



Western Australia

State Superannuation Act 2000

**State Superannuation Amendment Regulations
(No. 2) 2023**

State Superannuation Amendment Regulations (No. 2) 2023

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State Superannuation Amendment Regulations (No. 2) 2023

Made by the Governor in Executive Council.

1. Citation

These regulations are the *State Superannuation Amendment Regulations (No. 2) 2023*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *State Superannuation Regulations 2001*.

4. Regulation 3 amended

In regulation 3(1) insert in alphabetical order:

pre-set minimum, in relation to a regulation, has the meaning given in regulation 246D;

5. Regulation 44D amended

Delete regulation 44D(3) and insert:

- (3) A person cannot elect to take a transfer benefit of an amount that is less than the pre-set minimum (if any).
- (3A) Subregulation (3) does not apply if the Board is satisfied it is appropriate for the person to take the transfer benefit because of the special circumstances of the person.

Note: The heading to amended regulation 44D is to read:

Restrictions on amount of transfer benefit

6. Regulation 47A amended

After regulation 47A(5) insert:

- (5A) A Member may give the Board the information otherwise than in writing (for example, by telephone) if —
 - (a) the Board has already made a determination under this regulation in respect of the Member (the *earlier determination*) based on information provided by or on behalf of the Commonwealth Commissioner of Taxation; and
 - (b) the information is given only to confirm that the earlier determination remains correct at the time of giving the information.

Note: The heading to amended regulation 47A is to read:

Early payment in case of severe financial hardship or compassionate grounds

7. Regulation 49B inserted

At the end of Part 2 Division 5 insert:

49B. Benefits applied for, but unpaid, at Member's death

- (1) In this regulation —
death benefit has the meaning given in regulation 48.
- (2) This regulation applies if —
 - (a) a Gold State Super Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and
 - (b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.
- (3) The Board —
 - (a) must not pay or transfer the benefit as applied for or requested; but
 - (b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

8. Regulation 79AB amended

Delete regulation 79AB(2) and insert:

- (2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that reduces the balance in the Member's west state account to, less than the pre-set minimum (if any).

- (3) Subregulation (2) does not apply if —
 - (a) the amount requested is the whole of the balance in the account; or
 - (b) the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

Note: The heading to amended regulation 79AB is to read:

General rules for request under r. 74(3), 76(2), 79 or 79AA

9. Regulation 79A amended

After regulation 79A(5) insert:

- (6) A Member may give the Board the information otherwise than in writing (for example, by telephone) if —
 - (a) the Board has already made a determination under this regulation in respect of the Member (the *earlier determination*) based on information provided by or on behalf of the Commonwealth Commissioner of Taxation; and
 - (b) the information is given only to confirm that the earlier determination remains correct at the time of giving the information.

Note: The heading to amended regulation 79A is to read:

Early payment in case of severe financial hardship or compassionate grounds

10. Regulation 79B amended

Delete regulation 79B(1b) and insert:

- (1b) The Board must refuse a request under subregulation (1)(b) for the transfer of an amount that reduces the balance in the Member's west state account to less than the pre-set minimum (if any).
- (1c) Subregulation (1b) does not apply if the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

Note: The heading to amended regulation 79B is to read:

Early payment for purpose of phased retirement benefit

11. Regulation 81B inserted

At the end of Part 3 Division 6 insert:

81B. Benefits applied for, but unpaid, at Member's death

- (1) In this regulation —
death benefit has the meaning given in regulation 80.
- (2) This regulation applies if —
 - (a) a West State Super Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and
 - (b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.

- (3) The Board —
 - (a) must not pay or transfer the benefit as applied for or requested; but
 - (b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

12. Regulation 122A amended

Delete regulation 122A(2) and insert:

- (2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that reduces the balance in the Member's GESB Super account to, less than the pre-set minimum (if any).
- (3) Subregulation (2) does not apply if the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

Note: The heading to amended regulation 122A is to read:

General rules for request under r. 114(2), 118(2), 120 or 122(1)

13. Regulation 123 amended

After regulation 123(5) insert:

- (5A) A Member may give the Board the information otherwise than in writing (for example, by telephone) if —
 - (a) the Board has already made a determination under this regulation in respect of the Member (the *earlier determination*) based on information provided by or on behalf of the

Commonwealth Commissioner of Taxation;
and

- (b) the information is given only to confirm that the earlier determination remains correct at the time of giving the information.

Note: The heading to amended regulation 123 is to read:

**Early payment in case of severe financial hardship or
compassionate grounds**

14. Regulation 124 amended

Delete regulation 124(3) and insert:

- (3) The Board must refuse a request under subregulation (1)(b) for the transfer of an amount that reduces the balance in the Member's GESB Super account to less than the pre-set minimum (if any).
- (3A) Subregulation (3) does not apply if the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

Note: The heading to amended regulation 124 is to read:

Early payment for purpose of phased retirement benefit

15. Regulation 126A inserted

After regulation 126 insert:

126A. Benefits applied for, but unpaid, at Member's death

- (1) In this regulation —
death benefit has the meaning given in regulation 121.

