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STATE SUPERANNUATION ACT 2000

**STATE SUPERANNUATION
REGULATIONS 2001**

Western Australia

State Superannuation Regulations 2001

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State Superannuation Act 2000

State Superannuation Regulations 2001

Made by the Governor in Executive Council.

Part 1 — Preliminary**1. Citation**

These regulations may be cited as the *State Superannuation Regulations 2001*.

2. Commencement

These regulations come into operation on the day on which the *State Superannuation Act 2000* comes into operation.

3. Interpretation

In these regulations —

“charge percentage” means the Employer’s charge percentage for the relevant Member, calculated in accordance with section 20 or 21 of the SGA Act before applying any reduction under section 22 or 23 of that Act;

“contribution period” means the period selected under regulation 4;

State Superannuation Regulations 2001**Part 1** Preliminary**r. 3**

“**CPI rate**” means, for a financial year, the lesser of zero and the rate equal to CPI in the formula —

$$\text{CPI} = \frac{I_T - I_L}{I_L} \times 100$$

where —

I_T is the Consumer Price Index number (All Groups Index) for Perth published by the Commonwealth Statistician under the *Census and Statistics Act 1905* of the Commonwealth for the quarter ending on the 31 March immediately preceding the start of that financial year; and

I_L is that Index number for the quarter ending on the previous 31 March;

“**Division 1 Employer**” means an Employer listed or referred to in Division 1 of Schedule 1;

“**Division 2 Employer**” means an Employer listed or referred to in Division 2 of Schedule 1;

“**Gold State Super Member**” means a Member of the Gold State Super Scheme;

“**Gold State Super Scheme**” means the superannuation scheme continued by section 29(b) of the Act;

“**Member**” means, except in Part 7, a Gold State Super Member or a West State Super Member;

“**partial and permanent disablement**” means physical or mental incapacity to an extent that the Board considers that a Member is, and until turning 60 will remain —

- (a) unable to perform the duties of the Member’s job; but
- (b) able to perform the duties of another job (in either the public sector or the private sector) for which the Board considers the Member —
 - (i) is suited by reason of the Member’s education, training or experience; or

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(ii) would be suited if the Member was retrained;

“Pension Scheme” means the superannuation scheme continued by section 29(c) of the Act;

“Pension Scheme Member” means a person who —

- (a) is contributing for units of pension under the Pension Scheme; or
- (b) has made an election under section 60AA of the S&FB Act and who is not in receipt of a pension under the Pension Scheme;

“preserved benefit” means a benefit under regulation 44, 73 or 74(2)(a);

“Provident Scheme” means the superannuation scheme continued by section 29(d) of the Act;

“Provident Scheme Member” means a person who is a subscriber or contributor to the Provident Account (within the meaning of the S&FB Act);

“quarter” means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October;

“remuneration” has the meaning given by regulation 5;

“S&FB Act” includes the *Superannuation and Family Benefits Act 1938* as continued in force by section 26 of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* and as amended by these regulations;

“salary sacrifice agreement” means an agreement under which an Employer agrees to pay, as part of a Member’s remuneration, contributions to the Fund that would otherwise be payable by the Member or that the Member has agreed to pay;

“SGA Act” means the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth;

“SIS Act” means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

State Superannuation Regulations 2001**Part 1** Preliminary**r. 3**

“spouse” means the person who, immediately before the Member died —

- (a) was the Member’s husband or wife; or
- (b) was living with the Member on a bona fide domestic basis as the Member’s husband or wife;

“superannuation fund” means —

- (a) a regulated superannuation fund (as defined in the SIS Act);
- (b) an exempt public sector superannuation scheme (as defined in that Act);
- (c) a regulated approved deposit fund (as defined in that Act); or
- (d) a retirement savings account (as defined in the *Retirement Savings Accounts Act 1997* of the Commonwealth);

“the Employer”, in relation to a worker, means the Employer for whom the worker works;

“total and permanent disablement” means physical or mental incapacity to an extent that the Board considers that a Member is, and until turning 60 will remain, unable to perform the duties of any job (in either the public sector or the private sector) for which the Board considers the Member —

- (a) is suited by reason of the Member’s education, training or experience; or
- (b) would be suited if the Member was retrained;

“West State Super Member” means a member of the West State Super Scheme;

“West State Super Scheme” means the superannuation scheme continued by section 29(a) of the Act;

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“worker” means a person who is —

- (a) appointed under Part 3 of the *Public Sector Management Act 1994*;
- (b) the holder of an office or position established or continued under a written law;
- (c) appointed to an office or position by the Governor, a Minister, an Employer or another worker;
- (d) appointed under section 64(1) or 100(2) of the *Public Sector Management Act 1994*;
- (e) appointed under Part I of the *Police Act 1892*;
- (f) a member of the Governor’s establishment (as defined in the *Governor’s Establishment Act 1992*);
- (g) otherwise appointed by the Governor or a Minister as an officer, servant or member of staff of, for, or for the purposes of, an Employer;
- (h) otherwise employed under a contract of employment to work for, within, or for the purposes of an Employer;
- (i) engaged under a contract for services to provide services to, or for the purposes of, an Employer where at least 50% of the person’s remuneration under the contract is for the person’s labour; or
- (j) employed or engaged by a person who is not an Employer but who is seconded to work for, within or for the purposes of an Employer under an agreement that requires the Employer to provide superannuation for the person.

4. Selection of contribution period

- (1) The Board is to select a period to be the contribution period for each Employer and its workers.
- (2) The Board may select different contribution periods for different classes of workers of an Employer.

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- (3) The Board may change the contribution period or periods for an Employer provided the change is not detrimental to any Member.
- (4) The Board is to notify the Employer of the period or periods selected under this regulation and any change in the selection.
- (5) Until the Board selects otherwise the contribution period for an Employer is —
 - (a) in respect of workers who are Gold State Super Members — the fortnight commencing on the commencement day;
 - (b) in respect of workers who are West State Super Members and who are paid periodically at intervals of less than 3 months — the workers' pay period; and
 - (c) in respect of workers who are West State Super Members not covered by paragraph (b) — a quarter.

5. Meaning of “remuneration”

- (1) Subject to subregulation (6) and regulation 6, in these regulations —

“remuneration” means the monetary value, determined by the Employer, of all payments, benefits and allowances that —

 - (a) a Member is entitled to in his or her capacity as a worker; and
 - (b) the Employer, or a person authorised by the Employer, has certified that the Member —
 - (i) is likely to continue to be entitled to while the Member continues to hold the job held at the time of the certification; or
 - (ii) would be likely to continue to be entitled to if the Member were to continue to hold that job,

other than amounts excluded by subregulation (2) or (3).

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- (2) The remuneration of a Member does not include —
- (a) payments for overtime (but not payments instead of overtime);
 - (b) bonuses;
 - (c) payments in lieu of leave;
 - (d) allowances for rent, accommodation, subsistence, travelling or expenses;
 - (e) equipment allowances;
 - (f) climatic allowances;
 - (g) payments as a consequence of the termination of a job; or
 - (h) payments, benefits or allowances that the Board determines are to be regarded as not being part of the Member's remuneration because they are of a similar nature to those referred to in paragraphs (a) to (g).
- (3) The remuneration of a Gold State Super Member also does not include —
- (a) special allowances (as defined in regulation 12);
 - (b) annual leave loading;
 - (c) compensation in lieu of the opportunity for private practice;
 - (d) benefits under the Act;
 - (e) contributions to the Fund, other than contributions made under a salary sacrifice agreement; or
 - (f) payments, benefits or allowances that the Treasurer determines for the time being are not part of a Member's remuneration.

State Superannuation Regulations 2001**Part 1** Preliminary**r. 5**

- (4) A certificate for the purposes of paragraph (b) of the definition of “remuneration” may —
- (a) express the payment, benefit or allowance as a monetary amount or as a percentage of all or part of the remuneration; and
 - (b) be given in relation to one Member or a class of Members.
- (5) A determination —
- (a) under subregulation (3)(f); or
 - (b) by an Employer as to the value of any non-money payment, benefit or allowance,
- that would reduce the remuneration of a person who was a Member at the time the determination was made does not apply to the Member unless the Member gives notice to the Board consenting to its application to the Member.
- (6) If a Member’s remuneration is reduced and the Board is satisfied that the reduction is not attributable to —
- (a) the misconduct or inefficiency of the Member; or
 - (b) a reduction in the number of hours worked by the Member,
- the Board may determine the Member’s remuneration to be —
- (c) the Member’s remuneration before it was reduced;
 - (d) an amount representing the notional remuneration from time to time attributable to the job held by the Member immediately before the reduction; or
 - (e) some other notional remuneration that the Board considers appropriate.
- (7) A determination under subregulation (6) ceases to be in force if the Member’s actual remuneration increases to more than the amount of remuneration specified in the determination.

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- (1) The remuneration of a Member who works on a part-time basis is the actual remuneration received by the Member, not the remuneration of a comparable full-time worker.
- (2) Subject to regulation 16(4), for the purposes of these regulations the remuneration of a Member who is seconded is —
 - (a) for a Gold State Super Member — the Member's remuneration for the job from which the Member is seconded;
 - (b) for a West State Super Member who is seconded to a person who is an Employer — the Member's remuneration for the job to which the Member is seconded; or
 - (c) for a West State Super Member who is seconded to a person who is not an Employer — the higher of —
 - (i) the Member's remuneration for the job from which the Member is seconded; and
 - (ii) the Member's remuneration for the job to which the Member is seconded.
- (3) If a Member does not receive his or her remuneration on a regular basis throughout the year, the Board may treat the Member as having received that remuneration on a regular basis by —
 - (a) averaging the remuneration received over all the contribution periods in the year;
 - (b) determining the Member's remuneration to be a notional regular remuneration equal to the remuneration that a notional person holding the job held by the Member would receive if he or she were paid on a regular basis; or

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- (c) calculating a notional regular remuneration for the Member by some other means that the Board considers appropriate.

7. Prescribed Employers

For the purposes of paragraph (d) of the definition of “Employer” in section 3 of the Act, the authorities, bodies and persons listed in Schedule 1 are prescribed.

