Western Australia

State Superannuation Act 2000

State Superannuation Regulations 2001

As at 11 Jun 2026 Official Version
[PCO 06-z0-00] Published on www.legislation.wa.gov.au

Western Australia

State Superannuation Regulations 2001

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Defined terms

State Superannuation Regulations 2001

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. Terms used

(1) In these regulations —

accumulation account means —

(a) for a West State Super Member, the Member's west state account (as defined in regulation 50); and

(aa) for a GESB Super Member, the Member's GESB Super account (as defined in regulation 83); and

(b) for a Retirement Income Member, the Member's retirement income account (as defined in regulation 171); and

(c) for a Term Allocated Pension Member, the Member's term allocated pension account (as defined in regulation 196A); and

(d) for a GESB Super (Retirement Access) Member, the Member's retirement access account (as defined in regulation 201);

AFCA scheme has the meaning given in the Corporations Act section 761A (which refers to the external dispute resolution scheme provided for in Part 7.10A of that Act);

Australian Financial Complaints Authority means the operator of the AFCA scheme;

charge percentage means the Employer's charge percentage for the relevant Member, calculated in accordance with section 19 of the SGA Act before applying any reduction under section 22 or 23 of that Act;

commencement day means the day on which these regulations come into operation;

Commonwealth payment means a payment from the Commonwealth Commissioner of Taxation of —

(a) a shortfall component under the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth; or

(aa) a PPL superannuation contribution as defined in the *Paid Parental Leave Act 2010* (Cth) section 6; or

(b) a Government co-contribution under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* of the Commonwealth; or

(c) any other amount that the Commissioner may, under a law of the Commonwealth, pay to the Fund for a Member;

Commonwealth Unclaimed Money Act means the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (Commonwealth);

commutation authority means a commutation authority issued by the Commonwealth Commissioner of Taxation under the *Taxation Administration Act 1953* (Commonwealth) Schedule 1 Division 136;

condition of release means a condition of release specified in the SIS Regulations Schedule 1;

contribution period means the period selected under regulation 4;

contributions-split transfer means a transfer to a scheme from another scheme or superannuation fund in accordance with Division 6.7 of the SIS Regulations, or that would be in accordance with that Division if the transferring scheme or fund were a regulated superannuation fund;

contributions tax means tax imposed by the *Superannuation Contributions Tax Imposition Act 1997* or *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997* of the Commonwealth;

CPI rate means, for a financial year, the greater of zero and the rate equal to CPI in the formula —

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

where —

$\mathrm{I_T}$ 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

$\mathrm{I_L}$ is that Index number for the quarter ending on the previous 31 March;

dependant has the meaning given in the SIS Act section 10(1);

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;

earning rate, in respect of a Member, means the earning rate determined by the Board for —

(a) if the Member has selected a personalised investment plan, the Member; or

(b) otherwise, the investment plan selected by the Member;

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

Family Law Act means the *Family Law Act 1975* (Commonwealth) Part VIIIB;

former member means a person who is not a Member nor a pensioner under the S&FB Act, but who has been —

(a) a Member; or

(b) a contributor or qualified contributor under the S&FB Act; or

(c) a subscriber or contributor to the Provident Account under Part VA of the S&FB Act;

former temporary resident means a member who has been identified in a notice given under the Commonwealth Unclaimed Money Act section 20C as a former temporary resident within the meaning of section 20AA of that Act;

GESB Super account has the meaning given in regulation 83(1);

GESB Super Member means a member of the GESB Super Scheme;

GESB Super (Retirement Access) Member means a member of the GESB Super (Retirement Access) Scheme;

GESB Super (Retirement Access) Scheme means the superannuation scheme established by regulation 200;

GESB Super Scheme means the superannuation scheme established by regulation 82;

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(1)(b) of the Act;

inactive GESB Super account has the meaning given in regulation 83(1B);

inactive west state account has the meaning given in regulation 50(1B);

Keystart means the body established under the *Keystart Act 2024* section 6;

lost member has the meaning given in the SIS Regulations regulation 1.03A;

lost member account has the meaning given in the Commonwealth Unclaimed Money Act section 24B;

Member means, except in Part 7, a Gold State Super Member, a West State Super Member, a GESB Super Member, a Retirement Income Member, a Term Allocated Pension Member or a GESB Super (Retirement Access) Member;

non-government contribution means a superannuation contribution received from a non-government contributor;

notice of inactivity —

(a) in relation to an inactive west state account, has the meaning given in regulation 50(1B)(b); and

(b) in relation to an inactive GESB Super account, has the meaning given in regulation 83(1B)(b);

parliamentarian means a Member of the Legislative Council or a Member of the Legislative Assembly;

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

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

partner means spouse or de facto partner;

Pension Scheme means the superannuation scheme continued by section 29(1)(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;

permitted nominee, in relation to a Member, means —

(a) the executor of the Member's will or administrator of the Member's estate; or

(b) a dependant of the Member;

phased retirement benefit means a benefit from a superannuation fund that is payable only as a transition to retirement income stream as defined in the SIS Regulations regulation 6.01;

prescribed scheme means a scheme that is prescribed for the purposes of the Commonwealth Unclaimed Money Act sections 18AA, 20JA and 24HA;

pre-set minimum, in relation to a regulation, has the meaning given in regulation 246D;

preservation age means, for a person who was born —

(a) before 1 July 1960, 55 years of age;

(b) during the year 1 July 1960 to 30 June 1961, 56 years of age;

(c) during the year 1 July 1961 to 30 June 1962, 57 years of age;

(d) during the year 1 July 1962 to 30 June 1963, 58 years of age;

(e) during the year 1 July 1963 to 30 June 1964, 59 years of age;

(f) after 30 June 1964, 60 years of age;

preserved, in relation to a benefit, means that the benefit is not yet payable to the Member who is entitled to it;

Provident Scheme means the superannuation scheme continued by section 29(1)(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;

regulated superannuation fund has the same meaning as it has in section 19 of the SIS Act;

release authority means a release authority issued by the Commonwealth Commissioner of Taxation under —

(a) the *Income Tax Assessment Act 1997* (Commonwealth) Division 292; or

(b) the *Taxation Administration Act 1953* (Commonwealth) Schedule 1 Division 96 or 135;

relevant contribution —

(a) in relation to a west state account, means an amount credited to the account under regulation 67(1) other than —

(i) earnings credited in accordance with regulation 69; or

(ii) an amount transferred under regulation 67(1)(e); or

(iii) an amount transferred by the Board under regulation 67(1)(f);

and

(b) in relation to a GESB Super account, means an amount credited to the account under regulation 102(1) other than —

(i) earnings credited in accordance with regulation 102(1)(g); or

(ii) an amount transferred under regulation 102(1)(h); or

(iii) an amount transferred by the Board under regulation 102(1)(i);

restricted non-preserved benefit means a benefit in a scheme that would be a restricted non-preserved benefit within the meaning of the SIS Regulations if that scheme were a regulated superannuation fund;

Retirement Income Member means a member of the Retirement Income Scheme;

Retirement Income Scheme means the superannuation scheme established by regulation 170;

S&FB Act includes the *Superannuation and Family Benefits Act 1938* [1] as continued in force by section 26 of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* and as subsequently amended;

salary or wages has the meaning given in the SGA Act section 11;

salary sacrifice agreement means an agreement under which a worker agrees to forego an amount of salary or wages in consideration of another payment, benefit or allowance;

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

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

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

statutory WSS Member has the meaning given in regulation 50(1);

suffers from a terminal medical condition, in relation to a person, means that a terminal medical condition exists in

relation to the person within the meaning given in the *Superannuation Industry (Supervision) Regulations 1994* (Commonwealth) regulation 6.01A;

superannuation fund means —

(a) a regulated superannuation fund; or

(b) an exempt public sector superannuation scheme (as defined in the SIS Act); or

(c) a regulated approved deposit fund (as defined in the SIS Act); or

(d) a retirement savings account (as defined in the *Retirement Savings Accounts Act 1997* of the Commonwealth); or

(e) a life insurance company or registered organisation (both as defined in the SIS Act) for the purpose of providing of a benefit that is an annuity for the purposes of the SIS Act;

tax saving amount has the meaning given in section 295-485 of the *Income Tax Assessment Act 1997* (Commonwealth);

Term Allocated Pension Member means a member of the Term Allocated Pension Scheme;

Term Allocated Pension Scheme means the superannuation scheme established by regulation 196;

unclaimed money has the meaning given in the Commonwealth Unclaimed Money Act sections 12 and 14;

unrestricted condition of release means a condition of release in respect of which the cashing restriction specified in the SIS Regulations Schedule 1 is "Nil";

unrestricted non-preserved benefit means a benefit in a scheme that would be an unrestricted non-preserved benefit within the meaning of the SIS Regulations if that scheme were a regulated superannuation fund;

voluntary WSS Member has the meaning given in regulation 50(1);

west state account has the meaning given in regulation 50(1);

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(1)(a) of the Act;

worker means a person who is —

(a) appointed under Part 3 of the *Public Sector Management Act 1994*; or

(b) the holder of an office or position established or continued under a written law, other than a parliamentarian; or

(ba) a parliamentarian; or

(c) appointed to an office or position by the Governor, a Minister, an Employer or another worker; or

(d) appointed under section 64(1) or 100(2) of the *Public Sector Management Act 1994*; or

(e) appointed under Part I of the *Police Act 1892*; or

(f) a member of the Governor's establishment (as defined in the *Governor's Establishment Act 1992*); or

(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; or

(h) otherwise employed under a contract of employment to work for, within, or for the purposes of an Employer; or

(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 compensation 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.

(2) In these regulations a reference to a benefit that is immediately payable to a person does not include —

(a) a phased retirement benefit; or

(b) a benefit that is payable —

(i) from another scheme in circumstances where, if the SIS Regulations applied, the benefit would be payable; or

(ii) from another superannuation fund,

because the person has satisfied a condition of release in respect of which there is a cashing restriction that precludes the transfer of that benefit to the Fund.

(3) In these regulations a person is taken to have satisfied a condition of release if the event specified in the condition has occurred in relation to the person.

[Regulation 3 amended: Gazette 29 Jun 2001 p. 3079-80; 28 Jun 2002 p. 3011-12, 3021 and 3031; 19 Mar 2003 p. 816 and 836; 13 Jun 2003 p. 2105; 25 Jun 2004 p. 2228; 1 Dec 2004 p. 5705-6; 10 Dec 2004 p. 5894-5; 26 May 2006 p. 1918 and 1929-30; 21 Jul 2006 p. 2651; 13 Apr 2007 p. 1586, 1597, 1609, 1618-20 and 1623-4; 18 Jan 2008 p. 150; 11 Apr 2008 p. 1376 and 1380; 8 Jul 2008 p. 3213-14; 24 Nov 2009 p. 4741; 8 Jan 2010 p. 29; 10 May 2011 p. 1668; 23 Jul 2013 p. 3295-6; 6 Jan 2015 p. 25; 10 Jan 2017 p. 147; 12 Oct 2018 p. 4061; SL 2021/49 r. 4; SL 2023/205 r. 4; SL 2024/195 r. 4; SL 2025/59 r. 4; SL 2026/102 r. 4.]

3A. Trading name prescribed (Act s. 6(3))

For the purposes of section 6(3) of the Act "GESB" is prescribed as a trading name that the Board may use and operate under in carrying out its functions.

[Regulation 3A inserted: Gazette 26 Nov 2004 p. 5311.]

4. Contribution period for Employer, selecting

(1) The Treasurer is to select a period to be the contribution period for each Employer and its workers.

(2) The Treasurer may select different contribution periods for different classes of workers of an Employer.

(3) The Treasurer may change the contribution period or periods for an Employer provided the change is not detrimental to any worker.

(4) The Treasurer is to notify the Employer of the period or periods selected under this regulation and any change in the selection.

(5) Until the Treasurer selects otherwise the contribution periods for an Employer are —

(a) in respect of workers who are Gold State Super Members — the fortnight commencing on the commencement day and each subsequent fortnight; and

(b) in respect of workers who are not Gold State Super Members and who are paid periodically at intervals of less than 3 months — the workers' pay periods; and

(c) in respect of workers who are not mentioned in paragraph (a) or (b) — each quarter.

[Regulation 4 amended: Gazette 13 Apr 2007 p. 1620-1; 23 Jul 2013 p. 3296-7.]

*[**5-6A.** Deleted: Gazette 23 Jul 2013 p. 3297.]*

7. People prescribed to be Employers (Act s. 3 *Employer*)

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 a worker works 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, other than a parliamentarian, is taken to work for the Government of Western Australia.

(2a) A worker who is a parliamentarian 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.

(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; or

(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 compensation 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.

[Regulation 8 amended: Gazette 29 Jun 2001 p. 3081-2; 23 Jul 2013 p. 3297.]

9. Who is to discharge obligations of Employers that are governmental bodies

(1) Where, under these regulations, a worker, other than a parliamentarian, 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).

(3a) The obligations of the Government of Western Australia as the Employer of a worker who is a parliamentarian are to be discharged by the Minister to whom the administration of the *Constitution Act 1889* is for the time being committed by the Governor.

(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*.

[Regulation 9 amended: Gazette 29 Jun 2001 p. 3082.]

10. When person ceases to be 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.

11. Persons in more than one job, application of regulations to

(1) Subject to regulation 45(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.

[Regulation 11 amended: Gazette 8 Jul 2008 p. 3214.]

Part 2A — Employer contributions obligations

[Heading inserted: Gazette 23 Jul 2013 p. 3297.]

12A. Terms used

In this Part —

employee has the meaning given in the SGA Act section 12;

ordinary time earnings has the meaning given in the SGA Act section 6(1);

section 4B contribution means a superannuation contribution that an Employer is required to make by section 4B of the Act;

section 4C contribution means a superannuation contribution that an Employer is required to make by regulation 12D.

[Regulation 12A inserted: Gazette 23 Jul 2013 p. 3297-8.]

12B. Default funds

(1) In this regulation —

unique superannuation identifier has the meaning given in the SIS Regulations section 3B.01.

(2) For the purposes of paragraph (a) of the definition of ***default fund*** in section 4A(1) of the Act, the default fund for an employee is —

(a) if the employee is a West State Super Member — the West State Super Scheme;

(aa) if the Employer in respect of the employee is Keystart — Mercer Business Super (unique superannuation identifier 19 905 422 981 708);

(b) in any other case — the GESB Super Scheme.

[Regulation 12B inserted: Gazette 23 Jul 2013 p. 3298; amended: SL 2026/102 r. 5.]

12C. Calculation and payment of section 4B contributions

(1) An Employer required to make section 4B contributions for an employee must calculate and pay the section 4B contributions for each contribution period of the employee.

(2) The amount of the section 4B contributions to be paid for an employee for a contribution period is the amount that would be required under section 4B of the Act in respect of the employee if —

(a) that contribution period were the only period during which the employee was an employee of the Employer; and

(b) the Employer had not previously made any contributions for the employee.

(3) An Employer must pay the section 4B contribution for a contribution period —

(a) if the contribution period is the employee's pay period — within 14 days after the end of that period; or

(b) otherwise — within 28 days after the end of the contribution period.

[Regulation 12C inserted: Gazette 23 Jul 2013 p. 3298-9.]

12D. Section 4C contributions

(1) For each contribution period of a worker for which the Employer would be required to make section 4B contributions for the worker, but for the worker not being an employee, the Employer must make superannuation contributions for the worker as if the worker were an employee.

(2) For each contribution period of a worker in which the worker receives an item listed in the Table from an Employer which is not taken into account in calculating the contributions required by section 4B, the Employer must make a superannuation contribution for the worker of an amount equal to the monetary value of that item, determined by the Employer, multiplied by

the charge percentage applicable, at the time of making the contribution, under the SGA Act section 19.

(3) A determination by an Employer as to the value of an item listed in the Table that would reduce the value of the item for a person who is a worker at the time the determination is made does not apply to that person unless the person gives notice to the Employer consenting to its application.

Table

1.	An amount of salary or wages which is not ordinary time earnings because it represents the excess of salary or wages over the maximum contribution base for the purposes of the SGA Act.
2.	An amount of income compensation paid to a worker under the *Workers Compensation and Injury Management Act 2023*.
3.	An amount of salary or wages paid by way of annual leave loading.
4.	An amount of salary or wages paid to a worker in lieu of overtime payments for hours that exceed ordinary hours of work for the worker's position, the working of which is a standard and permanent requirement for occupants of the worker's position.
5.	The amount of an on-call allowance paid to a worker.
6.	A payment, benefit or allowance to which a worker is entitled under a salary sacrifice agreement.
7.	An amount of salary or wages paid to a worker —

	(a) who is the holder of a visa or entry permit of a class set out in the *Superannuation Guarantee (Administration) Regulations 1993* (Commonwealth) regulation 7(1); and (b) who satisfies any conditions set out in that regulation in relation to the visa or entry permit held.
8.	An amount of salary or wages paid to a worker for a period of maternity leave, early paid leave for an expectant mother if the Employer is unable to transfer her to a safe job, paternity leave, pre-adoption leave, adoption leave or other parental leave.
9.	An amount of salary or wages paid — (a) to a worker who is engaging in jury service (including attendance for jury selection) that is required by or under a law of the Commonwealth, a State or a Territory; and (b) by the worker's usual Employer while the worker is absent from his or her usual employment.
10.	An amount of salary or wages paid — (a) to a worker who is engaging in a voluntary emergency management activity within the meaning given in the *Fair Work Act 2009* (Commonwealth) section 109(1); and (b) by the worker's usual Employer while the worker is absent from his or her usual employment.

11.	An amount of salary or wages paid — (a) to a worker who is undertaking service with the Australian Defence Force (for example, undertaking service in the Defence Force Reserves); and (b) by the worker's usual Employer while the worker is absent from his or her usual employment.
12.	An amount of salary or wages paid to a worker who is employed to work not more than 30 hours per week and who is under 18 years of age.
13.	An amount of salary or wages paid to a worker by an employer who pays the worker less than $450 by way of salary or wages in a calendar month.
14.	An amount which the Treasurer declares, by notice published in the *Gazette*, is an item in respect of which a contribution is required under this regulation.

[Regulation 12D inserted: Gazette 23 Jul 2013 p. 3299-302; amended: SL 2024/133 r. 19.]

12E. Exceptions

(1) Regulations 12C and 12D do not apply to the following Employers —

(a) the Australian Health Practitioner Regulation Agency;

(aa) the Bunbury Water Corporation;

(ab) the Busselton Water Corporation;

(ba) the Electricity Generation and Retail Corporation;

(bb) the Electricity Networks Corporation;

(b) Gold Corporation;

(c) the Inspector of Custodial Services;

(ca) Keystart;

(da) the Regional Power Corporation;

(d) the Water Corporation;

(e) the Western Australian Greyhound Racing Association.

(2) Regulations 12C and 12D do not apply in respect of a worker who —

(a) is a Gold State Super Member, other than a Member who is entitled to a preserved GSS withdrawal benefit (as defined in regulation 12); or

(b) is a Pension Scheme Member (other than a person who has determined his or her pension under the *Superannuation and Family Benefits Act 1938* section 60AA) or a Provident Scheme Member; or

(c) holds a pensionable office as defined in the *Judges' Salaries and Pensions Act 1950* section 2(4); or

(d) works outside Australia and is not a resident of Australia (as defined in the SGA Act); or

(e) is a person in respect of whom contributions are being made under the *Parliamentary Superannuation Act 1970* section 11 to the superannuation scheme provided for by that Act; or

(f) is a non-participant, as defined in the *Parliamentary Superannuation Act 1970* section 29, in respect of whom contributions are being made in accordance with a determination made under that section to a superannuation fund other than the West State Super Scheme or the GESB Super Scheme.

[Regulation 12E inserted: Gazette 23 Jul 2013 p. 3302-3; amended: Gazette 19 Jun 2015 p. 2141; SL 2021/181 r. 4; SL 2026/102 r. 6.]

12F. Payment of section 4C contributions

(1) Subject to subregulation (2), an Employer must pay the section 4C contributions for each contribution period of an employee at the same time, and to the same fund, as the section 4B contributions for that contribution period for that employee.

(2) If an Employer is unable to make a section 4C contribution to a fund because the fund is unable to receive it under the SIS Act, the Employer is to make the contribution to the Fund.

[Regulation 12F inserted: Gazette 23 Jul 2013 p. 3303.]

12G. Additional superannuation contributions

(1) In this regulation —

additional superannuation contributions, for a worker, means superannuation contributions made by an Employer in excess of the section 4B contributions and section 4C contributions required for the worker;

commencement day means the day on which the *State Superannuation Amendment Regulations 2014* regulation 4 comes into operation;

term, of a contract of employment in force immediately before the commencement day, means the term of the contract of employment on that day.

(2) With the prior written approval of the Treasurer, an Employer may make additional superannuation contributions for a worker.

(3) Despite subregulation (2), but subject to any instruction issued by the Treasurer under the *Financial Management Act 2006* section 78, an Employer may make additional superannuation contributions for a worker if they —

(a) are made for the purpose of remedying the underpayment of contributions during a previous contribution period; or

(b) are required under a salary sacrifice agreement; or

(c) are required under, and during the term of, a contract of employment that was in force immediately before the commencement day; or

(d) are required under these regulations.

(4) The Board may accept any additional superannuation contributions made under subregulation (2) or (3) that are offered to the Fund.

[Regulation 12G inserted: Gazette 10 Jun 2014 p. 1805-6.]

Part 2 — Gold State Super Scheme

Division 1 — Preliminary

12. Terms used

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;

covert allowance means a composite allowance payable to a police officer attached to a covert unit;

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;

GSS withdrawal benefit means a benefit under regulation 44;

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;

recognised unpaid leave means unpaid leave if —

(a) during the period of unpaid leave, normal employee entitlements (such as annual and sick leave) continue to accrue to the Member; or

(b) the leave is sick leave or parental leave; or

(c) the Employer has, by notice to the Board, approved the leave for the purposes of this definition;

selection day, in respect of a Gold State Super Member, means —

(a) if the Member's adjustment day is on or before the 15th day of the month — the first day; or

(b) otherwise, the 16th day,

of the penultimate month before the month in which the Member's adjustment day occurs;

special allowance means —

(a) a higher duties allowance; or

(b) a temporary special allowance; or

(c) an increase in remuneration as a result of a Gold State Super Member being appointed to a different job for a fixed or limited term on the expiry of which the Member will return to the Member's usual job or be appointed to another job; or

(ca) a covert allowance; or

(d) any other temporary allowance, by whatever name called —

(i) paid to a Gold State Super Member as a result of the Member carrying out duties different from, or additional to, those normally carried out by a person doing the Member's job; and

(ii) approved by the Treasurer;

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;

unpaid leave means leave taken for 3 months or more that is —

(a) leave without pay; or

(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.

[Regulation 12 amended: Gazette 13 Apr 2007 p. 1597; 8 Jul 2008 p. 3214; 5 Jul 2016 p. 2818.]

13. Term used: 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.

14. Term used: 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.

15. Term used: 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;

and

(b) did not terminate his or her membership of the 1987 scheme under section 19A of the GES Act; and

(c) subject to regulations 22 and 23, has been a worker continuously since the commencement day; and

(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*; or

(b) is a Pension Scheme Member or a Provident Scheme Member, unless regulation 19(1)(b) or (c) applies to the person; or

(c) is in receipt of a pension under the Pension Scheme, other than a reversionary pension; or

(d) works on a part-time basis for less than one hour a week; or

(e) is a casual worker whose remuneration for that casual job is less than $250 a month; or

(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; or

(g) is a worker by reason only of paragraph (i) or (j) of the definition of ***worker*** in regulation 3; or

(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;

or

(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. Term used: 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 R_1 the day on which the Member ceased to be an eligible Gold State worker; and

for R_2 the Member's last selection day; and

for R_3 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 D_1 on and after the Member's last selection day; and

for D_2 on and after the Member's second last selection day but before the Member's last selection day; and

for D_3 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

(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.

17A. Term used: remuneration

(1) In this Part, subject to subregulations (6), (8), (9) and (10) —

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

(a) a Gold State Super 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 Gold State Super Member —

(i) is likely to continue to be entitled to while the Gold State Super 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 Gold State Super Member were to continue to hold that job,

other than amounts excluded by subregulation (3).

(2) The "payments, benefits and allowances" referred to in subregulation (1) include any payment, benefit or allowance that is payable only in particular circumstances if —

(a) it will be paid to the Gold State Super Member whenever those circumstances arise; and

(b) the Employer reasonably expects those circumstances to arise in relation to the Gold State Super Member from time to time.

(3) Subject to subregulation (3A), the remuneration of a Gold State Super Member does not include —

(a) payments for overtime (but does include payments instead of overtime); or

(b) bonuses; or

(c) payments in lieu of leave; or

(d) payments in lieu of entitlement to the provision of a motor vehicle or the discharge or reimbursement of motor vehicle expenses incurred; or

(e) allowances for rent, accommodation, subsistence, travelling or expenses; or

(f) equipment allowances; or

(g) climatic allowances; or

(h) payments as a consequence of the termination of a job; or

(i) payments, benefits or allowances that the Board determines are to be regarded as not being part of the Gold State Super Member's remuneration because they are of a similar nature to those referred to in paragraphs (a) to (h); or

(j) special allowances; or

(k) annual leave loading; or

(l) compensation in lieu of the opportunity for private practice; or

(m) benefits under the Act; or

(n) contributions to the Fund (but does include contributions made under a salary sacrifice agreement); or

(o) payments, benefits or allowances that the Treasurer determines for the time being are not part of a Gold State Super Member's remuneration.

(3A) If, on the day that the *State Superannuation Amendment Regulations 2016* regulation 5 comes into operation, a Gold

State Super Member is in receipt of a covert allowance, the Gold State Super Member's remuneration continues to include the covert allowance for so long as the Gold State Super Member is in continuous receipt of it.

(4) A certificate for the purposes of subregulation (1)(b) 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 Gold State Super Member or a class of Gold State Super Members.

(5) A determination —

(a) under subregulation (3)(o); 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 Gold State Super Member at the time the determination was made (an ***existing member***) does not apply to the existing member unless the existing member gives notice to the Board consenting to its application.

(6) If a Gold State Super Member's remuneration is reduced and the Board is satisfied that the reduction is not attributable to —

(a) the misconduct or inefficiency of the Gold State Super Member; or

(b) a reduction in the number of hours worked by the Gold State Super Member,

the Board may determine the Gold State Super Member's remuneration to be —

(c) the Gold State Super Member's remuneration before it was reduced; or

(d) an amount representing the notional remuneration from time to time attributable to the job held by the Gold

State Super 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 Gold State Super Member's actual remuneration increases to more than the amount of remuneration specified in the determination.

(8) The remuneration of a Gold State Super Member who works on a part-time basis is the actual remuneration received by the Gold State Super Member, not the remuneration of a comparable full-time worker.

(9) The remuneration of a Gold State Super Member who is seconded is, subject to regulation 16(4), the Gold State Super Member's remuneration for the job from which the Member is seconded.

(10) If a Gold State Super Member does not receive remuneration on a regular basis throughout the year, the Board may treat the Gold State Super Member as having received that remuneration on a regular basis by —

(a) averaging the remuneration received over all the contribution periods in the year; or

(b) determining the Gold State Super Member's remuneration to be a notional regular remuneration equal to the remuneration that a notional person holding the job held by the Gold State Super Member would receive if he or she were paid on a regular basis; or

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

[Regulation 17A inserted: Gazette 23 Jul 2013 p. 3304-8; amended: Gazette 5 Jul 2016 p. 2818-19.]

17. Working hours, effect of changes to

(1) If a Gold State Super Member who works on a part-time basis —

(a) has his or her hours of work increased; or

(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. Health conditions, imposition of etc.

(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; or

(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,

and the Employer and Member reasonably expect that change is not of a temporary nature; or

(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.

(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.

Division 2 — Membership

19. Who may apply to be Gold State Super Member

(1) An eligible Gold State worker may apply to become a Gold State Super Member if —

(a) the Board is satisfied that the worker —

(i) would have been eligible to become a member of the 1987 scheme under the GES Act immediately before 30 December 1995; and

(ii) was not, and could not reasonably be expected to have been, aware of the closure of that scheme before 30 December 1995 because he or she has been away from his or her usual place of work;

or

(b) the worker —

(i) is a Provident Scheme Member or a Pension Scheme Member; and

(ii) ceases to be an employee within the meaning of the S&FB Act as a result of ceasing to be required to give his or her whole time to the duties of his or her employment; and

(iii) makes the application within 6 months after the cessation referred to in paragraph (b);

or

(c) the worker —

(i) is a Provident Scheme Member or Pension Scheme Member; and

(ii) has been, or is to be, retrenched; and

(iii) makes the application before being retrenched, or within such time afterwards as the Treasurer allows.

(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;

or

(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; or

(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 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.

(3) An application under regulation 19(1)(c) is deemed to have been lodged immediately before the retrenchment has effect.

21. Treasurer may direct Board to accept ineligible worker as Member

(1) If the Treasurer considers there are special circumstances the Treasurer may direct the Board to accept as a Gold State Super Member a worker who is not otherwise eligible, and the Board is to comply with that direction.

(2) Where a person is accepted as a Gold State Super Member under a direction given under subregulation (1), the person is taken to be an eligible Gold State worker while he or she remains a worker.

(3) The cost to the Fund of a worker becoming a Gold State Super Member as a result of a direction under subregulation (1) is to be assessed by an actuary and paid to the Fund by the Employer.

[Regulation 21 amended: Gazette 17 Jan 2012 p. 473.]

22. Changing jobs, effect of

(1) A Gold State Super Member who ceases to be a worker and immediately again becomes a worker in a different job (whether with the same or a different Employer) without a break in service is taken not to have ceased to be an eligible Gold State worker.

(2) A person who —

(a) ceases to be a worker; and

(b) within 12 months again becomes a worker (whether with the same or a different Employer) 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.

(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; and

(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 ceasing to be eligible due to reduced working hours becoming 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 GSS withdrawal benefit arising from the cessation referred to in subregulation (1)(a) terminates.

(3) Despite subregulation (2)(a) no contributions may be paid by or in respect of the Member for the period from the cessation referred to in subregulation (1)(a) to the day on which the application under subregulation (1) is accepted.

[Regulation 23 amended: Gazette 13 Apr 2007 p. 1597.]

24. Voluntary withdrawal from Gold State Super Scheme

(1) A Gold State Super Member may apply to the Board to withdraw from the Gold State Super Scheme.

(2) A Gold State Super Member who makes an application under subregulation (1) ceases to be an eligible Gold State worker on the day on which the application is received by the Board.

25. When membership ceases

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

(a) all benefits that are or may be payable to or in respect of the person from the Gold State Super Scheme have been paid; or

(b) a transfer is made to another scheme or to another superannuation fund in satisfaction of all of the person's entitlements to benefits from the Gold State Super Scheme; or

(c) an amount in respect of all benefits that are or may be payable to or in respect of the person from the Gold State Super Scheme is paid to the Commonwealth Commissioner of Taxation in respect of the person under regulation 37A.

[Regulation 25 amended: Gazette 28 Jun 2002 p. 3012; SL 2026/102 r. 7.]

Division 3 — Contributions

Subdivision 1 — Preliminary

26. Term used: 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. Member's annual adjustment day, selection of

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

(2) The Board may change a Member's adjustment day provided the change is not detrimental to the Member.

(3) The Board is to notify the Member of the day selected under this regulation and any change in the selection.

(4) Until the Board selects otherwise a Gold State Super Member's adjustment day is the Member's birthday, but if a Gold State Super Member has a birthday within 6 months of becoming a Member that birthday is to be ignored and the Member's first adjustment day is the Member's next birthday.

28. Employer's contribution day, selection of

(1) For each Employer and its eligible Gold State workers the Board is to select a day to be the Employer's contribution day.

(2) The Board may select different contribution periods for different classes of workers of an Employer.

(3) The Board may change an Employer's contribution day provided the change is not detrimental to Members who work for the Employer.

(4) The Board is to notify the Employer of the day selected under this regulation and any change in the selection.

(5) Until the Board selects otherwise an Employer's contribution day is the last day of each quarter.

Subdivision 2 — Employer contributions

29. Employer contributions, when to be made and amount of

(1) A Division 2 Employer is to contribute to the Fund for a Gold State Super Member —

(a) if the Member works for the Employer — for each contribution period during the Member's contributory membership period; or

(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; and

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. Employer contributions, payment of

(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.

(3) The Treasurer may, by notice to the Employer, allow an Employer to defer payment of employer contributions on terms determined by the Treasurer and set out in the notice.

(4) Section 43(7) and (8) of the *Interpretation Act 1984* apply to a notice under subregulation (3) as if it were subsidiary legislation.

(5) The Treasurer is to give to the Board a copy of a notice given under subregulation (3).

31. Unfunded benefits, contributions by Crown for

(1) The Crown is to contribute to the Fund for a Gold State Super Member who —

(a) at any time during the Member's contributory membership period worked for an Employer who was, at that time, a Division 1 Employer; or

(b) if the Member was a member of the 1987 scheme under the GES Act, at any time during the Member's contributory period under that Act, was an employee of 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 that Act.

(2) The amount of the contribution required to be made by the Crown in respect of a Member is the amount, determined by the Board with the concurrence of the Treasurer, to be equal to so much of the Member's benefit as is not attributable to contributions made to the Fund by or in respect of the Member.

(3) A contribution required to be made by the Crown in respect of a Member is to be paid —

(a) from the Consolidated Account; and

(b) as soon as possible after the Treasurer receives a notice under subregulation (4) that includes the contribution required for the Member.

(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.

[Regulation 31 amended: Gazette 19 Mar 2003 p. 836; 18 Jan 2008 p. 149; 17 Jan 2012 p. 470.]

Subdivision 3 — Member contributions

32. Member contributions, when to be made and amount of

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. Member contribution rate, selection of

(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 Member's selection takes effect from the beginning of the next contribution period after the Board receives the notice of the selection.

[(4) deleted]

(5) A Gold State Super Member whose average contribution rate is 5% may not select a contribution rate of 6% or 7%.

(6) If a Gold State Super Member has selected a contribution rate of 6% or 7% and his or her average contribution rate becomes 5%, the Member's member contribution rate is reduced to 5% with effect from the next contribution period.

(7) If the Treasurer has given a direction under regulation 14 that is conditional on the Member contributing at a rate set out in the notice —

(a) during the period set out in the direction, the Member's member contribution rate is the rate set out in the direction; and

(b) subregulation (6) does not apply while the Member is contributing in accordance with that direction.

[Regulation 33 amended: Gazette 26 May 2006 p. 1926.]

34. Member contributions, how to be paid

(1) A Gold State Super Member's member contributions are —

(a) payable by the Member; and

(b) to be deducted from the Member's pay by the Employer,

unless they are paid by the Employer under a salary sacrifice agreement or the Member has made some other arrangement with the Board for payment of those contributions.

(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, member's options for 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 (***continued contributions option***); or

(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 the deferred contributions option 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 continued contributions option or the reduced benefit option.

(4) A Gold State Super Member who is on approved leave while on active duty with the Armed Forces cannot choose the reduced benefit option.

(5) A notice under subregulation (3) cannot be revoked.

(6) A Gold State Super Member who chooses the deferred contributions option —

(a) cannot make member contributions for the period of the recognised unpaid leave while the Member is on leave; and

(b) must, when the Member returns to work, pay the deferred contributions, together with interest at a rate (which may be zero), and calculated in a manner, determined by the Board, over a period not exceeding the length of the recognised unpaid leave, or any longer period allowed by the Board on the grounds of financial hardship.

[Regulation 35 amended: Gazette 26 May 2006 p. 1926; 18 Jan 2008 p. 150.]

Subdivision 4 — General

36. Unrecognised unpaid leave, no contributions allowed etc.

(1) Contributions cannot be made by or for a Gold State Super Member who is on unrecognised unpaid leave.

(2) A Gold State Super Member who is on unrecognised unpaid leave may continue his or her entitlement to benefits under regulations 39, 40 and 41 while he or she is on unrecognised unpaid leave by paying to the Board, on or before the dates specified by the Board, the amounts determined by the Board to be the cost of continuing that entitlement.

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.

37A. Payments in accordance with Commonwealth Unclaimed Money Act Pt. 3D

The Board may make a payment to the Commonwealth Commissioner of Taxation in respect of a Gold State Super member in accordance with the Commonwealth Unclaimed Money Act Part 3D as if the Gold State Super Scheme were a regulated superannuation fund under that Act.

[Regulation 37A inserted: SL 2026/102 r. 8.]

Division 4 — Benefits

38. Retirement benefit, amount of

If a Gold State Super Member who is 55 or over ceases to be a 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; and

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

C is the Member's average contribution rate.

[Regulation 38 amended: Gazette 6 Jun 2007 p. 2617.]

39. Death benefit, amount of

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; and

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

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;

and

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, amount of

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, amount of

(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; and

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

C is the Member's average contribution rate; and

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. Death and disablement benefits, restrictions on

(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.

(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. Death or disablement not covered by r. 39, 40 or 41, benefit in case of

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; and

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

C is the Member's average contribution rate; and

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. Member ceasing to be eligible and no other benefit payable, benefit in case of

(1) 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 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.

(2) A benefit under this regulation is preserved until the criteria for payment of a benefit under regulation 45 are satisfied.

[Regulation 44 amended: Gazette 13 Apr 2007 p. 1597-8.]

44A. Benefit under this Div., reduction of if benefit paid under r. 47A

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

(2) Subregulation (1) does not reduce a transfer benefit as defined in regulation 44B except as a result of that subregulation reducing the amount, referred to in the definition of ***scheme entitlement amount*** in regulation 44D(4), of a benefit to which a person could become entitled under regulation 44.

[Regulation 44A inserted: Gazette 25 Jun 2004 p. 2228; amended: Gazette 6 Jun 2007 p. 2617-18.]

44B. Transfer benefit, application for and making of

(1) A Gold State Super Member may apply to the Board for a benefit under this regulation (a ***transfer benefit***) the amount of which is for transfer in accordance with this regulation.

(2) A Member can take a transfer benefit on or after 1 July 2007 only if —

(a) the Member is at least 55 years of age when the transfer benefit is taken; and

(b) the transfer is to provide a phased retirement benefit.

(3) A Member can take a transfer benefit before 1 July 2007 whatever the age of the Member but only if the application is made before 23 June 2007 and if —

(a) the transfer benefit is to be transferred to the GESB Super Scheme; or

(b) in the case of a Member who is at least 55 years of age when the transfer benefit is taken —

(i) the transfer benefit is to be transferred to the GESB Super Scheme; or

(ii) the transfer is to provide a phased retirement benefit; or

(iii) the transfer benefit is to be dealt with partly under subparagraph (i) and partly under subparagraph (ii).

(4) The transfer of a transfer benefit, or part of it, to provide a phased retirement benefit may be to another scheme or to another superannuation fund.

(5A) A transfer to the West State Scheme of an amount that is to be then transferred from that scheme under regulation 79B is to be regarded for the purposes of subregulation (2) as a transfer to provide a phased retirement benefit.

(5) On receiving an application the Board, acting on the advice of an actuary, is to determine and inform the applicant of —

(a) an amount of transfer benefit that the applicant may elect to take for transfer in accordance with this regulation; and

(b) the reduction that would, in consequence of taking the transfer benefit, be made to the amount of any benefit, other than a transfer benefit under this regulation, subsequently arising in respect of the applicant under this Division.

