

South Australia

## **Southern State Superannuation Variation Regulations 2010**

under the *Southern State Superannuation Act 2009*

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### **Contents**

#### **Part 1—Preliminary**

- 1 Short title
- 2 Commencement
- 3 Variation provisions

#### **Part 2—Variation of *Southern State Superannuation Regulations 2009***

- 4 Variation of regulation 3—Interpretation
  - 5 Variation of regulation 34—Amount of invalidity/death insurance benefits and amount of premiums
  - 6 Variation of regulation 36—Disability pension
  - 7 Variation of regulation 48—Terms and conditions
  - 8 Variation of regulation 49—Application for insurance
  - 9 Variation of regulation 55—Resignation
  - 10 Variation of regulation 58—Invalidity or terminal illness
  - 11 Variation of regulation 63—Benefits for spouse members
  - 12 Insertion of regulation 73A
    - 73A Medical information for invalidity and terminal illness benefits
- 

### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Southern State Superannuation Variation Regulations 2010*.

#### **2—Commencement**

These regulations come into operation on the day on which they are made.

#### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## Part 2—Variation of *Southern State Superannuation Regulations 2009*

### 4—Variation of regulation 3—Interpretation

- (1) Regulation 3(1), after the definition of *invalidity/death insurance benefits* insert:

*medical practitioner* means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student);

- (2) Regulation 3(1)—after the definition of *surcharge notice* insert:

*terminal illness*, of a person, means an illness or condition that is likely, in the opinion of at least 2 medical practitioners (1 of whom must have specialist expertise in the relevant field of medicine), to result in death of the person within 12 months of the day on which the opinion is given;

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

- (1) Regulation 34(3)(b)—delete "repealed" wherever occurring and substitute in each case:

revoked

- (2) Regulation 34(9)—delete "*repealed*" and substitute:

*revoked*

### 6—Variation of regulation 36—Disability pension

- (1) Regulation 36(2)—delete subregulation (2) and substitute:

- (2) An application for a disability pension must be made—

- (a) 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; or
- (b) if the member is entitled to weekly payments of workers compensation, or is on recreation leave, long service leave or paid sick leave in connection with the incapacity for work to which the application relates, immediately after ceasing to be engaged in work in respect of employment to which the Act applies—within 6 months of the day on which the member ceases to be entitled to weekly payments of workers compensation, or to be on recreation leave, long service leave or paid sick leave in connection with the incapacity.
- (2a) If a member notifies the Board when lodging an application for a disability pension that the application should not be assessed until further notice, the application will be taken to have been received by the Board if and when the member subsequently gives notice to the Board that the application is to be assessed.

- (2) Regulation 36—after subregulation (5) insert:
- (5a) A disability pension is payable in respect of a disability—
    - (a) only if the member is—
      - (i) incapacitated for work on account of that disability for more than 30 consecutive days; and
      - (ii) absent from his or her employment because of the incapacity for all working days falling within that 30 day period; and
    - (b) only in relation to a period of incapacity that occurs after the end of the period of 30 days during which the member has been absent from work as referred to in paragraph (a).
- (3) Regulation 36(6)(a)—delete paragraph (a)
- (4) Regulation 36—after subregulation (7) insert:
- (7a) A member who is in receipt of a disability pension may, by notice in writing to the Board, suspend payment of the pension for a period specified in the notice.
- (5) Regulation 36—after subregulation (9) insert:
- (9a) For the purposes of subregulations (8) and (9)—
    - (a) if an application by a member for a disability pension is taken under subregulation (2a) to have been received on a day that is not the day on which it was lodged, and the application is successful, the period commencing on the day on which the application was lodged and ending on the day on which the applicant gives notice to the Board that the application is to be assessed is to be taken into account as a period during which a disability pension was paid to the member; and
    - (b) if payment of a disability pension to a member is suspended at the request of the member under subregulation (7a), the period of the suspension is to be taken into account as a period during which a disability pension was paid to the member.
- (6) Regulation 36—after subregulation (20) insert:
- (21) In this regulation—

*working day* in relation to a member means a day on which the member would be normally required to work in the course of employment.

## 7—Variation of regulation 48—Terms and conditions

Regulation 48—after subregulation (9) insert:

- (9a) An invalidity insurance benefit will also be payable if the Board is satisfied that the insured is suffering from a terminal illness.

