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STATE SUPERANNUATION ACT 2000

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## STATE SUPERANNUATION AMENDMENT REGULATIONS (No. 2) 2007



State Superannuation Act 2000

## **State Superannuation Amendment Regulations (No. 2) 2007**

Made by the Governor in Executive Council.

**1. Citation**

These regulations are the *State Superannuation Amendment Regulations (No. 2) 2007*.

**2. Commencement**

These regulations come into operation on 16 April 2007.

**3. 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 14 March 2007 see Gazette 31 March, 26 May and 21 July 2006 and Act No. 43 of 2006.]*

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**4. Regulation 3 amended**

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

“

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

**“GESB Super Member”** means a member of the GESB Super Scheme;

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

**“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;

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

**“restricted non-preserved benefit”**, means a benefit in a scheme that would be a restricted non-preserved benefit within the meaning of the

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SIS Regulations if that scheme were a regulated superannuation fund;

**“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;

”.

(2) Regulation 3(1) is amended as follows:

(a) in the definition of “accumulation account” —

(i) after paragraph (a) by inserting —

“

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

”.

,

(ii) after each of paragraphs (a) and (b) by inserting —

“ and ”;

(b) in the definition of “Commonwealth payment” by inserting after paragraph (b) —

“

or

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

”.

,

(c) in the definition of “Member” by inserting after “West State Super Member,” —

“ a GESB Super Member, ”;

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- (d) in the definition of “superannuation fund” —
  - (i) in paragraph (a), by deleting “(as defined in the SIS Act)”;
  - (ii) in paragraphs (b) and (c) by deleting “that Act” and inserting instead —  
“ the SIS Act ”;
- (e) in the definitions of “Gold State Super Member”, “Retirement Access Member”, “Retirement Income Member” and “Term Allocated Pension Member” by deleting “a Member” and inserting instead —  
“ a member ”.

**5. Regulation 4 amended**

Regulation 4(5) is repealed and the following subregulation is inserted instead —

“

- (5) Until the Board 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 —
    - (i) West State Super Members or GESB Super Members; and
    - (ii) who are paid periodically at intervals of less than 3 months,  
the workers’ pay periods; and
  - (c) in respect of workers who —
    - (i) are West State Super Members or GESB Super Members; and

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(ii) are not covered by paragraph (b),  
each quarter.

”.

**6. Regulation 6 amended**

Regulation 6(2) is amended as follows:

- (a) by deleting “Subject to regulation 16(4), for” and inserting instead —  
“ For ”;
- (b) in paragraph (a) by inserting before “the Member’s” —  
“ subject to regulation 16(4), ”;
- (c) in paragraphs (b) and (c) by inserting after “Super Member” —  
“ or a GESB Super Member ”.

**7. Regulation 6A amended**

- (1) Regulation 6A(1) is amended by inserting after “Super Scheme” —  
“ or the GESB Super Scheme ”.
- (2) Regulation 6A(3) is amended in the definition of “relevant parliamentarian” by inserting after “Super Scheme” —  
“ or the GESB Super Scheme ”.

**8. Regulation 50 amended and consequential amendments**

- (1) Regulation 50(1) is amended as follows:
  - (a) by deleting the definitions of “benefit account”, “eligible statutory Member”, “partner Member”, “statutory Member” and “voluntary Member”;

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(b) by inserting in the appropriate alphabetical positions —

“

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

**“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;

**“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;



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

”.

- (2) The regulations listed in the Table to this subregulation are amended by deleting “statutory” in each place where it occurs before “Member” or “Members” and inserting instead —

“ statutory WSS ”.

**Table**

r. 50(1) defn. of “health condition”	r. 70
r. 51(2), (3), (4)	r. 71(1), (2)
r. 54(1)	r. 72(1)
r. 55(1)	r. 72A
r. 56(1), (2)	r. 73(1)(a)
r. 57(1)(a), (b)	r. 74(1)(b)
r. 69G(1)	r. 75(1)
r. 69H(1)	

- (3) Regulations 73(1)(c) and 74(1)(c) are amended by deleting “partner Member” and inserting instead —

“ partner WSS Member ”.

