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State Superannuation Act 2000

State Superannuation Amendment Regulations 2003

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *State Superannuation Amendment Regulations 2003*.

2. The regulations amended

The amendments in these regulations are to the *State Superannuation Regulations 2001**.

[* *Published in Gazette 16 February 2001, p. 921-1074.*
For amendments to 26 May 2003 see 2001 Index to Legislation of Western Australia, Table 4, p. 321 and Gazette 28 June 2002 and 19 March 2003.]

Part 2 — Partner members

3. Regulation 3 amended

Regulation 3 is amended in the definition of “preserved benefit” by deleting “or 74(2)(a);” and inserting instead —

“ , 74(2)(a) or 74B(2); ”.

4. Regulation 50 amended

Regulation 50 is amended by inserting the following definition in its appropriate alphabetical position —

“

“**partner Member**” means a person who is a Member of the West State Super Scheme under regulation 52B;

”

5. Regulation 52B inserted

Immediately before regulation 53 the following regulation is inserted —

“

52B. Partner Members

- (1) A person for whom a contribution is made under regulation 64A becomes a West State Super Member when that contribution is accepted by the Board, unless the person is already a West State Super Member.
- (2) If a person who is a partner Member becomes a statutory Member or voluntary Member, the person ceases to be a partner Member.
- (3) A partner Member may withdraw from the West State Super Scheme by giving notice to that effect to the Board.

”

6. Regulation 64A inserted

After regulation 64 the following regulation is inserted —

“

64A. Member may contribute for spouse or de facto partner

- (1) A person who is —
 - (a) a Member;
 - (b) a Pension Scheme Member or a Provident Scheme Member;
 - (c) a person who is in receipt of a pension under the Pension Scheme, other than a reversionary pension; or
 - (d) a person who is entitled to a benefit under the Pension Scheme or the Provident Scheme that is not yet payable,

(the “**contributor**”) may contribute to the Fund for a spouse or de facto partner of the contributor.

- (2) The contributor is to contribute the amounts, and at the times, and make the contributions in the manner, agreed between the contributor and the Board.

- (3) When making a contribution under this regulation the contributor must give to the Board whatever information the Board reasonably requires to satisfy itself that the contributor and the person for whom the contribution is made are married or are de facto partners.

”

7. **Regulation 67 amended**

After regulation 67(1)(d) the following paragraph is inserted —

“

- (da) for a partner Member, any contributions made for the partner Member under regulation 64A by the partner Member’s spouse or de facto partner;

”

8. **Regulation 74B inserted**

After regulation 74 the following regulation is inserted —

“

74B. Benefits for partner Members

- (1) If a partner Member —
 - (a) reaches 55 and is not a worker; or
 - (b) becomes totally and permanently disabled,the Board is to pay the partner Member a benefit of an amount equal to the balance of the partner Member’s benefit account.
- (2) If a partner Member withdraws from the West State Super Scheme under regulation 52B(3), the partner Member is entitled to a preserved benefit of the amount equal to the balance of the partner Member’s benefit account.
- (3) If a partner Member dies while there is still an amount in the partner Member’s benefit account the Board is to pay a benefit of an amount equal to the balance of the partner Member’s benefit account.
- (4) A partner Member may apply to the Board for a compassionate benefit of an amount, specified in the application, that is not more than the balance of the partner Member’s benefit account when the application is made.
- (5) If APRA approves the payment of the compassionate benefit the Board is to pay the partner Member a benefit of an amount equal to the least of the following —
 - (a) the amount specified in the partner Member’s application;

- (b) the amount approved by APRA;
- (c) the balance in the partner Member's benefit account when the compassionate benefit is paid.

”.

9. Regulation 76 amended

Regulation 76(1)(a)(ii) is amended by deleting “no longer” and inserting instead —

“ not ”.

