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STATE SUPERANNUATION ACT 2000

**STATE SUPERANNUATION
AMENDMENT
REGULATIONS 2006**

State Superannuation Act 2000

State Superannuation Amendment Regulations 2006

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *State Superannuation Amendment Regulations 2006*.

2. The regulations amended

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

[* *Reprint 2 as at 2 September 2005.*

For amendments to 4 May 2006 see Gazette 31 March 2006.]

State Superannuation Amendment Regulations 2006**Part 2** Phased retirement**r. 3**

Part 2 — Phased retirement**3. Regulation 3 amended**

- (1) Regulation 3(1) is amended by inserting in the appropriate alphabetical position —

“

“**phased retirement benefit**” means a benefit from a superannuation fund that is only payable if it is paid as a benefit of a kind referred to in Schedule 1 item 109A column 3 of the SIS Regulations;

”.

- (2) Regulation 3(2) is repealed and the following subregulation is inserted instead —

“

- (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.

”.

4. Regulation 50 amended

Regulation 50(1) is amended in the definition of “protected amount” by deleting “regulation 79A —” and inserting instead —

“ regulations 79A and 79B — ”.

State Superannuation Amendment Regulations 2006

Phased retirement

Part 2**r. 5****5. Regulation 76 amended**

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

“ regulations 79, 79A and 79B ”.

6. Regulation 79B inserted

After regulation 79A the following regulation is inserted —

“

79B. Early release of benefit — phased retirement

- (1) A West State Super Member who is at least 55 years of age may request the Board to transfer all or part of the balance of the Member’s benefit 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) If a Member who transfers an amount under this regulation was a West State Super Member on 30 June 2001 —
 - (a) the Member’s protected amount is taken to be reduced, on the day on which the amount is transferred, by the amount transferred; and
 - (b) 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.

”.

7. Regulation 172 amended

- (1) Regulation 172(1) is amended by deleting “or West State Super Member” and “or the West State Super Scheme”.

State Superannuation Amendment Regulations 2006**Part 2** Phased retirement**r. 8**

- (2) After regulation 172(1) the following subregulation is inserted —

“

- (1a) A West State Super Member may apply to become a Retirement Income Member if the Member —
- (a) is entitled to immediate payment of a benefit from the West State Super Scheme; or
 - (b) at the same time requests the Board to transfer a benefit under regulation 79B to the Retirement Income Scheme.

”.

- (3) Regulation 172(3a) is repealed and the following subregulation is inserted instead —

“

- (3a) A former member, or a person who is or was a partner of a former member, may apply to become a Retirement Income Member if the person is entitled to —
- (a) immediate payment of —
 - (i) a benefit from a superannuation fund; or
 - (ii) any other eligible termination payment;
 - or
 - (b) payment of a phased retirement benefit.

”.

8. Regulation 175 amended

Regulation 175(2) is amended as follows:

- (a) after paragraph (a) by deleting “or”;
- (b) at the end of paragraph (b) by deleting the full stop and inserting instead —

“

- ;
- or
- (c) a phased retirement benefit.

”.

State Superannuation Amendment Regulations 2006

Phased retirement

Part 2**r. 9****9. Regulation 176 amended**

Regulation 176(1) is amended as follows:

- (a) after paragraph (a) by deleting “or”;
- (b) at the end of paragraph (b) by deleting the full stop and inserting instead —

“

; or

- (c) a phased retirement benefit.

”

10. Regulation 177 amended

Regulation 177(1)(b) is amended as follows:

- (a) after subparagraph (i) by deleting “or”;
- (b) at the end of subparagraph (ii) by deleting the full stop and inserting instead —

“

; or

- (iii) a phased retirement benefit.