(6) If the applicant, in writing given to the Board, elects to take the transfer benefit in accordance with the information given under subregulation (5) —

(a) the applicant becomes, when the election is made, entitled to the transfer benefit; and

(b) the Board is to arrange the transfer accordingly; and

(c) the amount of any benefit, other than a transfer benefit under this regulation, arising in respect of the applicant under this Division after the election is reduced accordingly.

[Regulation 44B inserted: Gazette 6 Jun 2007 p. 2618-20; amended: Gazette 8 Jul 2011 p. 2899.]

44C. Transfer benefit, amount of reduction in case of for r. 44B(6)(c)

A reduction under regulation 44B(6)(c) to the amount of a benefit may be —

(a) the deduction of a monetary amount, with or without interest; or

(b) the reduction by a specified amount of the multiple of final remuneration used to calculate the benefit; or

(c) calculated in any other manner agreed to by the actuary.

[Regulation 44C inserted: Gazette 6 Jun 2007 p. 2620.]

44D. Restrictions on amount of transfer benefit

(1) A person cannot, except in accordance with the Treasurer's approval under subregulation (2), elect to take a transfer benefit the amount of which would result in the scheme entitlement amount becoming less than the notional unfunded amount.

(2) The Treasurer may approve of a person specified, or of a class specified, in the approval electing to take a transfer benefit other than in accordance with subregulation (1) but in accordance with other limitations, if any, specified in the approval.

(3) A person cannot elect to take a transfer benefit of an amount that is less than the pre-set minimum (if any).

(3A) Subregulation (3) does not apply if the Board is satisfied it is appropriate for the person to take the transfer benefit because of the special circumstances of the person.

(4) In this regulation —

notional funded amount means the amount that is, at the time of the transfer, the specified percentage of the notional unreduced amount;

notional unfunded amount means the amount resulting when the notional funded amount is deducted from the notional unreduced amount;

notional unreduced amount means the amount of the benefit to which the person would have become entitled under regulation 44 if —

(a) at the time of the transfer, the person had, instead of taking the transfer benefit, ceased to be an eligible Gold State worker in circumstances in which that regulation applied; and

(b) the person had not previously taken any transfer benefit;

scheme entitlement amount means the amount of the benefit to which the person would become entitled under regulation 44 if, immediately after taking the transfer benefit, the person ceased to be an eligible Gold State worker in circumstances in which that regulation applied;

specified percentage means the percentage for the time being fixed by the Board, on the advice of an actuary, at a level designed to ensure that the amounts of all transfer benefits can be met from the portion of the Fund attributable to the Gold State Super Scheme;

transfer benefit means a transfer benefit under regulation 44B.

[Regulation 44D inserted: Gazette 6 Jun 2007 p. 2620-1; amended: SL 2023/205 r. 5.]

44E. Early release of benefit to Members 65 years and over

(1) This regulation applies to a Gold State Super Member who is —

(a) an eligible Gold State worker; and

(b) at least 65 years of age.

(2) The Member may apply to the Board for the early release of all or part of a benefit under this Division that the Member is not yet entitled to.

(3) An application cannot be made for an amount that is —

(a) less than the pre-set minimum (if any); or

(b) more than the amount of the benefit under regulation 38 to which the Member would be entitled if the Member ceased to be a worker on the day on which the Member makes the application.

(4) If the Board receives an application under subregulation (2), the Board must —

(a) determine the consequent reduction that would, if the amount requested is released to the Member, be made to the amount of any benefit subsequently arising in respect of the Member under this Division; and

(b) inform the Member of the reduction.

(5) The consequent reduction under subregulation (4)(a) must be a reduction by a specified amount of the multiple of final remuneration used to calculate the amount of the benefit.

(6) If, after being informed of the consequent reduction under subregulation (4)(b), the Member, in writing given to the Board, elects to receive the amount applied for —

(a) the Board must pay the Member the amount applied for; and

(b) the amount of any benefit arising in respect of the Member under this Division after the election is reduced

in accordance with the Board's determination under subregulation (4)(a).

(7) An amount payable to the Member under this regulation is not a benefit to which a reduction under subregulation (6)(b) or regulation 44A(1) or 44B(6)(c) applies.

(8) However, subregulation (7) does not affect a reduction under subregulation (6)(b) or regulation 44A(1) or 44B(6)(c) reducing the amount, referred to in subregulation (3)(b), of the benefit under regulation 38 to which the Member would be entitled if the Member ceased to be a worker on the day on which the Member makes the application.

[Regulation 44E inserted: SL 2025/131 r. 4.]

Division 5 — Payment of benefits

45. Restriction on payment of GSS withdrawal benefit

(1) Subject to subregulation (4) and regulations 47, 47A and 47B, the Board must not pay a Gold State Super Member's GSS withdrawal 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;

or

(b) is totally and permanently disabled or partially and permanently disabled; or

(c) suffers from a terminal medical condition; or

(d) dies.

(2) If a Gold State Super Member's GSS withdrawal benefit becomes payable under subregulation (1)(a), (b) or (c) the Board is to pay the benefit to the Member.

Note for this subregulation:

The amount of a GSS withdrawal benefit includes interest accrued on the benefit. See regulation 46.

(3) If a Gold State Super Member's GSS withdrawal benefit becomes payable under subregulation (1)(d), the Board is to pay the benefit in accordance with regulation 48.

(4) If a Gold State Super Member's GSS withdrawal 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.

[Regulation 45 amended: Gazette 25 Jun 2004 p. 2229; 13 Apr 2007 p. 1597; 10 May 2011 p. 1668-9; SL 2025/131 r. 5.]

46. Interest accrued on preserved GSS withdrawal benefit

(1) Interest accrues on a Gold State Super Member's preserved GSS withdrawal benefit —

(a) at a rate equal to —

(i) if the Member is under 55 years of age, the CPI rate plus 1%; or

(ii) if the Member is 55 years of age or older, the CPI rate plus 2%;

and

(b) from the day on which the Member became entitled to the benefit up to, but not including, the day on which it becomes payable; and

(c) in a manner determined by the Board.

(2) Interest accrued under subregulation (1) forms part of the Gold State Super Member's preserved GSS withdrawal benefit.

(3) If the amount of a Gold State Super Member's preserved GSS withdrawal benefit is reduced, interest continues to accrue on any remaining amount of the Member's benefit under subregulation (1).

[Regulation 46 amended: Gazette 26 May 2006 p. 1926-7; 13 Apr 2007 p. 1598; SL 2025/131 r. 6.]

46A. Reduction of preserved GSS withdrawal benefit if payment under r. 47A

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

[Regulation 46A inserted: Gazette 25 Jun 2004 p. 2229; amended: Gazette 13 Apr 2007 p. 1597; SL 2025/131 r. 7.]

47. Transfer of benefit to another scheme or fund

(1) A Gold State Super Member who is entitled to —

(a) payment of a benefit; or

(b) a preserved GSS withdrawal benefit,

may request the Board to transfer the benefit to another scheme or to another superannuation fund.

(2) The Board is to comply with a request under subregulation (1)(a).

(3) The Board is to comply with a request under subregulation (1)(b) if the Treasurer has approved the transfer.

(4) If a request under subregulation (1) relates to a preserved GSS withdrawal benefit the amount to be transferred is the amount of the benefit, discounted to the extent that the Board, on the advice of an actuary, considers appropriate.

[(5) deleted]

[Regulation 47 amended: Gazette 28 Jun 2002 p. 3012; 13 Apr 2007 p. 1598; 6 Jun 2007 p. 2622; SL 2021/132 r. 4; SL 2025/131 r. 8.]

47A. Early payment in case of severe financial hardship or compassionate grounds

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

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

(b) on a compassionate ground.

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

(a) to be in severe financial hardship; or

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

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

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

(a) the amount applied for by the Member;

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

(c) the Member's discounted benefit.

(5) A Member making an application under subregulation (1) must give to the Board all the information required to enable it to make the determinations required under this regulation.

(5A) A Member may give the Board the information otherwise than in writing (for example, by telephone) if —

(a) the Board has already made a determination under this regulation in respect of the Member (the ***earlier determination***) based on information provided by or on behalf of the Commonwealth Commissioner of Taxation; and

(b) the information is given only to confirm that the earlier determination remains correct at the time of giving the information.

(6) When a benefit is paid under this regulation the Board is to determine, on the advice of an actuary, the consequent reduction that is to be made to —

(a) any benefit subsequently arising in respect of the Member under Division 4; or

(b) if the Member is entitled to a preserved GSS withdrawal benefit, that benefit.

(7) A reduction under subregulation (6) may be —

(a) the deduction of a monetary amount, with or without interest; or

(b) the reduction by a specified amount of the multiple of final remuneration used to calculate the benefit; or

(c) calculated in any other manner agreed to by the actuary.

(8) In this regulation —

compassionate ground and ***severe financial hardship*** have the same meanings as they have in Part 6 of the SIS Regulations;

discounted benefit means the amount, as at the day on which the Board made its determination under subregulation (3) —

(a) if the Member is an eligible Gold State worker, of the benefit to which the Member would have been entitled under regulation 44 if the Member ceased to be an eligible Gold State worker on that day; or

(b) if the Member is entitled to a preserved GSS withdrawal benefit, of that benefit,

discounted to the extent that the Board, on the advice of an actuary, considers appropriate to reflect the early payment of the benefit.

[Regulation 47A inserted: Gazette 25 Jun 2004 p. 2229-30; amended: Gazette 26 May 2006 p. 1930; 13 Apr 2007 p. 1599; 18 Jan 2008 p. 150; SL 2023/205 r. 6; SL 2025/131 r. 9.]

47B. Early payment of preserved GSS withdrawal benefit to workers 65 years and over

(1) This regulation applies to a Gold State Super Member who is —

(a) a worker entitled to a preserved GSS withdrawal benefit that is not yet payable under regulation 45(1); and

(b) at least 65 years of age.

(2) The Member may apply to the Board for the payment of all or part of the Member's preserved GSS withdrawal benefit.

(3) If the Board receives an application under subregulation (2), the Board must pay the Member the amount requested.

(4) However, the Board must not pay an amount that —

(a) is less than the pre-set minimum (if any); or

(b) would reduce the remaining amount of the Member's preserved GSS withdrawal benefit to less than the pre-set minimum (if any).

(5) Subregulation (4)(b) does not apply if the application is for payment of all of the Member's preserved GSS withdrawal benefit.

(6) If all or part of the Member's preserved GSS withdrawal benefit is paid under this regulation, the amount of the benefit is reduced by an amount equal to the amount of the benefit that is paid to the Member.

[Regulation 47B inserted: SL 2025/131 r. 10.]

48. Binding death benefit nomination and payment of death benefit

(1) In this regulation —

death benefit, of a Gold State Super Member, means the following —

(a) a benefit that becomes payable under regulation 39 or 43(a) because the Member has died;

(b) the Member's GSS withdrawal benefit that becomes payable because the Member has died;

(c) a benefit that becomes payable to the Member under the Gold State Super Scheme but is not paid or transferred under regulation 47 before the Board is notified of the Member's death.

(1A) A Gold State Super Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

(a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

(i) a permitted nominee of the Member specified in the notice; or

(ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

(b) includes a statement that the nomination is to remain in force —

(i) indefinitely; or

(ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(1B) A binding death benefit nomination given by a Gold State Super Member comes into force when it is received by the Board and remains in force until any of the following occurs —

(a) the Board receives a notice given by the Member revoking the binding death benefit nomination;

(b) the Board receives a subsequent binding death benefit nomination given by the Member;

(c) the Member ceases to be a Gold State Super Member;

(d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.

(1C) If a binding death benefit nomination is in force in respect of a Gold State Super Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

(a) cannot be found after the Board has made reasonable enquiries; or

(b) is not a permitted nominee of the Member at the time of the Member's death.

(1D) If no binding death benefit nomination is in force in respect of a Gold State Super Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

(2) A benefit paid under subregulation (1C) or (1D) to the executor of a Member's will 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) The Board may pay up to $25 000 of a death benefit in accordance with subregulation (3A) if —

(a) either —

(i) no binding death benefit nomination is in force in respect of a Gold State Super Member when the Member dies; or

(ii) subregulation (1C)(a) or (b) applies;

and

(b) either —

(i) the Board has been unable, after making reasonable enquiries, to find an executor of the Member's will or administrator of the Member's estate; or

(ii) the Board considers it desirable to make the payment in order to relieve or avoid hardship.

(3A) If the Board decides to make a payment under subregulation (3) the Board may make the payment —

(a) to 1 or more of the Member's dependants in proportions determined by the Board; or

(b) if, after making reasonable enquiries, the Board has been unable to find any dependant of the Member, to 1 or more other individuals in proportions determined by the Board.

[(4) deleted]

[Regulation 48 amended: Gazette 28 Jun 2002 p. 3031-2; 13 Jun 2003 p. 2113; 1 Dec 2004 p. 5706; 13 Apr 2007 p. 1597; SL 2021/49 r. 5; SL 2021/132 r. 5; SL 2022/173 r. 4.]

49. Disablement benefit or payment of GSS withdrawal benefit on disablement, application for

(1) A Gold State Super Member's disablement benefit is not payable unless the Member —

(a) applies for it within 12 months of ceasing to be an eligible Gold State 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 GSS withdrawal benefit under regulation 45(1)(b),

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

(3) A Gold State Super Member who applies for a disablement benefit or for payment of a GSS withdrawal benefit under regulation 45(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; and

(b) undertake any medical examinations required by the Board; and

(c) authorise the Board to obtain any medical, personal and other information about the Member that the Board considers relevant to the application; and

(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 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).

[Regulation 49 amended: Gazette 13 Apr 2007 p. 1597.]

49A. Member liable to pay contributions tax, commutable pension for

(1) A Gold State Super Member who will become liable to pay contributions tax as a result of a benefit becoming payable to the Member from the Gold State Super Scheme may, at any time before the benefit is paid, apply to the Board —

(a) to receive part of the benefit in the form of a commutable pension; and

(b) to fully commute that pension.

(2) Subject to subregulation (5) when a benefit becomes payable to a Member who has made an application under subregulation (1) the Board is to —

(a) estimate the amount of contributions tax the Member will become liable to pay (the ***estimated tax amount***); and

(b) withhold from the Member's benefit an amount equal to the estimated tax amount; and

(c) pay the balance of the benefit to the Member.

(3) Interest accrues on an amount withheld under subregulation (2)(b) —

(a) at a rate equal to the CPI rate plus 2%; and

(b) from the day on which the benefit became payable to the day on which the withheld amount is paid under subregulation (4)(c); and

(c) in a manner determined by the Board.

(4) On receipt of a copy of the Member's assessment notice the Board is to —

(a) convert into a pension —

(i) if the actual tax amount is less than the withheld amount — a portion of the withheld amount equal to the actual tax amount; or

(ii) otherwise — the whole of the withheld amount;

and

(b) commute that pension; and

(c) pay to the Member —

(i) the lump sum resulting from the commutation of the pension; and

(ii) the balance (if any) of the withheld amount.

(5) The Board may reject an application made under subregulation (1) if it is not satisfied that, if the application were accepted, the lump sum benefit that would become payable under subregulation (4)(c)(i) will be used to pay the contributions tax.

(6) In this regulation —

actual tax amount means the amount stated in the Member's assessment notice as the amount of contributions tax payable by the Member;

assessment notice means a notice given by the Commissioner of Taxation to a Member under section 15(7) of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997* of the Commonwealth;

withheld amount means the amount withheld under subregulation (2)(b) plus interest on that amount accrued under subregulation (3).

[Regulation 49A inserted: Gazette 28 Jun 2002 p. 3023-4; amended: Gazette 26 May 2006 p. 1930.]

49B. Benefits applied for, but unpaid, at Member's death

(1) In this regulation —

death benefit has the meaning given in regulation 48.

(2) This regulation applies if —

(a) a Gold State Super Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and

(b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.

(3) The Board —

(a) must not pay or transfer the benefit as applied for or requested; but

(b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

[Regulation 49B inserted: SL 2023/205 r. 7]

Part 3 — West State Super Scheme

Division 1 — Preliminary

50. Terms used

(1) In this Part —

covered risk benefit —

(a) means a benefit provided by the Board to a covered risk benefits Member; and

(b) includes any supplementary risk benefit provided under regulation 70A; but

(c) does not include payment of the balance of the Member's west state account or the Member's protected amount;

covered risk benefits Member has the meaning given in regulation 69G;

eligible statutory WSS Member means a statutory WSS Member other than a person who has become excluded by regulation 51(2), (3), (4A) or (4) from being a statutory WSS Member;

gainfully employed has the meaning given in the SIS Regulations;

health condition means a condition imposed on an eligible statutory WSS Member that any benefit payable to or in respect of the Member under regulation 70, 71 or 72 will be limited to the extent determined by the Board;

inactive low-balance west state account has the meaning given in subregulation (1A);

member contribution means a contribution under regulation 63;

partner WSS Member means a person —

(a) who was, immediately before 16 April 2007, a partner Member within the meaning of that term at that time; or

(b) who became a partner WSS Member under regulation 50A(3) on or after that date,

and who has not subsequently become a statutory WSS Member or a voluntary WSS Member or ceased to be a West State Super Member;

protected amount in relation to a West State Super Member means, subject to regulation 80B —

(a) if the Member was a West State Super Member on 30 June 2001, an amount equal to —

(i) the balance of the Member's west state account at the end of 30 June 2001; plus

(ii) interest on that amount at the rate equal to the CPI rate plus 2% from 1 July 2001 to the day as at which the protected amount is being calculated;

or

(b) otherwise — zero;

splittable contribution means a contribution to the West State Super Scheme that would be a splittable contribution (within the meaning given in the SIS Regulations regulation 6.42) if the West State Super Scheme were a regulated superannuation fund;

statutory WSS Member means a person —

(a) who was, immediately before 16 April 2007, a statutory Member within the meaning of that term at that time; or

(b) who became a statutory WSS Member under regulation 50A(3) or 52 on or after that date,

and who has not subsequently ceased to be a West State Super Member;

voluntary WSS Member means a person —

(a) who was, immediately before 16 April 2007, a voluntary Member within the meaning of that term at that time; or

(b) who became a voluntary WSS Member under regulation 50A(3) or 52 on or after that date,

and who has not subsequently become a statutory WSS Member or ceased to be a West State Super Member;

west state account means an account kept under regulation 66(1);

WSS withdrawal benefit means —

(a) a benefit under regulation 74; or

(b) a benefit to which a Member became entitled under regulation 73, 74(2)(a) or 74B(2) before 1 December 2004.

(1A) A west state account is an ***inactive low-balance west state account*** at any time if during the period of 16 continuous months ending at that time —

(a) the account has a balance of less than $6 000; and

(b) no relevant contribution has been credited to the account; and

(ba) if the West State Super Member in whose name the account is maintained is a voluntary GESB Super Member, no relevant contribution has been credited to the Member's GESB Super account; and

(c) the West State Super Member in whose name the account is maintained is not a covered risk benefits Member; and

(d) the West State Super Member in whose name the account is maintained has not —

(i) exercised an option or made any choice afforded to the Member under regulation 69D in connection with the selection of an investment plan in relation to the Member's account; or

(ii) given a binding death benefit nomination under regulation 80; or

(iii) accrued an entitlement to the Member's WSS withdrawal benefit on the basis of a circumstance specified in regulation 76(1)(a), (b), (da), (d) or (e); or

(iv) reached preservation age.

(1B) A west state account is an ***inactive west state account*** at any time if during the period of 16 continuous months ending at that time —

(a) no relevant contribution has been credited to the account; and

(aa) if the West State Super Member in whose name the account is maintained is a voluntary GESB Super Member, no relevant contribution has been credited to the Member's GESB Super account; and

(b) the Board has issued a notice (a ***notice of inactivity***) in accordance with regulation 224AA to the West State Super Member in whose name the account is maintained —

(i) within 14 days after the condition in paragraph (a) has been satisfied for a period of 9 continuous months; and

(ii) within 14 days after the condition in paragraph (a) has been satisfied for a period of 12 continuous months; and

(iii) within 14 days after the condition in paragraph (a) has been satisfied for a period of 15 continuous months.

(2) For the purposes of this Part a person is to be regarded as retiring upon the occurrence of circumstances because of which a person's retirement would be taken to occur according to regulation 6.01(7) of the SIS Regulations.

[Regulation 50 amended: Gazette 29 Jun 2001 p. 3082; 13 Jun 2003 p. 2106 and 2108-9; 25 Jun 2004 p. 2230;

1 Dec 2004 p. 5707; 26 May 2006 p. 1918; 13 Apr 2007 p. 1599, 1621-3 and 1623-4; 8 Jul 2008 p. 3214-15; 24 Nov 2009 p. 4741; 8 Jul 2011 p. 2900; 17 Jan 2012 p. 470; SL 2024/195 r. 5; SL 2025/59 r. 5.]

Division 2 — Membership

50A. West State Super Scheme closed to new Members

(1) Subject to this regulation, no person can become a West State Super Member on or after 16 April 2007.

(1A) Subregulation (1) does not prevent a person whose membership of the West State Super Scheme is terminated under regulation 53(2) from resuming membership under regulation 53(3).

(2) A worker who is not a West State Super Member and who is, or is in a class of workers who are, approved by the Treasurer may apply to become a statutory, voluntary or partner WSS Member on or after 16 April 2007.

(3) The Board is to accept an application made under subregulation (2) and the worker becomes a statutory, voluntary or partner WSS Member when the application is accepted.

[Regulation 50A inserted: Gazette 13 Apr 2007 p. 1624-5; amended: Gazette 17 Jan 2012 p. 473; 10 Jan 2017 p. 148.]

51. Statutory WSS Members, exclusions from being

[(1) deleted]

(2) A worker is excluded by this subregulation from being a statutory WSS Member if the worker —

(a) is a Gold State Super Member, other than a Member who is entitled to a preserved GSS withdrawal benefit (as defined in regulation 12); or

(b) is a Pension Scheme Member (other than a person who has determined his or her pension under section 60AA

of the *Superannuation and Family Benefits Act 1938*) or a Provident Scheme Member; or

(c) holds a pensionable office as defined in section 2(4) of 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 being a statutory WSS Member if —

(a) the Employer —

(i) has established a superannuation scheme or fund in accordance with section 30(1) of the Act; or

(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;

and

(b) the worker is a member of that scheme or fund; and

(c) as a consequence, no contributions under section 4B of the Act are made to the Fund for the worker, for a contribution period of the worker.

(4A) A worker is excluded by this subregulation from being a statutory WSS Member if, as a consequence of the worker choosing a fund that is not a scheme, no contributions under section 4B of the Act are made to the Fund for the worker, for a contribution period of the worker.

(4) A worker who is a parliamentarian is excluded by this subregulation from being a statutory WSS Member if the worker —

(a) is a person in respect of whom contributions are being made under section 11 of the *Parliamentary*

Superannuation Act 1970 to the superannuation scheme provided for by that Act; or

(b) is a non-participant, as defined in section 29 of the *Parliamentary Superannuation Act 1970*, in respect of whom contributions are being made in accordance with a determination made under that section to a superannuation fund other than the West State Super Scheme.

[Regulation 51 amended: Gazette 29 Jun 2001 p. 3083; 28 Jun 2002 p. 3027; 26 May 2006 p. 1928-9; 13 Apr 2007 p. 1599, 1623 and 1625; 17 Jan 2012 p. 470.]

52. When voluntary or partner WSS Member changes kind of membership

(1) A voluntary WSS Member or a partner WSS Member who —

(a) becomes a worker and is not excluded by regulation 51(2), (3), (4A) or (4) from being a statutory WSS Member; or

(b) being a worker who was excluded by regulation 51(2), (3), (4A) or (4) from being a statutory WSS Member, ceases to be so excluded,

becomes a statutory WSS Member when he or she becomes a worker or ceases to be excluded.

(2) A partner WSS Member who contributes to the West State Super Scheme under regulation 63 becomes a voluntary WSS Member when the first such contribution is received by the Board.

[Regulation 52 inserted: Gazette 13 Apr 2007 p. 1625; amended: Gazette 17 Jan 2012 p. 471.]

52B. Certain Members may elect to withdraw

(1) A partner WSS Member may withdraw from the West State Super Scheme by giving notice to that effect to the Board.

(2) A statutory WSS Member or a voluntary WSS Member who is, or is in a class of persons who are, approved by the Treasurer, may withdraw from the West State Super Scheme by giving notice to that effect to the Board.

[Regulation 52B inserted: Gazette 13 Apr 2007 p. 1626; amended: Gazette 17 Jan 2012 p. 473.]

53. When membership ceases

(1) 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 scheme or to another superannuation fund in satisfaction of all of the person's entitlements to benefits from the West State Super Scheme; or

(c) the whole balance of the person's account is paid to the Commonwealth Commissioner of Taxation in respect of the member under regulation 69AA, 69AB, 69AD or 69AE; or

(d) the whole of the member's benefits are included in a payment to the Commonwealth Commissioner of Taxation under regulation 79AAA; or

(e) the Board terminates the person's membership of the West State Super Scheme under subregulation (2).

(2) The Board may terminate a person's membership of the West State Super Scheme if —

(a) the balance of the person's west state account is reduced to zero other than in any of the circumstances mentioned in subregulation (1)(a) to (d); and

(b) the Board reasonably believes that no further amount will be credited to the account.

(3) A person whose membership is terminated under subregulation (2) may resume membership of the West State Super Scheme by tendering a contribution to the Fund in accordance with subregulation (4).

(4) For the purposes of subregulation (3) a contribution —

(a) must be of at least the minimum amount fixed by the Board for the purposes of subregulation (3); and

(b) must be tendered within 30 days after the Board gives the member information about the termination of membership under regulation 224B.

(5) A person who resumes membership of the West State Super Scheme under subregulation (3), is taken to have been a West State Super Member continuously since before the termination of membership.

[Regulation 53 amended: Gazette 28 Jun 2002 p. 3012; 6 Jan 2015 p. 26; 10 Jan 2017 p. 148-9; SL 2024/195 r. 6; SL 2026/102 r. 9.]

Division 3 — Contributions

[Subdivision 1A (r. 53A) deleted: SL 2025/59 r. 6.]

*[**54A.** Deleted: Gazette 17 Jan 2012 p. 471.]*

Subdivision 1 — Employer contributions

*[**54, 55.** Deleted: Gazette 17 Jan 2012 p. 471.]*

*[**56.** Deleted: Gazette 8 Jul 2008 p. 3216.]*

*[**57.** Deleted: Gazette 23 Jul 2013 p. 3308.]*

58. Commonwealth payments, acceptance of

The Board may accept a Commonwealth payment in respect of a West State Super Member.

[Regulation 58 inserted: Gazette 13 Apr 2007 p. 1587.]

59. Insurance payout, acceptance of as contribution

If —

(a) there is in force a policy of insurance entered into with an insurer under regulation 75 to provide for a supplementary salary continuance benefit for a West State Super Member; and

(b) an amount becomes payable under that policy in respect of the Member,

the Board may accept payment of all or part of that amount from the insurer as a contribution for the Member.

[Regulation 59 inserted: Gazette 24 Nov 2009 p. 4741; amended: Gazette 30 Jun 2010 p. 3133.]

60. Employer's contribution returns, duty to give etc.

(1) When making any contributions to the Fund, or paying any amounts under regulation 62, an Employer must give to the Board a contribution return for the contribution period to which those contributions or payments relate.

(2) A contribution return is to be in a form approved by the Board.

*[**61.** Deleted: Gazette 13 Apr 2007 p. 1626.]*

62. Treasurer may require Employers to pay additional amounts

(1) The Treasurer may, on the advice of an actuary, give a direction to the Fund requiring Employers who are required to make contributions under section 4B of the Act or regulation 12C to pay additional amounts to the Fund, 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' west state 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).

[Regulation 62 amended: Gazette 29 Jun 2001 p. 3085; 13 Apr 2007 p. 1623-4 and 1626; 8 Jul 2008 p. 3218; 17 Jan 2012 p. 471.]

Subdivision 2 — Member contributions

63. Member contributions, when payable and amount of

(1) A West State Super Member may contribute to the Fund the amount, and at the times, agreed between the Member and the Board.

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

[Regulation 63 amended: Gazette 13 Jun 2003 p. 2112.]

64. Member contributions, how to be paid

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

(a) if the Member is a worker, are to be deducted from the Member's pay by the Employer unless —

(i) they are paid by the Employer under a salary sacrifice agreement; or

(ii) the Member has made some other arrangement with the Board for payment of those contributions;

or

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

(2) An Employer who has —

(a) deducted member contributions from a West State Super Member's pay; or

(b) agreed to pay member contributions under a salary sacrifice agreement,

must pay those contributions to the Board within 14 days of the end of the contribution period to which they relate.

[Regulation 64 amended: Gazette 13 Jun 2003 p. 2112-13; 17 Jan 2012 p. 471.]

64A. Partners, Members etc. may contribute for

(1) A person who is —

(a) a Member; or

(b) a Pension Scheme Member or a Provident Scheme Member; or

(c) a person who is in receipt of a pension under the Pension Scheme, other than a reversionary pension; or

(d) a person who is entitled to a benefit under the Pension Scheme or the Provident Scheme that is not yet payable,

(the ***contributor***) may contribute to the Fund for a partner of the contributor.

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

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

[Regulation 64A inserted: Gazette 13 Jun 2003 p. 2106-7; amended: Gazette 1 Dec 2004 p. 5706; 26 May 2006 p. 1930.]

Subdivision 3 — Transfers

65. Transfer of benefits to scheme by Member

A West State Super Member may transfer to the West State Super Scheme a benefit accrued in respect of the Member in another superannuation fund by paying, or arranging the payment of, the amount of that benefit to the Fund.

[Regulation 65 inserted: Gazette 10 Jan 2017 p. 149.]

*[**65A.** Deleted: Gazette 8 Jul 2008 p. 3219.]*

Subdivision 4 — Contribution splitting for partner

[Heading inserted: Gazette 13 Apr 2007 p. 1627.]

65BA. Term used: partner

Despite the definition of ***partner*** in regulation 3, in this Subdivision —

partner has the meaning given to the term ***spouse*** in the SIS Act section 10.

[Regulation 65BA inserted: Gazette 8 Jul 2008 p. 3219.]

65BB. Member may transfer splittable contributions for partner's benefit

(1) A West State Super Member for whom splittable contributions have been made to the West State Super Scheme may apply to the Board to transfer some or all of those contributions for the

benefit of the Member's partner, and subject to this regulation the Board is to accept the application.

(2) The Member may apply to transfer those contributions —

(a) if the partner is a West State Super Member, to the partner's west state account; or

(b) to the partner's GESB Super account (within the meaning given in regulation 83); or

(c) if the Member's partner is a member of another scheme or superannuation fund that is able to accept the transfer, to that other scheme or fund.

[(3) deleted]

(4) The Board must not accept an application under this regulation unless the Board is satisfied that, if the West State Super Scheme were a regulated superannuation fund, the Board would be entitled under the SIS Regulations Division 6.7 to accept the application.

(5) If it accepts an application under subregulation (1) the Board must transfer the contributions to which the application relates within 90 days of accepting the application.

[Regulation 65BB inserted: Gazette 8 Jul 2008 p. 3219-20; amended: SL 2025/59 r. 7.]

65B. Contributions-split transfer from other scheme or fund, Board may accept

The Board may accept a contributions-split transfer to the West State Super Scheme for a West State Super Member from another scheme or other superannuation fund.

[Regulation 65B inserted: Gazette 13 Apr 2007 p. 1627.]

Division 4 — West state accounts

[Heading amended: Gazette 13 Apr 2007 p. 1624.]

66. West state accounts for Members, Board to establish

(1) The Board is to establish and maintain in the Fund a west state account for each West State Super Member.

(2) The Board may divide a west state account into 2 or more sub-accounts.

[Regulation 66 amended: Gazette 13 Apr 2007 p. 1623-4.]

67. Amounts to be credited to west state accounts

(1) Subject to subregulation (3), the Board must credit to a West State Super Member's west state account —

(a) contributions made to the West State Super Scheme for the Member; and

(b) any Commonwealth payments made to the West State Super Scheme for the Member and accepted under regulation 58; and

(c) any benefits transferred to the West State Super Scheme for the Member; and

(ca) any interest paid to the Board under section 25 of the Act in respect of the late payment of contributions payable to the West State Super Scheme for the Member; and

(da) any splittable contributions transferred for the benefit of the Member under regulation 65BB(2)(a) or 65B; and

(db) any amounts received from an insurer in respect of the Member under insurance provided under regulation 75 (including any amounts paid under regulation 59); and

(d) earnings in accordance with regulation 69; and

(e) any amounts transferred to the West State Super Scheme from reserves maintained under section 20A of the Act

in accordance with the Board's reserving strategy and any relevant Treasurer's guidelines; and

(f) any amount that the Board transfers to the West State Super Scheme for the Member from a retirement income account under regulation 181(1)(f) or from a term allocated pension account under regulation 196H(1)(b) to comply with a commutation authority issued to the Board in respect of the Member.

(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 west state accounts.

(3) The Board must not credit a non-government contribution to a West State Super Member's west state account.

[Regulation 67 amended: Gazette 29 Jun 2001 p. 3086; 28 Jun 2002 p. 3022; 19 Mar 2003 p. 836; 13 Jun 2003 p. 2107; 1 Dec 2004 p. 5708; 13 Apr 2007 p. 1587, 1623-4 and 1628; 8 Jul 2008 p. 3220; 24 Nov 2009 p. 4742; 30 Jun 2010 p. 3134; 10 Jan 2017 p. 149; 12 Oct 2018 p. 4061; SL 2025/59 r. 8.]

68. Amounts to be debited to west state accounts

(1) The Board must debit to a West State Super Member's west state account —

(a) any amounts withheld under regulation 81A(2); and

(b) any amounts paid as benefits from the West State Super Scheme to, or in respect of, the Member; and

(c) any amounts transferred to other schemes or to other superannuation funds in satisfaction of the Member's entitlement to a benefit from the West State Super Scheme; and

(d) any overpaid amounts deducted under regulation 248B(2)(b); and

(e) any splittable contributions transferred by the Member under regulation 65BB; and

(f) any amounts paid in respect of the Member or in respect of the account under regulation 69AA, 69AB, 69AC, 69AD or 69AE; and

(g) the amount of any benefit of the member included in a payment made under regulation 79AAA.

(2) The Board may debit to a West State Super Member's west state account —

(a) the cost of any benefits provided in respect of the Member under regulations 70, 71 and 72; and

(b) administrative costs to the extent that they have not been taken into account in the determination of earning rates under regulation 69F; and

(c) any tax or other amounts required by a written law or a law of the Commonwealth to be paid by the Board in respect of the Member; and

(d) the amount of any fees payable by the Member for, or in relation to, any product or service provided to the Member in accordance with section 6(1)(e) of the Act.

(3) The Board may only debit an amount to a west state account —

(a) under subregulation (2)(b), if an actuary has advised that it is appropriate for that amount to be debited to that account; or

(b) under subregulation (2)(d), if the Member has given the Board written consent to the debiting of that amount to the account.

(4) If the Board debits an amount to a west state account under subregulation (2)(d) in respect of a fee payable to a person other

than the Board, the Board must pay the amount deducted to that other person.

[Regulation 68 inserted: Gazette 19 Mar 2003 p. 836-7; amended: Gazette 1 Dec 2004 p. 5708; 13 Apr 2007 p. 1588, 1623-4 and 1628; 8 Jul 2008 p. 3220-1; 30 Jun 2010 p. 3134; 6 Jan 2015 p. 26; 10 Jan 2017 p. 149-50; 8 Nov 2019 p. 4004; SL 2024/195 r. 7; SL 2025/59 r. 9; SL 2026/102 r. 10.]

69. Earnings to be credited to Member's account

(1) The Board is to credit earnings to each Member's west state account at a rate equal to the Member's earning rate on the balance of the account —

(a) at least once every year; and

(b) when the Member becomes entitled to payment of a benefit.

(2) The Board is to decide whether the earning rate is to be applied to daily balances, average balances or on some other basis.

[Regulation 69 amended: Gazette 29 Jun 2001 p. 3086; 28 Jun 2002 p. 3012 and 3027; 19 Mar 2003 p. 837; 13 Apr 2007 p. 1623-4.]

69AA. Payments in respect of former temporary residents under the Commonwealth Unclaimed Money Act Part 3A

If —

(a) the West State Super Scheme is a prescribed scheme; and

(b) a member is a former temporary resident,

the Board must make a payment in respect of the member's interest in the West State Super Scheme to the Commonwealth

Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 3A.

[Regulation 69AA inserted: Gazette 6 Jan 2015 p. 26-7; amended: SL 2025/59 r. 10.]

69AB. Payments in respect of lost member accounts under the Commonwealth Unclaimed Money Act Part 4A

If —

(a) the West State Super Scheme is a prescribed scheme; and

(b) a West State Super account is a lost member account,

the Board is to make a payment in respect of the account to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 4A.

[Regulation 69AB inserted: Gazette 6 Jan 2015 p. 27; amended: SL 2025/59 r. 11.]

69AC. Payments in accordance with release authority

If the Board is given a release authority in respect of a West State Super account, it may make a payment in respect of the account in accordance with the release authority.

[Regulation 69AC inserted: Gazette 10 Jan 2017 p. 150; amended: SL 2025/59 r. 12.]

69AD. Payments in respect of inactive low-balance west state accounts in accordance with Commonwealth Unclaimed Money Act Part 3B

(1) If a west state account is an inactive low-balance west state account, the Board may make a payment (the ***payment***) to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 3B as if the West State Super Scheme were a regulated superannuation fund

and the west state account were an inactive low-balance account under that Act.

(2) Subregulation (1) does not apply unless —

(a) the Commonwealth Commissioner of Taxation is permitted under the Commonwealth Unclaimed Money Act to accept the payment; and

(b) the West State Super Member in whose name the account is maintained has not informed the Board that the Board is to continue to maintain the account.

[Regulation 69AD inserted: SL 2024/195 r. 8.]

69AE. Payments in accordance with Commonwealth Unclaimed Money Act Pt. 3D

The Board may make a payment to the Commonwealth Commissioner of Taxation in respect of a West State Super member in accordance with the Commonwealth Unclaimed Money Act Part 3D as if the West State Super Scheme were a regulated superannuation fund under that Act.

[Regulation 69AE inserted: SL 2026/102 r. 11.]

Division 4A — Member investment choice

[Heading inserted: Gazette 29 Jun 2001 p. 3086.]

69A. Terms used

In this Division —

default plan means the readymade investment plan selected by the Board under regulation 69C as the default plan for West State Super Members;

personalised investment plan means an investment plan established under regulation 69B(3);

readymade investment plan means an investment plan established under regulation 69B(1).

[Regulation 69A inserted: Gazette 29 Jun 2001 p. 3086; amended: Gazette 28 Jun 2002 p. 3012.]

69B. Investment plans for Members, Board to establish

(1) The Board is to establish one or more investment plans for West State Super Members with asset allocations determined by the Board.

(2) The Board may alter the asset allocation for a readymade investment plan whenever the Board considers it appropriate to do so.

(3) The Board may establish an investment plan under which a West State Super Member who selects that plan may select the Member's own asset allocation subject to any conditions determined by the Board.

(4) The Board must notify all West State Super Members of —

(a) the establishment of a new investment plan for West State Super Members including, in the case of a readymade investment plan, the asset allocation for that plan; and

(b) any material change in the asset allocation of a readymade investment plan; and

(c) any material change in the conditions applying to a personalised investment plan,

before, or as soon as practicable after, the establishment or change occurs.

