

South Australia

## **Southern State Superannuation Variation Regulations 2012**

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 2012*.

#### **2—Commencement**

These regulations will come into operation on 31 December 2012.

#### **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), definition of *notional salary*—delete the definition
- (2) Regulation 3(1)—after the definition of *Superannuation Contributions Tax Act* insert:

*Super SA Select* means the superannuation fund of that name established under a trust deed and for which Southern Select Super Corporation is trustee;

*Super SA Select member* means a member of Super SA Select;

### 5—Insertion of regulation 13B

After regulation 13A insert:

#### 13B—Members of Super SA Select

- (1) Pursuant to section 19(3)(a) of the Act, a member who becomes a Super SA Select member will (despite section 19(2)(b) of the Act) continue to be a member of the Triple S scheme until—
  - (a) the Crown, or an agency or instrumentality of the Crown, is no longer liable to pay a superannuation guarantee charge under the Commonwealth Act in relation to the member (but the member will continue to be a member of the Triple S scheme during any period in which the member is taken under regulation 6 to have remained in employment); or
  - (b) his or her membership of the Triple S scheme otherwise ceases under regulation 14(1).
- (2) If a member is a Super SA Select member—
  - (a) he or she may elect, in the approved form, to have an amount equivalent to the balance standing to the credit of each account maintained by the Board in his or her name rolled over to Super SA Select; but
  - (b) the Board must continue to maintain an employer contribution account in his or her name from which insurance premiums payable by the member, and the disability pension premium, will be debited in accordance with regulation 39.
- (3) A member of the scheme who is a Super SA Select member is entitled to—
  - (a) payment, in accordance with Part 4, of the balance of each account maintained for the member by the Board as required under section 12 of the Act; and

- (b) basic invalidity/death insurance and voluntary invalidity/death insurance taken out under Part 3 Division 2 Subdivision 2 (if any); and
- (c) subject to regulations 36 and 38A, a disability pension or police disability pension,

but is not entitled to make contributions under section 20 of the Act and is not entitled to any other benefits under the Act.

#### **6—Variation of regulation 14—Duration of membership**

- (1) Regulation 14(3)—delete "If a member" and substitute:

Subject to subregulation (3a), if a member

- (2) Regulation 14—after subregulation (3) insert:

- (3a) Subregulation (3) does not apply in relation to membership of Super SA Select.

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

Regulation 15—after its present contents (now to be designated as subregulation (1)) insert:

- (2) For the purposes of the definition of *prescribed scheme* in section 21 of the Act, Super SA Select is prescribed.

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

- (1) Regulation 16—after subregulation (1) insert:

- (1a) For the purposes of this regulation, a payment received by the Board from the board of the Southern Select Super Corporation on behalf of a member who is also a Super SA Select member is to be taken to be a contribution made in relation to the member by his or her employer.

**Note—**

Payments will be made by the board of the Southern Select Super Corporation to the Board on behalf of Super SA Select members for the purpose of ensuring that insurance premiums and the disability pension premium can be deducted from the member's employer contribution account in accordance with subregulation (3)(a).

- (2) Regulation 16(2)—after paragraph (d) insert:

and

- (e) in the case of the employer contribution account of a member who is a Super SA Select member—amounts that are equivalent to amounts transferred from Super SA Select to the Triple S scheme in respect of the member.

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

Regulation 17—after subregulation (2) insert:

- (2a) A Super SA Select Member (including a police member who is a Super SA Select member) is not entitled to make contributions under section 20 of the Act.

## 10—Variation of regulation 36—Disability pension

Regulation 36(21)—before the definition of *working day* insert:

*notional salary*—see regulation 36A;

## 11—Insertion of regulation 36A

After regulation 36 insert:

### 36A—Notional salary

- (1) For the purposes of regulation 36, the *notional salary* of a member who is entitled to a disability pension is 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.
- (2) However—
- (a) if the member was not, immediately before the commencement of his or her incapacity, 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; and
- (b) if the Board is satisfied that—
- (i) the member was not, immediately before the commencement of his or her incapacity, in receipt of a shift work allowance or an on call allowance to which he or she would ordinarily be entitled; and
- (ii) he or she was not in receipt of the allowance only because of a medical condition to which his or her incapacity is attributable,

the member will be taken to have been receiving the allowance immediately before the commencement of his or her incapacity.

## 12—Variation of regulation 55—Resignation

Regulation 55(1)—after paragraph (c) insert:

or

- (d) —
- (i) to take immediately part of the employee component; and

- (ii) to carry the part of the employee component that has not been taken over to some other superannuation fund or scheme approved by the Board.

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

Regulation 58(9)—delete subregulation (9) and substitute:

- (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)—
  - (a) 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)); and
  - (b) if the member is a Super SA Select member—the member will be taken to be entitled to benefits under subregulation (1) equal in value to the total amount of—
    - (i) the employee component (if any); and
    - (ii) the employer component (if any); and
    - (iii) any basic invalidity insurance benefit and voluntary invalidity insurance benefit to which the member is entitled under that subregulation; and
    - (iv) the component of the account maintained by Super SA Select on behalf of the member attributable to employee contributions and employer contributions (including any amount rolled over to Super SA Select from the Triple S scheme that is attributable to employee contributions or employer contributions).
- (9a) If a Super SA Select member is entitled to a payment under subregulation (8), the payment is to be reduced by the amount of the component of the account maintained by Super SA Select on behalf of the member attributable to employee contributions and employer contributions (including any amount rolled over to Super SA Select from the Triple S scheme that is attributable to employee contributions or employer contributions).

## **14—Variation of regulation 59—Death of member**

Regulation 59(8)—delete subregulation (8) and substitute:

- (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)—
  - (a) 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)); and
  - (b) if the member was a Super SA Select member—the member's spouse or estate will be taken to be entitled to benefits under subregulation (2) equal in value to the total amount of—
    - (i) the employee component (if any); and
    - (ii) the employer component (if any); and
    - (iii) any basic death insurance benefit and voluntary death insurance benefit to which the spouse or estate is entitled under that subregulation; and
    - (iv) the component of the account maintained by Super SA Select on behalf of the member attributable to employee contributions and employer contributions (including any amount rolled over to Super SA Select from the Triple S scheme that is attributable to employee contributions or employer contributions).
- (8a) If the spouse or estate of a member who was a Super SA Select member is entitled to a payment under subregulation (8), the payment is to be reduced by the amount of the component of the account maintained by Super SA Select on behalf of the member attributable to employee contributions and employer contributions (including any amount rolled over to Super SA Select from the Triple S scheme that is attributable to employee contributions or employer contributions).

**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the approval of the Treasurer and following consultation by the Minister for Finance with the South Australian Superannuation Board and with the advice and consent of the Executive Council

on 20 December 2012

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