
**GOVERNMENT EMPLOYEES SUPERANNUATION
BOARD**

GZ301*

State Superannuation Act 2000

**State Superannuation Amendment
Regulations 2004**

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *State Superannuation Amendment Regulations 2004*.

2. The regulations amended

The amendments in these regulations, other than regulation 13, are to the *State Superannuation Regulations 2001**.

[* *Reprint 1 as at 7 November 2003.*

For amendments to 9 June 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 367.]

3. Regulation 3 amended

Regulation 3 is amended by inserting the following definition in its appropriate alphabetical position —

“

“**SIS Regulations**” means the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth;

”.

4. Regulation 44A inserted

After regulation 44 the following regulation is inserted —

“

44A. Reduction of benefit if early payment made

The amount of a benefit under this Division is reduced, if the Member has been paid a benefit under regulation 47A, by the amount, or in the manner, determined by the Board under regulation 47A(6).

”.

5. Regulation 45 amended

Regulation 45(1) is amended by deleting “regulation 47” and inserting instead —

“ regulations 47 and 47A ”.

6. Regulation 46A inserted

After regulation 46 the following regulation is inserted —

“

46A. Reduction of preserved benefit if early payment made

The amount of a Member’s preserved benefit is reduced, if the Member has been paid a benefit under regulation 47A, by the amount, or in the manner, determined by the Board under regulation 47A(6).

”.

7. Regulation 47A inserted

After regulation 47 the following regulation is inserted —

“

47A. Early release of benefit — severe financial hardship or a compassionate ground

(1) A Gold State Super Member may apply to the Board for the early release of all or part of the Member’s benefit —

(a) if the Member is in severe financial hardship;
or

(b) on a compassionate ground.

(2) On receipt of an application under subregulation (1) the Board is to determine whether, in the Board’s opinion, if the SIS Regulations applied, the Member would be taken for the purposes of those regulations —

(a) to be in severe financial hardship; or

(b) to satisfy a condition of release on a compassionate ground.

(3) If the Board determines that subregulation (2)(a) or (b) applies to the Member, the Board is also to determine the maximum amount that the SIS Regulations would permit to be paid to the Member in those circumstances.

(4) When the Board has made a determination under subregulation (3), it is to pay the Member a benefit of an amount equal to the least of the following —

(a) the amount applied for by the Member;

(b) the amount determined by the Board under subregulation (3);

- (c) the Member's discounted benefit.
- (5) A Member making an application under subregulation (1) must give to the Board all the information required to enable it to make the determinations required under this regulation.
- (6) When a benefit is paid under this regulation the Board is to determine, on the advice of an actuary, the consequent reduction that is to be made to —
- (a) any benefit to which the Member subsequently becomes entitled under Division 4; or
- (b) the Member's preserved benefits.
- (7) A reduction under subregulation (6) may be —
- (a) the deduction of a monetary amount, with or without interest;
- (b) the reduction of the benefit by a specified multiple; or
- (c) calculated in any other manner agreed to by the actuary.
- (8) In this regulation —
- “compassionate ground”** and **“severe financial hardship”** have the same meanings as they have in Part 6 of the SIS Regulations;
- “discounted benefit”** means the amount, as at the day on which the Board made its determination under subregulation (3) —
- (a) if the Member is an eligible Gold State worker, of the benefit to which the Member would have been entitled under regulation 44 if the Member ceased to be an eligible Gold State worker on that day; or
- (b) otherwise, of the Member's preserved benefit,
- discounted to the extent that the Board, on the advice of an actuary, considers appropriate to reflect the early payment of the benefit.

”.

8. Regulation 50 amended

- (1) Regulation 50(1) is amended by deleting the definition of “APRA”.
- (2) Regulation 50(1) is amended in the definition of “protected amount” by deleting “subregulation (2)” and inserting instead —
- “ regulation 79A ”.
- (3) Regulation 50(2) and (3) are repealed.

9. Various regulations repealed

Regulations 73A, 74(3) and (4), 74B(4) and (5), 75A and 76A are repealed.

10. Regulation 76 amended

Regulation 76(1) is amended by deleting “regulations 76A and 79” and inserting instead —

“ regulations 79 and 79A ”.

11. Regulation 79A inserted

After regulation 79 the following regulation is inserted —

“

79A. Early release of benefit — severe financial hardship or a compassionate ground

- (1) A West State Super Member may apply to the Board for the early release of all or part of the Member’s benefit —
 - (a) if the Member is in severe financial hardship; or
 - (b) on a compassionate ground.
- (2) On receipt of an application under subregulation (1) the Board is to determine whether, in the Board’s opinion, if the SIS Regulations applied, the Member would be taken for the purposes of those regulations —
 - (a) to be in severe financial hardship; or
 - (b) to satisfy a condition of release on a compassionate ground.
- (3) If the Board determines that subregulation (2)(a) or (b) applies to the Member, the Board is also to determine the maximum amount that the SIS Regulations would permit to be paid to the Member in those circumstances.
- (4) When the Board has made a determination under subregulation (3), it is to pay the Member a benefit of an amount equal to the least of the following —
 - (a) the amount applied for by the Member;
 - (b) the amount determined by the Board under subregulation (3);
 - (c) the greater of —
 - (i) the balance in the Member’s benefit account; and
 - (ii) the Member’s protected amount.
- (5) A Member making an application under subregulation (1) must give to the Board all the

information required to enable it to make the determinations required under this regulation.

- (6) If a benefit is paid under this regulation to a Member who was a West State Super Member on 30 June 2001 —
- (a) the Member's protected amount is taken to be reduced, on the day on which the benefit is paid, by the amount of the benefit; and
 - (b) on and after that day, interest under paragraph (a)(ii) of the definition in regulation 50(1) of "protected amount" is to be calculated on the basis of that reduced amount.
- (7) In this regulation —
- "compassionate ground"** and **"severe financial hardship"** have the same meanings as they have in Part 6 of the SIS Regulations.

12. **Schedule 1 amended**

Schedule 1 Division 2 is amended as follows:

- (a) by deleting items 3 and 52;
- (b) in item 22 —
 - (i) by inserting after "**Gaming**" —

" and Wagering "; and
 - (ii) by inserting after "*Gaming*" —

" and Wagering ".

13. ***Superannuation and Family Benefits Act 1938* amended**

- (1) The amendments in this regulation are to the *Superannuation and Family Benefits Act 1938** as continued in force by section 26 of the *State Superannuation (Transitional and Consequential Provisions) Act 2000***.

[* *Reprinted as at 20 July 1999.*
For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 379.]

[** *Act No. 43 of 2000.*
For subsequent amendments see Western Australian Legislation Information Tables for 2003, Table 1, p. 367.]

- (2) Section 6(1) is amended in the definition of "department", in paragraph (i) of the proviso, as follows:
- (a) by deleting "the Treasurer shall not approve of" and inserting instead —

" before approving ";
 - (b) by deleting "unless and until" and inserting instead —

" the Treasurer may require ";

- (c) by deleting “has entered into a proper written agreement with the Treasurer and has made” and inserting instead —
“ to make ”.

Certified under section 38(4)(b) of the Act —

DERMOT BALSON,	9/6/04
Actuary appointed by the Board	Date

Approved under section 38(5) of the Act —

ERIC RIPPER,	15/6/04
Treasurer	Date

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.
