Australia) Act 1990* as in force before the commencement day, to continue to be such a member; and
 - (c) was still such a member immediately before the commencement day,

then while he or she remains an ASIC worker the relevant regulations apply to and in relation to the person as if ASIC were an Employer.

- (2) While a person continues to be a Member after becoming an ASIC worker, ASIC is deemed to be a Division 2 Employer, but only in respect of that Member.

Part 5 — Curtin and Edith Cowan University Staff

15. Interpretation

In this Part —

“**relevant regulations**” means so much of these regulations as relate to the Gold State Super Scheme;

“**University**” means the Curtin University of Technology established under the *Curtin University of Technology Act 1966* or the Edith Cowan University established under the *Edith Cowan University Act 1984*;

“**University staff member**” means a person who works for a University.

16. Continued membership

- (1) If a Gold State Super Member becomes a University staff member and elects to continue to be a Member then while he or she remains a University staff member the relevant regulations apply to and in relation to the person as if the University for which the person works were an Employer.
- (2) If a University staff member —

- (a) was, before becoming a University staff member, a member of the 1987 scheme under the GES Act;
- (b) under clause 16 of Schedule 4 to the GES Act continued to be such a member after becoming a University staff member, and
- (c) was still such a member immediately before the commencement day,

then while he or she remains a University staff member the relevant regulations apply to and in relation to the person as if the University for which the person works were an Employer.

- (3) While a person continues to be a Member after becoming a University staff member, the University for which that Member works is deemed to be a Division 2 Employer, but only in respect of that Member.

Part 6 — Police officers, magistrates and industrial commissioners

17. Interpretation

In this Part —

“average Part 6 contribution rate” means the sum of the contribution rates selected by a Part 6 Member under clause 20 applying for each day on which the person was a Part 6 Member divided by the number of days on which the person was a Part 6 Member;

“end date” means the date determined under clause 18;

“magistrate” means a stipendiary magistrate under the *Stipendiary Magistrates Act 1957*;

“industrial commissioner” means a commissioner under the *Industrial Relations Act 1979*;

“over 50 transferee police officer” means a police officer who —

- (a) became a Gold State Super Member by transferring from the Pension Scheme;
- (b) was over 50 when he or she became a Gold State Super Member; and
- (c) was a Part 6 Member for the whole of the time from when he or she became a Gold State Super Member until he or she turned 60 or ceased to be an eligible Gold State worker (whichever occurred first);

“police officer” means a person appointed under Part I of the *Police Act 1892* other than the Commissioner of Police;

“Part 6 Member” means a police officer, magistrate or industrial commissioner who has elected to be a Part 6 Member under clause 19 and who has not ceased to be a Part 6 Member.

18. Meaning of “end date”

- (1) For the purposes of this Part the end date for a police officer is —
 - (a) if the person was, on his or her 45th birthday, both a Gold State Super Member and a police officer — the person’s 55th birthday; or
 - (b) otherwise —
 - (i) if he or she transferred to the Gold State Super Scheme under Schedule 4 to the GES Act and was a police officer at the time of the transfer — the earlier of —
 - (I) the day 10 years after the day on which the person became both a Gold State Super Member and a police officer; and

(II) the Member's 60th birthday;

or

(ii) otherwise — the person's 55th birthday.

- (2) For the purposes of this Part the end date for a magistrate or an industrial commissioner is —
- (a) if the person was, on his or her 45th birthday, both a Gold State Super Member and a magistrate or industrial commissioner — the person's 55th birthday; or
 - (b) otherwise — the day 10 years after the day on which the person became both a Gold State Super Member and a magistrate or industrial commissioner.

19. Part 6 Members

- (1) A Gold State Super Member who —
- (a) is a police officer, magistrate or industrial commissioner; and
 - (b) whose —
 - (i) average contribution rate is 5%; or
 - (ii) current member contribution rate is 7%,

may, at any time before the end day, elect to become a Part 6 Member by giving notice to the Board.

- (2) An election under subclause (1) takes effect on the later of —
- (a) the Member's 45th birthday; and
 - (b) the day on which it is made.
- (3) A Part 6 Member may withdraw from Part 6 at any time by giving notice to the Board.
- (4) A person ceases to be a Part 6 Member —
- (a) if, before the end day, the person —
 - (i) ceases to be an eligible Gold State worker;
 - (ii) withdraws from Part 6 under subclause (3); or
 - (iii) ceases to be a police officer, magistrate or industrial commissioner,on the day on which the person so ceases or withdraws; or
 - (b) otherwise, on the end day.

20. Extra contributions

- (1) A Part 6 Member is to select a contribution rate of —
- (a) in the case of a police officer, 1%, 2% or 2.5%; or
 - (b) in the case of a magistrate or industrial commissioner, 1%, 2%, 3%, 4% or 5%,

and give notice of that selection to the Board.

- (2) Regulation 33(3), (4) and (8) apply to a selection under subclause (1) as if it were a selection under regulation 33(1).
- (3) Subject to regulations 35 and 36 a Part 6 Member is to contribute to the Fund for each complete contribution period during which the person is a Part 6 Member an amount equal to —
 - (a) the rate selected by a Part 6 Member under subclause (1); multiplied by
 - (b) the Member's superannuation salary in respect of the contribution period,

rounded up or down to the nearest whole dollar.

- (4) For the purposes of regulations 34 and 35 contributions under subclause (3) are taken to be member contributions.

