

State Superannuation Act 2000

State Superannuation Amendment Regulations (No. 4) 2004

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *State Superannuation Amendment Regulations (No. 4) 2004*.

2. The regulations amended

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

[* *Reprint 1 as at 7 November 2003.*

For amendments to 22 September 2004 see Western Australian Legislation Information Tables for 2003, Table 4, p. 367, and Gazette 25 June 2004.]

3. Regulation 3 amended and consequential amendments

(1) Regulation 3 is amended as follows:

- (a) in the definition of “S&FB Act” by deleting “amended by these regulations” and inserting instead —
“ subsequently amended ”;

State Superannuation Amendment Regulations (No. 4) 2004**r. 3**

- (b) in the definition of “superannuation fund” —
- (i) after paragraph (c) by deleting “or”; and
 - (ii) after paragraph (d), by inserting the following —
“
or
(e) a life insurance company or registered organisation (both as defined in the SIS Act) for the purpose of providing of a benefit that is an annuity for the purposes of the SIS Act;
”;
- (c) by inserting the following definitions in the appropriate alphabetical positions —
“
“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;
(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;
“partner” means spouse or de facto partner;
”.
- (2) Regulation 64A(1) is amended by deleting “spouse or de facto”.
- (3) Regulations 48(3a)(a), 80(3a)(a), 193(2) and 219(4)(a) are amended by deleting “spouse, de facto”.

State Superannuation Amendment Regulations (No. 4) 2004

r. 4

4. Regulation 50 amended

Regulation 50 is amended by inserting the following definition in the appropriate alphabetical position —

“

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

”

5. Regulations 58 and 59 replaced by regulation 58

Regulations 58 and 59 are repealed and the following regulation is inserted instead —

“

58. Acceptance of Commonwealth payments

The Board may accept from the Commonwealth Commissioner of Taxation payment of any of the following in respect of a West State Super Member —

- (a) a shortfall component under the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth;
- (b) an amount equal to the balance of the Member’s account in the Superannuation Holding Accounts Reserve under the *Small Superannuation Accounts Act 1995* of the Commonwealth;
- (c) a Government co-contribution under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* of the Commonwealth.

”

State Superannuation Amendment Regulations (No. 4) 2004**r. 6**

6. Regulation 67 amended

Regulation 67(1) is repealed and the following subregulation is inserted instead —

“

- (1) The Board is to credit all of the following to a West State Super Member's benefit account —
 - (a) contributions made for the Member;
 - (b) payments accepted from the Commissioner of Taxation under regulation 58 in respect of the Member;
 - (c) any benefits or other eligible termination payments transferred to the Fund for the Member;
 - (d) earnings in accordance with regulation 69.

”

7. Regulation 68 amended

Regulation 68(2)(a) is amended by deleting “, unless the Member is an uninsured Member”.

8. Division 4B inserted

After regulation 69F the following Division is inserted —

“

Division 4B — Opting out of death and disability benefits**69G. Opting out of death and disability benefits**

- (1) An eligible statutory Member may elect not to be entitled to benefits under regulation 70, 71 or 72 by giving notice, in a form approved by the Board, to the Board.

State Superannuation Amendment Regulations (No. 4) 2004

r. 8

- (2) An election under subregulation (1) —
 - (a) takes effect at the end of the month in which the notice is received by the Board; and
 - (b) remains in force until an application by the Member under regulation 69H is accepted by the Board.

69H. Application to resume death and disability benefits

- (1) An eligible statutory Member who is under 60 and has an election in force under regulation 69G may apply to the Board, in a form approved by the Board, to cancel that election.
- (2) Subject to regulation 69I, the Board is to accept an application under subregulation (1).

69I. Medical information and health conditions

- (1) The Board may refuse an application under regulation 69H or accept it subject to a health condition if —
 - (a) after considering the application and any further medical information provided by the Member, the Board is of the opinion that the Member is suffering from a physical or mental condition that is likely to prevent him or her from satisfactorily performing his or her duties until he or she turns 60; or
 - (b) the Member fails to comply with a requirement under subregulation (2).

