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STATE SUPERANNUATION ACT 2000

**STATE SUPERANNUATION
AMENDMENT
REGULATIONS (NO. 4) 2008**

State Superannuation Act 2000

State Superannuation Amendment Regulations (No. 4) 2008

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *State Superannuation Amendment Regulations (No. 4) 2008*.

2. Commencement

These regulations come into operation as follows:

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — at the time the *State Superannuation Amendment Act 2007* Part 3 comes into operation.

3. The regulations amended

- (1) The amendments in these regulations, other than Part 3, are to the *State Superannuation Regulations 2001*.
- (2) The amendments in Part 3 are to the *Superannuation and Family Benefits Act 1938* as continued in force by the *State Superannuation (Transitional and Consequential Provisions) Act 2000* section 26.

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Part 2 — Amendments to *State Superannuation Regulations 2001***4. Various provisions repealed**

The provisions listed in the Table to this regulation are repealed.

Table

r. 3(2) and (3)	r. 3A
r. 4	r. 5
r. 6	r. 6A
r. 8	r. 9
r. 10	Part 3
Part 3A	Part 4
Part 4A	Part 5
r. 219E	r. 219F
r. 246B	r. 248B(5)
Sch. 1 Div. 1 items 2, 3 and 3a	Sch. 1 Div. 2 items 1, 21, 24 and 53
Sch. 2 Part 3 cl. 11	Sch. 3 Part 1 cl. 1(2)
Sch. 3 Part 1 cl. 3(8)	Sch. 3 Part 1 cl. 4
Sch. 3 Part 3	Sch. 3 Part 4 cl. 48
Sch. 3 Part 4 cl. 49	Sch. 3 Part 4 cl. 51
Sch. 3 Part 5	

5. Regulation 3 amended

- (1) Regulation 3(1) is amended by deleting the definitions of the terms listed in the Table to this subregulation.

Table

accumulation account	charge percentage
Commonwealth payment	condition of release
contribution period	contributions-split transfer
contributions tax	Division 1 Employer

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Division 2 Employer	earning rate
eligible rollover fund	eligible termination payment
former member	GESB Super Member
GESB Super (Retirement Access) Member	GESB Super (Retirement Access) Scheme
GESB Super Scheme	Member
parliamentarian	partial and permanent disablement
partner	phased retirement benefit
preservation age	regulated superannuation fund
remuneration	restricted non-preserved benefit
Retirement Income Member	Retirement Income Scheme
salary sacrifice agreement	SGA Act
SIS Act	Term Allocated Pension Member
Term Allocated Pension Scheme	the Employer
total and permanent disablement	unrestricted condition of release
unrestricted non-preserved benefit	West State Super Member
West State Super Scheme	worker

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

“

“**Fund**” has the meaning given in section 4E of the Act;

“**GES Act**” means the *Government Employees Superannuation Act 1987* as in force immediately before the Act came into operation;

“**GESB Superannuation**” has the meaning given in section 42(1) of the Act;

“**Member**” means, except in Parts 2 and 5A, a Gold State Super Member, a Pension Scheme Member or a Provident Scheme Member;

“**scheme**” has the meaning given in section 4E of the Act;

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“**SGA Act**” has the meaning given in section 4A of the Act;

”.

- (3) Regulation 3(1) is amended as follows:
- (a) in the definition of “S&FB Act” by deleting “includes” and inserting instead —
“ means ”;
 - (b) at the end of the definition of “superannuation fund” by deleting the semicolon and inserting instead a full stop.

6. Regulation 11 amended

Regulation 11(1) is amended by deleting “regulations 45(5) and 76(5)” and inserting instead —

“ regulation 45(5) ”.

7. Part 1A inserted

After regulation 11 the following Part is inserted —

“

Part 1A — Employer contribution obligation**11A. Terms used in this Part**

- (1) In this Part —
- “**existing approval**” means an approval that was —
- (a) granted under section 30(2) of the Act as it was before the transfer time; and
 - (b) in force immediately before the transfer time, allowing an Employer to contribute to a superannuation scheme or fund other than one referred to in paragraph (a), (b) or (c) of that section;

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“Statutory West State Member” has the meaning given in the governing rules made under section 75E of the Act.

- (2) If a term is given a meaning in Part 2 of the Act the term has the same meaning in this Part of the regulations.