21. Increased Employer contributions

- (1) While a person is a Part 6 Member the amount of the contributions payable under regulation 29 by the person's Employer is to be calculated as if M in the formula in regulation 29(3) was the Member's member contribution rate plus the rate selected by the Member under clause 20.
- (2) The Crown is to contribute to the Fund under regulation 31 for a person whose benefit is increased under this Part even if he or she is not a Member of the kind described in regulation 31(1)(a) or (b).

22. Retirement benefit

If a person who is, or was at any time, a Part 6 Member becomes entitled to a benefit under regulation 38 the benefit is to be increased by adding to it an amount equal to B in the formula —

$$B = \left[R \times \frac{M}{12} \times \frac{C}{2.5} \times \frac{10}{100} \right] + \left[R \times \frac{N}{12} \times \frac{C}{2.5} \times \frac{6}{100} \right]$$

where —

R is the Member's final remuneration;

M is the number of complete months during which the person was a Part 6 Member;

C is the Member's average Part 6 contribution rate; and

N is —

- (i) in the case of an over 50 transferee police officer, the number of complete months from the person's 50th birthday to the day on which he or she became a Part 6 Member; or
- (ii) in any other case, zero.

23. Death benefit

- (1) If a benefit becomes payable under regulation 39 in respect of a police officer, magistrate or industrial commissioner who was under 45 when he or she died the benefit is to be increased by adding to it an amount equal to B in the formula —

$$B = R \times \frac{C}{5}$$

where —

- R is the Member's final remuneration; and
C is the Member's average contribution rate.

- (2) If a benefit becomes payable under regulation 39 in respect of a Gold State Super Member who was at any time a Part 6 Member the benefit is to be increased by adding to it an amount equal to B in the formula —

$$B = \left[R \times \frac{M + (F \times P)}{12} \times \frac{C}{2.5} \times \frac{10}{100} \right] + \left[R \times \frac{N}{12} \times \frac{C}{2.5} \times \frac{6}{100} \right]$$

where —

- R is the Member's final remuneration;
M is the number of complete months during which the person was a Part 6 Member;

F is —

- (i) if the Member —

(I) was a Part 6 Member when he or she died;
and

(II) died before the end day,

the number of complete months from the day on which the Member died to the end day; or

- (ii) otherwise, zero;

P is —

- (i) if the Member was working on a part-time basis at the time the Member died, the number of hours customarily worked in a week by the Member divided by the number of hours customarily worked in a week by a comparable full-time employee (excluding overtime); or

- (ii) otherwise, one;

C is the Member's average Part 6 contribution rate; and

N is —

- (i) in the case of an over 50 transferee police officer, the number of complete months from the person's

50th birthday to the day on which he or she became a Part 6 Member; or

(ii) in any other case, zero.

24. Total and permanent disablement benefit

If a police officer, magistrate or industrial commissioner —

- (a) who is under 45; or
- (b) who is or was at any time a Part 6 Member,

becomes entitled to a benefit under regulation 40, the benefit that is to be paid is a benefit equal to the benefit that would have been payable under regulation 39 if the Member had died on the day the Member ceased to be an eligible Gold State worker, as increased in accordance with clause 23.

25. Partial and permanent disablement

- (1) If a police officer, magistrate or industrial commissioner who is under 45 becomes entitled to a benefit under regulation 41 the benefit is to be increased by adding to it an amount equal to B in the formula —

$$B = R \times \frac{C}{5}$$

where —

- R is the Member's final remuneration; and
- C is the Member's average contribution rate.

- (2) If a person who is or was at any time a Part 6 Member becomes entitled to a benefit under regulation 41 the benefit is to be increased by adding to it an amount equal to B in the formula —

$$B = \left[R \times \frac{M}{12} \times \frac{C}{2.5} \times \frac{10}{100} \right] + \left[(R - E) \times \frac{F}{12} \times \frac{C}{2.5} \times \frac{10}{100} \right] + \left[R \times \frac{N}{12} \times \frac{C}{2.5} \times \frac{6}{100} \right]$$

where —

- R is the Member's final remuneration;
- M is the number of complete months during which the person was a Part 6 Member;
- C is the Member's average Part 6 contribution rate;
- E is the annual amount of the remuneration that the Board considers the Member has the capacity to earn after becoming disabled;
- F is —
 - (i) if the Member —

(I) was a Part 6 Member when he or she ceased to be an eligible Gold State worker; and

(II) ceased to be an eligible Gold State worker before the end day,

the number of complete months from the day on which the Member ceased to be an eligible Gold State worker to the end day; or

(ii) otherwise, zero;

and

N is —

(i) in the case of an over 50 transferee police officer, the number of complete months from the person's 50th birthday to the day on which he or she became a Part 6 Member; or

(ii) in any other case, zero.

(3) Subregulation 41(2) applies in respect of the determination of the value of E in the formula in subclause (1).

26. Benefit in other circumstances

If a person who is or was at any time a Part 6 Member becomes entitled to a benefit under regulation 43 or 44 the benefit is to be increased by adding to it an amount equal to B in the formula —

$$B = \left[R \times \frac{M}{12} \times \frac{C}{2.5} \times \frac{10}{100} \right] + \left[R \times \frac{N}{12} \times \frac{C}{2.5} \times \frac{6}{100} \right]$$

where —

R is the Member's final remuneration;

M is the number of complete months during which the person was a Part 6 Member;

C is the Member's average Part 6 contribution rate; and

N is —

(i) in the case of an over 50 transferee police officer, the number of complete months from the person's 50th birthday to the day on which he or she became a Part 6 Member; or

(ii) in any other case, zero.