## **8—Variation of regulation 49—Application for insurance**

Regulation 49—after subregulation (1) insert:

- (1a) Despite regulation 28(1), if the granting of an application for fixed insurance cover by a member who has been a member of the scheme for 6 months or more would result in the member having—
  - (a) basic invalidity/death insurance consisting of—
    - (i) 1 unit of fixed insurance cover instead of 2 units of standard insurance cover; or
    - (ii) in the case of a member who has made an election under Schedule 3 clause 1(1) of the revoked regulations (within the meaning of regulation 34)—  
1 unit of fixed insurance cover instead of 1 unit of standard insurance cover; and
  - (b) an increased level of insurance,

this regulation will apply to the application as if it were an application to increase the level of the applicant's insurance.

## **9—Variation of regulation 55—Resignation**

Regulation 55(7)(b)—delete paragraph (b) and substitute:

- (b) if the member—
  - (i) 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; or
  - (ii) satisfies the Board that he or she is suffering from a terminal illness,

the Board will authorise payment of the component to the member;

## **10—Variation of regulation 58—Invalidity or terminal illness**

- (1) Regulation 58(1)(b)—after "a member" insert:

whose employment has not terminated

- (2) Regulation 58(2) to (6)—delete subregulations (2) to (6) (inclusive) and substitute:

- (2) The basic and voluntary invalidity insurance benefits are not payable to a member entitled to benefits under subregulation (1)(a) if—
  - (a) the Board is not satisfied that the member's incapacity for all kinds of work is 60% or more of total incapacity and is likely to be permanent; or

- (b) the Board is satisfied that the member has refused or failed to submit to reasonable medical treatment that, in the opinion of at least 2 medical practitioners providing advice or care to the member in relation to the medical condition to which the member's incapacity is attributable, would be likely to contribute to the member being able to carry out, to a substantial extent (whether on a full-time or part-time basis), the duties of his or her employment or some other employment for which the member is suitably qualified (whether by experience, training, or both) within 2 years of the commencement of the incapacity.
- (3) Regulation 58(11)—delete "subregulation (12)" and substitute:
  - subregulations (12) and (12a)
- (4) Regulation 58—after subregulation (12) insert:
  - (12a) A member's employment will be taken to have terminated on account of invalidity if—
    - (a) the member's employment pursuant to a fixed term contract has terminated due to the expiry of the contract; 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 the termination of the employment on account of invalidity attributable to a medical condition existing before the expiry of the contract.
- (5) Regulation 58(13)—after "subregulation (12)" insert:
  - or (12a)
- (6) Regulation 58—after subregulation (16) insert:
  - (16a) This regulation does not apply in relation to a public sector superannuation beneficiary (within the meaning of Part 3 Division 4) who has invalidity/death insurance cover by virtue of regulation 48(7)(a).
- (7) Regulation 58(17), definition of *terminal illness*—delete the definition

## **11—Variation of regulation 63—Benefits for spouse members**

- (1) Regulation 63(1)—after paragraph (a) insert:
    - (ab) if the spouse member—
      - (i) is the spouse of the relevant member; and
      - (ii) has attained the age of 65 years,
- payment of the amount may be made to the spouse member or rolled over to some other fund or scheme approved by the Board;

- (2) Regulation 63(1)—at the end of subregulation (1) insert:

**Note—**

If all amounts standing to the credit of a spouse member's accounts are paid to the spouse member, the spouse member's voluntary death insurance will be suspended—see regulation 43(2).

- (3) Regulation 63(3)—delete subregulation (3) and substitute:

- (3) If—

- (a) —

- (i) a spouse member suffers physical or mental incapacity; and
- (ii) 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; or

- (b) the Board is satisfied that a spouse member is suffering from a terminal illness,

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.

## **12—Insertion of regulation 73A**

Before regulation 74 insert:

### **73A—Medical information for invalidity and terminal illness benefits**

- (1) For the purposes of assessing whether or not a person is suffering from a terminal illness, the Board may require the person to submit himself or herself for a medical examination by a medical practitioner nominated by the Board.
- (2) The cost of—
  - (a) a report obtained from a medical practitioner at the request of the Board for the purposes of determining whether a person is suffering from a terminal illness; or
  - (b) a medical examination to which a person is required to submit under subregulation (1),is to be borne by the Board.
- (3) The Board may require a person seeking benefits on account of invalidity to provide evidence of his or her incapacity and, for that purpose, may require the person to submit himself or herself for a medical examination by 1 or more medical practitioners nominated by the Board.
- (4) The cost of any medical examination to which a member is required to submit for the purposes of subregulation (3) is to be borne by the member.

**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 18 November 2010

No 227 of 2010

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