[Regulation 69B inserted: Gazette 29 Jun 2001 p. 3087; amended: Gazette 28 Jun 2002 p. 3013.]

69C. Default plan for Members

(1) The Board is to select one of the readymade investment plans as the default plan for West State Super Members.

(2) The Board may change the plan selected as the default plan whenever the Board considers it appropriate to do so.

(3) The Board must notify all West State Super Members of any change made under subregulation (2) before, or as soon as practicable after, the change occurs.

[Regulation 69C inserted: Gazette 29 Jun 2001 p. 3087; amended: Gazette 28 Jun 2002 p. 3013; 13 Apr 2007 p. 1589.]

69D. Member to select investment plan and asset allocation

(1) A West State Super Member must select 1 or more investment plans in accordance with subregulation (1AA) to be used in determining the Member's earning rate and give notice of that selection to the Board.

(1AA) The Member may select —

(a) 1 personalised investment plan; or

(b) 1 or more readymade investment plans; or

(c) 1 personalised investment plan and 1 or more readymade investment plans.

(1a) If a Member selects a personalised investment plan the Member must also select the asset allocation to be applied to the Member's assets and give notice of that selection to the Board.

(2) A Member may change the Member's selection under subregulation (1), (1AA) or (1a) at any time by giving notice to the Board.

(2a) As soon as practicable after receiving a notice under this regulation the Board must give effect to it by investing the Member's assets in accordance with regulation 69E.

(3) Until a West State Super Member selects otherwise the Member is taken to have selected —

(a) in the case of a person who was a West State Super Member on 1 July 2001, the plan that was the default plan on that day; and

(b) otherwise, the plan that was the default plan at the time the person became a West State Super Member.

[Regulation 69D inserted: Gazette 29 Jun 2001 p. 3088; amended: Gazette 19 Mar 2003 p. 837-8; 13 Apr 2007 p. 1589; SL 2026/102 r. 12.]

69E. Board to invest in accord with Member's plan

(1) For each West State Super Member who selects a readymade investment plan the Board must, as far as is practicable —

(a) invest the Member's assets in accordance with the asset allocation determined under regulation 69B for that investment plan; and

(b) ensure that the investment of the Member's assets remains in accordance with that asset allocation until the Member selects a different investment plan.

(2) For a West State Super Member who selects a personalised investment plan the Board must invest —

(a) the Member's assets as at the time the Board gives effect to the selection (***selection day***); and

(b) contributions made, and benefits transferred, to the Fund by or in respect of the Member after the selection day,

in accordance with the asset allocation selected by the Member but, unless the Board and the Member agree otherwise, the Board is not required to ensure that the investment of the Member's assets remains in accordance with that asset allocation.

(3) In this regulation —

Member's assets means the assets of the Fund that represent the west state account of a West State Super Member.

[Regulation 69E inserted: Gazette 29 Jun 2001 p. 3088-9; amended: Gazette 28 Jun 2002 p. 3013 and 3022; 13 Apr 2007 p. 1589-90 and 1623-4; 10 Jan 2017 p. 150.]

69F. Earning rates, determining

(1) At the end of each financial year and at any other time when the Board considers it desirable to do so, an earning rate is to be determined for —

(a) each readymade investment plan; and

(b) each West State Super Member who has selected a personalised investment plan.

(2) The earning rates are to be determined —

(a) by the Board; or

(b) on behalf of the Board in accordance with procedures or formulae determined by the Board.

(3) In determining an earning rate, or the procedures or formulae to be used to determine an earning rate, the Board must have regard to —

(a) the nett rate of return achieved by the investment of the assets of the Fund that represent the west state accounts of the Members to whom the earning rate will apply; and

(aa) administrative costs; and

(b) the desirability of averaging returns in order to reduce fluctuations in earning rates.

(4) An earning rate may be positive or negative.

[Regulation 69F inserted: Gazette 29 Jun 2001 p. 3089-90; amended: Gazette 28 Jun 2002 p. 3013; 19 Mar 2003 p. 838; 13 Apr 2007 p. 1623-4.]

[Divisions 4B and 5A deleted: Gazette 30 Jun 2010 p. 3134.]

Division 5 — Benefits

[Heading inserted: Gazette 30 Jun 2010 p. 3134.]

Subdivision 1 — Preliminary

[Heading inserted: Gazette 30 Jun 2010 p. 3134.]

69G. Terms used

In this Division —

covered risk benefits Member means a West State Super Member —

(a) on whose death or disability immediately before the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* any benefit (other than payment of the balance of the Member's West State account or the Member's protected amount) would have been payable; or

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

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

eligible risk benefits Member means a member who is —

(a) a West State Super Member who under the terms on which the Board provides a supplementary risk benefit under regulation 70A is or may be eligible for the supplementary risk benefit; or

(b) an eligible statutory WSS Member who is under 60 years of age;

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

reckonable earnings, for a West State Super Member, means the earnings of the West State Super Member taken into account

in calculating the contributions due in respect of the Member under section 4B of the Act and regulation 12D.

[Regulation 69G inserted: Gazette 30 Jun 2010 p. 3134-5; amended: Gazette 23 Jul 2013 p. 3308.]

Subdivision 2 — Covered risk benefits Members

[Heading inserted: Gazette 30 Jun 2010 p. 3135.]

69H. Covered risk benefits Members, who are automatically

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

[Regulation 69H inserted: Gazette 30 Jun 2010 p. 3135.]

69I. Covered risk benefits Member, Board may give certain people option to become

(1) The Board may determine that any person, or any member of a specified class of persons, who becomes an eligible risk benefits Member after the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* is not a covered risk benefits Member unless, within such time of becoming an eligible risk benefits Member as the Board may specify, that person opts to become a covered risk benefits Member.

(2) An option under subregulation (1) is to be exercised by notice in writing to the Board, received by the Board before the expiry of the specified time.

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

[Regulation 69I inserted: Gazette 30 Jun 2010 p. 3136.]

69J. Ceasing to be a covered risk benefits Member

(1) A covered risk benefits Member may opt at any time to cease to be a covered risk benefits Member.

(2) An option under subregulation (1) is to be exercised by notice in writing or by telephone, received by the Board.

(3) When a notice under subregulation (2) is received by the Board, the Member exercising the option ceases to be a covered risk benefits Member.

(4) The Board may determine that a covered risk benefits Member who, as a result of options exercised by the Member under regulation 70B(3), is not eligible for any supplementary risk benefit ceases to be a covered risk benefits Member.

[Regulation 69J inserted: Gazette 30 Jun 2010 p. 3136; amended: Gazette 8 Nov 2019 p. 4004.]

69K. Covered risk benefits Member, certain people may opt to become

(1) An eligible risk benefits Member who is not a covered risk benefits Member and who is not entitled to become a covered risk benefits Member under regulation 69H may at any time opt to become a covered risk benefits Member, subject to the provisions of this regulation and of regulation 69L.

(2) An option under subregulation (1) is to be exercised by notice in writing —

(a) received by the Board; and

(b) accepted by the Board under regulation 69L.

[Regulation 69K inserted: Gazette 30 Jun 2010 p. 3137.]

69L. Opt-in notice, Board's functions on receiving

(1) On receiving an opt-in notice, the Board may require the Member giving the notice to do all or any of the following —

(a) undergo one or more medical examinations and provide the resulting medical reports to the Board;

(b) provide to the Board —

(i) any other medical reports; and

(ii) information about the Member's health and medical history; and

(iii) any other information the Board considers relevant.

(2) If the Board imposes a requirement under subregulation (1) the Member —

(a) must comply with the requirement within the time specified by the Board; and

(b) is responsible for payment of any costs involved in complying with the requirement.

(3) The Board may decline to accept an opt-in notice if under the terms of insurance provided under regulation 70A an application for cover for the Member under that insurance may be refused.

(4) The Board may decline to accept an opt-in notice or accept it subject to a health condition if —

(a) after considering the notice and any further medical information provided by the Member, the Board is of the opinion that the Member is suffering from a physical or mental condition that is likely to prevent him or her from satisfactorily performing his or her duties until he or she turns 60 years of age; or

(b) the Member fails to comply with a requirement under subregulation (1).

(5) When an opt-in notice is accepted by the Board, the person giving the notice becomes a covered risk benefits Member.

[Regulation 69L inserted: Gazette 30 Jun 2010 p. 3137-8.]

69M. Opt-in notice, altering or cancelling acceptance of

(1) If, in reliance on a statement made in medical information provided by a Member, the Board has accepted an opt-in notice without imposing a health condition and the Board subsequently becomes aware that —

(a) the Member knew the statement was untrue; or

(b) the statement was misleading because it omitted material information of which the Member had knowledge,

the Board may —

(c) impose a health condition on the Member; or

(d) cancel its acceptance of the notice, in which event the Member ceases to be a covered risk benefits Member with retrospective effect to the time when the notice was accepted.

(2) The Board may take action under subregulation (1)(c) or (d) even if the Member has ceased to be a worker or has died.

(3) If a covered risk benefits Member who is subject to a health condition satisfies the Board that his or her health has improved since the condition was imposed, the Board may remove or vary the condition.

[Regulation 69M inserted: Gazette 30 Jun 2010 p. 3138-9.]

Subdivision 3 — Provision of supplementary risk benefits

[Heading inserted: Gazette 30 Jun 2010 p. 3139.]

70A. Supplementary risk benefits, Board may provide

The Board may provide all or any of the following kinds of supplementary risk benefits for all covered risk benefits

Members who are West State Super Members, or for such classes of those Members, as the Board considers appropriate —

(a) supplementary death benefits;

(b) supplementary incapacity benefits;

(c) supplementary salary continuance benefits.

[Regulation 70A inserted: Gazette 30 Jun 2010 p. 3139.]

70B. Supplementary risk benefits, terms of

(1) The Board must decide the terms of any supplementary risk benefits provided for covered risk benefits Members under regulation 70A.

(2) The Board may decide on different terms for different classes of covered risk benefits Members.

(3) The terms of supplementary risk benefits may include terms in relation to all or any of the following —

(a) eligibility for a benefit, and options in relation to eligibility;

(b) levels or amounts of benefits, and options in relation to levels and amounts;

(c) requirements for changing the level or amount of benefits;

(d) form of benefits (whether lump sum, periodic payment or otherwise);

(e) information and documents to be given to and by the Board;

(f) amounts to be debited to Members' accounts in respect of benefits for which they are eligible;

(g) claims procedures and evidentiary requirements;

(h) cessation, termination or cancellation of entitlement to benefits;

(i) procedural and administrative matters relating to the provision of benefits.

[(4) deleted]

[Regulation 70B inserted: Gazette 30 Jun 2010 p. 3139-40; amended: Gazette 10 Jan 2017 p. 150.]

Subdivision 4 — Benefits

[Heading inserted: Gazette 30 Jun 2010 p. 3140.]

70. Death benefit for covered risk benefits Member, amount of etc.

(1) If a covered risk benefits Member who —

(a) is an eligible statutory WSS Member; and

(b) is under 60 years of age,

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

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

where —

A is the greater of —

(i) the balance of the Member's west state account; and

(ii) the Member's protected amount;

R is —

(i) if the Member has been a statutory WSS Member for all of the 2 years prior to the Member's death — the total of the Member's reckonable earnings for those 2 years; or

(ii) otherwise, the amount of reckonable earnings the Board considers the Member would have received for those 2 years if the circumstances existing immediately before the Member died had existed for all of those 2 years;

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

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

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

(3) If a covered risk benefits Member is subject to a health condition no basic death benefit or supplementary death benefit is payable unless the Board is satisfied that the Member's death was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.

(4) If a covered risk benefits Member is, as a result of options exercised by the Member under regulation 70B(3), not eligible for a supplementary death benefit, no basic death benefit is payable.

[Regulation 70 inserted: Gazette 30 Jun 2010 p. 3140-2; amended: Gazette 23 Jul 2013 p. 3309.]

71. Incapacity benefit for covered risk benefits Member, amount of etc.

(1) In this regulation —

permanent incapacity has the meaning given in the SIS Act section 10(1).

(2) Subject to regulation 81 and subregulations (5), (7) and (8), if a covered risk benefits Member who —

(a) is an eligible statutory WSS Member; and

(b) is under 60 years of age,

ceases to be a worker because of permanent incapacity, the Board is to pay the Member a basic incapacity benefit equal to the basic death benefit that would have been payable under regulation 70 if the Member had died on the day the Member ceased to be a worker.

(3) Subject to subregulations (5), (7) and (8), if a covered risk benefits Member who —

(a) is an eligible statutory WSS Member; and

(b) is under 60 years of age,

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

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

where —

A is the greater of —

(i) the balance of the Member's west state account; and

(ii) the Member's protected amount;

R is —

(i) if the Member has been a statutory WSS Member for all of the 2 years prior to the Member ceasing to be a worker — the total of the Member's reckonable earnings for those 2 years; or

(ii) otherwise, the amount of reckonable earnings 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 reckonable earnings that the Board considers the Member has the capacity to earn after becoming disabled, having regard to subregulation (4);

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

F is the number of complete months from the day the Member ceased to be a worker to the day when the Member will turn 60 years of age.

(4) For the purpose of determining the value of E in the formula in subregulation (3) the Board is to take into account the possibility of work in either the public sector or the private sector.

(5) If a covered risk benefits Member entitled to a basic incapacity benefit under subregulation (2) or (3) has received, or is entitled to receive, another benefit from any of the superannuation schemes established or continued under the Act in respect of the same incapacity, the Board may reduce the basic incapacity benefit to the extent it considers appropriate (but not to an amount less than the amount of A in the formula in regulation 70).

(6) If a covered risk benefits Member for whom a supplementary incapacity benefit is provided under regulation 70A suffers incapacity, subject to subregulation (7) and to the terms on which the supplementary incapacity benefit is provided the Board is to pay the supplementary incapacity benefit.

(7) If a covered risk benefits Member is subject to a health condition no basic incapacity benefit or supplementary incapacity benefit is payable unless the Board is satisfied that the Member's incapacity was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.

(8) If a covered risk benefits Member is, as a result of options exercised by the Member under regulation 70B(3), not eligible for a supplementary incapacity benefit, no basic incapacity benefit is payable.

[Regulation 71 inserted: Gazette 30 Jun 2010 p. 3142-4; amended: Gazette 23 Jul 2013 p. 3309; 8 Nov 2019 p. 4004.]

72. Covered risk benefits Member, supplementary salary continuance benefits for

(1) In this regulation —

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

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

(2) If a covered risk benefits Member for whom a supplementary salary continuance benefit is provided under regulation 70A(c) is temporarily incapacitated, subject to subregulation (3) and to the terms on which the supplementary salary continuance benefit is provided the Board is to pay the Member the supplementary salary continuance benefit or, if less, the SIS amount.

(3) If a covered risk benefits Member is subject to a health condition no supplementary salary continuance benefit is payable unless the Board is satisfied that the Member's incapacity was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.

[Regulation 72 inserted: Gazette 30 Jun 2010 p. 3145.]

73A. Covered risk benefits Members, Treasurer may increase basic risk benefits for

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

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

[Regulation 73A inserted: Gazette 30 Jun 2010 p. 3145-6.]

73. Death benefit for other WSS Members, amount and payment of

(1) This regulation applies if any of the following events occur —

(a) a statutory WSS Member dies without having become entitled to a benefit under regulation 74 and no benefit is payable under regulation 70;

(b) a voluntary WSS Member dies without having become entitled to a benefit under regulation 74;

(c) a partner WSS Member dies while there is still an amount in the Member's west state account.

(2) If this regulation applies the Board is to pay a benefit in respect of the Member of an amount equal to the greater of —

(a) the balance of the Member's west state account; and

(b) the Member's protected amount.

[Regulation 73 inserted: Gazette 30 Jun 2010 p. 3146; amended: Gazette 8 Jul 2011 p. 2900.]

74. Benefit if no other benefit under this Part, amount and payment of

(1) This regulation applies if any of the following events occur and no other benefit is payable under this Part —

(a) a statutory WSS Member or voluntary WSS Member —

(i) ceases to be a worker; or

(iia) retires; or

(ii) withdraws from the West State Super Scheme under regulation 52B(2);

or

(b) an eligible statutory WSS Member otherwise ceases to be an eligible statutory WSS Member; or

(c) a partner WSS Member —

(i) satisfies the criteria for payment of a benefit under regulation 76; or

(ii) withdraws from the West State Super Scheme under regulation 52B(1);

or

(da) a West State Super Member suffers from a terminal medical condition; or

(d) a West State Super Member reaches 65 years of age.

(2) If this regulation applies the Member is entitled to a benefit of an amount equal to the greater of —

(a) the balance of the Member's west state account; and

(b) the Member's protected amount.

(3) If the Member satisfies the criteria for payment of a benefit under regulation 76, the Board is to pay the benefit to the Member when requested by the Member to do so.

(4) If the Member does not satisfy the criteria for payment of a benefit under regulation 76, the benefit is preserved until those criteria are satisfied.

(5) If a Member is entitled to a benefit under this regulation and regulation 72, the benefit under regulation 72 is to be paid first.

[Regulation 74 inserted: Gazette 30 Jun 2010 p. 3146-7; amended: Gazette 10 May 2011 p. 1669; 8 Jul 2011 p. 2900.]

Subdivision 5 — External insurance

[Heading inserted: Gazette 30 Jun 2010 p. 3147.]

75. Insurance policies for benefits under r. 70, 71 and 72, Board may enter

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

[Regulation 75 inserted: Gazette 30 Jun 2010 p. 3147.]

75A. Cancellation of entitlement to covered risk benefit for Members with inactive west state accounts

If a West State Super Member in whose name an inactive west state account is maintained is entitled to a covered risk benefit and the Member has not informed the Board that they wish to retain the entitlement to the covered risk benefit, the Board may cancel the entitlement to the covered risk benefit.

[Regulation 75A inserted: SL 2024/195 r. 9.]

Division 6 — Payment of benefits

76A. Term used: earnings

In this Division other than regulation 79AA —

earnings, in relation to a benefit, means so much of the earnings that have been credited to the Member's west state account since the Member became entitled to the benefit as are attributable to that benefit.

[Regulation 76A inserted: Gazette 8 Jul 2008 p. 3226.]

76. WSS withdrawal benefit, payment of

(1) Unless permitted to do so by another provision of this Division the Board must not pay a West State Super Member's WSS withdrawal benefit unless the Member —

(a) is retired; or

(b) is suffering permanent incapacity; or

(c) is partially and permanently disabled; or

(da) suffers from a terminal medical condition; or

(d) is at least 65 years of age; or

(e) has died.

(1A) If a West State Super Member —

(a) satisfies the Board that he or she is retired; and

(b) subsequently ceases to be retired,

the benefit to which the Member was entitled immediately before he or she ceased to be retired remains payable notwithstanding that the Member is no longer retired.

(2) A West State Super Member who is entitled to a WSS withdrawal benefit may request payment of the benefit if —

(a) the benefit has become payable under subregulation (1)(a), (b), (c), (da) or (d) or subregulation (1A); or

(b) all of the following apply —

(i) the Member is a statutory WSS Member or a voluntary WSS Member;

(ii) the benefit is less that $200;

(iii) the Member has ceased to work for the Employer for whom he or she worked immediately before he or she became entitled to the benefit.

(2a) On receipt of a request under subregulation (2) the Board is to pay the benefit and earnings to the Member.

(3) If a West State Super Member's WSS withdrawal benefit becomes payable under subregulation (1)(e), the Board is to pay the benefit and earnings in accordance with regulation 80.

(4) For the purposes of subregulation (1)(b) a Member is ***suffering permanent incapacity*** if —

(a) the Member is not gainfully employed; and

(b) the Board is reasonably satisfied that the Member is unlikely, because of ill-health (whether physical or mental), ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.

[Regulation 76 amended: Gazette 19 Mar 2003 p. 839; 13 Jun 2003 p. 2108 and 2111; 25 Jun 2004 p. 2231; 26 May 2006 p. 1919 and 1927; 13 Apr 2007 p. 1600, 1607-8 and 1629; 8 Jul 2008 p. 3227-8; 10 May 2011 p. 1669.]

77. Preserved WSS withdrawal benefit ceases if Member again becomes worker

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

[Regulation 77 inserted: Gazette 13 Jun 2003 p. 2113; amended: Gazette 13 Apr 2007 p. 1600.]

*[**78.** Deleted: Gazette 8 Jul 2008 p. 3228.]*

79. Transfer of benefit to other scheme or fund or Commonwealth Commissioner of Taxation

(1) A West State Super Member who is entitled to —

(a) payment of a benefit; or

(b) a preserved WSS withdrawal benefit,

may request the Board to transfer the benefit to another scheme or to another superannuation fund and the Board is to comply with that request.

(2) A West State Super Member may request the Board to transfer the member's benefit to another superannuation fund that is not a scheme, and the Board is to comply with that request.

(3) The Board may transfer a West State Super Member's benefit to the Commonwealth Commissioner of Taxation if the Commissioner is permitted under the Commonwealth Unclaimed Money Act to accept the benefit, whether or not the Member has requested the transfer.

[Regulation 79 amended: Gazette 29 Jun 2001 p. 3092; 28 Jun 2002 p. 3013; 26 May 2006 p. 1928; 13 Apr 2007 p. 1601 and 1629; 8 Jul 2008 p. 3229; 17 Jan 2012 p. 471; SL 2021/49 r. 6.]

79AAA. Transfer of benefit under the Commonwealth Unclaimed Money Act Part 3

If —

(a) the West State Super Scheme is a prescribed scheme; and

(b) a benefit payable from the West State Super Scheme to or in respect of a member is unclaimed money,

the Board is to transfer the benefit to the Commonwealth Commissioner of Taxation by including the amount of the benefit in a payment made in accordance with the Commonwealth Unclaimed Money Act Part 3.

[Regulation 79AAA inserted: Gazette 6 Jan 2015 p. 27; amended: SL 2025/59 r. 13.]

79AA. Transferred benefit, payment or transfer of

(1) A West State Super Member who has a transferred benefit may request the Board to —

(a) pay the benefit and earnings to the Member; or

(b) transfer the benefit and earnings to another scheme or another superannuation fund.

(2) The Board must comply with a request under subregulation (1)(a) unless the Board is satisfied that, if the West State Super Scheme were a regulated superannuation fund, the Board would be prevented by the SIS Regulations from paying the benefit as requested.

(3) The Board must comply with a request under subregulation (1)(b).

(4) In this regulation —

earnings, in relation to a transferred benefit, means so much of the earnings that have been credited to the Member's west state account since the benefit was transferred as are attributable to that benefit;

transferred benefit means a benefit that has been transferred to the West State Super Scheme under regulation 65.

[Regulation 79AA inserted: Gazette 8 Jul 2008 p. 3229; amended: Gazette 10 Jan 2017 p. 150.]

79AB. General rules for request under r. 74(3), 76(2), 79 or 79AA

(1) A request under regulation 74(3), 76(2), 79 or 79AA for payment or transfer of a benefit may be made in relation to all or part of the benefit.

(2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that

reduces the balance in the Member's west state account to, less than the pre-set minimum (if any).

(3) Subregulation (2) does not apply if —

(a) the amount requested is the whole of the balance in the account; or

(b) the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

[Regulation 79AB inserted: Gazette 8 Jul 2008 p. 3230; amended: SL 2023/205 r. 8.]

79A. Early payment in case of severe financial hardship or compassionate grounds

(1) A West State Super Member may apply to the Board for the early release of all or part of the balance in the Member's west state account —

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

(b) on a compassionate ground.

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

(a) to be in severe financial hardship; or

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

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

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

(a) the amount applied for by the Member;

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

(c) the greater of —

(i) the balance in the Member's west state account; and

(ii) the Member's protected amount.

(5) A Member making an application under subregulation (1) must give to the Board all the information required to enable it to make the determinations required under this regulation.

(6) A Member may give the Board the information otherwise than in writing (for example, by telephone) if —

(a) the Board has already made a determination under this regulation in respect of the Member (the ***earlier determination***) based on information provided by or on behalf of the Commonwealth Commissioner of Taxation; and

(b) the information is given only to confirm that the earlier determination remains correct at the time of giving the information.

(7) In this regulation —

compassionate ground and ***severe financial hardship*** have the same meanings as they have in Part 6 of the SIS Regulations.

[Regulation 79A inserted: Gazette 25 Jun 2004 p. 2231-2; amended: Gazette 26 May 2006 p. 1930; 13 Apr 2007 p. 1623-4; 24 Nov 2009 p. 4742; SL 2023/205 r. 9.]

79B. Early payment for purpose of phased retirement benefit

(1) Subject to subregulation (1b), a West State Super Member who has reached the preservation age may request the Board to transfer —

(a) the balance of the Member's west state account; or

(b) part of the balance of the Member's west state account,

to another scheme or superannuation fund for the purpose of providing a phased retirement benefit for the Member and the Board is to comply with that request.

[(1a) deleted]

(1b) The Board must refuse a request under subregulation (1)(b) for the transfer of an amount that reduces the balance in the Member's west state account to less than the pre-set minimum (if any).

(1c) Subregulation (1b) does not apply if the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

(2) If a West State Super Member requests a transfer under subregulation (1), and the amount of the transfer requested is equal to an amount transferred to the West State Super Scheme from the Gold State Super Scheme for the Member under regulation 44B —

(a) the requirement in subregulation (1) that the Member has reached the preservation age does not apply; and

(b) subregulation (1b) does not apply.

[Regulation 79B inserted: Gazette 26 May 2006 p. 1919; amended: Gazette 13 Apr 2007 p. 1608, 1623-4 and 1629; 8 Jul 2008 p. 3230; 24 Nov 2009 p. 4742; 8 Jul 2011 p. 2900; SL 2023/205 r. 10.]

80A. Early payment in case of temporary resident departing Australia

(1) A West State Super Member may apply to the Board for the early release of the balance of the Member's west state account if the Member —

(a) is no longer a temporary resident (as defined in the SIS Regulations regulation 6.01(2)); and

(b) has permanently departed from Australia.

(2) The Board must accept the application if satisfied that, if the West State Super Scheme were a regulated superannuation fund, the Board would be required under the SIS Regulations regulation 6.20A to cash the Member's benefit.

(3) If the Board accepts an application under this regulation, the Board must pay the Member a benefit of an amount equal to the balance of the Member's west state account within 28 days of receiving the application.

[Regulation 80A inserted: Gazette 8 Jul 2008 p. 3230-1; amended: SL 2021/132 r. 6.]

80B. Part payment of benefit etc., effect of on protected amount

(1) In this regulation —

part payment, in respect of a West State Super Member, means —

(a) the payment of a benefit to or in respect of the Member; or

(b) the transfer of an amount to another scheme or superannuation fund in partial satisfaction of the Member's entitlement to a benefit from the West State Super Scheme; or

(c) the reduction of the balance of the Member's west state account under regulation 219F,

if the amount of the benefit, transfer or reduction is less than the whole of the balance of the Member's west state account.

(2) If a part payment is made in respect of a West State Super Member who was a West State Super Member on 30 June 2001 —

(a) if the amount of the part payment is less than the Member's protected amount —

(i) on the day on which the part payment is made the Member's protected amount is reduced by the amount of the part payment; and

(ii) on and after that day, the interest under paragraph (a)(ii) of the definition of ***protected amount*** in regulation 50(1) is to be calculated on the basis of that reduced amount;

or

(b) if the amount of the part payment is equal to or greater than the Member's protected amount — on the day on which the part payment is made the Member's protected amount is reduced to zero.

[Regulation 80B inserted: Gazette 24 Nov 2009 p. 4742-3.]

80. Binding death benefit nomination and payment of death benefit

(1) In this regulation —

death benefit, of a West State Super Member, means the following —

(a) a benefit that becomes payable under the West State Super Scheme because the Member has died;

(b) the Member's WSS withdrawal benefit that becomes payable because the Member has died;

(c) a benefit that becomes payable to the Member under the West State Super Scheme but is not paid or transferred under regulation 79 before the Board is notified of the Member's death.

(1A) A West State Super Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

(a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

(i) a permitted nominee of the Member specified in the notice; or

(ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

(b) includes a statement that the nomination is to remain in force —

(i) indefinitely; or

(ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(1B) A binding death benefit nomination given by a West State Super Member comes into force when it is received by the Board and remains in force until any of the following occurs —

(a) the Board receives a notice given by the Member revoking the binding death benefit nomination;

(b) the Board receives a subsequent binding death benefit nomination given by the Member;

(c) the Member ceases to be a West State Super Member;

(d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.

(1C) If a binding death benefit nomination is in force in respect of a West State Super Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

(a) cannot be found after the Board has made reasonable enquiries; or

(b) is not a permitted nominee of the Member at the time of the Member's death.

(1D) If no binding death benefit nomination is in force in respect of a West State Super Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

(2) A benefit paid under subregulation (1C) or (1D) to the executor of a Member's will 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 —

(a) either —

(i) no binding death benefit nomination is in force in respect of a West State Super Member when the Member dies; or

(ii) subregulation (1C)(a) or (b) applies;

and

(b) the Board —

(i) has been unable, after making reasonable enquiries, to find an executor of the Member's will or administrator of the Member's estate; or

(ii) considers it desirable to do so in order to relieve or avoid hardship,

the Board may pay up to $25 000 of a death benefit —

(c) to one or more of the Member's dependants in proportions determined by the Board; or

(d) if, after making reasonable enquiries, the Board has been unable to find any dependant of the Member, to one or more other individuals in proportions determined by the Board.

[(4) deleted]

[Regulation 80 amended: Gazette 28 Jun 2002 p. 3032-3; 19 Mar 2003 p. 839; 13 Jun 2003 p. 2113; 1 Dec 2004 p. 5706; 13 Apr 2007 p. 1601; 8 Jul 2008 p. 3231-2; SL 2021/49 r. 7.]

81. Disablement benefit or payment of WSS withdrawal benefit on disablement, application for

(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 WSS withdrawal benefit under regulation 76(1)(b) or (c),

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

(3) A West State Super Member who applies for a disablement benefit or payment of a WSS withdrawal benefit under regulation 76(1)(b) or (c) 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.

[Regulation 81 amended: Gazette 13 Apr 2007 p. 1601; 8 Jul 2008 p. 3232.]

81A. Member liable to pay contributions tax, commutable pension for

(1) A West State Super Member who will become liable to pay contributions tax as a result of a benefit becoming payable to the Member from the West State Super Scheme may, at any time before the benefit is paid, apply to the Board —

(a) to receive part of the benefit in the form of a commutable pension; and

(b) to fully commute that pension.

(2) Subject to subregulation (5) when a benefit becomes payable to a Member who has made an application under subregulation (1) the Board is to —

(a) estimate the amount of contributions tax the Member will become liable to pay (the ***estimated tax amount***); and

(b) withhold from the Member's benefit an amount equal to the estimated tax amount; and

(c) pay the balance of the benefit to the Member.

(3) Interest accrues on an amount withheld under subregulation (2)(b) —

(a) at a rate equal to the CPI rate plus 2%; and

(b) from the day on which the benefit became payable to the day on which the withheld amount is paid under subregulation (4)(c); and

(c) in a manner determined by the Board.

(4) On receipt of a copy of the Member's assessment notice the Board is to —

(a) convert into a pension —

(i) if the actual tax amount is less than the withheld amount — a portion of the withheld amount equal to the actual tax amount; or

(ii) otherwise — the whole of the withheld amount;

and

(b) commute that pension; and

(c) pay to the Member —

(i) the lump sum resulting from the commutation of the pension; and

(ii) the balance (if any) of the withheld amount.

(5) The Board may reject an application made under subregulation (1) if it is not satisfied that, if the application were accepted, the lump sum benefit that would become payable under subregulation (4)(c)(i) will be used to pay the contributions tax.

(6) In this regulation —

actual tax amount means the amount stated in the Member's assessment notice as the amount of contributions tax payable by the Member;

assessment notice means a notice given by the Commissioner of Taxation to a Member under section 15(7) of the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Imposition Act 1997* of the Commonwealth;

withheld amount means the amount withheld under subregulation (2)(b) plus interest on that amount accrued under subregulation (3).

[Regulation 81A inserted: Gazette 28 Jun 2002 p. 3024-6; amended: Gazette 26 May 2006 p. 1930.]

81B. Benefits applied for, but unpaid, at Member's death

(1) In this regulation —

death benefit has the meaning given in regulation 80.

(2) This regulation applies if —

(a) a West State Super Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and

(b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.

(3) The Board —

(a) must not pay or transfer the benefit as applied for or requested; but

(b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

[Regulation 81B inserted: SL 2023/205 r. 11]

Part 3A — GESB Super Scheme

[Heading inserted: Gazette 13 Apr 2007 p. 1630.]

Division 1 — Establishment and preliminary

[Heading inserted: Gazette 13 Apr 2007 p. 1630.]

82. Scheme established

The GESB Super Scheme is established as a superannuation scheme under section 28 of the Act.

[Regulation 82 inserted: Gazette 13 Apr 2007 p. 1630.]

83. Terms used

(1) In this Part —

eligible statutory GESB Super Member means a statutory GESB Super Member, other than a person who has become excluded by regulation 84(2), (3), (4A) or (4) from being a statutory GESB Super Member;

gainfully employed has the same meaning as it has in the SIS Regulations;

GESB Super account means an account kept under regulation 101;

GESB withdrawal benefit means a benefit under regulation 114;

inactive low-balance GESB Super account has the meaning given in subregulation (1A);

insurance cover means a group policy of insurance that provides cover for GESB Super Members;

Kiwisaver scheme has the meaning given in the *Income Tax Assessment Act 1997* (Commonwealth) section 995-1(1);

partner GESB Super Member means a person who became a partner GESB Super Member under regulation 86 and who has not subsequently become a statutory GESB Super Member or a voluntary GESB Super Member or ceased to be a GESB Super Member;

splittable contribution means a contribution to the GESB Super Scheme that would be a splittable contribution (as defined in regulation 6.42 of the SIS Regulations) if the GESB Super Scheme were a regulated superannuation fund;

statutory GESB Super Member means a person who became a statutory GESB Super Member under regulation 84 and who has not subsequently ceased to be a GESB Super Member;

voluntary GESB Super Member means a person who became a voluntary GESB Super Member under regulation 85 and who has not subsequently become a statutory GESB Super Member or ceased to be a GESB Super Member.

(1A) A GESB Super account is an ***inactive low-balance GESB Super account*** at any time if during the period of 16 continuous months ending at that time —

(a) the account has a balance of less than $6 000; and

(b) no relevant contribution has been credited to the account; and

(ba) if the GESB Super Member in whose name the account is maintained is a West State Super Member, no relevant contribution has been credited to the Member's west state account; and

(c) the GESB Super Member in whose name the account is maintained is not a covered GESB Super Member as defined in regulation 111A; and

(d) the GESB Super Member in whose name the account is maintained has not —

(i) exercised any option or made any choice afforded to the Member under regulation 108 in

connection with the selection of an investment plan in relation to the Member's account; or

(ii) given a binding death benefit nomination under regulation 121; or

(iii) accrued an entitlement to the Member's GESB withdrawal benefit on the basis of a circumstance specified in regulation 118(1); or

(iv) reached preservation age.

(1B) A GESB Super account is an ***inactive GESB Super account*** at any time if during the period of 16 continuous months ending at that time —

(a) no relevant contribution has been credited to the account; and

(aa) if the GESB Super Member in whose name the account is maintained is a West State Super Member, no relevant contribution has been credited to the Member's west state account; and

(b) the Board has issued a notice (a ***notice of inactivity***) in accordance with regulation 224AA to the GESB Super Member in whose name the account is maintained —

(i) within 14 days after the condition in paragraph (a) has been satisfied for a period of 9 continuous months; and

(ii) within 14 days after the condition in paragraph (a) has been satisfied for a period of 12 continuous months; and

(iii) within 14 days after the condition in paragraph (a) has been satisfied for a period of 15 continuous months.

(2) For the purposes of this Part a person is taken to retire upon the occurrence of circumstances because of which a person's

retirement would be taken to occur according to regulation 6.01(7) of the SIS Regulations.

[Regulation 83 inserted: Gazette 13 Apr 2007 p. 1630-1; amended: Gazette 8 Jul 2008 p. 3232; 8 Jul 2011 p. 2901; 17 Jan 2012 p. 471; 10 Jan 2017 p. 150; SL 2024/195 r. 10; SL 2025/59 r. 14.]

Division 2 — Membership

[Heading inserted: Gazette 13 Apr 2007 p. 1632.]

84. Statutory GESB Super Members

(1) Every person who becomes a worker on or after 16 April 2007 and who is not excluded by subregulation (2), (3) or (4) becomes a statutory GESB Super Member on the day on which the person becomes a worker.

(2) A worker is excluded by this subregulation from being a statutory GESB Super Member if the worker —

(a) is a West State Super Member; or

(b) is a Gold State Super Member, other than a Member who is entitled to a preserved GSS withdrawal benefit (as defined in regulation 12); or

(c) is a Pension Scheme Member or a Provident Scheme Member (other than a person who has determined the person's pension under section 60AA of the *Superannuation and Family Benefits Act 1938*); or

(d) holds a pensionable office as defined in section 2(4) of the *Judges' Salaries and Pensions Act 1950*; or

(e) 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 being a statutory GESB Super Member if —

(a) the Employer —

(i) has established a superannuation scheme or fund in accordance with section 30(1) of the Act; or

(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;

and

(b) the worker is a member of that scheme or fund; and

(c) as a consequence, no contributions under section 4B of the Act are made to the Fund for the worker, for a contribution period of the worker.

(4A) A worker is excluded by this subregulation from being a statutory GESB Super Member if, as a consequence of the worker choosing a fund that is not a scheme, no contributions under section 4B of the Act are made to the Fund for the worker, for a contribution period of the worker.

(4) A worker who is a parliamentarian is excluded by this subregulation from being a statutory GESB Super Member if the worker —

(a) is a person in respect of whom contributions are being made under section 11 of the *Parliamentary Superannuation Act 1970* to the superannuation scheme provided for by that Act; or

(b) is a non-participant, as defined in section 29 of the *Parliamentary Superannuation Act 1970*, in respect of whom contributions are being made in accordance with a determination made under that section to a

superannuation fund other than the GESB Super Scheme.

(5) If a worker was excluded by subregulation (2), (3) or (4) from being a statutory GESB Super Member and that exclusion ceases to apply to the worker, the worker becomes a statutory GESB Super Member on the day that exclusion ceases to so apply.

[Regulation 84 inserted: Gazette 13 Apr 2007 p. 1632-4; amended: Gazette 6 Jun 2007 p. 2622; 17 Jan 2012 p. 471-2; SL 2025/59 r. 15.]

85. Voluntary GESB Super Members

(1) A person —

(a) who contributes to the Fund under regulation 94; or

(b) who transfers an amount to the Fund under regulation 96; or

[(c) deleted]

(d) for whom Commonwealth payments are accepted under regulation 93,

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

(1A) A person for whom the Board transfers an amount to the GESB Super Scheme under regulation 96(5) becomes a voluntary GESB Super Member when the amount is transferred.

(1B) A person who is not otherwise a GESB Super Member becomes a voluntary GESB Super Member when the Board first receives a non-government contribution for the benefit of the person.

(2) A worker who is not a GESB Super Member may apply to become a voluntary GESB Super Member.

[(2a) deleted]

(3) If a voluntary GESB Super Member becomes a statutory GESB Super Member, the person ceases to be a voluntary GESB Super Member.