8. Who does a worker work for

- (1) A worker who is appointed under Part 3 of the *Public Sector Management Act 1994* and to whom subsections (2), (3) and (7) do not apply, is taken to work for the Employer for, within, or for the purposes of, which or whom the worker works.
- (2) A worker who is the holder of an office or position established or continued under a written law is taken to work for the Government of Western Australia.
- (3) A worker who is appointed to an office or position by the Governor, a Minister, an Employer or another worker is taken to work for the Government of Western Australia.
- (4) A worker who is appointed under section 64(1) or 100(2) of the *Public Sector Management Act 1994* is taken to work for the Employer for, within, or for the purposes of, which or whom the worker works.
- (5) A worker who is appointed under Part I of the *Police Act 1892* is taken to work for —
 - (a) in the case of the Commissioner of Police, the Government of Western Australia; and
 - (b) otherwise, the Commissioner of Police.
- (6) A worker who is a member of the Governor’s Establishment (as defined in the *Governor’s Establishment Act 1992*) is taken to work for the Governor.

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- (7) A worker who is a member of a department of the staff of Parliament referred to in the *Parliamentary and Electorate Staff (Employment) Act 1992* is taken to work for whichever of —
- (a) the President of the Legislative Council;
 - (b) the Speaker of the Legislative Assembly; or
 - (c) the President of the Legislative Council and the Speaker of the Legislative Assembly acting jointly,
- is specified in that Act as the worker's employer.
- (8) A worker who is otherwise appointed by the Governor or a Minister under an Act as an officer, servant or member of staff, of, for, or for the purposes of, an Employer and to whom subregulations (1) to (7) do not apply, is taken to work for that Employer.
- (9) A worker who is otherwise employed under a contract of employment to work for, within, or for the purposes of, an Employer, and to whom subregulations (1) to (8) do not apply, is taken to work for that Employer.
- (10) A worker who is engaged under a contract for services to provide services to, or for the purposes of, an Employer where at least 50% of the person's remuneration under the contract is for the person's labour, is taken to work for that Employer.
- (11) A worker who is employed or engaged by a person who is not an Employer but who is seconded to work for, within, or for the purpose of, an Employer under an agreement that requires the Employer to provide superannuation for the person is taken to work for that Employer.
- (12) If a worker is on secondment from one Employer to another, the worker is taken to work for the Employer to whom he or she is seconded.

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9. The Government, departments and unincorporated entities as Employers

- (1) Where, under these regulations, a worker is taken to work for the Government of Western Australia, the obligations of the Government as the Employer of the worker are to be discharged by —
 - (a) the Minister having general responsibility for the office or position held by the worker; or
 - (b) a person, or the employing authority of a department or organisation, specified by the Treasurer by order published in the *Gazette*.
- (2) An order under subregulation (1)(b) may specify that, in relation to the worker to whom it relates, the Government is a Division 2 Employer.
- (3) The Treasurer may, by order published in the *Gazette*, amend or revoke an order made under subregulation (1)(b).
- (4) Where, under these regulations, a worker is taken to work for a department or organisation that is not a corporate body, the obligations of the department or organisation as the Employer of the worker are to be discharged by the employing authority of the department or organisation.
- (5) In this regulation —
“employing authority” and **“organisation”** have the same meanings as they have in the *Public Sector Management Act 1994*.

10. When does a person cease to be a worker

For the purposes of these regulations a person ceases to be a worker on the day on which the Member's job actually terminates regardless of whether, or when, the Employer acted to terminate the job.

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r. 11**11. Persons in more than one job**

- (1) Subject to regulations 45(5) and 76(5) and subregulation (3), if a person works in more than one job for one or more Employers, these regulations apply as if the person were, in respect of each job, a separate person.
- (2) Without limiting subregulation (1), the fact that a person is, in respect of one job, ineligible to be a Member does not prevent the person from being a Member in respect of another job.
- (3) If, in a particular case, the application of subregulation (1) in relation to a person produces a result that the Board considers to be inequitable, the Board may, to the extent necessary to avoid the inequality, apply these regulations in relation to that person as if all of the person's jobs were one combined job.

State Superannuation Regulations 2001**Part 2** Gold State Super Scheme**Division 1** Preliminary**r. 12**

Part 2 — Gold State Super Scheme**Division 1 — Preliminary****12. Interpretation**

In this Part —

“adjustment day” means the day selected under regulation 27;**“average contribution rate”** has the meaning given by regulation 13;**“casual worker”** means a worker who the Board considers works on an ad hoc basis as required by the Employer and not on a regular or continuing basis;**“contribution day”** means the day selected under regulation 28;**“contributory membership period”** has the meaning given by regulation 14;**“eligible Gold State worker”** has the meaning given by regulation 15;**“employer contribution”** means a contribution under regulation 29;**“final remuneration”** has the meaning given by regulation 16;**“health condition”** means a condition imposed on a Gold State Super Member that —

- (a) any benefit payable to or in respect of the Member under regulations 39, 40 or 41 will be limited to the extent determined by the Board; or
- (b) no benefit will be payable to or in respect of the Member under regulations 39, 40 or 41;

“member contribution” means a contribution under regulation 32;**“member contribution rate”** means the rate selected under regulation 33;

State Superannuation Regulations 2001**Part 2** Gold State Super Scheme**Division 1** Preliminary**r. 13**

- (b) leave taken under an agreement between a Gold State Super Member and the Employer under which the Member is entitled to an additional period of paid leave in return for a proportionate reduction in the Member's pay over the period covered by the agreement;

“unrecognised unpaid leave” means unpaid leave that is not recognised unpaid leave.

13. Meaning of “average contribution rate”

- (1) Subject to subregulation (3), in this Part —

“average contribution rate”, for a Gold State Super Member, means the lesser of 5% and C in the formula —

$$C = \frac{S}{D}$$

where —

S is the sum of the member contribution rates applying for each day of the Member's contributory membership period; and

D is the number of days in the Member's contributory membership period.

- (2) If, in order to comply with a condition imposed under regulation 14(4), a Gold State Super Member's member contribution rate for a day is greater than 5%, then for the purposes of the definition of “average contribution rate” the Member's member contribution rate for that day is taken to be 5%.
- (3) If, in a particular case, the use of the formula in the definition of “average contribution rate” to calculate a Gold State Super Member's average contribution rate produces a result that the Board considers to be inequitable, the Board may, to the extent necessary to avoid the inequality, calculate the Member's average contribution rate in a different manner.

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14. Meaning of “contributory membership period”

- (1) Subject to subregulation (3) in this Part —
“contributory membership period” means the period during which a person is both a Gold State Super Member and an eligible Gold State worker excluding —
 - (a) any period of unrecognised unpaid leave; and
 - (b) any other period for which the Member did not make member contributions other than a period of recognised unpaid leave.
- (2) When determining the length of a Gold State Super Member’s contributory membership period, any period during which the Member worked on a part-time basis is to be counted as the number of complete months or days (as the case requires) of full-time work that the Board considers is equivalent to number of months or days of part-time work actually completed.
- (3) If the Treasurer considers there are special circumstances, the Treasurer may direct the Board to treat a Gold State Super Member as having a longer contributory membership period than the Member would otherwise have, and the Board is to give effect to that direction.
- (4) A direction under subregulation (3) may be conditional on the Member contributing at a rate greater than that which would otherwise be permitted.
- (5) The cost to the Fund (if any) of an increase in a Gold State Super Member’s contributory membership period as a result of a direction under subregulation (3) is to be assessed by an actuary and paid to the Fund by the Employer.

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15. Meaning of “eligible Gold State worker”

(1) In this Part —

“eligible Gold State worker” means a person who —

- (a) at all times on and from 30 December 1995 to the commencement day, was, or was taken to have been —
 - (i) a member of the 1987 scheme under the GES Act; or
 - (ii) eligible to be a member of that scheme;
 - (b) did not terminate his or her membership of the 1987 scheme under section 19A of the GES Act;
 - (c) subject to regulations 22 and 23, has been a worker continuously since the commencement day;
 - (d) is not excluded by subregulation (2); and
 - (e) has not voluntarily withdrawn from the Gold State Super Scheme under regulation 24.
- (2) A person is excluded by this subregulation if the person —
- (a) is a judge or other person with an entitlement, or an expectation of an entitlement, to a benefit under the *Judges’ Salaries and Pensions Act 1950*;
 - (b) is a Pension Scheme Member or a Provident Scheme Member, unless regulation 19(1)(b) or (c) applies to the person;
 - (c) is in receipt of a pension under the Pension Scheme, other than a reversionary pension;
 - (d) works on a part-time basis for less than one hour a week;
 - (e) is a casual worker whose remuneration for that casual job is less than \$250 a month;

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- (f) is a casual worker who has not worked in that casual job in the last 12 months and cannot reasonably expect to again work in that job;
 - (g) is a worker by reason only of paragraph (i) or (j) of the definition of “worker” in regulation 3;
 - (h) is a member of another superannuation fund under which the worker’s benefits are wholly or partly funded by the Employer, unless —
 - (i) the Employer funding is provided under a salary sacrifice agreement; or
 - (ii) the worker is not for the time being accruing Employer funded benefits in that fund;
 - (i) is receiving remuneration from the Employer that includes a component in substitution for superannuation; or
 - (j) subject to subregulation (3), is receiving, or has received, invalid or disability benefits under a public sector (including local government) superannuation scheme in the State or elsewhere in Australia.
- (3) The Board may decide that subregulation (2)(j) does not apply to a particular person.

16. Meaning of “final remuneration”

- (1) In this Part —

“**final remuneration**”, for a Gold State Super Member, means the amount of FR in the formula —

$$FR = \frac{[(R_1 \times D_1) + (R_2 \times D_2) + (R_3 \times D_3)]}{M} \times 365$$

where —

R is the Member’s daily rate of remuneration as at —

for R₁ the day on which the Member ceased to be an eligible Gold State worker;

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- for R₂ the Member's last selection day; and
for R₃ the Member's second last selection day,
or if the Member's contributory membership period
does not include that day, the day on which the
Member became a Gold State Super Member;
- D is the number of days on which the Member was a
Gold State Super Member —
- for D₁ on and after the Member's last selection day;
for D₂ on and after the Member's second last
selection day but before the Member's last
selection day; and
for D₃ on and after the first day of the last 2 years of
the Member's contributory membership
period but before the Member's second last
selection day,
or if the Member's contributory membership period
does not include the first day referred to in each case,
the day on which the Member became a Gold State
Super Member;
- M is the lesser of —
- (a) 730; and
(b) the number of days in the Member's
contributory membership period.
- (2) If a Gold State Super Member worked on a part-time basis on a
day mentioned in the definition of "final remuneration", then for
the purposes of that definition the Member's remuneration on
that day is taken to be the amount that would have been the
remuneration on that day of a comparable full-time worker.
- (3) If a Gold State Super Member —
- (a) receives a special allowance for a day mentioned in the
definition of "final remuneration"; and

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- (b) receives that allowance continuously for at least 12 months including that day,

then for the purposes of the definition of “final remuneration” the Member’s remuneration on that day is taken to include that allowance.

