

I certify that this is a copy of the authorised version of this Statutory Rule as at 31 March 2022, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 31 March 2022.

Robyn Webb  
Chief Parliamentary Counsel  
Dated 21 April 2022

## TASMANIA

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# **PUBLIC SECTOR SUPERANNUATION REFORM REGULATIONS 2017**

## **STATUTORY RULES 2017, No. 11**

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**SCHEDULE 1 – CALCULATION OF CERTAIN PENSIONS FOR EXISTING CONTRIBUTORS**

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## **PUBLIC SECTOR SUPERANNUATION REFORM REGULATIONS 2017**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Public Sector Superannuation Reform Act 2016*.

Dated 6 March 2017.

C. WARNER  
Governor

By His Excellency's Command,

PETER GUTWEIN  
Treasurer

### **PART 1 – PRELIMINARY**

#### **1. Short title**

These regulations may be cited as the *Public Sector Superannuation Reform Regulations 2017*.

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**2. Commencement**

These regulations take effect on the day on which Part 5 of the *Public Sector Superannuation Reform Act 2016* commences.

**3. Interpretation**

- (1) In these regulations, unless the contrary intention appears –

*accumulated leave scheme* means a plan or arrangement that allows a participating employee, by accepting a reduction in salary for a certain period, to be granted leave during which he or she will be paid salary at the same reduced rate, and includes –

- (a) the State Service accumulated leave scheme; and
- (b) any other accumulated leave scheme approved by a Head of Agency;

*Act* means the *Public Sector Superannuation Reform Act 2016*;

*assessable income* has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

*assessment notice* means a notice issued by the Taxation Commissioner requiring the payment of an amount of surcharge contributions tax, including interest on

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that payment, in respect of any person, and includes –

- (a) a notice that has been issued in respect of superannuation contributions transferred to the Commission under these regulations; and
- (b) an amendment to that notice issued by the Taxation Commissioner;

***AWOTE*** means the original estimates series of average weekly ordinary time earnings of full-time adult employees in Australia published by the Australian Statistician under the *Census and Statistics Act 1905* of the Commonwealth;

***basic contribution rate*** means –

- (a) in respect of a contributor to whom regulation 19(1)(b) or (d) refers, a rate of contribution equal to 5% of salary; or
- (b) in respect of an existing contributor, a contribution rate equal to 5% of salary or, if he or she is making contributions at the rate of 2.5% of salary, that rate;

***benefit multiple factor*** means the benefit multiple factor derived in accordance with regulation 30;

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***casual employee*** means a person who is paid only for the hours worked at a rate which compensates that person for not being eligible for paid leave, without regard to the term of his or her employment, but does not include a permanent part-time employee or a temporary part-time employee;

***commencement day*** means the day on which these regulations take effect;

***Commonwealth Surcharge Act*** means an Act of the Commonwealth which imposes a surcharge liability on a superannuation benefit or interest or which relates to any such liability;

***complying superannuation scheme*** means a superannuation scheme that is a complying superannuation fund for the purposes of the SIS Act;

***compulsory preservation account*** means an account established or maintained under regulation 48;

***concessional contributions*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***Consumer Price Index*** means the table described as the “Consumer Price Index Numbers – All Groups, All Capital Cities” published by the Australian Statistician under the *Census and*

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*Statistics Act 1905* of the Commonwealth;

***contract employee*** means an employee who is appointed and employed on terms and conditions specified in a contract of service;

***contributions*** means member contributions or salary sacrifice contributions but does not include spouse contributions or voluntary contributions;

***contributions tax*** means an amount of tax that is required to be paid on superannuation contributions, or roll-over superannuation benefits, in accordance with the *Income Tax Assessment Act 1997*, and the *Income Tax Rates Act 1986*, of the Commonwealth;

***contributor*** means –

- (a) an employee who is contributing to the contributory scheme by way of member contributions or salary sacrifice contributions; or
- (b) an employee who has ceased to contribute to the contributory scheme under regulation 21(4) or who had ceased, under regulation 34(5) of the *Retirement Benefits Regulations 2005*, to contribute to the contributory scheme established under those regulations; or

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(c) an employee who is not contributing to the contributory scheme while on approved leave without pay; or

(d) a person who elects under section 30 of the Act to contribute to the contributory scheme –

and includes an existing contributor;

***contributor's account*** means an account established by the Commission under regulation 28 for a contributor;

***contributory scheme*** means the superannuation arrangements provided for by these regulations;

***directed termination payment*** has the same meaning as in section 82.10F of the *Income Tax (Transitional Provisions) Act 1997* of the Commonwealth;

***element taxed in the fund*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***element untaxed in the fund*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***eligible rollover fund*** has the same meaning as in the SIS Act;

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***employee*** means a person appointed or employed in any position or capacity under the State Service Act or in any industry or undertaking carried on by or on behalf of the State but does not include –

- (a) a person who is employed as an agent only; or
- (b) a person whose appointment is honorary; or
- (c) a person engaged in an Agency who is not an employee within the meaning of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth;

***employment redundancy program*** means a program for the purpose of reducing the level of employment in the public sector declared by the Minister by notice published in the *Gazette* to be an employment redundancy program for the purposes of these regulations;

***existing contributor*** means a contributor who, immediately before 1 July 1994, was a contributor to the contributory scheme established under the *Retirement Benefits Act 1982* and who has continued at all times to be such a contributor;

***fee unit*** means a fee unit within the meaning of the *Fee Units Act 1997*;

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***former regulations*** means the *Retirement Benefits Regulations 1994*, the *Retirement Benefits (Transitional) Regulations 1994* or the *Retirement Benefits Regulations 2005*;

***former superannuation legislation*** means the *Superannuation Act 1938*, the *Retirement Benefits Act 1970*, the *Retirement Benefits Act 1982*, the *Retirement Benefits Act 1993* or the former regulations;

***full benefits contributor*** means a contributor who is eligible to be treated as a full benefits contributor in accordance with regulation 98;

***full-time equivalent service*** means the period of service that a person, who has been employed at any time otherwise than on a full-time basis, would have attained if that person had always been employed on a full-time basis;

***Fund member*** means –

- (a) a contributor; or
- (b) a person holding a compulsory preservation account; or
- (c) a pensioner who is not in receipt of a pension only payable under regulation 62; or

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(d) a person holding an investment account;

***gainful employment*** means employment for gain or reward in any business, trade, profession, vocation, calling, occupation or employment but does not include voluntary or unpaid employment;