[Regulation 85 inserted: Gazette 13 Apr 2007 p. 1634; amended: Gazette 6 Jun 2007 p. 2623; 1 Apr 2008 p. 1284; 12 Oct 2018 p. 4061; SL 2025/59 r. 16.]

86. Partner GESB Super Members, who are

(1) A person —

(a) for whom contributions are made to the Fund under regulation 95; or

(b) for whom splittable contributions are transferred under regulation 65BB(2)(b), 98(2)(a) or 99,

becomes a partner GESB Super Member when the first such contribution or transfer is accepted by the Board.

(2) If a partner GESB Super Member becomes a statutory GESB Super Member or a voluntary GESB Super Member, the person ceases to be a partner GESB Super Member.

(3) A partner GESB Super Member may elect to withdraw from the GESB Super Scheme by giving notice to that effect to the Board.

[Regulation 86 inserted: Gazette 13 Apr 2007 p. 1634-5; amended: Gazette 8 Jul 2008 p. 3232.]

87. When membership ceases

(1) A person ceases to be a GESB Super Member when —

(a) all benefits that are or may be payable to or in respect of the person from the GESB Super Scheme have been paid; or

(b) a transfer is made to another scheme or to another superannuation fund in satisfaction of all of the person's

entitlements to benefits from the GESB Super Scheme; or

(c) the whole balance of the person's account is paid to the Commonwealth Commissioner of Taxation in respect of the member under regulation 105A, 105B, 105D, 105E or 126; or

(d) the whole of the member's benefits are included in a payment to the Commonwealth Commissioner of Taxation under regulation 121A; or

(e) the Board terminates the person's membership under subregulation (2).

(2) The Board may terminate a person's membership of the GESB Super Scheme if —

(a) the balance of the person's GESB Super account is reduced to zero other than in any of the circumstances mentioned in subregulation (1)(a) to (d); and

(b) the Board reasonably believes that no further amount will be credited to the account.

(3) A person whose membership is terminated under subregulation (2) may resume membership of the GESB Super Scheme by tendering a contribution to the Fund in accordance with subregulation (4).

(4) For the purposes of subregulation (3) a contribution —

(a) must be of at least the minimum amount fixed by the Board for the purposes of subregulation (3); and

(b) must be tendered within 30 days after the Board gives the member information about the termination of membership under regulation 224B.

(5) A person who resumes membership of the GESB Super Scheme under subregulation (3), is taken to have been a GESB Super

Member continuously since before the termination of membership.

[Regulation 87 inserted: Gazette 13 Apr 2007 p. 1635; amended: Gazette 6 Jan 2015 p. 27-8; 10 Jan 2017 p. 150-1; SL 2024/195 r. 11; SL 2026/102 r. 13.]

Division 3 — Contributions

[Heading inserted: Gazette 13 Apr 2007 p. 1635.]

Subdivision 1 — Employer contributions

[Heading inserted: Gazette 13 Apr 2007 p. 1635.]

*[**88, 89.** Deleted: Gazette 17 Jan 2012 p. 472.]*

*[**90.** Deleted: Gazette 8 Jul 2008 p. 3233.]*

*[**91.** Deleted: Gazette 23 Jul 2013 p. 3309.]*

92. Employer's contribution returns, duty to give etc.

(1) When making any contributions to the Fund an Employer must give to the Board a contribution return for the contribution period to which those contributions or payments relate.

(2) A contribution return is to be in a form approved by the Board.

[Regulation 92 inserted: Gazette 13 Apr 2007 p. 1638.]

93. Accepting Commonwealth payments

(1) The Board may accept a Commonwealth payment for a person who is —

(a) a Member; or

(b) a Pension Scheme Member or a Provident Scheme Member; or

(c) in receipt of a pension under the Pension Scheme, other than a reversionary pension; or

(d) entitled to a benefit under the Pension Scheme or the Provident Scheme that is not yet payable.

[(2) deleted]

[Regulation 93 inserted: Gazette 13 Apr 2007 p. 1639; amended: Gazette 6 Jun 2007 p. 2623; 11 Apr 2008 p. 1377; SL 2025/59 r. 17.]

94A. Insurance payouts, acceptance of as contribution

If —

(a) there is in force a policy of insurance entered into with an insurer under regulation 113(5) to provide salary continuance insurance for a GESB Super Member; and

(b) an amount becomes payable under that policy in respect of the Member,

the Board may accept payment of all or part of that amount from the insurer as a contribution for the Member.

[Regulation 94A inserted: Gazette 24 Nov 2009 p. 4743.]

Subdivision 2 — Member contributions

[Heading inserted: Gazette 13 Apr 2007 p. 1639.]

94. Making Member contributions

(1) A person may contribute to the Fund for the person if the person is —

(a) a worker; or

(b) a Member; or

(c) a Pension Scheme Member or a Provident Scheme Member; or

(d) in receipt of a pension under the Pension Scheme, other than a reversionary pension; or

(e) entitled to a benefit under the Pension Scheme or the Provident Scheme that is not yet payable.

[(2) deleted]

(3) A person contributing under this regulation (a ***contributor***) is to contribute the amounts, and at the times, agreed between the contributor and the Board.

(4) Contributions under this regulation are to be —

(a) if the contributor is a worker, deducted from the contributor's pay by the Employer unless —

(i) they are paid by the Employer under a salary sacrifice agreement; or

(ii) the contributor has made some other arrangement with the Board for payment of those contributions;

or

(b) if the contributor is not a worker, paid in the manner agreed between the contributor and the Board.

(5) An Employer who has —

(a) deducted contributions from a contributor's pay; or

(b) agreed to pay contributions under a salary sacrifice agreement,

must pay those contributions to the Board within 14 days of the end of the contribution period to which they relate.

[Regulation 94 inserted: Gazette 13 Apr 2007 p. 1639-40; amended: Gazette 6 Jun 2007 p. 2623; 17 Jan 2012 p. 472; SL 2025/59 r. 18.]

95. Members contributing for partners

(1) A person (a ***contributor***) may contribute to the Fund for the contributor's partner if the contributor is —

(a) a Member; or

(b) a Pension Scheme Member or a Provident Scheme Member; or

(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.

[(2) deleted]

(3) A contributor is to contribute the amounts, at the times and in the manner, agreed between the contributor and the Board.

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

[Regulation 95 inserted: Gazette 13 Apr 2007 p. 1640-1; amended: Gazette 6 Jun 2007 p. 2623; 17 Jan 2012 p. 472; SL 2025/59 r. 19.]

Subdivision 3 — Transfers

[Heading inserted: Gazette 13 Apr 2007 p. 1641.]

96. Transfers to GESB Super Scheme

(1) A person may make a transfer under subregulation (3) if the person is —

(a) a worker; or

(b) a Member; or

(c) a Pension Scheme Member or a Provident Scheme Member; or

(d) in receipt of a pension under the Pension Scheme, other than a reversionary pension; or

(e) entitled to a benefit under the Pension Scheme or the Provident Scheme that is not yet payable.

[(2) deleted]

(3) A person may transfer to the GESB Super Scheme for the person —

(a) a benefit accrued in respect of the person in another scheme or superannuation fund; or

(aa) an amount available for transfer under regulation 44B,

[(b) deleted]

by paying, or arranging the payment of, that benefit or amount to the Fund.

(4) Subject to subregulation (6), subregulation (5) applies to any amount (the ***relevant amount***) that the Board transfers from a retirement income account under regulation 181(1)(f) or from a term allocated pension account under regulation 196H(1)(b) to comply with a commutation authority issued to the Board in respect of a Member.

(5) The Board is to transfer the relevant amount to the GESB Super Scheme for the Member and credit that amount to a GESB Super account established for the Member.

(6) Subregulation (5) does not apply to the relevant amount if regulation 67(1)(f) or 102(1)(i) applies to that amount.

[Regulation 96 inserted: Gazette 13 Apr 2007 p. 1641-2; amended: Gazette 6 Jun 2007 p. 2624; 1 Apr 2008 p. 1284; 10 Jan 2017 p. 151-2; 12 Oct 2018 p. 4061-2; SL 2025/59 r. 96.]

Subdivision 4 — Contributions-splitting for partner

[Heading inserted: Gazette 13 Apr 2007 p. 1642.]

97. Term used: partner

Despite the definition of ***partner*** in regulation 3, in this Subdivision —

partner has the same meaning as the term ***spouse*** has in section 10 of the SIS Act.

[Regulation 97 inserted: Gazette 13 Apr 2007 p. 1642.]

98. Member may transfer splittable contributions for partner's benefit

(1) A GESB Super Member for whom splittable contributions have been made to the GESB Super Scheme may apply to the Board to transfer some or all of those contributions for the benefit of the Member's partner, and subject to this regulation the Board is to accept the application.

(2) The Member may apply to transfer those contributions —

(a) to the partner's GESB Super account; or

(b) if the Member's partner is a member of another scheme or superannuation fund that is able to accept the transfer, to that other scheme or fund.

[(3) deleted]

(4) The Board must not accept an application under this regulation unless the Board is satisfied that, if the GESB Super Scheme were a regulated superannuation fund, the Board would be entitled under Division 6.7 of the SIS Regulations to accept the application.

(5) If it accepts an application under subregulation (1) the Board must transfer the contributions to which the application relates within 90 days of accepting the application.

[Regulation 98 inserted: Gazette 13 Apr 2007 p. 1642-3; amended: Gazette 6 Jun 2007 p. 2624; SL 2025/59 r. 21.]

99. Accepting contributions-split transfers

(1) The Board may accept a contributions-split transfer to the GESB Super Scheme for a person who is —

(a) a worker; or

(b) a Member; or

(c) a Pension Scheme Member or a Provident Scheme Member; or

(d) in receipt of a pension under the Pension Scheme, other than a reversionary pension; or

(e) entitled to a benefit under the Pension Scheme or the Provident Scheme that is not yet payable.

[(2) deleted]

[Regulation 99 inserted: Gazette 13 Apr 2007 p. 1643; amended: Gazette 6 Jun 2007 p. 2624; SL 2025/59 r. 22.]

[Subdivision 5 (r. 100) deleted: Gazette 17 Jan 2012 p. 472.]

Division 4 — GESB Super accounts

[Heading inserted: Gazette 13 Apr 2007 p. 1644.]

101. GESB Super accounts for Members, Board to establish

(1) The Board is to establish and maintain in the Fund a GESB Super account for each GESB Super Member.

(2) The Board may divide a GESB Super account into 2 or more sub-accounts.

[Regulation 101 inserted: Gazette 13 Apr 2007 p. 1644.]

102. Amounts to be credited to GESB Super accounts

(1) The Board must credit to a GESB Super Member's GESB Super account —

(a) contributions (including non-government contributions) made to the GESB Super Scheme for the Member; and

(b) any Commonwealth payments made to the GESB Super Scheme for the Member and accepted under regulation 93; and

(c) any benefits transferred to the GESB Super Scheme for the Member; and

(d) any splittable contributions transferred for the benefit of the Member under regulation 98 or 99; and

(e) any amounts received from an insurer in respect of the Member under insurance provided under regulation 111 or 112 (including any amounts paid under regulation 94A); and

(f) any interest paid to the Board under section 25 of the Act in respect of the late payment of contributions payable to the GESB Super Scheme for the Member; and

(g) earnings in accordance with regulation 104; and

(h) any amounts transferred to the GESB Super Scheme from reserves maintained under section 20A of the Act in accordance with the Board's reserving strategy and any relevant Treasurer's guidelines; and

(i) any amount that the Board transfers to the GESB Super Scheme from a retirement income account under regulation 181(1)(f) or from a term allocated pension account under regulation 196H(1)(b) to comply with a commutation authority issued to the Board in respect of the Member.

(2A) If —

(a) a benefit becomes payable on the death on or after 1 January 2010 of a GESB Super Member; and

(b) the Board would be entitled to a deduction under the *Income Tax Assessment Act 1997* (Commonwealth) section 295-485 if it were to increase the amount of the benefit,

then the Board may, if it considers it appropriate to do so, credit to the Member's GESB Super account an amount determined by

the Board, not exceeding the tax saving amount in respect of the benefit.

(2) The Board may temporarily keep contributions made for a GESB Super Member, together with contributions made for other GESB Super Members, in an account maintained for that purpose until the contributions are credited to the appropriate GESB Super accounts.

[Regulation 102 inserted: Gazette 13 Apr 2007 p. 1644-5; amended: Gazette 24 Nov 2009 p. 4743; 8 Jan 2010 p. 29-30; 10 Jan 2017 p. 152; 12 Oct 2018 p. 4062; SL 2025/59 r. 23.]

103. Amounts to be debited to GESB Super accounts

(1) The Board is to debit to a GESB Super Member's GESB Super account —

(a) any amounts paid as benefits to, or in respect of, the Member; and

(b) any amounts transferred to other schemes or to other superannuation funds in satisfaction of the Member's entitlement to a benefit from the GESB Super Scheme; and

(c) any overpaid amounts deducted from the account under regulation 248B(2)(b)(ii); and

(d) any splittable contributions transferred by the Member under regulation 98; and

(e) any amount paid in respect of the Member or in respect of the account under regulation 105A, 105B, 105C, 105D, 105E or 126; and

(f) the amount of any benefit of the member included in a payment made under regulation 121A.

(2) The Board may debit to a GESB Super Member's GESB Super account —

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

(b) administrative costs to the extent that they have not been taken into account in the determination of earning rates under regulation 110; and

(c) any tax or other amounts required by a written law or a law of the Commonwealth to be paid by the Board in respect of the Member; and

(d) the amount of any fees payable by the Member for, or in relation to, any product or service provided to the Member in accordance with section 6(1)(e) of the Act.

(3) The Board may only debit an amount to a GESB Super account —

(a) under subregulation (2)(b), if an actuary has advised that it is appropriate for that amount to be debited to that account; or

(b) under subregulation (2)(d), if the Member has given the Board written consent to the debiting of that amount to the account.

(4) If the Board debits an amount to a GESB Super account under subregulation (2)(d) in respect of a fee payable to a person other than the Board, the Board must pay the amount deducted to that other person.

[Regulation 103 inserted: Gazette 13 Apr 2007 p. 1645-6; amended: Gazette 30 Jun 2010 p. 3148; 23 Jul 2013 p. 3309; 6 Jan 2015 p. 28; 10 Jan 2017 p. 152; 8 Nov 2019 p. 4005; SL 2024/195 r. 12; SL 2025/59 r. 24; SL 2026/102 r. 14.]

104. Earnings to be credited to Member's account

(1) The Board is to credit earnings to each Member's GESB Super account at a rate equal to the Member's earning rate on the balance of the account —

(a) at least once every year; and

(b) when the Member becomes entitled to payment of a benefit.

(2) The Board is to decide whether the earning rate is to be applied to daily balances, average balances or on some other basis.

[Regulation 104 inserted: Gazette 13 Apr 2007 p. 1647.]

105A. Payments in respect of former temporary residents under the Commonwealth Unclaimed Money Act Part 3A

If —

(a) the GESB Super Scheme is a prescribed scheme; and

(b) a member is a former temporary resident,

the Board is to make a payment in respect of the member to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 3A.

[Regulation 105A inserted: Gazette 6 Jan 2015 p. 28.]

105B. Payments in respect of lost member accounts under the Commonwealth Unclaimed Money Act Part 4A

If —

(a) the GESB Super Scheme is a prescribed scheme; and

(b) an account is a lost member account,

the Board is to make a payment in respect of the account to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 4A.

[Regulation 105B inserted: Gazette 6 Jan 2015 p. 29.]

105C. Payments in accordance with release authority

If the Board is given a release authority in respect of a GESB Super account, it may make a payment in respect of the account in accordance with the release authority.

[Regulation 105C inserted: Gazette 10 Jan 2017 p. 152; amended: SL 2025/59 r. 25.]

105D. Payments in respect of inactive low-balance GESB Super accounts in accordance with Commonwealth Unclaimed Money Act Part 3B

(1) If a GESB Super account is an inactive low-balance GESB Super account, the Board may make a payment (the ***payment***) to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 3B as if the GESB Super Scheme were a regulated superannuation fund and the account were an inactive low-balance account under that Act.

(2) Subregulation (1) does not apply unless —

(a) the Commonwealth Commissioner of Taxation is permitted under the Commonwealth Unclaimed Money Act to accept the payment; and

(b) the GESB Super Member in whose name the account is maintained has not informed the Board that the Board is to continue to maintain the account.

[Regulation 105D inserted: SL 2024/195 r. 13.]

105E. Payments in accordance with Commonwealth Unclaimed Money Act Pt. 3D

The Board may make a payment to the Commonwealth Commissioner of Taxation in respect of a GESB Super Member in accordance with the Commonwealth Unclaimed Money Act Part 3D as if the GESB Super Scheme were a regulated superannuation fund under that Act.

[Regulation 105E inserted: SL 2026/102 r. 15.]

Division 5 — Member investment choice

[Heading inserted: Gazette 13 Apr 2007 p. 1647.]

105. Terms used

In this Division —

default plan means the readymade investment plan selected by the Board under regulation 107 as the default plan for GESB Super Members;

personalised investment plan means an investment plan established under regulation 106(3);

readymade investment plan means an investment plan established under regulation 106(1).

[Regulation 105 inserted: Gazette 13 Apr 2007 p. 1647.]

106. Investment plans for Members, Board to establish

(1) The Board is to establish one or more investment plans for GESB Super Members with asset allocations determined by the Board.

(2) The Board may alter the asset allocation for a readymade investment plan whenever the Board considers it appropriate to do so.

(3) The Board may establish an investment plan under which a GESB Super Member who selects that plan may select the Member's own asset allocation subject to any conditions determined by the Board.

(4) The Board must notify all GESB Super Members of —

(a) the establishment of a new investment plan for GESB Super Members including, in the case of a readymade investment plan, the asset allocation for that plan; and

(b) any material change in the asset allocation of a readymade investment plan; and

(c) any material change in the conditions applying to a personalised investment plan,

before, or as soon as practicable after, the establishment or change occurs.

[Regulation 106 inserted: Gazette 13 Apr 2007 p. 1647-8.]

107. Default plan for Members

(1) The Board is to select one of the readymade investment plans as the default plan for GESB Super Members.

(2) The Board may change the plan selected as the default plan whenever the Board considers it appropriate to do so.

(3) The Board must notify all GESB Super Members of any change of the selected default plan before, or as soon as practicable after, the change occurs.

[Regulation 107 inserted: Gazette 13 Apr 2007 p. 1648.]

108. Member to select investment plan and asset allocation

(1) A GESB Super Member must select 1 or more investment plans in accordance with subregulation (1A) to be used in determining the Member's earning rate and give notice of that selection to the Board.

(1A) The Member may select —

(a) 1 personalised investment plan; or

(b) 1 or more readymade investment plans; or

(c) 1 personalised investment plan and 1 or more readymade investment plans.

(2) If a Member selects a personalised investment plan the Member must also select the asset allocation to be applied to the Member's assets and give notice of that selection to the Board.

(3) A Member may change the Member's selection under subregulation (1), (1A) or (2) at any time by giving notice to the Board.

(4) As soon as practicable after receiving a notice under this regulation the Board must give effect to it by investing the Member's assets in accordance with regulation 109.

(5) Until a GESB Super Member selects otherwise the Member is taken to have selected the plan that was the default plan at the time the person became a GESB Super Member.

[Regulation 108 inserted: Gazette 13 Apr 2007 p. 1648-9; amended: SL 2026/102 r. 16.]

109. Board to invest in accord with Member's plan

(1) For each GESB Super Member who selects a readymade investment plan the Board must, as far as is practicable —

(a) invest the Member's assets in accordance with the asset allocation determined under regulation 106 for that investment plan; and

(b) ensure that the investment of the Member's assets remains in accordance with that asset allocation until the Member selects a different investment plan.

(2) For a GESB Super Member who selects a personalised investment plan the Board must invest —

(a) the Member's assets as at the time the Board gives effect to the selection (***selection day***); and

(b) contributions made or transferred for the Member, and any benefits transferred to the Fund for the Member, after the selection day,

in accordance with the asset allocation selected by the Member, but, unless the Board and the Member agree otherwise, the Board is not required to ensure that the investment of the Member's assets remains in accordance with that asset allocation.

(3) In this regulation —

Member's assets means the assets of the Fund that represent the GESB Super account of a GESB Super Member.

[Regulation 109 inserted: Gazette 13 Apr 2007 p. 1649-50; amended: Gazette 10 Jan 2017 p. 152.]

110. Earning rates, determining

(1) At the end of each financial year and at any other time when the Board considers it desirable to do so, an earning rate is to be determined for —

(a) each readymade investment plan; and

(b) each GESB Super Member who has selected a personalised investment plan.

(2) The earning rates are to be determined —

(a) by the Board; or

(b) on behalf of the Board in accordance with procedures or formulae determined by the Board.

(3) In determining an earning rate, or the procedures or formulae to be used to determine an earning rate, the Board must have regard to —

(a) the nett rate of return achieved by the investment of the assets of the Fund that represent the GESB Super accounts of the Members to whom the earning rate will apply; and

(b) administrative costs; and

(c) the desirability of averaging returns in order to reduce fluctuations in earning rates.

(4) An earning rate may be positive or negative.

[Regulation 110 inserted: Gazette 13 Apr 2007 p. 1650-1.]

Division 6 — Benefits

[Heading inserted: Gazette 30 Jun 2010 p. 3148.]

Subdivision 1 — Preliminary

[Heading inserted: Gazette 30 Jun 2010 p. 3148.]

111A. Terms used

In this Division —

covered GESB Super Member means a GESB Super Member —

(a) on whose death or disability immediately before the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* any benefit (other than payment of the balance of the Member's GESB Super account) would have been payable; or

(b) who has since the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* become a covered GESB Super Member under regulation 111B, 111C or 111E,

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

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

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

[Regulation 111A inserted: Gazette 30 Jun 2010 p. 3148-9.]

Subdivision 2 — Covered GESB Super Members

[Heading inserted: Gazette 30 Jun 2010 p. 3149.]

111B. Covered GESB Super Members, who are automatically

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

[Regulation 111B inserted: Gazette 30 Jun 2010 p. 3149.]

111C. Covered GESB Super Member, Board may give certain people option to become

(1) The Board may determine that any person, or any member of a specified class of persons, who becomes a GESB Super Member on or after the coming into operation of the *State Superannuation Amendment Regulations (No. 2) 2010* is not a covered GESB Super Member unless, within such time of becoming a GESB Super Member as the Board may specify, that person opts to become a covered GESB Super Member.

(2) An option under subregulation (1) is to be exercised by notice in writing to the Board, received by the Board before the expiry of the specified time.

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

[Regulation 111C inserted: Gazette 30 Jun 2010 p. 3149-50.]

111D. Ceasing to be covered GESB Super Member

(1) A covered GESB Super Member may opt at any time to cease to be a covered GESB Super Member.

(2) An option under subregulation (1) is to be exercised by notice in writing or by telephone, received by the Board.

(3) When a notice under subregulation (2) is received by the Board, the Member exercising the option ceases to be a covered GESB Super Member.

(4) The Board may determine that a covered GESB Super Member who, as a result of options exercised by the Member under regulation 113(4), is not eligible for any insurance provided under regulation 111 or 112 ceases to be a covered GESB Super Member.

[Regulation 111D inserted: Gazette 30 Jun 2010 p. 3150; amended: Gazette 8 Nov 2019 p. 4005.]

111E. Covered GESB Super Member, certain people may opt to become

(1) A GESB Super Member who is not a covered GESB Super Member and who is not entitled to become a covered GESB Super Member under regulation 111B may at any time opt to become a covered GESB Super Member, subject to the provisions of this regulation and of regulation 111F.

(2) An option under subregulation (1) is to be exercised by notice in writing —

(a) received by the Board; and

(b) accepted by the Board under regulation 111F.

[Regulation 111E inserted: Gazette 30 Jun 2010 p. 3150.]

111F. Opt-in notice, Board's functions on receiving

(1) On receiving an opt-in notice, the Board may require the Member giving the notice to do all or any of the following —

(a) undergo one or more medical examinations and provide the resulting medical reports to the Board;

(b) provide to the Board —

(i) any other medical reports; and

(ii) information about the Member's health and medical history; and

(iii) any other information the Board considers relevant.

(2) If the Board imposes a requirement under subregulation (1) the Member —

(a) must comply with the requirement within the time specified by the Board; and

(b) is responsible for payment of any costs involved in complying with the requirement.

(3) The Board may decline to accept an opt-in notice if under the terms of insurance provided under regulation 111 or 112 an application for cover for the Member under that insurance may be refused.

(4) The Board may decline to accept an opt-in notice or accept it subject to a health condition if —

(a) after considering the notice and any further medical information provided by the Member, the Board is of the opinion that the Member is suffering from a physical or mental condition that is likely to prevent him or her from satisfactorily performing his or her duties until he or she turns 60 years of age; or

(b) the Member fails to comply with a requirement under subregulation (1).

(5) When an opt-in notice is accepted by the Board, the person giving the notice becomes a covered GESB Super Member.

[Regulation 111F inserted: Gazette 30 Jun 2010 p. 3151-2.]

111G. Opt-in notice, altering or cancelling acceptance of

(1) If, in reliance on a statement made in medical information provided by a Member, the Board has accepted an opt-in notice

without imposing a health condition and the Board subsequently becomes aware that —

(a) the Member knew the statement was untrue; or

(b) the statement was misleading because it omitted material information of which the Member had knowledge,

the Board may —

(c) impose a health condition on the Member; or

(d) cancel its acceptance of the notice, in which event the Member ceases to be a covered GESB Super Member with retrospective effect to the time when the notice was accepted.

(2) The Board may take action under subregulation (1)(c) or (d) even if the Member has ceased to be a worker or has died.

(3) If a covered GESB Super Member who is subject to a health condition satisfies the Board that his or her health has improved since the condition was imposed, the Board may remove or vary the condition.

[Regulation 111G inserted: Gazette 30 Jun 2010 p. 3152.]

Subdivision 3 — Insurance

[Heading inserted: Gazette 30 Jun 2010 p. 3153.]

111. Life insurance for covered GESB Super Members, Board's functions as to

(1) Subject to subregulation (2) the Board must provide life insurance for each covered GESB Super Member —

(a) who is an eligible statutory GESB Super Member; or

(b) who applies to have life insurance cover.

(2) The Board is not required to provide life insurance for a covered GESB Super Member if —

(a) under the terms of the life insurance the Member is not eligible to be covered; or

(b) the Member has cancelled his or her life insurance cover; or

(c) the Member's cover has ceased or been terminated in accordance with the terms of the life insurance.

(3) An application by a covered GESB Super Member —

(a) to be covered by the life insurance; or

(b) to cancel his or her life insurance cover,

is to be made to the Board in accordance with the terms of the life insurance.

[Regulation 111 inserted: Gazette 13 Apr 2007 p. 1651; amended: Gazette 30 Jun 2010 p. 3153.]

112. Disability insurance and salary continuance insurance, Board may provide

The Board may provide either or both —

(a) total and permanent disability insurance; and

(b) salary continuance insurance,

for all covered GESB Super Members or such classes of those Members as the Board considers appropriate.

[Regulation 112 inserted: Gazette 13 Apr 2007 p. 1651-2; amended: Gazette 30 Jun 2010 p. 3153.]

113. Terms of insurance provided under r. 111 or 112

(1) The Board must decide the terms of the life insurance provided under regulation 111 and any insurance provided under regulation 112.

(2) The Board may decide on different terms for different classes of covered GESB Super Members.

(3) The terms of the insurance may include terms in relation to all or any of the following —

(a) eligibility to be insured;

(b) levels of cover;

(c) requirements for changing the level of cover;

(d) benefits;

(e) information and documents to be given to and by the Board;

(f) premiums to be paid by Members;

(g) claims procedures and evidentiary requirements;

(h) cessation, termination or cancellation of cover;

(i) procedural and administrative matters relating to the provision of the insurance.

(4) The terms of the insurance must include terms to the effect that a covered GESB Super Member may choose not to be covered by the insurance.

(5) The Board may enter into one or more policies of insurance, including policies of group life assurance, to provide some or all of the insurance.

[Regulation 113 inserted: Gazette 13 Apr 2007 p. 1652; amended: Gazette 30 Jun 2010 p. 3153.]

[Heading (Div. 7) deleted: Gazette 30 Jun 2010 p. 3154.]

113A. Insurance for dual members

(1) In this regulation —

covered risk benefits Member has the meaning given in regulation 69G;

dual member means a voluntary GESB Super Member who is also a West State Super Member.

(2) The Board is not required to provide life insurance under regulation 111 or any insurance under regulation 112 for a dual member who —

(a) is a covered risk benefits Member; or

(b) has ceased to be a covered risk benefits Member under regulation 69J.

[Regulation 113A inserted: SL 2025/59 r. 26]

Subdivision 4 — Benefits

[Heading inserted: Gazette 30 Jun 2010 p. 3154.]

114. Withdrawal benefit, when payable

(1) Subject to subregulation (4), if —

(a) a statutory GESB Super Member or voluntary GESB Super Member retires or ceases to be a worker; or

(b) an eligible statutory GESB Super Member otherwise ceases to be an eligible statutory GESB Super Member; or

(c) a partner GESB Super Member —

(i) satisfies the criteria for payment of a benefit under regulation 118; or

(ii) elects to withdraw from the GESB Super Scheme under regulation 86(3);

or

(da) a GESB Super Member suffers from a terminal medical condition; or

(d) a GESB Super Member reaches 65 years of age,

and no benefit is payable under regulation 115, the Member is entitled to a benefit of an amount equal to the balance of the Member's GESB Super account.

(2) If the Member satisfies the criteria for payment of a benefit under regulation 118, the Board is to pay the benefit to the Member when requested by the Member to do so.

(3) If the Member does not satisfy the criteria for payment of a benefit under regulation 118, the benefit is preserved until those criteria are satisfied.

(4) If a Member is entitled to a benefit under this regulation and a benefit under regulation 116, the benefit under regulation 116 is to be paid first.

[Regulation 114 inserted: Gazette 13 Apr 2007 p. 1653; amended: Gazette 1 Apr 2008 p. 1284; 8 Jul 2008 p. 3236; 10 May 2011 p. 1669; 8 Jul 2011 p. 2901.]

115. Death benefit, when payable

If —

(a) a statutory GESB Super Member or voluntary GESB Super Member dies while still a worker; or

(b) a partner GESB Super Member dies while there is still an amount in the Member's GESB Super account,

the Board is to pay a benefit in respect of the Member of an amount equal to the balance of the Member's GESB Super account.

[Regulation 115 inserted: Gazette 13 Apr 2007 p. 1653-4.]

116. Insurance under r. 111 or 112, when proceeds from payable

(1) In this regulation —

SIS amount means the amount that, if the GESB Super Scheme were a regulated superannuation fund, the Board could pay to

the Member without contravening the cashing restriction set out in the SIS Regulations Schedule 1 item 109 column 3;

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

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

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

(4) If a covered GESB Super Member for whom salary continuance insurance is provided under regulation 112(b) is temporarily incapacitated, subject to subregulation (5) and to the terms on which the salary continuance insurance is provided the Board is to pay the Member the proceeds of the salary continuance insurance or, if less, the SIS amount.

(5) If a covered GESB Super Member is subject to a health condition no insurance proceeds are payable under subregulation (3) or (4) unless the Board is satisfied that the insured event was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.

[Regulation 116 inserted: Gazette 30 Jun 2010 p. 3154-5.]

116A. Cancellation of insurance cover for inactive GESB Super accounts

If a GESB Super Member in whose name an inactive GESB Super account is maintained has insurance cover and the

Member has not informed the Board that they wish to retain the insurance cover, the Board may cancel the insurance cover.

[Regulation 116A inserted: SL 2024/195 r. 14.]

Division 8 — Payment of benefits

[Heading inserted: Gazette 13 Apr 2007 p. 1655.]

117. Term used: earnings

In this Division, other than regulation 122 —

earnings, in relation to a benefit, means so much of the earnings that have been credited to the Member's GESB Super account since the Member became entitled to the benefit as are attributable to that benefit.

[Regulation 117 inserted: Gazette 13 Apr 2007 p. 1655.]

118. GESB withdrawal benefit, payment of

(1) Unless permitted to do so by another provision of this Division the Board must not pay a GESB withdrawal benefit unless the Member —

(a) is retired; or

(b) is suffering permanent incapacity; or

(ca) suffers from a terminal medical condition; or

(c) is at least 65 years of age; or

(d) has died.

(1a) If a GESB Super Member —

(a) satisfies the Board that he or she is retired; and

(b) subsequently ceases to be retired,

the benefit to which the Member was entitled immediately before he or she ceased to be retired remains payable notwithstanding that the Member is no longer retired.

(2) A GESB Super Member who is entitled to a GESB withdrawal benefit may request payment of the benefit if —

(a) the benefit is payable under subregulation (1)(a), (b), (ca) or (c) or subregulation (1a); or

(b) all of the following apply —

(i) the Member is a statutory GESB Super Member or a voluntary GESB Super Member;

(ii) the benefit is less that $200;

(iii) the Member has ceased to work for the Employer for whom he or she worked immediately before he or she became entitled to the benefit.

(3) On receipt of a request under subregulation (2) the Board is to pay the benefit and earnings to the Member.

(4) If a GESB withdrawal benefit becomes payable under subregulation (1)(d), the Board is to pay the benefit and earnings in accordance with regulation 121.

(5) For the purposes of subregulation (1)(b) a Member is ***suffering permanent incapacity*** if —

(a) the Member is not gainfully employed; and

(b) the Board is reasonably satisfied that the Member is unlikely, because of ill-health (whether physical or mental), ever again to engage in gainful employment for which the Member is reasonably qualified by education, training or experience.

[Regulation 118 inserted: Gazette 13 Apr 2007 p. 1655-6; amended: Gazette 1 Apr 2008 p. 1284-5; 8 Jul 2008 p. 3236; 10 May 2011 p. 1669.]

119. Preserved GESB withdrawal benefit ceases if Member again becomes worker

If a GESB Super Member who is entitled to a preserved GESB withdrawal benefit that is not yet payable again becomes a worker the Member's entitlement to that benefit ceases.

[Regulation 119 inserted: Gazette 13 Apr 2007 p. 1656.]

120. Transfer of benefit to another scheme or fund

(1) A GESB Super Member who is entitled to —

(a) payment of a benefit; or

(b) a preserved GESB withdrawal benefit,

may request the Board to transfer the benefit or payment, and earnings, to another scheme, to another superannuation fund or, subject to and in accordance with the SIS Regulations Part 12A, to a Kiwisaver scheme and the Board is to comply with that request.

(2) A GESB Super Member may request the Board to transfer the member's benefit to a superannuation fund that is not a scheme or, subject to and in accordance with the SIS Regulations Part 12A, to a Kiwisaver scheme and the Board is to comply with that request.

[Regulation 120 inserted: Gazette 13 Apr 2007 p. 1656; amended: Gazette 17 Jan 2012 p. 472-3; 10 Jan 2017 p. 153.]

121A. Transfer of benefit under the Commonwealth Unclaimed Money Act Part 3

If —

(a) the GESB Super Scheme is a prescribed scheme; and

(b) a benefit payable to or in respect of a member is unclaimed money,

the Board is to transfer the benefit to the Commonwealth Commissioner of Taxation by including the amount of the

benefit in a payment made in accordance with the Commonwealth Unclaimed Money Act Part 3.

[Regulation 121A inserted: Gazette 6 Jan 2015 p. 29.]

121. Binding death benefit nomination and payment of death benefit

(1) In this regulation —

death benefit, of a GESB Super Member, means the following —

(a) a benefit that becomes payable under regulation 115 because the Member dies;

(b) any other benefit or amount that becomes payable under the GESB Super Scheme because the Member dies;

(c) a benefit that becomes payable to the Member under the GESB Super Scheme but is not paid or transferred under regulation 120 before the Board is notified of the Member's death.

(1A) A GESB Super Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

(a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

(i) a permitted nominee of the Member specified in the notice; or

(ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

(b) includes a statement that the nomination is to remain in force —

(i) indefinitely; or

(ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(1B) A binding death benefit nomination given by a GESB Super Member comes into force when it is received by the Board and remains in force until any of the following occurs —

(a) the Board receives a notice given by the Member revoking the binding death benefit nomination;

(b) the Board receives a subsequent binding death benefit nomination given by the Member;

(c) the Member ceases to be a GESB Super Member;

(d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.

(1C) If a binding death benefit nomination is in force in respect of a GESB Super Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

(a) cannot be found after the Board has made reasonable enquiries; or

(b) is not a permitted nominee of the Member at the time of the Member's death.

(1D) If no binding death benefit nomination is in force in respect of a GESB Super Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

(2) A benefit paid under subregulation (1C) or (1D) to the executor of a Member's will 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 —

(a) either —

(i) no binding death benefit nomination is in force in respect of a GESB Super Member when the Member dies; or

(ii) subregulation (1C)(a) or (b) applies;

and

(b) the Board —

(i) has been unable, after making reasonable enquiries, to find an executor of the Member's will or administrator of the Member's estate; or

(ii) considers it desirable to do so in order to relieve or avoid hardship,

the Board may pay up to $25 000 of a death benefit —

(c) to one or more of the Member's dependants in proportions determined by the Board; or

(d) if, after making reasonable enquiries, the Board has been unable to find any dependant of the Member, to one or more other individuals in proportions determined by the Board.

[(4) deleted]

[Regulation 121 inserted: Gazette 13 Apr 2007 p. 1657-8; amended: SL 2021/49 r. 8.]

122. Transferred benefit, payment or transfer of

(1) A GESB Super Member who has a transferred benefit may request the Board to —

(a) pay the benefit and earnings to the Member; or

(b) transfer the benefit and earnings to another scheme or another superannuation fund.

(2) The Board must comply with a request under subregulation (1)(a) unless the Board is satisfied that, if the GESB Super Scheme were a regulated superannuation fund, the Board would be prevented by the SIS Regulations from paying the benefit as requested.

(3) The Board must comply with a request under subregulation (1)(b).

[(4)-(6) deleted]

(7) In this regulation —

earnings, in relation to a transferred benefit, means so much of the earnings that have been credited to the Member's GESB Super account since the benefit was transferred as are attributable to that benefit;

transferred benefit means a benefit that has been transferred to the GESB Super Scheme under regulation 96.

[Regulation 122 inserted: Gazette 13 Apr 2007 p. 1658-9; amended: Gazette 1 Apr 2008 p. 1285; 8 Jul 2008 p. 3237; 17 Jan 2012 p. 473; 10 Jan 2017 p. 153.]

122A. General rules for request under r. 114(2), 118(2), 120 or 122(1)

(1) A request under regulation 114(2), 118(2), 120 or 122(1) for payment or transfer of a benefit may be made in relation to all or part of the benefit.

(2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that reduces the balance in the Member's GESB Super account to, less than the pre-set minimum (if any).

(3) Subregulation (2) does not apply if the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

[Regulation 122A inserted: Gazette 1 Apr 2008 p. 1286; amended: SL 2023/205 r. 12.]

123. Early payment in case of severe financial hardship or compassionate grounds

(1) A GESB Super Member may apply to the Board for the early release of all or part of the balance of the Member's GESB Super account —

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

(b) on a compassionate ground.

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

(a) to be in severe financial hardship; or

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

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

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

(a) the amount applied for by the Member;

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

(c) the balance in the Member's GESB Super account.

(5) A Member making an application under subregulation (1) must give to the Board all the information required to enable it to make the determinations required under this regulation.