- (4) If a Gold State Super Member —
 - (a) is on secondment on a day mentioned in the definition of “final remuneration”; and
 - (b) that secondment continues for at least 12 months including that day,

then for the purposes of the definition of “final remuneration” the Member’s remuneration on that day is taken to be the higher of —

- (c) the remuneration for the job from which the Member was seconded; and
 - (d) the remuneration for the job to which the Member was seconded.
- (5) If a Gold State Super Member’s remuneration on a particular day was —
 - (a) nil; or
 - (b) less than the Board considers was the Member’s normal remuneration,

then for the purposes of the definition of “final remuneration” the Member’s remuneration for that day is taken to have been the Member’s normal remuneration.

17. Effect of changes to working hours

- (1) If a Gold State Super Member who works on a part-time basis —
 - (a) has his or her hours of work increased; or

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(b) starts working on a full-time basis,

and the Employer and Member reasonably expect that change is not of a temporary nature, then —

(c) for the purpose of calculating the amount of contributions payable by or for the Member, the change of working hours is taken to have occurred on the Member's next adjustment day; and

(d) for all other purposes, the change is taken to have occurred on the day it actually occurred.

(2) If a Gold State Super Member —

(a) who was working on a full-time basis, starts working on a part-time basis; or

(b) who works on a part-time basis, has his or her hours of work reduced,

and the Employer and Member reasonably expect that change is not of a temporary nature, then —

(c) for the purpose of calculating the amount of contributions payable by or for the Member, the change in working hours is taken to have occurred on the first day of the next contribution period starting after the change occurred; and

(d) for all other purposes, the change is taken to have occurred on the day it actually occurred.

18. Limits on insurance cover — health conditions

(1) The Board may require a Gold State Super Member to provide medical information when —

(a) the Member first becomes a Gold State Super Member;

(b) if the Member works on a part-time basis —

(i) his or her hours of work are increased; or

(ii) he or she starts working on a full-time basis,

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- and the Employer and Member reasonably expect that change is not of a temporary nature;
- (c) an application by the Member under regulation 22(2) is accepted; or
 - (d) an application by the Member under regulation 23(1) is accepted.
- (2) If a Member fails to provide medical information when required to do so under subregulation (1) the Board may impose a health condition on the Member.
- (3) If, after considering medical information provided by a Gold State Super Member, the Board is satisfied that the Member is suffering from a physical or mental condition that is likely to prevent the Member from satisfactorily performing his or her duties until the Member turns 60 the Board may impose a health condition on the Member.
- (4) If, in reliance on a statement made in medical information provided by a Gold State Super Member, the Board does not impose a health condition on the Member 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.
- (5) If a 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 —
- (a) remove or vary the condition; or
 - (b) in the case of a condition of the kind described in paragraph (b) of the definition of “health condition” in regulation 12, replace it with one of the kind described in paragraph (a) of that definition.

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- (6) If the Board imposes a health condition on a Member in circumstances described in subregulation (1)(b), the condition applies only in respect of the Member's membership relating to the increased working hours.
- (7) If the Board imposes a health condition on a Member in circumstances described in subregulation (1)(c) or (d), the condition applies only in respect of the Member's period of membership after the application is accepted.
- (8) In this regulation —
- “provide medical information”** means —
- (a) undergo one or more medical examinations as required by the Board and provide the resulting medical reports to the Board; or
 - (b) provide to the Board —
 - (i) information about —
 - (I) the Member's health and medical history; and
 - (II) any other matter the Board considers relevant,
 - and
 - (ii) medical reports,
- required by the Board to enable it to determine the Member's state of health and eligibility for benefits.

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- (2) For the purpose of subregulation (1)(c) a worker is **“retrenched”** if the worker ceases to be an employee within the meaning of the S&FB Act —
- (a) in circumstances in which the worker —
 - (i) becomes eligible to receive a payment under regulations made in accordance with section 94 of the *Public Sector Management Act 1994*; or
 - (ii) would have become eligible for such a payment if the worker’s service as an employee (within the meaning of the S&FB Act) had all been service in the Public Sector;
 - (b) on the expiry of the term of, or other termination of, the person’s contract of employment; or
 - (c) in any other circumstances approved by the Treasurer,
- unless the worker —
- (d) retires or is retired on the grounds of ill health;
 - (e) has his or her employment terminated because of misconduct or substandard or unsatisfactory performance; or
 - (f) is dismissed under Division 3 of Part 5 of the *Public Sector Management Act 1994* or, if the worker is not subject to that Division, is dismissed on disciplinary grounds.

20. Application to become a Gold State Super Member

- (1) If a worker makes an application to become a Gold State Super Member in accordance with regulation 19, the Board is to accept the application.
- (2) A worker may revoke an application to become a Gold State Super Member by giving notice to the Board within 2 months after the application was received by the Board.

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- (3) If the Board accepts an application under subregulation (2) —
- (a) the Member is taken not to have ceased to be an eligible Gold State worker;
 - (b) any benefit paid as a result of the cessation of work referred to in subregulation (2)(a) must be repaid together with interest at a rate, and calculated in a manner, determined by the Board; and
 - (c) any entitlement to a benefit that has not yet been paid arising from that cessation of work, terminates.
- (4) Despite subregulation (3)(a) no contributions may be paid by or in respect of the Member for the period from the cessation of work referred to in subregulation (2)(a) to the day on which the application under subregulation (2) is accepted.

23. Member who becomes ineligible due to reduced working hours then becomes eligible again

- (1) A Gold State Super Member who —
- (a) ceases to be an eligible Gold State worker because the Member's hours of work are reduced to less than one hour a week; and
 - (b) within 12 months of that cessation again becomes a worker who is not excluded by regulation 15(2) from being an eligible Gold State worker;

may apply to the Board to continue as a Gold State Super Member.

- (2) If the Board accepts an application under subregulation (1) —
- (a) the Member is taken not to have ceased to be an eligible Gold State worker; and
 - (b) the Member's entitlement to a preserved benefit arising from the cessation referred to in subregulation (1)(a) terminates.

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Division 3 — Contributions**Subdivision 1 — Preliminary****26. Meaning of “superannuation salary in respect of a contribution period”**

(1) Subject to this regulation, in this Division —

“superannuation salary in respect of a contribution period”

means a Gold State Super Member’s remuneration on the Member’s last selection day before the Member’s last adjustment day before the start of the contribution period.

(2) A Gold State Super Member’s superannuation salary in respect of a contribution period before the Member’s first adjustment day is the Member’s remuneration on the day on which he or she became a Member.

(3) If a Gold State Super Member’s remuneration is increased after the selection day referred to in subregulation (1) but before the adjustment day referred to in that subregulation as a result of —

- (a) the basis of the Member’s work changing from part-time to full-time; or
- (b) the Member’s hours of part-time work increasing,

the Member’s superannuation salary in respect of that contribution period is the increased remuneration.

(4) If a Gold State Super Member’s remuneration is reduced (for any reason) after the Member’s selection day and before the start of a contribution period, the Member’s superannuation salary in respect of that contribution period is the decreased remuneration.

27. Selection of adjustment day

(1) For each Gold State Super Member the Board is to select a day to be the Member’s annual adjustment day.

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- (b) if the Member is seconded to the Employer from another Employer — for each contribution period during the secondment; or
 - (c) if the Member is seconded from the Employer to a person who is not an Employer — for each contribution period during the secondment.
- (2) A Division 1 Employer is to contribute to the Fund for a Gold State Super Member who works for the Employer and is seconded to a person who is not an Employer, for each contribution period during the secondment.
- (3) The amount of each contribution under this regulation is equal to E in the formula —
- $$E = T \times M \times R$$
- where —
- T is 2.4 or such other rate as is determined by the Treasurer with the advice of an actuary;
 - M is the Member's member contribution rate; and
 - R is the Member's superannuation salary in respect of the contribution period.
- (4) A determination under subregulation (3) of a different rate for T —
- (a) is to be given to the Board; and
 - (b) may specify different rates for different Employers.

30. Payment of employer contributions

- (1) As soon as practicable after an Employer's contribution day the Board is to notify the Employer of the amount (if any) it is required to contribute under regulation 29 in respect of the period since the Employer's last contribution day.
- (2) An Employer must pay the amount notified under subregulation (1) within 7 days of receiving the notice.

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- (4) As soon as practicable after an Employer's contribution day the Board is to notify the Treasurer of the amounts of the contributions required to be made by the Crown for people to whom benefits have become payable since the Employer's last contribution day and who worked for the Employer immediately before becoming entitled to the benefit.

Subdivision 3 — Member contributions**32. Member contributions**

Subject to regulations 35 and 36 a Gold State Super Member is to contribute to the Fund for each complete contribution period during which the Member is an eligible Gold State worker an amount equal to —

- (a) the Member's member contribution rate; multiplied by
- (b) the Member's superannuation salary in respect of the contribution period,

rounded up or down to the nearest whole dollar.

33. Selection of member contribution rate

- (1) A Gold State Super Member is to select a rate to be the Member's member contribution rate and give notice of that selection to the Board.
- (2) Subject to this regulation a Gold State Super Member may select a member contribution rate of 3%, 4%, 5%, 6% or 7%.
- (3) A selection under subregulation (1) takes effect —
 - (a) if it is received by the Board before, on, or within 3 months after, the Member's adjustment day, from that adjustment day; or
 - (b) otherwise, from the Member's next adjustment day.

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- (2) An Employer who has —
- (a) deducted member contributions from a Member's pay;
or
 - (b) agreed to pay member contributions under a salary sacrifice agreement,

must pay those contributions to the Board within 7 days of the end of the contribution period to which they relate.