11B. Who an employee is employed by

- (1) For the purposes of Part 2 of the Act a person is to be regarded as an employee of the person who is that person’s employer for the purposes of the SGA Act.
- (2) However subregulations (3) and (4) —
- (a) make further provision in respect of persons who are, for the purposes of the SGA Act, employees of the State; and
- (b) make provision to avoid doubt as to the status of certain persons.
- (3) An employee of a kind described in the Table to this subregulation, is to be regarded as an employee of the authority, body or person listed in the Table in respect of that employee.

Table

Employee	Employer
1. A member of the Legislative Council or of the Legislative Assembly	The Minister to whom the administration of the <i>Constitution Act 1889</i> is for the time being committed by the Governor
2. A member of the Governor’s Establishment, within the meaning given in the <i>Governor’s Establishment Act 1992</i> section 3	Governor

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	Employee	Employer
3.	A member of a department of the staff of Parliament within the meaning given in the <i>Parliamentary and Electorate Staff (Employment) Act 1992</i>	Whichever of the — (a) President of the Legislative Council; or (b) Speaker of the Legislative Assembly; or (c) President and Speaker jointly, is specified in that Act as the employee's employer
4.	A person appointed under the <i>Police Act 1892</i> Part I, other than the Commissioner of Police	The Commissioner of Police
5.	A person who holds an office or position established or continued under a written law, other than a person referred to in items 1 to 4	The Minister to whom the administration of that written law is for the time being committed by the Governor
6.	A person appointed to an office or position by the Governor or a Minister, other than a person referred to in items 1 to 5	The Minister having general responsibility for that office or position
7.	A person appointed under the <i>Public Sector Management Act 1994</i>	The authority, body or person for, within, or for the purposes of, which or whom the person works
8.	A person who otherwise works for, within, or for the purposes of an Employer	The authority, body or person for, within, or for the purposes of, which or whom the person works

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- (4) If, under subregulation (3), a person is to be regarded as employee of a public sector body that is not a corporate body, the person is to be regarded as an employee of the employing authority of the body.
- (5) In subregulation (4) —
“**employing authority**” and “**public sector body**”
each has the meaning given in the *Public Sector Management Act 1994* section 3(1).

11C. Employees to whom s. 4B of the Act does not apply

Section 4B of the Act does not apply to an employee who is any of the following —

- (a) an eligible Gold State worker within the meaning given in regulation 12;
- (b) a Pension Scheme Member who has not determined his or her pension under the S&FB Act section 60AA;
- (c) a Provident Scheme Member;
- (d) a participant in the scheme under the *Parliamentary Superannuation Act 1970* section 5;
- (e) a non-participant within the meaning given to that term in the *Parliamentary Superannuation Act 1970* section 29;
- (f) a person who holds a pensionable office within the meaning given in the *Judges' Salaries and Pensions Act 1950* section 2(4);
- (g) a person who, under the *Fire and Emergency Services (Superannuation Fund) Regulations 1986*, is —
 - (i) a Category A member of the Fire and Emergency Services Superannuation Fund; or

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- (ii) a Category B member of that fund for whom the person's employer contributes under regulation 16A of those regulations.

11D. Prescribed fund for purposes of s. 4B of the Act

- (1) This regulation sets out the prescribed fund for employees to whom section 4B of the Act applies.
- (2) The prescribed fund is GESB Superannuation unless subregulations (3) to (10) prescribe a different fund.
- (3) For an employee who is a Statutory West State Member, the prescribed fund is the West State scheme.
- (4) If there was an existing approval granted to an Employer in respect of a named employee (whether or not the exemption specified a particular fund as the fund to which the Employer could contribute for that employee), the prescribed fund for that employee is the employee's chosen fund.
- (5) If —
 - (a) there was an existing approval granted to an Employer in respect of a class of employees of that Employer; and
 - (b) the exemption specified a particular fund as the fund to which the Employer was to contribute for employees who were members of that class,then the prescribed fund for an employee of that Employer who is a member of that class is —
 - (c) the employee's chosen fund; or
 - (d) if there is no chosen fund, the fund specified in the exemption.