***Government Business Enterprise*** means a Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*;

***Government department*** means a Government department established under section 11 of the State Service Act;

***half-year*** means a period of 6 months commencing on 1 January or 1 July in each year;

***Head of Agency*** means the person responsible for the administration of an Agency;

***interim invalidity*** means interim invalidity as determined by the Commission under regulation 96(3);

***interim invalidity pension*** means a pension paid by the Commission on the grounds of interim invalidity;

***interim invalidity pensioner*** means a person who is in receipt of an interim invalidity pension;

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***invalidity*** means total and permanent incapacity, partial and permanent incapacity or interim invalidity as determined by the Commission under regulation 96(3);

***invalidity benefit*** means a benefit paid by the Commission on the ground of total and permanent incapacity, partial and permanent incapacity or interim invalidity;

***invalidity pension*** means a pension paid by the Commission on the grounds of total and permanent incapacity, partial and permanent incapacity or interim invalidity;

***invalidity pensioner*** means a person who is in receipt of an invalidity pension;

***investment account*** means an account established under regulation 49;

***legal personal representative*** means –

- (a) the executor of the will or administrator of the estate of a deceased person; or
- (b) the trustee of the estate of a person under a legal incapacity; or
- (c) a person who holds a power of attorney granted by a person in

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respect of matters generally  
pertaining to these regulations;

***limited benefits contributor*** means a contributor who is not eligible to be treated as a full benefits contributor as provided by regulation 98;

***long leave of absence without pay*** means a period of leave without pay that exceeds 20 continuous working days;

***member contributions*** means an amount paid or payable by a contributor to the contributory scheme as required under Part 4 but does not include salary sacrifice contributions;

***non-concessional contributions*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***non-concessional contributions cap*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***non-contributory scheme*** means the scheme established under Part 5 of the *Retirement Benefits Regulations 1994* as in force immediately before 27 July 2005;

***notional contributions surcharge amount*** means an amount calculated by the Commission under regulation 68;

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***notional surchargeable contributions factor*** means a factor applying to a contributor as determined under regulation 10(7);

***notional taxed contributions*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***parental leave*** means any period, not exceeding 12 months on any one occasion, of unpaid maternity leave, unpaid paternity leave or unpaid adoption leave;

***partial and permanent incapacity*** means partial and permanent incapacity as determined by the Commission under regulation 96(3);

***partial and permanent incapacity pension*** means a pension paid by the Commission on the grounds of partial and permanent incapacity;

***pay-day*** means the day on which a fortnightly instalment of pension is payable under regulation 65;

***pensioner*** means a person who is receiving a pension under these regulations;

***permanent employee*** means a person aged 15 years or more –

- (a) who was employed in a permanent capacity in an Agency

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on 14 May 1999 and has not received a benefit under these regulations or the former regulations on cessation of employment after that date; or

- (b) who, under the *Public Sector Superannuation Reform Act 1999*, these regulations or the former regulations, has become a contributor and has not received a benefit under these regulations or the former regulations on cessation of employment after 14 May 1999 –

and includes an employee who is –

- (c) appointed as a permanent employee under section 37 of the State Service Act; or
- (d) employed in a permanent capacity by the Hydro-Electric Corporation; or
- (e) employed in a permanent capacity as a police officer; or
- (f) employed as a student nurse or a trainee under section 37 of the State Service Act; or
- (g) employed in a permanent capacity otherwise than as provided in paragraph (c), (d), (e) or (f), and who was, immediately

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before 1 July 1994, a contributor within the meaning of the *Retirement Benefits Act 1982*; or

- (h) an officer the term of whose appointment is fixed by an Act; or
- (i) appointed under Part 5 of the State Service Act and who was, immediately before his or her appointment, a contributor to the contributory scheme; or
- (j) a person employed in a permanent capacity who, under any Act, is taken to be an employee within the meaning of, or for the purposes of, these regulations; or
- (k) an employee, or a member of a class of employees, of an Agency determined by the Minister, on the recommendation of the Commission, to be employed in a permanent capacity for the purposes of these regulations –

but does not include –

- (l) a permanent part-time employee who before 1 July 1994 was not a contributor to the contributory scheme; or

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- (m) a married female employee who has been continuously employed since 1 July 1982 and who is not contributing to the contributory scheme; or
- (n) a person –
- (i) who is a casual employee or whose employment is casual in nature; or
  - (ii) who is a temporary part-time or temporary full-time employee or whose employment is of a temporary or fixed-term nature; or
  - (iii) who is appointed for a specified term or for the duration of a specified task under section 37 of the State Service Act; or
  - (iv) who is employed as an agent or who is remunerated by fees, allowances or commission only; or
  - (v) whose appointment is honorary; or
  - (vi) who is employed under a contract which is not a

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prescribed contract of employment; or

(vii) who is an employee by reason only of his or her appointment as a member of a board; or

(o) a person, referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k) of this definition, who is employed or appointed after 14 May 1999;

***prescribed arrangement*** means an enactment, arrangement or agreement under which services currently provided by an Agency or part of an Agency are transferred as a result of –

(a) a change to its constitution; or

(b) a sale or any other arrangement which may result in any change to the terms of employment of all or some of its employees –

to another person or organisation, if the enactment, arrangement or agreement is declared to be a prescribed arrangement under subregulation (3);

***prescribed contract of employment*** means a contract in writing under which a person is employed in an Agency for a period that is, or for periods that together are, not less than 3 years, whether the periods

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are specified in, or determined by reference to, the contract;

***preservation age*** means the preservation age determined in accordance with regulation 4;

***quarter*** means a period of 3 months commencing on 1 July, 1 October, 1 January or 1 April in any year;

***rate of contribution*** means the effective rate of contributions made by or on behalf of a contributor after any deduction is made for contributions tax in accordance with the law of the Commonwealth;

***record*** means any record of information, and includes –

- (a) anything on which there is writing; and
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and
- (d) a map, plan, drawing or photograph –

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and a reference in these regulations to a record includes a reference to –

- (e) any part of any such record; and
- (f) any copy, reproduction or duplicate of the record or of any part of the record; and
- (g) any part of such a copy, reproduction or duplicate;

***regulated superannuation fund*** means a regulated superannuation fund within the meaning of the SIS Act;

***responsible officer***, in respect of an Agency, means –

- (a) the person employed in that Agency to whom is assigned the duty of conducting the business of the Agency relating to the Fund; or
- (b) if that duty is not assigned, the Head of Agency;

