

South Australia

## **Southern State Superannuation Regulations 2009**

under the *Southern State Superannuation Act 2009*

---

### **Contents**

#### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Police members
- 5 Spouse members
- 6 Matters relating to employment
- 7 Employer contribution percentage

#### **Part 2—Membership, accounts and contributions**

##### **Division 1—Members**

###### **Subdivision 1—Membership**

- 8 Purpose of Subdivision
- 9 Membership
- 10 Election by contributor to State Scheme
- 11 Contributors to State Scheme
- 12 Salary sacrifice by members of certain schemes
- 13 Salary sacrifice by members of Police Superannuation Scheme
- 14 Duration of membership
- 15 Members to whom section 21 does not apply

###### **Subdivision 2—Accounts**

- 16 Contribution, co-contribution and rollover accounts

###### **Subdivision 3—Contributions**

- 17 Contributions (section 20)
- 18 Prescribed rate of contributions (section 20)
- 19 Other contributions (section 20)

##### **Division 2—Spouse members**

- 20 Purpose of Division
- 21 Interpretation
- 22 Spouse contributions splitting (section 20)
- 23 Other contributions for spouse members (section 20)
- 24 Spouse members and spouse accounts (section 19)
- 25 Amalgamation of accounts

## Part 3—Insurance and investment

### Division 1—Preliminary

- 26 Purpose of Part
- 27 Interpretation

### Division 2—Members

#### Subdivision 1—Basic invalidity/death insurance

- 28 Basic invalidity/death insurance

#### Subdivision 2—Voluntary invalidity/death insurance

- 29 Interpretation
- 30 Application for voluntary invalidity/death insurance
- 31 Variation of voluntary insurance
- 32 Voluntary invalidity/death insurance—prescribed members
- 33 Variation of voluntary insurance—prescribed members

#### Subdivision 3—Amount of insurance, premiums and suspension

- 34 Amount of invalidity/death insurance benefits and amount of premiums
- 35 Voluntary suspension of invalidity/death insurance

#### Subdivision 4—Disability pension

- 36 Disability pension
- 37 Exemption from ambit of regulation 36
- 38 Persons not entitled to disability pension

#### Subdivision 5—Payment of premiums

- 39 Payment of premiums by members

### Division 3—Spouse members—voluntary death insurance

- 40 Application for voluntary death insurance
- 41 Variation of voluntary death insurance
- 42 Amount of voluntary death insurance benefits and amount of premiums
- 43 Payment of premiums by spouse members

### Division 4—Post retirement investment and invalidity/death insurance

#### Subdivision 1—Preliminary

- 44 Interpretation

#### Subdivision 2—Post retirement investment

- 45 Post retirement investment

#### Subdivision 3—Post retirement invalidity and death insurance

- 46 Post retirement invalidity/death insurance
- 47 Amount of benefits and premiums
- 48 Terms and conditions

### Division 5—General

- 49 Application for insurance

- 
- 50 Application to decrease level of insurance  
51 Financial statements

## Part 4—Superannuation benefits

### Division 1—Members

- 52 Interpretation  
53 Early access to superannuation benefits  
54 Retirement  
55 Resignation  
56 Benefits payable to overseas residents  
57 Retrenchment  
58 Invalidity or terminal illness  
59 Death of member  
60 Commutation to pay deferred superannuation contributions surcharge  
61 Commutation to pay deferred superannuation contributions surcharge following death  
62 Withheld amount

### Division 2—Spouse members

- 63 Benefits for spouse members

## Part 5—Family Law Act provisions

- 64 Purpose of this Part  
65 Interpretation  
66 Non-member spouse entitlement  
67 Payment of lump sum  
68 Effect on member's entitlement  
69 Lump sum not payable to spouse on death of member if split has occurred  
70 Board to comply with Commonwealth requirements  
71 Provision of information  
72 Payment from contribution account in name of non-member spouse  
73 Fees

## Part 6—Miscellaneous

- 74 Division of benefit where deceased member or spouse member is survived by lawful and putative spouse  
75 Payment in case of death  
76 Liabilities may be set off against benefits  
77 Annuities  
78 Information to be given to certain members

## Schedule 1—Invalidity/death insurance benefits

## Schedule 2—Death insurance benefits

## Schedule 3—Revocation and transitional provisions

## Part 1—Revocation of *Southern State Superannuation Regulations 1995*

- 1 Revocation of Regulations

## Part 2—Transitional provisions

- 2 Members previously entitled to future service benefit
  - 3 Visiting medical officers
  - 4 Transitional arrangement for certain police members (Schedule 1 clause 12)
  - 5 Application for disability pension
  - 6 Restrictions on payment of disability pension for certain members
  - 7 Continuation of disability pension for certain members
  - 8 Post retirement investment
  - 9 Conditions of insurance
- 

## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Southern State Superannuation Regulations 2009*.

### 2—Commencement

These regulations will come into operation on 1 August 2009.

### 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *Southern State Superannuation Act 2009*;

*approved form* means a form approved by the Board;

*basic invalidity/death insurance* means invalidity/death insurance to which a member is entitled by virtue of his or her membership of the scheme;

*basic invalidity/death insurance benefits* means benefits payable in respect of basic invalidity/death insurance;

*contributions* means contributions made pursuant to section 20 of the Act;

*deferred superannuation contributions surcharge* in relation to a member means the amount that the member is liable to pay the Commissioner of Taxation under section 15(6) or (6AA) of the Superannuation Contributions Tax Act;

*employee contribution account* means the division of a member's contribution account to which employee contributions are being or have been credited pursuant to regulation 16(4);

*employer contribution account* means the division of a member's contribution account to which employer contributions are being or have been credited pursuant to regulation 16(2);

*invalidity/death insurance benefits* means basic or voluntary invalidity/death insurance benefits;

**notional salary** in relation to a member who is entitled to a disability pension means the salary that the member would be receiving if he or she had not become incapacitated and had continued in active employment in the same position and at the same grade as were applicable immediately before the commencement of his or her incapacity and, if the member was not then in full-time employment, the notional salary will be calculated on the basis of the member's average hours of employment (excluding overtime) over the period (not exceeding the last 3 years) of his or her employment;

**preservation age** has the same meaning as in Part 6 of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth under the SIS Act;

**PSESS Scheme** means the superannuation scheme known as the Public Sector Employees Superannuation Scheme established pursuant to a deed of arrangement dated 27 September 1989 between the Treasurer and the secretary of the United Trades and Labor Council;

**retirement age** means—

- (a) in the case of a member who is a police officer—the age of 50 years; and
- (b) in the case of any other member or a spouse member—the age of 55 years;

**retrenchment** in relation to a member means the termination of the member's employment by his or her employer for any reason except on account of—

- (a) invalidity in the circumstances referred to in regulation 58(11) or (12); or
- (b) the unsatisfactory performance by the member of his or her duties (including the member's failure to meet performance standards); or
- (c) the loss by the member of a qualification that is necessary for the proper performance of his or her duties; or
- (d) the member's bankruptcy or insolvency; or
- (e) the fact that the member has engaged in remunerative employment or an occupation or business outside the duties of his or her position; or
- (f) any other conduct that justifies termination of the member's employment;

**SIS Act** means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

**special deposit account** means a special deposit account established under section 8 of the *Public Finance and Audit Act 1987*;

**Superannuation Contributions Tax Act** means the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997* of the Commonwealth;

**surcharge notice** means a notice issued by the Commissioner of Taxation under section 15(7) of the Superannuation Contributions Tax Act;

**visiting medical officer** means a person appointed to a hospital incorporated under the *Health Care Act 2008* as a senior visiting medical specialist or a visiting medical specialist by the administrative unit of the public service that is primarily responsible for assisting a Minister in the administration of that Act;

**voluntary invalidity/death insurance** means invalidity/death insurance granted by the Board under Part 3 Division 2 Subdivision 2, Part 3 Division 3 or Part 3 Division 4;

**voluntary invalidity/death insurance benefits** means benefits payable in respect of voluntary invalidity/death insurance.

(2) For the purposes of these regulations, an amount of money rolled over for payment into the Fund under the provisions of an Act that operate in conjunction with Part VIII B of the *Family Law Act 1975* of the Commonwealth will, subject to these regulations, be taken to be money rolled over from a superannuation scheme to the Triple S scheme.

(3) If—

(a) a person became a member of the scheme or made an election under a provision of the repealed Act (the **earlier provision**); and

(b) a provision of these regulations corresponds to the earlier provision,

the person will be taken, for the purposes of these regulations, to be a member of the scheme by virtue of, or to have made an election under, (as the case may be) that corresponding provision.

**Examples—**

A person who became a member of the scheme under section 14(9) of the repealed Act will be taken to be a member of the scheme by virtue of regulation 9(5).

A person who made an election under section 15B(1) of the repealed Act will be taken to have made an election under regulation 12(1).

#### **4—Police members**

Pursuant to section 19(3)(b) of the Act, a **police member** of the scheme is a police officer or police cadet who is a member of the scheme other than by virtue of regulation 9(5) or (7).

#### **5—Spouse members**

Pursuant to section 19(3)(c) of the Act, a **spouse member** of the scheme is a person who becomes a spouse member of the scheme by virtue of regulation 24(1).

#### **6—Matters relating to employment**

(1) A reference in these regulations to resignation from, or termination of, employment will be read subject to the qualification that resignation from a particular position so that the member can take up some other position in employment to which the Act applies, or so that he or she can take up employment in the same position but on a different basis, will be ignored unless there is an interval of more than 1 month between the time the resignation or termination of employment takes effect and the commencement of the new employment.

(2) If a member is employed—

(a) pursuant to a contract for a fixed term; or

(b) pursuant to an arrangement of the kind referred to in subregulation (5); or

(c) on a temporary basis for a particular period or until the occurrence of a particular event,

---

and the employment is not renewed at the end of the term or period, the member's employment will be taken to have been terminated by retirement or resignation (depending on the member's age).

- (3) Despite subregulation (2), if—
- (a) a member is employed pursuant to a contract for a fixed term; and
  - (b) the member is, within the period of 3 months after the end of the term of the contract, employed under a new contract for a fixed term in the same or similar employment,
- the member will, for the purposes of the Act and these regulations, be taken to have remained in the relevant employment during the period between the end of the term of the first contract and the beginning of the term of the second contract.
- (4) Subject to subregulations (5) and (7), the following provisions apply for the purposes of these regulations to and in relation to a member who is employed on a casual basis pursuant to an arrangement under which he or she is to work for 9 or more hours each week or for periods that average, over a 3 month period, 9 or more hours each week:
- (a) subject to this subclause, the member will be taken to remain in employment for a period of 12 months after the last time that he or she performed work for the employer and accordingly—
    - (i) if the member is incapacitated during that 12 month period, he or she may be entitled to benefits under regulation 58 on account of invalidity if the Board is satisfied that the member's incapacity for all kinds of work is 60% or more of total incapacity and is likely to be permanent, and for that purpose—
      - (A) the member's employment will be taken to have been terminated on account of invalidity by the employer on the date of incapacity; and
      - (B) subregulations (11), (12) and (13) of regulation 58 will not apply; and
      - (C) the member must, within 2 years after the day on which he or she becomes incapacitated to the extent envisaged by this subparagraph, give written notice to the Board claiming that the member is entitled to benefits under regulation 58; and
    - (ii) if the member dies during that period his or her spouse or estate will be entitled to benefits under these regulations;
  - (b) at the expiration of that period of 12 months the member's employment will be taken to have been terminated (if not terminated by invalidity or death) by retirement or resignation (depending on the member's age).
- (5) Subregulation (4) does not apply where the member is employed pursuant to an arrangement under which the member is to work for 3 or more separate periods during a designated period or a period determined by the occurrence of a particular event.
- (6) The time limit of 2 years referred to in subregulation (4)(a)(i)(C) may not be extended under any circumstances.
- (7) A member may at any time reduce the period of 12 months referred to in subregulation (4) by notice in writing to the Board specifying the reduced period.

## **7—Employer contribution percentage**

- (1) For the purposes of section 5(1) of the Act, the *employer contribution percentage* applicable in respect of a member (other than a member referred to in section 5(3) of the Act) is as follows:
  - (a) in the case of a member whose conditions of employment are specified in a contract negotiated between the member and his or her employer and which includes an agreement between the member and the employer as to the value of the employer contribution percentage—the number representing that value;
  - (b) in the case of a person referred to in regulation 9(2) or (3)—the amount required to reduce the charge percentage under the Commonwealth Act in respect of the member to zero;
  - (c) in the case of a visiting medical officer—a percentage determined by reference to and in accordance with the *Department of Health Visiting Medical Specialists Agreement 2006* (or its successor);
  - (d) in the case of a member referred to in regulation 9(8)—3%;
  - (e) in the case of a person who has elected to become a member under regulation 12(1) or 13(1), or is taken to have elected to become a member under regulation 13(1)—zero.
- (2) If a member and his or her employer enter into an agreement as to the value of the employer contribution percentage, the employing authority must give the Board written notice of the agreement.

## **Part 2—Membership, accounts and contributions**

### **Division 1—Members**

#### **Subdivision 1—Membership**

##### **8—Purpose of Subdivision**

Pursuant to section 19(3) of the Act, the purpose of this Subdivision is to make provision in relation to membership of the scheme.

##### **9—Membership**

- (1) Subject to subregulations (2), (3) and (8), the following persons are not members of the scheme:
  - (a) a person employed pursuant to a fixed term contract that—
    - (i) requires the employer to provide for or contribute towards benefits for the employee in a scheme of superannuation other than the Triple S scheme; and
    - (ii) does not expressly state that the provision or contribution by the employer referred to in subparagraph (i) is in addition to the employee's membership of the Triple S scheme;



- (b) a person employed by the Electoral Commissioner pursuant to section 12(2) of the *Electoral Act 1985* whose remuneration in respect of that employment does not exceed \$450 per month;
  - (c) a person who is a member of a Board or Committee that is an agency or instrumentality of the Crown and whose remuneration in respect of membership of the Board or Committee does not exceed \$450 per month;
  - (d) a person employed to do work of a non recurring nature or to do seasonal work and whose remuneration in respect of that employment does not exceed \$450 per month;
  - (e) a medical practitioner in respect of employment by a hospital incorporated under the *Health Care Act 2008* where the medical practitioner is paid on a "fee for service" basis.
- (2) A member of—
- (a) the State Scheme or of any other scheme established by or under an Act; or
  - (b) a scheme of superannuation established for the benefit of employees of an agency or instrumentality of the Crown,

becomes a member of the Triple S scheme whenever an entitlement to benefits needs to accrue to the member under the Triple S scheme to satisfy the requirements of the Commonwealth Act.

