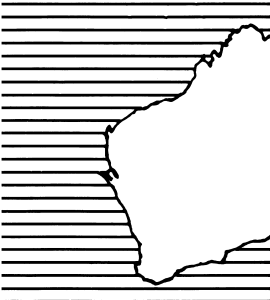




20100012466



WESTERN
AUSTRALIAN
GOVERNMENT

Gazette

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041

3131



PERTH, WEDNESDAY, 30 JUNE 2010 No. 124 SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 1.40 PM

© STATE OF WESTERN AUSTRALIA

STATE SUPERANNUATION ACT 2000

**STATE SUPERANNUATION
AMENDMENT REGULATIONS
(No. 2) 2010**

State Superannuation Act 2000

State Superannuation Amendment Regulations (No. 2) 2010

Made by the Governor in Executive Council.

1. Citation

These regulations are the *State Superannuation Amendment Regulations (No. 2) 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *State Superannuation Regulations 2001*.

4. Regulation 59 amended

In regulation 59(a):

- (a) delete “regulation 70C” and insert:

regulation 75

- (b) delete “salary continuation insurance” and insert:

for a supplementary salary continuance benefit

State Superannuation Amendment Regulations (No. 2) 2010**r. 5**

5. Regulation 67 amended

In regulation 67(1)(db) delete “Division 5A” and insert:

regulation 75

6. Regulation 68 amended

In regulation 68(2)(a) delete “insurance taken out or provided by the Board in respect of the Member; and” and insert:

benefits provided in respect of the Member
under regulations 70, 71 and 72; and

7. Part 3 Divisions 4B and 5A deleted

Delete Part 3 Divisions 4B and 5A.

8. Part 3 Division 5 replaced

Delete Part 3 Division 5 and insert:

Division 5 — Benefits**Subdivision 1 — Preliminary****69G. Terms used**

In this Division —

covered risk benefits Member means a West State Super Member —

- (a) on whose death or disability immediately before the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* any benefit (other than payment of

State Superannuation Amendment Regulations (No. 2) 2010

r. 8

the balance of the Member's West State account or the Member's protected amount) would have been payable; or

- (b) who has since the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* become a covered risk benefits Member under regulation 69H, 69I or 69K,

and who in either case has not subsequently ceased to be a covered risk benefits Member under regulation 69J or 69M;

eligible risk benefits Member means a member who is —

- (a) a West State Super Member who under the terms on which the Board provides a supplementary risk benefit under regulation 70A is or may be eligible for the supplementary risk benefit; or
- (b) an eligible statutory WSS Member who is under 60 years of age;

opt-in notice means a notice given under regulation 69K.

Subdivision 2 — Covered risk benefits Members**69H. Automatically becoming a covered risk benefits Member**

Subject to regulation 69I(1), every person who is or becomes an eligible risk benefits Member on or after the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* is a covered risk benefits Member.

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

69I. Initial option to become a covered risk benefits Member

- (1) The Board may determine that any person, or any member of a specified class of persons, who becomes an eligible risk benefits Member after the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* is not a covered risk benefits Member unless, within such time of becoming an eligible risk benefits Member as the Board may specify, that person opts to become a covered risk benefits Member.
- (2) An option under subregulation (1) is to be exercised by notice in writing to the Board, received by the Board before the expiry of the specified time.
- (3) When a notice under subregulation (2) is received by the Board before the expiry of the specified time, the person exercising the option becomes a covered risk benefits Member.

69J. Ceasing to be a covered risk benefits Member

- (1) A covered risk benefits Member may opt at any time to cease to be a covered risk benefits Member.
- (2) An option under subregulation (1) is to be exercised by notice in writing, received by the Board.
- (3) When a notice under subregulation (2) is received by the Board, the Member exercising the option ceases to be a covered risk benefits Member.
- (4) The Board may determine that a covered risk benefits Member who, as a result of options exercised by the Member under regulation 70B(3), is not eligible for any supplementary risk benefit ceases to be a covered risk benefits Member.

