

South Australia

Superannuation (Bordertown Memorial Hospital Employees) Regulations 1993

under the *Superannuation Act 1988*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Superannuation (Bordertown Memorial Hospital Employees) Regulations 1993*.

2—Commencement

These regulations will come into operation on 1 July 1993.

3—Interpretation

In these regulations, unless the contrary intention appears—

the Act means the *Superannuation Act 1988*;

contributor means a person whose name appears in the Schedule;

the Fund means the Bordertown Memorial Hospital Incorporated Superannuation Fund.

Part 2—Assets of Bordertown Memorial Hospital Incorporated Superannuation Fund

4—Transfer of the assets of the Fund

- (1) The sum of \$429 704 being the aggregate of the amounts appearing opposite the names of the contributors in the Schedule is transferred to the South Australian Superannuation Fund.
- (2) A contribution account must be opened in the name of each contributor and the amount appearing opposite the contributor's name in the Schedule must be credited to the account.
- (3) The balance of the assets of the Fund are transferred to an account to be kept at the Treasury pursuant to an arrangement under section 5 of the Act between the Board and the Bordertown Memorial Hospital Incorporated.

Part 3—Modification of Act in relation to former members of the Fund

5—Modification of Act

The provisions of the Act are modified in their application to the contributors as follows:

- (a) the contributors are new scheme contributors;
- (b) the following definition is substituted for the definition of *age of retirement* in section 4(1) of the Act:

age of retirement means 65 years;;
- (c) "and also includes Ellis Creaser and Kathleen Joan Hawthorne" is inserted after "in relation to that person under this Act" at the end of the definition of *contributor* in section 4(1) of the Act;
- (d) a contributor's salary will be taken to include a shift-work component equivalent to 20 per cent of the contributor's basic salary for the purpose of calculating contributions and benefits;
- (e) the following definition is substituted for the definition of *standard contribution rate* in section 4(1) of the Act:

standard contribution rate means 5 per cent of salary;;
- (f) the following section is inserted after section 26 of the Act:

26A—Interpretation

In this Part, unless the contrary intention appears—

rolled over amount in relation to a contributor means the amount appearing in the Schedule to the *Superannuation (Bordertown Memorial Hospital Employees) Regulations 1993* opposite the contributor's name together with that part of the interest and other accretions credited to the contributor's contribution account that are referable to that amount.;

- (g) the following paragraph is substituted for section 27(1)(a) of the Act:
- (a) an employee component (to be charged against the contributor's contribution account) equivalent to the rolled over amount.;
- (h) the following subsection is substituted for section 27(2) of the Act:
- (2) The employer component is calculated as follows:

$$EC = (A \times 5.25 \times FS) + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

EC is the employer component

A is the lesser of the following:

- (a) unity;
- (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary immediately before retirement (expressed as an annual amount)

Pn is—

- (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;
- (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 30 June 1992.;

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Part 3—Modification of Act in relation to former members of the Fund

- (i) section 27(3) of the Act is amended by striking out "(except the contributor's death)" from paragraph (b) and substituting "(except the contributor's death or invalidity)";
- (j) the following subsection is substituted for section 28(1) of the Act:
- (1) A contributor who resigns from employment before reaching the age of 55 years may elect—
- (a) to take immediately an amount (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account less an amount equivalent to the rolled over amount; or
- (b) to preserve his or her accrued superannuation benefits.;
- (k) the following subparagraph is substituted for section 28(1c)(b)(i) of the Act:
- (i) the Board will make the payment to the contributor upon the contributor reaching the age of retirement.;
- (l) the following subsection is inserted after section 28(1d) of the Act:
- (1e) Where a contributor resigns and elects to take the amount referred to in subsection (1)(a), the rolled over amount will be paid to, or in relation to, the contributor at the time and in the circumstances referred to in subsection (2) as if the contributor had elected to preserve that amount and payment of the amount will be charged against the contributor's contribution account.;
- (m) the following paragraph is substituted for section 28(3)(a) of the Act:
- (a) an employee component (to be charged against the contributor's contribution account) equivalent to the rolled over amount.;
- (n) the following subsection is substituted for section 28(4) of the Act:
- (4) The employer component is calculated as follows:

$$EC = (A \times 5.25 \times FS) + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

EC is the employer component

A is the lesser of the following:

- (a) unity;
- (b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary immediately before retirement (expressed as an annual amount)