27. Transitional provisions

(1) If a person was, immediately before the commencement day, making higher contributions to the 1987 scheme under the GES Act in accordance with a discretion notice, then on and from that day, the person continues as a Part 6 Member subject to this Part.

- (2) If, at any time before the commencement day, a person made higher contributions to the 1987 scheme under the GES Act in accordance with a discretion notice, then on and from that day this Part applies to and in relation to the person as if —
- (a) at all times while the person had been so contributing —
 - (i) this Part had been in operation; and
 - (ii) the person had been a Part 6 Member;and
 - (b) the contribution rates elected by the person, and the contributions paid by and in respect of, the person in accordance with the discretion notice, had been selected and paid under this Part.
- (3) In relation to a person who at any time before the commencement day, made higher contributions to the 1987 scheme under the GES Act in accordance with a discretion notice, a reference in this Part to the person being a Gold State Super Member includes a reference to the person being a member of the 1987 scheme under the GES Act.

- (4) In this clause —

“discretion notice” means —

- (a) the notice purportedly given to the Board by the Treasurer under section 49 of the GES Act on 28 December 1987 relating to contributions and benefits for certain police officers, magistrates and industrial commissioners; or
- (b) the notice purportedly given to the Board by the Treasurer under section 49 of the GES Act on 15 September 1988 relating to contributions and benefits for certain police officers,

in each case, as validated by section 58 of the *Government Employees Superannuation Amendment Act (No. 2) 1995*.

[Schedule 2 amended in Gazette 28 September 2001 p.5356;
13 Jun 2003 p. 2114.]

Schedule 3 — Transitional provisions

[r. 254]

Part 1 — Preliminary

1. Interpretation — this Schedule

- (1) In this Schedule —
- “**1987 scheme**” means the superannuation scheme continued by section 29(b) of the Act as it was immediately before the commencement day;
 - “**1993 scheme**” means the superannuation scheme continued by section 29(a) of the Act as it was immediately before the commencement day;
 - “**continues**” means continues on and after the commencement day;
 - “**continuing Member**” means a continuing West State Super Member or a continuing Gold State Super Member;
 - “**continuing Gold State Super Member**” means a Gold State Super Member who was a member of the 1987 scheme immediately before the commencement day;
 - “**continuing West State Super Member**” means a West State Super Member who was a member of the 1993 scheme immediately before the commencement day;
 - “**current**” means in force immediately before the commencement day.
- (2) Words and phrases defined in Part 2, 3 or 7 of these regulations have the same meanings when used in Part 2, 3 or 5 (respectively) of this Schedule as they have in that Part of the regulations.

2. Interpretation — general

In the regulations, in relation to a continuing Member —

“**preserved benefit**” includes a benefit to which the Member became entitled under the GES Act before the commencement day but which, as at that day, had not been paid by reason of the operation of section 38 or 38K of the GES Act.

3. Meaning of “remuneration” (regulation 5)

- (1) A current determination made by an Employer for the purposes of section 4(5) of the GES Act as to the value of any non-monetary remuneration or benefit continues as a determination for the purposes of the definition of “remuneration” in regulation 5(1).
- (2) A current certification given by an Employer or an authorised person for the purposes of section 4(1) or 4AA(1)(b) of the GES Act that a person is entitled to remuneration or a benefit on a continuing basis

continues as a certification for the purposes of the definition of “remuneration” in regulation 5(1).

- (3) A current authorisation given by an Employer for the purposes of section 4(1) or 4AA(1)(b) of the GES Act authorising a person to certify matters under that section on behalf of the Employer continues as an authorisation for the purposes of the definition of “remuneration” in regulation 5(1).
- (4) A current determination made by the Board under section 4(4)(b)(vii) or 4AA(4)(f) of the GES Act that an allowance is to be excluded from a member’s remuneration continues as a determination under regulation 5(2)(h).
- (5) A current determination made by the Treasurer under section 4(4)(c) of the GES Act that a class of remuneration or benefit is to be excluded from a member’s remuneration continues as a determination under regulation 5(3)(f).
- (6) A current notice given by a continuing Gold State Super Member for the purposes of section 4(6) of the GES Act consenting to the application of a determination, continues as a notice for the purposes of regulation 5(5).
- (7) A current permission granted by the Board under section 26(2) of the GES Act allowing a continuing Gold State Super Member to contribute at his or her elected rate applied to the amount of a former or notional relevant remuneration continues as a determination under regulation 5(6) that the Member’s remuneration is the amount of that former or notional relevant remuneration.
- (8) A current determination by the Board under section 39A(1) of the GES Act that a continuing West State Super Member’s benefit is to be assessed as if the Member’s relevant remuneration were the amount of a former or notional relevant remuneration continues as a determination under regulation 5(6) that the Member’s remuneration is the amount of that former or notional relevant remuneration.

4. The Government, departments and unincorporated entities as Employers (regulation 9)

- (1) A current order made by the Treasurer under section 3(6) of the GES Act specifying that a person, department or authority is to be treated as the employer of an office holder continues as an order under regulation 9(1)(b) specifying that person, department or authority.
- (2) If an order continued by subclause (1) specifies that the person, department or authority is to be deemed to be listed in Part A of Schedule 1 to the GES Act, the order as so continued is taken to specify that in relation to the office holder to whom the order relates the Government of Western Australia is a Division 1 Employer.