State Superannuation Amendment Regulations (No. 2) 2010

r. 8**69K. Subsequent option to become a covered risk benefits Member**

- (1) An eligible risk benefits Member who is not a covered risk benefits Member and who is not entitled to become a covered risk benefits Member under regulation 69H may at any time opt to become a covered risk benefits Member, subject to the provisions of this regulation and of regulation 69L.
- (2) An option under subregulation (1) is to be exercised by notice in writing —
 - (a) received by the Board; and
 - (b) accepted by the Board under regulation 69L.

69L. Considering and accepting opt-in notice

- (1) On receiving an opt-in notice, the Board may require the Member giving the notice to do all or any of the following —
 - (a) undergo one or more medical examinations and provide the resulting medical reports to the Board;
 - (b) provide to the Board —
 - (i) any other medical reports; and
 - (ii) information about the Member's health and medical history; and
 - (iii) any other information the Board considers relevant.
- (2) If the Board imposes a requirement under subregulation (1) the Member —
 - (a) must comply with the requirement within the time specified by the Board; and
 - (b) is responsible for payment of any costs involved in complying with the requirement.

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

- (3) The Board may decline to accept an opt-in notice if under the terms of insurance provided under regulation 70A an application for cover for the Member under that insurance may be refused.
- (4) The Board may decline to accept an opt-in notice or accept it subject to a health condition if —
 - (a) after considering the notice and any further medical information provided by the Member, the Board is of the opinion that the Member is suffering from a physical or mental condition that is likely to prevent him or her from satisfactorily performing his or her duties until he or she turns 60 years of age; or
 - (b) the Member fails to comply with a requirement under subregulation (1).
- (5) When an opt-in notice is accepted by the Board, the person giving the notice becomes a covered risk benefits Member.

69M. Altering or cancelling acceptance of opt-in notice

- (1) If, in reliance on a statement made in medical information provided by a Member, the Board has accepted an opt-in notice without imposing a health condition 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 —
 - (c) impose a health condition on the Member; or
 - (d) cancel its acceptance of the notice, in which event the Member ceases to be a covered risk

State Superannuation Amendment Regulations (No. 2) 2010

r. 8

benefits Member with retrospective effect to the time when the notice was accepted.

- (2) The Board may take action under subregulation (1)(c) or (d) even if the Member has ceased to be a worker or has died.
- (3) If a covered risk benefits Member who is subject to a health condition satisfies the Board that his or her health has improved since the condition was imposed, the Board may remove or vary the condition.

Subdivision 3 — Provision of supplementary risk benefits**70A. Board may provide supplementary risk benefits**

The Board may provide all or any of the following kinds of supplementary risk benefits for all covered risk benefits Members who are West State Super Members, or for such classes of those Members, as the Board considers appropriate —

- (a) supplementary death benefits;
- (b) supplementary incapacity benefits;
- (c) supplementary salary continuance benefits.

70B. Terms of supplementary risk benefits

- (1) The Board must decide the terms of any supplementary risk benefits provided for covered risk benefits Members under regulation 70A.
- (2) The Board may decide on different terms for different classes of covered risk benefits Members.
- (3) The terms of supplementary risk benefits may include terms in relation to all or any of the following —
 - (a) eligibility for a benefit, and options in relation to eligibility;

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

- (b) levels or amounts of benefits, and options in relation to levels and amounts;
 - (c) requirements for changing the level or amount of benefits;
 - (d) form of benefits (whether lump sum, periodic payment or otherwise);
 - (e) information and documents to be given to and by the Board;
 - (f) amounts to be debited to Members' accounts in respect of benefits for which they are eligible;
 - (g) claims procedures and evidentiary requirements;
 - (h) cessation, termination or cancellation of entitlement to benefits;
 - (i) procedural and administrative matters relating to the provision of benefits.
- (4) The terms of supplementary risk benefits must include a term to the effect that no entitlement to benefit arises in respect of any event occurring on or after the separation time (within the meaning given in section 75B of the Act).

