South Australia

Superannuation (STA Employees) Regulations 2005

under the *Superannuation Act 1988*

Contents

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Superannuation (STA Employees) Regulations 2005*.

2—Commencement

These regulations will come into operation on 1 September 2005.

3—Interpretation

In these regulations, unless the contrary intention appears—

Act means the *Superannuation Act 1988*;

contributor means a member of the STA group;

pay period means the period in respect of which a contributor's salary is periodically paid;

STA group means the group of employees who—

(a) were members of the STA scheme immediately before 1 July 1990; and

(b) were transferred to the scheme of superannuation established by the Act from 1 July 1990;

STA scheme means the State Transport Authority Staff Superannuation Fund and the State Transport Authority Pension Plan managed by National Mutual Life Association of Australasia Limited pursuant to policy numbers EFG 344 and EFG 5573 respectively.

Part 2—Modification of Act in relation to the STA group

4—Modification of Act (except Part 4)

The provisions of the Act are modified in their application to the STA group as follows:

(a) all members of the STA group will be taken to be new scheme contributors;

(b) the following definition is substituted for the definition of ***contribution period*** in section 4(1) of the Act:

> ***contribution period***, in relation to a contributor, means the period over which the contributor is or was an active contributor and includes the period during which the contributor was a member of the STA scheme;

(c) the following definitions are substituted for the definition of ***standard contribution rate*** in section 4(1) of the Act:

> ***standard contribution rate***, in relation to a contributor, means the contribution rate opposite the contributor's name in Schedule 1 of the *Superannuation (STA Employees) Regulations 2005*;

STA scheme means the State Transport Authority Staff Superannuation Fund and the State Transport Authority Pension Plan managed by National Mutual Life Association of Australasia Limited pursuant to policy numbers EFG 344 and EFG 5573 respectively;

(d) a contributor's liability to pay contributions ceases when the contributor's employment terminates or is terminated or when the contributor reaches the age of 60 years (but in the latter case the contributor must contribute for the whole of the pay period during which his or her 60th birthday occurs);

(e) section 40 of the Act applies in relation to a pension payable to the spouse of a contributor who has died;

(f) section 40A of the Act applies in relation to a member of the STA group;

(g) section 45 of the Act does not apply to, or in relation to, a pension payable to, or in relation to, a contributor.

5—Replacement of Part 4 of the Act

The following provisions apply to, and in relation to, the STA group to the exclusion of Part 4 of the Act:

Part 4—Superannuation benefits—STA group

Division 1—Preliminary

26—Interpretation

In this Part, unless the contrary intention appears—

retirement age multiple in relation to a contributor means—

(a) if the contributor attained the age of 60 years on the entitlement day—the multiple opposite the contributor's name in Schedule 1;

(b) if the contributor had not reached the age of 60 years at the entitlement day—the multiple referred to in paragraph (a) reduced by 0.0167 for each whole month by which the contributor's age falls short of his or her 60th birthday;

(c) if the contributor's 60th birthday had passed at the entitlement day—the multiple referred to in paragraph (a) increased by 0.0167 for each completed month between the contributor's 60th birthday and the entitlement day;

Schedule 1 means Schedule 1 to the *Superannuation (STA Employees) Regulations 2005*;

State Scheme means the scheme of superannuation established by this Act.

Division 2—Superannuation benefits

27—Retirement

(1) A contributor may retire from employment at any time after reaching the age of 55 years.

(2) On retirement, a contributor is entitled to a lump sum but may elect to convert 50 per cent or more of the lump sum to a pension.

(3) The lump sum is calculated as follows:

$$LS = M \times FS \times A$$

Where

LS is the lump sum

M is the retirement age multiple

FS is the contributor's actual or attributed salary immediately before retirement (expressed as an annual amount)

A is the lesser of the following:

(a) unity; or

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by the number of months between the date of the contributor's acceptance as a member of the STA scheme and the date on which the contributor retires or the date on which the contributor reaches the age of retirement, whichever is the earlier.