Part 2 — Gold State Super Scheme

5. Interpretation (regulation 12)

In these regulations, in relation to a continuing Gold State Super Member —

“**adjustment day**” means, in relation to a period before the commencement day, the Member’s birthday;

“**contributory membership period**” includes the Member’s contributory period under the GES Act;

“**member contribution rate**” means, in relation to time before the commencement day, the rate elected by the Member under section 22 of the GES Act that applied at that time.

6. Meaning of “contributory membership period” (regulation 14)

A current exercise of discretion by the Treasurer under section 49(1)(a) of the GES Act deeming a continuing Gold State Super Member to have a greater contributory period than he or she would otherwise have had, continues as a direction under regulation 14(3) that the Member is to be treated as having a longer contributory membership period than he or she would otherwise have.

7. Meaning of “eligible Gold State worker” (regulation 15)

A current decision by the Board under section 17B(2)(i) of the GES Act that that paragraph does not apply to a particular person continues as a decision under regulation 15(3) that regulation 15(2)(j) does not apply to that person.

8. Meaning of “final remuneration” (regulation 16)

For the purpose of determining the value of D in the formula in the definition of “final remuneration” in regulation 16(1), a continuing Gold State Super Member is taken to have been a Gold State Super Member on each day on which he or she was a member of the 1987 scheme.

9. Limits of insurance cover — health conditions (regulation 18)

- (1) The Board is taken to have imposed a health condition of the kind referred to in paragraph (a) of the definition of “health condition” in regulation 12 on a continuing Gold State Super Member if —
 - (a) the Board accepted the Member’s election to become a member of the 1987 scheme subject to a condition of the kind referred to in section 18(5)(a) of the GES Act;
 - (b) the Board made a determination under section 24(3) of the GES Act to vary the Member’s contributions subject to a condition of the kind referred to in section 18(5)(a) of the GES Act;

- (c) the Member transferred to the 1987 scheme under Schedule 4 to the GES Act and was a transferred contributor for limited benefits within the meaning of that Schedule; or
 - (d) the Member was a subscriber to the Provident Account under the S&FB Act whose election to transfer to the 1987 scheme under Schedule 4 to the GES Act was accepted subject to a condition of the kind referred to in clause 10(4)(a) in Schedule 4 to the GES Act.
- (2) The Board is taken to have imposed a health condition of the kind referred to in paragraph (b) of the definition of “health condition” in regulation 12 on a continuing Gold State Super Member if —
 - (a) the Board accepted the Member’s election to become a member of the 1987 scheme subject to a condition of the kind referred to in section 18(5)(b) of the GES Act;
 - (b) the Board made a determination under section 24(3) of the GES Act to vary the Member’s contributions subject to a condition of the kind referred to in section 18(5)(b) of the GES Act;
 - (c) the Member was a contributor to the Provident Account under the S&FB Act who transferred to the 1987 scheme under Schedule 4 to the GES Act; or
 - (d) the Member was a subscriber to the Provident Account under the S&FB Act whose election to transfer to the 1987 scheme under Schedule 4 to the GES Act was accepted subject to a condition of the kind referred to in clause 10(4)(b) in Schedule 4 to the GES Act.
- (3) A condition taken to have been imposed under subclause (1)(b) or (2)(b) applies only in respect of the Member’s membership relating to the increased working hours.
- (4) If, before the commencement day, a continuing Gold State Super Member was —
 - (a) required by the Board to provide information under section 18(3) or 24(3a) of, or clause 10(3) of Schedule 4 to, the GES Act; or
 - (b) required under section 20(2)(e) of the GES Act to provide a declaration as to his or her continuing good health,but as at that day the Member had not provided the information or declaration, the requirement continues as a request under regulation 18(1) to provide medical information.
- (5) If, before the commencement day and in reliance on a statement contained in medical information provided by a continuing Gold State Super Member, the Board did not impose a condition of the kind referred to in section 18(5) of the GES Act when it might have done so and the Board subsequently becomes aware that —

- (a) the Member knew the statement was untrue; or
- (b) the statement was misleading because it omitted material information of which the Member had knowledge,

the Board may impose a health condition on the Member.

10. Membership (regulation 19)

- (1) Every person who was a member of the 1987 scheme immediately before the commencement day continues as a Gold State Super Member subject to these regulations.
- (2) If a person was, immediately before the commencement day, entitled to a benefit from the 1987 scheme but as at that day the benefit had not been paid (whether as a result of the operation of section 38 of the GES Act or otherwise), the person is taken to have been a member of the 1987 scheme immediately before the commencement day.
- (3) If a member of the 1987 scheme was retired on the grounds of physical or mental incapacity to perform his or her duties not more than 12 months before the commencement day but as at that day had not applied for a benefit under section 32, 33 or 34 of the GES Act, the person is taken to have been a member of the 1987 scheme immediately before the commencement day.
- (4) If, before the commencement day, a person lodged —
 - (a) an election under section 18(1) of the GES Act to become a member of the 1987 scheme; or
 - (b) an election under Schedule 4 to the GES Act to transfer to the 1987 scheme,

but as at that day the Board had not dealt with it, the election continues as an application under regulation 19(1) to become a Gold State Super Member.

- (5) A current approval granted by the Treasurer under clause 7B(2)(c) of Schedule 4 to the GES Act of other circumstances that constitute retrenchment continues as an approval for the purposes of regulation 19(2)(c).