***reversionary pension*** to which a person is entitled means a pension in respect of which the entitlement is at any time conditional on the death of another person who is still living;

***rolled over*** has the same meaning as in Part 5 of the SIS Regulations;

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***roll-over superannuation benefit*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***RSA*** means a retirement savings account within the meaning of the *Retirement Savings Accounts Act 1997* of the Commonwealth;

***SAF Agreement*** means the agreement referred to in section 71A(1) of the *Retirement Benefits Act 1982*;

***salary***, subject to subregulation (4), includes wages, allowances and discretionary benefits paid or payable to a person as an employee and –

- (a) any amount paid by an Agency to a complying superannuation scheme on behalf of an employee who has the option of receiving the amount as salary or in another form of benefit; and
- (b) any amount paid for, or value assessed of non-salary benefits received by, an employee who has the option of receiving the amount as salary or in another form of benefit –

but does not include –

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- (c) any bonus or payment for special circumstances of an occasional nature; or
- (d) any payment in respect of travelling or other work-related expenses; or
- (e) any payment in respect of accrued recreation leave or long service leave that is not taken as leave but for which a lump sum payment is made; or
- (f) any wages, allowances or discretionary benefits in respect of which contributions have not been paid by a person while an employee; or
- (fa) an allowance paid in lieu of being provided with a motor vehicle; or
- (g) any increase in salary ratified after cessation of employment;

***salary sacrifice contributions*** means an amount paid or payable to the contributory scheme under an arrangement, between a contributor and his or her employing Agency, providing for non-salary benefits to be paid by that employing Agency instead of contributions that would otherwise be required to be paid by that contributor under Part 4;

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**service**, in respect of a contributor, means a period or periods of any of the following kinds:

- (a) a period in respect of which a contributor made contributions to the Fund under Part 4;
- (b) any period recognised as service under regulation 17 or 18;

**short leave of absence without pay** means a period of leave without pay consisting of 20 or fewer continuous working days;

**SIS Act** means the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

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

**spouse**, except in Part 8, includes the person with whom a Fund member is in a significant relationship, within the meaning of the *Relationships Act 2003*;

**State-owned company** means a company incorporated under the Corporations Act which is controlled by –

- (a) the Crown; or
- (b) a Government Business Enterprise; or
- (c) a statutory authority; or

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- (d) another company which is itself controlled by an entity referred to in paragraph (a), (b) or (c);

***State Service Act*** means the *State Service Act 2000*;

***statutory authority*** means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the royal prerogative, if the body or authority, or the governing body of which, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority, and includes the governing body of any such statutory authority;

***subfund*** means a part of the Fund that is maintained by the Commission as a subfund under the Act;

***superannuation benefit*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***superannuation contributions*** means –

- (a) employer superannuation contributions paid or payable under these regulations; and
- (b) salary sacrifice contributions; and
- (c) additional employer contributions; and

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(d) voluntary contributions; and

(e) member contributions that have not been included in the assessable income of the Fund;

***surchargeable contributions debt account*** means an account established under regulation 74;

***surcharge liability*** means any liability for a tax or interest under a Commonwealth Surcharge Act arising from an entitlement to a benefit under these regulations;

***surviving partner*** means a person who is determined by the Commission under regulation 109 to be the surviving partner of a Fund member;

***Taxation Commissioner*** means the person who is holding office as, or acting in the office of, the Commissioner of Taxation under the *Taxation Administration Act 1953* of the Commonwealth;

***tax free component*** has the same meaning as in the *Income Tax Assessment Act 1997* of the Commonwealth;

***terminal medical condition*** has the same meaning as in regulation 6.01A of the SIS Regulations;

***total and permanent incapacity*** means total and permanent incapacity as determined

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by the Commission under  
regulation 96(3);

***total and permanent incapacity pension***  
means a pension paid by the Commission  
on the grounds of total and permanent  
incapacity.

- (2) In these regulations, a reference to the *Retirement Benefits Act 1982* is to be read as a reference to that Act as amended by the *Retirement Benefits Act 1993*.
- (3) The Minister may, by notice published in the *Gazette*, declare that an enactment, arrangement or agreement is to be a prescribed arrangement for the purposes of these regulations.
- (4) For the purposes of the definition of *salary* in subregulation (1) –
  - (a) contributions made by an Agency to a complying superannuation scheme on behalf of a contributor are taken to be included in the contributor's salary; and
  - (b) a reference to salary in Division 2 of Part 4 is taken to be a reference to salary that is, or has been, paid and not the salary that would have been paid or payable if the contributor had not been participating in an accumulated leave scheme.
- (5) For the purposes of the definition of *State-owned company* in subregulation (1), the provisions of the Corporations Act relating to control are taken

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to apply as if the Crown, Government Business Enterprise or statutory authority, as the case may be, were a corporation under that Act.

- (6) A reference in these regulations to a notification or notice of election in writing to the Commission includes a notification or notice of election made in any other manner approved by the Commission.

**4. Determination of preservation age**

If a person was born during a period mentioned in column 1 of the following table, his or her preservation age means the relevant age referred to in column 2 of that table or, if another age is prescribed by the SIS Act as the preservation age, that other age.

<b>Column 1 - Date of birth</b>	<b>Column 2 - Relevant age</b>
Before 1 July 1960	55 years
1 July 1960 – 30 June 1961	56 years
1 July 1961 – 30 June 1962	57 years
1 July 1962 – 30 June 1963	58 years
1 July 1963 – 30 June 1964	59 years
After 30 June 1964	60 years

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**5. Application of regulations**

These regulations apply to –

- (a) contributors; and
- (b) persons holding a compulsory preservation account; and
- (c) persons holding an investment account; and
- (d) pensioners; and
- (e) persons who may elect to contribute to the contributory scheme in accordance with section 30 of the Act; and
- (f) in certain cases, the spouse, surviving partner and beneficiaries of any person mentioned in another paragraph of this regulation.