35. Recognised unpaid leave — options for member contributions

- (1) When the Board is notified that a Gold State Super Member is, or will be, on recognised unpaid leave the Board is to inform the Member of his or her rights under this regulation.
- (2) A Gold State Super Member who is on recognised unpaid leave may —
 - (a) continue paying member contributions as if the Member were not on leave;
 - (b) continue the Member's obligation to make member contributions for the period of the leave but defer the time for payment of those contributions until the Member returns to work ("**deferred contributions option**"); or
 - (c) subject to subregulation (4), make no member contribution for the period of the recognised unpaid leave ("**reduced benefit option**").
- (3) A Member is taken to have chosen to continue paying member contributions unless, not later than one month after the Board gives the information under subregulation (1), the Member gives notice to the Board that the Member has chosen the deferred contribution option or the reduced benefit option.

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37. Additional contributions if final remuneration includes special allowance or remuneration on secondment

If, under regulation 16(3) or 16(4), the remuneration used to determine a Gold State Super Member's final remuneration —

- (a) includes a special allowance; or
- (b) because the Member is on secondment, is higher than the remuneration used to determine contributions for the period of the secondment,

then the Member and Employer are each to make an additional contribution of an amount equal to the amount by which their respective contributions would have been increased if the Member's remuneration for the purpose of calculating contributions for each contribution period during which the Member was entitled to the special allowance or was on secondment (as the case requires) had been the remuneration used to calculate the Member's final remuneration.

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 Gold State Super Scheme **Part 2**
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Division 4 — Benefits

38. Retirement benefit

If a Gold State Super Member who is 55 or over ceases to be an eligible Gold State worker and no benefit is payable under regulations 39 to 43 the Board is to pay the Member a benefit of an amount equal to B in the formula —

$$B = R \times \frac{M}{12} \times \frac{C}{5} \times \frac{20}{100}$$

where —

- R is the Member's final remuneration;
- M is the number of complete months in the Member's contributory membership period; and
- C is the Member's average contribution rate.

39. Death benefit

Subject to regulation 42, if a Gold State Super Member dies while still an eligible Gold State worker the Board is to pay a benefit of an amount equal to B in the formula —

$$B = R \times \frac{M + (F \times P)}{12} \times \frac{C}{5} \times \frac{20}{100}$$

where —

- R is the Member's final remuneration;
- M is the number of complete months in the Member's contributory membership period;
- F is —
 - (i) if the Member died while under 60, the number of complete months from that day to the day when the Member would have turned 60; or
 - (ii) otherwise, zero;

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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;

and

C is the Member's average contribution rate.

40. Total and permanent disablement benefit

Subject to regulations 42 and 49, if a Gold State Super Member who is under 60 ceases to be an eligible Gold State worker because of total and permanent disablement the Board is to pay the Member 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.

41. Partial and permanent disablement benefit

- (1) Subject to regulations 42 and 49, if a Gold State Super Member who is under 60 ceases to be an eligible Gold State worker because of partial and permanent disablement the Board is to pay the Member a benefit of an amount equal to B in the formula —

$$B = \left[R \times \frac{M}{12} \times \frac{C}{5} \times \frac{20}{100} \right] + \left[(R - E) \times \frac{F}{12} \times \frac{C}{5} \times \frac{20}{100} \right]$$

where —

R is the Member's final remuneration;

M is the number of complete months in the Member's contributory membership period;

C is the Member's average contribution rate;

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E is the annual amount of the remuneration that the Board considers the Member has the capacity to earn after becoming disabled; and

F is the number of complete months from the day the Member ceased to be an eligible Gold State worker to the day when the Member will turn 60.

- (2) For the purpose of determining the value of E in the formula in subregulation (1) the Board —
- (a) may obtain and have regard to advice from any person the Board considers appropriate; and
 - (b) is to take into account the possibility of work in either the public sector or the private sector.

42. Restriction of death and disablement benefits

- (1) If a Gold State Super Member who is subject to a health condition dies while still an eligible Gold State worker or ceases to be an eligible Gold State worker because of total and permanent disablement or partial and permanent disablement —
- (a) if the condition is of the kind described in paragraph (a) of the definition of “health condition” in regulation 12 — a benefit is payable under regulation 39, 40 or 41 only if the Board is satisfied that the Member’s death or disablement 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 condition; or
 - (b) if the condition is of the kind described in paragraph (b) of the definition of “health condition” in regulation 12 — no benefit is payable under regulation 39, 40 or 41.
- (2) If a health condition applies only in respect of part of the Member’s period of membership, subregulation (1) applies only in respect of that part of the period of membership.

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- (3) If a Gold State Super Member dies while still an eligible Gold State worker or ceases to be an eligible Gold State worker because of total and permanent disablement or partial and permanent disablement while on unrecognised unpaid leave a benefit is payable under regulation 39, 40 or 41 only if the Member chose, under regulation 36(2), to continue the Member's benefit entitlements and has paid the amounts required under that regulation.

43. Benefit on death or disablement in other circumstances

If a Gold State Super Member —

- (a) dies while still an eligible Gold State worker; or
- (b) in the Board's opinion —
- (i) ceases to be an eligible Gold State worker on the ground of physical or mental incapacity to perform the Member's duties; and
 - (ii) if the Member is under 60, will continue to have that incapacity until the Member turns 60,

and no benefit is payable under regulation 39, 40 or 41, the Board is to pay a benefit of an amount equal to B in the formula —

$$B = R \times \left[\left(\frac{M}{12} \times \frac{C}{5} \times \frac{20}{100} \right) + \left(\frac{F}{12} \times \frac{G}{100} \right) \right]$$

where —

- R is the Member's final remuneration;
- M is the number of complete months in the Member's contributory membership period;
- C is the Member's average contribution rate;

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 Gold State Super Scheme **Part 2**
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r. 44

F is —

- (i) if the Member was under 60 when the Member ceased to be an eligible Gold State worker or died, the number of complete months from that day to the day when the Member will turn, or would have turned, 60; or
- (ii) otherwise, zero.

and

G is the number that would have been the employer's charge percentage for the Member for the quarter during which the Member ceased to be a worker or died.

44. Benefit on other termination of work

A Gold State Super Member who ceases to be an eligible Gold State worker in circumstances where no other benefit is payable under this Part is entitled to a preserved benefit of an amount equal to B in the formula —

$$B = R \times \frac{M}{12} \times \frac{C}{5} \times \frac{20}{100}$$

where —

- R is the Member's final remuneration;
- M is the number of complete months in the Member's contributory membership period;
- C is the Member's average contribution rate.

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Division 5 — Payment of benefits**45. Restriction on payment of preserved benefits**

- (1) Subject to subregulation (4) and regulation 47 the Board must not pay a Gold State Super Member's preserved benefit until the Member —
 - (a) is both —
 - (i) at least 55 years of age; and
 - (ii) no longer a worker or works for less than 10 hours a week;
 - (b) is totally and permanently disabled or partially and permanently disabled; or
 - (c) dies.
- (2) If a Gold State Super Member's preserved benefit becomes payable under subregulation (1)(a) or (b) the Board is to pay the benefit plus interest under regulation 46 to the Member.
- (3) If a Gold State Super Member's preserved benefit becomes payable under subregulation (1)(c), the Board is to pay the benefit plus interest under regulation 46 in accordance with regulation 48.
- (4) If a Gold State Super Member's preserved benefit is less than \$200 the Board is to pay the benefit to the Member when the Member becomes entitled to the benefit.
- (5) If a Gold State Super Member works in more than one job the reference in subregulation (1)(a)(ii) to the number of hours a week worked is taken to be a reference to the total number of hours worked by that Member in all of those jobs.

46. Interest on preserved benefits

Interest accrues on a Gold State Super Member's preserved benefits —

- (a) at a rate equal to the CPI rate plus 1%;

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- (3) If the amount of a Gold State Super Member's death benefit is \$25 000 or less and —
- (a) after 3 months after the Member's death the Board has not been notified of —
 - (i) the grant of probate of the Member's will or letters of administration of the Member's estate; or
 - (ii) a person's intention to apply for a grant of probate or letters of administration;
 - or
 - (b) the Board considers it desirable to do so in order to relieve or avoid hardship,
- the Board may —
- (c) pay the benefit to one or more of the Member's spouse, relatives and dependants, in proportions determined by the Board;
 - (d) use the benefit to pay the Member's funeral expenses or reimburse a person who has paid those expenses, and pay the balance in accordance with paragraph (c); or
 - (e) in special circumstances, pay the benefit, or the balance referred to in paragraph (d), to some other person.
- (4) In this regulation —
- “death benefit”** means —
- (a) a benefit payable under regulation 39 or 43(a);
 - (b) a Gold State Super Member's preserved benefit that has become payable because the Member has died; or
 - (c) a benefit that became payable to a Gold State Super Member but which was not paid or transferred under regulation 47 before the Member died.

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- (4) A Gold State Super Member may withdraw an application for a disablement benefit by giving notice to the Board at any time before the benefit is paid.
- (5) In this regulation —
“disablement benefit” means a benefit under regulation 40, 41 or 43(b).

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Part 3 — West State Super Scheme

Division 1 — Preliminary

50. Interpretation

In this Part —

“**benefit account**” means an account kept under regulation 66(1);

“**compulsory contribution**” means —

- (a) a contribution under regulation 54; or
- (b) if notice under regulation 55 specifies a day before the day on which it was given as the day from which the increase effected by the notice applies, the extra contributions payable in respect of the period before the notice was given;

“**eligible statutory Member**” means a statutory Member other than a Member who has become excluded from becoming a statutory Member by regulation 51(2) or (3);

“**member contribution**” means a contribution under regulation 63;

“**statutory Member**” means a person who is a Member of the West State Super Scheme under regulation 51;

“**voluntary Member**” means a person who is a Member of the West State Super Scheme under regulation 52.

Division 2 — Membership

51. Statutory Members

- (1) Every person who becomes a worker after the commencement day and who is not excluded by subregulations (2) or (3) becomes a statutory Member on the day on which he or she becomes a worker.