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- (6) If —
- (a) there was an existing approval granted to an Employer in respect of a class of employees of that Employer; and
 - (b) the exemption did not specify a particular fund as the fund to which the Employer was to contribute for employees who were members of that class,

then the prescribed fund for an employee of that Employer who is a member of that class is —

- (c) the employee's chosen fund; or
 - (d) if there is no chosen fund —
 - (i) if the employee is a Statutory West State Member, the West State scheme; or
 - (ii) otherwise, GESB Superannuation.
- (7) If —
- (a) there was an existing approval granted to an Employer in respect of all of the Employer's employees; and
 - (b) the exemption specified a particular fund as the fund to which the Employer could contribute for its employees,

the prescribed fund for an employee of that Employer is —

- (c) the employee's chosen fund; or
- (d) if there is no chosen fund, the fund specified in the exemption.

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- (8) If —
- (a) there was an existing approval granted to an Employer in respect of all of the Employer's employees; and
 - (b) the exemption did not specify a particular fund as the fund to which the Employer could contribute for its employees,
- the prescribed fund for an employee of that Employer is —
- (c) the employee's chosen fund; or
 - (d) if there is no chosen fund —
 - (i) if the employee is a Statutory West State Member, the West State scheme; or
 - (ii) otherwise, GESB Superannuation.
- (9) If —
- (a) an approval was granted under section 30(1) of the Act as it was before the transfer time allowing an Employer to establish its own superannuation fund; and
 - (b) the Employer was, immediately before the transfer time, contributing to that fund as permitted by section 30(2)(b) of the Act,
- then the prescribed fund for an employee of that Employer is —
- (c) the employee's chosen fund; or
 - (d) if there is no chosen fund, the fund established by the Employer.
- (10) If an Employer was, immediately before the transfer time, contributing for its employees to a superannuation fund that was established before

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28 December 1989 (“**pre-89 fund**”) as permitted by section 30(2)(c) of the Act, the prescribed fund for an employee of that Employer is —

- (a) the employee’s chosen fund; or
- (b) if there is no chosen fund, the pre-89 fund.

11E. Additional contributions required under s. 4C of the Act

- (1) In this regulation —

“**over-OTE item**”, for an employee, means a payment, benefit or allowance that —

- (a) is part of the employee’s remuneration within the meaning given in regulation 11F; but
- (b) is not part of the employee’s ordinary time earnings within the meaning given in the SG Act s. 6(1);

“**section 4B employee**” means an employee for whom an Employer is required by section 4B of the Act to make contributions;

“**SG-exempt employee**” means an employee who is not a section 4B employee because of sections 26 to 29 of the SG Act.

- (2) Under section 4C of the Act an employer must make additional contributions to the prescribed fund for each of the Employer’s section 4B employees of an amount equal to 9% of the monetary value, determined by the Employer, of each of the employee’s over-OTE items (if any).
- (3) Under section 4C of the Act an employer must make contributions to the prescribed fund for each of its SG-exempt employees of an amount equal to the contributions that the Employer would have been required to contribute under section 4B of the Act and

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under subregulation (2) if sections 26 to 29 of the SG Act were not in force.

- (4) A determination by an Employer as to the value of a non-monetary over-OTE item that would reduce the value of the item for a person who was an employee at the time the determination was made, does not apply to the employee unless the employee gives notice to the Employer consenting to its application to the employee.

11F. Meaning of “remuneration”

- (1) For the purposes of the definition of “over-OTE item” in regulation 11E(1) —
- “**remuneration**” means all payments, benefits and allowances that —
- (a) an employee is entitled to in his or her capacity as an employee; and
- (b) the Employer has determined that the employee —
- (i) is likely to continue to be entitled to while the employee 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 employee were to continue to hold that job,
- other than amounts excluded by subregulation (3).
- (2) The “payments, benefits and allowances” referred to in the definition of “remuneration” include a payment, benefit or allowance that is payable only in particular circumstances if —
- (a) it will be paid to the employee whenever those circumstances arise; and

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- (b) the Employer reasonably expects those circumstances to arise in relation to the employee from time to time.
- (3) The remuneration of an employee does not include —
 - (a) payments for overtime (but not payments instead of overtime); or
 - (b) bonuses; or
 - (c) payments in lieu of leave; or
 - (d) allowances for rent, accommodation, subsistence, travelling or expenses; or
 - (e) equipment allowances; or
 - (f) climatic allowances; or
 - (g) payments as a consequence of the termination of a job; or
 - (h) payments, benefits or allowances that the Employer determines are to be regarded as not being part of the employee's remuneration because they are of a similar nature to those referred to in paragraphs (a) to (g).
- (4) A determination for the purposes of paragraph (b) of the definition of "remuneration" may —
 - (a) express the payment, benefit or allowance as a monetary amount or as a percentage of all or part of the remuneration; and
 - (b) be made in relation to one employee or a class of employees.
- (5) The remuneration of an employee who is seconded is —
 - (a) if the employee is seconded to a person who is an Employer — the employee's remuneration for the job to which the employee is seconded; or

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- (b) if the employee is seconded to a person who is not an Employer — the higher of —
 - (i) the employee's remuneration for the job from which the employee is seconded; and
 - (ii) the employee's remuneration for the job to which the employee is seconded.