- (4) Regulations 57(1)(c) and 73(1)(b) are amended by deleting “voluntary Member” and inserting instead —

“ voluntary WSS Member ”.

- (5) The regulations listed in the Table to this subregulation are amended by deleting “benefit” in each place where it occurs before “account” or “accounts” and inserting instead —

“ west state ”.

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r. 3(1) defn. of “accumulation account” para. (a)	r. 69E(3) r. 69F(3)(a)
r. 50(1) defn. of “protected amount” para. (a)(i)	r. 70 r. 72(1)
r. 62(3)	r. 73(1)(c), (2)(a)
r. 65A(2)(b)	r. 74(2)(a)
r. 66(1), (2)	r. 78(b)
r. 67(1), (2)	r. 79A(1), (4)(c)(i)
r. 68(1), (2), (3), (4)	r. 79B(1)(a), (b), (1b)
r. 69(1)	

- (6) The heading to Part 3 Division 4 is amended by deleting “Benefit” and inserting instead —

“ **West state** ”.

**9. Regulation 50A inserted**

Before regulation 51 the following regulation is inserted in Part 3 Division 2 —

“

**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.
- (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 Minister 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,

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voluntary or partner WSS Member when the application is accepted.

”

**10. Regulation 51 amended**

- (1) Regulation 51(1) and (5) are repealed.
- (2) Regulation 51(2) and (3) are amended by deleting “becoming” and inserting instead —  
“ being ”.

**11. Regulation 52 replaced**

Regulation 52 is repealed and the following regulation is inserted instead —

“

**52. Voluntary and partner WSS Members may change category**

- (1) A voluntary WSS Member or a partner WSS Member who —
  - (a) becomes a worker and is not excluded by regulation 51(2), (3) or (4) from being a statutory WSS Member; or
  - (b) being a worker who was excluded by regulation 51(2), (3) 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.

”

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**12. Regulation 52B replaced**

Regulation 52B is repealed and the following regulation is inserted instead —

“

**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 Minister, may withdraw from the West State Super Scheme by giving notice to that effect to the Board.

”

**13. Regulation 61 repealed**

Regulation 61 is repealed.

**14. Regulation 62 amended**

Regulation 62(1) is amended by deleting “Board” and inserting instead —

“ Fund ”.

**15. Regulation 65 replaced**

Regulation 65 is repealed and the following regulation is inserted instead —

“

**65. Member may transfer benefits from other funds**

A West State Super Member may transfer to the West State Super Scheme —

- (a) a benefit accrued in respect of the Member in —
  - (i) another superannuation fund; or

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(ii) an eligible non-resident non-complying superannuation fund (as defined in section 27A of the *Income Tax Assessment Act 1936* of the Commonwealth);

or

(b) any other eligible termination payment to which the Member is entitled,

by paying, or arranging the payment of, the amount of that benefit or payment to the Fund.

”.

**16. Regulation 65A amended**

Regulation 65A(1) is amended as follows:

- (a) by deleting “from another superannuation fund to the West State Super Scheme” and inserting instead —  
“ under regulation 65(a) ”;
- (b) in paragraphs (a) and (c) by deleting “(within the meaning of the SIS Act)”.

**17. Subdivision 4 inserted**

After regulation 65A the following Subdivision is inserted in Division 3 —

“

**Subdivision 4 — Contribution splitting for partner****65B. Acceptance of partner contributions-splits from other schemes or funds**

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.

”.

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**18. Regulation 67 amended**

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

“

- (cb) any amounts transferred to the West State Super Scheme for the benefit of the Member under regulation 65B; and

”.