State Superannuation Amendment Regulations (No. 4) 2004**r. 8**

- (2) In order to determine the state of health of a Member who has made an application under regulation 69H, the Board may require the Member to do all or any of the following —
- (a) undergo one or more medical examinations and provide the resulting medical reports to the Board;
 - (b) provide to the Board —
 - (i) any other medical reports;
 - (ii) information about the Member's health and medical history;
 - (iii) any other information the Board considers relevant.
- (3) If the Board imposes a requirement under subregulation (2) the Member —
- (a) must comply with the requirement within the time specified by the Board; and
 - (b) is responsible for payment of any costs involved in complying with the requirement.

69J. False or misleading medical evidence

- (1) If, in reliance on a statement made in medical information provided by a Member, the Board accepts an application under regulation 69H without imposing a health condition and the Board subsequently becomes aware that —
- (a) the Member knew the statement was untrue; or
 - (b) the statement was misleading because it omitted material information of which the Member had knowledge,

State Superannuation Amendment Regulations (No. 4) 2004**r. 9**

the Board may —

- (c) impose a health condition on the Member; or
 - (d) cancel its acceptance of the application and re-instate the Member's election under regulation 69G.
- (2) The Board may take action under subregulation (1)(c) or (d) even if the Member has ceased to be a worker or has died.

69K. Variation or removal of health conditions for improved health

If a Member who is subject to a health condition satisfies the Board that his or her health has improved since the condition was imposed, the Board may remove or vary the condition.

”.

9. Regulation 70 amended

Regulation 70 is amended as follows:

- (a) by deleting “If an eligible statutory Member dies while still a worker” and inserting instead —

“

Subject to regulation 72A, if an eligible statutory Member who —

- (a) is under 60; and
- (b) does not have an election in force under regulation 69G,

dies while still a worker

”.

State Superannuation Amendment Regulations (No. 4) 2004**r. 10**

- (b) by deleting the definition of “F” and inserting the following definition instead —

“

F is the number of complete months from the day the Member died to the day when the Member would have turned 60.

”

10. Regulations 71 and 72 amended

Regulations 71(1) and 72(1) are amended by deleting “Member who is under 60 ceases to be a worker” and inserting instead —

“

Member who —

- (a) is under 60; and
- (b) does not have an election in force under regulation 69G,

ceases to be a worker

”

11. Regulations 73 to 74B replaced by regulations 72A, 73 and 74

Regulations 73 to 74B are repealed and the following regulations are inserted instead —

“

72A. Benefit restriction if Member subject to health condition

If an eligible statutory Member is subject to a health condition no benefit is payable under regulation 70, 71 or 72 unless the Board is satisfied that the Member’s death or disablement was not due to, and did not arise from, the physical or mental defect or condition that was the reason for the imposition of the health condition.

State Superannuation Amendment Regulations (No. 4) 2004

r. 11**73. Death benefit — other West State Super Members**

- (1) This regulation applies if any of the following events occur —
 - (a) a statutory Member dies while still a worker and no benefit is payable under regulation 70;
 - (b) a voluntary Member dies while still a worker;
 - (c) a partner Member dies while there is still an amount in the Member's benefit account.
- (2) If this regulation applies the Board is to pay a benefit in respect of the Member of an amount equal to the greater of —
 - (a) the balance of the Member's benefit account;
and
 - (b) the Member's protected amount.

74. General benefit

- (1) This regulation applies if any of the following events occur and no other benefit is payable under this Part —
 - (a) a statutory Member or voluntary Member ceases to be a worker;
 - (b) an eligible statutory Member otherwise ceases to be an eligible statutory Member;
 - (c) a partner Member —
 - (i) satisfies the criteria for payment of a preserved benefit under regulation 76;
or
 - (ii) withdraws from the West State Super Scheme under regulation 52B(3).