11G. Prescribed fund for purposes of s. 4D of the Act

For an employee of a kind referred to in one of the paragraphs of regulation 11C, the prescribed fund is the fund referred to in that paragraph.

11H. Transitional provisions regarding approvals for s. 4D of the Act

- (1) If —
 - (a) there was an existing approval granted to an Employer in respect of an employee or class of employees; and
 - (b) the exemption allowed the Employer to contribute to a fund other than a fund or scheme referred to in section 30(2)(a), (b) or (c) of the Act as in force immediately before this regulation came into operation,

then to the extent that the approval relates to contributions in excess of those required by section 4B of the Act, the approval continues after the transfer time as an approval under section 4D of the Act.

- (2) If an employee was, immediately before the transfer time —
 - (a) a Gold State Super Member, a Pension Scheme Member or Provident Scheme Member; and

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- (b) a West State Super Member or GESB Super Member (within the meanings given to those terms at that time),

then the Treasurer is taken to have approved the making by the Employer of contributions for that employee to the West State scheme or GESB Superannuation (in addition to any contributions the Employer is required to make to the scheme referred to in paragraph (a)).

”.

8. Regulation 12 amended

Regulation 12 is amended as follows:

- (a) by deleting “In this Part — ” and inserting instead —

“

- (1) In this Part and the Schedules —

”;

- (b) by inserting in the appropriate alphabetical positions —

“

“**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;

“**contribution period**” means the period selected under regulation 13A;

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

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

“**Member**” means a Gold State Super Member;

“**partial and permanent disablement**” means physical or mental incapacity to an extent that the

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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;

“remuneration” has the meaning given by regulations 16A and 16B;

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

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

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

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

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“worker” means a person who is —

- (a) appointed under the *Public Sector Management Act 1994* Part 3; or
- (b) the holder of an office or position established or continued under a written law, including a Member of the Legislative Council or a Member of the Legislative Assembly; or
- (c) appointed to an office or position by the Governor, a Minister, an Employer or another worker; or
- (d) appointed under the *Public Sector Management Act 1994* section 64(1) or 100(2); or
- (e) appointed under the *Police Act 1892* Part I; 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 remuneration under the contract is for the person’s labour; or
- (j) employed or engaged by a person who is not an Employer but who is seconded to work for, within or for the purposes of an Employer under an agreement that requires

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the Employer to provide superannuation for the person.

”.

(c) at the end of the definition of “unrecognised unpaid leave” by deleting the full stop and inserting instead a semicolon;

(d) at the end of the regulation by inserting —

“

(2) If a term is given a meaning in this Part it has the same meaning in Schedule 2.

”.

9. Regulation 13A inserted

After regulation 13 the following regulation is inserted —

“

13A. Selection of contribution period

- (1) The Board is to select a period to be the contribution period for each Employer and its workers.
- (2) The Board may select different contribution periods for different classes of workers of an Employer.
- (3) The Board may change the contribution period or periods for an Employer provided the change is not detrimental to any Member.
- (4) The Board is to notify the Employer of the period or periods selected under this regulation and any change in the selection.
- (5) Until the Board selects otherwise the contribution periods for an Employer are the fortnight commencing on the commencement day and each subsequent fortnight.

”.

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10. Regulations 16A to 16D inserted

After regulation 16 the following regulations are inserted —

“

16A. Meaning of “remuneration”

- (1) Subject to subregulation (6) and regulation 16B, in this Part —

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

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

other than amounts excluded by subregulation (3).

- (2) The “payments, benefits and allowances” referred to in the definition of “remuneration” include a payment, benefit or allowance that is payable only in particular circumstances if —
- (a) it will be paid to the Member whenever those circumstances arise; and
 - (b) the Employer reasonably expects those circumstances to arise in relation to the Member from time to time.