## **PART 2 – ADMINISTRATION**

### **6. Functions and powers of Commission**

- (1) The Commission is to be the sole trustee of the Fund.
- (2) The functions of the Commission are to –
  - (a) manage the Fund so as to maximise the return earned on the Fund, having regard to –
    - (i) the need to provide for payments out of the Fund; and
    - (ii) the need to exercise reasonable care and prudence so as to maintain the integrity of the Fund; and
  - (b) administer the receipt of contributions and the payment of benefits having due regard to the need for equity among employees and beneficiaries; and
  - (c) collect contributions and to pay benefits; and
  - (d) establish policies in respect of the administration of these regulations and the investment of money standing to the credit of the Fund and to adopt strategies designed to achieve those policies; and

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- (e) determine, authorise and approve programs for the administration of these regulations and the investment of money standing to the credit of the Fund; and
  - (f) take, purchase, lease, hold, sell, exchange and dispose of real and personal property for the purposes of these regulations; and
  - (g) inform contributors about the management of the Fund, including making available to contributors, at least once a year, a summary of information relating to their entitlements; and
  - (h) provide for the payment of any taxation or surcharge liability imposed under the law of the Commonwealth on the Fund or in respect of any benefits payable by the Commission.
- (3) In performing its functions, the Commission must –
- (a) act honestly in all matters concerning the Fund; and
  - (b) conduct its operations in an efficient, effective and economic manner; and
  - (c) exercise, in respect of all matters affecting the Fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another person for whom that person felt morally bound to provide; and

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- (d) ensure that the Commission’s functions and powers are performed and exercised in the best interests of the beneficiaries and, in respect of Part 4, having regard to the interests of the State; and
  - (e) keep the money and other assets of the Fund separate from any money and assets –
    - (i) that are held by the Commission in its own right; or
    - (ii) that are money or assets of the State or an Agency; and
  - (f) subject to these regulations, not enter into any contract, or do anything else, that would prevent the Commission from, or hinder the Commission in, properly performing or exercising its functions or powers; and
  - (g) formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the Fund including –
    - (i) the risk involved in making, holding and realising, and the likely return from, the Fund’s investments having regard to its objectives and its expected cash flow requirements; and
    - (ii) the composition of the Fund’s investments as a whole, including

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- the extent to which the investments are diverse or involve the Fund in being exposed to risks from inadequate diversification; and
- (iii) the liquidity of the Fund's investments, having regard to its expected cash flow requirements; and
- (iv) the ability of the Fund to discharge its existing and prospective liabilities; and
- (h) if there are any reserves of the Fund, formulate and give effect to a strategy for the prudent management of those reserves; and
- (i) allow a beneficiary access to any information or any documents to which he or she is entitled to access under an Act of the Commonwealth or of Tasmania.

**7. Provision of information**

(1) In this regulation –

***give*** includes deliver, distribute, forward and provide;

***information*** includes any statement, report or other document containing information;

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*legislative imperative* includes the requirements of section 33 of the Act and a requirement for personal service or delivery.

- (2) If the Commission is required to give a person any information under these regulations it is sufficient compliance, in the absence of a clear legislative imperative to the contrary, if the Commission makes the information available to the person.
- (3) For subregulation (2), the information may be made available to the person electronically or in such other manner as the Commission considers appropriate in the circumstances.
- (4) Nothing in this regulation prevents the Commission from electing to give the person the information directly in addition to, or instead of, making it available to the person.

**PART 3 – FUND**

**8. Operation of Fund**

- (1) There is to be paid into the Fund –
  - (a) all contributions, roll-over superannuation benefits, directed termination payments or other money authorised to be paid into the Fund by persons entitled to benefits under these regulations or as otherwise required by law; and
  - (b) all payments required by or under these regulations, or as otherwise required by law, to be made to the Fund by the Minister; and
  - (c) all income derived from the investments made under regulation 9 but without taking into account unrealised capital gains or losses; and
  - (d) all money required or authorised by these regulations, or as otherwise required by law, to be paid by any person to the Commission; and
  - (e) all money, investments and assets that are transferred to, and vested in, the Commission by the Act.
- (2) The management and control of the Fund are vested in the Commission.

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- (3) All money that is payable into the Fund is to be paid to the Commission.
  - (4) The Commission must pay out of the Fund –
    - (a) all benefits and other amounts payable under these regulations or as otherwise required by law; and
    - (b) any taxation, surcharge or other liability, duty or fee imposed on the Fund under a law of the Commonwealth or the State.

**9. Investment of Fund**

- (1) Subject to this regulation, money standing to the credit of the Fund may be invested by the Commission with any investment manager in any manner which the Commission thinks fit.
- (2) The Commission may authorise an investment manager to perform the powers and duties of the Commission in respect of all or part of the money of the Fund available for investment.
- (3) Whether or not the Commission appoints an investment manager, the Commission must, at least every 12 months, conduct a review of –
  - (a) the Commission’s investment policy; and
  - (b) the management and performance of the Commission’s investments.
- (4) Without limiting the generality of subregulation (1), money standing to the credit of the Fund may be invested on first mortgage of

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real property in the State, including a completed unit, held in fee simple, to which a strata plan registered under the *Strata Titles Act 1998* relates.

- (5) Subregulation (4) applies to a mortgage or further charge under which, or in respect of which, the investment manager has priority over all other persons.

**10. Actuarial investigations of Fund**

- (1) An investigation as to the state and sufficiency of the Fund is to be made by the Actuary on the expiration of each period of 3 years, the first period of which is to commence on a date to be determined by the Treasurer by notice in the *Gazette*.
- (2) The Actuary, not later than 12 months after the date on which an investigation for the purposes of subregulation (1) is to be made, must –
- (a) prepare a report giving full particulars of the investigation; and
  - (b) give a copy of the report to the Minister and the Commission.
- (3) The Actuary must include in the report –
- (a) a statement as to whether any change should be made to –
    - (i) the basis on which, or the extent to which, lump sum entitlements

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- may be converted into pension payments under Part 6; and
- (ii) the proportion in which the contributions required to be paid to the Fund under regulations 86 and 87 by the Minister are to be paid; and
  - (iii) the contributions to be paid to the Fund by the Minister in respect of a subfund established for persons who are, or have been, elected as members of Parliament; and
- (b) a statement of the financial position in respect of the current and future liabilities for pension and lump sum benefit entitlements, including any liabilities payable by the Fund under the law of the Commonwealth; and
  - (c) a statement as to any liability for benefit payments not expected to be paid out of the assets of the Fund or any future contributions; and
  - (d) any other matters which the Actuary may consider appropriate.
- (4) The Commission must provide a copy or extract of the Actuary's report prepared in accordance with subregulation (2) to a contributor on written request.
  - (5) The Actuary, when requested by the Commission or as required under the law of the

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Commonwealth, must provide the Commission with the actuarial information that is necessary for the Commission to satisfy the Commission's obligations under the law of the Commonwealth.