(5A) A Member may give the Board the information otherwise than in writing (for example, by telephone) if —

(a) the Board has already made a determination under this regulation in respect of the Member (the ***earlier determination***) based on information provided by or on behalf of the Commonwealth Commissioner of Taxation; and

(b) the information is given only to confirm that the earlier determination remains correct at the time of giving the information.

(6) If a benefit paid under this regulation is or includes all or part of a benefit to which the Member was already entitled the amount of that other benefit is reduced accordingly.

(7) In this regulation —

compassionate ground and ***severe financial hardship*** have the same meanings as they have in Part 6 of the SIS Regulations.

[Regulation 123 inserted: Gazette 13 Apr 2007 p. 1659-60; amended: SL 2023/205 r. 13.]

124. Early payment for purpose of phased retirement benefit

(1) Subject to subregulations (2) and (3), a GESB Super Member who has reached the preservation age may request the Board to transfer —

(a) the balance of the Member's GESB Super account; or

(b) part of the balance of the Member's GESB Super account,

to another scheme or superannuation fund for the purpose of providing a phased retirement benefit for the Member and the Board is to comply with that request.

(2) An eligible statutory GESB Super Member cannot make a request under subregulation (1)(a).

(3) The Board must refuse a request under subregulation (1)(b) for the transfer of an amount that reduces the balance in the Member's GESB Super account to less than the pre-set minimum (if any).

(3A) Subregulation (3) does not apply if the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

(4) If an amount transferred under this regulation is or includes all or part of a benefit to which the Member was already entitled the amount of that other benefit is reduced accordingly.

[Regulation 124 inserted: Gazette 13 Apr 2007 p. 1661; amended: SL 2023/205 r. 14.]

125. Early payment in case of temporary resident departing Australia

(1) A GESB Super Member may apply to the Board for the early release of the balance of the Member's GESB Super account if the Member —

(a) is no longer a temporary resident (as defined in the SIS Regulations regulation 6.01(2)); and

(b) has permanently departed from Australia.

(2) The Board must accept the application if satisfied that, if the GESB Super Scheme were a regulated superannuation fund, the Board would be required under the SIS Regulations regulation 6.20A to cash the Member's benefit.

(3) If the Board accepts an application under this regulation, the Board must pay the Member a benefit of an amount equal to the

balance of the Member's GESB Super account within 28 days of receiving the application.

[Regulation 125 inserted: Gazette 13 Apr 2007 p. 1661-2; amended: SL 2021/132 r. 7.]

126. Transfer of Member's balance to Commonwealth Commissioner of Taxation

The Board may transfer the balance of a Member's GESB Super account to the Commonwealth Commissioner of Taxation if the Commissioner is permitted under the Commonwealth Unclaimed Money Act to accept the benefit, whether or not the Member has requested the transfer.

[Regulation 126 inserted: Gazette 13 Apr 2007 p. 1662; amended: SL 2021/49 r. 9.]

126A. Benefits applied for, but unpaid, at Member's death

(1) In this regulation —

death benefit has the meaning given in regulation 121.

(2) This regulation applies if —

(a) a GESB Super Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and

(b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.

(3) The Board —

(a) must not pay or transfer the benefit as applied for or requested; but

(b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

[Regulation 126A inserted: SL 2023/205 r. 15.]

***[127 to 169.** Reserved.]*

Part 4 — Retirement Income Scheme

[Heading inserted: Gazette 19 Mar 2003 p. 817.]

Division 1 — Establishment and preliminary

[Heading inserted: Gazette 19 Mar 2003 p. 817.]

170. Scheme established

The Retirement Income Scheme is established as a superannuation scheme under section 28 of the Act.

[Regulation 170 inserted: Gazette 19 Mar 2003 p. 817.]

171. Terms used

In this Part —

allocated pension fund means a superannuation fund the rules of which provide for the payment of a pension but —

(a) do not provide for the pension to be paid throughout the lifetime of the pensioner; and

(b) do not fix the annual amount of the pension;

Commonwealth maximum means the amount prescribed under the SIS Act as the annual maximum amount that must be imposed by the rules of an allocated pension fund in relation to an allocated pension in order for it to be taken to be a pension for the purposes of the SIS Act;

Commonwealth minimum means the amount prescribed under the SIS Act as the annual minimum amount that must be imposed by the rules of an allocated pension fund in relation to an allocated pension in order for it to be taken to be a pension for the purposes of the SIS Act;

fortnightly pay day means 30 July 2026 and each second Thursday following that day;

pension day means —

(a) for a Member who has selected fortnightly pension payments — each fortnightly pay day; and

(b) for a Member who has selected monthly pension payments — the 15th of each month; and

(c) for a Member who has selected quarterly pension payments — the 15th of each of the 4 months selected by the Member under regulation 189(1)(aa); and

(d) for a Member who has selected annual pension payments — the 15th of the month selected by the Member under regulation 189(1)(b);

pension total, in relation to a Retirement Income Member, means the total amount paid to the Member from the Retirement Income Scheme during a financial year, not including any amounts paid under regulation 192;

retirement income account means an account kept under regulation 178;

reversionary pensioner means a person selected under regulation 193(1)(b) by a Retirement Income Member as the person to whom the reversionary pension payable on the death of the Member is to be paid.

[Regulation 171 inserted: Gazette 19 Mar 2003 p. 817-18; amended: Gazette 13 Apr 2007 p. 1581; SL 2026/96 r. 4.]

Division 2 — Membership

[Heading inserted: Gazette 19 Mar 2003 p. 818.]

172. Retirement Income Members, who may be

(1) A person listed in subregulation (2) may apply to become a Retirement Income Member if he or she is entitled to —

(a) immediate payment of a lump sum benefit from another scheme or another superannuation fund; or

[(b) deleted]

(ba) an amount of a transfer benefit available for transfer under regulation 44B; or

(c) payment of a phased retirement benefit.

(2) A person may apply under subregulation (1) if he or she is —

(a) a Member; or

(b) a Pension Scheme Member or a Provident Scheme Member; or

(c) in receipt of, or entitled to receive, a pension under the Pension Scheme; or

(d) a former member; or

(e) a partner or former partner of a person mentioned in paragraphs (a) to (d).

[(3) deleted]

(4) The Board is to accept an application under this regulation unless the Board considers that the applicant, if accepted as a Retirement Income Member, will not comply with regulation 175.

[Regulation 172 inserted: Gazette 19 Mar 2003 p. 818-19; amended: Gazette 1 Dec 2004 p. 5714; 26 May 2006 p. 1919-20; 13 Apr 2007 p. 1583; 6 Jun 2007 p. 2625; 10 Jan 2017 p. 153.]

173. Additional or replacement pensions, applying for

(1) A Retirement Income Member may apply to the Board —

(a) to start an additional pension; or

(b) to cancel an existing pension and start a replacement pension.

(2) A person applying for membership under regulation 172 may, simultaneously, make an application under subregulation (1)(a) as if he or she were a Retirement Income Member.

(3) The Board is to accept an application under this regulation unless the Board considers that if the application is accepted the Member will not comply with regulation 176 or 177 (as the case requires).

(4) When the Board accepts a Member's application under this regulation, Divisions 4, 5 and 6 apply as if the Member were, in respect of each pension, a separate person.

[Regulation 173 inserted: Gazette 19 Mar 2003 p. 819.]

174. When membership ceases

A person ceases to be a Retirement Income Member when the balance in all of the Member's retirement income accounts is reduced to zero.

[Regulation 174 inserted: Gazette 19 Mar 2003 p. 820.]

Division 3 — Contributions

[Heading inserted: Gazette 19 Mar 2003 p. 820.]

175. Transfer of benefits to scheme by new Member

(1) When a person becomes a Retirement Income Member he or she must transfer to the Retirement Income Scheme all or part of the benefit referred to in regulation 172(1).

(2) A Retirement Income Member may transfer to the Retirement Income Scheme all or part of —

(a) a benefit that is immediately payable to the person from another scheme or another superannuation fund; or

[(b) deleted]

(ba) an amount of a transfer benefit available for transfer under regulation 44B; or

(c) a phased retirement benefit.

(3) A transfer under subregulation (1) or (2) must be made before the person's first pension day.

(4) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).

(5) Subregulation (4) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the Member.

[Regulation 175 inserted: Gazette 19 Mar 2003 p. 820; amended: Gazette 1 Dec 2004 p. 5714-15; 26 May 2006 p. 1920; 13 Apr 2007 p. 1584; 6 Jun 2007 p. 2625; 10 Jan 2017 p. 153; SL 2023/205 r. 16.]

176. Duty of Member starting additional pension to transfer benefits to scheme

(1) When the Board accepts a Member's application under regulation 173(1)(a) the Member must transfer to the Retirement Income Scheme all or part of —

(a) a benefit that is immediately payable to the Member from another scheme or another superannuation fund; or

[(b) deleted]

(ba) an amount of a transfer benefit available for transfer under regulation 44B; or

(c) a phased retirement benefit.

(2) The transfer under subregulation (1) must be made before the Member's first pension day after the Board accepts the Member's application.

(3) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).

(4) Subregulation (3) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the Member.

[Regulation 176 inserted: Gazette 19 Mar 2003 p. 821; amended: Gazette 26 May 2006 p. 1921; 6 Jun 2007 p. 2625; 10 Jan 2017 p. 153; SL 2023/205 r. 17.]

177. Transfers required or permitted when Member starts replacement pension

(1) When the Board accepts a Member's application under regulation 173(1)(b) —

(a) the Board is to transfer the balance of the Member's retirement income account to the new retirement income account established for the Member in respect of the replacement pension; and

(b) the Member may transfer to the Retirement Income Scheme all or part of —

(i) a benefit that is immediately payable to the Member from another scheme or another superannuation fund; or

[(ii) deleted]

(iii) a phased retirement benefit.

(2) A transfer under subregulation (1)(b) must be made before the Member's first pension day after the Board accepts the Member's application.

(3) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).

(4) Subregulation (3) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the Member.

[Regulation 177 inserted: Gazette 19 Mar 2003 p. 821-2; amended: Gazette 26 May 2006 p. 1921; 10 Jan 2017 p. 153; SL 2023/205 r. 18.]

177A. Transfers to be directly to scheme

A transfer under this Division must be made to the Retirement Income Scheme directly from the other scheme or superannuation fund.

[Regulation 177A inserted: Gazette 1 Dec 2004 p. 5715; amended: Gazette 10 Jan 2017 p. 153.]

178A. Restriction on contributions and transfers

Despite anything else in this Part the Board must not accept a contribution or transfer for a person if the trustee of a regulated superannuation fund would be prevented by the SIS Regulations from accepting such a contribution or transfer.

[Regulation 178A inserted: Gazette 8 Jul 2008 p. 3237.]

Division 4 — Retirement income accounts

[Heading inserted: Gazette 19 Mar 2003 p. 822.]

178. Retirement income accounts for Members, Board to establish

(1) The Board is to establish and maintain in the Fund a retirement income account for each Retirement Income Member.

(2) The Board may divide a retirement income account into 2 or more sub-accounts.

[Regulation 178 inserted: Gazette 19 Mar 2003 p. 822.]

179. Sub-accounts, Member may request etc.

(1) A Retirement Income Member may request the Board to divide the Member's retirement income account into a cash sub-account and an investment sub-account.

(2) The Member must set out in a request under subregulation (1) —

(a) the amount that is to be allocated to each sub-account (the sum of which must be equal to the balance of the Member's account); or

(b) the proportion of the balance of the account that is to be allocated to each sub-account,

at the time the sub-accounts are established.

(3) A Member whose retirement income account has been divided into sub-accounts under this regulation may request the Board to —

(a) transfer a specified amount from one sub-account to the other; or

(b) change the proportion of the balance of the Member's account that is held in each sub-account; or

(c) combine the sub-accounts into a single account.

(4) The Board is to comply with a request under subregulation (1) or (3) but the Board is not otherwise required to ensure that balances of the sub-accounts remains in accordance with the requested amounts or proportions.

[Regulation 179 inserted: Gazette 19 Mar 2003 p. 822-3; amended: Gazette 10 Dec 2004 p. 5895.]

180. Amounts to be credited to retirement income accounts

(1) The Board is to credit to a Retirement Income Member's retirement income account —

(a) the amounts transferred to the Retirement Income Scheme under regulation 175, 176 or 177(1)(b); and

(b) any amount required under regulation 177(1)(a) to be transferred to the account; and

(c) earnings in accordance with regulation 182; and

(d) any amounts transferred from reserves maintained under section 20A of the Act in accordance with the Board's reserving strategy and any relevant Treasurer's guidelines.

(2A) If —

(a) a lump sum benefit becomes payable on the death on or after 1 January 2010 of a Retirement Income Member; and

(b) the Board would be entitled to a deduction under the *Income Tax Assessment Act 1997* (Commonwealth) section 295-485 if it were to increase the amount of the benefit,

then the Board may, if it considers it appropriate to do so, credit to the Member's retirement income account an amount determined by the Board, not exceeding the tax saving amount in respect of the benefit.

(2) The Board may temporarily keep contributions made for a Retirement Income Member, together with contributions made for other Retirement Income Members, in an account maintained for that purpose until the contributions are credited to the appropriate retirement income accounts.

[Regulation 180 inserted: Gazette 19 Mar 2003 p. 823; amended: Gazette 1 Dec 2004 p. 5715; 13 Apr 2007 p. 1590; 8 Jan 2010 p. 30; 10 Jan 2017 p. 153-4.]

181. Amounts to be debited to retirement income accounts

(1) The Board is to debit to a Retirement Income Member's retirement income account —

(a) any amount required under regulation 177(1) to be transferred from the account; and

(b) any amounts paid as benefits to, or in respect of, the Member; and

(c) any amounts transferred to other schemes or to other superannuation funds in satisfaction of a Member's

entitlement to a benefit from the Retirement Income Scheme; and

(d) any amount paid in respect of the Member or in respect of the account under regulation 196AA, 196AB or 196AD; and

(e) the amount of any benefit of the member included in a payment made under regulation 196AC; and

(f) any amount transferred from the account to comply with a commutation authority issued to the Board in respect of the Member.

(2) The Board may debit to a Retirement Income Member's retirement income account —

(a) administrative costs to the extent that they have not been taken into account in the determination of earning rates under regulation 188; and

(b) any tax or other amounts required by a written law or a law of the Commonwealth to be paid by the Board in respect of the Member; and

(c) the amount of any fees payable by the Member for, or in relation to, any product or service provided to the Member in accordance with section 6(1)(e) of the Act.

(3) The Board may only debit an amount to a retirement income account —

(a) under subregulation (2)(a), if an actuary has advised that it is appropriate for that amount to be debited to that account; or

(b) under subregulation (2)(c), if the Member has given the Board written consent to the debiting of that amount to the account.

(3a) If the Board debits an amount to a retirement income account under subregulation (2)(c) in respect of a fee payable to a person other than the Board, the Board must pay the amount deducted to that other person.

(4) If a Member's retirement income account has been divided into sub-accounts under regulation 179, then to the extent that the balance of the relevant sub-account is sufficient to allow it to do so, the Board is to debit —

(a) pension payments made under regulation 191 to the Member's cash sub-account; and

(b) any other amount that is to be, or may be, debited to the Member's retirement income account, to the Member's investment sub-account,

unless the Member requests that the amount be debited to the Member's other sub-account.

[Regulation 181 inserted: Gazette 19 Mar 2003 p. 823-4; amended: Gazette 13 Apr 2007 p. 1590-1 and 1662; 6 Jan 2015 p. 29; 10 Jan 2017 p. 154; 12 Oct 2018 p. 4062-3.]

182. Earnings to be credited to Member's account

(1) The Board is to credit earnings to each Member's retirement income account at a rate equal to the Member's earning rate on the balance of the account —

(a) at least once every year; and

(b) when a lump sum benefit is to be paid, or an amount transferred, from the Member's retirement income account under Division 6.

(2) The Board is to decide whether the earning rate is to be applied to daily balances, average balances or on some other basis.

(3) If a Member's retirement income account has been divided into sub-accounts under regulation 179 the Board is to credit earnings to each sub-account as if it were a separate retirement income account.

[Regulation 182 inserted: Gazette 19 Mar 2003 p. 824-5.]

Division 5 — Member investment choice

[Heading inserted: Gazette 19 Mar 2003 p. 825.]

183. Terms used

In this Division —

default plan means the readymade investment plan selected by the Board under regulation 185 as the default plan for Retirement Income Members;

personalised investment plan means an investment plan established under regulation 184(4);

readymade investment plan means an investment plan established under regulation 184(1).

[Regulation 183 inserted: Gazette 19 Mar 2003 p. 825.]

184. Investment plans for Members, Board to establish

(1) The Board is to establish one or more investment plans for retirement income Members with asset allocations determined by the Board.

(2) One of the investment plans established under subregulation (1) must provide for investment in cash only.

(3) Subject to subregulation (2), the Board may alter the asset allocation for a readymade investment plan whenever the Board considers it appropriate to do so.

(4) The Board may establish an investment plan under which a Retirement Income Member who selects that plan may select the Member's own asset allocation subject to any conditions determined by the Board.

(5) The Board must notify all Retirement Income Members of —

(a) the establishment of a new investment plan for Retirement Income Members including, in the case of a

readymade investment plan, the asset allocation for that plan; and

(b) any material change in the asset allocation of a readymade investment plan; and

(c) any material change in the conditions applying to a personalised investment plan,

before, or as soon as practicable after, the establishment or change occurs.

[Regulation 184 inserted: Gazette 19 Mar 2003 p. 825-6.]

185. Default plan for Members

(1) The Board is to select one of the readymade investment plans as the default plan for Retirement Income Members.

(2) The Board may change the plan selected as the default plan whenever the Board considers it appropriate to do so.

(3) The Board must notify all Retirement Income Members of any change made under subregulation (2) before, or as soon as practicable after, the change occurs.

[Regulation 185 inserted: Gazette 19 Mar 2003 p. 826; amended: Gazette 13 Apr 2007 p. 1591.]

186. Member to select investment plan and asset allocation

(1) A Retirement Income Member must select 1 or more investment plans in accordance with subregulation (1A) to be used in determining the Member's earning rate and give notice of that selection to the Board.

(1A) The Member may select —

(a) 1 personalised investment plan; or

(b) 1 or more readymade investment plans; or

(c) 1 personalised investment plan and 1 or more readymade investment plans.

(2) If a Member selects a personalised investment plan the Member must also select the asset allocation to be applied to the Member's assets and give notice of that selection to the Board.

(3) A Member may change the Member's selection under subregulation (1), (1A) or (2) at any time by giving notice to the Board.

(3a) As soon as practicable after receiving a notice under this regulation the Board must give effect to it by investing the Member's assets in accordance with regulation 187.

(4) Until a Retirement Income Member selects otherwise the Member is taken to have selected the plan that was the default plan at the time the person became a Retirement Income Member.

[Regulation 186 inserted: Gazette 19 Mar 2003 p. 826-7; amended: Gazette 13 Apr 2007 p. 1591; SL 2026/102 r. 17.]

187. Board to invest in accord with Member's plan

(1) For each Retirement Income Member who selects a readymade investment plan the Board must, as far as is practicable —

(a) invest the Member's assets in accordance with the asset allocation determined under regulation 184 for that investment plan; and

(b) ensure that the investment of the Member's assets remains in accordance with that asset allocation until the Member selects a different investment plan.

(2) For a Retirement Income Member who selects a personalised investment plan the Board must invest the Member's assets as at the time the Board gives effect to the selection in accordance with the asset allocation selected by the Member but, unless the Board and the Member agree otherwise, the Board is not required to ensure that the investment of the Member's assets remains in accordance with that asset allocation.

(3) If a Member's retirement income account is divided into sub-accounts under regulation 179, the Board is to invest the Member's assets in accordance with this regulation as if —

(a) each of the sub-accounts were a retirement income account maintained for a separate person; and

(b) the person for whom the investment sub-account is maintained had selected, under regulation 186, the investment plan selected by the Member under that regulation; and

(c) the person for whom the cash sub-account is maintained had selected, under regulation 186, the investment plan referred to in regulation 184(2).

(4) In this regulation —

Member's assets means the assets of the Fund that represent the retirement income account of a Retirement Income Member.

[Regulation 187 inserted: Gazette 19 Mar 2003 p. 827-8; amended: Gazette 10 Dec 2004 p. 5895; 13 Apr 2007 p. 1591-2.]

188. Earning rates, determining

(1) At the end of each financial year and at any other time when the Board considers it desirable to do so, an earning rate is to be determined for —

(a) each readymade investment plan; and

(b) each Retirement Income Member who has selected a personalised investment plan.

(2) The earning rates are to be determined —

(a) by the Board; or

(b) on behalf of the Board in accordance with procedures or formulae determined by the Board.

(3) In determining an earning rate, or the procedures or formulae to be used to determine an earning rate, the Board must have regard to —

(a) the nett rate of return achieved by the investment of the assets of the Fund that represent the retirement income accounts of the Members to whom the earning rate will apply; and

(b) administrative costs; and

(c) the desirability of averaging returns in order to reduce fluctuations in earning rates.

(4) An earning rate may be positive or negative.

[Regulation 188 inserted: Gazette 19 Mar 2003 p. 828-9.]

Division 6 — Pension and other benefits

[Heading inserted: Gazette 19 Mar 2003 p. 829.]

189. Selection of frequency of pension payment

(1) A Retirement Income Member is to select —

(a) whether the Member's pension is to be paid fortnightly, monthly, quarterly or annually; and

(aa) if the Member selects quarterly payments, whether the payments are to be made in —

(i) January, April, July and October; or

(ii) February, May, August and November; or

(iii) March, June, September and December;

and

(b) if the Member selects annual payments, the month in which the Member's pension is to be paid,

and give notice of those selections to the Board.

(2) A Member may change his or her selection under subregulation (1) at any time by giving notice to the Board.

(3) Until a Retirement Income Member selects otherwise the Member is taken to have selected monthly pension payments.

[Regulation 189 inserted: Gazette 19 Mar 2003 p. 829-30; amended: Gazette 13 Apr 2007 p. 1582; SL 2026/96 r. 5.]

190. Pension amount, selection of

(1) A Retirement Income Member is to select an amount that is —

(a) not less than the Commonwealth minimum; and

(b) not more than the Commonwealth maximum,

as the annual amount of the Member's pension and give notice of those selections to the Board.

(2) A Member may change his or her selection under subregulation (1) at any time by giving notice to the Board.

(3) If a Member does not make a selection under subregulation (1), or the amount selected by a Member does not comply with subregulation (1), the Board may make a selection for the Member of an amount the Board considers to be reasonable, and if it does so, the Board must give notice of the selection to the Member.

[Regulation 190 inserted: Gazette 19 Mar 2003 p. 830.]

191. Payment of pension by Board

(1) Subject to this regulation, on each pension day the Board is to pay to a Retirement Income Member an amount equal to the annual amount selected by or for the Member under regulation 190 divided by —

(aa) if the Member has selected fortnightly pension payments — 26 or 27, depending on the number of fortnightly pay days that fall within that financial year; or

(a) if the Member has selected monthly pension payments, 12; or

(b) if the Member has selected quarterly pension payments, 4; or

(c) if the Member has selected annual pension payments, 1.

(2) If, on a pension day, the balance of a Member's Retirement Income Account is less than the amount to be paid under subregulation (1), the amount to be paid is reduced to an amount equal to that balance.

(3) If, in any financial year, a Retirement Income Member's pension total is less than the Commonwealth minimum, the Board is to pay to the Member, before the end of the year, an amount equal to the difference between the pension total and the Commonwealth minimum.

(4) If payment to a Retirement Income Member of the amount to be paid under subregulation (1) on a pension day would result in the Member's pension total for a financial year exceeding the Commonwealth maximum, the amount to be paid on that day is reduced by the amount by which that maximum would otherwise be exceeded.

(5) If, in any financial year, a Retirement Income Member's pension total reaches the Commonwealth maximum the Board is to make no further payments under subsection (1) to the Member during that year.

[Regulation 191 inserted: Gazette 19 Mar 2003 p. 830-1; amended: Gazette 13 Jun 2003 p. 2113; SL 2026/96 r. 6.]

192. Member may request lump sum benefit

(1) A Retirement Income Member may request the Board to —

(a) pay to the Member; or

(b) transfer to another scheme or to another superannuation fund,

a lump sum benefit of an amount equal to all or part of the balance of the Member's retirement income account and the Board must comply with that request.

(2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that reduces the balance in the Member's retirement income account to, less than the pre-set minimum (if any).

(2A) Subregulation (2) does not apply if —

(a) the amount requested is the whole of the balance in the account; or

(b) the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

(3) If a Member's benefit in the Retirement Income Scheme is a phased retirement benefit, the Board must not pay or transfer any of that benefit or earnings on it, under this regulation unless —

(a) the Member has satisfied an unrestricted condition of release; or

(b) the benefit is transferred to another scheme or superannuation fund the rules of which prevent the cashing, commutation or transfer of the benefit unless —

(i) the Member has satisfied an unrestricted condition of release; or

(ii) the benefit is transferred to another superannuation fund the rules of which include provisions having the same effect as this subregulation;

or

(c) the benefit is to be used to pay contributions tax and is paid to the Member for payment to the Commonwealth Commissioner of Taxation.

[Regulation 192 inserted: Gazette 19 Mar 2003 p. 831-2; amended: Gazette 26 May 2006 p. 1921-2; 21 Jul 2006 p. 2652; SL 2023/205 r. 19.]

193. Payment on death of Member, Member to select type of

(1) When a person becomes a Retirement Income Member he or she is to select —

(a) whether the benefit to be paid on the Member's death (if he or she dies while still a Retirement Income Member) is to be —

(i) a lump sum benefit under regulation 194; or

(ii) a reversionary pension under regulation 195;

and

(b) if the Member selects a reversionary pension, the person to whom that pension is to be paid,

and give notice of those selections to the Board.

(2) The person selected under subregulation (1)(b) must be a partner or a dependant of the Member.

(3) If a Retirement Income Member has not given notice of the Member's selection to the Board before the Member's first pension day, or the Member's selection under subregulation (1)(b) does not comply with subregulation (2), the Member is taken to have selected a lump sum death benefit.

[Regulation 193 inserted: Gazette 19 Mar 2003 p. 832; amended: Gazette 1 Dec 2004 p. 5706.]

194. Binding death benefit nomination and payment of lump sum death benefit

(1) In this regulation —

Retirement Income (Lump Sum) Member means a Retirement Income Member who has selected a lump sum death benefit.

(2) If a Retirement Income (Lump Sum) Member dies while there is still an amount in the Member's retirement income account, the Board must pay a benefit (the Member's ***death benefit***) of an amount equal to the balance of the account in accordance with this regulation.

(3) A Retirement Income (Lump Sum) Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

(a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

(i) a permitted nominee of the Member specified in the notice; or

(ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

(b) includes a statement that the nomination is to remain in force —

(i) indefinitely; or

(ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(4) A binding death benefit nomination given by a Retirement Income (Lump Sum) Member comes into force when it is received by the Board and remains in force until any of the following occurs —

(a) the Board receives a notice given by the Member revoking the binding death benefit nomination;

(b) the Board receives a subsequent binding death benefit nomination given by the Member;

(c) the Member ceases to be a Retirement Income Member;

(d) for a nomination that includes a statement referred to in subregulation (3)(b)(ii) — the period referred to in that subregulation expires.

(5) If a binding death benefit nomination is in force in respect of a Retirement Income (Lump Sum) Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

(a) cannot be found after the Board has made reasonable enquiries; or

(b) is not a permitted nominee of the Member at the time of the Member's death.

(6) If no binding death benefit nomination is in force in respect of a Retirement Income (Lump Sum) Member when the Member dies, or subregulation (5)(a) or (b) applies, the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

[Regulation 194 inserted: SL 2021/49 r. 10.]

195. Reversionary pension, effect of selecting

On and after the death of a Retirement Income Member who selected a reversionary pension (the ***primary Member***) —

(a) the pension that would have been payable to the primary Member had he or she not died is to be paid to the reversionary pensioner; and

(b) for the purposes of these regulations, the reversionary pensioner is to be taken to be the primary Member.

[Regulation 195 inserted: Gazette 19 Mar 2003 p. 833.]

196AA. Payments in respect of former temporary residents under the Commonwealth Unclaimed Money Act Part 3A

If —

(a) the Retirement Income Scheme is a prescribed scheme; and

(b) a member is a former temporary resident,

the Board is to make a payment in respect of the member to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 3A.

[Regulation 196AA inserted: Gazette 6 Jan 2015 p. 30.]

196AB. Payments in respect of lost member accounts under the Commonwealth Unclaimed Money Act Part 4A

If —

(a) the Retirement Income Scheme is a prescribed scheme; and

(b) an account is a lost member account,

the Board is to make a payment in respect of the account to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 4A.

[Regulation 196AB inserted: Gazette 6 Jan 2015 p. 30.]

196AC. Transfer of benefit under the Commonwealth Unclaimed Money Act Part 3

If —

(a) the Retirement Income Scheme is a prescribed scheme; and

(b) a benefit payable to or in respect of a member is unclaimed money,

the Board is to transfer the benefit to the Commonwealth Commissioner of Taxation by including the amount of the

benefit in a payment made in accordance with the Commonwealth Unclaimed Money Act Part 3.

[Regulation 196AC inserted: Gazette 6 Jan 2015 p. 30.]

196AD. Payments in accordance with release authority

If the Board is given a release authority in respect of a Retirement Income Member, it may make a payment in respect of the Member in accordance with the release authority.

[Regulation 196AD inserted: Gazette 10 Jan 2017 p. 154.]

196AE. Benefits applied for, but unpaid, at Member's death

(1) In this regulation —

death benefit has the meaning given in regulation 194.

(2) This regulation applies if —

(a) a Retirement Income Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and

(b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.

(3) The Board —

(a) must not pay or transfer the benefit as applied for or requested; but

(b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

[Regulation 196AE inserted: SL 2023/205 r. 20.]

Part 4A — Term Allocated Pension Scheme

[Heading inserted: Gazette 10 Dec 2004 p. 5896.]

Division 1 — Establishment and preliminary

[Heading inserted: Gazette 10 Dec 2004 p. 5896.]

196. Scheme established

The Term Allocated Pension Scheme is established as a superannuation scheme under section 28 of the Act.

[Regulation 196 inserted: Gazette 10 Dec 2004 p. 5896.]

196A. Terms used

In this Part —

pension day means —

(a) for a Member who has selected monthly pension payments — the 15th of each month; and

(b) for a Member who has selected quarterly pension payments — the 15th of each of the 4 months selected by the Member under regulation 196Q(1)(aa); and

(c) for a Member who has selected annual pension payments — the 15th of the month selected by the Member under regulation 196Q(1)(b);

term allocated pension means a pension payable under this Part;

term allocated pension account means an account kept under regulation 196E.

[Regulation 196A inserted: Gazette 10 Dec 2004 p. 5896; amended: Gazette 13 Apr 2007 p. 1582.]

Division 2 — Membership and purchase

[Heading inserted: Gazette 10 Dec 2004 p. 5896.]

196B. Term Allocated Pension Members, who may be

(1) A person listed in subregulation (1a) may apply to become a Term Allocated Pension Member if he or she is entitled to —

(a) immediate payment of a lump sum benefit from another scheme or another superannuation fund; or

[(b) deleted]

(ba) an amount of a transfer benefit available for transfer under regulation 44B; or

(c) payment of a phased retirement benefit.

(1a) A person may apply under subregulation (1) if he or she is —

(a) a Member; or

(b) a Pension Scheme Member or a Provident Scheme Member; or

(c) in receipt of, or entitled to receive, a pension under the Pension Scheme; or

(d) a former member; or

(e) a Term Allocated Pension Member applying for a second or subsequent term allocated pension; or

(f) a partner or former partner of a person mentioned in paragraphs (a) to (e).

(2) The Board is to accept an application under this regulation unless the Board considers that the applicant, if accepted as a Term Allocated Pension Member, will not comply with regulation 196D.

(3) If a person becomes a Term Allocated Pension Member for a second or subsequent term allocated pension, these regulations

apply as if he or she were, in respect of each term allocated pension, a separate person.

[Regulation 196B inserted: Gazette 10 Dec 2004 p. 5896-7; amended: Gazette 26 May 2006 p. 1922; 13 Apr 2007 p. 1584-5; 6 Jun 2007 p. 2626; 10 Jan 2017 p. 154.]

196C. When membership ceases

A person ceases to be a Term Allocated Pension Member when the balance in the Member's term allocated pension account is reduced to zero.

[Regulation 196C inserted: Gazette 10 Dec 2004 p. 5897.]

196D. Transfer of benefits to scheme by new Member

(1) When a person becomes a Term Allocated Pension Member he or she must transfer to the Term Allocated Pension Scheme all or part of the benefit referred to in regulation 196B(1).

(2) The person may also transfer to the Term Allocated Pension Scheme all or part of any other —

(a) benefit that is immediately payable to the person from another scheme or another superannuation fund; or

[(b) deleted]

(ba) amount of a transfer benefit available for transfer under regulation 44B; or

(c) phased retirement benefit payable to the person.

(3) A transfer under subregulation (1) or (2) must be made before the person's first pension day.

(4) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).

(4A) Subregulation (4) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the person.

(5) A transfer under this regulation must be made to the Term Allocated Pension Scheme directly from the other scheme or superannuation fund.

[Regulation 196D inserted: Gazette 10 Dec 2004 p. 5897; amended: Gazette 26 May 2006 p. 1923; 13 Apr 2007 p. 1585; 6 Jun 2007 p. 2626; 10 Jan 2017 p. 154; SL 2023/205 r. 21.]

196EA. Restriction on transfers

Despite anything else in this Part the Board must not accept a transfer for a person if the trustee of a regulated superannuation fund would be prevented by the SIS Regulations from accepting such a transfer.

[Regulation 196EA inserted: Gazette 8 Jul 2008 p. 3238.]

Division 3 — Term allocated pension accounts

[Heading inserted: Gazette 10 Dec 2004 p. 5897.]

196E. Term allocated pension accounts for Members, Board to establish

(1) The Board is to establish and maintain in the Fund a term allocated pension account for each Term Allocated Pension Member.

(2) The Board may divide a term allocated pension account into 2 or more sub-accounts.

[Regulation 196E inserted: Gazette 10 Dec 2004 p. 5897-8.]

196F. Sub-accounts, Member may request etc.

(1) A Term Allocated Pension Member may request the Board to divide the Member's term allocated pension account into a cash sub-account and an investment sub-account.

(2) The Member must set out in a request under subregulation (1) —

(a) the amount that is to be allocated to each sub-account (the sum of which must be equal to the balance of the Member's account); or

(b) the proportion of the balance of the account that is to be allocated to each sub-account,

at the time the sub-accounts are established.

(3) A Member whose term allocated pension account has been divided into sub-accounts under this regulation may request the Board to —

(a) transfer a specified amount from one sub-account to the other; or

(b) change the proportion of the balance of the Member's account that is held in each sub-account; or

(c) combine the sub-accounts into a single account.

(4) The Board is to comply with a request under subregulation (1) or (3) but is not otherwise required to ensure that the balances of the sub-accounts remain in accordance with the requested amounts or proportions.

[Regulation 196F inserted: Gazette 10 Dec 2004 p. 5898.]

196G. Amounts to be credited to term allocated pension accounts

(1) The Board is to credit to a Term Allocated Pension Member's term allocated pension account —

(a) the amounts transferred to the Term Allocated Pension Scheme under regulation 196D; and

(b) earnings in accordance with regulation 196I; and

(c) any amounts transferred from reserves maintained under section 20A of the Act in accordance with the Board's reserving strategy and any relevant Treasurer's guidelines.

(2) The Board may temporarily keep amounts transferred for a Term Allocated Pension Member, together with amounts transferred for other Term Allocated Pension Members, in an account maintained for that purpose until those amounts are credited to the appropriate term allocated pension accounts.

[Regulation 196G inserted: Gazette 10 Dec 2004 p. 5898; amended: Gazette 13 Apr 2007 p. 1592; 10 Jan 2017 p. 154-5.]

196H. Amounts to be debited to term allocated pension accounts

(1) The Board is to debit to a Term Allocated Pension Member's term allocated pension account —

(a) any amounts paid to, or in respect of, the Member under Division 5; and

(b) any amount transferred from the account to comply with a commutation authority issued to the Board in respect of the Member.

(2) The Board may debit to a Term Allocated Pension Member's term allocated pension account —

(a) administrative costs to the extent that they have not been taken into account in the determination of earning rates under regulation 196I; and

(b) any tax or other amounts required by a written law or a law of the Commonwealth to be paid by the Board in respect of the Member; and

(c) the amount of any fees payable by the Member for, or in relation to, any product or service provided to the Member in accordance with section 6(1)(e) of the Act.

(3) The Board may only debit an amount to a term allocated pension account —

(a) under subregulation (2)(a), if an actuary has advised that it is appropriate for that amount to be debited to that account; or

(b) under subregulation (2)(c), if the Member has given the Board written consent to the debiting of that amount to the account.

(3a) If the Board debits an amount to a term allocated pension account under subregulation (2)(c) in respect of a fee payable to a person other than the Board, the Board must pay the amount deducted to that other person.

(4) If a Member's term allocated pension account has been divided into sub-accounts under regulation 196F, then to the extent that the balance of the relevant sub-account is sufficient to allow it to do so, the Board is to debit —

(a) term allocated pension payments made under regulation 196R to the Member's cash sub-account; and

(b) any other amount that is to be, or may be, debited to the Member's term allocated pension account, to the Member's investment sub-account,

unless the Member requests otherwise.

[Regulation 196H inserted: Gazette 10 Dec 2004 p. 5899; amended: Gazette 13 Apr 2007 p. 1592-3 and 1663; 10 Jan 2017 p. 155; 12 Oct 2018 p. 4063.]

196I. Earnings to be credited to Member's account

(1) The Board is to credit earnings to each Term Allocated Pension Member's term allocated pension account at a rate equal to the Member's earning rate on the balance of the account —

(a) at least once every year; and

(b) when a lump sum benefit is to be paid, or an amount transferred, from the Member's term allocated pension account under Division 5.

(2) The Board is to decide whether the earning rate is to be applied to daily balances, average balances or on some other basis.

(3) If a Member's term allocated pension account has been divided into sub-accounts under regulation 196F the Board is to credit earnings to each sub-account as if it were a separate term allocated pension account.

[Regulation 196I inserted: Gazette 10 Dec 2004 p. 5899.]

Division 4 — Member investment choice

[Heading inserted: Gazette 10 Dec 2004 p. 5900.]

196J. Terms used

In this Division —

default plan means the readymade investment plan selected by the Board under regulation 196L as the default plan for Term Allocated Pension Members;

personalised investment plan means an investment plan established under regulation 196K(4);

readymade investment plan means an investment plan established under regulation 196K(1).

[Regulation 196J inserted: Gazette 10 Dec 2004 p. 5900.]

196K. Investment plans for Members, Board to establish

(1) The Board is to establish one or more investment plans for Term Allocated Pension Members with asset allocations determined by the Board.

(2) One of the investment plans established under subregulation (1) must provide for investment in cash only.

(3) Subject to subregulation (2), the Board may alter the asset allocation for a readymade investment plan whenever the Board considers it appropriate to do so.

(4) The Board may establish an investment plan under which a Term Allocated Pension Member who selects that plan may

select the Member's own asset allocation subject to any conditions determined by the Board.