(4) A contributor who elects to convert part of the lump sum to a pension is entitled to—

(a) the balance (if any) of the lump sum not converted to a pension; and

(b) a pension calculated as follows:

$$P = \frac{LS}{9}$$

Where

P is the amount of the pension (expressed as an annual amount)

LS is the amount of the lump sum to be converted to a pension.

(5) For the purposes of this section, a contributor retires from employment if—

(a) the contributor has attained the age of 55 years; and

(b) the contributor's employment terminates or is terminated for any reason (except the contributor's death).

(6) A pension payable under this section will be indexed.

28—Resignation and preservation

(1) A contributor who resigns from employment before reaching the age of 55 years may elect—

(a) to take immediately the amount referred to in subsection (9); or

(b) to preserve his or her accrued superannuation benefits; or

(c) to carry over his or her accrued superannuation benefits to some other superannuation fund or scheme approved by the Board.

(2) A contributor who fails to inform the Board in writing of his or her election under subsection (1) within 3 months after resignation will be taken to have elected to preserve his or her accrued superannuation benefits.

(3) If the Board is of the opinion that the limitation period referred to in subsection (2) would unfairly prejudice a contributor, the Board may extend the period as it applies to the contributor.

(4) If a contributor resigns and elects to take the amount referred to in subsection (9) the contributor is also entitled to a superannuation payment in accordance with the following provisions:

(a) if the amount of the superannuation payment is less than $200, the contributor is entitled to the payment on resignation;

(b) in any other case—

(i) the contributor may at any time after reaching the age of retirement require the Board to make the payment and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will make the payment;

(ii) if the contributor has reached the age of 55 years and is not employed by an employer within the meaning of the Commonwealth Act, the contributor may require the Board to make the payment to the contributor;

(iii) if the contributor satisfies the Board that he or she has become totally and permanently incapacitated for work, the Board will make the payment to the contributor;

(iv) if the contributor dies, the payment will be made to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor's estate, (and a payment under any of the above subparagraphs excludes further rights so that a claim cannot be subsequently made under some other subparagraph).

(5) The amount of the superannuation payment referred to in subsection (4) is the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act together with interest from the date of resignation.

(6) The amount of interest will be calculated and credited to the contributor at the end of each financial year and will be calculated on the amount referred to in subsection (5) at the end of the first financial year and on the aggregate of that amount and the interest previously credited at the end of each subsequent financial year.

(7) The rate of interest will be determined by the Board in respect of each financial year in accordance with section 20A.

(8) If the contributor elects to preserve his or her accrued superannuation benefits, the following provisions apply:

(a) the contributor may at any time after reaching 55 years of age require the Board to pay superannuation benefits to the contributor and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will pay such benefits to the contributor;

(b) if the contributor satisfies the Board that he or she has become totally and permanently incapacitated for work, the Board will pay superannuation benefits to the contributor;

(c) if the contributor dies, benefits will be paid to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor'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).

(9) A contributor who does not elect to preserve his or her accrued superannuation benefits is entitled to an amount (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account.

(10) Subject to subsection (11), superannuation benefits payable under subsection (8) will be calculated as follows:

$$LS = \frac{M \times AFS \times A}{PCP}$$

Where

LS is the superannuation benefit

M is the multiple opposite the contributor's name in Schedule 1

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

A is the number of the contributor's accrued contribution points

PCP is the number of months between the date of the contributor's acceptance as a member of the STA scheme and the age of retirement.

(11) A contributor may elect to take 50 per cent or more of the superannuation benefits calculated under subsection (10) as a pension and in that event the contributor is entitled to—

(a) the balance (if any) of the lump sum not converted to a pension; and

(b) a pension calculated as follows:

$$P = \frac{LS}{9}$$

Where

P is the amount of the pension (expressed as an annual amount)

LS is the amount of the lump sum to be converted to pension.

(12) If the contributor elects to carry over his or her accrued superannuation benefits to an approved superannuation fund or scheme, the following provisions apply:

(a) the contributor must satisfy the Board by such evidence as it may require that he or she has been admitted to membership of the fund or scheme;

(b) on being so satisfied, the Board will make a payment on behalf of the contributor to the fund or scheme made up of 2 components:

(i) an employee component (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of the contributor's contribution account;

(ii) an employer component which will be equal to twice the amount of the employee component.