**19. Regulation 68 amended**

(1) Regulation 68(1) is amended as follows:

(a) after paragraph (a) by inserting —

“ and ”;

(b) at the end of paragraph (c) by deleting the full stop and inserting instead —

“

; and

(d) any overpaid amounts deducted under regulation 248B(5)(d).

”.

(2) Regulation 68(2)(d) is amended by inserting after “for” —

“ , or in relation to, ”.

(3) Regulation 68(4) is amended by deleting “product or service that was provided by” and inserting instead —

“ fee payable to ”.

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Regulation 74(1) is amended as follows:

- (a) by deleting paragraph (a) and inserting instead —

“

- (a) a statutory WSS Member or voluntary WSS Member —

- (i) ceases to be a worker; or  
(ii) withdraws from the West State Super Scheme under regulation 52B(2);

”.

- (b) in paragraph (c)(ii) by deleting “regulation 52B(3).” and inserting instead —

“ regulation 52B(1). ”.

**21. Regulation 76 amended**

Regulation 76(2a) and (3) are amended by deleting “plus interest” and inserting instead —

“ and earnings ”.

**22. Regulation 79 amended**

Regulation 79(2) is amended by deleting “plus interest” and inserting instead —

“ and earnings ”.

**23. Regulation 79B amended**

- (1) Regulation 79B(1) is amended by deleting “subregulations (1a) or (1b)” and inserting instead —

“ subregulation (1b) ”.

- (2) Regulation 79B(1a) is repealed.

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**24. Part 3A inserted**

After regulation 81A the following Part is inserted —

“

**Part 3A — GESB Super Scheme**

**Division 1 — Establishment and preliminary**

**82. Establishment of GESB Super Scheme**

The GESB Super Scheme is established as a superannuation scheme under section 28 of the Act.

**83. Interpretation**

(1) In this Part —

“**compulsory contribution**” means —

- (a) a contribution under regulation 88; or
- (b) if a notice under regulation 89 specifies a day before the day on which it was given as the day from which the increase effected by the notice applies, the extra contributions payable in respect of the period before the notice was given;

“**eligible statutory GESB Super Member**” means a statutory GESB Super Member, other than a person who has become excluded by regulation 84(2), (3) 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;



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**“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.

- (2) For the purposes of this Part a person who has at any time been gainfully employed is taken to **“retire”** if —
- (a) the person, having been gainfully employed after he or she turned 60 years of age, ceases to be gainfully employed; or
  - (b) all of the following apply —
    - (i) the person is at least the preservation age;
    - (ii) the person is not gainfully employed;
    - (iii) the Board is reasonably satisfied that the person intends never to again become gainfully employed for 10 hours or more a week.

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**Division 2 — Membership****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 he or she 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 his or her 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

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- (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) the Employer contributes to that scheme or fund for the worker not less than the amount that is necessary for the Employer to avoid incurring an individual superannuation guarantee shortfall (within the meaning of the SGA Act) in respect of the worker.
- (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, he or she

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

**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) for whom contributions are made to the Fund under regulation 91; or
  - (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.

- (2) A worker who is not a GESB Super Member may apply to become a voluntary GESB Super Member unless he or she is a West State Super Member.
- (3) If a voluntary GESB Super Member becomes a statutory GESB Super Member, the person ceases to be a voluntary GESB Super Member.

**86. Partner GESB Super Members**

- (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 98(2)(a) or 99,

becomes a partner GESB Super Member when the first such contribution or transfer is accepted by the Board.

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- (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.

**87. Cessation of membership**

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.