(5) The Board must notify all Term Allocated Pension Members of —

(a) the establishment of a new investment plan for Term Allocated Pension Members including, in the case of a readymade investment plan, the asset allocation for that plan; and

(b) any material change in the asset allocation of a readymade investment plan; and

(c) any material change in the conditions applying to a personalised investment plan,

before, or as soon as practicable after, the establishment or change occurs.

[Regulation 196K inserted: Gazette 10 Dec 2004 p. 5900.]

196L. Default plan for Members

(1) The Board is to select one of the readymade investment plans as the default plan for Term Allocated Pension Members.

(2) The Board may change the plan selected as the default plan whenever the Board considers it appropriate to do so.

(3) The Board must notify all Term Allocated Pension Members of any change made under subregulation (2) before, or as soon as practicable after, the change occurs.

[Regulation 196L inserted: Gazette 10 Dec 2004 p. 5900-1; amended: Gazette 13 Apr 2007 p. 1593.]

196M. Member to select investment plan and asset allocation

(1) A Term Allocated Pension Member is to select 1 or more investment plans in accordance with subregulation (1A) to be used in determining the Member's earning rate and give notice of that selection to the Board.

(1A) The Member may select —

(a) 1 personalised investment plan; or

(b) 1 or more readymade investment plans; or

(c) 1 personalised investment plan and 1 or more readymade investment plans.

(2) If a Member selects a personalised investment plan the Member must also select the asset allocation to be applied to the Member's assets and give notice of that selection to the Board.

(3) A Member may change the Member's selection under subregulation (1), (1A) or (2) at any time by giving notice to the Board.

(3a) As soon as practicable after receiving a notice under this regulation the Board must give effect to it by investing the Member's assets in accordance with regulation 196N.

(4) Until a Term Allocated Pension Member selects otherwise the Member is taken to have selected the default plan.

[Regulation 196M inserted: Gazette 10 Dec 2004 p. 5901; amended: Gazette 13 Apr 2007 p. 1593; SL 2026/102 r. 18.]

196N. Board to invest in accord with Member's plan

(1) For each Term Allocated Pension Member who selects a readymade investment plan the Board must, as far as is practicable —

(a) invest the Member's assets in accordance with the asset allocation determined under regulation 196K for that investment plan; and

(b) ensure that the investment of the Member's assets remains in accordance with that asset allocation until the Member selects a different investment plan.

(2) For a Term Allocated Pension Member who selects a personalised investment plan the Board must invest the Member's assets as at the time the Board gives effect to the

selection in accordance with the asset allocation selected by the Member but, unless the Board and the Member agree otherwise, the Board is not required to ensure that the investment of the Member's assets remains in accordance with that asset allocation.

(3) If a Member's term allocated pension account is divided into sub-accounts under regulation 196F, the Board is to invest the Member's assets in accordance with this regulation as if —

(a) each of the sub-accounts were a term allocated pension account maintained for a separate person; and

(b) the person for whom the investment sub-account is maintained had selected, under regulation 196M, the investment plan selected by the Member under that regulation; and

(c) the person for whom the cash sub-account is maintained had selected, under regulation 196M, the investment plan referred to in regulation 196K(2).

(4) In this regulation —

Member's assets means the assets of the Fund that represent the term allocated pension account of a Term Allocated Pension Member.

[Regulation 196N inserted: Gazette 10 Dec 2004 p. 5901-2; amended: Gazette 13 Apr 2007 p. 1593.]

196O. Earning rates, determining

(1) At the end of each financial year and at any other time when the Board considers it desirable to do so, an earning rate is to be determined for —

(a) each readymade investment plan; and

(b) each Term Allocated Pension Member who has selected a personalised investment plan.

(2) The earning rates are to be determined —

(a) by the Board; or

(b) on behalf of the Board in accordance with procedures or formulae determined by the Board.

(3) In determining an earning rate, or the procedures or formulae to be used to determine an earning rate, the Board must have regard to —

(a) the nett rate of return achieved by the investment of the assets of the Fund that represent the term allocated pension accounts of the Members to whom the earning rate will apply; and

(b) administrative costs; and

(c) the desirability of averaging returns in order to reduce fluctuations in earning rates.

(4) An earning rate may be positive or negative.

[Regulation 196O inserted: Gazette 10 Dec 2004 p. 5902.]

Division 5 — Pension and other benefits

[Heading inserted: Gazette 10 Dec 2004 p. 5902.]

196P. Pension period, selection of

(1) A Term Allocated Pension Member is to select the period for which the Member's term allocated pension is to be paid and give notice of that selection to the Board before the Member's first pension day.

(2) Subject to subregulation (3), the period selected must be a whole number of years that is —

(a) not less than the Member's life expectancy; and

(b) not more than the greater of —

(i) what would be the Member's life expectancy if he or she were 5 years younger; and

(ii) 100 minus the Member's current age (in years).

(3) If —

(a) the Member has selected a reversionary pension under regulation 196T; and

(b) the selected reversionary pensioner is the Member's partner; and

(c) the partner's life expectancy is greater than the Member's,

then the period selected by the Member may be a whole number of years that is —

(d) not less than the partner's life expectancy; and

(e) not more than the greater of —

(i) what would be the partner's life expectancy if he or she were 5 years younger; and

(ii) 100 minus the partner's current age (in years).

(4) In this regulation —

life expectancy, in relation to a person, means the number of years in the person's expectation of life ascertained when the person became a Term Allocated Pension Member from the then most recent Australian Life Tables published by the Australian Government Actuary, rounded up to the nearest whole number.

[Regulation 196P inserted: Gazette 10 Dec 2004 p. 5902-3; amended: Gazette 13 Apr 2007 p. 1581.]

196Q. Frequency of pension payment, selection of

(1) A Term Allocated Pension Member is to select —

(a) whether the Member's term allocated pension is to be paid monthly, quarterly or annually; and

(aa) if the Member selects quarterly payments, whether the payments are to be made in —

(i) January, April, July and October; or

(ii) February, May, August and November; or

(iii) March, June, September and December;

and

(b) if the Member selects annual payments, the month in which the Member's term allocated pension is to be paid,

and give notice of those selections to the Board.

(2) A Member may change his or her selection under subregulation (1) at any time by giving notice to the Board.

(3) Until a Term Allocated Pension Member selects otherwise the Member is taken to have selected monthly pension payments.

[Regulation 196Q inserted: Gazette 10 Dec 2004 p. 5903; amended: Gazette 13 Apr 2007 p. 1582-3.]

196R. Pension, amount and payment of

(1) The annual pension amount for a Term Allocated Pension Member is —

(a) in the financial year in which he or she becomes a Term Allocated Pension Member — the SIS annual amount calculated as at the day he or she becomes a Term Allocated Pension Member; and

(b) in each subsequent financial year — the SIS annual amount calculated as at 1 July in that year.

(2) If a Term Allocated Pension Member commutes part of his or her term allocated pension the annual pension amount for the period from the commutation date to the end of the financial year in which the commutation occurs is the SIS annual amount calculated as at the commutation date.

(3) On each pension day the Board is to pay to a Term Allocated Pension Member an amount equal to the Member's annual pension amount divided by the number of the Member's pension days in the financial year.

(4) If, on a pension day, the balance of a Member's term allocated pension account is less than the amount due to be paid under subregulation (3), the amount to be paid is an amount equal to that balance.

(5) If after a Term Allocated Pension Member's last pension day there is still an amount in the Member's term allocated pension account, the Board is to pay the Member a lump sum benefit of an amount equal to that amount within 28 days after the end of the pension period selected by the Member.

(6) In this regulation —

SIS annual amount means the amount prescribed under the SIS Act as the total amount of payments that a superannuation fund's rules must require to be made in a year in order for a market linked pension payable for a term equal to the pension period selected by the Member to be taken to be a pension for the purposes of the SIS Act.

[Regulation 196R inserted: Gazette 10 Dec 2004 p. 5903-4.]

196S. Member may request commutation of pension

(1A) A Term Allocated Pension Member may request the Board to commute all of the Member's allocated pension.

(1) A Term Allocated Pension Member may request the Board to commute some of the Member's allocated pension if —

(a) the request —

(i) is made within 6 months after the Member became a Term Allocated Pension Member; and

(ii) does not relate to any amount transferred to the Term Allocated Pension Scheme under

regulation 196D from the commutation of another SIS annuity or pension;

or

(b) the commuted amount is to be used to pay contributions tax; or

(c) the commuted amount is to be used to purchase —

(i) another term allocated pension; or

(ii) another SIS annuity or pension.

(2) Subject to subregulations (3) and (3a), the Board is to comply with a request under subregulation (1A) or (1) and pay or transfer the commuted amount, in the case of a request under —

(a) subregulation (1A) or (1)(a) — to, or as requested by, the Member; or

(b) subregulation (1)(b) — to the Member for payment to the Commonwealth Commissioner of Taxation; or

(c) subregulation (1)(c)(i) — to a new term allocated pension account for the Member; or

(d) subregulation (1)(c)(ii) — to the provider of the SIS annuity or pension.

(3) The Board must not pay or transfer a term allocated pension unless, or until, any applicable SIS minimum amount has been paid.

(3a) If a Member's benefit in the Term Allocated Pension Scheme is a phased retirement benefit, the Board must not pay or transfer any of that benefit or earnings on it, under subregulation (2)(a) or (d) unless —

(a) the Member has satisfied an unrestricted condition of release; or

(b) the commuted amount is transferred to another scheme or superannuation fund the rules of which prevent the

cashing, commutation or transfer of the amount unless —

(i) the Member has satisfied an unrestricted condition of release; or

(ii) the amount is transferred to another superannuation fund the rules of which include provisions having the same effect as this subregulation.

(4) In this regulation —

SIS annuity or pension means a benefit that is taken to be an annuity or pension for the purposes of the SIS Act;

SIS minimum amount means the amount prescribed under the SIS Act as the minimum amount that a superannuation fund's rules must require to have been paid before a market linked pension can be commuted in order for the pension to be taken to be a pension for the purposes of the SIS Act.

[Regulation 196S inserted: Gazette 10 Dec 2004 p. 5904-5; amended: Gazette 26 May 2006 p. 1923-4 and 1930; 21 Jul 2006 p. 2652; SL 2026/102 r. 19.]

196T. Payment on death of Member, Member to select type of

(1) A Term Allocated Pension Member is to select —

(a) whether the benefit to be paid on the Member's death (if he or she dies while still a Term Allocated Pension Member) is to be —

(i) a lump sum benefit under regulation 196U; or

(ii) a reversionary pension under regulation 196V;

and

(b) if the Member selects a reversionary pension, the person to whom that pension is to be paid,

and give notice of those selections to the Board before the Member's first pension day.

(2) The person selected under subregulation (1)(b) must be a partner or dependant of the Member.

(3) If a Term Allocated Pension Member has not given notice of the Member's selection to the Board before the Member's first pension day, or the Member's selection under subregulation (1)(b) does not comply with subregulation (2), the Member is taken to have selected a lump sum death benefit.

[Regulation 196T inserted: Gazette 10 Dec 2004 p. 5905-6.]

196U. Binding death benefit nomination and payment of lump sum death benefit

(1) In this regulation —

Term Allocated Pension (Lump Sum) Member means a Term Allocated Pension Member who has selected a lump sum death benefit.

(2) If a Term Allocated Pension (Lump Sum) Member dies while there is still an amount in the Member's term allocated pension account, the Board must pay a benefit (the Member's ***death benefit***) of an amount equal to the balance of the account in accordance with this regulation.

(3) A Term Allocated Pension (Lump Sum) Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

(a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

(i) a permitted nominee of the Member specified in the notice; or

(ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

(b) includes a statement that the nomination is to remain in force —

(i) indefinitely; or

(ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(4) A binding death benefit nomination given by a Term Allocated Pension (Lump Sum) Member comes into force when it is received by the Board and remains in force until any of the following occurs —

(a) the Board receives a notice given by the Member revoking the binding death benefit nomination;

(b) the Board receives a subsequent binding death benefit nomination given by the Member;

(c) the Member ceases to be a Term Allocated Pension Member;

(d) for a nomination that includes a statement referred to in subregulation (3)(b)(ii) — the period referred to in that subregulation expires.

(5) If a binding death benefit nomination is in force in respect of a Term Allocated Pension (Lump Sum) Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

(a) cannot be found after the Board has made reasonable enquiries; or

(b) is not a permitted nominee of the Member at the time of the Member's death.

(6) If no binding death benefit nomination is in force in respect of a Term Allocated Pension (Lump Sum) Member when the Member dies, or subregulation (5)(a) or (b) applies, the Board

must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

[Regulation 196U inserted: SL 2021/49 r. 11.]

196V. Reversionary pension, effect of selecting

(1) On and after the death of a Term Allocated Pension Member who selected a reversionary pension (the ***primary Member***) —

(a) the term allocated pension that would have been payable to the primary Member had he or she not died is to be paid to the reversionary pensioner; and

(b) these regulations apply as if the reversionary pensioner were the primary Member.

(2) If a reversionary pensioner dies while there is still an amount in his or her term allocated pension account, the Board is to pay a benefit of an amount equal to the balance of the account to the executor of the reversionary pensioner's will or administrator of the reversionary pensioner's estate.

[Regulation 196V inserted: Gazette 10 Dec 2004 p. 5906; amended: SL 2021/49 r. 12.]

196W. Payments in accordance with release authority

If the Board is given a release authority in respect of a Term Allocated Pension Member, it may make a payment in respect of the Member in accordance with the release authority.

[Regulation 196W inserted: Gazette 10 Jan 2017 p. 155.]

[197 to 199. *Reserved.]*

Part 5 — GESB Super (Retirement Access) Scheme

[Heading inserted: Gazette 28 Jun 2002 p. 3014; amended: Gazette 11 Apr 2008 p. 1379.]

Division 1 — Establishment and preliminary

[Heading inserted: Gazette 28 Jun 2002 p. 3014.]

200. Scheme established

The Retirement Access Scheme is established as a superannuation scheme under section 28 of the Act.

[Regulation 200 inserted: Gazette 28 Jun 2002 p. 3014.]

200A. Name of scheme changed on 12 Apr 2008

When this regulation comes into operation the superannuation scheme established by regulation 200 is renamed as the GESB Super (Retirement Access) Scheme.

[Regulation 200A inserted: Gazette 11 Apr 2008 p. 1377.]

201. Term used: retirement access account

In this Part —

retirement access account means an account kept under regulation 207.

[Regulation 201 inserted: Gazette 28 Jun 2002 p. 3014; amended: Gazette 13 Apr 2007 p. 1596.]

Division 2 — Membership

[Heading inserted: Gazette 28 Jun 2002 p. 3014.]

202. Scheme closed to new members on 2 Apr 2008

No person can become a GESB Super (Retirement Access) Member on or after the day on which this regulation comes into operation.

[Regulation 202 inserted: Gazette 1 Apr 2008 p. 1286; amended: Gazette 11 Apr 2008 p. 1379 and 1380.]

203. When membership ceases

A person ceases to be a GESB Super (Retirement Access) Member when the balance in the Member's retirement access account is reduced to zero.

[Regulation 203 inserted: Gazette 28 Jun 2002 p. 3015; amended: Gazette 11 Apr 2008 p. 1380.]

Division 3 — Contributions

[Heading inserted: Gazette 28 Jun 2002 p. 3015.]

*[**204.** Deleted: Gazette 11 Apr 2008 p. 1377.]*

205. Voluntary contributions, making

(1) A GESB Super (Retirement Access) Member may contribute to the Fund the amounts, at the times, and in the manner, agreed between the Member and the Board.

(2) The Board must not accept a contribution for a person who is over 65 years of age if a regulated superannuation fund would be prevented by regulation 7.04 of the SIS Regulations from accepting the contribution.

[Regulation 205 inserted: Gazette 28 Jun 2002 p. 3015; amended: Gazette 11 Apr 2008 p. 1377 and 1380.]

206. Transfer of benefits to scheme by Member

A GESB Super (Retirement Access) Member may transfer to the GESB Super (Retirement Access) Scheme a benefit that is immediately payable to the Member from another scheme or from another superannuation fund by paying, or arranging the payment of, the amount of that benefit to the Fund.

[Regulation 206 inserted: Gazette 10 Jan 2017 p. 155.]

206A. Other payments etc. for Members

The Board may accept, in respect of a GESB Super (Retirement Access) Member —

(a) Commonwealth payments; and

(b) any contribution payable for the Member under Part 3 or 3A but not paid; and

(c) a contributions-split transfer to the GESB Super (Retirement Access) Scheme for the Member from another scheme or other superannuation fund.

[Regulation 206A inserted: Gazette 1 Dec 2004 p. 5716; amended: Gazette 13 Apr 2007 p. 1594; 11 Apr 2008 p. 1379 and 1380.]

206B. Transfers to be directly to scheme

A transfer under this Division must be made to the GESB Super (Retirement Access) Scheme directly from the other scheme or superannuation fund.

[Regulation 206B inserted: Gazette 1 Dec 2004 p. 5717; amended: Gazette 11 Apr 2008 p. 1379; 10 Jan 2017 p. 155.]

207A. Restriction on contributions and transfers

Despite anything else in this Part the Board must not accept a contribution or transfer for a person if the trustee of a regulated superannuation fund would be prevented by the SIS Regulations from accepting such a contribution or transfer.

[Regulation 207A inserted: Gazette 8 Jul 2008 p. 3238.]

Division 4 — Retirement access accounts

[Heading inserted: Gazette 28 Jun 2002 p. 3015.]

207. Retirement access accounts for Members, Board to establish

(1) The Board is to establish and maintain in the Fund a retirement access account for each GESB Super (Retirement Access) Member.

(2) The Board may divide a retirement access account into 2 or more sub-accounts.

[Regulation 207 inserted: Gazette 28 Jun 2002 p. 3015; amended: Gazette 11 Apr 2008 p. 1380.]

208. Amounts to be credited to retirement access accounts

(1) The Board is to credit to a GESB Super (Retirement Access) Member's retirement access account —

[(a) deleted]

(b) any contributions made by the Member under regulation 205; and

(c) any benefits transferred to the GESB Super (Retirement Access) Scheme under regulation 206; and

(ca) any amounts accepted in respect of the Member under regulation 206A; and

(d) earnings in accordance with regulation 210; and

(e) any amounts transferred from reserves maintained under section 20A of the Act in accordance with the Board's reserving strategy and any relevant Treasurer's guidelines.

(2A) If —

(a) a benefit becomes payable on the death on or after 1 January 2010 of a GESB Super (Retirement Access) Member; and

(b) the Board would be entitled to a deduction under the *Income Tax Assessment Act 1997* (Commonwealth) section 295-485 if it were to increase the amount of the benefit,

then the Board may, if it considers it appropriate to do so, credit to the Member's retirement access account an amount determined by the Board, not exceeding the tax saving amount in respect of the benefit.

(2) The Board may temporarily keep amounts transferred to the GESB Super (Retirement Access) Scheme for a GESB Super (Retirement Access) Member, together with amounts transferred for other GESB Super (Retirement Access) Members, in an account maintained for that purpose until those amounts are credited to the appropriate retirement access accounts.

[Regulation 208 inserted: Gazette 28 Jun 2002 p. 3016; amended: Gazette 19 Mar 2003 p. 839; 1 Dec 2004 p. 5717; 13 Apr 2007 p. 1594; 11 Apr 2008 p. 1377, 1379 and 1380; 8 Jan 2010 p. 30; 10 Jan 2017 p. 155-6.]

209. Amounts to be debited to retirement access accounts

(1) The Board is to debit to a GESB Super (Retirement Access) Member's retirement access account —

(a) any amounts paid as benefits to, or in respect of, the Member; and

(b) any amounts transferred to other schemes or to other superannuation funds in satisfaction of a Member's entitlement to a benefit from the GESB Super (Retirement Access) Scheme; and

(c) any amount paid to the Commonwealth Commissioner of Taxation in respect of the member under regulation 219AB, 219AC or 219ADA; and

(d) the amount of any benefit of the member included in a payment made under regulation 219AD.

(2) The Board may debit to a GESB Super (Retirement Access) Member's retirement access account —

(a) administrative costs to the extent that they have not been taken into account in the determination of earning rates under regulation 216; and

(b) any tax or other amounts required by a written law or a law of the Commonwealth to be paid by the Board in respect of the Member; and

(c) the amount of any fees payable by the Member for, or in relation to, any product or service provided to the Member in accordance with section 6(1)(e) of the Act.

(3) The Board may only debit an amount to a retirement access account —

(a) under subregulation (2)(a), if an actuary has advised that it is appropriate for that amount to be debited to that account; or

(b) under subregulation (2)(c), if the Member has given the Board written consent to the debiting of that amount to the account.

(4) If the Board debits an amount to a retirement access account under subregulation (2)(c) in respect of a fee payable to a person other than the Board, the Board must pay the amount deducted to that other person.

[Regulation 209 inserted: Gazette 19 Mar 2003 p. 839-40; amended: Gazette 13 Apr 2007 p. 1594-5 and 1663; 11 Apr 2008 p. 1379 and 1380; 6 Jan 2015 p. 30-1; SL 2026/102 r. 20.]

210. Earnings to be credited to Member's account

(1) The Board is to credit earnings to each Member's retirement access account at a rate equal to the Member's earning rate on the balance of the account —

(a) at least once every year; and

(b) when a benefit is to be paid, or an amount transferred, from the Member's retirement access account under Division 6.

(2) The Board is to decide whether the earning rate is to be applied to daily balances, average balances or on some other basis.

[Regulation 210 inserted: Gazette 28 Jun 2002 p. 3016-17; amended: Gazette 19 Mar 2003 p. 840.]

Division 5 — Member investment choice

[Heading inserted: Gazette 28 Jun 2002 p. 3017.]

211. Terms used

In this Division —

default plan means the readymade investment plan selected by the Board under regulation 213 as the default plan for GESB Super (Retirement Access) Members;

personalised investment plan means an investment plan established under regulation 212(3);

readymade investment plan means an investment plan established under regulation 212(1).

[Regulation 211 inserted: Gazette 28 Jun 2002 p. 3017; amended: Gazette 11 Apr 2008 p. 1380.]

212. Investment plans for Members, Board to establish

(1) The Board is to establish one or more investment plans for GESB Super (Retirement Access) Members with asset allocations determined by the Board.

(2) The Board may alter the asset allocation for a readymade investment plan whenever the Board considers it appropriate to do so.

(2A) The Board must ensure that for each readymade investment plan established under regulation 106(1) there is a corresponding

readymade investment plan established under this regulation with the same asset allocation.

(3) The Board may establish an investment plan under which a GESB Super (Retirement Access) Member who selects that plan may select the Member's own asset allocation subject to any conditions determined by the Board.

(4) The Board must notify all GESB Super (Retirement Access) Members of —

(a) the establishment of a new investment plan for GESB Super (Retirement Access) Members including, in the case of a readymade investment plan, the asset allocation for that plan; and

(b) any material change in the asset allocation of a readymade investment plan; and

(c) any material change in the conditions applying to a personalised investment plan,

before, or as soon as practicable after, the establishment or change occurs.

[Regulation 212 inserted: Gazette 28 Jun 2002 p. 3017; amended: Gazette 11 Apr 2008 p. 1377 and 1380.]

213. Default plan for Members

(1) The Board is to select one of the readymade investment plans as the default plan for GESB Super (Retirement Access) Members.

(2) The Board may change the plan selected as the default plan whenever the Board considers it appropriate to do so.

(3) The Board must notify all GESB Super (Retirement Access) Members of any change made under subregulation (2) before, or as soon as practicable after, the change occurs.

[Regulation 213 inserted: Gazette 28 Jun 2002 p. 3017; amended: Gazette 13 Apr 2007 p. 1595; 11 Apr 2008 p. 1380.]

214. Member to select investment plan and asset allocation

(1) A GESB Super (Retirement Access) Member must select 1 or more investment plans in accordance with subregulation (1AA) to be used in determining the Member's earning rate and give notice of that selection to the Board.

(1AA) The Member may select —

(a) 1 personalised investment plan; or

(b) 1 or more readymade investment plans; or

(c) 1 personalised investment plan and 1 or more readymade investment plans.

(1a) If a Member selects a personalised investment plan the Member must also select the asset allocation to be applied to the Member's assets and give notice of that selection to the Board.

(2) A Member may change the Member's selection under subregulation (1), (1AA) or (1a) at any time by giving notice to the Board.

(2a) As soon as practicable after receiving a notice under this regulation the Board must give effect to it by investing the Member's assets in accordance with regulation 215.

(3) Until a GESB Super (Retirement Access) Member selects otherwise the Member is taken to have selected the plan that was the default plan at the time the person became a GESB Super (Retirement Access) Member.

[Regulation 214 inserted: Gazette 28 Jun 2002 p. 3018; amended: Gazette 19 Mar 2003 p. 840-1; 13 Apr 2007 p. 1596; 11 Apr 2008 p. 1380; SL 2026/102 r. 21.]

214A. Investment plan of Member who is also a GESB Super Member

(1) This regulation applies —

(a) in relation to each GESB Super (Retirement Access) Member who is also a GESB Super Member; and

(b) despite anything in regulation 214.

(2) If the Member's selection under regulation 108 is a readymade investment plan (as defined in regulation 105), then the Member is taken to have selected under regulation 214(1) the readymade investment plan (as defined in regulation 211) with the same asset allocation as that of the plan selected under regulation 108.

(3) If the Member's selection under regulation 108 is a personalised investment plan (as defined in regulation 105), then the Member is taken to have selected —

(a) under regulation 214(1), a personalised investment plan (as defined in regulation 211); and

(b) under regulation 214(1a), the same asset allocation as the Member has selected under regulation 108(2).

[Regulation 214A inserted: Gazette 11 Apr 2008 p. 1378.]

215. Board to invest in accord with Member's plan

(1) For each GESB Super (Retirement Access) Member who selects a readymade investment plan the Board must, as far as is practicable —

(a) invest the Member's assets in accordance with the asset allocation determined under regulation 212 for that investment plan; and

(b) ensure that the investment of the Member's assets remains in accordance with that asset allocation until the Member selects a different investment plan.

(2) For a GESB Super (Retirement Access) Member who selects a personalised investment plan the Board must invest —

(a) the Member's assets as at the time the Board gives effect to the selection (***selection day***); and

(b) contributions made, and any benefits transferred, to the Fund by or in respect of the Member after the selection day,

in accordance with the asset allocation selected by the Member but, unless the Board and the Member agree otherwise, the Board is not required to ensure that the investment of the Member's assets remains in accordance with that asset allocation.

(3) In this regulation —

Member's assets means the assets of the Fund that represent the retirement access account of a GESB Super (Retirement Access) Member.

[Regulation 215 inserted: Gazette 28 Jun 2002 p. 3018; amended: Gazette 13 Apr 2007 p. 1596; 11 Apr 2008 p. 1380; 10 Jan 2017 p. 156.]

216. Earning rates, determining

(1) At the end of each financial year and at any other time when the Board considers it desirable to do so, an earning rate is to be determined for —

(a) each readymade investment plan; and

(b) each GESB Super (Retirement Access) Member who has selected a personalised investment plan.

(2) The earning rates are to be determined —

(a) by the Board; or

(b) on behalf of the Board in accordance with procedures or formulae determined by the Board.

(3) In determining an earning rate, or the procedures or formulae to be used to determine an earning rate, the Board must have regard to —

(a) the nett rate of return achieved by the investment of the assets of the Fund that represent the retirement access accounts of the Members to whom the earning rate will apply; and

(aa) administrative costs; and

(b) the desirability of averaging returns in order to reduce fluctuations in earning rates.

(4) An earning rate may be positive or negative.

[Regulation 216 inserted: Gazette 28 Jun 2002 p. 3018-19; amended: Gazette 19 Mar 2003 p. 841; 11 Apr 2008 p. 1380.]

Division 6 — Access to benefits

[Heading inserted: Gazette 28 Jun 2002 p. 3019.]

217. Member may request payment or transfer of benefit

(1) A GESB Super (Retirement Access) Member may request the Board to —

(a) pay to the Member; or

(b) transfer to another scheme or to another superannuation fund,

a benefit of an amount equal to all or part of the balance of the Members retirement access account.

(1A) A request under subregulation (1)(a) may be made —

(a) in relation to so much of the Member's account balance as constitutes an unrestricted non-preserved benefit, at any time; or

(b) in relation to so much of the Member's account balance as constitutes a restricted non-preserved benefit, at any time after the Member has ceased to be a worker.

[(c) deleted]

(1B) A request under subregulation (1)(b) may be made at any time.

(2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that reduces the balance in the Member's retirement access account to, less than the pre-set minimum (if any).

(3) Subregulation (2) does not apply if —

(a) the amount requested is the whole of the balance in the account; or

(b) the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

[Regulation 217 inserted: Gazette 28 Jun 2002 p. 3019; amended: Gazette 11 Apr 2008 p. 1378 and 1380; 10 Jan 2017 p. 156; SL 2023/205 r. 22.]

*[**218.** Deleted: Gazette 13 Apr 2007 p. 1596.]*

219. Binding death benefit nomination and payment of death benefit

(1) If a GESB Super (Retirement Access) Member dies while there is still an amount in the Member's retirement access account, the Board is to pay a benefit (the Member's ***death benefit***) of an amount equal to the balance of the account in accordance with this regulation.

(1A) A GESB Super (Retirement Access) Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

(a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

(i) a permitted nominee of the Member specified in the notice; or

(ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

(b) includes a statement that the nomination is to remain in force —

(i) indefinitely; or

(ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(1B) A binding death benefit nomination given by a GESB Super (Retirement Access) Member comes into force when it is received by the Board and remains in force until any of the following occurs —

(a) the Board receives a notice given by the Member revoking the binding death benefit nomination;

(b) the Board receives a subsequent binding death benefit nomination given by the Member;

(c) the Member ceases to be a GESB Super (Retirement Access) Member;

(d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.

(1C) If a binding death benefit nomination is in force in respect of a GESB Super (Retirement Access) Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

(a) cannot be found after the Board has made reasonable enquiries; or

(b) is not a permitted nominee of the Member at the time of the Member's death.

(1D) If no binding death benefit nomination is in force in respect of a GESB Super (Retirement Access) Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

(2) An amount paid under subregulation (1C) or (1D) to the executor of a Member's will 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 —

(a) either —

(i) no binding death benefit nomination is in force in respect of a GESB Super (Retirement Access) Member when the Member dies; or

(ii) subregulation (1C)(a) or (b) applies;

and

(b) the Board —

(i) has been unable, after making reasonable enquiries, to find an executor of the Member's will or administrator of the Member's estate; or

(ii) considers it desirable to do so in order to relieve or avoid hardship,

the Board may pay up to $25 000 of the death benefit —

(c) to one or more of the Member's dependants in proportions determined by the Board; or

(d) if, after making reasonable enquiries, the Board has been unable to find any dependant of the Member, to one or more other individuals in proportions determined by the Board.

[(4) deleted]

[Regulation 219 inserted: Gazette 28 Jun 2002 p. 3020; amended: Gazette 13 Jun 2003 p. 2113; 1 Dec 2004 p. 5706; 11 Apr 2008 p. 1379 and 1380; SL 2021/49 r. 13.]

219AA. Transfer of Member's balance to Commonwealth Commissioner of Taxation

The Board may transfer the balance of a Member's retirement access account to the Commonwealth Commissioner of Taxation if the Commissioner is permitted under the Commonwealth Unclaimed Money Act to accept the benefit, whether or not the Member has requested the transfer.

[Regulation 219AA inserted: Gazette 11 Apr 2008 p. 1379; amended: SL 2021/49 r. 14.]

219AB. Payments in respect of former temporary residents under the Commonwealth Unclaimed Money Act Part 3A

If —

(a) the GESB Super (Retirement Access) Scheme is a prescribed scheme; and

(b) a member is a former temporary resident,

the Board is to make a payment in respect of the member to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 3A.

[Regulation 219AB inserted: Gazette 6 Jan 2015 p. 31.]

219AC. Payments in respect of lost member accounts under the Commonwealth Unclaimed Money Act Part 4A

If —

(a) the GESB Super (Retirement Access) Scheme is a prescribed scheme; and

(b) an account is a lost member account,

the Board is to make a payment in respect of the account to the Commonwealth Commissioner of Taxation in accordance with the Commonwealth Unclaimed Money Act Part 4A.

[Regulation 219AC inserted: Gazette 6 Jan 2015 p. 31.]

219AD. Transfer of benefit under the Commonwealth Unclaimed Money Act Part 3

If —

(a) the GESB Super (Retirement Access) Scheme is a prescribed scheme; and

(b) a benefit payable to or in respect of a member is unclaimed money,

the Board is to transfer the benefit to the Commonwealth Commissioner of Taxation by including the amount of the benefit in a payment made in accordance with the Commonwealth Unclaimed Money Act Part 3.

[Regulation 219AD inserted: Gazette 6 Jan 2015 p. 31-2.]

219ADA. Payments in accordance with Commonwealth Unclaimed Money Act Pt. 3D

The Board may make a payment to the Commonwealth Commissioner of Taxation in respect of a GESB Super (Retirement Access) Member in accordance with the Commonwealth Unclaimed Money Act Part 3D as if the GESB

Super (Retirement Access) Scheme were a regulated superannuation fund under that Act.

[Regulation 219ADA inserted: SL 2026/102 r. 22.]

219AE. Benefits applied for, but unpaid, at Member's death

(1) In this regulation —

death benefit has the meaning given in regulation 219.

(2) This regulation applies if —

(a) a GESB Super (Retirement Access) Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and

(b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.

(3) The Board —

(a) must not pay or transfer the benefit as applied for or requested; but

(b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

[Regulation 219AE inserted: SL 2023/205 r. 23.]

Part 5A — Family law property settlements

[Heading inserted: Gazette 18 Jan 2008 p. 150.]

219A. Terms used

(1) In this Part —

ex-spouse, in relation to a Member in relation to whose superannuation interest a splitting instrument has been served on the Board, means the other party to the marriage in relation to which the splitting instrument was made;

splitting instrument means —

(a) a splitting order; or

(b) a superannuation agreement that provides for a payment split; or

(c) a flag lifting agreement that provides for a payment split;

superannuation interest means a superannuation interest (as defined in the Family Law Act section 90XD) in a scheme under the Act other than an unsplittable interest.

(2) In this Part the following terms each have the meaning given in the Family Law Act section 90XD —

(a) ***flag lifting agreement***;

(b) subject to subregulation (3), ***operative time***;

(c) ***payment split***;

(d) ***splitting order***;

(e) ***superannuation agreement***;

(f) ***unsplittable interest***.

(3) If —

(a) a splitting instrument is served on the Board before 1 February 2008; and

(b) the time that would, but for this subregulation, be the operative time in relation to that splitting instrument is before 1 February 2008,

then the operative time in relation to that splitting instrument is 1 February 2008.

[Regulation 219A inserted: Gazette 18 Jan 2008 p. 150-1; amended: Gazette 8 Nov 2019 p. 4005; SL 2026/102 r. 23.]

219B. Application of this Part

This Part applies in relation to a Member if the Board is served with a splitting instrument that relates to the superannuation interest of the Member.

[Regulation 219B inserted: Gazette 18 Jan 2008 p. 151.]

219C. Splitting instrument, effect of at operative time

If this Part applies in relation to a Member, at the operative time —

(a) the Member's ex-spouse becomes entitled to a superannuation interest of an amount equal to the value of the ex-spouse's entitlement in respect of the Member's superannuation interest at the operative time; and

(b) there is a corresponding reduction in value of the Member's superannuation interest.

[Regulation 219C inserted: Gazette 18 Jan 2008 p. 151-2.]

219D. Value and transfer of ex-spouse's entitlement

(1) The value of the ex-spouse's entitlement under regulation 219C(a) is to be determined in accordance with the *Family Law (Superannuation) Regulations 2025* (Cth) regulation 25.

(2) When an ex-spouse becomes entitled to a superannuation interest under regulation 219C(a) the Board is to transfer in accordance with subregulation (3) an amount equal to —

(a) the value of the ex-spouse's entitlement; less

(b) any fees payable by the ex-spouse under the Family Law Act section 90XY.

(3) The amount must be transferred to —

(a) if —

(i) the ex-spouse has nominated a superannuation fund to which the amount is to be transferred; and

(ii) the Board is able to transfer the amount to that fund,

that fund; or

(b) if paragraph (a) does not apply and the ex-spouse is a member of the West State scheme in respect of whom transfers to that scheme may be accepted, that scheme; or

(c) if —

(i) neither paragraph (a) nor (b) applies; and

(ii) the ex-spouse is a member of the GESB Super Scheme, the Gold State Super Scheme or the Pension Scheme,

the GESB Super Scheme; or

(d) if none of paragraphs (a), (b) and (c) applies — the Commonwealth Commissioner of Taxation, if the Commissioner is permitted under the Commonwealth Unclaimed Money Act to accept the transfer.

(4) A nomination for the purposes of subregulation (3)(a) must be made in writing to the Board within 28 days (or such longer period as the Board allows) of the ex-spouse being requested by the Board to nominate a fund.

[Regulation 219D inserted: Gazette 18 Jan 2008 p. 152; amended: Gazette 10 Jan 2017 p. 156; 12 Oct 2018 p. 4063; 8 Nov 2019 p. 4005; SL 2021/49 r. 15; SL 2026/102 r. 24.]

219E. Member in 2 or more schemes, effect of reduction on

If a Member whose superannuation interest is reduced under regulation 219C(b) is a member of 2 or more schemes, the reduction is to be apportioned proportionately between the Member's superannuation interests in each scheme in which he or she is a member, unless the splitting instrument provides otherwise.

[Regulation 219E inserted: Gazette 18 Jan 2008 p. 152.]

219F. Member of accumulation scheme, effect of reduction on

(1) In this regulation —

accumulation scheme means the West State Super Scheme, GESB Super Scheme, Retirement Income Scheme, Term Allocated Pension Scheme or GESB Super (Retirement Access) Scheme.

(2) If the value of a Member's superannuation interest in an accumulation scheme is reduced under regulation 219C(b), the balance in the Member's account in that scheme is reduced by an amount equal to the value of the ex-spouse's entitlement under regulation 219C(a).

[Regulation 219F inserted: Gazette 18 Jan 2008 p. 153; amended: Gazette 11 Apr 2008 p. 1379.]

219G. Member of Gold State Super Scheme, effect of reduction on

(1) If the value of a Member's superannuation interest in the Gold State Super Scheme is reduced under regulation 219C(b) the value of the reduction is to be calculated by the actuary and may be effected —

(a) by the deduction of a monetary amount, with or without interest; or

(b) by the reduction by a specified amount of the multiple of final remuneration used to calculate the Member's superannuation interest; or

(c) in any other manner agreed between the actuary and the Board.

(2) If the Member is a Part 1 Member within the meaning of Schedule 2 Part 1 clause 1(1), the reduction is to be apportioned proportionally between —

(a) the Member's superannuation interest to the extent that it arises under Part 2 of these regulations; and

(b) the Member's superannuation interest to the extent that it arises under Schedule 2 Part 1.

(3) If the Member is a Part 6 Member within the meaning of Schedule 2 Part 6 clause 17, the reduction is to be apportioned proportionally between —

(a) the Member's superannuation interest to the extent that it arises under Part 2 of these regulations; and

(b) the Member's superannuation interest to the extent that it arises under Schedule 2 Part 6.

[Regulation 219G inserted: Gazette 18 Jan 2008 p. 153.]

219H. Notice of transfer under r. 219D

(1) When the Board transfers an amount under regulation 219D in respect of a Member's ex-spouse the Board must —

(a) give the ex-spouse a notice setting out the matters mentioned in subregulation (2); and

(b) give the Member a notice setting out the matters mentioned in subregulation (3).