11. Application to become a Gold State Super Member (regulation 20)

If an application under regulation 19(1)(c) is deemed by regulation 20(3) to have been lodged at a time before the commencement day, these regulations apply to and in relation to the application as if they had been in force at that time.

12. Minister may direct Board to accept ineligible worker as a Member (regulation 21)

- (1) If, before the commencement day, the Treasurer gave notice to the Board that the Treasurer had, under section 49(1)(b) of the GES Act, deemed a person to be eligible to be a member of the 1987 scheme but as at that day the Board had not dealt with it, the notice continues as a direction under regulation 21(1) to accept the person as a Gold State Super Member.
- (2) If a continuing Gold State Super Member was accepted as a member of the 1987 scheme as a result of having been deemed by the Treasurer under section 49(1)(b) of the GES Act to be eligible to be such a member, regulation 21(2) applies to and in relation to the person as if he or she had been accepted as a Gold State Super Member under regulation 21(1).

13. Changing jobs (regulation 22)

- (1) If —
 - (a) within 3 months before the commencement day, a member of the 1987 scheme ceased to be an employee for the purposes of that Act; and
 - (b) within 12 months of so ceasing becomes a worker who is not excluded by regulation 15(2) from being an eligible Gold State worker,

regulation 22(2) to (4) apply to and in relation to the person as if he or she had been a Gold State Super Member who ceased to be a worker on the day he or she ceased to be an employee.

- (2) If, before the commencement day, a person elected under section 20(2) of the GES Act to continue as a member of the 1987 scheme but as at that day the Board had not dealt with it, the election continues as an application under regulation 22(2) or 23(1) (as the case requires) to continue as a Gold State Super Member.
- (3) A current determination by the Board under section 20(2)(a) of the GES Act as to the rate of interest to apply to a refund of contributions under that paragraph continues as a determination under regulation 22(3)(b).

14. Member who becomes ineligible due to reduced working hours then becomes eligible again (regulation 23)

If —

- (a) within 12 months before the commencement day, a member of the 1987 scheme became excluded under section 17C(1) of the GES Act because his or her working hours were reduced to less than one hour a week; and

- (b) within 12 months of becoming so excluded becomes a worker who is not excluded by regulation 15(2) from being an eligible Gold State worker,

regulation 23 applies to and in relation to the person as if he or she had been a Gold State Super Member who ceased to be an eligible Gold State worker on the day he or she became so excluded.

15. Voluntary withdrawal from the Gold State Super Scheme (regulation 24)

If, before the commencement day, a continuing Gold State Super Member lodged a notice with the Board under section 19A(1) of the GES Act terminating his or her membership of the 1987 scheme but as at that day the Board had not dealt with it, the notice continues as an application under regulation 24(1) to withdraw from the Gold State Super Scheme.

16. Contributions

Any contribution in respect of a period before the commencement day that would have become payable under Part V or VI of the GES Act if that Act had not been repealed, becomes payable and is to be paid in accordance with that Act as if it had not been repealed.

17. Employer contributions (regulation 29)

A current declaration made by the Treasurer under section 27(3) of the GES Act of a percentage to be used in determining employer contributions continues as a determination for the purposes of the description of T in regulation 29(3).

18. Payment of Employer contributions (regulation 30)

A current instrument given by the Treasurer under section 27(7) of the GES Act allowing an Employer to defer payment of contributions continues as a notice under regulation 30(3).

19. Selection of member contribution rate (regulation 33)

- (1) A current election made by a continuing Gold State Super Member under section 22 of the GES Act of a contribution rate continues as a selection under regulation 33(1).
- (2) If, before the commencement day, a continuing Gold State Super Member made an election under section 22 of the GES Act but as at that day the election had not taken effect, the election continues as a selection under regulation 33(1).

20. Recognised unpaid leave — options for member contributions (regulation 35)

- (1) If a continuing Gold State Super Member who is on recognised unpaid leave as at the commencement day elected under section 23(2)

of the GES Act to suspend elective contributions, the election continues as a notice under regulation 35(3) to the effect that the Member has chosen the reduced benefits option under regulation 35(2)(c).

- (2) If a continuing Gold State Super Member who is on recognised unpaid leave as at the commencement day elected under section 23(4) of the GES Act to defer payment of elective contributions, the election continues as a notice under regulation 35(3) to the effect that the Member has chosen the deferred contributions option under regulation 35(2)(b).
- (3) A current determination by the Board under section 23(4) of the GES Act as to the rate of interest to apply to deferred elective contributions, continues as a determination under regulation 35(6)(b).

21. Unrecognised unpaid leave — no contributions (regulation 36)

If, before the commencement day, the Board granted an exemption under section 23A of the GES Act allowing a continuing Gold State Super Member to continue his or her entitlement to death and disability benefits, the determination by the Board as to the amount to be paid by the Member in lieu of contributions continues as a determination under regulation 36(2) as to the cost of continuing the Member's entitlement.

22. Entitlement to benefits

If a continuing Gold State Super Member was, immediately before the commencement day, entitled to a benefit from the 1987 scheme but as at that day the benefit had not been paid (whether as a result of the operation of section 38 of the GES Act or otherwise), the entitlement continues as an entitlement to a benefit from the Gold State Super Scheme.

