

South Australia

Southern State Superannuation Variation Regulations 2011

under the *Southern State Superannuation Act 2009*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Southern State Superannuation Variation Regulations 2011*.

2—Commencement

These regulations will come into operation on the day on which section 18 of the *Statutes Amendment (Members' Benefits) Act 2010* comes into operation.

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

Regulation 3(1)—after the definition of *PSESS Scheme* insert:

PSS 3 means the scheme of superannuation known as PSS 3 under the *Parliamentary Superannuation Act 1974*;

PSS 3 member means a member of PSS 3 under the *Parliamentary Superannuation Act 1974*;

5—Variation of regulation 9—Membership

Regulation 9—after subregulation (5) insert:

- (5a) A PSS 3 member who has elected under section 36 of the *Parliamentary Superannuation Act 1974* to take out voluntary invalidity/death insurance (and who is not, at the time of making the election, a member of the Triple S scheme) becomes a member of the Triple S scheme on the making of the election.

6—Insertion of regulation 13A

After regulation 13 insert:

13A—Members of Parliamentary Superannuation Scheme

- (1) The Board must maintain a contribution account in the name of a PSS 3 member who has made an election under section 36 of the *Parliamentary Superannuation Act 1974* to take out voluntary invalidity/death insurance and is a member of the Triple S scheme.
- (2) A PSS 3 member who has made an election under section 36 of the *Parliamentary Superannuation Act 1974* to take out voluntary invalidity/death insurance and is a member of the Triple S scheme is entitled to—
 - (a) payment, in accordance with Part 4, of the balance of the member's contribution account; and
 - (b) voluntary invalidity/death insurance taken out in accordance with the election,but is not entitled to any other benefits under the Act or these regulations in connection with the election.
- (3) An amount transferred from the Parliamentary Superannuation scheme to the Triple S scheme in respect of a PSS 3 member will be taken for the purposes of these regulations to be a contribution made in relation to the member by the member's employer.

7—Variation of regulation 15—Members to whom section 21 does not apply

Regulation 15—delete "regulation 9(6)" and substitute:

regulation 9(5a) or (6)

8—Variation of regulation 16—Contribution, co-contribution and rollover accounts

(1) Regulation 16(2)—after paragraph (c) insert:

and

(d) in the case of the employer contribution account of a PSS 3 member who has made an election under section 36 of the *Parliamentary Superannuation Act 1974* to take out voluntary invalidity/death insurance and is a member of the Triple S scheme—amounts that are equivalent to amounts transferred from the Parliamentary Superannuation scheme to the Triple S scheme in respect of the PSS 3 member.

(2) Regulation 16(3)(b)—after "regulation 13" insert:

, or is a PSS 3 member who has made an election under section 36 of the *Parliamentary Superannuation Act 1974* to take out voluntary invalidity/death insurance and is a member of the Triple S scheme

9—Variation of regulation 17—Contributions (section 20 of Act)

Regulation 17(2)—after "regulation 9(3), (5)," insert:

(5a),

10—Variation of regulation 28—Basic invalidity/death insurance

Regulation 28(2)(a)—after "regulation 9(3), (5)," insert:

(5a),

11—Variation of regulation 30—Application for voluntary invalidity/death insurance

Regulation 30—after subregulation (1) insert:

(1a) Voluntary invalidity/death insurance may only be provided to a PSS 3 member in connection with an election under section 36 of the *Parliamentary Superannuation Act 1974* to take out voluntary invalidity/death insurance if the member has applied to the Board for the insurance in accordance with these regulations.

12—Variation of regulation 38—Persons not entitled to disability pension

Regulation 38(b)—after "regulation 9(3), (5)," insert:

(5a),

13—Insertion of heading to Part 4 Division 1 Subdivision 1

Before regulation 52 insert:

Subdivision 1—Preliminary

14—Insertion of heading to Part 4 Division 1 Subdivision 2

After regulation 52 insert:

Subdivision 2—Members (other than PSS 3 members)

15—Insertion of regulation 52A

Before regulation 53 insert:

52A—Application of Subdivision

This Subdivision does not apply in relation to the benefits to which a PSS 3 member is entitled under regulation 13A(2) in connection with an election under section 36 of the *Parliamentary Superannuation Act 1974* to take out voluntary invalidity/death insurance.

16—Insertion of Part 4 Division 1 Subdivision 3

After regulation 62 insert:

Subdivision 3—PSS 3 members

62A—Interpretation

- (1) A reference in this Subdivision to a PSS 3 member is a reference to a PSS 3 member who has made an election to take out voluntary invalidity/death insurance under section 36 of the *Parliamentary Superannuation Act 1974* and is a member of the Triple S scheme.
- (2) A PSS 3 member will be taken to have retired for the purposes of this Subdivision if the member is taken to have retired (whether voluntarily or involuntarily) for the purposes of the *Parliamentary Superannuation Act 1974*.

