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## **SUPERANNUATION BOARD**

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FIRE BRIGADES SUPERANNUATION ACT 1985  
**FIRE BRIGADES (SUPERANNUATION FUND) AMENDMENT  
REGULATIONS 1998**

Made by the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Fire Brigades (Superannuation Fund) Amendment Regulations 1998*.

**Principal regulations**

2. In these regulations the *Fire Brigades (Superannuation Fund) Regulations 1986\** are referred to as the principal regulations.

[\* *Reprinted as at 11 October 1994.*

*For amendments to 18 March 1998 see 1997 Index to Legislation of Western Australia, Table 4, pp. 81-82.]*

**Regulation 3 amended**

3. Regulation 3 of the principal regulations is amended in subregulation (1) —
- (a) by inserting in the definition of “maximum benefit”, after “means”, the following —  
“ the amount equal to ”; and
  - (b) by inserting the following definitions in the appropriate alphabetical positions —

“**partial and permanent disablement benefit**” means a benefit payable under regulation 21;

“**relevant month**”, in relation to a member who is entitled to be paid a supplementary disablement benefit, means —

- (a) if the beneficiary has been paid an interim payment in respect of partial and permanent disablement benefit under regulation 27 (1) (a) — the month during which it was determined under these regulations that the beneficiary is not totally and permanently disabled; or
- (b) in any other case — the month during which the beneficiary was paid a partial and permanent disablement benefit;

“**supplementary disablement benefit**” means a benefit payable under regulation 23B;

”.

**Regulation 11 amended**

4. Regulation 11 (2) of the principal regulations is amended —
- (a) in the definition of “employment” by deleting “applies.” and substituting the following —  
“ applies; ”;
  - (b) in the definition of “listed employee” by deleting paragraph (b) and substituting the following paragraph —  
“ (b) is not a firefighter. ”; and
  - (c) by arranging the definitions in alphabetical order.

**Regulation 15 amended**

5. Regulation 15 of the principal regulations is amended —
- (a) by repealing subregulations (1) and (1a) and substituting the following subregulations —

(1) A category A member who has not reached the age of 65 years shall contribute 6.25% of his or her superannuation salary to the Superannuation Fund.

(1a) The following members may contribute to the Superannuation Fund —

- (a) a Category B member who has not reached the age of 70 years;
- (b) a Category A member who has reached the age of 65 years but has not reached the age of 70 years.

”;

and

- (b) by repealing subregulation (3).

**Regulation 16 amended**

6. Regulation 16 of the principal regulations is amended —
- (a) in subregulation (1) by inserting before the definition of “employer” the following definition —

“**actuarial amount**” means —

- (a) the amount equal to the amount or rate of contribution last advised by the actuary to the Superannuation Board under subregulation (2); or
- (b) the amount equal to any other amount or rate of contribution agreed on (instead of the amount referred to in paragraph (a)) by the Fire Brigades Board, the Superannuation Board and the actuary;

”;

and

- (b) by repealing subregulations (3), (4) and (5) and substituting the following subregulations —

“

(3) An employer shall, on or as soon as practicable after each salary day, contribute to the Superannuation Fund —

- (a) the actuarial amount for each employee who is a Category A member to whom salary becomes payable on that day and who has not reached the age of 65 years; and
- (b) if the employer's total contributions to the fund under paragraph (a) for that salary day for all such employees is less than 8.75% of the total amount of the employees' superannuation salaries for the salary day — an additional amount not less than the difference between the amount of the total contributions under paragraph (a) for the salary day and the amount equal to 8.75% of the total amount of the superannuation salaries of those employees for the salary day.

(4) An employer shall, on or as soon as practicable after each salary day, contribute to the Superannuation Fund for each employee who is a Category A member to whom salary becomes payable on that day, and who has reached the age of 65 years —

- (a) an amount equal to the minimum percentage of the salary required to be contributed by the employer to avoid the Superannuation Guarantee Charge; or
- (b) if a greater amount is agreed between the employee and the employer — the greater amount.