23. Total and permanent disablement (regulation 40)

- (1) If a continuing Gold State Super Member was retired on the grounds of physical or mental incapacity to perform his or her duties not more than 12 months before the commencement day but as at that day had not applied for a benefit under section 32, 33 or 34 of the GES Act, these regulations apply to and in relation to the person as if he or she ceased to be an eligible Gold State worker on the day, and for the reasons, that he or she was retired.
- (2) If, before the commencement day, a continuing Gold State Super Member applied for a benefit under section 32, 33 or 34 of the GES Act but as at that day the Board had not dealt with it, the application continues as an application for a benefit under regulation 40, 41 or 43 (as the case requires) as if the Member had ceased to be an eligible Gold State worker on the day, and for the reasons, that he or she was retired.

24. Restriction on payment of preserved benefits (regulation 45)

- (1) Despite regulation 45(1) the Board is to pay a continuing Gold State Super Member's preserved benefit if —
 - (a) the Member became entitled to the benefit before the commencement day;
 - (b) the Board is satisfied that the Member has permanently departed from Australia, or will do so within 3 months after the commencement day; and
 - (c) the Member —
 - (i) applied, before the commencement day, for payment of the benefit under section 38(1)(d) of the GES Act, but as at that day the Board had not dealt with the application; or
 - (ii) applies for payment of the benefit within 3 months after the commencement day.
- (2) Despite regulation 45(1) the Board is to pay a continuing Gold State Super Member's preserved benefit if —
 - (a) the benefit is \$500 or less;
 - (b) the Member became entitled to the benefit before the commencement day; and
 - (c) the Member applies to the Board for payment of the benefit before, or within 3 months after, the commencement day.

25. Interest on preserved benefits (regulation 46)

A current determination by the Board under section 40(3) of the GES Act as to the manner in which interest is to be calculated in relation to benefits the payment of which is deferred under section 38 of the GES Act continues as a determination under regulation 46(c).

26. Transfer of benefits to another superannuation fund (regulation 47)

- (1) If, before the commencement day, a continuing Gold State Super Member made a request under section 13B(6) or 13C(1) of the GES Act to transfer an amount to another superannuation fund but as at that day the Board had not dealt with it, the request continues as a request under regulation 47(1).
- (2) A current approval given by the Treasurer for the purposes of section 13C(3)(a) of the GES Act approving the transfer of benefits to other superannuation funds, continues as an approval for the purposes of regulation 47(3).

27. Payment of death benefits (regulation 48)

If, before the commencement day, a benefit became payable under the GES Act as a result of the death of a member of the 1987 scheme but

as at that day the benefit had not been paid, regulation 48 applies to and in relation to the benefit as if it were a death benefit as defined in that regulation.

28. Application for disablement benefits (regulation 49)

A current authorisation given by a continuing Gold State Super Member for the purposes of section 53(3)(b) of the GES Act allowing the Board to obtain medical and other information and evidence continues as an authorisation for the purposes of regulation 49(3)(c).

29. Certain Members who transferred to the 1987 scheme and left within 2 years entitled to further benefit

- (1) On the commencement day a relevant Member becomes entitled to a benefit of an amount equal to —
 - (a) the amount of the benefit the Member would have become entitled to on the resignation day if —
 - (i) clause 13(2) of Schedule 4 to the GES Act had not applied to the Member; and
 - (ii) clause 13(4) of that Schedule had applied to the Member notwithstanding that his or her membership period under the GES Act was less than 24 months;
less
 - (b) the amount of the benefit the Member received under clause 13(2) of that Schedule.
- (2) A benefit under this clause is a preserved benefit to the extent that the benefit referred to in subclause (1)(a)(ii) would have been a deferred benefit if the relevant Member had become entitled to it on the resignation day.
- (3) In this clause —

“relevant Member” means continuing Gold State Super Member who transferred to the 1987 scheme under Schedule 4 to the GES Act and became entitled to a benefit under clause 13(2) of Schedule 4 to the GES Act on or after 1 July 1992;

“resignation day” means the day on which a relevant Member became entitled to a benefit under clause 13(2) of Schedule 4 to the GES Act.

Part 3 — West State Super Scheme

30. Membership (regulations 51 and 52)

- (1) Every person who was a statutory member or voluntary member of the 1993 scheme immediately before the commencement day continues as a statutory Member or voluntary Member (respectively) of the West State Super Scheme subject to these regulations.

- (2) If a person was, immediately before the commencement day, entitled to a benefit from the 1993 scheme but as at that day the benefit had not been paid (whether as a result of the operation of section 38K of the GES Act or otherwise), the person is taken to have been a statutory member or voluntary member (as the case requires) of the 1993 scheme immediately before the commencement day.
- (3) If a statutory member of the 1993 scheme was retired on the grounds of physical or mental incapacity to perform his or her duties not more than 12 months before the commencement day but as at that day had not applied for a benefit under section 38N or 38O of the GES Act, the person is taken to have been a statutory member of the 1993 scheme immediately before the commencement day.

31. Voluntary Members (regulation 52)

- (1) If, before the commencement day, a person elected under section 38EA(1) of the GES Act to contribute to the 1993 scheme as a voluntary member but as at that day the Board had not dealt with it, the election continues as an application under regulation 52(1) to become a voluntary Member.
- (2) A current approval granted by the Treasurer under section 38EA(1)(b) of the GES Act permitting a person to make voluntary employee contributions continues as an approval under regulation 52(4) allowing the person to become a voluntary member.