- (6) The Actuary may, from time to time, make comments and provide advice to the Minister or the Commission on any matter or thing relating to, or arising out of, these regulations.
- (7) The Actuary, when requested by the Commission to do so, must –
  - (a) determine a notional surchargeable contributions factor for each contributor or class of contributors; and
  - (b) advise the Commission of that factor so as to enable the Commission to satisfy the Commission's obligations under a Commonwealth Surcharge Act.

**11. Minister's guarantee**

- (1) The Minister, on behalf of the State, must guarantee the payment of contributions required to be made to the Fund by an Agency if that Agency fails to make those contributions within 28 days after a claim is made by the Commission.
- (2) Any payment guaranteed by the Minister is to be paid to the credit of the Fund within 7 days after a demand for it is made by the Commission.

**12. Accounts and records**

- (1) The Commission must ensure that there are kept proper accounts and records of the transactions and affairs of the Commission and any other records that will sufficiently explain the financial operations and position of the Commission.
- (2) The Commission is to do all things necessary to –
  - (a) ensure that all money payable to the Commission is properly collected; and
  - (b) ensure that all money expended by the Commission is properly authorised; and
  - (c) ensure that adequate control is maintained over assets owned by, or in the custody of, the Commission; and
  - (d) ensure that all liabilities incurred by the Commission are properly authorised.
  - (e - f) . . . . .

**PART 4 – MEMBERSHIP, CONTRIBUTIONS AND  
BENEFITS OF CONTRIBUTORY SCHEME**

*Division 1 – Preliminary*

**13. Calculation of salary sacrifice contributions**

For the purposes of this Part, if salary sacrifice contributions are made to the contributory scheme on behalf of a contributor, the amount to be remitted is to be determined by reference to a percentage of the relevant contributor's salary calculated in accordance with the following formula:

$$PS = ROC \div (1 - CT)$$

where –

*PS* is the percentage of salary;

*ROC* is the rate of contribution at which the contributor has elected to contribute under regulation 19;

*CT* is the rate of contributions tax payable in accordance with the law of the Commonwealth.

*Division 2 – Membership*

**14. Exemption from contributing**

- (1) A contributor who is employed under a prescribed contract of employment that makes provision for alternative superannuation

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arrangements in substitution for membership of the contributory scheme is not entitled to continue to contribute to the Fund and is entitled to an amount equal to the lump sum benefit as provided in regulation 38, to be distributed as follows:

- (a) five-sevenths, or any other proportion that the Minister, on the advice of the Actuary, determines, of the lump sum benefit that would have been payable if that contributor had always contributed at the basic contribution rate is to be transferred to an account established under regulation 48 in the name of that contributor;
  - (b) the balance is to be transferred –
    - (i) to an account, in the name of the contributor, in a complying superannuation scheme elected by that contributor; or
    - (ii) if an election is not made under subparagraph (i) within a reasonable period determined by the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.
- (2) A person, employed in an Agency as at 1 July 1994, for whom alternative

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superannuation arrangements which, in the opinion of the Commission, satisfy the requirements of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth have been made by that Agency in substitution for membership of the contributory scheme is exempted from contributing to the Fund.

- (3) An employee working in a place outside Australia who, under the laws of that place, is required to make prescribed social security contributions in respect of his or her employment or his or her holding of an office or position by virtue of which he or she is, or but for this regulation would be, an employee within the meaning of these regulations is exempted from contributing to the Fund.

**15. Commission may exempt persons from contributing to Fund**

- (1) If a contributor has provided to the Commission a written release from any further liability to the person under these regulations –
- (a) the Commission may exempt him or her from contributing to the Fund; and
  - (b) if the Commission grants to the contributor an exemption from contributing, the release takes effect on the Commission giving effect to the exemption.
- (2) If a married female permanent employee –

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- (a) commenced continuous employment in an Agency before 1 July 1982; and
- (b) is a contributor to the Fund –

that employee may, by notice in writing to the Commission, elect not to continue to contribute to the Fund and, if the Commission grants to the contributor an exemption from contributing, the employee is exempted from contributing to the Fund accordingly.

- (3) A contributor who ceases to be a permanent employee but remains employed in a temporary capacity may, by notice in writing to the Commission, elect to exempt himself or herself from contributing to the Fund.
- (4) If a contributor to whom subregulation (1), (2) or (3) applies is granted by the Commission an exemption from contributing, the contributor ceases to be a contributor on the day on which the exemption is granted and he or she is entitled to an amount equal to the lump sum benefit, as provided in regulation 38, to be distributed as follows:
  - (a) five-sevenths, or any other proportion that the Minister, on the advice of the Actuary, determines, of the lump sum benefit that would have been payable if that contributor had always contributed at the basic contribution rate is to be transferred to an account established under regulation 48 in the name of that contributor;

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- (b) the balance is to be transferred –
  - (i) to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor; or
  - (ii) if an election is not made under subparagraph (i) within a reasonable period determined by the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

**16. Exemption from contributing for certain permanent employees**

- (1) If a permanent employee –
  - (a) is exempt from contributing to the Fund under these regulations; or
  - (b) was previously exempt from contributing under the former superannuation legislation –

that employee is not obliged to contribute to the Fund unless, by notice in writing, the employee elects to contribute to the Fund on and from a date determined by the Commission having regard to the wishes of the employee.

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- (2) A reference in subregulation (1) to a permanent employee is taken to include a reference to a married female employee who –
    - (a) has been continuously employed since 1 July 1982; and
    - (b) is not contributing to the Fund.
  - (3) If the date which the Commission determines under subregulation (1) in relation to an employee is before the date of the employee's election under that subregulation, the Commission may require the employee or employing Agency, as is appropriate, to pay, within a period fixed by the Commission, the amount of any contributions that would have been payable from the date determined by the Commission, together with any interest that the Commission determines to be payable on that amount.
  - (4) The amount referred to in subregulation (3) may not be paid as salary sacrifice contributions.
  - (5) On and from the date determined by the Commission under subregulation (1) in relation to an employee, the employee is taken to be a permanent employee within the meaning of this Part.

**17. Purchase of certain periods of service**

- (1) A contributor who –



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- (f) had, as a married female employee, elected not to pay contributions or had not been obliged to make contributions; or
- (g) had previously been exempted from making contributions to the contributory scheme under the former superannuation legislation –

may, by notice in writing to the Commission, elect that the contributor's period or periods of non-contributory or prior service, or a specified part of that period or those periods, be recognised as service for the purposes of this Part.