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 2** Membership**r. 51**

- (2) A worker is excluded by this subregulation from becoming a statutory Member if the worker —
- (a) is a Gold State Super Member, other than a Member who is entitled to a preserved benefit that is not yet payable;
 - (b) is a Pension Scheme Member or a Provident Scheme Member;
 - (c) is a judge or other person with an entitlement to, or expectation of, a benefit under the *Judges' Salaries and Pensions Act 1950*; or
 - (d) works outside Australia and is not a resident of Australia (as defined in the SGA Act).
- (3) A worker is excluded by this subregulation from becoming a statutory Member if —
- (a) the Employer —
 - (i) has established a superannuation scheme or fund in accordance with section 30(1) of the Act;
 - (ii) has approval under section 30(2) of the Act to contribute to a superannuation scheme or fund other than one described in section 30(2)(a), (b) or (c) of the Act; or
 - (iii) is a participating employer in a scheme or fund that was established before 28 December 1989;
 - (b) the worker is a member of that scheme or fund; and
 - (c) the Employer contributes to that scheme or fund for the worker not less than the amount that is necessary for the Employer to avoid incurring an individual superannuation guarantee shortfall (within the meaning of the SGA Act) in respect of the worker.

State Superannuation Regulations 2001
West State Super Scheme **Part 3**
Contributions **Division 3**
r. 52

52. Voluntary Members

- (1) A worker (including a Gold State Super Member, Pension Scheme Member or Provident Scheme Member) who is not a statutory Member may apply to become a voluntary Member.
- (2) A Gold State Super Member, Pension Scheme Member or Provident Scheme Member who transfers an amount to the West State Super Scheme under regulation 65(b) becomes a voluntary Member when that transfer is accepted by the Board.
- (3) An Employer may nominate a worker who is not a statutory Member as a voluntary Member.
- (4) The Board is to accept an application or nomination under this regulation if the Minister approves.

53. Cessation of membership

A person ceases to be a West State Super Member when —

- (a) all benefits that are or may be payable to or in respect of the person from the West State Super Scheme have been paid; or
- (b) a transfer is made to another superannuation fund in satisfaction of all of the person's entitlements to benefits from the West State Super Scheme.

Division 3 — Contributions

Subdivision 1 — Employer contributions

54. Compulsory contributions for eligible statutory Members

- (1) A Division 2 Employer is to contribute to the Fund for an eligible statutory Member —
 - (a) if the Member works for the Employer — for each contribution period during which the Member works for that Employer;

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 3** Contributions**r. 54**

- (b) if the Member is seconded to the Employer from another Employer — for each contribution period during the secondment; and
 - (c) subject to subregulation (3), if the Member is seconded from that Employer to a person who is not an Employer — for each contribution period during the secondment.
- (2) Subject to subregulation (3), a Division 1 Employer is to contribute to the Fund for an eligible statutory Member who works for the Employer and is seconded to a person who is not an Employer, for each contribution period during the secondment.
- (3) Subregulations (1)(c) and (2) do not apply if the agreement under which the Member is seconded requires the person to whom the Member is seconded to contribute to another superannuation fund for the Member not less than the amount that the Employer would otherwise be required to contribute to the Fund under this Division.
- (4) The Crown is to contribute to the Fund for an eligible statutory Member for each contribution period during which the Member —
 - (a) works for a Division 1 Employer; or
 - (b) is seconded to a Division 1 Employer from another Employer.
- (5) A contribution under subregulation (4) is to be paid from the Consolidated Fund.
- (6) The amount of each compulsory contribution is equal to C in the formula —
$$C = R \times \frac{G}{100}$$
where —

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 3** Contributions**r. 56**

56. Payment of compulsory contributions

- (1) Subject to subregulations (2) and (3), an Employer or the Crown (as the case requires) must pay a compulsory contribution for an eligible statutory Member for a contribution period —
 - (a) if the contribution period is the Member's pay period, within 7 days after the end of the contribution period; or
 - (b) otherwise, within 28 days after the end of the contribution period.
- (2) If a compulsory contribution for an eligible statutory Member for a contribution period is increased under regulation 55 by a notice given after the end of the contribution period, the Employer must pay the increase —
 - (a) if the contribution period was the Member's pay period, within 7 days after the notice was given; or
 - (b) otherwise, within 28 days after the notice was given.
- (3) Where a Division 1 Employer is required to make a compulsory contribution under regulation 54(2), the Board may allow the Employer such longer period within which to pay the contribution as the Board thinks fit.

57. Voluntary employer contributions

- (1) The Board may, with the Treasurer's approval, permit an Employer to make —
 - (a) additional contributions for an eligible statutory Member;
 - (b) contributions for a statutory Member who is not an eligible statutory Member; or
 - (c) contributions for a voluntary Member,who works for the Employer.

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 3** Contributions**r. 62**

- (2) An Employer given a notice under subregulation (1) may request the Board to review the calculations on which the notice was based.
- (3) On receipt of a request under subregulation (2) the Board is to review those calculations and notify the Employer.
- (4) The decision of the Board on a review is final and binding.

62. Treasurer may require additional amounts to be paid

- (1) The Treasurer may, on the advice of an actuary, give a direction to the Board requiring Employers who are required to make compulsory contributions under regulation 54(1) or (2) to pay additional amounts to the Board, and Employers to whom the direction applies must comply with it.
- (2) A direction under subregulation (1) may specify —
 - (a) the time when, and the manner in which, the additional amounts are to be paid; and
 - (b) different provisions for different Employers.
- (3) Amounts paid under this regulation are not to be credited to Members' benefit accounts.
- (4) The Treasurer may, by notice to the Employer, allow an Employer to defer payment of amounts payable under this regulation on terms determined by the Treasurer and set out in the notice.
- (5) Section 43(7) and (8) of the *Interpretation Act 1984* apply to a notice under subregulation (4) as if it were subsidiary legislation.
- (6) The Treasurer is to give to the Board a copy of a notice given under subregulation (4).

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 4** Benefit accounts**r. 66**

Division 4 — Benefit accounts**66. Benefit accounts**

- (1) The Board is to establish and maintain in the Fund a benefit account for each West State Super Member.
- (2) The Board may divide a benefit account into 2 or more sub-accounts.

67. Amounts to be credited to benefit accounts

- (1) The Board is to credit to a West State Super Member's benefit account —
 - (a) the Employer's compulsory contributions for the Member;
 - (b) any voluntary employer contributions made under regulation 57 for the Member;
 - (c) any payments accepted from the Commissioner of Taxation under regulation 58 or 59;
 - (d) any member contributions made by the Member;
 - (e) any amounts transferred by the Member from other superannuation funds under regulation 65; and
 - (f) interest in accordance with regulation 69.
- (2) The Board may temporarily keep contributions made for a West State Super Member, together with contributions made for other West State Super Members, in an account maintained for that purpose until the contributions are credited to the appropriate benefit accounts.

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 5** Benefits**r. 70****Division 5 — Benefits****70. Death benefit —eligible statutory Members**

If an eligible statutory Member dies while still a worker the Board is to pay a 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 balance of the Member's benefit account;

R is —

- (i) if the Member has been a statutory 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; and

F is —

- (i) if the Member was under 60 on the day the Member died — the number of complete months from that day to the day when the Member would have turned 60; or
- (ii) otherwise, zero.

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 West State Super Scheme **Part 3**
 Benefits **Division 5**
r. 71

71. Total and permanent disability benefit — eligible statutory Members

- (1) Subject to regulation 81 and subregulation (2) if an eligible statutory Member who is under 60 ceases to be a worker because of total and permanent disablement, the Board is to pay the Member a benefit equal to the benefit that would have been payable under regulation 70 if the Member had died on the day the Member ceased to be a worker.
- (2) If an eligible statutory Member entitled to a benefit under subregulation (1) 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 benefit under subregulation (1) to the extent it considers appropriate (but not to an amount less than the balance of the Member's benefit account).

72. Partial and permanent disability benefit — eligible statutory Members

- (1) Subject to regulation 81 and subregulation (3) if an eligible statutory Member who is under 60 ceases to be a worker because of partial and permanent disablement the Board is to pay the Member a 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 balance in the Member's benefit account;

R is —

- (i) if the Member has been a statutory 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

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 5** Benefits**r. 72**

- (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;
 - 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; and
 - 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.
- (2) For the purpose of determining the value of E in the formula in subregulation (1) the Board is to take into account the possibility of work in either the public sector or the private sector.
- (3) If the Member entitled to a benefit under subregulation (1) 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 benefit under subregulation (1) to the extent it considers appropriate (but not to an amount less than the balance of the Member's benefit account).

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 6** Payment of benefits**r. 76**

Division 6 — Payment of benefits**76. Restriction on payment of preserved benefits**

- (1) Subject to subregulation (4) and regulation 79 the Board must not pay a West State Super Member's preserved benefit until —
 - (a) the Member is both —
 - (i) at least 55 years of age; and
 - (ii) no longer a worker or works for less than 10 hours a week;
 - (b) the Member is totally and permanently disabled or partially and permanently disabled; or
 - (c) the Member dies.
- (2) If a West State Super Member's preserved benefit becomes payable under subregulation (1)(a) or (b) the Board is to pay the benefit plus interest under regulation 78 to the Member.
- (3) If a West State Super Member's preserved benefit becomes payable under subregulation (1)(c), the Board is to pay the benefit plus interest under regulation 78 in accordance with regulation 80.
- (4) If a West State Super Member's preserved benefit is less than \$200 the Board is to pay the benefit to the Member —
 - (a) when 12 months have elapsed since the Member became entitled to the benefit; or
 - (b) when it becomes payable under subregulation (1),whichever occurs first.
- (5) If a West State Super Member works in more than one job the reference in subregulation (1)(a)(ii) to the number of hours a week worked is taken to be a reference to the total number of hours worked by that Member in all of those jobs.

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 6** Payment of benefits**r. 80**

- (b) the Board need not comply with the request until 12 months have elapsed since the Member became entitled to the benefit.
- (3) The Board may transfer a West State Super Member's benefit to an eligible rollover fund (as defined in the SIS Act) if that fund is permitted by the SIS Act to accept the benefit, whether or not the Member has requested the transfer.