Part 3 — Compassionate benefits

10. Regulation 50 amended

Regulation 50 is amended as follows:

- (a) by inserting before “In this Part” the subsection designation “(1)”;
- (b) by inserting the following definition in its appropriate alphabetical position —

“

“**APRA**” means the Australian Prudential Regulation Authority established under the *Australian Prudential Regulation Authority Act 1998* of the Commonwealth;

”.

- (c) in the definition of “eligible statutory Member” by deleting “or (3);” and inserting instead —
- (d) by deleting the definition of “protected amount” and inserting the following definition instead —

“

“**protected amount**” in relation to a West State Super Member means, subject to subregulation (2) —

- (a) if the Member was a West State Super Member on 30 June 2001, an amount equal to —
 - (i) the balance of the Member's benefit account at the end of 30 June 2001; plus
 - (ii) interest on that amount at the rate equal to the CPI rate plus 2% from 1 July 2001 to the day as at which the protected amount is being calculated;
- or
- (b) otherwise — zero;

”.

- (e) at the end of the regulation by inserting the following subregulations —

“

- (2) If a compassionate benefit is paid 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 that compassionate benefit is paid, by the amount of that benefit; and
 - (b) on and after the day on which that compassionate benefit is paid, interest under paragraph (a)(ii) of the definition of protected amount is to be calculated on the basis of that reduced amount.
- (3) In subregulation (2) —
- “**compassionate benefit**” means a benefit paid under regulation 73A, 74(3) and (4) or 74B(4) and (5) or an amount paid under regulation 76A(3).

”.

11. Regulation 73A inserted

After regulation 73 the following regulation is inserted —

“

73A. Compassionate benefit - eligible statutory Members

- (1) An eligible Statutory Member who is a worker may apply to the Board for a compassionate benefit of an amount, specified in the application, that is not more than the balance of the Member's account when the application is made.
- (2) If APRA approves the payment of the compassionate benefit the Board is to pay the Member a benefit of an amount equal to the least of the following —
 - (a) the amount specified in the Member's application;
 - (b) the amount approved by APRA;
 - (c) the balance in the Member's benefit account when the compassionate benefit is paid.

”.

12. Regulation 74 amended

After regulation 74(2) the following subregulations are inserted —

“

- (3) A voluntary Member who is a worker may apply to the Board for a compassionate benefit of an amount, specified in the application, that is not more than the

balance of the Member's account when the application is made.

- (4) If APRA approves the payment of the compassionate benefit the Board is to pay the Member a benefit of an amount equal to the least of the following —
- (a) the amount specified in the Member's application;
 - (b) the amount approved by APRA;
 - (c) the balance in the Member's benefit account when the compassionate benefit is paid.

”

13. Regulation 75A inserted

After regulation 75 the following regulation is inserted —

“

75A. Approval of compassionate benefits by APRA

- (1) When the Board receives an application for a compassionate benefit it must request APRA to determine whether, if APRA was required under regulation 6.19A of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth to determine whether the Member had satisfied a condition of release on a compassionate ground, APRA would determine that the Member had done so.
- (2) If APRA determines that it would determine that the Member had satisfied a condition of release on a compassionate ground, then for the purposes of these regulations APRA is taken to have approved payment of a compassionate benefit of —
- (a) the amount the Member applied for; or
 - (b) if a lesser amount is specified in APRA's determination, that lesser amount.
- (3) A Member who applies for a compassionate benefit must give to the Board all the information required —
- (a) by the Board to enable it to request APRA to make a determination for the purposes of this regulation; or
 - (b) by APRA to enable it to make such a determination.
- (4) In this regulation —
- “**compassionate benefit**” means a benefit under regulation 73A, 74(3) and (4) or 74B(4) and (5).

”

14. Regulation 76 amended

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

“ regulations 76A and 79 ”.