(13) For the purposes of this section, a contributor will be taken to resign if the contributor's employment terminates or is terminated for any reason (except invalidity or death).

(14) A pension payable under this section will be indexed.

29—Resignation pursuant to a voluntary separation package

(1) This section applies to a contributor who resigns from his or her employment before reaching the age of 55 years pursuant to a voluntary separation package—

(a) that includes a term that this section is to apply to the contributor; and

(b) that has been approved by the Treasurer.

(2) Section 28 does not apply to a contributor to whom this section applies.

(3) On resignation, a contributor to whom this section applies is entitled to a lump sum but may elect to convert 50 per cent or more of the lump sum to a pension.

(4) The lump sum is made up of—

(a) an employee component (to be charged against the contributor's contribution account) equivalent to the amount standing to the credit of that account; and

(b) an employer component that is equal to twice the amount of the employee component.

(5) A contributor who elects to convert part of the lump sum to a pension is entitled to—

(a) the balance (if any) of the lump sum not converted to a pension; and

(b) a pension in an amount determined by the Board on the advice of an actuary.

(6) The pension payable under subsection (5)(b) will be indexed.

(7) A part of the lump sum referred to in subsection (4), being an amount equivalent to the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act, is preserved.

(8) A part of the balance of the lump sum referred to in subsection (5)(a), being an amount equivalent to the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act, is preserved but if that amount is equal to or greater than the balance of the lump sum, the whole of the balance of the lump sum is preserved.

(9) The amount preserved by subsection (7) or (8) together with interest is payable in accordance with the following provisions:

(a) the contributor may at any time after reaching 55 years of age require the Board to pay the amount and, if no such requirement has been made on or before the date on which the contributor reaches 65 years of age, the Board will pay the amount to the contributor;

(b) if the contributor satisfies the Board that he or she has become totally and permanently incapacitated for work, the Board will pay the amount to the contributor;

(c) if the contributor dies, the amount will be paid to the spouse of the deceased contributor or, if he or she left no surviving spouse, to the contributor'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).

(10) The amount of interest will be calculated and credited to the contributor at the end of each financial year and will be calculated at the end of the first financial year on the amount preserved and on the aggregate of that amount and the interest previously credited at the end of each subsequent financial year.

(11) The rate of interest will be determined by the Board in respect of each financial year in accordance with section 20A.

(12) In this section—

voluntary separation package means an agreement between a contributor and his or her employer pursuant to which the contributor resigns from employment.

30—Retrenchment

(1) If a contributor's employment is terminated by retrenchment, the contributor may elect—

(a) to take a lump sum payment; or

(b) to preserve his or her superannuation benefits.

(2) A lump sum payment under this section will be calculated as follows:

$$LS = \frac{M \times FS \times A}{PCP}$$

Where

LS is the lump sum

M is the multiple opposite the contributor's name in Schedule 1

FS is the contributor's actual or attributed salary immediately before retrenchment (expressed as an annual amount)

A is the number of the contributor's accrued contribution points

PCP is the number of months between the date of the contributor's acceptance as a member of the STA scheme and the age of retirement.

(3) If a contributor elects to preserve his or her superannuation benefits, this Act applies in the same way as if the contributor had made that election on resignation.

(4) If a contributor's employment is to be terminated by retrenchment, the employing authority must give the Board notice of that fact in accordance with the regulations at least 1 month before the termination takes effect.

31—Termination of employment on invalidity

(1) A contributor whose employment terminates on account of invalidity and who has not then reached the age of 55 years is entitled to a lump sum but may elect to convert 50 per cent or more of the lump sum to a pension.