”;

(c) by deleting from subregulation (6) “or (5)”; and

(d) by deleting from subregulation (7) “or (5)”.

#### **Regulation 16B amended**

7. Regulation 16B (1) of the principal regulations is repealed and the following subregulation is substituted —

“

(1) An employer shall, on or as soon as practicable after each salary day, contribute to the Superannuation Fund an amount equal to 1% of the total amount of the superannuation salaries payable on that salary day to employees who are Category A members who have not reached the age of 65.

”.

#### **Regulation 18 amended**

8. Regulation 18 of the principal regulations is amended —

(a) in subregulation (1) by deleting paragraphs (a) and (b) and substituting the following paragraphs —

“

- (a) an amount equal to the lump sum retirement benefit that would have been payable under regulation 17 if the member had retired on reaching the age of 65 years;
- (b) the total amount of any contributions made to the Superannuation Fund by the member after reaching the age of 65 years, minus any tax payable on the contributions;
- (c) the total amount of any contributions made to the Superannuation Fund for the member by the employer after the member reached the age of 65 years, minus any tax payable on the contributions; and
- (d) interest on each of the amounts referred to in paragraphs (a), (b) and (c) respectively, calculated daily and compounded yearly for the period from the date on which the member reached the age of 65 years to the date of payment of the amounts.

”;

and

(b) by repealing subregulation (2) and substituting the following subregulation —

“

(2) The interest payable under paragraph (1) (d) is to be calculated at the net fund earning rate.

”.

**Regulations 23B and 23C repealed and regulations 23B, 23BA and 23C substituted**

9. Regulations 23B and 23C of the principal regulations are repealed and the following regulations are substituted —

“

**Supplementary disablement benefits**

**23B.** (1) A member who is entitled to a partial and permanent disablement benefit under regulation 21 is also entitled to a supplementary disablement benefit if —

- (a) the member's salary was taken into account for the purposes of calculating the amount of his or her employer's contribution to the Superannuation Fund under regulation 16B;
- (b) there is no determination in force under regulation 33 that reduces the partial and permanent disablement benefit payable to the member under regulation 21; and
- (c) the member was not offered satisfactory alternative employment (as defined in subregulation 10) before his or her employment was terminated as a result of disablement.

(2) If a member's maximum benefit is \$20 000 or less, the member's supplementary disablement benefit is an amount equal to the maximum benefit and is payable to the member in a lump sum as soon as practicable after the member becomes entitled to the supplementary disablement benefit.

(3) If a member's maximum benefit is more than \$20 000, the member's supplementary disablement benefit is payable to the member in one of the following ways, at the election of the member —

- (a) in monthly instalments payable on the first day of each month for 60 months starting with the month following the relevant month;
- (b) in annual instalments payable on the first day of the month following the month one year after the relevant month and on the anniversary of that day in each of the 4 following years;
- (c) in a lump sum payable 5 years after the end of the relevant month.

(4) The supplementary disablement benefit is not payable to the member until the member has given written notice to the Superannuation Board of the method of payment elected.

(5) The amount of a monthly instalment of supplementary disablement benefit payable to a beneficiary under this regulation is calculated in accordance with Schedule 5.

(6) The amount of an annual instalment of supplementary disablement benefit payable to a beneficiary under this regulation is calculated in accordance with Schedule 6.

(7) The amount of the lump sum of supplementary disablement benefit payable to a beneficiary under an election under subregulation (3) is calculated in accordance with Schedule 6A.

(8) The Superannuation Board may, after considering the advice of the actuary, determine a rate of interest for the purposes of the formulas in Schedules 5, 6 and 6A.

(9) A determination of a rate of interest does not affect the amount of an instalment or lump sum calculated by reference to a rate of interest applicable under an earlier determination.