32. Contributions

Any contribution in respect of a period before the commencement day that would have become payable under Part VIIA of the GES Act if that Act had not been repealed, becomes payable and is to be paid in accordance with that Act as if it had not been repealed.

33. Treasurer may increase compulsory contributions (regulation 55)

A current notice given by the Treasurer under section 38PA(1) of the GES Act increasing the amount an Employer is to contribute continues as a notice under regulation 55(1).

34. Voluntary employer contributions (regulation 57)

- (1) A current approval given by the Treasurer for the purposes of section 38E of the GES Act permitting an Employer to make voluntary employer contributions continues as an approval under regulation 57(1).
- (2) A current permission granted by the Board under section 38E of the GES Act allowing an Employer to make voluntary employer contributions and specifying the amount of, and timing and manner of payment of, those contributions continues as an agreement between the Board and the Employer under regulation 57(2).

35. Employer contribution returns (regulations 60 and 61)

- (1) As soon as practicable after the commencement day an Employer to whom Part VIIA of the GES Act applied immediately before that day is to give to the Board a contribution return relating to each contribution period in which an employee of the Employer was a statutory member under that Part except a contribution period that has been the subject of a return under section 38F of that Act.
- (2) Regulation 61 applies to and in relation to —
 - (a) a contribution return made under this clause; or
 - (b) a return made under section 38F of the GES Act but in respect of which a notice has not been given under section 38G(1) of that Act,as if it were a return under regulation 60(1).
- (3) If, before the commencement day, an Employer made a request under section 38G(2) of the GES Act for the Board to review the basis on which a notice under section 38G(1) of that Act was given but as at that day the Board had not dealt with it, the request continues as a request under regulation 61(2) as if the notice had been given under regulation 61(1).

36. Treasurer may require additional amounts to be paid (regulation 62)

- (1) A current direction given by the Treasurer under section 38Q(3) of the GES Act directing an Employer to pay an additional amount to the Fund continues as a direction under regulation 62(1).
- (2) A current instrument made by the Treasurer under section 38Q(4) of the GES Act allowing an Employer to defer payment of amounts payable under section 38Q of that Act continues as a notice under regulation 62(4).

37. Member contributions (regulation 63)

If a West State Super Member was, immediately before the commencement day, contributing to the 1993 scheme under section 38EA of the GES Act, then until they agree otherwise, the Member and the Board are taken to have agreed under regulation 63 that the Member is to contribute under that regulation at the rate, and at the times, that the Member was contributing to the 1993 scheme immediately before the commencement day.

38. Benefit accounts (regulations 66 and 67)

- (1) The benefit account established under regulation 66(1) for a continuing West State Super Member is a continuation of the account maintained for that Member under Part VIIA of the GES Act.

- (2) Without limiting regulation 67(1), the Board is to credit to the benefit account of a continuing West State Super Member —
- (a) any amounts that —
 - (i) became payable to the Fund under the GES Act before the commencement day;
 - (ii) are received by the Board after that day; and
 - (iii) would have been credited to the Member's account under Part VIIA of the GES Act had they been received before the commencement day;
 - and
 - (b) any contributions paid by or in respect of the Member under clause 32 of this Schedule.
- (3) In relation to a continuing West State Super Member, a reference in regulation 68(1) to costs includes a reference to costs incurred before the commencement day.

39. Interest (regulation 69)

- (1) A current determination by the Board under section 38I(2) of the GES Act as to the calculation and crediting of interest to member's accounts continues as a decision of the Board under regulation 69(2).
- (2) The time at which the Board first credits interest to the benefit account of a continuing West State Super Member must not be more than 12 months after interest was last credited to the member's account under section 38I(1) of the GES Act.

40. Entitlement to benefits

If a continuing West State Super Member was, immediately before the commencement day, entitled to a benefit from the 1993 scheme but as at that day the benefit had not been paid (whether as a result of the operation of section 38K of the GES Act or otherwise), the entitlement continues as an entitlement to a benefit from the West State Super Scheme.

41. Death and disablement benefits (regulations 70, 71 and 72)

- (1) For the purposes of regulations 70, 71 and 72 the period during which a continuing West State Super Member has been a statutory Member includes the period during which he or she was a statutory member of the 1993 scheme.
- (2) If a continuing West State Super Member was retired on the grounds of physical or mental incapacity to perform his or her duties not more than 12 months before the commencement day but as at that day had not applied for a benefit under section 38N or 38O of the GES Act, these regulations apply to and in relation to the person as if he or she ceased to be a worker on the day, and for the reasons, that he or she was retired.

- (3) If, before the commencement day, a continuing West State Super Member applied for a benefit under section 38N or 38O of the GES Act but as at that day the Board had not dealt with it, the application continues as an application for a benefit under regulation 71 or 72 (as the case requires) as if the Member had ceased to be a worker on the day, and for the reasons, that he or she was retired.

42. Treasurer may increase benefits (regulation 75)

A current notice given by the Treasurer under section 38PB(1) of the GES Act increasing the amount of a benefit continues as a notice under regulation 75(1).

43. Restriction of payment of preserved benefits (regulation 76)

- (1) Despite regulation 76(1) the Board is to pay a continuing West State Super Member's preserved benefit if —
 - (a) the Member became entitled to the benefit before the commencement day;
 - (b) the Board is satisfied that the Member has permanently departed from Australia, or will do so within 3 months after the commencement day; and
 - (c) the Member —
 - (i) applied for payment of the benefit under section 38K(1)(e) of the GES Act before the commencement day, but as at that day the Board had not dealt with the application; or
 - (ii) applies for payment of the benefit within 3 months after the commencement day.
- (2) Despite regulation 76(1) the Board is to pay a continuing West State Super Member's preserved benefit if —
 - (a) the benefit is \$500 or less;
 - (b) the Member became entitled to the benefit before the commencement day; and
 - (c) the Member applies to the Board for payment of the benefit before, or within 3 months after, the commencement day.