(2) The lump sum is calculated as follows:

$$LS = M \times FS \times A$$

Where

LS is the lump sum

M is the multiple opposite the contributor's name in Schedule 1

FS is the contributor's actual or attributed salary immediately before termination of the contributor's employment (expressed as an annual amount)

A is the lesser of the following:

(a) unity; or

(b) —

(i) if the contributor was an active contributor immediately before termination of the employment—the numerical value obtained by dividing the number of the contributor's extrapolated contribution points by the number of months between the date of the contributor's acceptance as a member of the STA scheme and the contributor's age of retirement;

(ii) if the contributor was not an active contributor immediately before termination of the employment—the numerical value obtained by dividing the number of the contributor's accrued contribution points by the number of months between the date of the contributor's acceptance as a member of the STA scheme and the contributor's age of retirement.

(3) A contributor who elects to convert part of the lump sum to a pension is entitled to—

(a) the balance (if any) of the lump sum not converted to a pension; and

(b) a pension calculated as follows:

$$P = \frac{LS}{9}$$

Where

P is the amount of the pension (expressed as an annual amount)

LS is the amount of the lump sum to be converted to pension.

(4) A contributor's employment will be taken to have terminated on account of invalidity if, and only if—

(a) the employer (acting with the written approval of the Board) terminates the employment on the ground of the contributor's invalidity; or

(b) —

(i) the employer or the contributor satisfies the Board (before termination of employment) that the contributor is incapacitated for work in the contributor's present position and that there is no other position, carrying a salary of at least 80 per cent of the salary applicable to the contributor's present position, which the contributor could reasonably be expected to take, available to the contributor; and

(ii) after notice has been given to the Board as required by the regulations, the employer terminates the employment or the contributor resigns from employment.

(5) Despite any other Act or law to the contrary an employer cannot terminate the employment of a contributor on the ground of invalidity unless the requirements of subsection (4)(a) or (b) have been satisfied.

(6) A pension payable under this section will be indexed.

32—Death of contributor while in employment

(1) This section applies where the contributor's employment is terminated by the contributor's death.

(2) If the contributor is survived by a spouse, the spouse may elect to take—

(a) a lump sum calculated as follows:

$$LS = M \times FS \times A$$

Where

LS is the lump sum

M is the multiple opposite the contributor's name in Schedule 1

FS is the contributor's actual or attributed salary immediately before termination of the contributor's employment (expressed as an annual amount)

A is the lesser of the following:

(a) unity; or

(b) —

(i) if the contributor was an active contributor immediately before his or her death—the numerical value obtained by dividing the number of the contributor's extrapolated contribution points by the number of months between the date of the contributor's acceptance as a member of the STA scheme and the contributor's age of retirement; or

(ii) if the contributor was not an active contributor immediately before his or her death—the numerical value obtained by dividing the number of the contributor's accrued contribution points by the number of months between the date of the contributor's acceptance as a member of the STA scheme and the contributor's age of retirement; or

(b) a pension calculated as follows:

$$P = \frac{LS \times 2}{27}$$

Where

P is the pension expressed as an annual amount

LS is the lump sum that the spouse would have been entitled to under paragraph (a) if he or she had made that election.

(3) No child of the deceased contributor is entitled to a superannuation benefit if the contributor's spouse makes an election under subsection (2)(a) but if the spouse makes an election under subsection (2)(b) the eligible children of the deceased contributor will be entitled as follows:

(a) if there are 1 or 2 eligible children, each is entitled to a pension calculated as follows:

$$P = \frac{LS}{81}$$

(b) if there are 3 or more eligible children each is entitled to a pension calculated as follows:

$$P = \frac{LS}{27 \times N}$$

Where

P is the pension expressed as an annual amount

LS is the lump sum that the spouse would have been entitled to under subsection (2)(a) if he or she had elected to take that lump sum

N is the number of eligible children.

(4) If the contributor is not survived by a spouse but is survived by an eligible child or eligible children, the child or children are entitled as follows:

(a) if there is only 1 eligible child, he or she is entitled to a pension calculated as follows:

$$P = \frac{LS}{20}$$

(b) if there are 2 eligible children, each is entitled to a pension calculated as follows:

$$P = \frac{LS \times 2}{45}$$

(c) if there are 3 eligible children, each is entitled to a pension calculated as follows:

$$P = \frac{LS}{30}$$

(d) if there are 4 or more eligible children, each is entitled to a pension calculated as follows:

$$P = \frac{LS}{9 \times N}$$

Where

P is the pension expressed as an annual amount

LS is the lump sum to which the contributor would have been entitled if he or she had survived and retired on his or her 60th birthday and if the contributor's actual or attributed salary immediately before retirement had been the same as the contributor's actual or attributed salary immediately before his or her death

N is the number of eligible children.