(2) The notice to the ex-spouse must set out —

(a) that the new interest has been created; and

(b) the value of that interest and how that value was calculated; and

(c) the fund, scheme or person to which the transfer under regulation 219D(2) was made; and

(d) if the transfer was made to —

(i) the GESB Super Scheme in accordance with regulation 219D(3)(c), details of how the trustee of that fund can be contacted; or

(ii) the Commonwealth Commissioner of Taxation in accordance with regulation 219D(3)(d), details of how the Commissioner can be contacted.

(3) The notice to the Member must set out —

(a) that a new interest has been created for the ex-spouse and that a corresponding reduction has been made to the Member's interest; and

(b) the value of the ex-spouse's interest and how that value was calculated; and

(c) the amount by which, or the manner in which, the Member's interest has been reduced.

[Regulation 219H inserted: Gazette 18 Jan 2008 p. 153-4; amended: Gazette 10 Jan 2017 p. 156; 8 Nov 2019 p. 4005; SL 2021/49 r. 16.]

Part 6 — Information requirements

[Heading inserted: Gazette 29 Jun 2001 p. 3092.]

220. Terms used

In this Part —

accumulation scheme means the GESB Super Scheme, West State Super Scheme, GESB Super (Retirement Access) Scheme, Retirement Income Scheme or Term Allocated Pension Scheme;

annual reporting day means the day selected under regulation 222(1);

contact details of the Board means the Board's name and address and the name and telephone number of a person who is available to deal with inquiries directed to the Board;

covered risk benefit has the meaning given in regulation 50(1);

inactive account means —

(a) an inactive west state account as defined in regulation 50(1B); or

(b) an inactive GESB Super account as defined in regulation 83(1B);

insurance cover has the meaning given in regulation 83(1);

reporting period means —

(a) on and before a Member's first annual reporting day — the period on and from the day the person became a Member to and including that first annual reporting day; and

(b) otherwise, the period from one annual reporting day to and including the next.

[Regulation 220 inserted: Gazette 29 Jun 2001 p. 3092; amended: Gazette 13 Apr 2007 p. 1603 and 1663; 11 Apr 2008 p. 1379; 12 Oct 2018 p. 4063; SL 2024/195 r. 15.]

221. Information for new Members, Board to give

(1) As soon as practicable after a person becomes a Member the Board is to give the person all the information that the Board reasonably believes a person would reasonably need for the purpose of understanding —

(a) the main features of the scheme of which the person has become a Member; and

(b) the management of the relevant scheme and financial condition of the Fund; and

(c) the investment performance of the Fund.

(2) The information given under subregulation (1) is to include —

(a) the Board's contact details; and

(b) a summary of the main features of the relevant scheme; and

(c) a summary of the benefits provided under the relevant scheme and the method by which they are calculated; and

(d) for a Member of an accumulation scheme —

(i) details of the investment options available to Members of the scheme; and

(ii) an outline of the fees and charges that are attributed to Members of the scheme;

and

(e) a copy of the latest information given under regulation 224 to Members of the relevant scheme; and

(f) a summary of —

(i) the arrangements that the Board has to deal with inquiries or complaints; and

(ii) the operation of the AFCA scheme.

[Regulation 221 inserted: Gazette 29 Jun 2001 p. 3093-4; amended: Gazette 13 Apr 2007 p. 1603-4; 12 Oct 2018 p. 4064.]

222. Annual reporting day for Member, Board to select

(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.

[Regulation 222 inserted: Gazette 29 Jun 2001 p. 3094.]

223. Member's benefit entitlements, Board to inform Member about annually

(1) As soon as practicable after the last day of a Member's reporting period the Board is to give to the Member all the information that the Board reasonably believes a Member reasonably needs for the purpose of understanding the Member's benefit entitlements.

(2) The information given under subregulation (1) is to include —

(a) the Board's contact details; and

(b) details of amounts received in respect of the Member during the reporting period including —

(i) contributions made by the Member; and

(ii) contributions made for the Member by an Employer or spouse; and

(iii) Commonwealth payments received in respect of the Member; and

(iv) benefits transferred to the scheme for the Member; and

(v) splittable contributions transferred for the benefit of the Member;

and

(c) an explanation of the circumstances in which the Member will or may become entitled to a benefit; and

(d) details of the Member's benefit entitlements (including death and disablement benefits and any other insured benefits) —

(i) on last day of the reporting period; and

(ii) except in the case of death and disablement benefits, on the first day of the reporting period,

and the methods by which the amounts of the benefits are calculated; and

(e) for a Member of an accumulation scheme —

(i) the amounts of fees and charges deducted from the Member's accumulation account during the reporting period; and

(ii) the rate at which earnings were credited to the Member's accumulation account during the reporting period and the amount credited.

[Regulation 223 inserted: Gazette 29 Jun 2001 p. 3094-5; amended: Gazette 28 Jun 2002 p. 3022; 13 Apr 2007 p. 1604-5; 8 Jul 2011 p. 2901; 10 Jan 2017 p. 156.]

224. Fund, Board to inform Members about annually

(1) As soon as practicable after the last day of a Member's reporting period the Board is to give to the Member all the information that the Board reasonably believes a Member would reasonably

need for the purpose of understanding the management, financial condition and investment performance of the Fund.

(2) The information given under subregulation (1) is to include —

(a) details about the Board including —

(i) the Board's contact details; and

(ii) the names of the directors of the Board during the reporting period and details of how and by whom they were appointed or elected; and

(iii) a statement as to whether or not any indemnity insurance has been taken out by the Board;

and

(b) investment details including —

(i) a description of the investment strategy of the Board; and

(ii) the names of investment managers appointed by the Board; and

(iii) a statement of the assets of the Fund as at the end of —

(I) the reporting period; and

(II) the immediately preceding reporting period,

that includes all information that the Board reasonably believes a Member would reasonably need to understand the asset allocation of the Fund at those times; and

(iv) details of —

(I) each investment the value of which exceeds 5% of the total value of the assets of the Fund; and

(II) each combination of investments that the Board knows or ought reasonably to know are invested, directly or

indirectly, in a single enterprise or a single group of associated enterprises, the combined value of which exceeds 5% of the total value of the assets of the Fund;

and

(c) details of the Fund's accounts being either —

(i) the audited Fund accounts and the auditor's report; or

(ii) both —

(I) abridged financial information about the Fund for the reporting period; and

(II) a statement as to when the audited Fund accounts and the auditor's report will be sent, or made available, to Members;

and

(d) in relation to an accumulation scheme, a statement of —

(i) the earning rates determined for each of the readymade investment plans established for Members of the scheme, for the 5 years ending at the end of the reporting period; and

(ii) the fees and charges that are attributed to Members of the scheme;

and

(e) a summary of —

(i) the arrangements that the Board has to deal with inquiries or complaints; and

(ii) the operation of the AFCA scheme;

and

(f) a statement setting out the kind of information that is available on request.

(3) In this regulation —

abridged financial information in relation to a reporting period means information derived from the Fund's accounts or records that gives a reasonable summary of either —

(a) both —

(i) changes in the financial position of the Fund during the reporting period; and

(ii) the financial position of the Fund at the end of the reporting period;

or

(b) both —

(i) changes in the nett assets of the Fund during the reporting period; and

(ii) the nett assets of the Fund at the end of the reporting period.

[Regulation 224 inserted: Gazette 29 Jun 2001 p. 3095-8; amended: Gazette 13 Apr 2007 p. 1605; 12 Oct 2018 p. 4064.]

224A. Significant events, Board to inform Members about

(1) As soon as practicable after the occurrence of a significant event the Board is to give to each Member who the Board reasonably expects has been, will or may be affected by the event all the information about the event that the Board reasonably believes that the Member would reasonably expect to be provided with, including details of —

(a) the nature of the event; and

(b) the purpose (if any) of the event; and

(c) its effect on the Member's rights and entitlements.

(2) In this regulation —

significant event means any event that the Board reasonably believes —

(a) will or may have, or has had, an adverse effect on —

(i) a Member's right to accrued benefits or the amount of those benefits; or

(ii) the benefits to which a Member may become entitled; or

(iii) the circumstances in which those benefits will or may become payable; or

(iv) the manner in which those benefits would be calculated; or

(v) the security of the Member's benefits;

or

(b) Members would reasonably expect to be informed of.

[Regulation 224A inserted: Gazette 29 Jun 2001 p. 3098-9; amended: Gazette 13 Apr 2007 p. 1605-6.]

224AA. Notice of inactivity issued for inactive accounts

(1) A notice of inactivity issued in relation to an account that may become an inactive account must inform the Member in whose name the account is maintained of the following —

(a) the day on which the most recent relevant contribution was credited to the account;

(b) the amount debited to the Member's account by the Board in relation to the entitlement to the covered risk benefit or insurance cover for the previous financial year;

(c) the amount likely to be debited to the Member's account by the Board in relation to the entitlement to the covered risk benefit or insurance cover for the current financial year;

(d) the period of time that has lapsed since that relevant contribution was credited to the account;

(e) the day on which the Board may exercise its discretion under regulation 75A or 116A, as the case requires, in relation to the account, should the account become an inactive account;

(f) if the Board were to exercise its discretion, the effect that the exercise of discretion would have on the Member's entitlements;

(g) that the Member should inform the Board before the account becomes an inactive account if, in the event that the account becomes an inactive account, they wish to retain the entitlement to the covered risk benefit or insurance cover, as the case requires.

(2) A notice of inactivity must be issued to the Member in whose name the account is maintained by sending it to the most recent address provided to the Board by the Member.

[Regulation 224AA inserted: SL 2024/195 r. 16.]

224AB. Information for Members who elect to maintain risk benefits or insurance

(1) This regulation applies if a Member has informed the Board that, in the event that the account becomes an inactive account, they wish to retain the entitlement to the covered risk benefit or insurance cover, as the case requires.

(2) The Board must, within 14 days of the Member informing the Board of the matter set out in subregulation (1), issue a notice to the Member that informs the Member of the following —

(a) the type of covered risk benefit or insurance cover that the Member has elected to retain;

(b) the day on which the Member elected to retain the entitlement to the covered risk benefit or insurance cover;

(c) that the Member must inform the Board if they wish to cancel their entitlement to the covered risk benefit or insurance cover.

(3) A notice issued under subregulation (2) must be issued at least once every 15 months unless —

(a) the account is not an inactive account; or

(b) the Member informs the Board that they wish to cancel their entitlement to the covered risk benefit or insurance cover, as the case requires.

[Regulation 224AB inserted: SL 2024/195 r. 16.]

224B. Person ceasing to be Member, Board to inform about entitlements

(1) When a Member ceases to be a Member other than because the Member has died, the Board is to give to the Member all the information that the Board reasonably believes the Member would reasonably need for the purpose of understanding his or her entitlements.

(2) The information given under subregulation (1) is to include —

(a) the Board's contact details; and

(b) details of the kind referred to in regulation 223(2)(b), (d) and (e) in respect of the period from the last annual reporting day on which the person was a Member to the day on which the person ceased to be a Member; and

(c) a summary of —

(i) the arrangements that the Board has to deal with inquiries or complaints; and

(ii) the operation of the AFCA scheme.

(3) If a Member dies while still a Member, the Board is to give to each person to whom a death benefit is paid a statement setting out —

(a) a summary of —

(i) the arrangements that the Board has to deal with inquiries or complaints; and

(ii) the operation of the AFCA scheme;

and

(b) the kind of information that is available on request.

[Regulation 224B inserted: Gazette 29 Jun 2001 p. 3099-100; amended: Gazette 12 Oct 2018 p. 4064.]

224C. Employers to give Board information

(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, in breach of a direction given under subregulation (1), an Employer fails to give the Board information relating to —

(a) a Member's entitlement to a benefit; or

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

the Board may defer payment of the benefit until the information is provided.

[Regulation 224C inserted: Gazette 29 Jun 2001 p. 3100-1; amended: Gazette 13 Apr 2007 p. 1606.]

224D. Member, Employer etc., Board to give information to on request

(1) If requested to do so by a Member or a person to whom a death benefit is paid, the Board is to give to the person all the

information that the person reasonably requires for the purposes of —

(a) understanding any benefit entitlements that the person may have, has or used to have; and

(b) understanding the main features of the relevant scheme; and

(c) making an informed judgment about the management and financial condition of the Fund; and

(d) making an informed judgment about the investment performance of the Fund; and

(e) understanding the particular investments of the Fund.

(2) If requested to do so by an Employer, the Board is to give to the Employer all the information that the Employer reasonably requires for the purposes of —

(a) understanding the main features of the relevant scheme; and

(b) understanding the kinds of benefits to which the Employer's workers are entitled or will or may become entitled; and

(c) making an informed judgment about the management and financial condition of the Fund; and

(d) making an informed judgment about the investment performance of the Fund.

(3) If requested to do so by a Member, a person to whom a death benefit is paid or an Employer, the Board is to give to the person a copy, or access to a copy, of —

(a) the Act, these regulations and any other regulation under the Act; or

(b) the most recent audited accounts of the Fund, together with (whether or not specifically requested) the auditor's report in relation to the accounts; or

(c) the report relating to the most recent actuarial investigation of the Fund; or

(d) the latest information given under regulation 223 to Members of the relevant scheme.

(4) The Board need not give a person information or a copy of a document under this regulation if it has previously given the person the information, or a copy of the document, under this regulation.

[Regulation 224D inserted: Gazette 29 Jun 2001 p. 3101-3; amended: Gazette 13 Apr 2007 p. 1606-7; 6 Dec 2011 p. 5133; 17 Jan 2012 p. 473.]

224E. Information to be given if benefit transferred to Commonwealth Commissioner of Taxation

If the Board transfers a benefit or makes a payment to the Commonwealth Commissioner of Taxation under regulation 37A, 69AD, 69AE, 79, 105D, 105E, 126, 219AA, 219ADA or 219D, the Board must give to the Commissioner —

(a) if the person entitled to the benefit or payment is a lost member, a statement to that effect; and

(b) if the person entitled to the benefit or payment has specifically asked the Board not to disclose information of a specified kind — a statement to that effect; and

(c) all information in the possession of the Board that could reasonably help the Commissioner to locate or identify the person entitled to the benefit or payment, other than information of a kind referred to in paragraph (b).

[Regulation 224E inserted: Gazette 29 Jun 2001 p. 3103; amended: Gazette 13 Apr 2007 p. 1607; 6 Jan 2015 p. 32; SL 2021/49 r. 17; SL 2024/195 r. 17; SL 2026/102 r. 25.]

224F. Certain information protected from disclosure by Board

Nothing in this Part requires or authorises the disclosure of —

(a) internal working documents of the Board; or

(b) information or documents that would disclose, or tend to disclose —

(i) personal information of another person if, in the circumstances, the disclosure would be unreasonable; or

(ii) trade secrets or other information having a commercial value that would be reduced or destroyed by the disclosure;

or

(c) information or documents in relation to which the Board owes to another person a duty of non-disclosure.

[Regulation 224F inserted: Gazette 29 Jun 2001 p. 3103-4; amended: Gazette 13 Apr 2007 p. 1607.]

224G. Family Law Act, Board's duties under to give information

(1) If the Board is required by the Family Law Act to give information to a person, nothing in these regulations (including regulation 224F) affects the Board's obligation to give that information to that person or its ability to give information in accordance with subregulation (2).

(2) If the Board receives an application for information under the Family Law Act, the Board may provide to the applicant, in addition to the information required by that Act to be provided, any further information that the Board considers is reasonably necessary for the applicant to understand the superannuation interest to which the application relates.

[Regulation 224G inserted: Gazette 18 Jan 2008 p. 154.]

225AA. Information relating to unclaimed money, etc.

If a scheme is a prescribed scheme, the Board is to give the Commonwealth Commissioner of Taxation the statements

referred to in the Commonwealth Unclaimed Money Act sections 16, 20E and 24C.

[Regulation 225AA inserted: Gazette 6 Jan 2015 p. 32.]

225A. How Board to give information

The Board is to give the information required to be given under regulation 221 to 224E —

(a) in writing; or

(b) by any other means which is consistent with the *Corporations Act 2001* (Commonwealth) Parts 7.7 to 7.9 as they apply to the Board and to the information to be given, having regard to any exemptions or modifications made under that Act.

[Regulation 225A inserted: Gazette 10 Jan 2017 p. 157.]

Part 7 — Board elections

225. Terms used

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 Member as defined in regulation 3; or

(b) a Provident Scheme Member or Pension Scheme Member; or

(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 *Workplace Relations Act 1996* 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).

[Regulation 225 amended: Gazette 28 Jun 2002 p. 3021; 19 Mar 2003 p. 834-5; 13 Apr 2007 p. 1609.]

226. Conduct of elections (Act s. 8(1)(c))

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

227. Need for election, Board to notify UnionsWA of (Act s. 8(1)(c))

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. Returning officer, appointment of

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. Nominations, calling for

(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; and

(b) the term of office; and

(c) the form in which nominations are to be made; and

(d) the place where nominations are to be lodged; and

(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.

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

230. Nominations, making etc.

(1) A nomination of a person as a candidate is to be —

(a) in writing, signed by the nominee; and

(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.

[Regulation 230 amended: Gazette 28 Jun 2002 p. 3027.]

231. Procedure after close of nominations

(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; and

(b) 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.

(4) The returning officer must, within 7 days after a candidate is elected under subregulation (1) or (2)(a), notify the Treasurer of the election.

(5) The Treasurer is to cause notice of the election of a candidate to be published in the *Gazette*.

[Regulation 231 amended: Gazette 17 Jan 2012 p. 473; SL 2021/132 r. 8.]

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; and

(ii) UnionsWA; and

(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.

233. Ballot papers, form and content of

(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; and

(b) the name of the organisation entitled to exercise the vote; and

(c) the number of votes the organisation is entitled to cast, as determined under regulation 232; and

(d) the names of each of the candidates in the order determined under subregulation (1)(a); and

(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. Ballot papers, replacing

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.

235. Voting, method of

(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, appointment and functions of

(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.

(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 Treasurer —

(a) of the results; and

(b) that the election has been conducted in accordance with these regulations.

(3) The Treasurer is to cause notice of the results to be published in the *Gazette*.

[Regulation 238 amended: Gazette 17 Jan 2012 p. 473.]

239. Ballot papers, preservation of

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

240. Disputes as to conduct or result of election

(1) A person may appeal to the Treasurer against —

(a) the manner in which the election was conducted; or

(b) the result of the election; or

(c) the election of a candidate under regulation 231(1) or (2)(a).

(2) An appeal made under subregulation (1)(a) or (b) must be in writing and must be received by the Treasurer within 1 month of the publication of the result of the election in the *Gazette*.

(2A) An appeal made under subregulation (1)(c) must be in writing and must be received by the Treasurer within 1 month of the publication of the election of the candidate in the *Gazette*.

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

[Regulation 240 amended: Gazette 17 Jan 2012 p. 473; SL 2021/132 r. 9.]

241. Costs of 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.

Part 8 — General

Division 1 — Benefits

242. Incapacity of beneficiary, effect of

(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; or

(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. Late payments, interest on

If a benefit is not paid on the day on which it becomes payable, interest accrues on the benefit —

(a) at a rate equal to —

(i) for any part of the benefit consisting of an amount equal to the balance of the Member's accumulation account, the Member's earning rate (which may be positive or negative); or

(ii) for any other part of the benefit, the CPI rate plus 2%;

and

(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.

[Regulation 243 amended: Gazette 29 Jun 2001 p. 3104; 28 Jun 2002 p. 3021; 19 Mar 2003 p. 841; 26 May 2006 p. 1927; 13 Apr 2007 p. 1663.]

244. Benefit in special circumstances, payment of

(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; or

(b) a former Member; or

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

(d) a person who is not a Member but in respect of whom contributions have been made as if he or she was a Member; or

(e) a class of persons each of whom is a person referred to in paragraphs (a) to (d),

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 person specified by the Treasurer in the direction.

(3) When giving a direction under subregulation (1) the Treasurer may make payment of the benefit subject to any conditions the Treasurer considers appropriate.

[Regulation 244 amended: Gazette 28 Jun 2002 p. 3021; 19 Mar 2003 p. 835; 13 Jun 2003 p. 2114; 26 Aug 2003 p. 3756-7; 10 Dec 2004 p. 5906.]

244A. Board must comply with forfeiture orders

Despite anything in these regulations, the Board must comply with a court order —

(a) that restrains payment of a Member's benefit; or

(b) that —

(i) is made under a provision specified in the table to the SIS Regulations regulation 6.17(2C); and

(ii) forfeits part or all of a Member's benefit to the State, the Commonwealth, another State or a Territory, as the case requires.

[Regulation 244A inserted: SL 2020/135 r. 4.]

245. Assignment or charge over benefit prohibited

Subject to the Family Law Act 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.

[Regulation 245 amended: Gazette 18 Jan 2008 p. 154.]

246. Benefit does not pass to other persons

(1) 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.

(2) Subregulation (1) is subject to the Family Law Act.

(3) Subregulation (1) is also subject to a court order —

(a) that restrains payment of a Member's benefit; or

(b) that —

(i) is made under a provision specified in the table to the SIS Regulations regulation 6.17(2C); and

(ii) forfeits part or all of a Member's benefit to the State, the Commonwealth, another State or a Territory, as the case requires.

[Regulation 246 amended: Gazette 18 Jan 2008 p. 155; SL 2020/135 r. 5.]

246A. Transfers to other fund not agreeing to transfer

The Board is not required to comply with a Member's request that a benefit be transferred to another superannuation fund if the trustee of that other fund (or if there is no such trustee, the person who manages that fund) does not agree to accept the transfer.

[Regulation 246A inserted: Gazette 28 Jun 2002 p. 3027.]

246B. Investment powers of Member, exercise of after death or incapacity of

(1) When a benefit (other than a reversionary pension) is payable because a Member has died the investment powers that would be exercisable by the Member if he or she were alive and entitled to the benefit may be exercised —

(a) if the benefit is payable to the executor of the Member's will or administrator of the Member's estate —

(i) until probate of the will, or administration of the estate, of the Member is granted, by the Board; and

(ii) thereafter, by the executor or administrator;

or

(b) otherwise, by the Board.

(2) If, under regulation 242, the Board does not pay a benefit to a person entitled to it, the investment powers exercisable by that person may be exercised —

(a) if there is a person authorised by or under a written law to administer the entitled person's affairs, by that authorised person; or

(b) otherwise, by the Board.

(3) When exercising a power under this regulation the Board is to act in what it reasonably considers to be the best interests of the person who is or will become entitled to the benefit.

(4) In this regulation —

investment powers means the powers exercisable by a Member under the regulations relating to investment choice for Members of the scheme of which the Member was a member.

[Regulation 246B inserted: Gazette 10 Dec 2004 p. 5907; amended: SL 2021/49 r. 18.]

246C. Board must approve period for which limited binding death benefit nominations remain in force

(1) In this regulation —

limited binding death benefit nomination means a binding death benefit nomination under regulation 48, 80, 121, 194, 196U or 219, other than a binding death benefit nomination that includes a statement that the nomination is to remain in force indefinitely.

(2) The Board must approve the period for which limited binding death benefit nominations are to remain in force.

(3) The Board may revoke an approval under subregulation (2) by a subsequent approval under that subregulation.

[Regulation 246C inserted: SL 2021/49 r. 19.]

246D. Board may set and notify pre-set minimums

(1) The Board —

(a) may set a minimum amount for a regulation that refers to a pre-set minimum; and

(b) if the Board does so, must notify Members to whom the regulation applies of the amount.

(2) The amount the Board sets and notifies is the ***pre-set minimum*** for the purposes of the regulation.

(3) The Board may —

(a) change a pre-set minimum by setting, and notifying Members of, a new minimum amount to replace it; or

(b) revoke a pre-set minimum, so that no minimum amount replaces it, by notifying Members of the revocation.

[Regulation 246D inserted: SL 2023/205 r. 24.]

Division 2 — Other matters

247. Percentage prescribed (Act s. 20(3))

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

248. Board direction under Act s. 26(2), restriction on etc.

(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.

248A. Crown payments to Board to accord with deed

The Crown is to make payments to the Board in accordance with the deed between the Treasurer and the Board entered into in June 2001 relating to the under-funding of the West State Super Scheme which occurred between 1 July 1992 and 30 June 1998.

[Regulation 248A inserted: Gazette 29 Jun 2001 p. 3104.]

248B. Overpayment of contributions

(1) In this regulation —

contributor means —

(a) an Employer; and

(b) a non-government contributor;

overpayment means a payment by a contributor of an amount of superannuation contribution that is not required —

(a) in the case of an Employer — under the Act; or

(b) in the case of a non-government contributor — under the SGA Act, to avoid incurring an individual superannuation guarantee shortfall for any of its employees; or

(c) in either of the cases referred to in paragraphs (a) and (b) —

(i) under any award, determination, order, enterprise agreement or similar industrial instrument; or

(ii) under any contract of employment.

(2) If a contributor demonstrates to the satisfaction of the Board that it has made an overpayment to the Fund and seeks to recover the overpayment —

(a) if the overpayment has not been credited to an accumulation account, the Board may —

(i) retain the overpayment and offset it against amounts that become payable to the Fund by the contributor in the future; or

(ii) refund the overpayment to the contributor;

or

(b) if the overpayment has been credited to an accumulation account but has not been paid as a benefit or transferred out of that account, the Board may —

(i) retain the overpayment in that accumulation account and offset it against contributions that become payable by the contributor in the future and are to be credited to that account; or

(ii) deduct the overpayment from that accumulation account and deal with it in accordance with paragraph (a);

or

(c) if the overpayment has been paid or transferred as part of a benefit, and if the overpayment was due to the fault of the Board, the Board may repay the overpayment from the Fund.

(3) Subject to subregulation (4), a contributor that has made an overpayment may elect not to seek to recover the overpayment.

(4) An Employer must not make the election referred to in subregulation (3) if doing so would contravene an instruction

issued by the Treasurer under the *Financial Management Act 2006* section 78.

[Regulation 248B inserted: Gazette 23 Jul 2013 p. 3310-11; amended: SL 2025/59 r. 27.]

249. Rights etc. lost by person, restoration of etc. by Board

(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; or

(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 enquiries it considers appropriate.

(3) When exercising a power under subregulation (1) the Board may impose any conditions it considers appropriate.

[Regulation 249 amended: Gazette 28 Jun 2002 p. 3028.]

250. Independent review by AFCA of Board's decisions

(1) For the purposes of the independent review mentioned in section 13(3)(b) of the Act, the Australian Financial Complaints Authority is prescribed.

(2) Subject to the Corporations Act Part 7.10A, a person refers a matter under section 13(3)(b) of the Act by making a complaint under the AFCA scheme in relation to the matter.

Note for this regulation:

The Superannuation Complaints Tribunal will continue to deal with complaints, relating to decisions of the Board, that are made to it but not finalised before the commencement of the *State Superannuation Amendment Regulations 2018* regulation 16 until the *Superannuation (Resolution of Complaints) Act 1993* (Commonwealth) is repealed.

[Regulation 250 inserted: Gazette 12 Oct 2018 p. 4064.]

251. Form of documents and information

(1) Except as provided in regulations 47A(5A), 69J(2), 79A(6), 111D(2) and 123(5A), an application, approval, certificate, determination, direction, notice, notification, report, request, 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 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; and

(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.

[Regulation 251 amended: Gazette 28 Jun 2002 p. 3028; 22 Jul 2011 p. 3029; 8 Nov 2019 p. 4006; SL 2023/205 r. 25.]

252. Special provisions for certain Gold State Super Members and West State Super Members (Sch. 2)

Schedule 2 has effect.

253. Some GES Act provisions discontinued in relation to some schemes

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 (Sch. 3)

Schedule 3 has effect.

[Part 9 [1] omitted under the Reprints Act 1984 s. 7(4)(e).]

Schedule 1 — Employers

[r. 7]

Division 1 — State funded employers

1. **Departments** established or continued, or deemed to have been established, under the *Public Sector Management Act 1994*, other than department or parts of departments listed in Division 2

2. **The Government of Western Australia** in relation to a worker in respect of whom the obligations of the Government are being discharged under regulation 9(1)(a) by a Minister

3. **The Government of Western Australia** in relation to a worker in respect of whom the obligations of the Government are being discharged by a person, or by the employing authority of a department or organisation, specified in an order under regulation 9(1)(b) if the order specifies that in relation to that worker the Government is a Division 1 Employer

3a. **The Government of Western Australia** in relation to a worker who is a parliamentarian

4. **Agent General** appointed under the *Agent General Act 1895*

5. **Arts and Culture Trust** established under the *Arts and Culture Trust Act 2021*

[6, 7. deleted]

8. **Colleges** established or continued under the *Vocational Education and Training Act 1996*

9. **Commissioner for Children and Young People** established under the *Commissioner for Children and Young People Act 2006*

10. **Commissioner for Equal Opportunity** appointed under the *Equal Opportunity Act 1984*

11. **Commissioner of Police** appointed under the *Police Act 1892*

[12, 13. deleted]

13A. **Corruption and Crime Commission** established under the *Corruption, Crime and Misconduct Act 2003*

14. **Director of Public Prosecutions** under the *Director of Public Prosecutions Act 1991*

15A. **Disability Services Commission** continued under the *Disability Services Act 1993*

15B. **Economic Regulation Authority** established by the *Economic Regulation Authority Act 2003*

15. **Governor** under the *Governor's Establishment Act 1992*

[16A, 16. deleted]

17. **Information Commissioner** appointed under the *Information Commissioner Act 2024*

17A. **Infrastructure WA** established under the *Infrastructure Western Australia Act 2019*

18. **Inspector of Custodial Services** continued under the *Inspector of Custodial Services Act 2003*

19. **Law Reform Commission of Western Australia** established under the *Law Reform Commission Act 1972*

20A. **Minerals Research Institute of Western Australia** established under the *Minerals Research Institute of Western Australia Act 2013*

20. **Parliamentary Commissioner for Administrative Investigations** appointed under the *Parliamentary Commissioner Act 1971*

[21. deleted]

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*

23A. **Public Sector Commissioner** appointed under the *Public Sector Management Act 1994*

23B. **Regional Development Commissions** established by the *Regional Development Commissions Act 1993*

23. **Rural Business Development Corporation** continued under the *Rural Business Development Corporation Act 2000*

24. **School Curriculum and Standards Authority** established by the *School Curriculum and Standards Authority Act 1997*

25. **Small Business Development Corporation** established by the *Small Business Development Corporation Act 1983*

25A. **The Aboriginal Affairs Planning Authority** continued by the *Aboriginal Affairs Planning Authority Act 1972*

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. deleted]

29. **The Western Australian Museum** constituted by the *Museum Act 1969*

29A. **Western Australian Health Promotion Foundation** mentioned in the *Western Australian Health Promotion Foundation Act 2016* section 5.

30. **Western Australian Land Information Authority** established by the *Land Information Authority Act 2006*

31. **Western Australian Planning Commission** established by the *Planning and Development Act 2005*

[Division 1 amended: Gazette 29 Jun 2001 p. 3105; 26 Aug 2003 p. 3757; Act No. 75 of 2003 s. 56(1); Gazette 1 Dec 2004 p. 5703 and 5717; 26 May 2006 p. 1931; 13 Apr 2007 p. 1609-10; Act No. 10 of 2007 s. 43; Gazette 11 Feb 2011 p. 506; 23 Jul 2013 p. 3311-12; 14 Nov 2013 p. 5073; 10 Jun 2014 p. 1806; 26 Jun 2015 p. 2273; 1 Jul 2016 p. 2750; 26 Aug 2016 p. 3668; 10 Jan 2017 p. 157; 8 Nov 2019 p. 4006; SL 2021/132 r. 10; SL 2022/4 r. 4; SL 2025/113 r. 4.]

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

1A. **Albany Cemetery Board** established under the *Cemeteries Act 1986*

[2A, 2. deleted]

3. **Australian Health Practitioner Regulation Agency** established under the *Health Practitioner Regulation National Law (WA) Act 2010*

4. **Botanic Gardens and Parks Authority** established under the *Botanic Gardens and Parks Authority Act 1998*

[5. deleted]

6. **Building and Construction Industry Training Board** established under the *Building and Construction Industry Training Fund and Levy Collection Act 1990*

6AAA. **Bunbury Cemetery Board** established under the *Cemeteries Act 1986*

6AA. **Bunbury Water Corporation** established under the *Water Corporations Act 1995*

6AB. **Busselton Water Corporation** established under the *Water Corporations Act 1995*

6a. **Chemistry Centre (WA)** established by the *Chemistry Centre (WA) Act 2007*

7. **Commissioner of Main Roads** appointed under the *Main Roads Act 1930*

[8. deleted]

9. **Construction Industry Long Service Leave Payments Board** established under *Construction Industry Portable Paid Long Service Leave Act 1985*

[10-17. deleted]

17A. **Electricity Generation and Retail Corporation** established by the *Electricity Corporations Act 2005*

17B. **Electricity Networks Corporation** established by the *Electricity Corporations Act 2005*

18. **Family Court of Western Australia** continued by the *Family Court Act 1997*

19. **Fire and Emergency Services Commissioner** within the meaning of the *Fire and Emergency Services Act 1998*

20. **Forest Products Commission** established by the *Forest Products Act 2000*

[21. deleted]

22. **Gaming and Wagering Commission of Western Australia** established under the *Gaming and Wagering Commission Act 1987*

22A. **Geraldton Cemetery Board** established under the *Cemeteries Act 1986*

23. **GoldCorp Australia** established under the *Gold Corporation Act 1987*

24A. **Gold Corporation** established under the *Gold Corporation Act 1987*

24. **Government Employees Superannuation Board** under the Act

[25, 26. deleted]

26A. **Housing Authority** continued under the *Housing Act 1980*

27. **Insurance Commission of Western Australia** continued under the *Insurance Commission of Western Australia Act 1986*

27A. **Kalgoorlie-Boulder Cemetery Board** established under the *Cemeteries Act 1986*

28. **Keep Australia Beautiful Council (W.A.)** established under the *Litter Act 1979*

28A. **Keystart** established under the *Keystart Act 2024*

29. **Legal Aid Commission of Western Australia** established under the *Legal Aid Commission Act 1976*

29A. **Legal Practice Board** established under the *Legal Profession Uniform Law Application Act 2022*

29B. **Local Health Authorities Analytical Committee** established under the Health (Miscellaneous Provisions) Act 1911

30. **Lotteries Commission** preserved and continued under the *Lotteries Commission Act 1990*

[31. deleted]

32. **Metropolitan Cemeteries Board** established under the *Cemeteries Act 1986*

33. **Metropolitan Redevelopment Authority** established under the *Metropolitan Redevelopment Authority Act 2011*

[34-38. deleted]

39. **Port authorities** established under the *Port Authorities Act 1999*

[40. deleted]

40a. **Public Transport Authority of Western Australia** established under the *Public Transport Authority Act 2003*

41. **Public Trustee** within the meaning of the *Public Trustee Act 1941*

42. **Racing and Wagering Western Australia** established by the *Racing and Wagering Western Australia Act 2003*

[43. deleted]

43A. **Regional Power Corporation** established by the *Electricity Corporations Act 2005*

44. **Rottnest Island Authority** established under the *Rottnest Island Authority Act 1987*

[45A-47. deleted]

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 Western Australian Mint** continued under the *Gold Corporation Act 1987*

[51-53. deleted]

54. **Water Corporation** established under the *Water Corporations Act 1995*

[55, 56. deleted]

57. **Western Australian Coastal Shipping Commission** established under the *Western Australian Coastal Shipping Commission Act 1965*

[58. deleted]

59. **Western Australian Greyhound Racing Association** established under the *Western Australian Greyhound Racing Association Act 1981*

[60. deleted]

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. deleted]

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. deleted]

68. **WorkCover WA** established by the *Workers Compensation and Injury Management Act 2023*

69. **Zoological Parks Authority** established under the *Zoological Parks Authority Act 2001*

[Division 2 amended: Gazette 15 Aug 2003 p. 3692; 26 Aug 2003 p. 3757; 30 Dec 2003 p. 5725-6; 25 Jun 2004 p. 2232 and 2234; 1 Dec 2004 p. 5717; 31 Mar 2006 p. 1354; Act No. 43 of 2006 s. 7; Gazette 13 Apr 2007 p. 1610; Act No. 10 of 2007 s. 43; No. 28 of 2008 s. 16; Gazette 11 May 2012 p. 2064; 23 Jul 2013 p. 3312-13; 27 Dec 2013 p. 6479; 10 Jun 2014 p. 1806-7; 1 Jul 2016 p. 2750; 26 Aug 2016 p. 3668; 10 Jan 2017 p. 157; 8 Nov 2019 p. 4006; SL 2021/181 r. 5; SL 2022/173 r. 5; SL 2024/133 r. 20; SL 2025/28 r. 4; SL 2025/59 r. 28; SL 2026/29 r. 4; SL 2026/102 r. 26.]

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. Terms used

(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; or

(b) a compulsory transferee; or

(c) a 1987 part-time transferee; or

(d) a post-1987 part-time transferee; or

(e) a retrenched transferee;

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

(a) became a member of the 1987 scheme under the GES Act under clause 14A of Schedule 4 to that Act; or

(b) becomes a Gold State Super Member under regulation 19(1)(b);

retrenched transferee means a person who —

(a) became a member of the 1987 scheme under the GES Act by making an election under clause 7B of Schedule 4 to that Act; or

(b) becomes a Gold State Super Member under regulation 19(1)(c);

transfer day means —

(a) for a voluntary transferee, the day on which the Member's election to transfer under Schedule 4 to the GES Act was lodged with the Board; and

(b) for a compulsory transferee, 1 July 1987; and

(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; and

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

(e) for a retrenched transferee, the day on which the Member is or was retrenched;

transferred contributions means, subject to subclause (2) —

(a) for a Part 1 Member who was, immediately before the Member's transfer day, a subscriber or contributor to the Provident Account (within the meaning of the S&FB Act) — the amount, including interest, that was standing to the credit of the Member in the Provident Account on that day; or

(b) for a Part 1 Member who was, immediately before the Member's transfer day, contributing for units of pension under the S&FB Act —

(i) the amount of the contributions made by the Member under the S&FB Act excluding moneys held to the credit of the Member under section 38(2) or 41(3a) of the S&FB Act; plus

(ii) compound interest calculated at the rate of 10% from the time the contributions were made up to and including the Member's transfer day;

transferred service means —

(a) the period of service or employment of a Part 1 Member that constituted service for the purposes of the S&FB Act before the Member's transfer day; plus

(b) for a 1987 part-time transferee — the number of complete months of full-time service that the Board considers equivalent to the number of days of part-time service actually completed by the Member before 1 July 1987;

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

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

2. Contributions by Crown under r. 31 for Part 1 Members

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. Retirement, death or disablement of Part 1 Member, benefit on

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

(2) The amount calculated under this subclause is ***B*** in the formula —

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

where —

FR is the Member's adjusted final remuneration;

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

C is —

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

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

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

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

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

4. Other termination of work by Part 1 Member, benefit on

(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%; or

(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 ***GSS withdrawal benefit*** in regulation 12, a benefit described in subclause (1) or (2) as a preserved benefit is a GSS withdrawal benefit for the purposes of Part 2 of the regulations.

(6) Despite regulation 46(1)(a), the interest rate to be applied under regulation 46(1) to a benefit under subclause (4) is a rate equal to the CPI rate plus 2%.