- (2) An existing contributor whose service has been reduced in accordance with clause 2 or 3 of Part 3 of Schedule 3 may, by notice in writing to the Commission, elect that the contributor's period or periods of reduced service or any specified part of that service be recognised as service for the purposes of these regulations.
- (3) If a contributor has made an election under subregulation (1) or (2), he or she may, subject to subregulation (4), enter into one or more arrangements with the Commission, either immediately or at some future time or both, under which the whole or part of the period of service referred to in the election is recognised as service as a contributor to the Fund.

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- (4) Before accepting an election by a contributor under this regulation, the Commission may direct that the contributor –
- (a) undergo any reasonable medical examination by a medical practitioner; and
  - (b) provide the Commission with a report of that examination, to the satisfaction of the Commission, that the contributor is not affected by any physical or mental defect likely to render the contributor incapable of performing the contributor's duties before attaining the age of 60 years.
- (5) If a contributor enters into an arrangement under subregulation (3), he or she is to pay to the Commission an amount calculated in accordance with the following formula:

$$A = B \times PBMF \times C$$

where –

**A** is the amount to be paid to the Fund by the contributor;

**B** is the full-time equivalent average annual salary received by the contributor in respect of the year immediately preceding the date of the calculation;

**PBMF** is the purchased benefit multiple factor calculated by multiplying the period or periods of the contributor's past full-time

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equivalent service by the appropriate benefit multiple factor, as provided in regulation 30(1), for each of those periods;

*C* is the percentage, as determined by the Actuary, applicable to the contributor, having regard to –

- (a) his or her age when he or she enters into the arrangement; and
- (b) his or her age for retirement; and
- (c) all other relevant factors –

which percentage is to be the actuarial equivalent of the additional total benefit that will be derived under these regulations if the contributor purchases the service and pays the amount calculated in accordance with this subregulation.

- (6) A contributor may not enter into an arrangement under subregulation (3) if to do so would cause the contributor to exceed his or her non-concessional contributions cap for a financial year.
- (7) The amount calculated under subregulation (5) may not be paid as salary sacrifice contributions and the contributor may not purchase service at a rate exceeding 11% of salary.

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**r. 18**      Part 4 – Membership, Contributions and Benefits of Contributory Scheme

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- (8) An amount required to be paid under an arrangement referred to in subregulation (3) is to be paid –
  - (a) in a lump sum or in any manner the Commission determines; and
  - (b) not later than 12 months after the contributor enters into the arrangement.
- (9) On receipt of a lump sum under subregulation (8), the Commission is to –
  - (a) credit, to the next claim payable to the Fund by the Minister under regulation 87, the proportion of the amount determined under regulation 86; and
  - (b) credit, to the contributor's account established under regulation 28, so much of that lump sum as represents the arrears of the contributions and interest that accrued on and after 1 April 1987 on those arrears; and
  - (c) retain the balance in the contributory scheme.

**18. Recognition of service prior to commencement day**

- (1) If a person –
  - (a) became, before the commencement day, a contributor to the contributory scheme within the meaning of any of the former regulations; and

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- (b) continues to be a contributor on or after that date –

any period of service to which that person was entitled to be credited under the former regulations is taken to be service for the purposes of this Part.

- (2) For the purposes of subregulation (1), any period of service is to be expressed in years and, in the case of a contributor who was employed on a full-time basis before 1 July 1994 and continued to be so employed throughout the period of service, is to be calculated as a period or periods comprising service equivalent to –

- (a) the 40 years' service scheme at the higher rate of contribution; or
- (b) the 40 years' service scheme at the lower rate of contribution; or
- (c) the 35 years' service scheme; or
- (d) the 30 years' service scheme –

or, if he or she had at any time been employed otherwise than on a full-time basis, his or her length of service is to be calculated as a period or periods of full-time service equivalent to –

- (e) the 40 years' service scheme at the higher rate of contribution; or
- (f) the 40 years' service scheme at the lower rate of contribution; or
- (g) the 35 years' service scheme; or

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**r. 19**      Part 4 – Membership, Contributions and Benefits of Contributory Scheme

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(h) the 30 years' service scheme.

***Division 3 – Contributions***

**19. Obligation of certain employees to contribute**

- (1) Except as provided in regulation 14, 15, 16 or 21, an employee under the age of 70 years who –
- (a) is an existing contributor; or
  - (b) became a permanent employee on or after 1 July 1994 and before 15 May 1999; or
  - (c) has, before the day on which these regulations commence, elected, under the *Public Sector Superannuation Reform Act 1999* or the former regulations, to contribute to a contributory scheme established or continued by or under the former regulations; or
  - (d) has elected to contribute to the contributory scheme under section 30 of the Act –

must, until he or she attains the age of 70 years, contribute to the contributory scheme established under these regulations.

- (2) A contributor who has entered into an agreement with his or her employing Agency to have salary sacrifice contributions paid to the Fund on his or her behalf –

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- 
- (a) is, while the agreement is in force, taken to have satisfied any requirement under this Part to make contributions to the contributory scheme; and
- (b) may not make member contributions during any period when the salary sacrifice contributions are being paid to the Fund.
- (3) A person who, immediately before the commencement day, was a contributor must continue to contribute at his or her commensurate rate of contribution unless he or she elects in writing to the Commission to contribute under this regulation at another rate of contribution.
- (4) A person who becomes a contributor under these regulations must contribute at the rate provided in regulation 23(2) unless he or she elects in writing to the Commission to contribute under this regulation at a higher rate of contribution.
- (5) A person who makes an election under subregulation (3) or (4) must specify in that election his or her rate of contribution, which is to be a rate consisting of multiples of 1% of salary, with the minimum rate of contribution being 5% of salary and the maximum rate of contribution being 15% of salary.
- (6) A contributor may not increase his or her rate of contribution under subregulation (3) or (4) if to do so would cause the contributor to exceed his

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**r. 19**      Part 4 – Membership, Contributions and Benefits of Contributory Scheme

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or her non-concessional contributions cap for a financial year.

- (7) Before accepting an election by a contributor under this regulation, the Commission may direct that the contributor –
- (a) undergo any reasonable medical examination by a medical practitioner; and
  - (b) provide the Commission with a report of that examination, to the satisfaction of the Commission, that the contributor is not affected by any physical or mental defect likely to render him or her incapable of performing his or her duties before attaining the age of 60 years.
- (8) A contributor who has made an election to pay contributions above the basic contribution rate may, by notice in writing to the Commission, elect to revoke or vary that election.
- (9) If a contributor has revoked his or her election to pay additional contributions above the basic contribution rate, the Commission may refund –
- (a) the part, of the balance of the contributor's account under regulation 28 as at 30 June 1999, which relates to those additional contributions together with interest accrued as at that date, if the Commission is satisfied that the contributor would suffer financial hardship on failure to make that refund; and

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- (b) the total of all excess contributions paid above that rate after 30 June 1999 together with interest accrued after that date, but only if regulated superannuation funds are permitted under the SIS Act to make such a payment in similar circumstances.
- (10) On payment of a refund of additional contributions under subregulation (9), the contributor is taken to have contributed at the basic contribution rate during the period of service to which the refund of those additional contributions relates.