State Superannuation Amendment Regulations (No. 4) 2004**r. 12**

- (2) If this regulation applies —
- (a) if the Member satisfies the criteria for payment of a preserved benefit under regulation 76 — the Board is to pay the Member a benefit; or
 - (b) otherwise — the Member is entitled to a preserved benefit,
- of an amount equal to the greater of —
- (c) the balance of the Member's benefit account; and
 - (d) the Member's protected amount.

”.

12. Regulation 172 amended

- (1) Regulation 172(3) is amended by deleting “(other than a reversionary pension)”.
- (2) After regulation 172(3) the following subregulation is inserted —

“

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

”.

13. Regulation 175 amended

- (1) Regulation 175(1) is repealed and the following subregulation is inserted instead —

“

- (1) When a person becomes a Retirement Income Member he or she must transfer to the Retirement Income

State Superannuation Amendment Regulations (No. 4) 2004

r. 14

Scheme all or part of the benefit, lump sum or eligible termination payment (as the case requires) referred to in regulation 172.

”

- (2) Regulation 175(5) is repealed.

14. Regulation 177A inserted

After regulation 177 the following regulation is inserted —

“

177A. Transfers must be directly to Retirement Income Scheme

A transfer under this Division must be made to the Retirement Income Scheme directly from the other scheme or superannuation fund or the payer of the eligible termination payment.

”

15. Regulation 180 amended

Regulation 180 is amended as follows:

- (a) by inserting before “The Board” the subregulation designation “(1)”;
- (b) at the end of the regulation by inserting the following subregulation —

“

- (2) The Board may temporarily keep contributions made for a Retirement Income Member, together with contributions made for other Retirement Income Members, in an account maintained for that purpose until the contributions are credited to the appropriate benefit accounts.

”

State Superannuation Amendment Regulations (No. 4) 2004**r. 16**

16. Regulation 202 amended

- (1) Regulation 202(2) is amended by deleting “(other than a reversionary pension)”.
- (2) After regulation 202(2a) the following subregulation is inserted —
 - “
 - (2b) A former member or a person who is or was a partner of a former member may apply to become a Retirement Access Member if the person —
 - (a) is entitled to immediate payment of —
 - (i) a benefit from a superannuation fund;
 - (ii) any other eligible termination payment;
 - and
 - (b) has not reached the compulsory payment age.
 - ”.

17. Regulation 204 amended

Regulation 204(3) is repealed.

18. Regulations 206A and 206B inserted

After regulation 206 the following regulations are inserted —

“

206A. Other payments or contributions for a Member

The Board may accept, in respect of a Retirement Access Member —

- (a) any payment of the kind described in regulation 58; and
- (b) any contribution payable for the Member under Part 3 but not paid.

State Superannuation Amendment Regulations (No. 4) 2004

r. 19**206B. Transfers must be directly to Retirement Access Scheme**

A transfer under this Division must be made to the Retirement Access Scheme directly from the other scheme or superannuation fund or the payer of the eligible termination payment.

”.

19. Regulation 208 amended

(1) Regulation 208(1) is amended as follows:

- (a) in paragraph (a) by inserting after “benefit” —
“ or other eligible termination payment ”;
- (b) after paragraph (c) by deleting “and” and inserting instead —

“

- (ca) any contributions or payments accepted in respect of the Member under regulation 206A;
and

”.

(2) Regulation 208(2) is repealed and the following subregulation is inserted instead —

“

- (2) The Board may temporarily keep amounts transferred to the Retirement Access Scheme for a Retirement Access Member, together with amounts transferred for other Retirement Access Members, in an account maintained for that purpose until those amounts are credited to the appropriate benefit accounts.

”.

20. Schedule 1 amended

Schedule 1 is amended as follows:

- (a) in Division 1 by deleting items 6 and 19;
- (b) in Division 2 by deleting item 31.

State Superannuation Amendment Regulations (No. 4) 2004**r. 20**

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

DERMOT BALSON
Actuary appointed by the Board

29/9/2004
Date

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

ERIC RIPPER
Treasurer

26/10/2004
Date

By Command of the Governor,

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