Subdivision 4 — Benefits**70. Death benefits for covered risk benefits Members**

- (1) If a covered risk benefits Member who —
 - (a) is an eligible statutory WSS Member; and
 - (b) is under 60 years of age,

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

dies while still a worker, subject to subregulations (3) and (4) the Board is to pay a basic death benefit of an amount equal to B in the formula —

$$B = A + \left[\frac{R}{2} \times \frac{G}{100} \times \frac{F}{12} \right]$$

where —

A is the greater of —

- (i) the balance of the Member's west state account; and
- (ii) the Member's protected amount;

R is —

- (i) if the Member has been a statutory WSS Member for all of the 2 years prior to the Member's death — the total of the Member's remuneration for those 2 years; or
- (ii) otherwise, the amount of remuneration the Board considers the Member would have received for those 2 years if the circumstances existing immediately before the Member died had existed for all of those 2 years;

G is the number that would have been the Employer's charge percentage for the quarter during which the Member died;

F is the number of complete months from the day the Member died to the day when the Member would have turned 60 years of age.

- (2) If a covered risk benefits Member for whom a supplementary death benefit is provided under regulation 70A dies, subject to subregulation (3) and to the terms on which the supplementary death benefit is

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

provided the Board is to pay the supplementary death benefit.

- (3) If a covered risk benefits Member is subject to a health condition no basic death benefit or supplementary death benefit is payable unless the Board is satisfied that the Member's death was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.
- (4) If a covered risk benefits Member is, as a result of options exercised by the Member under regulation 70B(3), not eligible for a supplementary death benefit, no basic death benefit is payable.

71. Incapacity benefits for covered risk benefits Members

- (1) In this regulation —
permanent incapacity has the meaning given in the SIS Regulations regulation 6.01(2).
- (2) Subject to regulation 81 and subregulations (5), (7) and (8), if a covered risk benefits Member who —
 - (a) is an eligible statutory WSS Member; and
 - (b) is under 60 years of age,ceases to be a worker because of permanent incapacity, the Board is to pay the Member a basic incapacity benefit equal to the basic death benefit that would have been payable under regulation 70 if the Member had died on the day the Member ceased to be a worker.
- (3) Subject to subregulations (5), (7) and (8), if a covered risk benefits Member who —
 - (a) is an eligible statutory WSS Member; and
 - (b) is under 60 years of age,

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

ceases to be a worker because of partial and permanent disablement the Board is to pay the Member a basic incapacity benefit of an amount equal to B in the formula —

$$B = A + \left[\left(\frac{R}{2} - E \right) \times \frac{G}{100} \times \frac{F}{12} \right]$$

where —

A is the greater of —

- (i) the balance of the Member's west state account; and
- (ii) the Member's protected amount;

R is —

- (i) if the Member has been a statutory WSS Member for all of the 2 years prior to the Member ceasing to be a worker — the total of the Member's remuneration for those 2 years; or
- (ii) otherwise, the amount of remuneration the Board considers the Member would have received for those 2 years if the circumstances existing immediately before the Member ceased to be a worker had existed for all of those 2 years;

E is the annual amount of the remuneration that the Board considers the Member has the capacity to earn after becoming disabled, having regard to subregulation (4);

G is the number that would have been the Employer's charge percentage for the quarter during which the Member ceased to be a worker;