80. Payment of death benefits

- (1) Subject to subregulation (3), the Board is to pay a West State Super Member's death benefit to the executor or administrator of the Member's estate.
- (2) A benefit paid under subregulation (1) to the executor or administrator of a Member's estate —
 - (a) forms part of the Member's estate; but
 - (b) is not an asset in the Member's estate that is applicable in payment of the Member's debts and liabilities.
- (3) If the amount of a West State Super Member's death benefit is \$25 000 or less and —
 - (a) after 3 months after the Member's death the Board has not been notified of —
 - (i) the grant of probate of the Member's will or letters of administration of the Member's estate; or
 - (ii) a person's intention to apply for a grant of probate or letters of administration;
 - or
 - (b) the Board considers it desirable to do so in order to relieve or avoid hardship,

the Board may —

State Superannuation Regulations 2001
West State Super Scheme **Part 3**
Payment of benefits **Division 6**
r. 81

- (c) pay the benefit to one or more of the Member's spouse, relatives and dependants, in proportions determined by the Board;
 - (d) use the benefit to pay the Member's funeral expenses or reimburse a person who has paid those expenses, and pay the balance in accordance with paragraph (c); or
 - (e) in special circumstances, pay the benefit, or the balance referred to in paragraph (d), to some other person.
- (4) In this regulation —
- “death benefit”** means —
- (a) a benefit payable under regulation 70;
 - (b) a West State Super Member's preserved benefit that has become payable because the Member has died; or
 - (c) a benefit that became payable to a West State Super Member but which, at the time of the Member's death, had not been paid or transferred under regulation 79.

81. Application for disablement benefits or payment of preserved benefit on disablement

- (1) A West State Super Member's disablement benefit is not payable unless the Member —
 - (a) applies for it within 12 months of ceasing to be a worker; and
 - (b) complies with subregulation (3).
- (2) For the purpose of assessing an application —
 - (a) under subregulation (1)(a) for a disablement benefit; or
 - (b) for payment of a preserved benefit under regulation 76(1)(b),

the Board may obtain and have regard to such medical or other information as it considers appropriate.

State Superannuation Regulations 2001**Part 3** West State Super Scheme**Division 6** Payment of benefits**r. 81**

- (3) A West State Super Member who applies for a disablement benefit or payment of a preserved benefit under regulation 76(1)(b) must —
- (a) give to the Board all the information required by the Board to enable it to determine the Member's entitlement to the benefit;
 - (b) undertake any medical examinations required by the Board;
 - (c) authorise the Board to obtain any medical, personal and other information about the Member that the Board considers relevant to the application;
 - (d) in the case of an application for a disablement benefit —
 - (i) undertake any assessment for job retraining required by the Board; and
 - (ii) assist any investigation by the Board into the Member's ability to undertake work or work of a particular kind.
- (4) A West State Super Member may withdraw an application for a disablement benefit by giving notice to the Board at any time before the benefit is paid.
- (5) In this regulation —
- “disablement benefit”** means a benefit under regulation 71 or 72.

[Parts 4 and 5 reserved]

[Regulation numbers 82 to 219 are reserved.]

State Superannuation Regulations 2001
Information requirements **Part 6**

r. 220

Part 6 — Information requirements

220. Information to new Members

As soon as practicable after a person becomes a Member the Board is to give the person a statement setting out —

- (a) the kind of benefits provided under the Gold State Super Scheme or the West State Super Scheme (as the case requires);
- (b) the method of calculating those benefits; and
- (c) the conditions relating to those benefits.

221. Annual statement to Members

- (1) For each Member the Board is to select a day to be the Member's annual reporting day.
- (2) The Board may change a Member's annual reporting day but any such change must not result in a reporting period being more than 12 months.
- (3) The Board is to notify the Member of the day selected under subregulation (1) and any change in that selection.
- (4) Until the Board selects otherwise a Member's annual reporting day is 30 June.
- (5) As soon as practicable after the last day of a Member's reporting period the Board is to give to the Member a statement setting out, for the reporting period —
 - (a) the amount of contributions made by the Member during the reporting period;
 - (b) the amount of benefits vested in the Member on the first and last days of the reporting period expressed as a multiple of the Member's final remuneration;
 - (c) how the amount of those benefits was calculated;

State Superannuation Regulations 2001**Part 6** Information requirements**r. 222**

- (d) the amount of the current death and total and permanent disability benefit payable to or in respect of the Member expressed as a multiple of the Member's final remuneration;
 - (e) the rate of interest allotted to the Member during the reporting period; and
 - (f) the nature and purpose of any changes made to the Act during the reporting period and their effect (if any) on the Member's entitlements.
- (6) If the Member is entitled to a preserved benefit, the statement must also set out when that benefit will become payable.
- (7) In this regulation —
- “annual reporting day”** means the day selected under subregulation (1);
- “reporting period”** means —
- (a) on and before a Member's first annual reporting day — the period from the day the person became a Member to that first annual reporting day; and
 - (b) otherwise, the period from one annual reporting day to the next.

222. Information to exiting Member

- (1) As soon as practicable after a person ceases to be a Member, the Board is to give the person a statement setting out —
- (a) the amount of the person's benefit entitlement;
 - (b) the extent to which the benefit is a preserved benefit; and

State Superannuation Regulations 2001

Information requirements

Part 6**r. 223**

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- (c) in the case of a benefit under regulation 44, 73 or 74, the information required by regulation 221 to be included in an annual statement in relation to the period —
- (i) from —
 - (I) if the person ceases to be a Member before receiving an annual statement under regulation 221 — the day the person became a Member; or
 - (II) otherwise — the end of the period covered by the last statement given under that regulation;
 - (ii) to the day when the person ceased to be a Member.
- (2) If a person ceases to be a Member because the person dies the Board is to give the statement under subregulation (1) to the executor or administrator (if any) of the Member's estate.

223. Employers to provide information to the Board

- (1) The Board may give directions to Employers setting out the information Employers are to give to the Board about workers who are, or have applied to become, Members, and an Employer is to comply with those directions.
- (2) If an Employer fails to comply with a direction given under subregulation (1), the Board may —
 - (a) if the information relates to a worker's application to become a Gold State Super Member, refuse to accept the application; or
 - (b) if the information relates to —
 - (i) a Member's entitlement to a benefit; or

State Superannuation Regulations 2001**Part 6** Information requirements**r. 224**

- (ii) the amount of a benefit to which a Member is entitled,

defer payment of the benefit until the information is provided.

224. Member may request information from the Board

- (1) A Member may ask the Board for —
 - (a) a copy of, or an extract from, an actuarial report on the Fund;
 - (b) a copy of an auditor's report on the Fund;
 - (c) a copy of any return, certificate or notice provided by the Board to, or received by the Board from, the Australian Prudential Regulation Authority, established under the *Australian Prudential Regulation Authority Act 1998* of the Commonwealth,and the Board is to comply with that request.
- (2) The Board need not give a copy of a document to a Member if it has previously given the Member a copy of that document.

State Superannuation Regulations 2001

Board elections

Part 7**r. 225****Part 7 — Board elections****225. Interpretation**

In this Part —

“close of nominations” means the end of the period within which nominations for candidates for an election must be lodged;

“Member” means —

- (a) a Gold State Super Member or West State Super Member;
- (b) a Provident Scheme Member or Pension 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;

“organisation” means an organisation of employees registered pursuant to the *Conciliation and Arbitration Act 1904* of the Commonwealth or the *Industrial Relations Act 1979*;

“Registrar” means the Registrar appointed under the *Industrial Relations Act 1979*;

“returning officer” means the person appointed under regulation 228;

“UnionsWA” means the body known as Unions Western Australia (and formerly known as the Trades and Labor Council of Western Australia).

226. Conduct of elections

Elections for the purposes of section 8(1)(c) of the Act are to be conducted by UnionsWA in accordance with these regulations.

State Superannuation Regulations 2001**Part 7** Board elections**r. 227**

227. Notification of need for an election

The Board is to notify UnionsWA that an election is required —

- (a) at least 6 months before the expiry of the term of office of a current director elected under section 8(1)(c) of the Act; or
- (b) in the case of an election to fill a casual vacancy in the office of a director elected under section 8(1)(c) of the Act, as soon as practicable after the vacancy occurs.

228. Appointment of returning officer

On receipt of a notification under regulation 227 UnionsWA is to appoint a returning officer who is to be responsible for the conduct of the election.

229. Returning officer to call for nominations

- (1) On being appointed the returning officer is to cause to be published at least once in a newspaper circulating throughout the State a notice calling for nominations for candidates for the election.
- (2) The notice is to set out —
 - (a) the number of vacancies to be filled at the election;
 - (b) the term of office;
 - (c) the form in which nominations are to be made;
 - (d) the place where nominations are to be lodged;
 - (e) the period within which nominations are to be lodged, which is to be at least 14 days in duration; and
 - (f) the eligibility requirements for election.
- (3) The notice must be published not less than 14 days, and not more than 21 days, before the commencement of the period for lodging nominations.

State Superannuation Regulations 2001

Board elections

Part 7**r. 230**

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- (4) The returning officer is to give a copy of the notice to the Registrar.

230. Nominations

- (1) A nomination of a Member as a candidate is to be —
- (a) in writing, signed by the nominee;
 - (b) signed by 5 Members (not including the nominee, if he or she is a Member); and
 - (c) given to the returning officer before the close of nominations.
- (2) If a nomination does not comply with subregulation (1) the returning officer is to reject it and notify the nominee.
- (3) A candidate may withdraw his or her nomination before the close of nominations by giving notice to the returning officer.

231. Determination of need for an election

- (1) If, at the close of nominations, the number of candidates is equal to the number of vacancies to be filled at the election, the candidate is, or candidates are, elected unopposed.
- (2) If, at the close of nominations, the number of candidates is less than the number of offices to be filled at the election —
- (a) the candidate is, or candidates are, elected;
 - (b) the returning officer is to notify the Minister; and
 - (c) the unfilled vacancies are to be taken to be casual vacancies occurring on the day after the close of nominations.
- (3) If, at the close of nominations, the number of candidates is greater than the number of vacancies, an election is to be held.

State Superannuation Regulations 2001**Part 7** Board elections**r. 232**

232. Entitlement of organisations to vote

- (1) An organisation whose members includes people who are, or are eligible to become, Members may vote in an election.
- (2) On receipt of a notice under regulation 229(4) the Registrar is to determine, for each organisation entitled to vote in the election, the number of people who —
 - (a) are, or are eligible to become, members of the organisation; and
 - (b) are, or are eligible to become, Members.
- (3) In making a determination under subregulation (2) the Registrar is to —
 - (a) have regard to the public sector employment statistics of the State; and
 - (b) consult with —
 - (i) the department of the public service principally assisting the Minister to whom the administration of the *Industrial Relations Act 1979* is for the time being committed by the Governor in the administration of that Act;
 - (ii) UnionsWA;
 - (iii) the Board; and
 - (iv) the relevant organisation.
- (4) An organisation entitled to vote in an election may cast the number of votes equal to the number of people (as determined under subregulation (2)) who —
 - (a) are, or are eligible to become, members of the organisation; and
 - (b) are, or are eligible to become, Members.