- (3) If the employer contributions pursuant to a contract referred to in subregulation (1)(a) are not sufficient to reduce the charge percentage under the Commonwealth Act to zero, the employee is a member of the Triple S scheme.
- (4) A person who has made an election under regulation 10 is a member of the Triple S scheme.
- (5) A person who has made an election under regulation 12(1) or 13(1), or is taken to have made an election under regulation 13(1), is a member of the Triple S scheme.
- (6) If—
  - (a) a person who is not a member of the Triple S scheme has an entitlement to a lump sum under Part 5 or under the provisions of an Act that correspond to that Part; and
  - (b) that entitlement is to be retained in the Fund, or rolled over for payment into the Fund (as the case may be),

then that person becomes a member of the Triple S scheme by force of this subregulation.

- (7) If a co-contribution or benefit rolled over from another superannuation fund or scheme is paid to the Board for a person who is a member of the State Scheme or the Police Superannuation Scheme but not, at the time of the payment, a member of the Triple S scheme, the person becomes a member of the Triple S scheme by virtue of this subregulation when the payment is received by the Board.

- (8) The following persons are members of the Triple S scheme in order to provide them with superannuation benefits in place of benefits that would have accrued to them under the PSESS Scheme if that scheme had continued for their benefit after 30 June 1992:
- (a) PSS 1 members of the superannuation scheme established by the *Parliamentary Superannuation Act 1974* who are sitting members of the Legislative Council or the House of Assembly;
  - (b) members of a superannuation scheme established by a hospital incorporated under the *Health Care Act 2008*;

**Exception—**

This paragraph does not apply to former members of—

- (a) the Bordertown Memorial Hospital Incorporated Superannuation Fund; or
  - (b) the Kingston Soldiers' Memorial Hospital Incorporated Superannuation Fund; or
  - (c) the Mothers' and Babies' Health Association Superannuation Fund.
- (c) those members of the SAHC Visiting Medical Officers Superannuation Fund established by a trust deed dated 24 February 1983 who were appointed as visiting medical specialists on or before the commencement of paragraph (c) of regulation 11(1) of the revoked *Southern State Superannuation Regulations 1995*;
  - (d) those members of the State Scheme referred to in clause 15(1)(c) of Schedule 1 of the *Superannuation Act 1988*;
  - (e) an employee of the Adelaide Festival Centre Trust who is a member of a scheme of superannuation established for the benefit of the employee;
  - (f) those contributors to the State Scheme who are employees of TransAdelaide and whose names appear in Schedule 1 of the *Superannuation (STA Employees) Regulations 2005* made under the *Superannuation Act 1988*;
  - (g) those persons whose names appear in the Schedule to the *Superannuation (Lyell McEwin Employees) Regulations 1999*;
  - (h) those persons whose names appear in Schedule 1 of the *Superannuation (Julia Farr Services Employees) Regulations 2003*.

## **10—Election by contributor to State Scheme**

- (1) A contributor within the meaning of the *Superannuation Act 1988* may elect to become a member of the Southern State Superannuation Scheme if the employment on which his or her status as such a contributor is based has not terminated.
- (2) An election takes effect on a date fixed by the Board being a date occurring within 2 months after the election was made.
- (3) For the purposes of the *Superannuation Act 1988*, a contributor who has made an election under subregulation (1) will be taken—
  - (a) to have resigned from employment and to have preserved his or her accrued superannuation benefits (whether he or she has reached the age of 55 years or not); and

- (b) not to reach the age of 55 years until he or she reaches that age and ceases to be employed in employment to which that Act applies.
- (4) An election under this regulation—
  - (a) must be made in writing to the Board; and
  - (b) may specify the rate (if any) at which the member elects to contribute to the scheme.

### **11—Contributors to State Scheme**

- (1) This regulation applies to a contributor within the meaning of the *Superannuation Act 1988* who is a member of the Triple S scheme by virtue of regulation 9(2) if—
  - (a) he or she elects to make contributions to the Treasurer under regulation 17; or
  - (b) his or her employer pays an amount in respect of him or her to the Treasurer under section 21(2) of the Act.
- (2) For the purposes of the *Superannuation Act 1988*, a contributor to whom this regulation applies will be taken—
  - (a) to have resigned from employment and to have preserved his or her accrued superannuation benefits (whether he or she has reached the age of 55 years or not); and
  - (b) not to reach the age of 55 years until he or she reaches that age and ceases to be employed in employment to which the Act applies.

### **12—Salary sacrifice by members of certain schemes**

- (1) A prescribed person may elect, by notice in writing to the Board, to become a member of the Triple S scheme in order to establish an entitlement to the employer component of benefits under Part 4 by sacrificing part of his or her salary in accordance with an agreement or arrangement that entitles the person to sacrifice all or part of his or her salary.
- (2) Subject to subregulation (3), if a person has elected to become a member of the Triple S scheme under subregulation (1), the employer must, within 7 days after salary is paid to the member, pay to the Treasurer an amount (or arrange for the payment within that period to the Treasurer of an amount) equivalent to the member's non-monetary salary that is allocated for the purpose of the employer component of benefits under Part 4 in accordance with the agreement or arrangement.
- (3) Subregulation (2) does not apply to, or in relation to, a member who is a contributor to the State Scheme during a period in which he or she is not an active contributor to that scheme except where the member is not an active contributor because of section 23(7) of the *Superannuation Act 1988*.
- (4) A person who has elected to become a member of the Triple S scheme under subregulation (1)—
  - (a) is not entitled to make contributions under section 20(1)(a) of the Act; and
  - (b) is entitled to the employer component of benefits under Part 4 but is not entitled to any other benefit under the Act or these regulations in his or her capacity as a member under this regulation other than any voluntary invalidity/death insurance taken out under Part 3 Division 2 Subdivision 2.

(5) In this regulation—

*prescribed person* means—

- (a) a person who is an active contributor to the State Scheme; or
- (b) a person who—
  - (i) is employed by an incorporated hospital within the meaning of the *Health Care Act 2008*; and
  - (ii) is an active member of the Commonwealth Superannuation Scheme or the Public Sector Superannuation Scheme; or
- (c) a Judge (within the meaning of the *Judges' Pensions Act 1971*).

### **13—Salary sacrifice by members of Police Superannuation Scheme**

- (1) A police officer who is a contributor to the Police Superannuation Scheme may elect, by notice in writing to the Board, to become a member of the Triple S scheme in order to establish an entitlement to the employer component of benefits under Part 4 by sacrificing part of his or her salary in accordance with an agreement or arrangement that entitles the person to sacrifice all or part of his or her salary.
- (2) If a person has elected, or is taken to have elected, to become a member of the Triple S scheme under this regulation, the employer must, within 7 days after salary is paid to the member, pay to the Treasurer an amount (or arrange for the payment within that period to the Treasurer of an amount) equivalent to the member's non-monetary salary that is allocated for the purposes of the employer component of benefits under Part 4 in accordance with the agreement or arrangement.
- (3) A person who has elected, or is taken to have elected, to become a member of the Triple S scheme under subregulation (1) is entitled to—
  - (a) payment, in accordance with Part 4, of the balance of each account maintained for the person by the Board as required by section 12 of the Act; and
  - (b) voluntary invalidity/death insurance taken out under Part 3 Division 2 Subdivision 2 (if any),

but is not entitled to make contributions under section 20(1)(a) of the Act and is not entitled to any other benefits under the Act or these regulations in his or her capacity as a member under this regulation.

### **14—Duration of membership**

- (1) A person who fulfils the requirements for membership of the scheme under section 19 of the Act, or under this Division, remains a member of the scheme until benefits payable under the Act or these regulations to, on behalf of, or in respect of, the member have been paid even though the member may have subsequently ceased to fulfil the requirements for membership under this Division.
- (2) However, a member to whom benefits payable under the Act or these regulations have been paid under regulation 58(1)(b) because the member is suffering from a terminal illness remains a member of the scheme until the employment of the member terminates.

- (3) If a member becomes a member of a scheme of superannuation established for the benefit of the employees of an agency or instrumentality of the Crown, his or her membership of the Triple S scheme that is attributable to his or her employment by the agency or instrumentality is terminated and an amount equivalent to the balance standing to the credit of each account maintained by the Board in the name of the member is to be carried over to the other superannuation scheme.
- (4) If an employer contribution has not accrued to a member under the Act or the repealed Act for a period of 3 years or more because the member has been an active contributor during that period under the *Superannuation Act 1988*, an amount equivalent to the balance standing to the credit of the member's contribution account and the member's rollover account (if any) may be paid by the Treasurer to the credit of the member's rollover account under the *Superannuation Act 1988* and in that event the member ceases to be a member of the Triple S scheme.
- (5) However, if the Board is maintaining a co-contribution account on behalf of a member of the State Scheme because of co-contribution payments received in respect of that membership, the member does not cease to be a member of the Triple S scheme by virtue of the operation of subregulation (4).
- (6) If—
  - (a) a person is a member of the scheme solely by virtue of being a member of the State Scheme in respect of whom a co-contribution has been paid to the Board; and
  - (b) the person becomes entitled to the payment of benefits under the *Superannuation Act 1988* and to the payment of the amount standing to the credit of the person's co-contribution account,

then the person ceases to be a member of the Triple S scheme on the payment of the balance of the co-contribution account.

- (7) If—
  - (a) a person is a member of the scheme solely by virtue of being a member of the Police Superannuation Scheme—
    - (i) in respect of whom a co-contribution or a benefit rolled over from another fund or scheme has been paid to the Board; or
    - (ii) who has made an election, or is taken to have made an election, under regulation 13; and
  - (b) the person becomes entitled to the payment of benefits under the *Police Superannuation Act 1990* and Part 4 of these regulations,

then the person ceases to be a member of the Triple S scheme on the payment of the balance of each account maintained by the Board in his or her name.

### **15—Members to whom section 21 does not apply**

Pursuant to section 21(4)(b) of the Act, that section does not apply in relation to a person who is a member of the scheme by virtue of regulation 9(6).

## Subdivision 2—Accounts

### 16—Contribution, co-contribution and rollover accounts

- (1) A contribution account maintained by the Board in the name of a member is to consist of—
  - (a) if contributions are being or have been made in relation to the member by the member's employer—an employer contribution account; and
  - (b) if the member is making or has made monetary contributions to the scheme—an employee contribution account.
- (2) A member's employer contribution account must be credited with—
  - (a) amounts that are equivalent to the amounts paid or payable by the member's employer to the Treasurer under section 21 of the Act in respect of salary paid to the member; and
  - (b) in the case of the employer contribution account of a member referred to in section 21(2) of the Act—amounts that are equivalent to the amounts paid or payable by, or on behalf of, the member's employer to the Treasurer under that subsection in respect of the member; and
  - (c) in the case of the employer contribution account of a person who has elected to become a member of the Triple S scheme under regulation 12 or 13, or is taken to have elected to become a member under regulation 13—amounts that are equivalent to the amounts paid or payable by, or on behalf of, the member's employer to the Treasurer under regulation 12(2) or 13(2) in respect of the member.
- (3) A member's employer contribution account must be debited with—
  - (a) in the case of a member other than a member referred to in paragraph (b)—
    - (i) an administrative charge to be fixed by the Board; and
    - (ii) the amount of the premium fixed by or under these regulations in respect of the basic invalidity/death insurance and the voluntary invalidity/death insurance (if any) for the member; and
    - (iii) a disability pension premium which, subject to subregulation (12), will be an amount fixed by the Board; and
  - (b) in the case of a person who has elected to become a member of the Triple S scheme under regulation 12 or 13, or is taken to have elected to become a member under regulation 13—
    - (i) an administrative charge to be fixed by the Board; and
    - (ii) the amount of the premium fixed by or under these regulations in respect of the voluntary invalidity/death insurance (if any) for the member; and
  - (c) any other payment that is to be charged against the account under the Act or these regulations,

to the extent that the charge, premium or other payment can be charge or debited to the account.

- (4) A member's employee contribution account must be credited with the amount of contributions made by the member.
- (5) A member's rollover account must be credited with the amount of any money rolled over from another superannuation fund or scheme for the benefit of the member and must be debited with any payment that is to be charged against the account under the Act or these regulations.
- (6) A member's co-contribution account must be credited with the amount of any co-contribution paid to the Board in respect of the member and must be debited with any payment that is to be charged against the account under the Act or these regulations.
- (7) The Board may, in an appropriate case, debit against—
  - (a) a member's rollover account; or
  - (b) a member's co-contribution account,(or both of the above), an administrative charge fixed by the Board.
- (8) However, an administrative charge may not be debited against a member's co-contribution account if the credit balance of the member's employer contribution account or rollover account (if any) is sufficient to pay the administrative charge.
- (9) The Board may, in fixing administrative charges to be debited against members' accounts under this regulation, fix different charges depending on the balance of members' accounts or any other relevant factor.
- (10) Despite a preceding subregulation, if a member whose only account in the scheme is a co-contribution account satisfies the Board that he or she is unlikely to receive any further co-contributions that will be payable to the Board in respect of the member, the Board may allow the member to carry over the balance of the account to some other superannuation fund or scheme approved by the Board (and when the balance has been carried over by the Board the person will cease to be a member of the Triple S scheme).
- (11) The Board must keep a record of the aggregate of the amounts debited against contribution accounts under subregulation (3)(a)(ii) and (b)(ii).
- (12) A disability pension premium is not payable under subregulation (3)(a)(iii) in relation to—
  - (a) a member who is not entitled to a disability pension under regulation 36 under any circumstances; or
  - (b) a member who is exempted under regulation 37 from the ambit of regulation 36.

### **Subdivision 3—Contributions**

#### **17—Contributions (section 20)**

- (1) For the purposes of section 20(1)(a) of the Act, but subject to this regulation, a member may elect to make contributions to the Treasurer as a deduction from salary at a whole number percentage, or at 4.5%, of the combined value of the monetary and non-monetary salary (if any) to which the member is entitled in each period in respect of which salary is paid to the member.

## Southern State Superannuation Regulations 2009

### Part 2—Membership, accounts and contributions

#### Division 1—Members

---

- (2) A person who is a member of the scheme by virtue only of regulation 9(3), (5), (6), (7) or (8) (including any combination of these provisions) is not entitled to make contributions under section 20(1)(a) of the Act.
- (3) For the purposes of section 20(1)(b) of the Act, the prescribed percentage is 4.5%.
- (4) A police cadet is not obliged to contribute but may elect to do so.
- (5) Subject to this regulation, a member who has elected to contribute may subsequently elect to contribute at a different rate or to cease contributing.
- (6) An election under this regulation must be made to the Board in writing and will operate from a date to be fixed by the Board.
- (7) If, following a change in a member's salary, it will be difficult for an employer to determine the amount of the member's contribution for the first payment period to which the new contribution applies, the Board may, by notice in writing to the employer, specify a date from which the new contribution amount will apply.
- (8) A notice under subregulation (7) may be varied or revoked by the Board by subsequent notice served on the employer.
- (9) If over a particular period a member receives (while remaining in employment) weekly workers compensation payments for total or partial incapacity for work, contributions will be payable as if the weekly payments were salary or a component of salary (as the case requires).
- (10) Contributions are payable from the member's monetary salary on the days on which monetary salary is paid to the member.
- (11) A member whose membership of the scheme commences on the commencement of the member's employment will commence making contributions on a date fixed by the Board.