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

- F is the number of complete months from the day the Member ceased to be a worker to the day when the Member will turn 60 years of age.
- (4) For the purpose of determining the value of E in the formula in subregulation (3) the Board is to take into account the possibility of work in either the public sector or the private sector.
 - (5) If a covered risk benefits Member entitled to a basic incapacity benefit under subregulation (2) or (3) has received, or is entitled to receive, another benefit from any of the superannuation schemes established or continued under the Act in respect of the same incapacity, the Board may reduce the basic incapacity benefit to the extent it considers appropriate (but not to an amount less than the amount of A in the formula in regulation 70).
 - (6) If a covered risk benefits Member for whom a supplementary incapacity benefit is provided under regulation 70A suffers incapacity, subject to subregulation (7) and to the terms on which the supplementary incapacity benefit is provided the Board is to pay the supplementary incapacity benefit.
 - (7) If a covered risk benefits Member is subject to a health condition no basic incapacity benefit or supplementary incapacity benefit is payable unless the Board is satisfied that the Member's incapacity was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.
 - (8) If a covered risk benefits Member is, as a result of options exercised by the Member under regulation 70B(3), not eligible for a supplementary incapacity benefit, no basic incapacity benefit is payable.

State Superannuation Amendment Regulations (No. 2) 2010

r. 8**72. Supplementary salary continuance benefits for covered risk benefits Members**

- (1) In this regulation —

SIS amount means the amount that, if the West State Super Scheme were a regulated superannuation fund, the Board could pay to the Member without contravening the cashing restriction set out in the SIS Regulations Schedule 1 item 109 column 3;

temporarily incapacitated means that the Member is suffering temporary incapacity within the meaning given in the SIS Regulations regulation 6.01.

- (2) If a covered risk benefits Member for whom a supplementary salary continuance benefit is provided under regulation 70A(c) is temporarily incapacitated, subject to subregulation (3) and to the terms on which the supplementary salary continuance benefit is provided the Board is to pay the Member the supplementary salary continuance benefit or, if less, the SIS amount.
- (3) If a covered risk benefits Member is subject to a health condition no supplementary salary continuance benefit is payable unless the Board is satisfied that the Member's incapacity was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.

73A. Treasurer may increase basic risk benefits for covered risk benefits Members

- (1) The Treasurer may, by giving notice to the Board, increase the amount of a basic death benefit under regulation 70 or a basic incapacity benefit under regulation 71 to, or in respect of, a covered risk

State Superannuation Amendment Regulations (No. 2) 2010**r. 8**

benefits Member or a class of covered risk benefits Members.

- (2) The Treasurer may revoke a notice given under subregulation (1) by giving notice to the Board.

73. Death benefit — other West State Super Members

- (1) This regulation applies if any of the following events occur —
- (a) a statutory WSS Member dies while still a worker and no benefit is payable under regulation 70;
 - (b) a voluntary WSS Member dies while still a worker;
 - (c) a partner WSS Member dies while there is still an amount in the Member's west state account.
- (2) If this regulation applies the Board is to pay a benefit in respect of the Member of an amount equal to the greater of —
- (a) the balance of the Member's west state account; and
 - (b) the Member's protected amount.

74. General benefit

- (1) This regulation applies if any of the following events occur and no other benefit is payable under this Part —
- (a) a statutory WSS Member or voluntary WSS Member —
 - (i) ceases to be a worker; or
 - (ii) withdraws from the West State Super Scheme under regulation 52B(2);
 - (b) an eligible statutory WSS Member otherwise ceases to be an eligible statutory WSS Member;

State Superannuation Amendment Regulations (No. 2) 2010

r. 8

- (c) a partner WSS Member —
 - (i) satisfies the criteria for payment of a benefit under regulation 76; or
 - (ii) withdraws from the West State Super Scheme under regulation 52B(1);
 - (d) a West State Super Member reaches 65 years of age.
- (2) If this regulation applies the Member is entitled to a benefit of an amount equal to the greater of —
 - (a) the balance of the Member's west state account; and
 - (b) the Member's protected amount.
 - (3) If the Member satisfies the criteria for payment of a benefit under regulation 76, the Board is to pay the benefit to the Member when requested by the Member to do so.
 - (4) If the Member does not satisfy the criteria for payment of a benefit under regulation 76, the benefit is preserved until those criteria are satisfied.
 - (5) If a Member is entitled to a benefit under this regulation and regulation 75A, the benefit under regulation 75A is to be paid first.