(5) If the contributor is not survived by a spouse or an eligible child, a lump sum calculated under subsection (2)(a) is payable to the contributor's estate.

(6) If a deceased contributor is survived by a lawful spouse and a putative spouse, each is entitled to make an election under subsection (2) in respect of his or her share of the superannuation benefits but if the Board accepts an election in respect of the whole of those benefits by 1 spouse without notice of the other spouse's interest, the other spouse is not entitled to make an election under subsection (2) in respect of those benefits.

(7) A pension payable under this section will be indexed.

32A—Death of contributor in receipt of a pension

(1) If a contributor who is in receipt of a pension under this Act dies—

(a) a surviving spouse (not being a person who became the contributor's spouse after termination of the contributor's employment and less than 5 years before the date of the contributor's death) is entitled to a pension equal to two-thirds of the deceased contributor's notional pension; and

(b) an eligible child is entitled to a pension in accordance with subsection (2).

(2) The amount of the pension for each eligible child is as follows:

(a) if a pension is being paid to a surviving spouse—

(i) if there are no more than 2 eligible children—a pension equal to one-ninth of the deceased contributor's notional pension;

(ii) if there are 3 or more eligible children—a pension calculated by dividing one-third of the deceased contributor's notional pension by the number of eligible children;

(b) if no pension is being paid to a surviving spouse—

(i) if there is 1 eligible child—a pension equal to 45 per cent of the deceased contributor's notional pension;

(ii) if there are 2 eligible children—a pension equal to 40 per cent of the deceased contributor's notional pension;

(iii) if there are 3 eligible children—a pension equal to 30 per cent of the deceased contributor's notional pension;

(iv) if there are 4 or more eligible children—a pension calculated by dividing the deceased contributor's notional pension by the number of eligible children.

(3) A reference in this section to a deceased contributor's notional pension is a reference to the amount of the contributor's pension immediately before his or her death.

(4) A deceased contributor's notional pension will be indexed as if it were (or remained) an actual pension and consequential adjustments will be made to pensions calculated by reference to the notional pension.

(5) A surviving spouse will not be entitled to a benefit under this section if section 43AG applies to the spouse and the amount of any benefit payable to a person must take into account any reduction that has been made under section 43AF.

Division 3—KA Benger

32B—Benefits payable to KA Benger

The superannuation benefits payable under section 28(8) to Kevin A Benger will be $134 257 adjusted to reflect changes in the Consumer Price Index since 30 June 1990.

Division 4—General

32C—Benefits to be charged against contribution account

Benefits payable under this Part will be charged against the contributor's contribution account until it is exhausted.

6—Continuation of pension rights

(1) A pension payable to a member of the STA scheme immediately before 1 September 2005 will continue to be payable pursuant to the Act as modified by these regulations after that date.

(2) The Act as so modified (apart from provisions relating to indexation and reduction or suspension of pensions) does not affect the amount of any such pension.

Schedule 1—Relevant members of STA scheme

Members who were active contributors or had preserved benefits at 1 September 2005

	Retirement age multiple	Standard contribution rate
Active members		
Jeffrey K BEATTY	6.00	5.6
Ian J SINCLAIR	6.00	5.5
Members with preserved accrued benefit (inactive)		
Frank CZUKLI	6.00	5.9

	Retirement age multiple	Standard contribution rate
Derek S LEA	6.00	5.7

Member who had preserved benefits before 1 July 1990

Kevin A Benger

Schedule 2—Revocation of *Superannuation (STA Employees) Regulations 1991*

The *Superannuation (STA Employees) Regulations 1991* are revoked.

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations

Year	No	Reference	Commencement
2005	192	*Gazette 1.9.2005 p3228*	1.9.2005: r 2