**Division 3 — Contributions****Subdivision 1 — Employer contributions****88. Compulsory employer contributions for eligible statutory GESB Super Members**

- (1) An Employer is to contribute to the Fund for an eligible statutory GESB Super Member —
  - (a) if the Member works for the Employer — for each contribution period during which the Member works for that Employer; and
  - (b) if the Member is seconded to the Employer from another Employer — for each contribution period during the secondment; and

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- (c) subject to subregulation (2), if the Member is seconded from that Employer to a person who is not an Employer — for each contribution period during the secondment.
- (2) Subregulation (1)(c) does not apply if the agreement under which the Member is seconded requires the person to whom the Member is seconded to contribute to another superannuation fund for the Member not less than the amount that the Employer would otherwise be required to contribute to the Fund under this Division.
- (3) The amount of each compulsory contribution is equal to C in the formula —
- $$C = R \times \frac{G}{100}$$
- where —
- R is the Member's remuneration for the contribution period; and
- G is the number that is the Employer's charge percentage for the quarter which included the contribution period.
- (4) If a contribution period is partly in one quarter and partly in another, the amount of the compulsory contribution is to be calculated by separately applying the formula in subregulation (3) to the amount of remuneration earned in each quarter, in each case using the charge percentage for that quarter, and adding the results together.

**89. Treasurer may increase compulsory contributions**

- (1) The Treasurer may, by giving notice to an Employer, increase the amount of the compulsory contributions to be paid for an eligible statutory GESB Super Member,

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or a class of eligible statutory GESB Super Members, who work for the Employer.

- (2) A notice under subregulation (1) is to specify the day from which the increase is to apply, which may be a day that is before the notice was given.
- (3) The Employer is to contribute the increased amount for each contribution period that ends after the day specified in the notice.
- (4) The Treasurer may revoke a notice under subregulation (1) by giving notice to the Employer.
- (5) The Treasurer is to give the Board a copy of a notice under this regulation.

**90. Payment of compulsory contributions**

- (1) An Employer must pay a compulsory contribution for an eligible statutory GESB Super Member for a contribution period within 28 days, or any shorter period selected under subregulation (2), after the end of the contribution period.
- (2) The Board may select a period of less than 28 days as the period within which an Employer must pay compulsory contributions, and may change or cancel that selection.
- (3) The Board may select different periods —
  - (a) for different Employers; and
  - (b) for different classes of workers of an Employer.
- (4) The Board is to notify the Employer of any period or periods selected under this regulation and any change in the selection.
- (5) If a compulsory contribution for an eligible statutory GESB Super Member for a contribution period is

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increased under regulation 89 by a notice given after the end of the contribution period, the Employer must pay the increase within 28 days, or any shorter period selected under subregulation (2), after the notice is given.

- (6) If an Employer is required to make a compulsory contribution under regulation 88(1)(c), the Board may allow the Employer such longer period within which to pay the contribution as the Board thinks fit.

**91. Voluntary employer contributions**

- (1) Subject to regulation 100, an Employer may contribute to the Fund for a worker who works for the Employer, other than a worker who is a West State Super Member.
- (2) Contributions under this regulation are to be of the amount, and paid at the time and in the manner, agreed between the Employer and the Board.
- (3) Any contributions made under this regulation for an eligible statutory GESB Super Member are in addition to contributions required to be made under regulation 88.

**92. Employer's contribution returns**

- (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.



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**r. 24****93. Acceptance of Commonwealth payments**

- (1) Subject to subregulation (2), 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) A Commonwealth payment cannot be accepted under this regulation for a person who is —
  - (a) a West State Super Member; or
  - (b) a Retirement Access Member.

**Subdivision 2 — Member contributions****94. Member contributions**

- (1) Subject to regulation 100 and subregulation (2), a person may contribute to the Fund for himself or herself if he or she 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) A West State Super Member cannot make contributions under this regulation.

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- (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 7 days of the end of the contribution period to which they relate.

**95. Contributions for partners**

- (1) Subject to regulation 100 and subregulation (2), 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

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- (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) Contributions cannot be made under this regulation for a partner who is a West State Super Member.
  - (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.

**Subdivision 3 — Transfers****96. Transfer of benefits from other funds and ETPs**

- (1) Subject to subregulation (2) a person may make a transfer under this regulation if he or she 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) A West State Super Member cannot make a transfer under this regulation.