Pn is—

- (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;
- (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 30 June 1992.;

- (o) subsection (5) of section 28 of the Act is struck out;
- (p) "the age of 65 years" is substituted for "the age of 55 years" in section 31(1) of the Act;
- (q) the following paragraph is substituted for section 31(1)(a) of the Act:
 - (a) an employee component (to be charged against the contributor's contribution account) equivalent to the rolled over amount;;
- (r) the following subsection is substituted for section 31(2) of the Act:
 - (2) The employer component is calculated as follows:

$$EC = (A \times 5.25 \times FS) + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

EC is the employer component

A is the lesser of the following:

- (a) unity;
- (b) whichever of the following is applicable in the circumstances of the case:
 - (i) if the contributor is not receiving, and is not entitled to receive, weekly workers compensation payments in relation to the invalidity and was an active contributor immediately before termination of the employment—the numerical value obtained by dividing the number of the contributor's extrapolated contribution points by 360;

- (ii) if the contributor is receiving, or is entitled to receive, weekly workers compensation payments in relation to the invalidity based on partial incapacity for work and was an active contributor immediately before termination of employment, the numerical value obtained from the following formula:

$$n = \frac{acp + (1-x)(ecp - acp)}{360}$$

Where—

n is the numerical value

acp is the number of the contributor's accrued contribution points

ecp is the number of the contributor's extrapolated contribution points

x is the extent of the contributor's incapacity for work expressed as a proportion of total incapacity;

- (iii) in any other case—the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary immediately before termination of employment (expressed as an annual amount)

Pn is—

- (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;
- (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is—

- (a) where the contributor was an active contributor immediately before termination of employment—the aggregate of the number of months of the contributor's contribution period occurring after 30 June 1992 and the number of months difference between the contributor's age as at the entitlement day and the age of retirement;

- (b) in any other case—the number of months of the contributor's contribution period occurring after 30 June 1992;;
- (s) "the age of 65 years" is substituted for "the age of 55 years" in section 31(2a) of the Act;
- (t) the following section is substituted for section 32 of the Act:

32—Death of contributor

- (1) Where a contributor's employment is terminated by the contributor's death—
 - (a) if the contributor is survived by a spouse—a lump sum payment will be made to the spouse;
 - (b) if the contributor is not survived by a spouse—a lump sum payment will be made to the contributor's estate.
- (2) The lump sum to be paid to a surviving spouse, will be made up of two components—
 - (a) an employee component (to be charged against the contributor's contribution account) equivalent to the rolled over amount; and
 - (b) an employer component calculated as follows:

$$EC = (A \times 5.25 \times FS) + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

EC is the employer component

A is the lesser of the following:

- (a) unity;
- (b) whichever of the following is applicable in the circumstances of the case:
 - (i) if the spouse is not receiving, and is not entitled to receive, weekly workers compensation payments in relation to the contributor's death and the contributor was an active contributor immediately before the contributor's death—the numerical value obtained by dividing the number of the contributor's extrapolated contribution points by 360;

- (ii) if the spouse is receiving, or is entitled to receive, weekly workers compensation payments in relation to the contributor's death based on partial dependency and the contributor was an active contributor immediately before his or her death—the numerical value obtained from the following formula:

$$n = \frac{acp + (1 - x)(ecp - acp)}{360}$$

Where—

n is the numerical value

acp is the number of the contributor's accrued contribution points

ecp is the number of the contributor's extrapolated contribution points

x is the extent of the spouse's dependency expressed as a proportion of full dependency;

- (iii) in any other case—the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount)

Pn is—

- (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;
- (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is—

- (a) where the contributor was an active contributor immediately before termination of employment—the aggregate of the number of months of the contributor's contribution period occurring after 30 June 1992 and the number of months difference between the contributor's age as at the entitlement day and the age of retirement;
 - (b) in any other case—the number of months of the contributor's contribution period occurring after 30 June 1992.
- (3) The lump sum to be paid to the estate of a contributor who is not survived by a spouse will be made up of two components—
- (a) an employee component (to be charged against the contributor's contribution account) equivalent to the rolled over amount; and
 - (b) an employer component calculated as follows:

$$EC = (A \times 5.25 \times FS) + Pn \left(\frac{FS \times 0.85 \times M}{300} \right)$$

Where—

EC is the employer component

A is the lesser of the following:

- (a) unity;
- (b) —
 - (i) where the contributor was an active contributor immediately before the contributor's death—the numerical value obtained by dividing the number of the contributor's extrapolated contribution points by 360;
 - (ii) where the contributor was not an active contributor immediately before the contributor's death—the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

FS is the contributor's actual or attributed salary immediately before the contributor's death (expressed as an annual amount)

Pn is—

- (a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 30 June 1992—1;
- (b) in any other case—the numerical value arrived at by expressing the contributor's employment while an active contributor during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is—

- (a) where the contributor was an active contributor immediately before termination of employment—the aggregate of the number of months of the contributor's contribution period occurring after 30 June 1992 and the number of months difference between the contributor's age as at the entitlement day and the age of retirement;
 - (b) in any other case—the number of months of the contributor's contribution period occurring after 30 June 1992.;
- (u) the following subsection is inserted after section 32A(1) of the Act:
 - (1a) This section does not apply to, or in relation to, a contributor who was not an active contributor to the Bordertown Memorial Hospital Incorporated Superannuation Fund on 30 June 1993.;
 - (v) section 32A(2) of the Act is amended by inserting after "elects to take the amount" "(excluding the rolled over amount)";
 - (w) subsection (3) of section 32A of the Act is struck out;
 - (x) the following section is inserted after section 32A of the Act:

**32B—Ellis Creaser and Kathleen Joan Hawthorne—
payment of rolled over amount**

- (1) The rolled over amount in respect of Ellis Creaser and Kathleen Joan Hawthorne will be paid to, or in relation to, those contributors at the time, and in the circumstances referred to in section 28(2) as if they had been contributors at the time of their resignation and had elected to preserve that amount under section 28(1).

- (2) Ellis Creaser and Kathleen Joan Hawthorne are not liable to make contributions under this Act in respect of their former membership of the Fund and the amounts referred to in subregulation (1) are the only benefits payable to, or in relation to, them under this Act in respect of their former membership of the Fund.

Part 4—Transitional

6—Transitional provision

- (1) Subject to subregulation (2), for the purpose of the definition of *M* in the formulas in Part 4 of the Act the 12 months from 1 July 1992 to 30 June 1993 will be taken to be 12 months of the contributor's contribution period and consequently it is not appropriate that the contributor (or the spouse or some other person in respect of the contributor) be entitled to a benefit as a (or in respect of the contributor as a) section 4(6) member under the *Superannuation (Benefit Scheme) Act 1992* for the period from 1 July 1992 to 30 June 1993 and accordingly section 7(2) of that Act does not apply in relation to a contributor named in the Schedule.
- (2) If a contributor (or the contributor's spouse or some other person) claims a benefit under the *Superannuation (Benefit Scheme) Act 1992* as a section 4(6) member (or in respect of the contributor as a section 4(6) member) under that Act, benefits payable to, or in relation to, the contributor under the *Superannuation Act 1988* will be reduced by basing the definition of *M* in the formula used to calculate the benefits on the number of months of the contributor's contribution period occurring after 30 June 1993.

Schedule—Contributors

Contributor's Name	Rolled Over Amount
Marjorie Elizabeth BADMAN	\$42 998
Margaret Rose ELLIS	\$85 793
Evelyn Erica INGLIS	\$45 578
Avis Lorraine LOWE	\$45 262
Pasqualina MELINO	\$54 859
Ellis CREASER	\$30 387
Kathleen Joan HAWTHORNE	\$30 984
Melva Louise WAGENKNECHT	\$93 843

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Revocation of regulations

The *Superannuation (Bordertown Memorial Hospital Employees) Regulations 1993* were revoked by Sch 2 of the *Subordinate Legislation (Postponement of Expiry) Regulations 2005* on 1.9.2005.

Principal regulations and variations

Year	No	Reference	Commencement
1993	162	<i>Gazette 1.7.1993 p382</i>	1.7.1993: r 2
1993	203	<i>Gazette 9.9.1993 p1073</i>	9.9.1993: r 3
2003	147	<i>Gazette 12.6.2003 p2500</i>	12.6.2003: r 2

Provisions varied

Provision	How varied	Commencement
r 4		
r 4(3)	varied by 203/1993 r 3	9.9.1993
r 5	varied by 203/1993 r 4	9.9.1993
r 6		
r 6(1)	substituted by 203/1993 r 5	9.9.1993
Sch	heading substituted by 147/2003 Sch 1	12.6.2003