#### 18—Prescribed rate of contributions (section 20)

Pursuant to section 20(2)(b) of the Act, a member employed by SA Ambulance Service Inc—

- (a) who was a contributory member of the SA Ambulance Service Superannuation Scheme (the *ambulance scheme*) before electing to become a member of the Triple S Scheme and has not reached his or her normal retirement date for the purposes of the ambulance scheme; or
- (b) who—
  - (i) commenced his or her employment with SA Ambulance Service Inc on or after 1 July 2008; and
  - (ii) is classified as an operations employee under the *SA Ambulance Service Award*; and
  - (iii) is employed other than on a casual basis in the provision of ambulance services (within the meaning of the *Health Care Act 2008*),

is required to contribute at a rate of at least 4.5% of salary.



## 19—Other contributions (section 20)

A monetary contribution under section 20(1)(c) or (d) of the Act must be equal to or exceed \$50.

## Division 2—Spouse members

### 20—Purpose of Division

Pursuant to sections 19(3)(c) and 20(2)(d) of the Act, the purpose of this Division is to make provision for—

- (a) spouses of members to become spouse members of the scheme; and
- (b) contributions to be made by or on behalf of spouse members.

### 21—Interpretation

In this Division—

**eligible member** means a member in respect of whom payments are being made to the Treasurer under section 20 of the Act, regulation 12 or regulation 13;

**prescribed payment** means payment of an amount that is a contributions-splitting superannuation benefit within the meaning of Division 6.7 of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth;

**voluntary death insurance** means death insurance granted by the Board under regulation 40;

**voluntary death insurance benefits** means benefits payable in respect of voluntary death insurance.

### 22—Spouse contributions splitting (section 20)

- (1) Pursuant to section 20(2)(d) of the Act, but subject to this regulation, an eligible member may apply to the Board, in the approved form, to make a prescribed payment from the member's contribution account into a rollover account established in the name, and for the benefit, of the member's spouse.
- (2) An application under subregulation (1), and the making of a prescribed payment following the acceptance of an application, are subject to, and must comply with—
  - (a) Division 6.7 of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth (as if the provisions of that Division apply to, and in relation to, the scheme); and
  - (b) such terms and conditions as may be specified by the Board.
- (3) The Board may fix administrative charges payable in respect of applications under this regulation.
- (4) Any charge payable under subregulation (3) may be deducted by the Board from—
  - (a) the applicant's contribution account; or
  - (b) if there are insufficient funds in that account—a spouse account established in the name of the applicant's spouse.

**23—Other contributions for spouse members (section 20)**

- (1) Pursuant to section 20(2)(d) of the Act, an eligible member may make monetary contributions to the Treasurer under this regulation for crediting to a contribution account in the name of the member's spouse.
- (2) A spouse member may, while the spouse member is the spouse of a member, make monetary contributions to the Treasurer under this regulation.
- (3) The amount of each contribution under this regulation must be equal to or exceed \$50.

**24—Spouse members and spouse accounts (section 19)**

- (1) If a prescribed payment, or a monetary contribution under regulation 23(1), is made by a member for the benefit of a spouse in respect of whom neither a prescribed payment nor a contribution under regulation 23(1) has previously been made, the spouse becomes a *spouse member* of the Triple S scheme by virtue of this subregulation.
- (2) A spouse member's contribution account must—
  - (a) be credited with the amount of contributions made by or on behalf of the spouse member; and
  - (b) be debited with any payment that is to be charged against the account under the Act or these regulations.
- (3) In addition to maintaining a rollover account in the name of a spouse member as required under section 12(1)(b)(i) of the Act, the Board must maintain a rollover account in the name of a spouse member for the benefit of whom a prescribed payment has been made.
- (4) A spouse member's rollover account must—
  - (a) be credited with the amount of any prescribed payment made, or money rolled over, for the spouse member; and
  - (b) be debited with any payment that is to be charged against the account under the Act or these regulations.
- (5) A spouse member's co-contribution account must—
  - (a) be credited with the amount of any co-contribution paid to the Board in respect of the spouse member; and
  - (b) be debited with any payment that is to be charged against the account under the Act or these regulations.
- (6) The Board may, in an appropriate case, debit against a spouse account an administrative charge fixed by the Board.
- (7) However, an administrative charge may not be debited against a spouse member's co-contribution account if the Board is maintaining a contribution account or rollover account in the name of the spouse member and the credit balance (if any) of either or both of those accounts is sufficient to pay the administrative charge.
- (8) The Board may, for the purposes of subregulation (6), fix different charges depending on the balance of spouse members' accounts or any other relevant factor.

## 25—Amalgamation of accounts

- (1) If a person who is a spouse member is, or becomes, a member of the scheme, the Board may transfer the amounts standing to the credit of the person's spouse accounts to a contribution account, rollover account or co-contribution account, as appropriate, maintained by the Board in the name of the person (and the Board may, if necessary for the purposes of this subregulation, establish such an account in the name of the person).
- (2) If all amounts standing to the credit of the person's spouse accounts are transferred from those accounts under this regulation—
  - (a) the person ceases to be a spouse member of the scheme; and
  - (b) the person's voluntary death insurance under Part 3 Division 3 (if any) is taken to be voluntary invalidity/death insurance under Part 3 Division 2 Subdivision 2.

## Part 3—Insurance and investment

### Division 1—Preliminary

#### 26—Purpose of Part

Pursuant to section 22 of the Act, this Part continues the scheme of invalidity and death insurance established under the repealed Act.

#### 27—Interpretation

In this Part—

***prescribed member*** means—

- (a) a police member; or
- (b) a member employed by SA Ambulance Service Inc—
  - (i) who was a contributory member of the SA Ambulance Service Superannuation Scheme (the ***ambulance scheme***) before electing to become a member of the Triple S Scheme and has not reached his or her normal retirement date for the purposes of the ambulance scheme; or
  - (ii) who—
    - (A) commenced his or her employment with SA Ambulance Service Inc on or after 1 July 2008; and
    - (B) is classified as an operations employee under the *SA Ambulance Service Award*; and
    - (C) is employed other than on a casual basis in the provision of ambulance services (within the meaning of the *Health Care Act 2008*).

## Division 2—Members

### Subdivision 1—Basic invalidity/death insurance

#### 28—Basic invalidity/death insurance

- (1) Subject to this regulation, each member of the scheme is entitled to basic invalidity/death insurance regardless of the state of health of the member.
- (2) The following are not entitled to basic invalidity/death insurance:
  - (a) a person who is a member of the scheme by virtue only of regulation 9(3), (5), (6), (7) or (8) (including any combination of these provisions);
  - (b) a spouse member of the scheme, unless the spouse member is also a member of the scheme (other than by virtue of a provision mentioned in paragraph (a));
  - (c) a person who is—
    - (i) employed or engaged for a specified period of time; and
    - (ii) remunerated solely by a fee, allowance or commission;
  - (d) a member to whom invalidity insurance benefits have been paid under regulation 58(1)(b) because the member is suffering from a terminal illness.
- (3) A member who has received invalidity insurance benefits under the Act, the repealed Act or these regulations (or a benefit in the nature of invalidity insurance benefits under any other Act that provides for the payment of benefits by the Treasurer) and is subsequently employed in employment to which the Act applies is not entitled to basic invalidity insurance in respect of his or her subsequent employment.

### Subdivision 2—Voluntary invalidity/death insurance

#### 29—Interpretation

In this Subdivision—

*fixed insurance cover*—see regulation 34;

*standard insurance cover*—see regulation 34.

#### 30—Application for voluntary invalidity/death insurance

- (1) Subject to this regulation, a member (other than a prescribed member) may apply to the Board for voluntary invalidity/death insurance under this regulation.
- (2) A person who is employed on a casual basis can only apply for voluntary invalidity/death insurance if he or she is employed pursuant to an arrangement under which he or she is to work for 9 or more hours each week or for periods that average, over a 3 month period, 9 or more hours each week.
- (3) A person who is not entitled to basic invalidity/death insurance under regulation 28(2)(c) or (d) cannot apply for voluntary invalidity/death insurance.

- (4) A person who is a member of the scheme by virtue only of regulation 9(3), (6) or (7) (including any combination of these provisions) cannot apply for voluntary invalidity/death insurance.
- (5) If within 3 months after electing to become a member of the Triple S scheme, a contributor under the *Superannuation Act 1988* applies to the Board under this regulation for voluntary invalidity/death insurance that will entitle the applicant to benefits that will not, in the Board's opinion, exceed the benefits in the nature of invalidity and death insurance to which the applicant would have been entitled under the *Superannuation Act 1988*—
  - (a) regulation 49(2) does not apply to the applicant; and
  - (b) the Board must accept the application and the only conditions that it can impose on its acceptance are the conditions (if any) to which the applicant's membership of the State Scheme is subject or conditions to which the applicant agrees.
- (6) If the Board grants an application for voluntary invalidity/death insurance or for an increase or decrease in the level of voluntary insurance, the Board must fix the date for the commencement of the insurance or of the increase or decrease in the level of insurance.

### **31—Variation of voluntary insurance**

A member who has voluntary invalidity/death insurance under regulation 30 may apply to the Board to increase or decrease the level of the insurance.

### **32—Voluntary invalidity/death insurance—prescribed members**

- (1) A prescribed member who has not taken out fixed insurance cover has voluntary invalidity/death insurance benefits at least equal in value to 4 units of standard insurance cover, determined according to his or her current age, and is liable for premiums in respect of that insurance fixed by or under regulation 34.
- (2) A prescribed member who has taken out fixed insurance cover has the number of units of fixed insurance cover necessary to provide the member with invalidity/death insurance benefits at least equal in value to 6 units of standard insurance cover (taking into account the member's basic invalidity/death insurance cover), determined according to his or her current age, and is liable for premiums in respect of that insurance fixed by or under regulation 34.

### **33—Variation of voluntary insurance—prescribed members**

- (1) A prescribed member may apply to the Board, in the approved form, to increase or decrease the level of his or her voluntary invalidity/death insurance.
- (2) However, a prescribed member cannot apply to reduce his or her voluntary invalidity/death insurance below the level specified in regulation 32.
- (3) If the Board grants an application for voluntary invalidity/death insurance or for an increase or decrease in the level of voluntary insurance, the Board must fix the date for the commencement of the insurance or of the increase or decrease in the level of insurance.

### Subdivision 3—Amount of insurance, premiums and suspension

#### 34—Amount of invalidity/death insurance benefits and amount of premiums

- (1) A reference in this regulation to Table 1 or Table 2 is a reference to the table so designated in Schedule 1.
- (2) There will be 2 classes of invalidity/death insurance:
  - (a) *standard insurance cover* under Table 1 where—
    - (i) the value of a unit of cover, as designated in column 2, is determined on the basis of the member's age; and
    - (ii) the amount of corresponding premium per unit of cover is fixed at the price designated in column 3;
  - (b) *fixed insurance cover* under Table 2 where—
    - (i) the value of a unit of cover is fixed at the amount designated in column 2; and
    - (ii) the amount of corresponding premium per unit of cover, as designated in column 3, is determined on the basis of the member's age at the time the insurance cover commences.
- (3) The amount of basic invalidity/death insurance benefit is—
  - (a) in the case of a member who has taken out fixed insurance cover—1 unit of fixed insurance cover; and
  - (b) in the case of a member who has made an election under Schedule 3 clause 1(1) of the repealed regulations and has not subsequently taken out fixed insurance cover (whether under these regulations or the repealed regulations)—1 unit of standard insurance cover; and
  - (c) in any other case—2 units of standard insurance cover.
- (4) However, if the amount of basic invalidity/death insurance benefit to which a person who—
  - (a) was a member of the scheme immediately before 1 July 2002; and
  - (b) is under the age of 60,is entitled would, but for this subregulation, be less than \$20 000, the amount of basic invalidity/death insurance benefit to which the person is entitled is \$20 000.
- (5) The premium for basic invalidity/death insurance is—
  - (a) in the case of basic invalidity/death insurance that is fixed insurance cover—the appropriate premium fixed under column 3 of Table 2; and
  - (b) in any other case—\$0.75 per unit per week.
- (6) An applicant for voluntary invalidity/death insurance may apply for either standard insurance cover or fixed insurance cover.
- (7) The aggregate value of units of cover granted to a member employed other than on a casual basis must not exceed \$1 500 000 (inclusive of the member's basic cover).

- 
- (8) The aggregate value of units of cover granted to a member employed on a casual basis must not exceed \$750 000 (inclusive of the member's basic cover).
  - (9) In this regulation—  
*repealed regulations* means the *Southern State Superannuation Regulations 1995*.

### **35—Voluntary suspension of invalidity/death insurance**

- (1) A person who is employed on a casual basis and who does not have voluntary invalidity/death insurance may, by notice in writing to the Board, suspend his or her basic invalidity/death insurance.
- (2) Subject to subregulation (3), an employee (not being an employee referred to in subregulation (1)) may, by notice in writing to the Board, suspend his or her basic invalidity/death insurance and his or her voluntary invalidity/death insurance (if any).
- (3) An employee can only suspend insurance under subregulation (2) if the Board is satisfied that he or she will not be in receipt of any income from his or her employer during the period of suspension (and any such period of suspension will cease when the employee next receives income from his or her employer).
- (4) An employee may at any time, by notice in writing to the Board, reinstate his or her suspended insurance.
- (5) Basic and voluntary invalidity/death insurance benefits are only payable to or in respect of an employee whose employment terminates on account of invalidity or death within 1 year after his or her insurance is reinstated if the invalidity or death was caused by accidental injury.
- (6) Subregulation (5) does not apply in relation to an employee who is a prescribed member.

### **Subdivision 4—Disability pension**

#### **36—Disability pension**

- (1) Pursuant to section 22(1) of the Act, but subject to this Subdivision and regulation 39(3), a member who—
  - (a) is temporarily or permanently incapacitated for work; and
  - (b) is no longer engaged in work in respect of employment to which the Act applies on account of the incapacity; and
  - (c) has not reached the age of 60 years,is entitled to a disability pension unless the member—
  - (d) is exempted from the ambit of this regulation under regulation 37; or
  - (e) is not entitled to a disability pension under this regulation by virtue of regulation 38.
- (2) An application for a disability pension must be made within 6 months of the day on which the member ceases to be engaged in work in respect of employment to which the Act applies.