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

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- (4) A certificate for the purposes of paragraph (b) of the definition of “remuneration” may —
- (a) express the payment, benefit or allowance as a monetary amount or as a percentage of all or part of the remuneration; and
 - (b) be given in relation to one Member or a class of Members.
- (5) A determination —
- (a) under subregulation (3)(n); or
 - (b) by an Employer as to the value of any non-money payment, benefit or allowance,
- that would reduce the remuneration of a person who was a Member at the time the determination was made does not apply to the Member unless the Member gives notice to the Board consenting to its application to the Member.
- (6) If a Member’s remuneration is reduced and the Board is satisfied that the reduction is not attributable to —
- (a) the misconduct or inefficiency of the Member; or
 - (b) a reduction in the number of hours worked by the Member,

the Board may determine the Member’s remuneration to be —

- (c) the Member’s remuneration before it was reduced; or
- (d) an amount representing the notional remuneration from time to time attributable to the job held by the Member immediately before the reduction; or
- (e) some other notional remuneration that the Board considers appropriate.

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- (7) A determination under subregulation (6) ceases to be in force if the Member's actual remuneration increases to more than the amount of remuneration specified in the determination.

16B. Remuneration for part-time or seconded Members or Members with irregular pay

- (1) The remuneration of a Member who works on a part-time basis is the actual remuneration received by the Member, not the remuneration of a comparable full-time worker.
- (2) The remuneration of a Member who is seconded is, subject to regulation 16(4), the Member's remuneration for the job from which the Member is seconded.
- (3) If a Member does not receive his or her remuneration on a regular basis throughout the year, the Board may treat the Member as having received that remuneration on a regular basis by —
- (a) averaging the remuneration received over all the contribution periods in the year; or
 - (b) determining the Member's remuneration to be a notional regular remuneration equal to the remuneration that a notional person holding the job held by the Member would receive if he or she were paid on a regular basis; or
 - (c) calculating a notional regular remuneration for the Member by some other means that the Board considers appropriate.

16C. Who a worker works for

For the purposes of this Part a worker is taken to work for the person who is prescribed by Part 1A to be the worker's employer for the purposes of Part 2 of the Act.

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16D. When does a person cease to be a worker

For the purposes of this Part 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. Regulation 19 amended

Regulation 19(1)(b)(iii) is amended by deleting “paragraph (b);” and inserting instead —

“ subparagraph (ii); ”.

12. Regulation 21 amended

Regulation 21(1) is amended by deleting “Minister” in both places where it occurs and inserting instead —

“ Treasurer ”.

Note: The heading to regulation 21 is to be altered by deleting “Minister” and inserting instead “**Treasurer**”.

13. Regulation 44B amended

After regulation 44B(6) the following subregulation is inserted —

“

(7) In this regulation —

“**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 110 column 3 of the SIS Regulations.

”.

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14. Regulation 47A amended

- (1) Regulation 47A(8) is amended by inserting in the appropriate alphabetical position —

“

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

”

- (2) After regulation 47A(8) the following subregulation is inserted —

“

- (9) In this regulation 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.

”

15. Regulation 48 amended

Regulation 48(3a)(a) is amended by deleting “was a partner,” and inserting instead —

“ was a spouse, de facto partner, ”.

16. Regulation 49A amended

Regulation 49A(6) is amended by inserting in the appropriate alphabetical position —

“

“**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;

”

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17. Regulation 219A amended

Regulation 219A(1) is amended by inserting in the appropriate alphabetical position —

“

“Member” means a Gold State Super Member;

”.

18. Regulation 219D amended

Regulation 219D(3)(c) is amended by deleting “within the meaning given in section 42(1) of the Act”.

19. Regulation 220 amended

Regulation 220 is amended by deleting the definition of “accumulation scheme”.

20. Regulation 221 amended

Regulation 221(2)(d) and “and” after it are deleted.

21. Regulation 223 amended

Regulation 223(2) is amended as follows:

(a) in paragraph (b) —

(i) in subparagraph (ii) by deleting “or spouse; and” and inserting a semicolon instead;

(ii) by deleting subparagraphs (iii) and (iv) and “and” after each of them;

(iii) by deleting subparagraph (v);

(b) in paragraph (d) by deleting “; and” and inserting instead a full stop;

(c) by deleting paragraph (e).