State Superannuation Regulations 2001

Board elections

Part 7**r. 233****233. Ballot papers**

- (1) When an election is to be held the returning officer is to —
 - (a) draw lots to determine the order in which the candidates' names are to appear on the ballot paper; and
 - (b) cause ballot papers to be printed for each organisation entitled to vote in the election.
- (2) Each ballot paper is to set out —
 - (a) whether the election is a regular triennial election or to fill a casual vacancy;
 - (b) the name of the organisation entitled to exercise the vote;
 - (c) the number of votes the organisation is entitled to cast, as determined under regulation 232;
 - (d) the names of each of the candidates in the order determined under subregulation (1)(a);
 - (e) instructions on how to mark the ballot paper; and
 - (f) where, when and how the ballot paper is to be returned to the returning officer.
- (3) The time specified under subregulation (2)(f) as the time by which ballot papers must be returned must not be more than 28 days after the close of nominations.
- (4) Within 14 days of the close of nominations the returning officer is to deliver to the secretary (or a similar officer) of each organisation eligible to vote in the election a ballot paper initialled by the returning officer.

234. Replacement ballot paper

If the returning officer is satisfied that the ballot paper for an organisation entitled to vote at the election has not been received or has been lost or spoiled, the returning officer may issue a replacement ballot paper to that organisation.

State Superannuation Regulations 2001**Part 7** Board elections**r. 235**

235. Voting

- (1) To exercise its right to vote in an election an organisation is to —
 - (a) fill in the ballot paper by numbering the candidates sequentially in order of preference starting with the number “1”; and
 - (b) return the ballot paper to the returning officer in accordance with the instructions set out on the ballot paper.
- (2) An organisation is taken to have complied with subregulation (1)(a) if it has, in accordance with that subregulation, numbered all except one candidate, and in that case that candidate is taken to rank last in the organisation’s order of preference.
- (3) On receipt of a ballot paper the returning officer is to place it in a ballot box arranged for the purpose.

236. Scrutineers

- (1) Each candidate may, by notice to the returning officer, appoint a scrutineer and a deputy scrutineer.
- (2) A scrutineer or deputy scrutineer must not be a candidate in the election.
- (3) A scrutineer (or in the absence of the scrutineer, the deputy scrutineer) for each candidate may be present when the ballot box is opened and during the counting of the votes so as to observe all proceedings at the count.

237. Counting of votes

- (1) After the close of voting the returning officer is to open the ballot box, and examine and count the ballot papers.

State Superannuation Regulations 2001

Board elections

Part 7**r. 238**

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- (2) The returning officer is to reject any ballot paper that —
 - (a) does not bear the initials of the returning officer; or
 - (b) is not marked in accordance with these regulations.
 - (3) The votes are to be counted in accordance with Schedules 1 and 2 of the *Electoral Act 1907* as in force at the commencement of these regulations.

238. Declaration and notification of results

- (1) After counting the votes the returning officer is to declare the results of the election and notify all the candidates.
- (2) Within 7 days of declaring the results the returning officer is to notify the Minister —
 - (a) of the results; and
 - (b) that the election has been conducted in accordance with these regulations.
- (3) The Minister is to cause notice of the results to be published in the *Gazette*.

239. Preservation of ballot papers

UnionsWA is to keep all nomination and ballot papers in safe custody for at least 12 months after the election.

240. Disputes

- (1) A person may appeal to the Minister against —
 - (a) the manner in which the election was conducted; or
 - (b) the result of the election.
- (2) An appeal is to be in writing and must be received by the Minister within one month of the publication of the election results in the *Gazette*.

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- (3) The Minister is to determine an appeal made under subregulation (1) and the Minister's decision is final and binding.

241. Costs of an election

The Board may pay out of the Fund the reasonable costs incurred by UnionsWA, the returning officer or the Registrar in conducting an election.

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General **Part 8**
Benefits **Division 1**
 r. 242

Part 8 — General**Division 1 — Benefits****242. Incapacity of beneficiary**

- (1) If the Board considers that a person entitled to payment of a benefit is incapable of managing the person's affairs, the Board may —
- (a) withhold payment of the benefit;
 - (b) pay all or part of the benefit to a person authorised by or under a written law to administer the entitled person's affairs; or
 - (c) pay all or part of the benefit to be applied for the care, maintenance, benefit and support of the entitled person or any of the person's dependants.
- (2) For the purpose of determining whether a person is incapable the Board may obtain and have regard to such medical or other evidence as it considers appropriate.

243. Interest if payment delayed

If a benefit is not paid on the day on which it becomes payable, the Board is to pay interest on the amount of the benefit calculated —

- (a) at a rate equal to the CPI rate plus 2%;
- (b) from the day on which the benefit became payable up to, but not including, the day on which it is paid; and
- (c) in a manner determined by the Board.

244. Benefit in special circumstances

- (1) If the Treasurer considers there are special circumstances the Treasurer may direct the Board to pay a benefit that is not otherwise payable to —
- (a) a Member;

State Superannuation Regulations 2001**Part 8** General**Division 2** Other matters**r. 245**

- (b) a former Member; or
- (c) the personal representative of a Member or former Member,

and the Board is to give effect to that direction.

- (2) The cost to the Fund (if any) of paying a benefit under this regulation is to be assessed by an actuary and paid to the Fund by the Employer or former Employer.

245. Assignment or charge of benefit prohibited

A person who is, or may become, entitled to a benefit cannot assign the person's right to, or create a charge over, the benefit, and any purported assignment or charge is void.

246. Benefit does not pass to other persons

Where, but for this regulation, a benefit would pass by operation of law to a person other than the person who is entitled to it under these regulations, the benefit does not so pass.

Division 2 — Other matters**247. In-house assets — prescribed percentage**

The prescribed percentage for the purposes of section 20(3) of the Act is 5%.

248. Recovery of money owing to the Fund by a Member

- (1) The Board must not give a direction under section 26(2) of the Act for an Employer to deduct more than \$20 a fortnight from a Member's pay unless the Member agrees.
- (2) If a Member who owes money to the Fund notifies the Board that he or she cannot reasonably afford to repay the money at the rate of \$20 a fortnight, the Board is to negotiate with the Member with a view to arranging for the Member to repay the money at a lesser rate or in some other manner.

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General **Part 8**
Other matters **Division 2**
r. 249

249. Power to restore lost rights

- (1) If a person has ceased to be entitled to a right, privilege or benefit to which the person was, or might have been, entitled under the Act and the Board is satisfied that —
 - (a) the cessation was not due to the person's own fault; and
 - (b) it is just and equitable to do so,the Board may —
 - (c) permit the person to exercise the right;
 - (d) grant the person the privilege; or
 - (e) pay the benefit to the person,even if any relevant time period prescribed by or under the Act has expired.
- (2) For the purposes of subregulation (1) the Board may make any enquires it considers appropriate.
- (3) When exercising a power under subregulation (1) the Board may impose any conditions it considers appropriate.

250. Referral of decision for independent review

Subject to the *Superannuation (Resolution of Complaints) Act 1993* of the Commonwealth a person aggrieved by a decision of the Board on a review under section 13(1) of the Act may refer the decision to the Superannuation Complaints Tribunal established by that Act by making a complaint in accordance with that Act.

251. Documents and information

- (1) An application, approval, certificate, determination, direction, notice, report, return or statement made or given for the purposes of the Act must be made or given in writing.
- (2) If a person is required by these regulations to provide information or evidence to the Board, the Board may require the

State Superannuation Regulations 2001**Part 8** General**Division 2** Other matters**r. 252**

person to provide that information or evidence in writing and the person is to comply with that requirement.

- (3) A document to be used for the purposes of the Act must be —
- (a) in the form (if any) determined by the Board;
 - (b) signed by the person making or giving it; and
 - (c) if it is to be given to the Board, delivered to the offices of the Board.
- (4) The Board may accept a document given to it —
- (a) other than in accordance with subregulation (3); or
 - (b) after the expiry of the time fixed under the Act for giving the document.
- (5) In this regulation —
“**document**” means anything in writing.

252. Special provisions for certain Gold State Super Members and West State Super Members

Schedule 2 has effect.

253. Discontinuance of old rules

The continued application of —

- (a) the provisions of Parts I (including Schedule 1), VIIA, VIIB and VIII (including Schedule 4) of the GES Act to and in relation to the West State Super Scheme; and
- (b) Parts I (including Schedule 1), IV, V, VI, VII, VIIB and VIII (including Schedule 4) of the GES Act to and in relation to the Gold State Super Scheme,

under section 26(1) of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* is discontinued.

254. Transitional provisions

Schedule 3 has effect.

State Superannuation Regulations 2001
Amendments to Pension Scheme **Part 9**

r. 255

Part 9 — Amendments to Pension Scheme

255. Pension Scheme amended

The amendments in this Part are to the provisions of 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 1999 Index to Legislation of Western Australia, Table 1, p. 244 and Act No. 24 of 2000.]

256. Section 6 amended

Section 6(1) is amended in the definition of “the Board” by deleting “established by section 5 of the 1987 Act” and inserting instead —

“ under the *State Superannuation Act 2000* ”.

257. Section 7 inserted

After section 6B the following section is inserted —

“

7. **Certain employees who become part-time may continue as contributors or subscribers**

(1) In this section —

“**accepted part-time employee**” means a person in respect of whom there is a declaration in force under subsection (2).

(2) The Board may declare a contributor for units of pension or a contributor or subscriber to the Provident Account to be an accepted part-time employee if —

State Superannuation Regulations 2001**Part 9** Amendments to Pension Scheme**r. 257**

- (a) the employee's hours of work are reduced so that he or she is no longer required to give his or her whole time to the duties of his or her employment; and
 - (b) the Board is satisfied that the reduction is necessary or desirable—
 - (i) in the interests of the contributor's health; or
 - (ii) for some other special reason that the Board considers to be adequate.
- (3) Notwithstanding the definition of "employee" in section 6(1), while a person is an accepted part-time employee he or she does not cease to be an employee only because he or she is not required to give his or her whole time to the duties of his or her employment.
- (4) For the purposes of this Act, while a person is an accepted part-time employee his or her salary is to be taken to be the amount the Board determines to be the salary he or she would earn if he or she gave his or her whole time to the duties of his or her employment.
- (5) For the purposes of calculating the length of an accepted part-time employee's service, the period during which the employee is not required to give his or her whole time to the duties of his or her employment is to be counted as if he or she had given his or her whole time to the duties of his or her employment during that period.
- (6) The Board may, at any time, revoke a declaration under subsection (2) if is satisfied that it is no longer necessary or desirable for the employee to work the reduced hours he or she is then working.