Subdivision 5 — External Insurance**75. Insurance policies**

The Board may enter into one or more policies of insurance, including policies of group life assurance, to provide for any of the benefits that may become payable under regulations 70, 71 and 72.

State Superannuation Amendment Regulations (No. 2) 2010**r. 9**

9. Regulation 103 amended

Delete regulation 103(2)(a) and “and” after it and insert:

- (a) the costs of insurance provided in respect of the Member under regulations 111 and 112; and

10. Part 3A Division 6 heading replaced

Delete the heading to Part 3A Division 6 and insert:

Division 6 — Benefits**11. Part 3A Division 6 Subdivisions 1 and 2 inserted**

At the beginning of Part 3A Division 6 insert:

Subdivision 1 — Preliminary**111A. Terms used**

In this Division —

covered GESB Super Member means a GESB Super Member —

- (a) on whose death or disability immediately before the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* any benefit (other than payment of the balance of the Member’s GESB Super account) would have been payable; or
- (b) who has since the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* become a covered GESB Super Member under regulation 111B, 111C or 111E,

State Superannuation Amendment Regulations (No. 2) 2010

r. 11

and who in either case has not subsequently ceased to be a covered GESB Super Member under regulation 111D or 111G;

health condition means a condition imposed on a covered GESB Super Member that any insurance provided to or in respect of the Member under regulation 112 will be limited to the extent determined by the Board;

opt-in notice means a notice given under regulation 111E.

Subdivision 2 — Covered GESB Super Members**111B. Automatically becoming a covered GESB Super Member**

Subject to regulation 111C(1), every person who becomes a GESB Super Member on or after the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* is a covered GESB Super Member.

111C. Initial option to become a covered GESB Super Member

- (1) The Board may determine that any person, or any member of a specified class of persons, who becomes a GESB Super Member on or after the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* is not a covered GESB Super Member unless, within such time of becoming a GESB Super Member as the Board may specify, that person opts to become a covered GESB Super Member.
- (2) An option under subregulation (1) is to be exercised by notice in writing to the Board, received by the Board before the expiry of the specified time.

State Superannuation Amendment Regulations (No. 2) 2010**r. 11**

- (3) When a notice under subregulation (2) is received by the Board before the expiry of the specified time, the person exercising the option becomes a covered GESB Super Member.

111D. Ceasing to be a covered GESB Super Member

- (1) A covered GESB Super Member may opt at any time to cease to be a covered GESB Super Member.
- (2) An option under subregulation (1) is to be exercised by notice in writing, received by the Board.
- (3) When a notice under subregulation (2) is received by the Board, the Member exercising the option ceases to be a covered GESB Super member.
- (4) The Board may determine that a covered GESB Super Member who, as a result of options exercised by the Member under regulation 113(4), is not eligible for any insurance provided under regulation 111 or 112 ceases to be a covered GESB Super Member.

111E. Subsequent option to become a covered GESB Super Member

- (1) A GESB Super Member who is not a covered GESB Super Member and who is not entitled to become a covered GESB Super Member under regulation 111B may at any time opt to become a covered GESB Super Member, subject to the provisions of this regulation and of regulation 111F.
- (2) An option under subregulation (1) is to be exercised by notice in writing —
 - (a) received by the Board; and
 - (b) accepted by the Board under regulation 111F.