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- (3) A person may transfer to the GESB Super Scheme for himself or herself —
- (a) a benefit accrued in respect of the person in —
    - (i) another superannuation fund; or
    - (ii) an eligible non-resident non-complying superannuation fund (as defined in section 27A of the *Income Tax Assessment Act 1936* of the Commonwealth);
  - or
  - (b) any other eligible termination payment to which the person is entitled,

by paying, or arranging the payment of, the amount of that benefit or payment to the Fund.

**Subdivision 4 — Contributions-splitting for partner****97. Meaning of “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.

**98. Member may split contributions with partner**

- (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

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- (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) A Member cannot apply to transfer contributions under subregulation (2)(a) if the Member's partner is a West State Super Member.
- (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.

**99. Acceptance of partner contributions-splits from other funds**

- (1) Subject to subregulation (2) 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) A contributions-split transfer cannot be accepted under this regulation for a West State Super Member.

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**Subdivision 5 — Contributions generally****100. Restriction on contributions for Members over 65 years of age**

Despite anything else in this Part 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.

**Division 4 — GESB Super accounts****101. GESB Super accounts**

- (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.

**102. Amounts to be credited to GESB Super accounts**

- (1) The Board is to credit to a GESB Super Member's GESB Super account —
  - (a) contributions made for the Member; and
  - (b) any Commonwealth payments accepted for the Member under regulation 93; and
  - (c) any benefits or other eligible termination payments transferred to the Fund 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; and

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- (f) any interest paid to the Board under section 25 of the Act in respect of the late payment of contributions payable under this Part for the Member; and
  - (g) earnings in accordance with regulation 104.
- (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.

**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 under regulation 248B(5)(d); and
  - (d) any splittable contributions transferred by the Member under regulation 98.
- (2) The Board may debit to a GESB Super Member's GESB Super account —
- (a) the premiums payable for any insurance taken out by the Board in respect of the Member; 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

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- (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.
- (5) If a GESB Super Member is a protected member the Board must not debit to the Member's GESB Super account any amount that the Board would be prohibited by regulation 5.17 or 5.18 of the SIS Regulations from debiting to that account if the GESB Super Scheme were a regulated fund.
- (6) In this regulation —
  - “protected member”** means a GESB Super Member who would be a protected member (as defined in regulation 1.03B of the SIS Regulations) if the GESB Super Scheme were a regulated superannuation fund.



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**r. 24****104. Earnings**

- (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.

**Division 5 — Member investment choice****105. Interpretation**

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).

**106. Board to establish investment plans**

- (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

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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.

**107. Default plan**

- (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.

**108. Member to select investment plan**

- (1) A GESB Super Member is to select an investment plan to be used in determining the Member's earning rate and give notice of that selection to the Board.
- (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.

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- (3) A Member may change his or her selection under subregulation (1) 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.

**109. Board to invest assets to reflect Member's choice**

- (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 or other eligible termination payments transferred to the Fund for the Member, after the selection day,

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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.

**110. Determination of earning rates**

- (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

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- (c) the desirability of averaging returns in order to reduce fluctuations in earning rates.
- (4) An earning rate may be positive or negative.

**Division 6 — Insurance****111. Board to provide life insurance**

- (1) Subject to subregulation (2) the Board must provide life insurance for each 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 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 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.

**112. Board may provide disability insurance**

The Board may provide either or both —

- (a) total and permanent disability insurance; and
- (b) salary continuance insurance,

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for all GESB Super Members or such classes of those Members as the Board considers appropriate.

**113. Terms of insurance**

- (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 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 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.

**State Superannuation Amendment Regulations (No. 2) 2007****r. 24****Division 7 — Benefits****114. Withdrawal benefit**

- (1) Subject to subregulation (4), if —
  - (a) a statutory GESB Super Member or voluntary GESB Super Member 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),

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.
- (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.