**20. Retrospective increase of rate of contributions**

- (1) If, under regulation 19(3) or (4), a contributor elects to increase the rate of contributions retrospectively, he or she must, subject to regulation 19(7), enter into an arrangement with the Commission for the payment of an amount calculated in accordance with the following formula:

$$A = B \times \text{PBMF} \times C$$

where –

**A** is the amount to be paid to the Fund by the contributor;

**B** is the full-time equivalent average annual salary received by the contributor in respect of the year immediately

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preceding the date of the upgrade calculation;

***PBMF*** is the purchased benefit multiple factor calculated by multiplying the period or periods of the contributor's past full-time equivalent service by the appropriate benefit multiple factor, as provided in regulation 30(1), for each of those periods;

***C*** is the percentage, as determined by the Actuary, applicable to the contributor, having regard to –

- (a) his or her age when he or she enters into the arrangement; and
- (b) the period remaining until he or she attains the age of 65 years; and
- (c) all other relevant factors –

which percentage is to be the actuarial equivalent of the additional total benefit that will be derived under these regulations if the contributor purchases the service and pays the amount calculated in accordance with this subregulation.

(2) A contributor may not elect to pay contributions retrospectively if –

- (a) to do so would require the contributor to enter into an arrangement under

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- subregulation (1) for the payment of an amount to the Fund by the contributor; and
- (b) the payment of that amount to the Fund by the contributor would cause the contributor to exceed his or her relevant non-concessional contributions cap.
- (3) The amount calculated under subregulation (1) may not be paid as salary sacrifice contributions.
- (4) A contributor may not elect to pay contributions retrospectively at a rate exceeding 11% of salary.
- (5) On receipt of the amount calculated under subregulation (1), the Commission is to –
- (a) credit to the contributor’s account established under regulation 28 so much of that amount as represents the arrears of the contributions and interest that accrued on and after 1 April 1987 on those arrears; and
- (b) retain the balance in the contributory scheme.
- (6) An amount required to be paid under an arrangement under subregulation (1) is to be paid in a lump sum or in any manner that the Commission determines but not later than 12 months after the contributor enters into the arrangement.
- (7) If a contributor pays to the Commission the amount required under an arrangement referred

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to in subregulation (1), his or her benefit is to be calculated as if he or she had, in respect of the period for which the arrangement had been made, at all times during his or her service contributed at the higher rate of contribution.

- (8) If a contributor does not pay to the Commission the amount required under an arrangement referred to in subregulation (1), he or she is taken to have commenced to contribute to the Fund at the higher rate of contribution on the day that the Commission determines.

**21. Commencement and cessation of contributions**

- (1) The contributions of a permanent employee are to commence on the day on which he or she is appointed to the office or position by virtue of which he or she is an employee.
- (2) The contributions of a person who has elected under section 30 of the Act to contribute to the contributory scheme commence on the commencement of the first full pay period occurring after the election under that regulation is received by the Commission.
- (3) Except as provided in subregulation (4), contributions cease to be payable on the day on which –
- (a) a contributor ceases to be an employee;  
or
  - (b) a contributor ceases permanent employment and immediately

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- commences work as a casual employee or work that is casual in nature; or
- (c) a contributor ceases temporary employment or employment which is temporary in nature and immediately commences work as a casual employee or work that is casual in nature; or
  - (d) a contributor attains the age of 70 years; or
  - (e) a contributor who, having regard to his or her age and level of employment, would not in similar circumstances be permitted under the SIS Act to contribute to a regulated superannuation fund.
- (4) A person who has attained the age of 65 years and who remains an employee may, by notice in writing to the Commission, elect not to continue to contribute to the contributory scheme.
- (5) For the purposes of subregulation (4), contributions cease to be payable on the commencement of the first full pay period after the election is received by the Commission.
- (6) Subject to regulation 41, if contributions cease to be payable by a contributor as mentioned in subregulation (3)(b) or (c) –
- (a) the contributor is entitled to an amount equal to a lump sum benefit calculated under regulation 33, 38 or 39, as may be applicable; and

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- (b) the lump sum benefit is to be transferred –
  - (i) to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor; or
  - (ii) if an election is not made under subparagraph (i) within a reasonable period determined by the Commission – to an eligible rollover fund chosen by the Commission.

**22. Time and manner of paying contributions**

- (1) Except as otherwise provided in these regulations, the contributions of a contributor are to be paid at such periods and in such manner as are determined by the Commission.
- (2) A responsible officer is to –
  - (a) prepare a return for every pay period showing the total amount of salary and contributions payable in respect of each contributor in respect of whom he or she is the responsible officer; and
  - (b) forward that return to the Commission; and
  - (c) in the case of a contributor whose salary is paid out of the Public Account,

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forward, on request by the Minister, a copy of the return to the Minister.

- (3) The return is to be in a form approved by the Commission.

**23. Rates of contributions and related matters**

- (1) The contributions payable by, or on behalf of, a contributor who was making contributions, within the meaning of the *Retirement Benefit Regulations 2005*, immediately before the commencement day are to be at the rate of those contributions, unless he or she elects to contribute at another rate under regulation 19.
- (2) The contributions payable by a person who becomes a contributor under these regulations are to comprise 5% of salary unless he or she elects to contribute at a higher rate under regulation 19.
- (3) If an amount calculated in accordance with this regulation includes a fraction of a cent –
  - (a) if the fraction is 0.5 cents or more, that amount is to be increased to the next highest whole number of cents; or
  - (b) if the fraction is less than 0.5 cents, that amount is to be reduced to the next lowest whole number of cents.