State Superannuation Amendment Regulations (No. 2) 2010

r. 11**111F. Considering and accepting opt-in notice**

- (1) On receiving an opt-in notice, the Board may require the Member giving the notice to do all or any of the following —
 - (a) undergo one or more medical examinations and provide the resulting medical reports to the Board;
 - (b) provide to the Board —
 - (i) any other medical reports; and
 - (ii) information about the Member's health and medical history; and
 - (iii) any other information the Board considers relevant.
- (2) If the Board imposes a requirement under subregulation (1) the Member —
 - (a) must comply with the requirement within the time specified by the Board; and
 - (b) is responsible for payment of any costs involved in complying with the requirement.
- (3) The Board may decline to accept an opt-in notice if under the terms of insurance provided under regulation 111 or 112 an application for cover for the Member under that insurance may be refused.
- (4) The Board may decline to accept an opt-in notice or accept it subject to a health condition if —
 - (a) after considering the notice and any further medical information provided by the Member, the Board is of the opinion that the Member is suffering from a physical or mental condition that is likely to prevent him or her from satisfactorily performing his or her duties until he or she turns 60 years of age; or

State Superannuation Amendment Regulations (No. 2) 2010**r. 11**

- (b) the Member fails to comply with a requirement under subregulation (1).
- (5) When an opt-in notice is accepted by the Board, the person giving the notice becomes a covered GESB Super Member.

111G. Altering or cancelling acceptance of opt-in notice

- (1) If, in reliance on a statement made in medical information provided by a Member, the Board has accepted an opt-in notice without imposing a health condition 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 —
 - (c) impose a health condition on the Member; or
 - (d) cancel its acceptance of the notice, in which event the Member ceases to be a covered GESB Super Member with retrospective effect to the time when the notice was accepted.
- (2) The Board may take action under subregulation (1)(c) or (d) even if the Member has ceased to be a worker or has died.
- (3) If a covered GESB Super Member who is subject to a health condition satisfies the Board that his or her health has improved since the condition was imposed, the Board may remove or vary the condition.

State Superannuation Amendment Regulations (No. 2) 2010

r. 12**12. Part 3A Division 6 Subdivision 3 heading inserted**

Before regulation 111 insert:

Subdivision 3 — Insurance**13. Regulation 111 amended**

In regulation 111(1) (first occurrence), (2) and (3) before “GESB Super Member” insert:

covered

14. Regulation 112 amended

In regulation 112 before “GESB Super Members” insert:

covered

15. Regulation 113 amended

(1) In regulation 113(2) before “Members.” insert:

covered GESB Super

(2) In regulation 113(4) before “Member” insert:

covered GESB Super

State Superannuation Amendment Regulations (No. 2) 2010**r. 16**

16. Part 3A Division 7 heading replaced

Delete the heading to Part 3A Division 7 and insert:

Subdivision 4 — Benefits**17. Regulation 116 replaced**

Delete regulation 116 and insert:

116. Insured benefits for covered GESB Super Members

(1) In this regulation —

SIS amount means the amount that, if the GESB Super Scheme were a regulated superannuation fund, the Board could pay to the Member without contravening the cashing restriction set out in the SIS Regulations Schedule 1 item 109 column 3;

temporarily incapacitated means that the Member is suffering temporary incapacity within the meaning given in the SIS Regulations regulation 6.01.

(2) If a covered GESB Super Member for whom life insurance is provided under regulation 111 dies, subject to the terms on which the life insurance is provided the Board is to pay the proceeds of the life insurance.

(3) If a covered GESB Super Member for whom total and permanent disability insurance is provided under regulation 112(a) ceases to be a worker by reason of incapacity, subject to subregulation (5) and to the terms on which the insurance is provided the Member is entitled to the proceeds of the total and permanent disability insurance.

State Superannuation Amendment Regulations (No. 2) 2010

r. 17

- (4) If a covered GESB Super Member for whom salary continuance insurance is provided under regulation 112(b) is temporarily incapacitated, subject to subregulation (5) and to the terms on which the salary continuance insurance is provided the Board is to pay the Member the proceeds of the salary continuance insurance or, if less, the SIS amount.
- (5) If a covered GESB Super Member is subject to a health condition no insurance proceeds are payable under subregulation (3) or (4) unless the Board is satisfied that the insured event was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.