- (3) For the purposes of subregulation (2), a period during which a police member receives salary or wages pursuant to an arrangement under which employees forego part of their annual recreation leave in return for the grant of additional sick leave is to be taken to be a period during which the member is engaged in work.

**Note—**

The Commissioner of Police may make and carry out such an arrangement with employees under regulation 51 of the *Police Regulations 1999*.

- (4) The amount of a disability pension will be 75% of the member's notional salary.
- (5) A member who becomes incapacitated for work in a particular position will not be regarded as incapacitated for work for the purposes of this regulation if some other position, carrying a salary of at least 80% of the salary applicable to the former position, is available to the member and the member could reasonably be expected to take that other position.
- (6) A disability pension is not payable in respect of—
- (a) the period of 30 days following the day on which the member ceases work on account of the disability; or
  - (b) a period in respect of which the member is entitled to weekly payments of workers compensation; or
  - (c) a period for which the member is on recreation leave, long service leave or paid sick leave.
- (7) The Board will not authorise the payment of a disability pension in respect of a period of incapacity of less than 1 week and may decline to authorise a disability pension if it appears that the duration of the incapacity is likely to be less than 6 months.
- (8) A disability pension cannot be paid for a continuous period of more than 24 months.
- (9) A disability pension cannot be paid (whether under these regulations or the repealed Act), in respect of the same incapacity, for an aggregate period of more than 24 months in any 1 period of 48 months.
- (10) A person who—
- (a) is a member of the scheme by virtue of an election under regulation 10; and
  - (b) was aged 55 years or over when he or she made the election,
- is not entitled, during the first 24 months of his or her membership of the scheme, to a disability pension in respect of an incapacity attributable to a medical condition existing before the day on which that membership commenced.
- (11) A person who is a contributor within the meaning of the *Superannuation Act 1988* to whom regulation 11 applies is not entitled, during the period of 24 months commencing on the day on which regulation 11 first applies to the person, to a disability pension in respect of an incapacity attributable to a medical condition existing before that day.
- (12) A member who returns to work in employment to which the Act applies after being on leave without pay for 12 months or more is not entitled, during the period of 24 months commencing on the day on which he or she returns to work, to a disability pension in respect of a condition that was known to the member on that day.



- (13) A member is not required to make a contribution over a period for which the member receives a disability pension.
- (14) A right to a disability pension under this regulation cannot be assigned.
- (15) Subregulation (14) does not prevent the making of a garnishee order in relation to a pension.
- (16) If a person who is a member of the scheme by virtue of regulation 9(2) becomes entitled to a benefit under this regulation, the person is not entitled to a benefit under section 30 or 36 of the *Superannuation Act 1988*.
- (17) Despite subregulation (1), a member may receive a disability pension under this regulation while engaged in remunerative activities if the Board is satisfied that the member is engaged in the activities for the purposes of a rehabilitation or return to work arrangement.
- (18) However, if at any time during a financial year a member who is receiving or would, but for this subregulation, be entitled to receive, a pension under this regulation is also receiving income from remunerative activities, the pension will be reduced by the amount by which the pension and income exceed, when aggregated, the amount that the member would be entitled to receive if he or she were in receipt of his or her notional salary and if those payments equal or exceed that amount, the pension will be suspended.
- (19) A person in receipt of a disability pension whose employment terminates, or is taken to have been terminated under regulation 6(4), ceases to be entitled to the pension from the day immediately following the day on which the employment terminates or is taken to have been terminated.
- (20) The Board must consult with the Police Superannuation Board before authorising the payment of a disability pension to a police officer.

### **37—Exemption from ambit of regulation 36**

- (1) A member (other than a prescribed member), may elect, in the approved form, to be exempted from the ambit of regulation 36.
- (2) An election under subregulation (1) will take effect from a date determined by the Board.
- (3) Subject to subregulation (4), a casual member is exempted from the ambit of regulation 36.
- (4) A member who is exempted from the ambit of regulation 36 under subregulation (1) or (3) may apply to the Board to be brought within the ambit of that regulation.
- (5) An application under subregulation (4) must be in the approved form.
- (6) The applicant must provide the Board with the following information as to the state of the applicant's health:
  - (a) information relating to medical advice, examination or treatment received by the applicant;
  - (b) information as to any other treatment received by the applicant for any illness, condition or disability suffered by the applicant;

**Southern State Superannuation Regulations 2009**

Part 3—Insurance and investment

Division 2—Members

---

- (c) information as to any illness, condition or disability suffered by the applicant or any symptoms suffered by the applicant that may indicate an illness, condition or disability;
- (d) information as to any drugs or other substances (whether legal or illegal and whether medicinal or not) taken by the applicant or to which the applicant has been exposed,

and the Board may require an applicant to provide satisfactory evidence of the state of the applicant's health.

- (7) The cost of any medical examination to which an applicant is required to submit for the purposes of subregulation (6) is to be borne by the applicant.
- (8) If it appears to the Board—
  - (a) that an applicant's state of health is such as to create a risk of incapacity for work; or
  - (b) that an applicant has in the past engaged in a prescribed activity that increases the risk of incapacity for work; or
  - (c) that an applicant is likely in the future to engage in an activity of a kind referred to in paragraph (b),

the Board may grant the application on authorised conditions.

- (9) Subject to subregulation (10), if it appears to the Board that an applicant withheld information required in relation to his or her application under this regulation, the Board may withhold or reduce the pension that the applicant would otherwise have been entitled to.
- (10) If—
  - (a) it appears to the Board that an applicant withheld information required in relation to his or her application under this regulation; and
  - (b) the withheld information relates to a medical condition to which the applicant's incapacity for work is attributable,

the Board must withhold the pension that the applicant would otherwise have been entitled to in respect of that incapacity.

- (11) If the Board grants an application under subregulation (4), the applicant ceases to be exempted from the ambit of regulation 36 from a date determined by the Board.
- (12) In this regulation—

***authorised condition***, in relation to the granting of an application to be brought within the ambit of regulation 36, means—

- (a) a condition providing that a disability pension is not payable if the applicant's incapacity for work is caused wholly or partly by—
  - (i) a pre-existing illness, condition or disability; or
  - (ii) an illness, condition or disability arising out of a pre-existing illness, condition or disability; or
  - (iii) a prescribed activity; or

- (b) a condition that a pension is only to be payable in respect of an incapacity for work arising from—
  - (i) accidental causes; or
  - (ii) an illness or condition that is not related to or associated with a medical condition of a kind specified by the Board;

***casual member*** means a member employed on a casual basis who was not entitled to a disability pension in the event of incapacity for work under section 33A of the repealed Act immediately before the repeal of that Act;

***prescribed activity*** means the smoking, chewing or sucking of a tobacco product or any other activity involving the consumption of a tobacco product;

***tobacco product*** means—

- (a) a cigarette; or
- (b) a cigar; or
- (c) cigarette or pipe tobacco; or
- (d) tobacco prepared for chewing or sucking; or
- (e) snuff.

### **38—Persons not entitled to disability pension**

The following are not entitled to a disability pension under this Subdivision under any circumstances:

- (a) a spouse member, unless the spouse member is also a member of the scheme;
- (b) a person who is a member of the scheme solely by virtue of regulation 9(3), (5), (6), (7) or (8) (or any combination of these provisions);
- (c) a member to whom invalidity insurance benefits have been paid under regulation 58(1)(b) because the member is suffering from a terminal illness;
- (d) a person who is—
  - (i) employed or engaged for a specified period of time; and
  - (ii) remunerated solely by a fee, allowance or commission.

### **Subdivision 5—Payment of premiums**

#### **39—Payment of premiums by members**

- (1) Premiums payable by a member, including the disability pension premium, will be debited against the member's employer contribution account in accordance with regulation 16.
- (2) If the debiting of a premium for invalidity/death insurance under subregulation (1) would result in a debit balance in the account—
  - (a) the premium will be debited against the account to the extent of the credit balance in the account; and

- (b) the member's basic and voluntary invalidity/death insurance is suspended from the expiration of the month following the month in which the premium was debited until the account is again sufficiently in credit to enable the debiting of premiums without resulting in a debit balance.
- (3) If the debiting of a disability pension premium under subregulation (1) would result in a debit balance in the account—
  - (a) the premium will be debited against the account to the extent of the credit balance in the account; and
  - (b) the member's entitlement to a disability pension in the event of incapacity for work is suspended from the expiration of the month following the month in which the premium was debited until the account is again sufficiently in credit to enable the debiting of the disability pension premium without resulting in a debit balance.

### **Division 3—Spouse members—voluntary death insurance**

#### **40—Application for voluntary death insurance**

- (1) A spouse member may, if the spouse member is the spouse of a member, apply to the Board for voluntary death insurance.
- (2) A spouse member who is not the spouse of a member is not entitled to death insurance cover and any such cover enjoyed by a spouse member will cease if the spouse member ceases to be the spouse of a member.
- (3) If the Board grants an application for voluntary death insurance or for an increase or decrease in the level of voluntary death insurance, the Board must fix the date for the commencement of the insurance or of the increase or decrease in the level of the insurance.

#### **41—Variation of voluntary death insurance**

A spouse member who has voluntary death insurance may apply to the Board to increase or decrease the level of the insurance.

#### **42—Amount of voluntary death insurance benefits and amount of premiums**

- (1) A reference in this regulation to Table 1 or Table 2 is a reference to the table so designated in Schedule 2.
- (2) There will be 2 classes of death insurance:
  - (a) *standard insurance cover* under Table 1 where—
    - (i) the value of a unit of cover, as designated in column 2, is determined on the basis of the spouse member's age; and
    - (ii) the amount of corresponding premium per unit of cover is fixed at the price designated in column 3;
  - (b) *fixed insurance cover* under Table 2 where—
    - (i) the value of a unit of cover is fixed at the amount designated in column 2; and

- (ii) the amount of corresponding premium per unit of cover, as designated in column 3, is determined on the basis of the spouse member's age at the time the insurance cover commences.
- (3) An applicant for voluntary death insurance may apply for either standard insurance cover or fixed insurance cover.
- (4) The aggregate value of units of cover granted to a spouse member must not exceed \$1 500 000.

#### **43—Payment of premiums by spouse members**

- (1) Premiums payable by a spouse member may be debited against any of the spouse member's spouse accounts.
- (2) If the debiting of a premium against a particular spouse account under subregulation (1) would result in a debit balance in the account—
  - (a) the premium may be debited against the account to the extent of the credit balance in the account; and
  - (b) if there is another spouse account in the name of the spouse member, the premium will be debited against that account to the extent of the credit balance in the account; and
  - (c) the spouse member's voluntary death insurance is suspended from the expiration of the month following the month in which the last premium was debited until a spouse account in the name of the spouse member is again sufficiently in credit to enable the debiting of premiums without resulting in a debit balance.

### **Division 4—Post retirement investment and invalidity/death insurance**

#### **Subdivision 1—Preliminary**

#### **44—Interpretation**

In this Division—

*public sector superannuation beneficiary* means a person who is a member of, or has received a benefit under, a public sector superannuation scheme (but does not include a person who has received a benefit under a public sector superannuation scheme solely by virtue of being the spouse of a member of such a scheme);

*public sector superannuation scheme* means a scheme of superannuation—

- (a) established under the Act or under another Act; or
- (b) established for the benefit of employees of an agency or instrumentality of the Crown.

#### **Subdivision 2—Post retirement investment**

#### **45—Post retirement investment**

- (1) The Board may offer to accept money from public sector superannuation beneficiaries or the spouses of public sector superannuation beneficiaries for investment with the Superannuation Funds Management Corporation of South Australia.

## **Southern State Superannuation Regulations 2009**

### Part 3—Insurance and investment

#### Division 4—Post retirement investment and invalidity/death insurance

---

- (2) The Board may, in relation to a particular type of investment, offer to accept money only from public sector superannuation beneficiaries, or the spouses of public sector superannuation beneficiaries, who have received a benefit under a public sector superannuation scheme.
- (3) An offer will be on terms and conditions determined by the Board following consultation with the Corporation about matters relevant to the terms and conditions for which the Corporation is responsible under the *Superannuation Funds Management Corporation of South Australia Act 1995*.
- (4) Money accepted by the Board under subregulation (1)—
  - (a) will be held in a fund established by the Board for the purposes of this regulation (the assets of which do not belong to the Crown); and
  - (b) will, subject to the terms and conditions of the offer referred to in subregulation (3), be invested by the Corporation in a manner determined by it; and
  - (c) may, if a public sector superannuation beneficiary so requests, be invested for the benefit of the spouse of the beneficiary.
- (5) The Corporation may enter into transactions affecting that money—
  - (a) for the purposes of investment; or
  - (b) for purposes incidental, ancillary or otherwise related to investment.
- (6) Money that may be invested by public sector superannuation beneficiaries or their spouses under this regulation is not limited to money received by the investor from a public sector superannuation scheme.
- (7) The Board may deduct an administrative charge, to be fixed by the Board, from money accepted under subregulation (1).
- (8) The Board must, in respect of each financial year—
  - (a) keep proper accounts of receipts and payments in relation to money accepted by it under this regulation; and
  - (b) prepare financial statements in relation to those receipts and payments.

### **Subdivision 3—Post retirement invalidity and death insurance**

#### **46—Post retirement invalidity/death insurance**

- (1) Subject to this Subdivision—
  - (a) a public sector superannuation beneficiary may apply to the Board for invalidity/death insurance; and
  - (b) the spouse of a public sector superannuation beneficiary may apply to the Board for death insurance,and the Board may provide such insurance, subject to the terms and conditions specified in regulation 48.
- (2) A person who is aged 65 years or over cannot apply for, and is not entitled to, invalidity or death insurance.

- (3) If the Board grants an application for insurance or for an increase or decrease in the level of insurance, the Board must fix the date for the commencement of the insurance or of the increase or decrease in the level of insurance.

#### **47—Amount of benefits and premiums**

- (1) A public sector superannuation beneficiary may apply for standard insurance cover or fixed insurance cover within the meaning of regulation 34, and the amount of invalidity/death insurance benefits, and the amount of premiums in respect of those benefits, are the amounts fixed by that regulation.
- (2) The spouse of a public sector superannuation beneficiary may apply for standard insurance cover or fixed insurance cover within the meaning of regulation 42, and the amount of death insurance benefits, and the amount of premiums in respect of those benefits, are the amounts fixed by that regulation.