44. Interest on preserved benefits (regulation 78)

A current determination by the Board under section 40(3) of the GES Act as to the manner in which interest is to be calculated in relation to benefits the payment of which is deferred under section 38K of the GES Act continues as a determination under regulation 78(c).

45. Transfer of benefits to another superannuation fund (regulation 79)

If, before the commencement day, a continuing West State Super Member made a request under section 13B(6) or 13D(1) of the GES Act to transfer an amount to another superannuation fund but as at that day the Board had not dealt with it, the request continues a request under regulation 79(1).

46. Payment of death benefits (regulation 80)

If, before the commencement day, a benefit became payable under the GES Act as a result of the death of a member of the 1993 scheme but as at that day the benefit had not been paid, regulation 80 applies to and in relation to the benefit as if it were a death benefit as defined in that regulation.

47. Application for disablement benefits (regulation 81)

A current authorisation given by a continuing West State Super Member for the purposes of section 53(3)(b) of the GES Act allowing the Board to obtain medical and other information or evidence continues as an authorisation for the purposes of regulation 81(3)(c).

Part 4 — Information requirements

48. Annual statement for Members (regulation 221)

- (1) The first annual reporting day for a continuing Member must be on or before 30 June 2001.
- (2) For the purposes of regulation 221(5), the first reporting period for a continuing Member is the period from 1 July 2000 to the Member's first annual reporting day.

49. Information to exiting Members (regulation 222)

If a continuing Member ceases to be a Member before being given an annual statement under regulation 221(5), then the statement given to the person under regulation 222(1) is to set out the information referred to in regulation 222(1)(c) in relation to the period from 1 July 2000 to the day the person ceases to be a Member.

50. Employers to provide information to the Board (regulation 224C)

A current direction given by the Board under section 52(1) of the GES Act specifying information or evidence to be provided by Employers continues as a direction under regulation 224C(1).

51. Member may request information from the Board (regulation 224D)

If, before the commencement day, a continuing Member made a request under regulation 8 of the *Government Employees Superannuation (General) Regulations 1992* but as at that day the Board had not dealt with it, the request continues as a request under regulation 224D(1) or (3).

Part 5 — Board elections

52. Elections underway at commencement day

If, before the commencement day, the Board notified the Trades and Labor Council of Western Australia (as it was then called) under regulation 4 of the *Government Employees Superannuation (Board Elections) Regulations 1988* that a vacancy had occurred or was about to occur but as at that day the vacancy had not been filled —

- (a) the process of filling the vacancy is to be completed in accordance with those regulations as if they were still in force; and
- (b) for the purposes of section 6(3) of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* the person elected to fill that vacancy is taken to have been elected under section 5(3)(c) of the GES Act.

53. Dispute in progress at commencement day

If, before the commencement day, a person lodged a dispute with the Minister under regulation 25 of the *Government Employees Superannuation (Board Elections) Regulations 1988* but as at that day the Minister had not dealt with it, the Minister is to deal with the dispute in accordance with those regulations as if they were still in force.

Part 6 — General

54. Interest if payment delayed (regulation 243)

- (1) If a benefit became payable under the GES Act but as at the commencement day had not been paid, the interest payable under regulation 243 on the benefit is to be calculated —

- (a) for a Gold State Member —
 - (i) from the day on which the benefit became payable up to, but not including, the commencement day, at a rate equal to the CPI rate plus 1%; and
 - (ii) on and after the commencement day, at a rate equal to the CPI rate plus 2%;

or

(b) for a West State Member —

- (i) from the day on which the benefit became payable up to, but not including 1 July 2001, at a rate equal to the CPI rate plus 2%; and
 - (ii) on and after 1 July 2001, at a rate equal to the Member's earning rate.
- (2) A current determination by the Board under section 40(3) of the GES Act as to the manner in which interest is to be calculated in relation to benefits that are not paid when they become payable, continues as a determination for the purposes of regulation 243(c).

55. Benefit in special circumstances (regulation 244)

- (1) A current notice given by the Treasurer under section 49(1)(c) of the GES Act deeming a person to be entitled to a benefit to which he or she would not otherwise be entitled, continues as a direction under regulation 244(1).
- (2) In regulation 244 —
“**former Member**” includes a person who was formerly a member of the 1987 scheme or the 1993 scheme.

56. Power to restore lost rights (regulation 249)

- (1) A current permission to exercise a right, or a current privilege, granted by the Board under section 55(1) of the GES Act continues as a permission or privilege granted under regulation 249(1).
- (2) In regulation 249, in relation to a continuing Member —
“**the Act**” includes the GES Act.

57. Approved forms (regulation 251)

A form currently approved by the Board for use for the purposes of the GES Act continues, so far as it is relevant, as a form approved for use for the purposes of these regulations.

58. Policy and administrative matters

All current decisions of the Board in relation to policy or administrative matters made for the purposes of the GES Act continue, so far as they are relevant, for the purposes of these regulations.

[Schedule 3 amended in Gazette 29 June 2001 p.3105-6.]