(10) In this regulation —

“**satisfactory alternative employment**”, in relation to a member, means alternative employment by the Fire Brigades Board or any other employer for which, in the opinion of the Superannuation Board, the member is reasonably suited by education, training and experience and which, in the opinion of the Superannuation Board, provides satisfactory remuneration having regard to the member's previous salary.

**Electing another method of payment — supplementary disablement benefits**

**23BA.** (1) A beneficiary who elected under regulation 23B (3) to be paid a supplementary disablement benefit in a lump sum may, at any time after the relevant month and before the lump sum is due for payment, elect instead to be paid in monthly instalments.

(2) The amount of a monthly instalment payable to a beneficiary who elects to be paid monthly instalments under subregulation (1) is calculated in accordance with Schedule 6B.

(3) A beneficiary who elected under regulation 23B (3) to be paid a supplementary disablement benefit in monthly instalments may, at any time before the 60th instalment is paid, elect to be paid the remainder of the benefit in a lump sum payable 5 years after the end of the relevant month.

(4) The amount of the lump sum payable to a beneficiary who elects to be paid a lump sum under subregulation (3) is calculated in accordance with Schedule 6C.

(5) A beneficiary who elected under regulation 23B (3) to be paid a supplementary disablement benefit in annual instalments may, at any time before the 4th instalment is paid, elect to be paid the remainder of the benefit in a lump sum payable 5 years after the end of the relevant month.

(6) The amount of the lump sum payable to a beneficiary who elects to be paid a lump sum under subregulation (5) is calculated in accordance with Schedule 6D.

(7) A beneficiary may make an election under this regulation by giving written notice of the election to the Superannuation Board.

(8) A beneficiary is not entitled to make more than one election under this regulation.

(9) In subregulations (1), (3) and (5), a reference to an election under regulation 23B(3) is to be read as including a reference to regulation 23B as in force at any time before the commencement of the *Fire Brigades (Superannuation Fund) Amendment Regulations 1998*.

#### **Death Benefits — supplementary disablement benefits**

**23C.** (1) If a beneficiary who elected under regulation 23B (3) to be paid a supplementary disablement benefit in monthly instalments dies before the 60th instalment is paid, then a lump sum calculated in accordance with Schedule 7 shall be paid from the Superannuation Fund in the manner provided in regulation 25.

(2) If a beneficiary who elected under regulation 23B (3) to be paid a supplementary disablement benefit in annual instalments dies before the 5th instalment is paid, then a lump sum calculated in accordance with Schedule 8 shall be paid from the Superannuation Fund in the manner provided in regulation 25.

(3) If a beneficiary who elected under regulation 23B (3) to be paid a supplementary disablement benefit in a lump sum dies before the lump sum is paid, then a lump sum calculated in accordance with Schedule 9 shall be paid from the Superannuation Fund in the manner provided in regulation 25.

#### **Regulation 31 amended**

10. Regulation 31 of the principal regulations is amended —

(a) by inserting after the regulation designation “31.” the subregulation designation “(1)”; and

(b) by inserting the following subregulations —

(2) The Superannuation Board may deduct from a member’s account in the Superannuation Fund amounts payable under the *Superannuation Contribution Tax (Assessment and Collection) Act 1997* of the Commonwealth.

(3) If funds in the member’s account are insufficient to cover the amounts payable, the Superannuation Board may reduce the member’s benefit entitlement by an amount equal to the shortfall plus interest on the amount calculated at a rate to be determined by the Superannuation Board on the advice of the actuary.

#### **Regulation 37 amended**

11. Regulation 37 (3) of the principal regulations is repealed.

#### **Regulations 37A and 37B inserted**

12. After regulation 37 of the principal regulations the following regulations are inserted —

##### **Distribution of surplus funds**

**37A.** If the actuary advises that any funds accumulated in the Superannuation Fund in respect of Category A members are surplus to the Fund’s commitments, the Superannuation Board may allocate the surplus funds, in accordance with regulation 37B (1), proportionally to the credit of the members who were Category A members on 1 July in the financial year in which the distribution is made.