- (2) This regulation applies if —
 - (a) a GESB Super Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and
 - (b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.
- (3) The Board —
 - (a) must not pay or transfer the benefit as applied for or requested; but
 - (b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

16. Regulation 175 amended

Delete regulation 175(4) and insert:

- (4) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).
- (5) Subregulation (4) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the Member.

Note: The heading to amended regulation 175 is to read:

Transfer of benefits to scheme by new Member

17. Regulation 176 amended

Delete regulation 176(3) and insert:

- (3) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).
- (4) Subregulation (3) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the Member.

Note: The heading to amended regulation 176 is to read:

Duty of Member starting additional pension to transfer benefits to scheme

18. Regulation 177 amended

Delete regulation 177(3) and insert:

- (3) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).
- (4) Subregulation (3) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the Member.

Note: The heading to amended regulation 177 is to read:

Transfers required or permitted when Member starts replacement pension

19. Regulation 192 amended

- (1) In regulation 192(1) delete “and, subject to subregulation (3), the Board is to” and insert:

and the Board must

(2) Delete regulation 192(2) and insert:

- (2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that reduces the balance in the Member's retirement income account to, less than the pre-set minimum (if any).
- (2A) Subregulation (2) does not apply if —
 - (a) the amount requested is the whole of the balance in the account; or
 - (b) the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

Note: The heading to amended regulation 192 is to read:

Member may request lump sum benefit

20. Regulation 196AE inserted

At the end of Part 4 Division 6 insert:

196AE. Benefits applied for, but unpaid, at Member's death

- (1) In this regulation —
death benefit has the meaning given in regulation 194.
- (2) This regulation applies if —
 - (a) a Retirement Income Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and
 - (b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.

- (3) The Board —
 - (a) must not pay or transfer the benefit as applied for or requested; but
 - (b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

21. Regulation 196D amended

Delete regulation 196D(4) and insert:

- (4) The Board must refuse the transfer of an amount that is less than the pre-set minimum (if any).
- (4A) Subregulation (4) does not apply if the Board is satisfied it is appropriate to accept the transfer because of the special circumstances of the person.

Note: The heading to amended regulation 196D is to read:

Transfer of benefits to scheme by new Member

22. Regulation 217 amended

Delete regulation 217(2) and (3) and insert:

- (2) The Board must refuse a request for the payment or transfer of an amount that is, or the payment or transfer of an amount that reduces the balance in the Member's retirement access account to, less than the pre-set minimum (if any).
- (3) Subregulation (2) does not apply if —
 - (a) the amount requested is the whole of the balance in the account; or

- (b) the Board is satisfied it is appropriate to comply with the request because of the special circumstances of the Member.

Note: The heading to amended regulation 217 is to read:

Member may request payment or transfer of benefit

23. Regulation 219AE inserted

At the end of Part 5 Division 6 insert:

219AE. Benefits applied for, but unpaid, at Member's death

- (1) In this regulation —
death benefit has the meaning given in regulation 219.
- (2) This regulation applies if —
 - (a) a GESB Super (Retirement Access) Member applies, or makes a request, to the Board for the payment or transfer of a benefit other than a death benefit; and
 - (b) before paying or transferring the benefit, the Board is notified, or otherwise becomes aware, of the Member's death.
- (3) The Board —
 - (a) must not pay or transfer the benefit as applied for or requested; but
 - (b) must instead pay or transfer the death benefit payable on the Member's death as otherwise required by these regulations.

24. Regulation 246D inserted

At the end of Part 8 Division 1 insert:

246D. Board may set and notify pre-set minimums

- (1) The Board —
 - (a) may set a minimum amount for a regulation that refers to a pre-set minimum; and
 - (b) if the Board does so, must notify Members to whom the regulation applies of the amount.
- (2) The amount the Board sets and notifies is the *pre-set minimum* for the purposes of the regulation.
- (3) The Board may —
 - (a) change a pre-set minimum by setting, and notifying Members of, a new minimum amount to replace it; or
 - (b) revoke a pre-set minimum, so that no minimum amount replaces it, by notifying Members of the revocation.

25. Regulation 251 amended

In regulation 251(1) delete “69J(2) and 111D(2),” and insert:

47A(5A), 69J(2), 79A(6), 111D(2) and 123(5A),

Note: The heading to amended regulation 251 is to read:

Form of documents and information

26. Schedule 2 amended

In Schedule 2 clause 25(3) delete “subclause (1).” and insert:

subclause (2).

V. MOLAN, Clerk of the Executive Council