#### **48—Terms and conditions**

- (1) A public sector superannuation beneficiary may be provided with invalidity/death insurance if, and only if, the beneficiary has an investment of money with the Superannuation Funds Management Corporation of South Australia under regulation 45.
- (2) The spouse of a public sector superannuation beneficiary may be provided with death insurance if, and only if, the spouse has an investment of money with the Superannuation Funds Management Corporation of South Australia under regulation 45.
- (3) Premiums will be debited against the insured's investment account.
- (4) If the debiting of a premium under subregulation (3) would result in a debit balance in the account—
  - (a) the premium will be debited against the account to the extent of the credit balance in the account; and
  - (b) the insurance is suspended from the expiration of the month following the month in which the premium was debited until the account is again sufficiently in credit to enable the debiting of premiums without resulting in a debit balance.
- (5) Insurance ceases on payment to the insured of his or her investment under regulation 45.
- (6) Death insurance cover provided to the spouse of a public sector superannuation beneficiary is not affected by payment to the public sector superannuation beneficiary of his or her investment under regulation 45.
- (7) The following provisions apply to a public sector superannuation beneficiary who has, within 60 days of ceasing to be engaged in employment to which the Act applies, invested money with the Superannuation Funds Management Corporation of South Australia under regulation 45:
  - (a) the beneficiary is, on application, covered, and taken to have been covered since ceasing to be engaged in employment to which the Act applies, by the invalidity/death insurance that applied to the beneficiary at the time of that cessation, subject to the same terms, conditions and restrictions;

## Southern State Superannuation Regulations 2009

### Part 3—Insurance and investment

#### Division 4—Post retirement investment and invalidity/death insurance

---

- (b) regulation 49—
  - (i) does not apply to an application under paragraph (a); but
  - (ii) applies to any application by the beneficiary to increase the level of his or her invalidity/death insurance cover.
- (8) An insurance benefit will be payable on account of invalidity if the Board is satisfied that the insured's incapacity for all kinds of work is 60% or more of total incapacity and is likely to be permanent.
- (9) However, an insured is not entitled to payment of a benefit on account of invalidity—
  - (a) if—
    - (i) the insured ceased to be engaged in employment to which the Act applies as a condition of accepting a voluntary separation package; and
    - (ii) the insured's incapacity for work was known to the insured at the time of ceasing to be engaged in that employment; and
  - (b) unless the insured has engaged in employment for an average of 20 or more hours per week in the 12 month period before making a claim in respect of the invalidity.
- (10) Death benefits payable in respect of an insured will be paid to the spouse of the insured or, if he or she has no spouse, to the insured's estate.
- (11) The aggregate value of units of cover provided to a person under regulation 46 and any other provision of the Act or these regulations must not exceed \$1 500 000.
- (12) In this regulation—

***voluntary separation package*** means an agreement between a member and his or her employer pursuant to which the member resigns from employment.

## Division 5—General

### 49—Application for insurance

- (1) An application for insurance under this Part, including an application to increase the level of the applicant's insurance, must be in the approved form and must specify the voluntary invalidity or death insurance that the applicant is applying for.
- (2) An applicant must provide the Board with the following information as to the state of the applicant's health:
  - (a) information relating to medical advice, examination or treatment received by the applicant;
  - (b) information as to any other treatment received by the applicant for any illness, condition or disability suffered by the applicant;
  - (c) information as to any illness, condition or disability suffered by the applicant or any symptoms suffered by the applicant that may indicate an illness, condition or disability;



- (d) information as to any drugs or other substances (whether legal or illegal and whether medicinal or not) taken by the applicant or to which the applicant has been exposed,

and the Board may require an applicant to provide satisfactory evidence of the state of the applicant's health.

- (3) The cost of any medical examination to which an applicant is required to submit for the purposes of subregulation (2) is to be borne by the applicant.
- (4) If it appears to the Board—
  - (a) that an applicant's state of health is such as to create a risk of invalidity or premature death; or
  - (b) that an applicant has in the past engaged in a prescribed activity that increases the risk of invalidity or premature death; or
  - (c) that an applicant is likely in the future to engage in an activity of a kind referred to in paragraph (b),

the Board may grant the application on authorised conditions.

- (5) A condition on which an application has been granted (whether under the repealed Act or these regulations) may be varied or removed by the Board if the Board considers it appropriate to do so following consideration of medical evidence provided by the applicant (but a condition may not be removed unless the Board is satisfied that none of the circumstances specified in subregulation (4)(a), (b) or (c) apply in relation to the applicant).
- (6) Subject to subregulation (7), if it appears to the Board that an applicant withheld information required in relation to his or her application under this regulation, the Board may withhold or reduce insurance benefits that the applicant would otherwise have been entitled to.
- (7) If—
  - (a) it appears to the Board that an applicant withheld information required in relation to his or her application under this regulation; and
  - (b) the withheld information relates to an illness, condition or disability suffered by the applicant that caused or is connected with the applicant's invalidity or death,

the Board must withhold insurance benefits that the applicant or another person would otherwise have been entitled to in respect of that invalidity or death.

- (8) In this regulation—

**authorised condition**, in relation to voluntary invalidity/death insurance or voluntary death insurance in respect of a person, means—

  - (a) a condition providing that insurance is not payable if the person's invalidity or death is caused wholly or partly by—
    - (i) a pre-existing illness, condition or disability; or
    - (ii) an illness, condition or disability arising out of a pre-existing illness, condition or disability; or
    - (iii) a prescribed activity; or

- (b) a condition that insurance cover is to be provided only in respect of incapacity or death arising from—
  - (i) accidental causes; or
  - (ii) an illness or condition that is not related to or associated with a medical condition of a kind specified by the Board;

*prescribed activity* means the smoking, chewing or sucking of a tobacco product or any other activity involving the consumption of a tobacco product;

*tobacco product* means—

- (a) a cigarette; or
- (b) a cigar; or
- (c) cigarette or pipe tobacco; or
- (d) tobacco prepared for chewing or sucking; or
- (e) snuff.

## 50—Application to decrease level of insurance

An application to decrease the level of the applicant's insurance must be in the approved form.

## 51—Financial statements

Pursuant to section 15(2) of the Act, financial statements prepared by the Board as required by that section must set out the aggregate of the amounts debited against contribution accounts and spouse accounts in respect of premiums for insurance.

# Part 4—Superannuation benefits

## Division 1—Members

### 52—Interpretation

In this Division—

*co-contribution component* in relation to a member means the amount standing to the credit of the member's co-contribution account;

*employee component* in relation to a member means the amount standing to the credit of the member's employee contribution account;

*employer component* in relation to a member means the amount standing to the credit of the member's employer contribution account;

*rollover component* in relation to a member means the amount standing to the credit of the member's rollover account.

### 53—Early access to superannuation benefits

- (1) For the purposes of this regulation, the *basic threshold* is \$30 000.

- (2) Subject to this regulation, a member may apply to the Board for the benefit of this regulation if—
  - (a) the member has reached—
    - (i) the age of 55 years; and
    - (ii) his or her preservation age; and
  - (b) in the case of the first application by the member under this regulation—the combined balance of his or her eligible contribution accounts equal or exceed the basic threshold.
- (3) An application under this regulation may be made for the payment of the whole, or a specified proportion, of the balance of the member's eligible contribution accounts but, in the case of the first application by a member under this regulation, the application must seek the payment of an amount that is at least equal to the basic threshold.
- (4) Once a member has made an application under this regulation, a second or subsequent application cannot be made—
  - (a) unless at least 12 months have elapsed from any preceding application; and
  - (b) unless the combined balance of his or her eligible contribution accounts equals or exceeds \$30 000.
- (5) The Board may require that an application under this regulation be made in such manner, and comply with such requirements, as the Board thinks fit.
- (6) The payment will, according to an election made by the member as part of his or her application, be invested by the Board (on behalf of and in the name of the member)—
  - (a) with the Superannuation Funds Management Corporation of South Australia; or
  - (b) with another entity that will provide a non-commutable income stream for the member while the member continues to be employed in the workforce,so that the member receives (and only receives) a payment in the form of a pension or annuity (a *drawn down payment*).
- (7) An investment under subregulation (6) will be on terms and conditions determined by the Board.
- (8) A member who has—
  - (a) retired from employment; or
  - (b) reached the age of 65 years,may commute an entitlement to a draw down payment so that the investment is brought to an end and the balance paid to the member.
- (9) The value of an investment may also be redeemed in due course under subregulation (13).
- (10) When the Board makes a payment on an application under this regulation—
  - (a) any account from which the payment, or a part of the payment, has been drawn will be immediately adjusted to take into account the payment; and

## Southern State Superannuation Regulations 2009

### Part 4—Superannuation benefits

#### Division 1—Members

---

- (b) section 18(2) of the Act will apply with respect to the relevant components constituting the payment.
- (11) When a member retires from employment (and is thus entitled to a benefit under regulation 54), the member's entitlement under regulation 54 will be adjusted to take into account an entitlement provided under this regulation (and that regulation will then have effect accordingly).
- (12) If a member's employment is terminated on account of invalidity or by the member's death, or the member is suffering from a terminal illness, any entitlement under regulation 58 or 59 (as the case requires) will be adjusted to take into account an entitlement provided under this regulation (and the relevant regulation will then have effect accordingly).
- (13) When a member retires, has his or her employment terminated on account of invalidity or dies (whichever first occurs), an investment being held under subregulation (6) may be redeemed (subject to any rules or requirements applicable to the exercise of a power of redemption).
- (14) The making of a payment under this regulation must take into account the operation of any provision under Part 5.
- (15) In this regulation—  
*eligible contribution accounts* of a member means—
  - (a) the member's employee contribution account; and
  - (b) the member's employer contribution account; and
  - (c) the member's rollover account; and
  - (d) the member's co-contribution account.

## 54—Retirement

- (1) A member who retires from employment is entitled to—
  - (a) payment of the employee component and the employer component; and
  - (b) payment of—
    - (i) the rollover component (if any); and
    - (ii) the co-contribution component (if any),to the extent that payment of the component can be made in accordance with the SIS Act.
- (2) A rollover component, or the part of a rollover component, or a co-contribution component, that cannot be paid in accordance with the SIS Act must be preserved and regulation 55(7) and (8) apply to and in relation to it.
- (3) For the purposes of this regulation, a member retires from employment if—
  - (a) the member has reached the retirement age; and
  - (b) the member's employment terminates or is terminated for any reason (except the member's death).

## 55—Resignation

- (1) If a member resigns from employment before reaching the retirement age the member may elect—
  - (a) to take immediately the employee component; or
  - (b) to preserve the employee component; or
  - (c) to carry the employee component over to some other superannuation fund or scheme approved by the Board.
- (2) If a member resigns from employment before reaching the retirement age the member may elect—
  - (a) if the balance of the member's employer contribution account is less than \$200—to take immediately the employer component; or
  - (b) to preserve the employer component; or
  - (c) to carry the employer component over to some other superannuation fund or scheme approved by the Board.
- (3) If a member resigns from employment before reaching the retirement age the member may elect—
  - (a) to take immediately the rollover component (if any) to the extent that payment of that component can be made in accordance with the SIS Act; or
  - (b) to preserve the rollover component; or
  - (c) to carry the rollover component over to some other superannuation fund or scheme approved by the Board.
- (4) If a member resigns from employment before reaching the retirement age, the member may elect—
  - (a) to take immediately the co-contribution component (if any) to the extent that payment of the component can be made in accordance with the SIS Act; or
  - (b) to preserve the co-contribution component; or
  - (c) to carry the co-contribution component over to some other superannuation fund or scheme approved by the Board.
- (5) A member who fails to inform the Board in writing of his or her election under subregulation (1), (2), (3) or (4) within 3 months after resignation will be taken to have elected to preserve the employee, employer, rollover or co-contribution component, as the case requires.
- (6) If the Board is of the opinion that the limitation period referred to in subregulation (5) would unfairly prejudice a member, the Board may extend the period as it applies to the member.
- (7) If the member elects to preserve the employee, employer, rollover or co-contribution component, the following provisions apply subject to subregulation (8):
  - (a) the member may at any time after reaching 55 years of age require the Board to authorise payment of the component and, if no such requirement has been made on or before the date on which the member reaches 65 years of age, the Board will authorise payment of the component to the member;

- (b) if the member has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60% or more of total incapacity and is likely to be permanent, the Board will authorise payment of the component to the member;
  - (c) if the member dies, the component will be paid to the spouse of the deceased member or, if he or she left no surviving spouse, to the member's estate,

(and a payment under any of the above paragraphs excludes further rights so that a claim cannot be subsequently made under some other paragraph).
- (8) Subregulation (7) applies to a rollover component or a co-contribution component subject to restrictions imposed by the SIS Act.
- (9) A member who has elected, or has been taken to have elected, to preserve his or her employee component, employer component, rollover component or co-contribution component and to whom the component has not been paid under subregulation (7), may elect to withdraw that election and to elect to carry the component over to some other superannuation fund or scheme approved by the Board.
- (10) If 2 or more components have been preserved, a member cannot make an election under subregulation (9) unless the member elects to carry both or all of the components over.
- (11) If the member elects to carry over the employee, employer, rollover or co-contribution component to an approved superannuation fund or scheme, the following provisions apply:
  - (a) the member must satisfy the Board by such evidence as it may require that he or she has been admitted to membership of the fund or scheme;
  - (b) on being so satisfied the Board will authorise payment of the component on behalf of the member to the fund or scheme.
- (12) If a member has resigned from employment and has elected to preserve the employee, employer, rollover or co-contribution component but has subsequently been re-employed in employment by virtue of which he or she becomes a member of the scheme, the Board may maintain separate contribution accounts or rollover accounts or co-contribution accounts or a combined contribution account or rollover account or co-contribution account in the name of the member.
- (13) For the purposes of this regulation, and subject to any other provision of the Act or these regulations, a member who has not reached the retirement age will be taken to resign if the member's employment terminates or is terminated for any reason except invalidity (in circumstances entitling the member to benefits under the Act or these regulations), retrenchment or death.
- (14) This regulation operates subject to regulation 56.

## **56—Benefits payable to overseas residents**

If a member who has resigned from employment before reaching the retirement age satisfies the Board that he or she—

- (a) was the holder of an eligible temporary resident visa (within the meaning of Part 6 of the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth) that has expired or been cancelled; and

(b) is residing out of Australia and will continue to do so on a permanent basis, the member may elect to take immediately the balances of any 1 or more of his or her accounts (including any amount that has been preserved under regulation 55).

### **57—Retrenchment**

- (1) Subject to subregulation (2), if a member's employment is terminated by retrenchment the member is entitled to—
  - (a) payment of the employee component and the employer component; and
  - (b) payment of—
    - (i) the rollover component (if any); and
    - (ii) the co-contribution component (if any),to the extent that the payment can be made in accordance with the SIS Act.
- (2) The member may elect to preserve his or her employee, employer, rollover or co-contribution component or to carry it over to some other superannuation fund or scheme and in the event of such an election the provisions of regulation 55 will apply as if the member had resigned from employment.