**115. Death benefit**

If —

- (a) a statutory GESB Super Member or voluntary GESB Super Member dies while still a worker; or

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- (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.

**116. Temporary incapacity — salary continuance benefit**

- (1) If —

- (a) a GESB Super Member for whom insurance is provided under regulation 112(b) is temporarily incapacitated; and
- (b) an amount is paid in respect of the Member under that insurance (the **“insurance amount”**),

the Board is to pay the Member a benefit of an amount equal to the lesser of the insurance amount and the SIS amount.

- (2) 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 as defined in regulation 6.01 of the SIS Regulations.



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**r. 24****Division 8 — Payment of benefits****117. Interpretation**

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.

**118. Payment of GESB withdrawal benefit**

- (1) Subject to subregulation (2) and regulations 123, 124 and 125 the Board must not pay a GESB withdrawal benefit until the Member —
  - (a) retires; or
  - (b) suffers permanent incapacity; or
  - (c) turns 65 years of age; or
  - (d) dies.
- (2) A GESB Super Member who is entitled to a GESB withdrawal benefit may request payment of the benefit if —
  - (a) the benefit has become payable under subregulation (1)(a), (b) or (c); 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 than \$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.

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- (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 “suffers 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.

**119. Member with preserved benefit who again becomes a 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.

**120. Transfer of benefit to another scheme or superannuation fund**

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 or to another superannuation fund and the Board is to comply with that request.

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**r. 24****121. Payment of death benefits**

- (1) Subject to subregulation (3) the Board is to pay a GESB Super Member's death benefit to the executor or administrator of the Member's estate.
- (2) A benefit paid under subregulation (1) to the executor or administrator of a Member's estate —
  - (a) forms part of the Member's estate; but
  - (b) is not an asset in the Member's estate that is applicable in payment of the Member's debts and liabilities.
- (3) If the Board —
  - (a) has been unable, after making reasonable enquires, to find an administrator or executor of the Member's estate; or
  - (b) 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) In this regulation —

**“death benefit”** means —

  - (a) a benefit under regulation 115; or
  - (b) any other benefit or amount that becomes payable on the death of a Member; or
  - (c) a benefit that became payable to a GESB Super Member but which, at the time of the

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Member's death, had not been paid or transferred under regulation 120;

“**dependant**” has the same meaning as it has in section 10 of the SIS Act.

**122. Payment or transfer out of transferred in benefits or ETPs**

- (1) A GESB Super Member who has a transferred benefit may request the Board to —
  - (a) pay the benefit to the Member; or
  - (b) transfer the benefit to another scheme or another superannuation fund.
- (2) A request under subregulation (1)(a) may be made —
  - (a) in relation to an unrestricted non-preserved benefit, at any time; or
  - (b) in relation to a restricted non-preserved benefit, at any time after the Member has ceased to be a worker; or
  - (c) in relation to an eligible termination payment other than a benefit transferred from a superannuation fund, at any time.
- (3) A request under subregulation (1)(b) may be made at any time.
- (4) Subject to subregulation (5) on receipt of a request under subregulation (1) the Board is to pay or transfer —
  - (a) if earnings in relation to the transferred benefit are equal to or greater than zero, the amount of the transferred benefit not including earnings; or
  - (b) if earnings in relation to the transferred benefit are less than zero, the amount of the transferred

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benefit reduced by the amount of those earnings.

- (5) The Board may refuse a request under subregulation (1)(b) if transferring the benefit would reduce the balance in the Member's GESB Super account to less than \$5 000.
- (6) Subregulation (5) does not apply if the amount requested to be transferred is the whole of the balance in the Member's GESB Super account.
- (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 or other eligible termination payment that has been transferred to the GESB Super Scheme under regulation 96.

**123. Early release of benefit — 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

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- (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.
- (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.

