

South Australia

Southern State Superannuation Variation Regulations 2016

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 2016*.

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:
legal personal representative—see subregulation (4);
- (2) Regulation 3—after subregulation (3) insert:
 - (4) For the purposes of these regulations, a person is the *legal personal representative* of a person who has died if—
 - (a) the person has been nominated by the deceased, by notice in writing to the Board, as his or her legal personal representative in accordance with the requirements of the Board; and
 - (b) the notice has effect for the purposes of the SIS Act.

5—Variation of regulation 48—Terms and conditions

Regulation 48(10)—delete subregulation (10) and substitute:

- (10) Death benefits payable in respect of a deceased insured will be paid as follows:
 - (a) if the deceased has a legal personal representative—the benefits will be paid to the representative;
 - (b) if the deceased does not have a legal personal representative but is survived by a spouse—the benefits will be paid to the spouse;
 - (c) if the deceased does not have a legal personal representative and is not survived by a spouse—the benefits will be paid to the deceased's estate.

6—Variation of regulation 53—Early access to superannuation benefits

- (1) Regulation 53(4)(a)—delete paragraph (a)
- (2) Regulation 53—after subregulation (4) insert:
 - (4a) Only 1 application may be made by a member under this regulation in a financial year.

7—Variation of regulation 55—Resignation

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

- (c) if the member dies, the component will be paid—
 - (i) if the member has a legal personal representative—to the representative; and
 - (ii) if the member does not have a legal personal representative but is survived by a spouse—to the spouse; and

- (iii) if the member does not have a legal personal representative and is not survived by a spouse—to the member's estate,

8—Variation of regulation 56A—Rollover of certain components

- (1) Regulation 56A(a)—after subparagraph (ii) insert:
 - (iii) employed by a participating employer,
- (2) Regulation 56A(b)—delete paragraph (b)

9—Variation of regulation 59—Death of member

- (1) Regulation 59(1)(a) and (b)—delete paragraphs (a) and (b) and substitute:
 - (a) if the deceased member has a legal personal representative—a payment will be made to the representative; and
 - (b) if the deceased member does not have a legal personal representative but is survived by a spouse—a payment will be made to the spouse; and
 - (c) if the deceased member does not have a legal personal representative and is not survived by a spouse—a payment will be made to the member's estate.
- (2) Regulation 59(2)—delete "subregulation (1)(a) or (b)" and substitute:
 - subregulation (1)(a), (b) or (c)
- (3) Regulation 59(7)—delete "spouse or estate" and substitute:
 - legal personal representative, spouse or estate (as the case may be)
- (4) Regulation 59(8)—after "a member's" insert:
 - legal personal representative,
- (5) Regulation 59(8)(a)—after "(the" insert:
 - legal personal representative,
- (6) Regulation 59(8)(b)—after "the member's" insert:
 - legal personal representative,
- (7) Regulation 59(8)(b)(iii)—after "to which the" insert:
 - legal personal representative,
- (8) Regulation 59(8a)—after "If the" insert:
 - legal personal representative,
- (9) Regulation 59(10)—delete "member who has died is not survived by a spouse" and substitute:
 - benefit is payable to the legal personal representative or estate of a deceased member

- (10) Regulation 59(11)—delete "spouse or estate is entitled to the basic death insurance benefit and the voluntary death insurance benefit (if any) that the spouse or estate" and substitute:

legal personal representative, spouse or estate is entitled to the basic death insurance benefit and the voluntary death insurance benefit (if any) that the representative, spouse or estate

10—Variation of regulation 61—Commutation to pay deferred superannuation contributions surcharge following death

- (1) Regulation 61(1)—delete "or, if the member is not survived by a spouse, the member's legal representative, may," and substitute:

or legal representative may, if he or she is entitled to be paid a benefit on the death of the member,

- (2) Regulation 61(2)(a)(i)—delete "by the spouse or estate"

- (3) Regulation 61(2)(c)—delete "estate" and substitute:

representative

- (4) Regulation 61(3)—delete "or, if the member is not survived by a spouse, the member's legal representative, may" and substitute:

or legal representative may, if he or she is entitled to be paid a benefit on the death of the prescribed member

- (5) Regulation 61(3)(a)—delete "estate" and substitute:

representative

- (6) Regulation 61(3)(b)(i)—delete "spouse's benefit or the benefit payable to the estate" and substitute:

benefit

- (7) Regulation 61(3)(b)(ii)—delete "estate" and substitute:

representative

- (8) Regulation 61(5)(a)(i)—delete "by the spouse or estate"

- (9) Regulation 61(5)(c)—delete "estate" and substitute:

representative

11—Insertion of regulation 62AAB

After regulation 62AA insert:

62AAB—Excess non-concessional contributions

- (1) If a release authority is issued to the Board under section 96-12 of the *Taxation Administration Act 1953* of the Commonwealth in relation to a member's excess non-concessional contributions, the Board may pay to the member any amount the Board is required to pay pursuant to the authority.

- (2) If a payment is made to a member under subregulation (1), the Board must debit the amount of the payment against the member's employee contribution account or, if the credit balance of the member's employee contribution account is not sufficient to make the payment, the member's employer contribution account, rollover account or co-contribution account.
- (3) In this section—
excess non-concessional contributions has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth.

12—Variation of regulation 62D—Preservation of components

Regulation 62D(d)—delete paragraph (d) and substitute:

- (d) if the relevant member dies, the component will be paid—
 - (i) if the member has a legal personal representative—to the representative; and
 - (ii) if the member does not have a legal personal representative but is survived by a spouse—to the spouse; and
 - (iii) if the member does not have a legal personal representative and is not survived by a spouse—to the member's estate,

13—Variation of regulation 62F—Death of PSS 3 member

- (1) Regulation 62F(1)(a) and (b)—delete paragraphs (a) and (b) and substitute:
 - (a) if the deceased member has a legal personal representative—a payment will be made to the representative; and
 - (b) if the deceased member does not have a legal personal representative but is survived by a spouse—a payment will be made to the spouse; and
 - (c) if the deceased member does not have a legal personal representative and is not survived by a spouse—a payment will be made to the member's estate.
- (2) Regulation 62F(2)—delete "subregulation (1)(a) or (b)" and substitute:

subregulation (1)(a), (b) or (c)
- (3) Regulation 62F(5)—delete "PSS 3 member who has died is not survived by a spouse" and substitute:

benefit is payable to the legal personal representative or estate of a deceased PSS 3 member
- (4) Regulation 62F(6)—delete "spouse or estate is entitled to the death insurance benefit (if any) that the spouse or estate" and substitute:

legal personal representative, spouse or estate is entitled to the death insurance benefit (if any) that the representative, spouse or estate

14—Variation of regulation 63—Benefits for spouse members

- (1) Regulation 63(1)(b)(ii)—after "terminated" insert:

or the relevant member has taken the benefit of regulation 56A
- (2) Regulation 63(1)(c)(ii)—after "terminated" insert:

or the relevant member has taken the benefit of regulation 56A
- (3) Regulation 63(4)(a) and (b)—delete paragraphs (a) and (b) and substitute:
 - (a) if the deceased spouse member has a legal personal representative—a payment will be made to the representative; and
 - (b) if the deceased spouse member does not have a legal personal representative but is survived by a spouse—a payment will be made to the spouse; and
 - (c) if the deceased spouse member does not have a legal personal representative and is not survived by a spouse—a payment will be made to the spouse member's estate.

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 advice and consent of the Executive Council
on 16 June 2016

No 50 of 2016

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