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22. Regulation 224 amended

Regulation 224(2) is amended as follows:

- (a) in paragraph (b)(ii) by deleting “appointed” and inserting instead —
“ engaged ”;
- (b) by deleting paragraph (d) and “and” after it.

23. Regulation 224C amended

Regulation 224C(1) is amended by deleting “workers” and inserting instead —

“ persons ”.

24. Regulation 224E amended

Regulation 224E is amended by inserting after “eligible rollover fund” in the first place where it occurs —

“ (as defined in the SIS Regulations) ”.

25. Regulation 224H inserted

After regulation 224G the following regulation is inserted in Part 6 —

“

224H. Transitional provision for reporting at transfer time

- (1) If —
 - (a) the last day of an annual reporting period for a Member would, but for this regulation, be 30 June 2008; and
 - (b) the transfer time occurs on 1 July 2008,that reporting period continues until, and ends at, the transfer time.

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- (2) Regulation 224B does not apply in relation to a person who ceases to be a Member at the transfer time by operation of section 59(1)(b) of the Act.

”

26. Part 7 replaced

Part 7 is repealed and the following Part is inserted instead —

“

Part 7 — State Superannuation Board

225. Term used in this Part

In this Part —

“**Member director**” means a person appointed to the Board under section 8(1)(b)(ii) of the Act.

226. Number of directors

For the purposes of section 8(1) of the Act the prescribed number of directors is 7.

227. Member directors to be appointed

- (1) Member directors are to be appointed by the body known as UnionsWA.
- (2) An appointment is to be made in writing by notice given to the Treasurer.
- (3) The Treasurer is to cause notice of the appointment to be published in the *Gazette*.
- (4) If the office of a Member director becomes vacant and a new director is not appointed under subregulation (1) within 60 days, the Treasurer may, after consulting with UnionsWA, appoint a person to fill the vacancy.

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228. Eligibility requirements

- (1) In this regulation —
- “**APRA standards**” means the criteria for fitness and propriety set out in the prudential standards made for the purposes of the *Banking Act 1959* (Commonwealth) section 23(2)(b) for fitness and propriety of directors of authorised deposit taking institutions.
- (2) A person is not eligible to be appointed as a Member director if the person —
- (a) is an insolvent under administration as defined in the Corporations Act; or
 - (b) has, within the previous 5 years, been removed from office as a director under Schedule 1 clause 6(2) of the Act; or
 - (c) the person does not satisfy the APRA standards.
- (3) If the APRA standards require a person to have a certain level of knowledge of a particular matter, for the purposes of subregulation (2) a person who does not have that level of knowledge is taken to satisfy the standard if the person gives a written undertaking to the Treasurer that the person will, if appointed as a Member director, take all practicable steps to acquire that level of knowledge within 12 months of being appointed.

”.

27. Regulation 243 amended

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

“

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

”.

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28. Regulation 244 amended

After regulation 244(3) the following subregulation is inserted —

“

(4) In this regulation —

“**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.

”.

29. Regulation 248B amended

Regulation 248B(4) is amended as follows:

- (a) by deleting “If, when the Board becomes aware of the overpayment, the overpaid amount has not been credited to an accumulation account, the” and inserting instead —

“ The ”;

- (b) in paragraphs (a) and (b) by deleting “the overpaid” and inserting instead —

“ an overpaid ”.

Note: The heading to regulation 252 is to be altered by deleting “and West State Super Members”.

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30. Regulation 253A inserted

After regulation 253 the following regulation is inserted —

“

253A. Termination of schemes established by regulations

The following schemes previously established by these regulations terminate at the transfer time —

- (a) the GESB Super Scheme established by regulation 82;
- (b) the Retirement Income Scheme established by regulation 170;
- (c) the Term Allocated Pension Scheme established by regulation 196;
- (d) the GESB Super (Retirement Access) Scheme established by regulation 200 as the Retirement Access Scheme and renamed by regulation 200A.