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Amendments to Pension Scheme **Part 9**

r. 258

- (7) A declaration under subregulation (2) remains in force until —
- (a) it is revoked by the Board;
 - (b) the employee is again required to give his or her whole time to the duties of his or her employment; or
 - (c) the contributor ceases to be an employee.

”.

258. Section 24 amended

Section 24(2) is amended by deleting “established under the 1987 Act” and inserting instead —

“ under the *State Superannuation Act 2000* ”.

259. Section 24A amended

Section 24A(4) is amended by deleting “payment of any amount payable by way of compound interest under clause 12(2)(a)(i), 13(2)(a) or 13(3)(a) of Schedule 4 to the 1987 Act” and inserting instead —

“

when a benefit is increased under the *Superannuation Regulations 2001*, Schedule 2 Part 1 clause 3 the amount of interest included in that benefit by virtue of paragraph (b)(ii) of the definition of “transferred contributions” in clause 1(1) of that Schedule

”.

260. Section 30 amended

Section 30(2a) is amended by deleting “section 11 of the 1987 Act” and inserting instead —

“ section 17 of the *State Superannuation Act 2000* ”.

State Superannuation Regulations 2001**Part 9** Amendments to Pension Scheme**r. 261**

261. Section 31 amended

Section 31(1) is amended by deleting “Subject to section 39A and to clauses 6 and 10 of Schedule 4 to the 1987 Act” and inserting instead —

“

Unless he or she makes an election under section 39A or becomes a member of the Gold State Super Scheme under the *State Superannuation Act 2000*

”.

262. Section 36A inserted

After section 36 the following section is inserted in Division 1 —

“

36A. Contributions under salary sacrifice agreement

(1) If a contributor has entered into a salary sacrifice agreement with the contributor’s employer, contributions made by the employer under the agreement are, for the purposes of this Act, to be taken to have been made by the contributor.

(2) In this section —

“**salary sacrifice agreement**” means an agreement under which a contributor’s employer agrees to pay, as part of a contributor’s remuneration, contributions that would otherwise be payable by the contributor under this Act.

”.

State Superannuation Regulations 2001
Amendments to Pension Scheme **Part 9**

r. 263

263. Section 60E inserted

After section 60D the following section is inserted —

“

60E. Increase in pension for contributors receiving special allowances

(1) In this section —

“**pension calculation day**” means —

- (a) in the case of a contributor who has made an election under section 60AA, the day on which notice of the election was served on the board; or
- (b) otherwise, the day on which the contributor retires;

“**relevant contributor**” means a contributor who has been in receipt of a special allowance for a continuous period of not less than 12 months immediately before the pension calculation day;

“**special allowance**” means —

- (a) a higher duties allowance;
- (b) a temporary special allowance;
- (c) a temporary increase in salary as a result of a contributor being appointed to a different position for a fixed term on the expiry of which the contributor will return to the contributor’s usual position;
- (d) a temporary increase in salary paid to a contributor while he or she is on secondment; or

State Superannuation Regulations 2001**Part 9** Amendments to Pension Scheme**r. 263**

- (e) any other temporary allowance, by whatever name called —
 - (i) paid to a contributor as a result of the contributor carrying out duties different from, or additional to, those normally carried out by a person in the contributor's position; and
 - (ii) approved by the Board.
- (2) For the purpose of determining whether a person is a relevant contributor, the taking of leave by the person during a period in which the person is in receipt of a special allowance —
 - (a) does not break the continuity of that period; but
 - (b) the period of leave is not to be counted in determining the length of that period.
- (3) Subject to subsection (4), the pension to be paid to a relevant contributor is to be calculated as if, for the 12 months immediately before the pension calculation day —
 - (a) the contributor's salary had included the special allowance;
 - (b) the contributor had been the age he or she was on the pension calculation day; and
 - (c) the contributor had contributed to the Fund in respect of the maximum number of additional units for which the contributor could have contributed had the contributor's salary included the special allowance.

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Amendments to Pension Scheme **Part 9**

r. 264

- (4) Subsection (3) does not apply unless the relevant contributor pays to the Fund an amount equal to the amount the contributor would have paid if the contributor had made the contributions referred to in subregulation (3)(c).

”.

264. Section 66A amended

- (1) Section 66A(1) is amended by deleting “clause 7B of Schedule 4 to the *Government Employees Superannuation Act 1987*” and inserting instead —
- “
- regulation 19(2) of the *State Superannuation Regulations 2001*
- ”.
- (2) Section 66A(2)(b) is amended by deleting “made an election under clause 7B of Schedule 4 to the *Government Employees Superannuation Act 1987*” and inserting instead —
- “
- applied under regulation 19(1)(c) of the *State Superannuation Regulations 2001* to become a Gold State Super Member within the meaning of those regulations
- ”.
- (3) Section 66A(5) is amended by deleting “election under clause 7B of Schedule 4 to the *Government Employees Superannuation Act 1987*” and inserting instead —
- “
- application under regulation 19(1)(c) of the *State Superannuation Regulations 2001*
- ”.

State Superannuation Regulations 2001**Part 9** Amendments to Pension Scheme**r. 265**

- (4) Section 66A(6) is amended by deleting from “until —” to the end of paragraph (b) and inserting instead —

“

until the person —

- (a) attains the age of 55 years; and
- (b) ceases to be a worker as defined in the *State Superannuation Regulations 2001*,

”.

265. Section 83B amended

Section 83B(1) is amended by deleting “Subject to subsections (6) and (7)(a) and to clause 10 of Schedule 4 to the 1987 Act” and inserting instead —

“

Unless she makes an application under subsection (5) or becomes a member of the Gold State Super Scheme under the *State Superannuation Act 2000*

”.

266. Section 83M amended

Section 83M is amended by deleting the definitions of “1993 scheme” and “employer’s compulsory contribution” and inserting the following definitions in the appropriate alphabetical positions —

“

“**1993 scheme**” means the superannuation scheme continued by section 29(a) of the *State Superannuation Act 2000*;

“**employer’s compulsory contribution**” means a compulsory contribution within the meaning of Part 3 of the *State Superannuation Regulations 2001*;

”.

State Superannuation Regulations 2001
Amendments to Pension Scheme **Part 9**

r. 267

267. Sixth Schedule amended and transitional

- (1) Items 1, 2, 3 and 3A in the Sixth Schedule are amended as follows:
 - (a) by inserting after “widow” in each place where it occurs —
“ or widower ”;
 - (b) in item 2, column 3, paragraphs (b) and (c) by deleting “his marriage to her” and inserting instead —
“ their marriage ”;
 - (c) by inserting after “his” in each other place where it occurs —
“ or her ”;
 - (d) by inserting after “he” in each place where it occurs —
“ or she ”;
 - (e) by deleting “husband” in each place where it occurs and inserting instead —
“ former contributor ”;
 - (f) in item 2, column 3, paragraphs (b)(i) and (c)(i) by inserting after “she” —
“ or he ”;
 - (g) in item 3 and 3A by deleting “husband’s” and inserting instead —
“ former contributor’s ”.
- (2) Items 4 and 5 in the Sixth Schedule are deleted.
- (3) A widower is eligible to receive a pension under the Sixth Schedule as amended by this regulation on and from the day this regulation comes into operation, whether the circumstances or events which gave rise to the eligibility occurred before, on or after that day.

*State Superannuation Regulations 2001***Schedule 1** Employers

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
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 of 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*

State Superannuation Regulations 2001

Employers **Schedule 1**

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*

*State Superannuation Regulations 2001***Schedule 1** Employers

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. **Commissioner of Workplace Agreements** appointed under the *Workplace Agreements Act 1993*
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*

State Superannuation Regulations 2001

Employers **Schedule 1**

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*

*State Superannuation Regulations 2001***Schedule 1** Employers

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. **Racecourse Development Trust** established under the *Racecourse Development Act 1976*
43. **Regional development commissions** established under the *Regional Development Commissions Act 1993*
44. **Rottnest Island Authority** established under the *Rottnest 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*

State Superannuation Regulations 2001

Employers **Schedule 1**

-
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 Authority** established under the *Western Australian Greyhound Racing Authority 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 Gardens Board** established under the *Zoological Gardens Act 1972*

State Superannuation Regulations 2001

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

**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

State Superannuation Regulations 2001

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

- (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;

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“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;

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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%;

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- (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) 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%.
- 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.

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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*.

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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.

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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.

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Part 4 — Members who became ASC staff

13. Interpretation

In this Part —

“**ASC**” means the Australian Securities Commission established by the *Australian Securities Commission Act 1989* of the Commonwealth;

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

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

- (a) was, immediately before becoming an ASC 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 ASC worker the relevant regulations apply to and in relation to the person as if the ASC were an Employer.

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

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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.

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**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.

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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.

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- (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.

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- (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.

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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;

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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 —

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- 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.

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- (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

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- (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*.

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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.

*State Superannuation Regulations 2001***Schedule 3** Transitional provisions

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.

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- (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.

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Schedule 3 Transitional provisions

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.

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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

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- (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.

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- (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.

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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).

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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).

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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).

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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.

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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).

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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

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- (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.

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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.

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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).

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- (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

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- (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.

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- (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.

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- (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).

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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 223)

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 223(1).

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

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 224(1).

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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.

*State Superannuation Regulations 2001*Transitional provisions **Schedule 3****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) 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
 - (b) on and from the commencement day up to, but not including, the day on which the benefit is paid at a rate equal to the CPI rate plus 2%.
- (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.

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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.

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

WILLIAM M. MERCER	4/1/2001
Actuary appointed by the Board	Date

Approved under section 38(5)(a) of the Act —

RICHARD COURT	6/2/2001
Treasurer	Date

By Command of the Governor,

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



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