”

11. Regulation 192 amended

- (1) Regulation 192(1) is amended by inserting after “account” —

“

and, subject to subregulation (3), the Board is to comply with that request

”

- (2) Regulation 192(3) is repealed and the following subregulation is inserted instead —

“

- (3) If a Member’s benefit in the Retirement Income Scheme is a phased retirement benefit, the Board must

State Superannuation Amendment Regulations 2006**Part 2** Phased retirement**r. 12**

not pay or transfer any of that benefit or earnings on it, under this regulation unless —

- (a) the Member has satisfied a condition of release;
- (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 a 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.

”

12. Regulation 196B amended

Regulation 196B(1) is amended by deleting from “entitled to immediate payment” to the end of the subregulation and inserting instead —

“

entitled to —

- (e) immediate payment of a benefit from another scheme or another superannuation fund;
- (f) immediate payment of any other eligible termination payment; or
- (g) payment of a phased retirement benefit.

”

State Superannuation Amendment Regulations 2006

Phased retirement

Part 2**r. 13****13. Regulation 196D amended**

Regulation 196D(2) is amended as follows:

- (a) after paragraph (a) by deleting “or”;
- (b) at the end of paragraph (b) by deleting the full stop and inserting instead —
“
; or
- (c) a phased retirement benefit payable to the person.

”.

14. Regulation 196S amended

- (1) Regulation 196S(2) is amended by deleting “subregulation (3),” and inserting instead —
“ subregulations (3) and (3a), ”.
- (2) Regulation 196S(3) is amended by deleting “commute” and inserting instead —
“ pay or transfer ”.
- (3) After regulation 196S(3) the following subregulation is inserted —
“
(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 a condition of release;
or

State Superannuation Amendment Regulations 2006**Part 2** Phased retirement**r. 14**

- (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 a 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.

”.

State Superannuation Amendment Regulations 2006
Other amendments **Part 3**
Access to preserved contributory benefits **Division 1**
r. 15

Part 3 — Other amendments

Division 1 — Access to preserved contributory benefits

15. Schedule 3 amended

After Schedule 3 clause 43 the following clause is inserted —

“

43A. Preserved benefits for former contributory members

- (1) A continuing West State Super Member who —
 - (a) was formerly a contributory member under the GES Act;
 - (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).

State Superannuation Amendment Regulations 2006**Part 3** Other amendments**Division 2** Gold State: change of contribution rate**r. 16**

- (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.

”

Division 2 — Gold State: change of contribution rate**16. Regulation 33 amended**

- (1) Regulation 33(3) is repealed and the following subregulation is inserted instead —

“

- (3) A Member’s selection takes effect from the beginning of the next contribution period after the Board receives the notice of the selection.

”

- (2) Regulation 33(4) and (8) are repealed.

Division 3 — Interest**17. Regulation 35 amended**

Regulation 35(6)(b) is amended by inserting after “rate” —

“ (which may be zero) ”.

18. Regulation 46 amended

Regulation 46(a) is deleted and the following paragraph is inserted instead —

“

- (a) at a rate equal to —
- (i) if the Member is under 55 years of age, the CPI rate plus 1%; or

State Superannuation Amendment Regulations 2006Other amendments **Part 3**West State preserved benefits **Division 4****r. 19**

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

”

19. Regulation 243 amended

Regulation 243(a) is deleted and the following paragraph is inserted instead —

“

- (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; or
 - (ii) for any other part of the benefit, the CPI rate plus 2%;

”

Division 4 — West State preserved benefits**20. Regulation 76 amended and transitional**

- (1) Regulation 76(4) is repealed and the following subregulation is inserted instead —

“

- (4) If a West State Super Member's preserved benefit is less than \$200 it is taken not to be a preserved benefit.

”

- (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.

State Superannuation Amendment Regulations 2006**Part 3** Other amendments**Division 5** West State membership**r. 21**

21. Regulation 79 amended

Regulation 79(2) is repealed and the following subregulation is inserted instead —

“

- (2) If a request under subregulation (1) relates to a preserved benefit, the amount to be transferred is the amount of the benefit plus interest under regulation 78, discounted to the extent that the Board, on the advice of an actuary, considers appropriate.