”

31. Schedule 1 amended

- (1) The amendments in this regulation are to Schedule 1.
- (2) Division 1 item 1 is deleted and the following item is inserted instead —

“

1. **The State** in relation to any worker who works for the State other than —
 - (a) a worker who works for an authority, body or person separately specified in this Schedule; or
 - (b) a worker in respect of whom the State's obligations are to be discharged by, or by the employing authority (as defined in the *Public Sector Management Act 1994*) of, an authority, body or person separately specified in this Schedule

”

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- (3) Division 2 item 35 is deleted and the following item is inserted instead —

“

35. **Nurses and Midwives Board of Western Australia**
 established under the *Nurses and Midwives Act 2006*

”

32. Schedule 2 amended

- (1) The amendments in this regulation are to Schedule 2.
- (2) The Schedule heading is amended by deleting “and West State Super Members”.
- (3) Clause 13 is amended by deleting the definition of “relevant regulations” and inserting instead —

“

“relevant regulations” means in relation to a person who, immediately before becoming an ASIC worker, was a contributory member under the GES Act — so much of these regulations as relate to the Gold State Super Scheme.

”

33. Schedule 3 amended

- (1) The amendments in this regulation are to Schedule 3.
- (2) Clause 1(1) is amended by deleting the definitions of “1993 scheme”, “continuing Member” and “continuing West State Super Member”.
- (3) Clause 2 is amended as follows:
- (a) by deleting “Member —” and inserting instead —
 “ Gold State Super Member — ”;
- (b) at the end of the definition of “GSS withdrawal benefit” by deleting the semicolon and inserting instead a full stop;

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- (c) by deleting the definition of “WSS withdrawal benefit”.

Note: The heading to clause 2 is to be altered by deleting “and WSS withdrawal benefits” and inserting instead “**withdrawal benefit**”.

- (4) Clause 3 is amended as follows:

- (a) in subclauses (1), (2) and (3) by deleting “regulation 5(1).” and inserting instead —
“ regulation 16A(1). ”;
- (b) in subclauses (2) and (3) by deleting “or 4AA(1)(b)”;
- (c) in subclause (4) —
(i) by deleting “or 4AA(4)(f)”;
- (ii) by deleting “regulation 5(2)(h).” and inserting instead —
“ regulation 16A(3)(h). ”;
- (d) in subclause (5) by deleting “regulation 5(3)(f).” and inserting instead —
“ regulation 16A(3)(n). ”;
- (e) in subclause (6) by deleting “regulation 5(5).” and inserting instead —
“ regulation 16A(5). ”;
- (f) in subclause (7) by deleting “regulation 5(6)” and inserting instead —
“ regulation 16A(6) ”.

Note: The heading to clause 3 is to be altered by deleting “(regulation 5)” and inserting instead “**(regulation 16A)**”.

Note: The heading to clause 12 is to be altered by deleting “Minister” and inserting instead “**Treasurer**”.

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- (5) Clause 54(1) is amended by deleting from “calculated —” to the end of the subclause and inserting instead —
- “
- calculated for a Gold State Member —
- (a) from the day on which the benefit became payable up to, but not including, the commencement day, at a rate equal to the CPI rate plus 1%; and
- (b) on and after the commencement day, at a rate equal to the CPI rate plus 2%.
- ”.
- (6) Clause 55(2) is amended by deleting “or the 1993 scheme”.
- (7) Clause 56(2) is amended by inserting after “continuing” —
- “ Gold State Super ”.

State Superannuation Amendment Regulations (No. 4) 2008**Part 3** Amendments to Superannuation and Family Benefits Act 1938**r. 34**

Part 3 — Amendments to *Superannuation and Family Benefits Act 1938***34. Section 6 amended**

Section 6(1) is amended in the definition of “the Board” by deleting “Government Employees” and inserting instead —

“ State ”.

35. Section 24 amended

Section 24(2) is amended by deleting “Government Employees” and inserting instead —

“ State ”.

36. Section 83M amended

Section 83M is amended as follows:

- (a) in the definition of “1993 scheme” by deleting “superannuation scheme continued by section 29(a)” and inserting instead —

“

West State scheme within the meaning given in section 3(1)

”;

- (b) by deleting the definition of “employer’s compulsory contribution” and inserting instead —

“

“**employer’s compulsory contribution**” means a contribution that the employer is required to make under the *State Superannuation Act 2000*;

”.

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37. Section 83N amended

Section 83N(2)(aa) and “and” after it are deleted and the following is inserted instead —

“

- (aa) the earning rate applicable to the contributor’s notional account under that scheme was the CPI rate (as defined in the *State Superannuation Regulations 2001* regulation 3) plus 2%; and

”.

By Command of the Lieutenant-Governor and
deputy of the Governor,

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