[Clause 4 amended: Gazette 13 Jun 2003 p. 2114; 13 Apr 2007 p. 1602; SL 2025/131 r. 11.]

5. Benefit under r. 43, calculation of for certain Part 1 Members

(1) In this clause —

transferred contributor for limited benefits means a Part 1 Member who was, immediately before the Member's transfer day, a contributor for limited benefits for the purposes of section 61 of the S&FB Act.

(2) If a benefit becomes payable under regulation 43 to or in respect of a transferred contributor for limited benefits, the amount of the benefit is to be calculated as if G in the formula in that regulation was an amount equal to 4 times the Member's average contribution rate.

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

(1) If a Part 1 Member was, immediately before the Member's transfer day, an employee of a University, then while the person remains a Gold State Super Member the University for which that Member works is deemed to be a Division 2 Employer with respect to that Member.

(2) In this clause —

University means the Curtin University of Technology established under the *Curtin University of Technology Act 1966* or the Edith

Cowan University established under the *Edith Cowan University Act 1984*.

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

7. Terms used

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 Crown under r. 31 for certain Part 2 Members

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. Benefit for Part 2 Member, effect of non-contributory period on calculation of

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

(a) the Member's contributory membership period is to be taken to include the Member's non-contributory period; and

(b) the Member's average contribution rate for the Member's non-contributory period is to be taken to be —

(i) for the part of the non-contributory period that was before 1 July 1992 — 0.825; and

(ii) for the part of the non-contributory period that was on or after 1 July 1992 — one quarter of the charge percentage for the quarter during which the Member elected to become a contributory member.

Part 3 — Director of Public Prosecutions

10. Term used: DPP

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; and

(b) the DPP is not required to pay member contributions; and

(c) the Employer is to pay the contributions that would, but for paragraph (b), be payable by the DPP; and

(d) those contributions are to be taken to have been made by the DPP.

Part 4 — Members who became ASIC staff

[Heading amended: Gazette 28 Sep 2001 p. 5356.]

13. Terms used

In this Part —

ASIC means —

(a) the Australian Securities Commission established by the *Australian Securities and Investments Commission Act 1989* of the Commonwealth; and

(b) the Australian Securities and Investments Commission as the Australian Securities Commission became known under that Act; and

(c) the Australian Securities and Investments Commission as continued in existence by section 261 of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth;

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

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

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

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

[Clause 13 amended: Gazette 28 Sep 2001 p. 5356.]

14. ASIC worker, consequences of becoming

(1) If an ASIC worker —

(a) was, immediately before becoming an ASIC worker, a member under the *Government Employees Superannuation Act 1987*[3] as then in force (***old law***); and

(b) elected under section 83 of the *Corporations (Western Australia) Act 1990* as in force before the commencement day, to continue to be such a member; and

(c) was still such a member immediately before the commencement day,

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

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

[Clause 14 amended: Gazette 28 Sep 2001 p. 5356.]

Part 5 — Curtin and Edith Cowan University Staff

15. Terms used

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. University staff member, consequences of becoming

(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; and

(b) under clause 16 of Schedule 4 to the GES Act continued to be such a member after becoming a University staff member, and

(c) was still such a member immediately before the commencement day,

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

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

Part 6 — Police officers, magistrates and industrial commissioners

17. Terms used

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;

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

magistrate means a magistrate of the Magistrates Court or, in respect of a day before 1 May 2005, a stipendiary magistrate under the *Stipendiary Magistrates Act 1957* [4];

over 50 transferee police officer means a police officer who —

(a) became a Gold State Super Member by transferring from the Pension Scheme; and

(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);

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;

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

[Clause 17 amended: Gazette 18 Jan 2008 p. 150.]

18. End date, meaning of

(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 Member, electing to become etc.

(1) A Gold State Super Member who —

(a) is a police officer, magistrate or industrial commissioner; and

(b) whose —

(i) average contribution rate is 5%; or

(ii) current member contribution rate is 7%,

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

(2) An election under subclause (1) takes effect on the later of —

(a) the Member's 45th birthday; and

(b) the day on which it is made.

(3) A Part 6 Member may withdraw from Part 6 at any time by giving notice to the Board.

(4) A person ceases to be a Part 6 Member —

(a) if, before the end day, the person —

(i) ceases to be an eligible Gold State worker; or

(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. Contribution rate for Part 6 Members, selecting etc.

(1) A Part 6 Member is to select a contribution rate of —

(a) in the case of a police officer, 1%, 2% or 2.5%; or

(b) in the case of a magistrate or industrial commissioner, 1%, 2%, 3%, 4% or 5%,

and give notice of that selection to the Board.

(2) Regulation 33(3), (4) and (8) apply to a selection under subclause (1) as if it were a selection under regulation 33(1).

(3) Subject to regulations 35 and 36 a Part 6 Member is to contribute to the Fund for each complete contribution period during which the person is a Part 6 Member an amount equal to —

(a) the rate selected by a Part 6 Member under subclause (1); multiplied by

(b) the Member's superannuation salary in respect of the contribution period,

rounded up or down to the nearest whole dollar.

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

21. Employer contributions under r. 29, calculation of; contributions by Crown under r. 31

(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 under r. 38, increase of

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; and

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

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

N is —

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

(ii) in any other case, zero.

23. Death benefit under r. 39, increase of

(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; and

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

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;

and

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 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 under r. 40, amount of

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 under r. 41, increase of

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

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

where —

R is the Member's final remuneration; and

C is the Member's average contribution rate.

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

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

where —

R is the Member's final remuneration; and

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

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

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 —

(i) if the Member —

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

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

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

(ii) otherwise, zero;

and

N is —

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

(ii) in any other case, zero.

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

[Clause 25 amended: SL 2023/205 r. 26.]

26. Benefit under r. 43 or 44, increase of

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; and

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

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

N is —

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

(ii) in any other case, zero.

27. Transitional provisions

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

(2) If, at any time before the commencement day, a person made higher contributions to the 1987 scheme under the GES Act in accordance with a discretion notice, then on and from that day this Part applies to and in relation to the person as if —

(a) at all times while the person had been so contributing —

(i) this Part had been in operation; and

(ii) the person had been a Part 6 Member;

and

(b) the contribution rates elected by the person, and the contributions paid by and in respect of, the person in

accordance with the discretion notice, had been selected and paid under this Part.

(3) In relation to a person who at any time before the commencement day, made higher contributions to the 1987 scheme under the GES Act in accordance with a discretion notice, a reference in this Part to the person being a Gold State Super Member includes a reference to the person being a member of the 1987 scheme under the GES Act.

(4) In this clause —

discretion notice means —

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

(b) the notice purportedly given to the Board by the Treasurer under section 49 of the GES Act on 15 September 1988 relating to contributions and benefits for certain police officers,

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

Schedule 3 — Transitional provisions

[r. 254]

Part 1 — Preliminary

1. Terms used

(1) In this Schedule —

1987 scheme means the superannuation scheme continued by section 29(1)(b) of the Act as it was immediately before the commencement day;

1993 scheme means the superannuation scheme continued by section 29(1)(a) of the Act as it was immediately before the commencement day;

continues means continues on and after the commencement day;

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 Member means a continuing West State Super Member or a continuing Gold State Super Member;

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. Terms used: GSS withdrawal benefit and WSS withdrawal benefit

In the regulations, in relation to a continuing Member —

GSS withdrawal 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 of the GES Act;

WSS withdrawal 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 38K of the GES Act.

[Clause 2 amended: Gazette 13 Apr 2007 p. 1602.]

3. Current determinations etc. under GES Act, effect of for r. 5 (*remuneration*)

(1) A current determination made by an Employer for the purposes of section 4(5) of the GES Act as to the value of any non-monetary remuneration or benefit continues as a determination for the purposes of the definition of ***remuneration*** in regulation 5(1).

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

(3) A current authorisation given by an Employer for the purposes of section 4(1) or 4AA(1)(b) of the GES Act authorising a person to certify matters under that section on behalf of the Employer continues as an authorisation for the purposes of the definition of ***remuneration*** in regulation 5(1).

(4) A current determination made by the Board under section 4(4)(b)(vii) or 4AA(4)(f) of the GES Act that an allowance is to be excluded from a member's remuneration continues as a determination under regulation 5(2)(h).

(5) A current determination made by the Treasurer under section 4(4)(c) of the GES Act that a class of remuneration or benefit is to be excluded from a member's remuneration continues as a determination under regulation 5(3)(f).

(6) A current notice given by a continuing Gold State Super Member for the purposes of section 4(6) of the GES Act consenting to the application of a determination, continues as a notice for the purposes of regulation 5(5).

(7) A current permission granted by the Board under section 26(2) of the GES Act allowing a continuing Gold State Super Member to contribute at his or her elected rate applied to the amount of a former or notional relevant remuneration continues as a determination under regulation 5(6) that the Member's remuneration is the amount of that former or notional relevant remuneration.

(8) A current determination by the Board under section 39A(1) of the GES Act that a continuing West State Super Member's benefit is to be assessed as if the Member's relevant remuneration were the amount of a former or notional relevant remuneration continues as a determination under regulation 5(6) that the Member's remuneration is the amount of that former or notional relevant remuneration.

4. Current orders under GES Act s. 3(6) as to employers, effect of for r. 9(1)(b)

(1) A current order made by the Treasurer under section 3(6) of the GES Act specifying that a person, department or authority is to be treated as the employer of an office holder continues as an order under regulation 9(1)(b) specifying that person, department or authority.

(2) If an order continued by subclause (1) specifies that the person, department or authority is to be deemed to be listed in Part A of Schedule 1 to the GES Act, the order as so continued is taken to specify that in relation to the office holder to whom the order relates the Government of Western Australia is a Division 1 Employer.

Part 2 — Gold State Super Scheme

5. Terms used

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. Current act under GES Act s. 49(1)(a) as to contributory period, effect of for r. 14(3)

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. Current decision under GES Act as to application of s. 17B(2)(i), effect of for r. 15(3)

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. Final remuneration for continuing Gold State Super Member, calculation of

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

9. Health conditions taken to have been imposed in some cases etc.

(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; or

(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; or

(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; or

(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; or

(c) the Member was a contributor to the Provident Account under the S&FB Act who transferred to the 1987 scheme under Schedule 4 to the GES Act; or

(d) the Member was a subscriber to the Provident Account under the S&FB Act whose election to transfer to the 1987 scheme under Schedule 4 to the GES Act was accepted subject to a condition of the kind referred to in clause 10(4)(b) in Schedule 4 to the GES Act.

(3) A condition taken to have been imposed under subclause (1)(b) or (2)(b) applies only in respect of the Member's membership relating to the increased working hours.

(4) If, before the commencement day, a continuing Gold State Super Member was —

(a) required by the Board to provide information under section 18(3) or 24(3a) of, or clause 10(3) of Schedule 4 to, the GES Act; or

(b) required under section 20(2)(e) of the GES Act to provide a declaration as to his or her continuing good health,

but as at that day the Member had not provided the information or declaration, the requirement continues as a request under regulation 18(1) to provide medical information.

(5) If, before the commencement day and in reliance on a statement contained in medical information provided by a continuing Gold State Super Member, the Board did not impose a condition of the kind referred to in section 18(5) of the GES Act when it might have done so and the Board subsequently becomes aware that —

(a) the Member knew the statement was untrue; or

(b) the statement was misleading because it omitted material information of which the Member had knowledge,

the Board may impose a health condition on the Member.

10. Members of 1987 scheme, who are at 17 Feb 2001 and who become Gold State Super Members etc.

(1) Every person who was a member of the 1987 scheme immediately before the commencement day continues as a Gold State Super Member subject to these regulations.

(2) If a person was, immediately before the commencement day, entitled to a benefit from the 1987 scheme but as at that day the benefit had not been paid (whether as a result of the operation of section 38 of the GES Act or otherwise), the person is taken to have been a member of the 1987 scheme immediately before the commencement day.

(3) If a member of the 1987 scheme was retired on the grounds of physical or mental incapacity to perform his or her duties not more than 12 months before the commencement day but as at that day had not applied for a benefit under section 32, 33 or 34 of the GES Act, the person is taken to have been a member of the 1987 scheme immediately before the commencement day.

(4) If, before the commencement day, a person lodged —

(a) an election under section 18(1) of the GES Act to become a member of the 1987 scheme; or

(b) an election under Schedule 4 to the GES Act to transfer to the 1987 scheme,

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

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

11. Certain applications under r. 19(1)(c), application of these regulations to

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

12. Treasurer's directions under GES Act s. 49(1)(b) as to ineligible workers, effect of

(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. Application of r. 22 to certain people changing jobs

(1) If —

(a) within 3 months before the commencement day, a member of the 1987 scheme ceased to be an employee for the purposes of that Act; and

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

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

(2) If, before the commencement day, a person elected under section 20(2) of the GES Act to continue as a member of the 1987 scheme but as at that day the Board had not dealt with it, the election continues as an application under regulation 22(2) or 23(1) (as the case requires) to continue as a Gold State Super Member.

(3) A current determination by the Board under section 20(2)(a) of the GES Act as to the rate of interest to apply to a refund of contributions under that paragraph continues as a determination under regulation 22(3)(b).

14. Application of r. 23 to certain 1987 scheme members who became ineligible due to reduced working hours

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. Notice under GES Act s. 19A(1) terminating membership, effect of under r. 24(1)

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 for period before 17 Feb 2001, when payable etc.

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. Current declaration under GES Act s. 27(3) for employer contributions, effect of for r. 29(3)

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

18. Current instrument under GES Act s. 27(7) for deferment of Employer contributions, effect of for r. 30(3)

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. Current election under GES Act s. 22 for contribution rate, effect of for r. 33(1)

(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. Election under GES Act s. 23 for recognised unpaid leave, effect of for r. 35

(1) If a continuing Gold State Super Member who is on recognised unpaid leave as at the commencement day elected under section 23(2) of the GES Act to suspend elective contributions, the election

continues as a notice under regulation 35(3) to the effect that the Member has chosen the reduced benefits option under regulation 35(2)(c).

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

(3) A current determination by the Board under section 23(4) of the GES Act as to the rate of interest to apply to deferred elective contributions, continues as a determination under regulation 35(6)(b).

21. Exemption under GES Act s. 23A as to unrecognised unpaid leave, effect of for r. 36(2)

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. Benefit unpaid at 17 Feb 2001, entitlement to

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. Certain people eligible for benefit under GES Act s. 32, 33 or 34, application of these regulations to

(1) If a continuing Gold State Super Member was retired on the grounds of physical or mental incapacity to perform his or her duties not more than 12 months before the commencement day but as at that day had not applied for a benefit under section 32, 33 or 34 of the GES Act,

these regulations apply to and in relation to the person as if he or she ceased to be an eligible Gold State worker on the day, and for the reasons, that he or she was retired.

(2) If, before the commencement day, a continuing Gold State Super Member applied for a benefit under section 32, 33 or 34 of the GES Act but as at that day the Board had not dealt with it, the application continues as an application for a benefit under regulation 40, 41 or 43 (as the case requires) as if the Member had ceased to be an eligible Gold State worker on the day, and for the reasons, that he or she was retired.

24. Withdrawal benefit, r. 45(1) disapplied in some cases

(1) Despite regulation 45(1) the Board is to pay a continuing Gold State Super Member's GSS withdrawal benefit if —

(a) the Member became entitled to the benefit before the commencement day; and

(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 GSS withdrawal benefit if —

(a) the benefit is $500 or less; and

(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.

[Clause 24 amended: Gazette 13 Apr 2007 p. 1602.]

25. Effect of current determination under GES Act s. 40(3) as to interest on deferred benefit for r. 46(1)(c)

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(1)(c).

[Clause 25 amended: SL 2025/131 r. 12.]

26. Request for or approval of, before 17 Feb 2001, transfer to other fund, effect of for r. 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. Death benefit unpaid at 17 Feb 2001, application of r. 48 to

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. Current authorisation for GES Act s. 53(3)(b) as to medical information, effect of for r. 49(3)(c)

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 1987 scheme and left within 2 years entitled to further benefit

(1) On the commencement day a relevant Member becomes entitled to a benefit of an amount equal to —

(a) the amount of the benefit the Member would have become entitled to on the resignation day if —

(i) clause 13(2) of Schedule 4 to the GES Act had not applied to the Member; and

(ii) clause 13(4) of that Schedule had applied to the Member notwithstanding that his or her membership period under the GES Act was less than 24 months;

less

(b) the amount of the benefit the Member received under clause 13(2) of that Schedule.

(2) To the extent that a 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, the benefit is preserved and taken to be a GSS withdrawal benefit.

(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.

[Clause 29 amended: Gazette 13 Apr 2007 p. 1602-3.]

Part 3 — West State Super Scheme

30. Members of 1993 scheme, who are at 17 Feb 2001 and who become Members of WSS Scheme

(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. Election etc. under GES Act s. 38EA as to voluntary membership of 1993 scheme, effect of for r. 52

(1) If, before the commencement day, a person elected under section 38EA(1) of the GES Act to contribute to the 1993 scheme as a voluntary member but as at that day the Board had not dealt with it, the election continues as an application under regulation 52(1) to become a voluntary Member.

(2) A current approval granted by the Treasurer under section 38EA(1)(b) of the GES Act permitting a person to make voluntary employee contributions continues as an approval under regulation 52(4) allowing the person to become a voluntary member.

32. Contributions for period before 17 Feb 2001, when payable etc.

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. Current notice under GES Act s. 38PA(1) as to Employer contributions, effect of for r. 55(1)

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. Current approval etc. under GES Act s. 38E as to Employer contributions, effect of for r. 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

(1) As soon as practicable after the commencement day an Employer to whom Part VIIA of the GES Act applied immediately before that day is to give to the Board a contribution return relating to each contribution period in which an employee of the Employer was a statutory member under that Part except a contribution period that has been the subject of a return under section 38F of that Act.

(2) Regulation 61 applies to and in relation to —

(a) a contribution return made under this clause; or

(b) a return made under section 38F of the GES Act but in respect of which a notice has not been given under section 38G(1) of that Act,

as if it were a return under regulation 60(1).

(3) If, before the commencement day, an Employer made a request under section 38G(2) of the GES Act for the Board to review the basis on which a notice under section 38G(1) of that Act was given but as at that day the Board had not dealt with it, the request continues as a request under regulation 61(2) as if the notice had been given under regulation 61(1).

36. Current direction etc. under GES Act s. 38Q, effect of for r. 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 contributing under GES Act s. 38EA, effect on of r. 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 under r. 66(1), status of and credits to

(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; and

(ii) are received by the Board after that day; and

(iii) would have been credited to the Member's account under Part VIIA of the GES Act had they been received before the commencement day;

and

(b) any contributions paid by or in respect of the Member under clause 32 of this Schedule.

(3) In relation to a continuing West State Super Member, a reference in regulation 68(1) to costs includes a reference to costs incurred before the commencement day.

39. Current determination under GES Act s. 38I(2) as to interest, effect of for r. 69(2) etc.

(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. Benefit unpaid at 17 Feb 2001, entitlement to

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, calculation of for r. 70, 71 and 72 etc.

(1) For the purposes of regulations 70, 71 and 72 the period during which a continuing West State Super Member has been a statutory Member includes the period during which he or she was a statutory member of the 1993 scheme.

(2) If a continuing West State Super Member was retired on the grounds of physical or mental incapacity to perform his or her duties not more than 12 months before the commencement day but as at that day had not applied for a benefit under section 38N or 38O of the GES Act, these regulations apply to and in relation to the person as if he or she ceased to be a worker on the day, and for the reasons, that he or she was retired.

(3) If, before the commencement day, a continuing West State Super Member applied for a benefit under section 38N or 38O of the GES Act but as at that day the Board had not dealt with it, the

application continues as an application for a benefit under regulation 71 or 72 (as the case requires) as if the Member had ceased to be a worker on the day, and for the reasons, that he or she was retired.

42. Current notice under GES Act s. 38PB(1) as to increasing benefit, effect of for r. 75(1)

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. Withdrawal benefit, r. 76(1) disapplied in some cases

(1) Despite regulation 76(1) the Board is to pay a continuing West State Super Member's WSS withdrawal benefit if —

(a) the Member became entitled to the benefit before the commencement day; and

(b) the Board is satisfied that the Member has permanently departed from Australia, or will do so within 3 months after the commencement day; and

(c) the Member —

(i) applied for payment of the benefit under section 38K(1)(e) of the GES Act before the commencement day, but as at that day the Board had not dealt with the application; or

(ii) applies for payment of the benefit within 3 months after the commencement day.

(2) Despite regulation 76(1) the Board is to pay a continuing West State Super Member's WSS withdrawal benefit if —

(a) the benefit is $500 or less; and

(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.

[Clause 43 amended: Gazette 13 Apr 2007 p. 1603.]

43A. Deferred benefits under GES Act s. 35(1)(b), converting to preserved benefit

(1) A continuing West State Super Member who —

(a) was formerly a contributory member under the GES Act; and

(b) before 28 September 1993, terminated his or her contributory membership under section 19A of that Act; and

(c) as a result of that termination became entitled to a deferred benefit under section 35(1)(b) of that Act,

may apply to the Board to crystallise that deferred benefit.

(2) On receipt by the Board of an application under subclause (1) —

(a) the Board is to calculate the amount of the deferred benefit as if the Member has ceased to be an employee on the date the application is received by the Board; and

(b) the Member —

(i) ceases to be entitled to the deferred benefit referred to in subclause (1)(c); and

(ii) becomes entitled to a preserved benefit of an amount equal to the amount calculated under paragraph (a).

(3) Part 2 Division 5 applies to a benefit referred to in subclause (2)(b)(ii) as if the Member were a Gold State Super Member and became entitled to the benefit under regulation 44.

[Clause 43A inserted: Gazette 26 May 2006 p. 1925-6.]

44. Current determination under GES Act s. 40(3) as to interest on deferred benefit, effect of for r. 78(c)

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. Request before 17 Feb 2001 for transfer to other fund, effect of for r. 79(1)

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. Death benefit unpaid at 17 Feb 2001, application of r. 80 to

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. Current authorisation for GES Act s. 53(3)(b) as to medical information, effect of for r. 81(3)(c)

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

Part 4 — Information requirements

48. First annual reporting day; first reporting period for r. 221(5)

(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. Person ceasing to be Member before given annual statement, information to be given to

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. Current direction under GES Act s. 52(1) as to information, effect of for r. 224C(1)

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

[Clause 50 amended: Gazette 29 Jun 2001 p. 3105.]

51. Request for information made before 17 Feb 2001, effect of for r. 224D

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

[Clause 51 amended: Gazette 29 Jun 2001 p. 3105.]

Part 5 — Board elections

52. Elections underway at 17 Feb 2001

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* [3] 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 17 Feb 2001

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*[3] but as at that day the Minister had not dealt with it, the Minister is to deal with the dispute in accordance with those regulations as if they were still in force.

Part 6 — General

54. Payment late at 17 Feb 2001, interest on

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

(a) for a Gold State Member —

(i) from the day on which the benefit became payable up to, but not including, the commencement day, at a rate equal to the CPI rate plus 1%; and

(ii) on and after the commencement day, at a rate equal to the CPI rate plus 2%;

or

(b) for a West State Member —

(i) from the day on which the benefit became payable up to, but not including 1 July 2001, at a rate equal to the CPI rate plus 2%; and

(ii) on and after 1 July 2001, at a rate equal to the Member's earning rate (which may be positive or negative).

(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).

[Clause 54 amended: Gazette 29 Jun 2001 p. 3105-6; 13 Apr 2007 p. 1665.]

55. Current notice under GES Act s. 49(1)(c) as to benefit in special circumstances, effect of for r. 244(1)

(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. Current permission under GES Act s. 55(1) as to lost right etc., effect of for r. 249(1)

(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 —

Act includes the GES Act.

57. Current forms continue to be approved

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. Current policy etc. decisions continue

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.

Notes

This is a compilation of the *State Superannuation Regulations 2001* and includes amendments made by other written laws [5, 6]. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Citation	Published	Commencement
State Superannuation Regulations 2001	16 Feb 2001 p. 921-1074	17 Feb 2001 (see r. 2 and *Gazette* 16 Feb 2001 p. 903)
State Superannuation Amendment Regulations 2001	29 Jun 2001 p. 3077-107	1 Jul 2001 (see r. 2)
Corporations (Consequential Amendments) Regulations 2001 Pt. 6	28 Sep 2001 p. 5353-8	15 Jul 2001 (see r. 2 and Cwlth *Gazette* 13 Jul 2001 No. S285)
State Superannuation Amendment Regulations (No. 2) 2002	28 Jun 2002 p. 3009-28	1 Jul 2002 (see r. 2)
State Superannuation Amendment Regulations (No. 3) 2002	28 Jun 2002 p. 3029-33	21 Sep 2002 (see r. 2 and *Gazette* 20 Sep 2002 p. 4693)
State Superannuation Amendment (Retirement Income Scheme) Regulations 2003	19 Mar 2003 p. 813-42	19 Mar 2003
State Superannuation Amendment Regulations 2003	13 Jun 2003 p. 2105-14	13 Jun 2003
Labour Relations Reform (Consequential Amendments) Regulations 2003 r. 19	15 Aug 2003 p. 3685-92	15 Sep 2003 (see r. 2)
State Superannuation Amendment Regulations (No. 2) 2003	26 Aug 2003 p. 3756-7	26 Aug 2003
Reprint 1: The *State Superannuation Regulations 2001* as at 7 Nov 2003 (includes amendments listed above excluding the retrospective amendments published by Gazette 25 Jun 2004 p. 2233-4 and 13 Apr 2007 p. 1577-613)		
Inspector of Custodial Services Act 2003 s. 56(1) assented to 15 Dec 2003		15 Dec 2003 (see s. 2)
State Superannuation Amendment Regulations (No. 4) 2003	30 Dec 2003 p. 5725-6	30 Dec 2003
State Superannuation Amendment Regulations 2004	25 Jun 2004 p. 2228-33	25 Jun 2004
State Superannuation Amendment Regulations (No. 2) 2004	25 Jun 2004 p. 2233-4	1 Aug 2003 (see r. 2)

Citation	Published	Commencement
State Superannuation Amendment Regulations (No. 6) 2004	26 Nov 2004 p. 5311	26 Nov 2004
State Superannuation Amendment Regulations (No. 3) 2004	1 Dec 2004 p. 5703-4	1 Jan 2004 (see r. 2)
State Superannuation Amendment Regulations (No. 4) 2004	1 Dec 2004 p. 5705-18	1 Dec 2004
State Superannuation Amendment Regulations (No. 5) 2004	10 Dec 2004 p. 5894-908	10 Dec 2004
Reprint 2: The *State Superannuation Regulations 2001* as at 2 Sep 2005 (includes amendments listed above excluding the retrospective amendment published by Gazette 13 Apr 2007 p. 1577-613)		
Electricity Corporations (Consequential Amendments) Regulations 2006 r. 87	31 Mar 2006 p. 1299-357	1 Apr 2006 (see r. 2)
State Superannuation Amendment Regulations 2006[7]	26 May 2006 p. 1915-33	26 May 2006
State Superannuation Amendment Regulations (No. 2) 2006	21 Jul 2006 p. 2651-2	21 Jul 2006
Perth International Centre for Application of Solar Energy Repeal Act 2006 s. 7 assented to 3 Oct 2006		31 Oct 2006
State Superannuation Amendment Regulations 2007	13 Apr 2007 p. 1577-613	r. 70(5): 1 Jul 2002 (see r. 2(5)); r. 70(3): 9 Apr 2006 (see r. 2(3)); r. 70(4): 1 Jul 2006 (see r. 2(4)); r. 70(6): 31 Jul 2006 (see r. 2(6)); r. 70(2): 1 Jan 2007 (see r. 2(2)); Regulations other than r. 70(2)-(6): 13 Apr 2007 (see r. 2(1))
State Superannuation Amendment Regulations (No. 2) 2007	13 Apr 2007 p. 1615-65	16 Apr 2007 (see r. 2)
State Superannuation Amendment Regulations (No. 3) 2007	6 Jun 2007 p. 2615-26	6 Jun 2007
Chemistry Centre (WA) Act 2007 s. 43 assented to 29 Jun 2007		1 Aug 2007 (see s. 2(1) and *Gazette* 27 Jul 2007 p. 3735)
Reprint 3: The *State Superannuation Regulations 2001* as at 3 Aug 2007 (includes amendments listed above)		
State Superannuation Amendment Regulations 2008 Pt. 2	18 Jan 2008 p. 149-56	19 Jan 2008 (see r. 2(b))

Citation	Published	Commencement
State Superannuation Amendment Regulations (No. 2) 2008	1 Apr 2008 p. 1283-6	r. 1 and 2: 1 Apr 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Apr 2008 (see r. 2(b))
State Superannuation Amendment Regulations (No. 3) 2008	11 Apr 2008 p. 1376-80	r. 1 and 2: 11 Apr 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 12 Apr 2008 (see r. 2(b))
Eastern Goldfields Transport Board Repeal Act 2008 s. 16 assented to 1 Jul 2008		29 Jul 2008
State Superannuation Amendment Regulations (No. 6) 2008	8 Jul 2008 p. 3211-38	8 Jul 2008 (see r. 2)
State Superannuation Amendment Regulations 2009 Pt. 2	24 Nov 2009 p. 4740-3	25 Nov 2009 (see r. 2(b))
State Superannuation Amendment Regulations (No. 4) 2009	8 Jan 2010 p. 29-30	r. 1 and 2: 8 Jan 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Jan 2010 (see r. 2(b))
State Superannuation Amendment Regulations (No. 2) 2010	30 Jun 2010 p. 3131-55	r. 1 and 2: 30 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2010 (see r. 2(b))
Reprint 4: The *State Superannuation Regulations 2001* as at 5 Nov 2010 (includes amendments listed above)		
Public Sector Reform (Consequential Amendments) Regulations 2011 Pt. 8	11 Feb 2011 p. 502-7	12 Feb 2011 (see r. 2(d))
State Superannuation Amendment Regulations 2011	10 May 2011 p. 1668-9	r. 1 and 2: 10 May 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 11 May 2011 (see r. 2(b))
State Superannuation Amendment Regulations (No. 2) 2011	8 Jul 2011 p. 2899-901	r. 1 and 2: 8 Jul 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Jul 2011 (see r. 2(b))
State Superannuation Amendment Regulations (No. 3) 2011	22 Jul 2011 p. 3028-9	r. 1 and 2: 22 Jul 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 23 Jul 2011 (see r. 2(b))
State Superannuation Amendment Regulations (No. 4) 2011	6 Dec 2011 p. 5133-4	r. 1 and 2: 6 Dec 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 7 Dec 2011 (see r. 2(b))

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State Superannuation Amendment Regulations 2012	17 Jan 2012 p. 466-73	r. 1 and 2: 17 Jan 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Mar 2012 (see r. 2(b) and *Gazette* 16 Mar 2012 p. 1245)
State Superannuation Amendment Regulations (No. 2) 2012	11 May 2012 p. 2063-4	r. 1 and 2: 11 May 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 12 May 2012 (see r. 2(b))
Reprint 5: The *State Superannuation Regulations 2001* as at 8 Jun 2012 (includes amendments listed above)		
State Superannuation Amendment Regulations 2013	23 Jul 2013 p. 3293-313	r. 1 and 2: 23 Jul 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Jul 2013 (see r. 2(b))
State Superannuation Amendment Regulations (No. 2) 2013	14 Nov 2013 p. 5073	r. 1 and 2: 14 Nov 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 18 Nov 2013 (see r. 2(b) and *Gazette* 14 Nov 2013 p. 5027)
Electricity Corporations (Consequential Amendments) Regulations 2013 r. 16	27 Dec 2013 p. 6469-79	1 Jan 2014 (see r. 2(c) and *Gazette* 27 Dec 2013 p. 6465)
State Superannuation Amendment Regulations 2014	10 Jun 2014 p. 1805-7	r. 1 and 2: 10 Jun 2014 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Jun 2014 (see r. 2(b))
State Superannuation Amendment Regulations (No. 3) 2014	6 Jan 2015 p. 25-32	r. 1 and 2: 6 Jan 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 7 Jan 2015 (see r. 2(b))
State Superannuation Amendment Regulations (No. 2) 2015	19 Jun 2015 p. 2141	r. 1 and 2: 19 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Jun 2015 (see r. 2(b))
State Superannuation Amendment Regulations 2015	26 Jun 2015 p. 2273	r. 1 and 2: 26 Jun 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2015 (see r. 2(b)(ii) and *Gazette* 26 Jun 2015 p. 2235)

Citation	Published	Commencement
Reprint 6: The *State Superannuation Regulations 2001* as at 8 Jan 2016 (includes amendments listed above)		
State Superannuation Amendment Regulations (No. 4) 2016	1 Jul 2016 p. 2750	r. 1 and 2: 1 Jul 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2016 (see r. 2(b) and *Gazette* 24 Jun 2016 p. 2291)
State Superannuation Amendment Regulations 2016	5 Jul 2016 p. 2817-19	r. 1 and 2: 5 Jul 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Jul 2016 (see r. 2(b))
State Superannuation Amendment Regulations (No. 3) 2016	26 Aug 2016 p. 3667-8	r. 1 and 2: 26 Aug 2016 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Sep 2016 (see r. 2(b) and *Gazette* 26 Jul 2016 p. 3145)
State Superannuation Amendment Regulations (No. 2) 2016	10 Jan 2017 p. 147-57	r. 1 and 2: 10 Jan 2017 (see r. 2(a)); Regulations other than r. 1 and 2 and 5, 6 and 15: 11 Jan 2017 (see r. 2(b)); r. 5, 6 and 15: 1 Jul 2017 (see r. 2(c))
State Superannuation Amendment Regulations 2018	12 Oct 2018 p. 4060-4	r. 1 and 2: 12 Oct 2018 (see r. 2(a)); Regulations other r. 1, 2 and 12-16: 13 Oct 2018 (see r. 2(c)); r. 12-16: 1 Nov 2018 (see r. 2(b))
State Superannuation Amendment Regulations 2019	8 Nov 2019 p. 4004-6	r. 1 and 2: 8 Nov 2019 (see r. 2(a)); Regulations other r. 1 and 2: 9 Nov 2019 (see r. 2(b))
State Superannuation Amendment Regulations 2020	SL 2020/135 14 Aug 2020	r. 1 and 2: 14 Aug 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 15 Aug 2020 (see r. 2(b))
State Superannuation Amendment Regulations 2021	SL 2021/49 7 May 2021	r. 1 and 2: 7 May 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 8 May 2021 (see r. 2(b))
State Superannuation Amendment Regulations (No 2) 2021	SL 2021/132 16 Jul 2021	r. 1 and 2: 16 Jul 2021 (see r. 2(a));

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		Regulations other than r. 1 and 2: 17 Jul 2021 (see r. 2(b))
State Superannuation Amendment Regulations (No. 3) 2021	SL 2021/181 5 Nov 2021	r. 1 and 2: 5 Nov 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Nov 2021 (see r. 2(b))
State Superannuation Amendment Regulations 2022	SL 2022/4 18 Jan 2022	r. 1 and 2: 18 Jan 2022 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2022 (see r. 2(b) and SL 2022/77 cl. 2)
State Superannuation Amendment Regulations (No. 2) 2022 Pt. 2	SL 2022/173 21 Oct 2022	22 Oct 2022 (see r. 2(b))
State Superannuation Amendment Regulations (No. 2) 2023	SL 2023/205 20 Dec 2023	r. 1 and 2: 20 Dec 2023 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Dec 2023 (see r. 2(b)
Treasurer Regulations Amendment (Workers Compensation) Regulations 2024 Pt. 4	SL 2024/133 26 Jun 2024	1 Jul 2024 (see r. 2(b))
State Superannuation Amendment Regulations 2024	SL 2024/195 18 Sep 2024	r. 1 and 2: 18 Sep 2024 (see r. 2(a)); Regulations other than r. 1 and 2: 25 Sep 2024 (see r. 2(b))
State Superannuation Amendment Regulations 2025	SL 2025/28 5 Feb 2025	r. 1 and 2: 5 Feb 2025 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Feb 2025 (see r. 2(b))
State Superannuation Amendment Regulations (No. 2) 2025	SL 2025/59 16 Apr 2025	r. 1 and 2: 16 Apr 2025 (see r. 2(a)); Regulations other than r. 1 and 2: 17 Apr 2025 (see r. 2(b))
State Superannuation Amendment Regulations (No. 3) 2025	SL 2025/113 25 Jun 2025	r. 1 and 2: 25 Jun 2025 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2025 (see r. 2(b))
State Superannuation Amendment Regulations (No. 4) 2025	SL 2025/131 9 Jul 2025	r. 1 and 2: 9 Jul 2025 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Jul 2025 (see r. 2(b))

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State Superannuation Amendment Regulations 2026	SL 2026/29 18 Mar 2026	r. 1 and 2: 18 Mar 2026 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Mar 2026 (see r. 2(b) and SL 2026/28 cl. 2)
State Superannuation Amendment Regulations (No. 3) 2026	SL 2026/96 10 Jun 2026	r. 1 and 2: 10 Jun 2026 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Jun 2026 (see r. 2(b))
State Superannuation Amendment Regulations (No. 2) 2026	SL 2026/102 10 Jun 2026	r. 1 and 2: 10 Jun 2026 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Jun 2026 (see r. 2(b))

Other notes

[1] The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39 but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26, and those provisions may be amended by regulations under s. 26(3). Part 9 of these regulations sets out amendments to those provisions. The text of the *Superannuation and Family Benefits Act 1938* as continued and amended under the *State Superannuation (Transitional and Consequential Provisions) Act 2000* s. 26 may be viewed at the following website: www.legislation.wa.gov.au.

[2] Footnote no longer applicable.

[3] Repealed by the *State Superannuation Act 2000* s. 39.

[4] Repealed by the *Courts Legislation Amendment and Repeal Act 2004* s. 14.

[5] The *Superannuation Legislation Amendment and Validation Act 2006* s. 19 reads as follows:

> **19. Validation of statutory membership of workers who ceased to be excluded**
>
> (1) A person who —
>
> (a) when the *State Superannuation Regulations 2001* came into operation —
>
> (i) was a worker; and
>
> (ii) was excluded from becoming a statutory Member (as defined in those regulations) by the

State Superannuation Regulations 2001 regulation 51(2), (3) or (4);

and

(b) before the *State Superannuation Amendment Regulations 2006* came into operation, ceased to be so excluded,

is taken to have become a statutory Member when he or she ceased to be so excluded.

(2) Anything done or purported to have been done under the *State Superannuation Regulations 2001* before this Act came into operation in relation to a person to whom subsection (1) applies, is as valid as it would have been if the *State Superannuation Amendment Regulations 2006* had come into operation immediately after the *State Superannuation Regulations 2001* came into operation.

[6] The *State Superannuation Amendment Regulations (No. 4) 2008* had not come into operation when it was deleted by the *State Superannuation Amendment Regulations 2009* Pt. 3.

[7] The *State Superannuation Amendment Regulations 2006* r. 20(2) reads as follows:

(2) If a preserved benefit of less than $200 has not been paid because of the operation of regulation 76(4) (as in force before this regulation came into operation), the benefit ceases to be a preserved benefit when this regulation comes into operation even if, at that time, the benefit plus interest on it, is or exceeds $200.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
1987 part-time transferee	Sch. 2 cl. 1(1)
1987 scheme	Sch. 3 cl. 1(1)
1993 scheme	Sch. 3 cl. 1(1)
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