##### **Accumulation of additional contributions and allocated surplus funds**

**37B.** (1) Additional contributions paid by a member under an agreement under regulation 37, and surplus funds allocated to a member under regulation 37A, are to be used to establish or add to an accumulation for the member in the Superannuation Fund (in this regulation referred to as the member’s “**allocated accumulation**”).

(2) At the end of each financial year, or at such other times that the Superannuation Board determines, the member's allocated accumulation is to be credited with interest at the net fund earning rate.

(3) The member's allocated accumulation is payable to or in respect of the member in accordance with subregulation (4), (5) or (6), as the case requires.

(4) If, at the time the additional contributions or surplus funds were credited to the member's allocated accumulation, the member was employed by the employer, then an amount equal to the amount of the member's allocated accumulation is to be added to the other benefits payable to the member when the member leaves the employment.

(5) If, at the time the additional contributions or surplus funds were credited to the member's allocated accumulation, the member had left the employment of the employer and was receiving a pension from the Superannuation Fund, then an amount equal to the member's allocated accumulation is to be added to the pension on terms and conditions approved by the Superannuation Board.

(6) If, at the time the additional contributions or surplus funds were credited to the member's allocated accumulation, the member had left the employment of the employer and had deferred payment of a lump sum benefit, then an amount equal to the member's allocated accumulation is to be added to the lump sum when it is paid.

### Regulation 39 amended

13. Regulation 39 of the principal regulations is amended —

(a) by inserting after subregulation (1) the following subregulation —

“(1a) If a member stops being employed by the employer, the Superannuation Board may transfer any benefit that is or will become payable to or in respect of the member under these regulations to an eligible rollover fund in accordance with Part 24 of the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

(b) by inserting in subregulation (3) after “subregulation (1)” the following —  
“ or (1a) ”; and

(c) by inserting after subregulation (3) the following subregulation —

(4) In subregulation (1a) —

“**eligible rollover fund**” has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth.

### Schedule 5 amended

14. Schedule 5 to the principal regulations is amended —

(a) by deleting “[Regulation 23B (3)]” and substituting the following —

“ [Regulation 23B (5)] ”;

(b) by deleting “IB” wherever it occurs and substituting the following —

“ MIB ”; and

(c) by deleting all the words commencing with “rate of interest” and ending with “disablement benefit” and substituting the following —

“ rate of interest (expressed as a percentage per annum) that is applicable on the date of payment of the beneficiary's partial and permanent disablement benefit under a determination under regulation 23B (8) ”.

### Schedule 6 amended

15. Schedule 6 to the principal regulations is amended —

(a) by deleting “[Regulation 23B (4)]” and substituting the following —

“ [Regulation 23B (6)] ”;

(b) by deleting “IB” wherever it occurs and substituting the following —

“ AIB ”; and

(c) by deleting all the words commencing with “rate of interest” and ending with “disablement benefit” and substituting the following —

“ rate of interest (expressed as a percentage per annum) that is applicable on the date of payment of the beneficiary's partial and permanent disablement benefit under a determination under regulation 23B (8) ”.

**Schedules 6A, 6B, 6C and 6D inserted**

16. After Schedule 6 to the principal regulations the following Schedules are inserted —  
“

**SCHEDULE 6A**

[Regulation 23B (7)]

**CALCULATION OF LUMP SUM BENEFIT**

The formula for calculating a lump sum benefit in respect of a beneficiary is —

$$LSB = MB \times (1 + i)^5$$

where —

- LSB is the benefit to be determined, (expressed in dollars);
- MB is the beneficiary's maximum benefit (expressed in dollars); and
- i is the rate of interest (expressed as a percentage per annum) that is applicable on the date of payment of the beneficiary's partial and permanent disablement benefit under a determination under regulation 23B (8).