”

Division 5 — West State membership**22. Regulation 51 amended**

- (1) Regulation 51(2)(b) is amended by inserting after “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*)

”

- (2) Regulation 51(2)(c) and “or” after it are deleted and the following is inserted instead —

“

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

”

- (3) After regulation 51(4) the following subregulation is inserted —

“

- (5) If a worker was excluded from becoming a statutory Member by subregulation (2), (3) or (4) and that exclusion ceases to apply to the worker, he or she

State Superannuation Amendment Regulations 2006

Other amendments

Part 3

Miscellaneous

Division 6**r. 23**

becomes a statutory Member on the day that exclusion ceases to so apply.

”.

Division 6 — Miscellaneous**23. Regulation 3 amended**

- (1) Regulation 3(1) is amended by inserting in the appropriate alphabetical positions —

“

“accumulation account” means —

- (a) for a West State Super Member, the Member’s benefit account (as defined in regulation 50);
- (b) for a Retirement Income Member, the Member’s retirement income account (as defined in regulation 171);
- (c) for a Term Allocated Pension Member, the Member’s term allocated pension account (as defined in regulation 196A); and
- (d) for a Retirement Access Member, the Member’s retirement access account (as defined in regulation 201);

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

“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;

”.

- (2) Regulation 3(1) is amended in the definition of “CPI rate” by deleting “lesser” and inserting instead —

State Superannuation Amendment Regulations 2006**Part 3** Other amendments**Division 6** Miscellaneous**r. 24**

“ greater ”.

(3) After regulation 3(2) the following subregulation is inserted —

“

(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.

”.

24. Regulation 47A amended

Regulation 47A(7)(b) and “or” after it are deleted and the following is inserted instead —

“

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

”.

25. Regulations 49A, 81A and 196S amended

Regulations 49A(6), 81A(6) and 196S(4) are amended by deleting the definition of “contributions tax”.

26. Regulation 52 amended

Regulation 52(3) and (4) are repealed.

27. Regulation 64A amended

Regulation 64A(3) is amended by deleting “married or are de facto”.

28. Regulation 79A amended

Regulation 79A(1) is amended by deleting “Member’s benefit —” and inserting instead —

“ balance in the Member’s benefit account — ”.

State Superannuation Amendment Regulations 2006Other amendments **Part 3**Miscellaneous **Division 6****r. 29**

29. Schedule 1 amended

Schedule 1 Division 1 item 32 is amended by deleting
“WorkSafe Western Australia Commission” and inserting
instead —

“

Commission for Occupational Safety and Health
(WorkSafe W A)

”

State Superannuation Amendment Regulations 2006**Part 4** Pension Scheme — commutation by widowers**r. 30**

**Part 4 — Pension Scheme — commutation
by widowers****30. Superannuation and Family Benefits Act 1938 amended
and transitional**

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

[* Reprinted as at 20 July 1999.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 442.*]

[** Act No. 43 of 2000.
For subsequent amendments see *Western Australian
Legislation Information Tables for 2004, Table 1, p. 428.*]

- (2) After section 60D(3b) the following subsection is inserted —

“

- (3c) A person who becomes the widower of a contributor or pensioner may, within 6 months after the death of the contributor or pensioner, elect to commute the whole or any part of the Fund share of the widower's pension to an equivalent entitlement by way of a lump sum payment.

”

- (3) If a person became entitled to a widower's pension before this regulation came into operation (the “**commencement day**”) section 60D(3c) (as inserted by subregulation (2)) applies in relation to that person as if the contributor or pensioner had died on the commencement day.

State Superannuation Amendment Regulations 2006

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

DAVID KNOX, Actuary appointed by the Board.

Date: 15/5/06.

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

ERIC RIPPER, Treasurer.

Date: 17/5/06.

By Command of the Governor,

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