### **58—Invalidity or terminal illness**

- (1) If—
  - (a) a member's employment terminates on account of invalidity before the member reaches the age of 65 years; or
  - (b) the Board is satisfied that a member is suffering from a terminal illness,the member is entitled to benefits made up of the following components:
  - (c) the employee component;
  - (d) the employer component;
  - (e) the rollover component (if any);
  - (f) the co-contribution component (if any);
  - (g) subject to this regulation and regulation 49(6) and (7)—the basic invalidity insurance benefit and the voluntary invalidity insurance benefit (if any).
- (2) For the purposes of assessing whether or not a member is suffering from a terminal illness, the Board—
  - (a) must consider written medical reports provided by at least 2 medical practitioners, 1 of whom must have specialist expertise in the relevant field of medicine; and
  - (b) may require the member to submit himself or herself for a medical examination by a medical practitioner nominated by the Board.
- (3) The cost of—
  - (a) a report obtained from a medical practitioner at the request of the Board for the purposes of subregulation (2)(a); or

**Southern State Superannuation Regulations 2009**

Part 4—Superannuation benefits

Division 1—Members

---

- (b) a medical examination to which the member is required to submit under subregulation (2)(b),

is to be borne by the Board.

- (4) The basic and voluntary invalidity insurance benefits are not payable to a member entitled to benefits under subregulation (1)(a) unless the Board is satisfied that the member's incapacity for all kinds of work is 60% or more of total incapacity and is likely to be permanent.
- (5) The Board may require a member seeking benefits under subregulation (1)(a) to provide evidence of his or her incapacity.
- (6) The cost of any medical examination to which a member is required to submit for the purposes of subregulation (5) is to be borne by the member.
- (7) The basic and voluntary invalidity insurance benefits are not payable—
- (a) to a member who terminates his or her employment in connection with the acceptance of a voluntary separation package; or
  - (b) to a member entitled to benefits under subregulation (1)(a) whose employment is terminated after he or she has been engaged in work in respect of employment to which the Act applies for a period that does not exceed 6 months on account of invalidity attributable to a medical condition existing before the commencement of his or her membership of the scheme; or
  - (c) to a member entitled to benefits under subregulation (1)(b) in respect of a terminal illness attributable to a medical condition existing before the commencement of his or her membership of the scheme, unless (subject to paragraphs (d) and (e)) the member has been engaged in work in respect of employment to which the Act applies for a period that exceeds 6 months; or
  - (d) to a member entitled to benefits under subregulation (1)(a) or (b) who is a member of the scheme by virtue of an election under regulation 10 in respect of invalidity or a terminal illness attributable to a medical condition existing before the commencement of his or her membership of the scheme, unless the member has been a member of the scheme for a period that exceeds 24 months; or
  - (e) to a member entitled to benefits under subregulation (1)(a) or (b) who is a contributor within the meaning of the *Superannuation Act 1988* to whom regulation 11 applies in respect of invalidity or a terminal illness attributable to a medical condition existing before regulation 11 first applied to the member, unless regulation 11 has applied to the member for a period that exceeds 24 months.
- (8) If—
- (a) a member entitled to benefits under subregulation (1)(a) was, immediately before termination of his or her employment, a police officer; and
  - (b) the member's incapacity resulted from injuries received in the course of duty,
- the member is entitled to benefits under subregulation (1) or to payment of an amount calculated as follows, whichever is the greater:

$$A = 3 \times S$$



Where—

*A* is the amount

*S* is—

(a) if the member—

- (i) held the rank of senior sergeant or a lower rank immediately before termination of his or her employment; and
- (ii) was at any time during his or her membership of South Australia Police rostered to work on day, afternoon and night shifts, or on any 2 of those shifts, on a rotating basis; and
- (iii) was not, immediately before termination of his or her employment, employed on a permanent basis on special duties at a salary level greater than that payable to a senior sergeant,

the member's actual or attributed salary as defined by the *Police Superannuation Act 1990* (expressed as an annual amount) increased by 10%;

(b) in any other case—the member's actual or attributed salary as defined by the *Police Superannuation Act 1990* (expressed as an annual amount).

- (9) When determining for the purposes of subregulation (8) whether a member is entitled to benefits under subregulation (1) or to a payment under subregulation (8), the rollover component (if any) and the co-contribution component (if any) will be disregarded (the member is entitled to payment of the rollover component and the co-contribution component in addition to a payment under subregulation (8)).
- (10) Subregulation (8) does not apply to a police officer who is a member of the scheme by virtue only of regulation 9(5) or (7) (or both).
- (11) Subject to subregulation (12), a member's employment will be taken to have terminated on account of invalidity if—
- (a) the employer terminates the employment on the ground of the member's invalidity; or
  - (b) the employer or the member satisfies the Board (before termination of employment) that the member is incapacitated for work in the member's present position and that there is no other position, carrying a salary of at least 80% of the salary applicable to the member's present position, which the member could reasonably be expected to take, available to the member.
- (12) A member's employment will be taken to have terminated on account of invalidity if—
- (a) —
    - (i) at the time when the member is totally or partially incapacitated for work in the member's present position the member's employment is terminated by the employer—
      - (A) in circumstances that would, but for this subregulation, constitute retrenchment of the member; or

## Southern State Superannuation Regulations 2009

### Part 4—Superannuation benefits

#### Division 1—Members

---

- (B) on account of the unsatisfactory performance by the member of his or her duties (including the member's failure to meet performance standards) caused by the member's incapacity; or
  - (ii) the member's employment is terminated by the member for any reason that is caused by or is the direct result of the member's incapacity; and
  - (b) the Board is satisfied that the member has been incapacitated for all kinds of work for a period of at least 6 months since terminating his or her employment and that the incapacity is likely to be permanent.
- (13) A member referred to in subregulation (12) who claims to be entitled to benefits under this regulation, or a person acting on his or her behalf, must within 2 years after the termination of the member's employment, give written notice to the Board claiming that the member is entitled to benefits under this regulation.
- (14) The time limit of 2 years referred to in subregulation (13) may not be extended under any circumstances.
- (15) If the employment of a member terminates (or is terminated) in circumstances that will result in—
  - (a) the member being entitled to a benefit under the Act or these regulations; or
  - (b) the member ceasing to be liable with respect to a payment under the Act or these regulations,the member's employer at the time of the termination must give the Board written notice of the termination within 14 days after the date of the termination.
- (16) The Board must consult with the Police Superannuation Board before authorising the payment of a benefit to a police officer under this regulation.
- (17) In this regulation—

***terminal illness*** means an illness or condition that is likely, in the opinion of 2 medical practitioners, to result in death of a member within 12 months of the day on which the opinion is given;

***voluntary separation package*** means an agreement between a member and his or her employer pursuant to which the member resigns from employment.

## 59—Death of member

- (1) If a member's employment is terminated by the member's death—
  - (a) if the deceased member is survived by a spouse—a payment will be made to the spouse;
  - (b) if the deceased member is not survived by a spouse—a payment will be made to the member's estate.
- (2) The amount of the payment under subregulation (1)(a) or (b) is the aggregate of the following amounts:
  - (a) the employee component;
  - (b) the employer component;

- (c) the rollover component (if any);
  - (d) the co-contribution component (if any);
  - (e) subject to this regulation and regulation 49(6) and (7)—the basic death insurance benefit and the voluntary death insurance benefit (if any).
- (3) However, a surviving spouse will not be entitled to a benefit under this regulation if regulation 69 applies to the spouse.
- (4) The basic and voluntary death insurance benefits are not payable in respect of the death of a member that occurs within 6 months of the commencement of his or her membership of the scheme if the death is attributable to a medical condition existing before that commencement.
- (5) Subject to subregulation (6), if a member takes his or her life—
- (a) within 1 year after the commencement of his or her membership of the scheme; or
  - (b) within 1 year after the commencement of, or increase in the level of, voluntary invalidity/death insurance,

the following provisions apply:

- (c) if death occurs within 1 year after the commencement of membership of the scheme or commencement of voluntary invalidity/death insurance—neither basic nor voluntary death insurance benefits are payable;
  - (d) if death occurs within 1 year after an increase in the level of voluntary invalidity/death insurance—voluntary death insurance benefits are not payable in respect of the increased insurance.
- (6) Subregulation (5)(c) does not apply in relation to a member who was a member of the State Scheme or any other scheme of superannuation established for the benefit of the employees of an agency or instrumentality of the Crown immediately before becoming a member of the Triple S scheme if his or her death occurred on or after the first anniversary of the commencement of his or her membership of the State Scheme or other scheme.
- (7) If—
- (a) the member was, immediately before his or her death, a police officer; and
  - (b) the member died from injuries received in the course of duty,

the member's spouse or estate is entitled to benefits under subregulation (2) or to payment of an amount calculated as follows, whichever is the greater:

$$A = 3 \times S$$

Where—

*A* is the amount

*S* is—

- (a) if the member—
  - (i) held the rank of senior sergeant or a lower rank immediately before his or her death; and

- (ii) was at any time during his or her membership of South Australia Police rostered to work on day, afternoon and night shifts, or on any two of those shifts, on a rotating basis; and
- (iii) was not, immediately before his or her death, employed on a permanent basis on special duties at a salary level greater than that payable to a senior sergeant,

the member's actual or attributed salary as defined by the *Police Superannuation Act 1990* (expressed as an annual amount) increased by 10%;

- (b) in any other case—the member's actual or attributed salary as defined by the *Police Superannuation Act 1990* (expressed as an annual amount).
- (8) When determining for the purposes of subregulation (7) whether a member's spouse or estate is entitled to benefits under subregulation (2) or to a payment under subregulation (7), the rollover component (if any) and the co-contribution component (if any) will be disregarded (the spouse or estate is entitled to payment of the rollover component and the co-contribution component in addition to a payment under subregulation (7)).
- (9) Subregulation (7) does not apply to a police officer who is a member of the scheme by virtue only of regulation 9(5) or (7) (or both).
- (10) If a member who has died is not survived by a spouse and probate or letters of administration in relation to the deceased's estate have not been granted to any person, the Board may use the amount payable under this regulation, or such part of it as is required, to pay the funeral expenses of the deceased member or to reimburse a person who has paid those expenses.
- (11) If—
- (a) a member's employment terminates or is terminated for any reason (except the member's death); and
  - (b) the member dies within 1 month after the termination of his or her employment,

the member's spouse or estate is entitled to the basic death insurance benefit and the voluntary death insurance benefit (if any) that the spouse or estate would have been entitled to if the member's employment had been terminated by the member's death.

## **60—Commutation to pay deferred superannuation contributions surcharge**

- (1) A member who is liable for a deferred superannuation contributions surcharge as a result of a benefit becoming payable to the member may apply to the Board, in accordance with this regulation—
- (a) to receive part of the benefit in the form of a commutable pension; and
  - (b) to fully commute the pension.
- (2) A member who has become entitled to a benefit, or will shortly become entitled to a benefit, may—
- (a) estimate the amount of the surcharge the member will become liable to pay (the *estimated surcharge amount*); and
  - (b) request the Board, in the approved form, to—

- (i) withhold from the member's benefit an amount equal to the estimated surcharge amount (the *withheld amount*); and
- (ii) pay the balance of the benefit to the member (being, in the case of a benefit to which the member is yet to become entitled, a payment after the entitlement arises),

and the Board must, subject to subregulation (5), comply with the member's request.

- (3) If a member has made a request under subregulation (2)(b), the member must, before the expiration of 2 months following the issue of a surcharge notice in respect of the member, advise the Board in the approved form that the notice has been issued and the Board must, within 7 days of receiving that advice—
  - (a) convert into a pension—
    - (i) if the amount of the surcharge payable by the member is less than the withheld amount—a portion of the withheld amount equal to the amount payable; or
    - (ii) in any other case—the whole of the withheld amount; and
  - (b) immediately after converting the withheld amount, or a portion of the withheld amount, into a pension under paragraph (a)—commute the pension; and
  - (c) pay to the member—
    - (i) the lump sum resulting from the commutation of the pension; and
    - (ii) the balance (if any) of the withheld amount.
- (4) If a member who has become entitled to a benefit but has not yet received a surcharge notice provides the Board with satisfactory evidence of the amount of the surcharge he or she will become liable to pay (the *surcharge amount*) and requests the Board, in the approved form, to apply, or facilitate the application of, an amount of the member's benefit in payment of the surcharge, the Board must, within 7 days of the request—
  - (a) convert into a pension an amount of the member's benefit that is equal to the surcharge amount; and
  - (b) immediately after converting the amount into a pension under paragraph (a)—commute the pension; and
  - (c) pay the lump sum resulting from the commutation to the member or the Commissioner of Taxation (at the option of the member); and
  - (d) following payment under paragraph (c)—reduce the member's remaining benefits by an amount equal to the surcharge amount.
- (5) The Board may reject an application under subregulation (1) if—
  - (a) it is not satisfied that, if the application were accepted, the resulting lump sum will be applied in payment of the surcharge; or
  - (b) the member fails to satisfy the Board that the member has, or will have, a surcharge liability to the Commissioner of Taxation.

- (6) The factors to be applied in—
- (a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and
  - (b) the commutation of a pension,
- will be determined by the Treasurer on the recommendation of an actuary.