15. Regulation 76A inserted

After regulation 76 the following regulation is inserted —

“

76A. Release of preserved benefit on compassionate grounds

- (1) A West State Super Member who is entitled to a preserved benefit may apply to the Board for payment, on compassionate grounds, of all or part of the Member’s preserved benefit plus interest under regulation 78.
- (2) When the Board receives an application under subregulation (1), it must request APRA to determine whether, if APRA was required under regulation 6.19A of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth to determine whether the Member had satisfied a condition of release on a compassionate ground, APRA would determine that the Member had done so.
- (3) If APRA determines that it would determine that the Member had satisfied a condition of release on a compassionate ground, the Board is to pay the Member an amount equal to the least of the following —
 - (a) the amount the Member applied for;
 - (b) if a lesser amount is specified in APRA’s determination, that lesser amount;
 - (c) the balance in the Member’s benefit account when the payment is made.
- (4) A Member who makes an application under this regulation must give to the Board all the information required —
 - (a) by the Board to enable it to request APRA to make a determination for the purposes of this regulation; or
 - (b) by APRA to enable it to make such a determination.

”.

Part 4 — Voluntary contributions by inactive members

16. Regulation 52 amended

Regulation 52(2) is repealed and the following subregulation is inserted instead —

“

(2) A Gold State Super Member, Pension Scheme Member or Provident Scheme Member who —

- (a) contributes to the West State Super Scheme under regulation 63(2); or
- (b) transfers an amount to the West State Super Scheme under regulation 65(b),

becomes a voluntary Member when the first such contribution or transfer is accepted by the Board.

”

17. Regulation 63 amended

Regulation 63 is amended as follows:

- (a) by inserting before “A West” the subregulation designation “(1)”;
- (b) by deleting “who is a worker”;
- (c) at the end of the regulation by inserting the following subregulation —

“

(2) A Gold State Super Member, Pension Scheme Member or Provident Scheme Member who is not a worker may contribute to the Fund the amount, and at the times, agreed between the Member and the Board.

”

18. Regulation 64 amended

Regulation 64(1) is repealed and the following subregulation is inserted instead —

“

(1) A West State Super Member’s member contributions are payable by the Member and —

- (a) if the Member is a worker, are to be deducted from the Member’s pay by the Employer unless —
 - (i) they are paid by the Employer under a salary sacrifice agreement; or
 - (ii) the Member has made some other arrangement with the Board for payment of those contributions;

or

- (b) if the Member is not a worker, are to be paid in the manner agreed between the Member and the Board.

”.

Part 5 — Miscellaneous

19. Regulation 48 amended

Regulation 48(3a) is amended by deleting “this subregulation” and inserting instead —

“ subregulation (3) ”.

20. Regulations 77 and 78 replaced

Regulations 77 and 78 are repealed and the following regulations are inserted instead —

“

77. Member with preserved benefit who again becomes a worker

If a West State Super Member who is entitled to a preserved benefit again becomes a worker the Member’s entitlement to the preserved benefit ceases.

78. Interest on preserved benefits

When the Board pays or transfers a preserved benefit the amount to be paid or transferred is —

- (a) the amount of the preserved benefit; and
- (b) so much of the earnings that have been credited to the Member’s benefit account since the Member became entitled to the preserved benefit as are attributable to that benefit.

”.

21. Regulation 80 amended

Regulation 80(3a) is amended by deleting “this subregulation” and inserting instead —

“ subregulation (3) ”.

22. Regulation 191 amended

Regulation 191(1) is amended by deleting “the Member under regulation 190(1)” and inserting instead —

“ or for the Member under regulation 190 ”.

23. Regulation 219 amended

Regulation 219(4) is amended by deleting “this subregulation” and inserting instead —

“ subregulation (3) ”.

24. Regulation 244 amended

Regulation 244(3) is repealed.

25. Schedule 2 amended

Schedule 2, clause 4(5) is amended by inserting after “subclause (1)” —

“ or (2) ”.

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

D. BALSON, Actuary appointed by the Board.

Date: 27/5/03

Approved under section 38(5) of the Act —

ERIC RIPPER, Treasurer.

Date: 3/6/03

By Command of the Governor,

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