**SCHEDULE 6B**

[Regulation 23BA (2)]

**CALCULATION OF MONTHLY BENEFIT INSTEAD OF LUMP SUM BENEFIT**

The formula for calculating a monthly instalment benefit in respect of a beneficiary who had previously elected a lump sum benefit is —

$$MIB = \frac{DB}{1} \times \frac{i}{1 - v^n}$$

where —

- MIB is the monthly instalment benefit to be determined, (expressed in dollars);
- DB is the beneficiary's benefit as calculated in Schedule 9 (expressed in dollars);
- i is one-twelfth of the rate of interest (expressed as a percentage per annum) used in the initial calculation of the beneficiary's lump sum benefit for the purposes of regulation 23B (7);
- n is the number of complete months from the date the beneficiary's benefit (DB) is calculated to the end of the 5 year period used in Schedule 9; and

$$v = \frac{1}{1 + i}$$

**SCHEDULE 6C**

[Regulation 23BA (4)]

**CALCULATION OF A LUMP SUM BENEFIT INSTEAD OF MONTHLY BENEFITS**

The formula for calculating a lump sum benefit in respect of a beneficiary who has elected to transfer from a monthly instalment benefit is —

$$LSB = \frac{MIB}{1} \times \frac{(1 + i)^n - 1}{i}$$

where —

- LSB is the lump sum benefit to be determined (expressed in dollars);
- MIB is the monthly instalment benefit payable to the beneficiary (expressed in dollars);
- n is the difference between 60 and the number of monthly instalment benefit payments which the beneficiary had received up to the time of his or her election;
- i is one-twelfth of the rate of interest expressed as a percentage per annum used in the initial calculation of the beneficiary's monthly instalment benefit for the purposes of regulation 23B (5); and

$$v = \frac{1}{1 + i}$$

**SCHEDULE 6D**

[Regulation 23BA (6)]

**CALCULATION OF A LUMP SUM BENEFIT INSTEAD  
OF ANNUAL BENEFITS**

The formula for calculating a lump sum benefit in respect of a beneficiary who has elected to transfer from an annual instalment benefit is —

$$LSB = \frac{AIB}{1} \times \frac{(1+i)^n - 1}{i}$$

where —

LSB is the lump sum benefit to be determined (expressed in dollars);

AIB is the annual instalment benefit payable to the beneficiary (expressed in dollars);

n is the difference between 5 and the number of annual instalment benefit payments which the beneficiary had received up to the time of his or her election;

i is the rate of interest expressed as a percentage per annum used in the initial calculation of the beneficiary's instalment benefit pursuant to regulation 23B (6); and

$$V = \frac{1}{1+i}$$

**Schedule 7 amended**

17. Schedule 7 to the principal regulations is amended —

(a) by deleting "IB" wherever it occurs and substituting the following —

" MIB "; and

(b) by deleting "regulation 23B (3)" from the definition of "i" and substituting the following —

" regulation 23B (5) ".

**Schedule 8 amended**

18. Schedule 8 to the principal regulations is amended —

(a) by deleting "IB" wherever it occurs and substituting —

" AIB "; and

(b) by deleting "subregulation 23B (4)" from the definition of "i" and substituting the following —

" subregulation 23B (6) ".

**Schedule 9 added**

19. After Schedule 8 to the principal regulations the following Schedule is added —

"

**SCHEDULE 9**

[Regulation 23C (3)]

**CALCULATION OF DEATH BENEFIT**

The formula for calculating a death benefit in respect of a beneficiary who had elected to receive a lump sum benefit after the 5 year period is —

$$DB = \frac{LSB}{(1+i)^{\frac{n}{365.25}}}$$

where —

DB is the death benefit to be determined (expressed in dollars);

LSB is the lump sum benefit that would have been payable to the beneficiary at the end of the 5 year period (as calculated in Schedule 6A) had the beneficiary not died;

n is the number of days from the date of death to the date the benefit would have become payable; and

i is the rate of interest expressed as a percentage per annum used in the initial calculation of the beneficiary's benefit for the purposes of regulation 23B (7).

By Command of the Governor,

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