### **61—Commutation to pay deferred superannuation contributions surcharge following death**

- (1) If a member who is liable for a deferred superannuation contributions surcharge dies—
- (a) having made a request of the Board under regulation 60 for part of his or her benefit to be withheld but before receiving a surcharge notice; or
  - (b) having received a surcharge notice but before requesting commutation of his or her pension under regulation 60,

the member's spouse or, if the member is not survived by a spouse, the member's legal representative, may, before the expiration of the period of 2 months immediately following the member's death or the issue of the surcharge notice (whichever is the later), apply to the Board—

- (c) to receive the amount withheld by the Board on behalf of the deceased member under regulation 60 in the form of a commutable pension; and
  - (d) to fully commute the pension.
- (2) The Board must, on receipt of an application under subregulation (1)—
- (a) convert into a pension—
    - (i) if the amount of the surcharge payable by the spouse or estate is less than the withheld amount—a portion of the withheld amount equal to the amount payable; or
    - (ii) in any other case—the whole of the withheld amount; and
  - (b) immediately after converting the withheld amount, or a portion of the withheld amount, into a pension under paragraph (a)—commute the pension; and
  - (c) pay to the spouse or estate—
    - (i) the lump sum resulting from the commutation of the pension; and
    - (ii) the balance (if any) of the withheld amount.
- (3) If a member dies without having made a request under regulation 60, the member's spouse or, if the member is not survived by a spouse, the member's legal representative, may—
- (a) estimate the amount of the surcharge the spouse or estate will become liable to pay (the *estimated surcharge amount*); and
  - (b) request the Board, in the approved form, to—

- (i) withhold from the spouse's benefit or the benefit payable to the estate an amount equal to the estimated surcharge amount (the *withheld amount*); and
  - (ii) pay the balance of the benefit to the spouse or estate,and the Board must, subject to subregulation (6), comply with the request.
- (4) An application under subregulation (3) must be made in writing to the Board before payment of the benefit to the spouse or legal representative.
- (5) The spouse or legal representative must, before the expiration of 2 months following the issue of a surcharge notice in respect of the member, advise the Board in the approved form that the notice has been issued and the Board must, within 7 days of receiving that advice—
  - (a) convert into a pension—
    - (i) if the amount of the surcharge payable by the spouse or estate is less than the withheld amount—a portion of the withheld amount equal to the amount payable; or
    - (ii) in any other case—the whole of the withheld amount; and
  - (b) immediately after converting the withheld amount, or a portion of the withheld amount, into a pension under paragraph (a)—commute the pension; and
  - (c) pay to the spouse or estate—
    - (i) the lump sum resulting from the commutation of the pension; and
    - (ii) the balance (if any) of the withheld amount.
- (6) The Board may reject an application under subregulation (1) or (3) if it is not satisfied that, if the application were accepted, the resulting lump sum will be applied in payment of the surcharge or be used to reimburse the deceased member's estate, or the spouse or other person who has paid the surcharge on behalf of the estate.
- (7) The factors to be applied in—
  - (a) the conversion of a withheld amount (or part of a withheld amount) into a pension; and
  - (b) the commutation of a pension,will be determined by the Treasurer on the recommendation of an actuary.
- (8) In this regulation—

*legal representative*, in relation to a deceased member, means a person—

  - (a) holding office as executor of the will of the deceased member where probate of the will has been granted or resealed in South Australia or any other State or a Territory; or
  - (b) holding office in South Australia or any other State or a Territory as administrator of the estate of the deceased member.

## **62—Withheld amount**

An amount withheld under regulation 60 or 61—

- (a) must be retained in the Fund; and
- (b) will be adjusted from time to time by the Board, in accordance with section 13 of the Act, to reflect investment earnings on the amount; and
- (c) may be paid to the member (or the member's spouse or legal representative)—
  - (i) in accordance with regulation 60 or 61; or
  - (ii) at the direction of the Board if the Board—
    - (A) has not, within 2 years of withholding the amount, received advice that a surcharge notice has been issued in respect of the member; or
    - (B) considers, at any time, there is other good reason for doing so.

## **Division 2—Spouse members**

### **63—Benefits for spouse members**

- (1) Subject to this regulation, the following provisions apply in respect of an amount standing to the credit of a spouse member's spouse account:
  - (a) if—
    - (i) the spouse member—
      - (A) has reached his or her preservation age; and
      - (B) is the spouse of the relevant member; and
    - (ii) the relevant member has taken the benefit of regulation 53,  
payment of the amount may be made to the spouse member subject to restrictions (if any) imposed by the SIS Act;
  - (b) if—
    - (i) the spouse member—
      - (A) has reached the retirement age; and
      - (B) is the spouse of the relevant member; and
    - (ii) the employment of the relevant member has terminated,  
payment of the amount may be made to the spouse member subject to restrictions (if any) imposed by the SIS Act;
  - (c) if—
    - (i) the spouse member—
      - (A) has not reached the retirement age; and
      - (B) is the spouse of the relevant member; and



- (ii) the employment of the relevant member has terminated,  
the amount must be preserved;
  - (d) if the spouse member—
    - (i) is not the spouse of the relevant member; and
    - (ii) has not reached the retirement age,  
the amount must be preserved;
  - (e) if the spouse member—
    - (i) is not the spouse of the relevant member; and
    - (ii) has reached the retirement age,  
payment of the amount may be made to the spouse member subject to restrictions (if any) imposed by the SIS Act.
- (2) If an amount standing to the credit of a spouse member's spouse account is preserved under subregulation (1)—
  - (a) the spouse member may elect to carry the amount over to some other fund or scheme approved by the Board; or
  - (b) subject to restrictions (if any) imposed by the SIS Act, the spouse member may at any time after reaching the retirement age require the Board to authorise payment of the amount and, if no such requirement has been made on or before the date on which the spouse member reaches 65 years of age, the Board will authorise payment of the amount to the spouse member.
- (3) If—
  - (a) a spouse member suffers physical or mental incapacity; and
  - (b) the Board is satisfied that the spouse member's incapacity for all kinds of work is 60% or more of total incapacity and is likely to be permanent,  
the spouse member is entitled to benefits made up of the amount (if any) standing to the credit of each of the spouse member's spouse accounts.
- (4) If a spouse member dies, the amount (if any) standing to the credit of each of the spouse member's spouse accounts, and the voluntary death insurance benefit (if any), will be paid to—
  - (a) if the deceased spouse member is survived by a spouse—the spouse; and
  - (b) if the deceased spouse member is not survived by a spouse—the spouse member's estate.
- (5) However, a surviving spouse will not be entitled to a benefit under subregulation (4) if regulation 69 applies to the spouse.
- (6) A payment under subregulation (2), (3) or (4) excludes further rights so that a claim cannot subsequently be made under another of those subregulations.

(7) In this regulation—

**relevant member**, in relation to a spouse member, means the member who, by making a prescribed payment (within the meaning of Part 2 Division 2), or a contribution under regulation 23(1), for the benefit of the spouse member, caused the spouse member to become a spouse member of the scheme.

## Part 5—Family Law Act provisions

### 64—Purpose of this Part

Pursuant to section 30(2) of the Act, the purpose of this Part is to facilitate the division under the *Family Law Act 1975* of the Commonwealth of superannuation interests between spouses who have separated.

### 65—Interpretation

In this Part, unless the contrary intention appears—

**Commonwealth regulations** means the *Family Law (Superannuation) Regulations 2001* (No. 303 as amended) of the Commonwealth;

**eligible person**, in relation to a superannuation interest of a member, has the same meaning as in section 90MZB of the *Family Law Act 1975* of the Commonwealth;

**flag lifting agreement** has the same meaning as in Part VIII B of the *Family Law Act 1975* of the Commonwealth;

**member** includes a spouse member;

**member spouse** has the same meaning as in Part VIII B of the *Family Law Act 1975* of the Commonwealth;

**non-member spouse** has the same meaning as in Part VIII B of the *Family Law Act 1975* of the Commonwealth;

**operative time** has the same meaning as in Part VIII B of the *Family Law Act 1975* of the Commonwealth;

**payment split** has the same meaning as in Part VIII B of the *Family Law Act 1975* of the Commonwealth;

**splitting instrument** means—

- (a) a superannuation agreement; or
- (b) a flag lifting agreement that provides for a payment split; or
- (c) a splitting order;

**splitting order** has the same meaning as in Part VIII B of the *Family Law Act 1975* of the Commonwealth;

**superannuation agreement** has the same meaning as in Part VIII B of the *Family Law Act 1975* of the Commonwealth.

## **66—Non-member spouse entitlement**

- (1) The Board must, on service of a splitting instrument, create an interest for the non-member spouse named in the instrument in accordance with the provisions of the instrument, with effect from the operative time.
- (2) The value of the non-member spouse's interest will be determined by reference to the provisions of the instrument but in any event may not exceed the value of the member spouse's interest.

## **67—Payment of lump sum**

- (1) The interest of a non-member spouse under regulation 66 will, according to the election of the non-member spouse—
  - (a) be paid out to the extent (if any) that payment can be made in accordance with the SIS Act; or
  - (b) be retained to the credit of the non-member spouse in an account in the name of the non-member spouse in the Fund; or
  - (c) be rolled over or transferred to some other superannuation fund or scheme approved by the Board.
- (2) The Board must, if necessary, establish a member's contribution account so as to provide for the requirements of subregulation (1)(b).
- (3) The Board must ensure that the money constituting the interest of the non-member spouse continues to be invested in the class of investments, or the combination of classes of investments, that the money was invested in before the creation of the interest unless or until the non-member spouse makes a nomination under section 14(1) of the Act for his or her accounts to be invested in a different class of investments or combination of classes of investments.
- (4) The Board must take the action required under subregulation (1) within 28 days after receiving the relevant election.
- (5) However, if an election is not made by the non-member spouse before the end of 28 days after the Board gives notice to the non-member spouse, the Board must, subject to this regulation, transfer the interest to the credit of the non-member spouse under subregulation (1)(b).
- (6) A notice under subregulation (5) must—
  - (a) be in writing; and
  - (b) notify the non-member spouse that the interest may be retained in the Triple S scheme; and
  - (c) advise the non-member spouse of—
    - (i) his or her option to make an election and the consequences of a failure to do so within 28 days; and
    - (ii) the value of his or her interest; and
    - (iii) the basis of any adjustments that have been, or will be, applied to the interest.

- (7) If the interest of a non-member spouse is transferred to the credit of the non-member spouse in the Triple S scheme because an election has not been made, the Board must, within 14 days of the interest being rolled over—
- (a) advise the non-member spouse that his or her interest has been retained in the Triple S scheme; and
  - (b) provide the non-member spouse with a membership identification number, a copy of the most recent annual report prepared in respect of the Triple S scheme and any other information that, according to a determination of the Board, may be of assistance to the non-member spouse.

### **68—Effect on member's entitlement**

- (1) Despite the other provisions of the Act and these regulations, if a payment split is payable with respect to the superannuation interest of a member, there is a corresponding reduction in the entitlement of the member under the Act or these regulations.
- (2) A reduction in the entitlement of a member will be given effect on the basis that the member's contribution account, rollover account, and co-contribution account (insofar as they exist) will be subject to a charge that takes effect by reducing the balance of each of those accounts at the operative time (insofar as a balance exists) by a percentage equal to the percentage that the non-member spouse's share in the relevant superannuation interest bears to the total value of the contributor's accrued superannuation benefit at the operative time (subject to any relevant method or factor adopted or applied by the regulations and to the extent necessary to take into account the full value of the entitlement of the non-member spouse).
- (3) A reduction in the entitlement of a member will not extend to any superannuation benefit that is not a splittable payment under Part VIIIIB of the *Family Law Act 1975* of the Commonwealth.
- (4) If 2 or more reductions must be made with respect to an entitlement of a member because 2 or more splitting instruments have been served on the Board, the Board may determine to apply the reductions separately, or in aggregate.
- (5) If a member has received a draw down benefit under regulation 53—
  - (a) the superannuation interest of the member will be taken to include the balance of any draw down benefit that is being held under regulation 53(6) and (7); and
  - (b) any entitlement under regulation 53 will be adjusted to take into account the effect of a payment split under this Part.

### **69—Lump sum not payable to spouse on death of member if split has occurred**

If a member dies and is survived by a spouse who—

- (a) has received, is receiving or is entitled to receive a benefit under a splitting instrument; or
- (b) is, under the terms of a splitting instrument, not entitled to any amount arising out of the member's superannuation interest under the Act or these regulations (or any proportion of such an interest),

the spouse is not entitled to a benefit under the Act or these regulations in respect of the deceased member (except in accordance with the instrument) and will not be considered to be a spouse of the deceased member for the purposes of regulation 74 (if relevant).

### **70—Board to comply with Commonwealth requirements**

The Board must comply with the requirements imposed on the Board under Part VIII B of the *Family Law Act 1975* of the Commonwealth.

### **71—Provision of information**

In addition to any other information that may be provided by the Board in connection with this Part, the Board may, on application, provide to an eligible person a statement of the value of a superannuation interest of a member spouse, as at a particular date specified in the application.

### **72—Payment from contribution account in name of non-member spouse**

If the interest of a spouse (or former spouse) is paid into a contribution account under regulation 67(1)(b), or is rolled over for payment into an account under the Act or these regulations or under the provisions of another Act or of regulations that correspond to this Part, the amount paid into the account will be taken to be a rollover component that may be paid out in accordance with regulation 55(7).

### **73—Fees**

- (1) The Board may fix fees in respect of matters in relation to which fees may be charged under regulation 59 of the Commonwealth regulations.
- (2) Any fee under subregulation (1) that is payable by a member spouse or a non-member spouse and has not been paid within 1 month of the amount becoming payable may be deducted by the Board—
  - (a) if the outstanding fee is payable by a member spouse—
    - (i) from the member spouse's contribution account; or
    - (ii) from any benefit payable to the member spouse under the Act or these regulations; or
  - (b) if the outstanding fee is payable by a non-member spouse—
    - (i) from any interest that is to be rolled over or transferred to a fund for the benefit of the non-member spouse; or
    - (ii) from any other benefit payable to the non-member spouse under the Act or these regulations.

## Part 6—Miscellaneous

### 74—Division of benefit where deceased member or spouse member is survived by lawful and putative spouse

- (1) If a deceased member or spouse member is survived by a lawful spouse and a putative spouse, any benefit to which a surviving spouse is entitled under the Act or these regulations will be divided between them in a ratio determined by reference to the relative length of the periods for which each of them cohabited with the deceased as his or her spouse.
- (2) If a number of periods of cohabitation are to be aggregated for the purpose of determining an aggregate period of cohabitation for the purpose of subregulation (1), any separate period of cohabitation of less than 3 months will be disregarded.
- (3) A surviving spouse must, at the request of the Board, furnish it with any information that it requires for the purposes of making a division under subregulation (1).
- (4) A putative spouse is not entitled to any benefit under this regulation, unless the deceased member or spouse member and that spouse were putative spouses as at the date of the death of the member or spouse member.
- (5) If—
  - (a) a deceased member or spouse member is survived by a lawful and a putative spouse; and
  - (b) a benefit is paid to 1 of them on the assumption that he or she is the sole surviving spouse of the deceased,

the other spouse has no claim on the benefit insofar as it has been already paid unless that spouse gave the Board notice of his or her claim before the date of payment.

### 75—Payment in case of death

- (1) Subject to subregulation (2), if a person to whom a payment is to be made under the Act or these regulations dies, the Board may, in its discretion, make the payment to—
  - (a) the personal representative of the deceased; or
  - (b) the spouse of the deceased; or
  - (c) the children of the deceased.
- (2) The Board may use the amount payable, or such part of it as is required, to pay the funeral expenses of the person who has died or to reimburse a person who has paid those expenses.

### 76—Liabilities may be set off against benefits

A liability of a member or spouse member arising under the Act or these regulations may be set off against a payment that is to be made to, on behalf of, or in respect of the member or spouse member under the Act or these regulations.

### 77—Annuities

- (1) The Board may, with the Minister's approval, provide annuities on terms and conditions fixed by the Board.