**State Superannuation Amendment Regulations (No. 2) 2007****r. 24****124. Early release of benefit — phased retirement**

- (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) If a Member makes a request under subregulation (1)(b), the Board may refuse the request if transferring the amount requested would reduce the balance in the Member's GESB Super account to less than \$5 000.
- (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.

**125. Early release of benefits — temporary resident departing Australia**

- (1) A GESB Super Member who —
  - (a) was the holder of an eligible temporary resident visa (as defined in regulation 6.01 of the SIS Regulations) that has expired or been cancelled; and
  - (b) has permanently departed from Australia,

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may apply to the Board for the early release of the balance of the Member's GESB Super account and subject to this regulation the Board is to accept the application.

- (2) 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 required under regulation 6.20A of the SIS Regulations 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.

**126. Transfer to eligible rollover fund**

The Board may transfer the balance of a Member's GESB Super account to an eligible rollover fund if that fund is permitted by the SIS Act to accept the benefit, whether or not the Member has requested the transfer.

”.

**25. Regulation 181 amended**

- (1) Regulation 181(2)(c) is amended by inserting after “for” —  
“ , or in relation to, ”.
- (2) Regulation 181(3a) is amended by deleting “product or service that was provided by” and inserting instead —  
“ fee payable to ”.



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**r. 26****26. Regulation 196H amended**

- (1) Regulation 196H(2)(c) is amended by inserting after “for” —  
“ , or in relation to, ”.
- (2) Regulation 196H(3a) is amended by deleting “product or service that was provided by” and inserting instead —  
“ fee payable to ”.

**27. Regulation 209 amended**

- (1) Regulation 209(2)(c) is amended by inserting after “for” —  
“ , or in relation to, ”.
- (2) Regulation 209(4) is amended by deleting “product or service that was provided by” and inserting instead —  
“ fee payable to ”.

**28. Regulation 220 amended**

Regulation 220 is amended in the definition of “accumulation scheme” by inserting after “means the” —

“ GESB Super Scheme, ”.

**29. Regulation 243 amended**

Regulation 243(a)(i) is amended by inserting after “earning rate” —

“ (which may be positive or negative) ”.

**30. Regulation 248B inserted**

After regulation 248A the following regulation is inserted —

“

**248B. Overpayment by Employer**

- (1) This regulation applies if an Employer makes a payment to the Fund that the Employer is not required by these regulations to make (an “**overpayment**”).

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- (2) The Employer must notify the Board of the overpayment as soon as possible after the Employer becomes aware of it, unless the Board has already notified the Employer under subregulation (3).
- (3) If the Board becomes aware of the overpayment before being notified by the Employer, the Board is to notify the Employer.
- (4) If, when the Board becomes aware of the overpayment, the overpaid amount has not been credited to an accumulation account, the Board may —
  - (a) retain the overpaid amount and offset it against amounts that become payable to the Fund by the Employer in the future; or
  - (b) refund the overpaid amount to the Employer.
- (5) If, when the Board becomes aware of the overpayment the overpaid amount —
  - (a) has been credited to an accumulation account; but
  - (b) has not been paid as a benefit or transferred out of that account,the Board may —
  - (c) retain the overpaid amount in that accumulation account and offset it against contributions that become payable by the Employer in the future and are to be credited to that account; or
  - (d) deduct the overpaid amount from that accumulation account and deal with it in accordance with subregulation (4).

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- (6) If, when the Board becomes aware of the overpayment, the overpaid amount has been paid or transferred as part of a benefit, the overpaid amount is not repayable from the Fund to the Employer unless the making of the overpayment was due to the fault of the Board.

”.

**31. Schedule 3 amended**

Schedule 3 clause 54(1)(b)(ii) is amended by inserting after “earning rate” —

“ (which may be positive or negative) ”.

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

DAVID KNOX	19/3/2007
Actuary appointed by the Board	Date

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

E. RIPPER	4/4/2007
Treasurer	Date

By Command of the Governor,

G. M. PIKE, Clerk of the Executive Council.