62B—Retirement of PSS 3 member at or above age 55

- (1) A PSS 3 member who—
 - (a) has retired; and
 - (b) has reached the age of 55 years,is entitled to payment of the employer component of benefits.
- (2) Subject to subregulation (3), a PSS 3 member who does not apply to the Board in writing for the payment of an entitlement under subregulation (1) within 3 months after retirement will be taken to have preserved the employer component and regulation 62D will apply to and in relation to it.
- (3) A PSS 3 member who has retired and reached the age of 65 years must immediately be paid the employer component.
- (4) This regulation does not apply to or in relation to a case involving the death of a PSS 3 member (see regulation 62F) and does not derogate from the ability of a member to apply for a benefit under regulation 62E (rather than taking a benefit under this regulation).

62C—Cessation of membership of PSS 3 member before age 55

- (1) Subject to this regulation, a PSS 3 member who retires before reaching the age of 55 years may elect—
 - (a) to preserve the employer component; or
 - (b) to carry the employer component over to another superannuation fund or scheme that is a complying superannuation fund (as a preserved employer component).
- (2) A PSS 3 member who does not inform the Board in writing of his or her election under subregulation (1) within 3 months after ceasing to be a member will be taken to have elected to preserve the employer component and regulation 62D will apply to and in relation to it.
- (3) If the Board is of the opinion that the limitation period referred to in subregulation (2) would unfairly prejudice a member, the Board may extend the period that applies to the member.
- (4) A PSS 3 member who has elected, or has been taken to have elected, to preserve his or her employer component and to whom the component has not been paid under regulation 62D, may elect to withdraw the election and to elect to carry the component over to a complying superannuation fund.
- (5) If a member elects to carry the employer component to a complying superannuation fund, 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;
 - (b) on being so satisfied the Board will authorise payment of the component on behalf of the member to the fund.
- (6) If a PSS 3 member has ceased to be a member of the Parliament of the State and has elected to preserve the employer component but has subsequently again become a member of the Parliament, the Board may maintain separate employer contribution accounts in the name of the member.
- (7) This regulation does not apply to or in relation to a case involving—
 - (a) a cessation of membership on the ground of invalidity (in circumstances entitling the member to a benefit under regulation 62E); or
 - (b) the death of a PSS 3 member (see regulation 62F).

62D—Preservation of components

If an employer component has been preserved under regulation 62B(2) or 62C, then the following provisions will apply:

- (a) the Board must in relation to a component preserved under regulation 62C, not less than 6 months before the relevant member's 55th birthday (unless that period has already been reached), notify the relevant member in writing of his or her entitlement to require the Board to make a payment under paragraph (b);
- (b) the relevant 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;
- (c) if the relevant 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;
- (d) if the relevant 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).

62E—Invalidity

- (1) If—
 - (a) a PSS 3 member resigns from the Parliament of the State; and
 - (b) a judge is satisfied, before the resignation occurs, that ill health prevents the member from being able to carry out the duties of office to a reasonable degree,

the member is entitled to benefits made up of the following components:

- (c) the employer component;
- (d) subject to this regulation and regulation 49(6) and (7)—the voluntary invalidity insurance benefit.

- (2) The voluntary invalidity/death insurance benefits are not payable to a member entitled to benefits under subregulation (1) 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 office or employment for which the member is suitably qualified (whether by experience, training, or both) within 2 years of the commencement of the incapacity.

62F—Death of PSS 3 member

- (1) If a PSS 3 member ceases to be a member of the Parliament of the State by reason of his or her 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) A payment under subregulation (1)(a) or (b) is to be made up of the following components:
 - (a) the employer component;
 - (b) subject to this regulation, the death insurance benefit (if any).
- (3) A surviving spouse will not be entitled to a benefit under this regulation if regulation 69 applies to the spouse.
- (4) If a PSS 3 member takes his or her life—
 - (a) within 1 year after the commencement of his or her voluntary invalidity/death insurance—voluntary death insurance benefits are not payable; or
 - (b) within 1 year after an increase in the level of his or her voluntary invalidity/death insurance—voluntary death insurance benefits are not payable in respect of the increased insurance.
- (5) If a PSS 3 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.

- (6) If—
- (a) a PSS 3 member ceases to be a member of the Parliament of the State for any reason other than his or her death; and
 - (b) the member dies within 1 month after that cessation,
the member's spouse or estate is entitled to the death insurance benefit (if any) that the spouse or estate would have been entitled to if the member had ceased to be a member of Parliament by virtue of the member's death.

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 June 2011

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