- (2) The Board can only undertake to provide an annuity to a person who is, or has been—
- (a) a member of the Triple S scheme or some other scheme of superannuation established by an Act; or
  - (b) a member of some other scheme of superannuation established for the benefit of employees of an agency or instrumentality of the Crown.

### 78—Information to be given to certain members

- (1) The Board must provide members of the scheme who do not contribute or who are not entitled to voluntary invalidity/death insurance with information as to the benefits of contributing or applying for voluntary invalidity/death insurance.
- (2) When a person becomes a member of the Triple S scheme by virtue of regulation 9(5) or (7), the Board must advise the person in writing of his or her membership of the scheme and provide the person with information as to the management and investment of his or her payments and the benefits to which he or she is entitled under the Act.

## Schedule 1—Invalidity/death insurance benefits

Table 1—Standard insurance cover

Age last birthday	One unit \$	Cost/week \$
Up to 34	75 000	0.75
35	72 000	0.75
36	69 000	0.75
37	66 000	0.75
38	63 000	0.75
39	60 000	0.75
40	57 000	0.75
41	54 000	0.75
42	51 000	0.75
43	48 000	0.75
44	45 000	0.75
45	42 000	0.75
46	39 000	0.75
47	36 000	0.75
48	33 000	0.75
49	30 000	0.75
50	27 000	0.75
51	24 000	0.75
52	22 000	0.75
53	20 000	0.75
54	18 000	0.75

**Southern State Superannuation Regulations 2009**

Schedule 1—Invalidity/death insurance benefits

Age last birthday	One unit \$	Cost/week \$
55	16 000	0.75
56	14 000	0.75
57	12 500	0.75
58	11 000	0.75
59	10 000	0.75
60	9 000	0.75
61	8 000	0.75
62	7 000	0.75
63	6 000	0.75
64	5 000	0.75
65 or over	0	not applicable

**Table 2—Fixed insurance cover**

Age last birthday	One unit \$	Cost/week \$
20 and under	75 000	0.80
21	75 000	0.85
22	75 000	0.85
23	75 000	0.90
24	75 000	0.95
25	75 000	1.00
26	75 000	1.05
27	75 000	1.10
28	75 000	1.15
29	75 000	1.20
30	75 000	1.25
31	75 000	1.30
32	75 000	1.40
33	75 000	1.50
34	75 000	1.60
35	75 000	1.70
36	75 000	1.80
37	75 000	2.00
38	75 000	2.10
39	75 000	2.30
40	75 000	2.40



**Southern State Superannuation Regulations 2009**  
Invalidity/death insurance benefits—Schedule 1

Age last birthday	One unit \$	Cost/week \$
41	75 000	2.60
42	75 000	2.70
43	75 000	2.90
44	75 000	3.10
45	75 000	3.30
46	75 000	3.50
47	75 000	3.70
48	75 000	3.90
49	75 000	4.10
50	75 000	4.40
51	75 000	4.70
52	75 000	5.10
53	75 000	5.50
54	75 000	6.00
55	75 000	6.50
56	75 000	7.10
57	75 000	7.70
58	75 000	8.40
59	75 000	9.20
60	75 000	10.10
61	75 000	11.00
62	75 000	12.00
63	75 000	13.00
64	75 000	14.10
65 or over	0	not applicable

## Schedule 2—Death insurance benefits

**Table 1—Standard insurance cover**

Age last birthday	One unit \$	Cost/week \$
Up to 34	75 000	0.50
35	72 000	0.50
36	69 000	0.50
37	66 000	0.50
38	63 000	0.50

**Southern State Superannuation Regulations 2009**

Schedule 2—Death insurance benefits

Age last birthday	One unit \$	Cost/week \$
39	60 000	0.50
40	57 000	0.50
41	54 000	0.50
42	51 000	0.50
43	48 000	0.50
44	45 000	0.50
45	42 000	0.50
46	39 000	0.50
47	36 000	0.50
48	33 000	0.50
49	30 000	0.50
50	27 000	0.50
51	24 000	0.50
52	22 000	0.50
53	20 000	0.50
54	18 000	0.50
55	16 000	0.50
56	14 000	0.50
57	12 500	0.50
58	11 000	0.50
59	10 000	0.50
60	9 000	0.50
61	8 000	0.50
62	7 000	0.50
63	6 000	0.50
64	5 000	0.50
65 or over	0	not applicable

**Table 2—Fixed insurance cover**

Age last birthday	One unit \$	Cost/week \$
20 and under	75 000	0.55
21	75 000	0.55
22	75 000	0.55
23	75 000	0.55
24	75 000	0.60

**Southern State Superannuation Regulations 2009**  
Death insurance benefits—Schedule 2

Age last birthday	One unit \$	Cost/week \$
25	75 000	0.60
26	75 000	0.65
27	75 000	0.70
28	75 000	0.75
29	75 000	0.80
30	75 000	0.85
31	75 000	0.90
32	75 000	0.95
33	75 000	1.00
34	75 000	1.10
35	75 000	1.10
36	75 000	1.20
37	75 000	1.30
38	75 000	1.40
39	75 000	1.50
40	75 000	1.60
41	75 000	1.70
42	75 000	1.80
43	75 000	1.90
44	75 000	2.00
45	75 000	2.00
46	75 000	2.20
47	75 000	2.40
48	75 000	2.60
49	75 000	2.80
50	75 000	3.00
51	75 000	3.00
52	75 000	3.50
53	75 000	3.50
54	75 000	4.00
55	75 000	4.50
56	75 000	5.00
57	75 000	5.50
58	75 000	6.00
59	75 000	6.50
60	75 000	7.00

Age last birthday	One unit \$	Cost/week \$
61	75 000	7.50
62	75 000	7.50
63	75 000	8.00
64	75 000	8.00
65 or over	0	not applicable

## Schedule 3—Revocation and transitional provisions

### Part 1—Revocation of *Southern State Superannuation Regulations 1995*

#### 1—Revocation of Regulations

The *Southern State Superannuation Regulations 1995* are revoked.

### Part 2—Transitional provisions

#### 2—Members previously entitled to future service benefit

- (1) Subject to this clause, a member of the scheme who was, immediately before the commencement of the *Southern State Superannuation (Invalidity/Death Insurance) Amendment Act 2001* (the *amending Act*), a member—
  - (a) who would have been entitled to a basic future service benefit in the circumstances referred to in section 34 of the repealed Act as in force immediately before the commencement of the amending Act; or
  - (b) in respect of whom a basic future service benefit would have been payable in the circumstances referred to in section 35 of the repealed Act as in force immediately before the commencement of the amending Act,
 but who was not a supplementary future service benefit member is entitled to a level of basic invalidity/death insurance that, in the opinion of the Board, will give the member invalidity and death insurance equivalent to or greater than the level of basic insurance that he or she was entitled to immediately before the commencement of the amending Act.
- (2) A person who was, immediately before the commencement of the amending Act, a supplementary future service benefit member of the scheme is entitled to a level of basic and voluntary invalidity/death insurance the combined value of which will, in the opinion of the Board, give the member invalidity and death insurance equivalent to or greater than the combined level of basic and supplementary insurance that he or she was entitled to immediately before the commencement of the amending Act.
- (3) A member referred to in subclause (1) may, by application in the approved form, reduce the level of basic invalidity/death insurance to which he or she is entitled under that subclause to the level permitted by these regulations.

- (4) The entitlement of a person to voluntary invalidity/death insurance under subclause (2) is subject to the same conditions (if any) that his or her entitlement to supplementary future service benefits was subject immediately before the commencement of the amending Act.
- (5) If a member referred to in subclause (1) had, before the repeal of the *Southern State Superannuation Act 1994*, reduced the level of basic invalidity/death insurance to which he or she was entitled under that Act—
  - (a) subclause (1) does not operate in relation to the member; and
  - (b) the member is entitled, on the commencement of this clause, to the level of basic invalidity/death insurance he or she enjoyed immediately before that repeal.

### **3—Visiting medical officers**

- (1) Subject to this clause, a transferred visiting medical officer is entitled (without being required to undergo a medical examination) to maintain the insurance cover the member enjoyed under the VMO Fund immediately prior to the repeal of the *Superannuation (Visiting Medical Officers) Act 1993* (subject to any adjustments that would have occurred from time to time under the terms of that insurance).
- (2) The insurance cover to which a transferred visiting medical officer is entitled under subclause (1)—
  - (a) will be in substitution for invalidity/death insurance under Part 3 of these Regulations (and that Part will not apply while the insurance cover under subclause (1) is maintained); and
  - (b) will, if the transferred visiting medical officer had attained the age of 60 at the time he or she became a member of the scheme (but had not yet attained the age of 65)—
    - (i) be available to the member despite the fact that he or she has attained the age of 60; and
    - (ii) continue to be available to the member until he or she attains the age of 65; and
  - (c) will be subject to premiums, determined by the Board, being premiums that do not exceed the premiums the member was paying under the VMO Fund immediately before 1 July 2003.
- (3) If a transferred visiting medical officer suffers from a medical condition or restriction relevant to the determination of his or her entitlements under the VMO Fund, any insurance cover to which he or she is entitled under subclause (1) may be subject to such authorised conditions as the Board thinks fit to impose.
- (4) A transferred visiting medical officer may apply to the Board to cancel or vary the insurance cover provided by subclause (1) but, in such a case, the transferred visiting medical officer will then be subject to the operation of Part 3 of these regulations.
- (5) This clause does not apply in relation to a transferred visiting medical officer who has, before the commencement of this clause, applied to the Board to cancel or vary the insurance cover provided by Schedule 3 Part 1 clause 12(1) of the repealed Act.

(6) In this clause—

**authorised condition** has the same meaning as in regulation 49;

**transferred visiting medical officer** means a visiting medical officer who, immediately before 1 July 2003, was a member of the VMO Fund;

**VMO Fund** means the SAHC Visiting Medical Officers Superannuation Fund established by a trust deed dated 24 February 1983.

#### 4—Transitional arrangement for certain police members (Schedule 1 clause 12)

For the purposes of subclause (2)(d) of clause 12 of Schedule 1 of the Act, the benefits to which a police member may be entitled under that subclause on his or her retirement in lieu of benefits under regulation 54 are to be determined in accordance with the following formula:

$$LS = 5.4545 \times A \times FS \times \left(1 + \frac{0.1667 \times X}{100}\right) \times \left(1 + \frac{0.2778 \times Y}{100}\right) + Pn \times \frac{FS \times 1.36 \times M}{480}$$

where—

**LS** is the minimum benefit

**FS** is the member's actual or attributed salary as defined by the *Police Superannuation Act 1990* (expressed as an annual amount)

**X** is the number of months (if any) by which the member's age at retirement exceeds 50 years, with a maximum value of 60

**Y** is the number of months (if any) by which the member's age at retirement exceeds 55 years

**Pn** is—

- (a) in the case of a member who was employed on a full-time basis throughout his or her membership of the Police Superannuation Scheme and the Triple S scheme—1; and
- (b) in any other case—

$$\frac{Pn8 \times M8 + PnTS \times (M - M8)}{M}$$

**A** is the lesser of the following:

- (a) unity;
- (b)

$$\frac{Pn \times M}{D}$$

**M** is the number of completed months between the day on which the member commenced service and the day of his or her retirement

**D** is—

- (a) if the age of the member at retirement is less than 55—360;

- (b) if the age of the member at retirement is 55 or greater but less than 60—360 plus Y;
- (c) if the age of the member at retirement is 60 or greater—420

***Pn8*** is, for the period of the member's membership of the Police Superannuation Scheme—

- (a) in the case of a member who was employed on a full-time basis throughout his or her membership of that Scheme—1; and
- (b) in any other case—the numerical value arrived at by expressing the member's employment for the period beginning on the day on which he or she became a member of that Scheme and ending on the day immediately before he or she became a member of the Triple S scheme as a proportion of full-time employment during that period

***M8*** is the number of completed months between the day the member commenced service and the day immediately before the day on which he or she became a member of the Triple S scheme

***PnTS*** is, for the period of the member's membership of the Triple S scheme—

- (a) in the case of a member who was employed on a full-time basis throughout his or her membership of that scheme—1; and
- (b) in any other case—the numerical value arrived at by expressing the member's employment for the period beginning on the day on which he or she became a member of that scheme and ending on the day of his or her retirement as a proportion of full-time employment during that period.

## **5—Application for disability pension**

The following provisions apply in relation to any application for a disability pension made under section 33A of the repealed Act that was not determined by the Board before the repeal of that Act:

- (a) the application will be taken to have been made under regulation 36;
- (b) if the application was made by a person who—
  - (i) was not exempted from the ambit of section 33A of the repealed Act; but
  - (ii) is exempted from the ambit of regulation 36 by virtue of being a casual member (within the meaning of regulation 37),

the member will, for the purposes of that application, be taken to have been brought within the ambit of regulation 36 on and from the day on which these regulations come into operation.

## **6—Restrictions on payment of disability pension for certain members**

- (1) This clause applies to a member (other than a prescribed member within the meaning of Part 3) who—
  - (a) was not entitled to obtain a benefit in the event of incapacity for work under section 33A of the repealed Act immediately before the repeal of that Act; but

- (b) would, but for this clause, be entitled to obtain a benefit in the event of incapacity for work under regulation 36 on the commencement of that regulation.
- (2) Regulation 36 will operate in relation to a member to whom this clause applies on and from, but not before, 31 October 2009.
- (3) However, if a member to whom this clause applies elects before 31 October 2009, by written notice to the Board, to be exempted from the ambit of regulation 36, the member will be taken to have made an election under regulation 37(1).
- (4) An election under subclause (3) will take effect from 31 October 2009.
- (5) A member to whom this clause applies who was employed in employment to which the Act applies for a period of at least 3 months prior to the commencement of the Act is not entitled during the relevant period to a disability pension under regulation 36 in respect of incapacity attributable to a medical condition existing before the day of that commencement.
- (6) In subclause (5)—  
*relevant period* means the 2 year period commencing on the day in which the Act comes into operation.

### **7—Continuation of disability pension for certain members**

Regulation 36(19) does not apply in relation to a disability pension if payment of the pension commenced before the commencement of these regulations.

### **8—Post retirement investment**

Funds held under section 47B of the repealed Act will continue as funds held under regulation 45.

### **9—Conditions of insurance**

If an application for invalidity or death insurance under the repealed Act was granted on conditions, the conditions continue to apply in relation to the insurance under these regulations unless varied or removed by the Board under regulation 49(5).

#### **Note—**

As required by section 30(8)(f) of the *Southern State Superannuation Act 2009*, the Minister has certified that the Minister is satisfied that it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

following consultation by the Treasurer with the South Australian Superannuation Board and with the advice and consent of the Executive Council  
on 23 July 2009

No 208 of 2009

T&F07/027CS