

South Australia

## **Southern State Superannuation (Miscellaneous) Variation Regulations 2018**

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 (Miscellaneous) Variation Regulations 2018*.

#### **2—Commencement**

These regulations will come into operation on 3 September 2018 immediately after the *Southern State Superannuation (Insurance) Variation Regulations 2017* come 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 9—Membership**

Regulation 9(1)(b), (c) and (d)—delete paragraphs (b), (c) and (d)

### **5—Variation of regulation 36A—Notional salary**

Regulation 36A—after subregulation (9) insert:

- (9a) An adjustment is not to be made under subregulation (1) if the effect of the adjustment would be to reduce the amount of a member's disability pension.

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

Regulation 37(3)(b)—delete "1 month" and substitute:

3 months

### **7—Insertion of regulation 53A**

After regulation 53 insert:

#### **53A—Early access to superannuation benefits in case of severe financial hardship or on compassionate grounds**

- (1) A member may apply to the Board for the early release of an amount of the member's benefit—
- (a) if the member is in severe financial hardship; or
  - (b) on a compassionate ground.
- (2) The Board may require that an application under subregulation (1) be made in such manner, comply with such requirements and be on such terms and conditions as the Board thinks fit.
- (3) The Board must, on receipt of an application under subregulation (1), determine whether, in the Board's opinion, if the SIS regulations applied, the member would be taken for the purposes of those regulations—
- (a) to be in severe financial hardship; or
  - (b) to satisfy a condition of release on a compassionate ground.
- (4) If the Board makes a determination that subregulation (3)(a) or (b) applies to the member, the Board must—
- (a) determine the maximum amount that the SIS regulations would permit to be paid to the member in those circumstances; and
  - (b) if the Board considers it appropriate to do so in all the circumstances, pay to the member—
    - (i) the amount applied for by the member; or

- (ii) the amount determined by the Board under paragraph (a); or
  - (iii) the combined balance of the member's eligible contribution accounts (subject to any minimum account balance required by the Board),
- whichever is the lesser.
- (5) If the Board makes a payment to a member under subregulation (4)(b), 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.
- (6) A member making an application under subregulation (1) must furnish the Board with any information that it requires for the purposes of making a determination under this regulation.
- (7) In this regulation—
- compassionate ground* and *condition of release* have the same respective meanings as in Part 6 of the SIS regulations;
- 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;
- severe financial hardship* has the same meaning as in Part 6 of the SIS regulations;
- SIS regulations* means the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth.

## **8—Variation of regulation 62AA—Payment of Division 293 tax**

Regulation 62AA(1)—delete "Schedule 1 Division 135 of"

## **9—Variation of regulation 62AAB—Excess non-concessional contributions**

Regulation 62AAB(1)—delete "section 96-12 of"

## **10—Insertion of regulation 63A**

After regulation 63 insert:

### **63A—Early access to superannuation benefits in case of severe financial hardship or on compassionate grounds**

- (1) A spouse member may apply to the Board for the early release of an amount of the spouse member's benefit—
- (a) if the spouse member is in severe financial hardship; or
  - (b) on a compassionate ground.

- (2) The Board may require that an application under subregulation (1) be made in such manner, comply with such requirements and be on such terms and conditions as the Board thinks fit.
- (3) The Board must, on receipt of an application under subregulation (1), determine whether, in the Board's opinion, if the SIS regulations applied, the spouse member would be taken for the purposes of those regulations—
  - (a) to be in severe financial hardship; or
  - (b) to satisfy a condition of release on a compassionate ground.
- (4) If the Board makes a determination that subregulation (3)(a) or (b) applies to the spouse member, the Board must—
  - (a) determine the maximum amount that the SIS regulations would permit to be paid to the spouse member in those circumstances; and
  - (b) if the Board considers it appropriate to do so in all the circumstances, pay to the spouse member—
    - (i) the amount applied for by the spouse member; or
    - (ii) the amount determined by the Board under paragraph (a); or
    - (iii) the combined balance of the spouse member's eligible contribution accounts (subject to any minimum account balance required by the Board),  
whichever is the lesser.
- (5) If the Board makes a payment to a spouse member under subregulation (4)(b), the Board must debit the amount of the payment against the spouse member's contribution account or, if the credit balance of the spouse member's contribution account is not sufficient to make the payment, the spouse member's rollover account or co-contribution account.
- (6) A spouse member making an application under subregulation (1) must furnish the Board with any information that it requires for the purposes of making a determination under this regulation.
- (7) In this regulation—

***compassionate ground*** and ***condition of release*** have the same respective meanings as in Part 6 of the SIS regulations;

***eligible contribution accounts*** of a spouse member means—
  - (a) the spouse member's contribution account; and
  - (b) the spouse member's rollover account; and
  - (c) the spouse member's co-contribution account;

***severe financial hardship*** has the same meaning as in Part 6 of the SIS regulations;

*SIS regulations* means the *Superannuation Industry (Supervision) Regulations 1994* of the Commonwealth.

**11—Variation of Schedule 3—Transitional provisions**

Schedule 3, clause 13(7) to (9)—delete subclauses (7) to (9) (inclusive)

**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's Deputy**

with the advice and consent of the Executive Council  
on 30 August 2018

No 207 of 2018

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