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**24. Leave and compulsory superannuation contributions at contributor cost**

- (1) Subject to subregulation (5), the contributions payable to the Fund by or on behalf of a contributor are to continue to be paid while he or she is –
  - (a) on any leave with full pay; or
  - (b) on short leave of absence without pay; or
  - (c) on sick leave on less than full pay or without pay; or
  - (d) receiving an interim invalidity pension under regulation 44; or
  - (e) participating in an accumulated leave scheme.
- (2) The rate of contribution payable under subregulation (1) is the rate at which the contributor would have been required to contribute to the Fund if the contributor had continued to receive his or her salary in respect of that period.
- (3) A contributor who is in receipt of an interim invalidity pension under regulation 44 is, for the purposes of this regulation, taken to be on sick leave without pay.
- (4) If the contributor becomes entitled to an increase in salary while absent from duty on any leave referred to in this regulation, his or her obligation to contribute to the contributory

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scheme is to be calculated with reference to his or her salary as so increased.

- (5) The Commission, on the application of a contributor who is on sick leave on less than full pay, on sick leave without pay or on an interim invalidity pension under regulation 44, may permit the contributor to defer contributions for any period not exceeding 2 years, subject to any conditions as to the future payment of contributions and interest that the Commission imposes.

**25. Leave and optional superannuation contributions at contributor cost**

- (1) A contributor who is on parental leave may –
- (a) elect to pay contributions –
    - (i) at the rate at which the contributor would have been required to contribute to the Fund if he or she had continued to receive his or her salary in respect of that period; and
    - (ii) if the contributor becomes entitled to an increase in salary while absent from duty on that leave, at a rate calculated with reference to his or her salary as so increased; or
  - (b) elect not to pay contributions while absent from duty on that leave.

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- (2) An election under subregulation (1) is to be made in writing to the Commission within one month, or any extended time that the Commission allows, after the contributor commences parental leave.
- (3) If a contributor on parental leave elects to pay contributions, the Commission, on the application of the contributor, may permit him or her to defer contributions for any period not exceeding 2 years, subject to any conditions as to the future payment of contributions and interest that the Commission imposes.
- (4) If a contributor on parental leave fails to make an election under subregulation (1), the contributor is taken to have made an election under paragraph (b) of that subregulation.

**26. Leave and optional superannuation contributions at full actuarial cost**

- (1) Except as provided in regulation 25 or in this regulation, a contributor on long leave of absence without pay other than sick leave is not permitted to contribute to the contributory scheme.
- (2) A contributor who is on long leave of absence without pay may, while still an employee, purchase recognition of service for the period of that leave under regulation 17.
- (3) A contributor who is on parental leave and, under regulation 25(1)(b) or regulation 25(4), elects not to pay contributions while on that

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leave may, while still an employee, purchase recognition of service for the period of that leave under regulation 17.

- (4) If a contributor does not purchase recognition of service under subregulation (2) or (3), the period during which he or she was on long leave of absence without pay or parental leave –
  - (a) is not counted as part of the contributor’s service for the purpose of these regulations; and
  - (b) does not affect the contributor’s continuity of service.

**27. Interest and contributions paid for taxation**

If a contributor is required under regulation 24, 25 or 26 to pay interest or contributions, as determined under regulation 17, that interest or those contributions are taken to be contributions paid by that contributor for the purpose of any law of the Commonwealth relating to the taxation of superannuation.

**28. Contributors’ accounts**

- (1) The Commission is to –
  - (a) maintain each account established under the former regulations for a contributor; and

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- (b) establish an account for each contributor who becomes a contributor after the commencement day.
- (2) There are to vest in a contributor –
  - (a) the contributions credited to an account for a contributor; and
  - (b) any interest that is credited under subregulation (3) –  
  
less any deductions made for contributions tax in accordance with the law of the Commonwealth and any deductions made under regulation 29.
- (3) A contributor is entitled to interest on any contributions or other payments made by the contributor to the Commission which have been credited to his or her account.
- (4) For the purposes of this regulation –
  - (a) interest is to be calculated in accordance with regulation 92 (and, accordingly, may be either positive or negative interest); and
  - (b) the annual earning rate of the contributory scheme for each relevant financial year is to be determined by the Commission on the advice of the Actuary, with unrealised capital gains and losses being brought to account as income and adjusted having regard to the taxation liability of the contributory scheme.

**29. Deductions against contributors' accounts for death and disability cover**

- (1) The Commission is to maintain within the contributory scheme the death and disability account established under the former regulations.
- (2) The Commission, having regard to the advice of the Actuary in respect of both the experience of providing death and disability benefits under these regulations and the different commencement date of contributors, is to establish premium rates sufficient to meet fully the cost of death and disability benefits.
- (3) The premium rates established under subregulation (2) are –
  - (a) to be determined as soon as practicable after the report into the most recent actuarial investigation under regulation 10 is provided under that regulation; and
  - (b) to be determined having regard to the experience of providing death and disability benefits in the financial years to which that report relates; and
  - (c) to have effect for the period commencing on the next 1 October after the report is provided and ending when the next determination of premium rates takes effect under this paragraph.
- (4) In respect of each contributor under the age of 60 years, the Commission is to –

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- (a) debit the account of that contributor with a premium determined by reference to the salary received by that contributor and the appropriate premium rate established in respect of that contributor under subregulation (2); and
  - (b) credit the sum of the amounts debited under paragraph (a) to the death and disability account.
- (5) As soon as practicable after 30 June in each year, the Commission is to debit the death and disability account with an amount that, in the opinion of the Actuary, was required for the provision of the insured component of the death and disability benefits paid under these regulations during the preceding financial year.
- (6) For the purposes of subregulation (5), in respect of a contributor for whom a pension or lump sum benefit is paid by reason of total and permanent incapacity, partial and permanent incapacity or death, the insured component of that benefit is taken to be an amount equal to the present value of the prospective service component of that pension or benefit, less the present value of the amount paid by the Minister to the prospective service component of that pension or benefit paid under regulation 87.
- (7) For the purposes of subregulation (5), in respect of a contributor for whom an interim invalidity pension is paid, the insured component of that pension is taken to be the amount of that pension

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less the amount paid in respect of that pension by the Minister under regulation 87.

- (8) If, at the end of a financial year, the premiums credited to the death and disability account are more than sufficient to meet the cost of death and disability benefits provided under these regulations, the Commission is to determine whether to distribute the surplus in the death and disability account amongst the contributors' accounts or to carry it forward to the next financial year.
- (9) If, at the end of a financial year, the premiums credited to the death and disability account are insufficient to meet the cost of death and disability benefits provided under these regulations, the Commission is to –
- (a) offset the deficiency against the surplus, if any, carried forward from a previous financial year as mentioned in subregulation (8); and
  - (b) if the surplus referred to in paragraph (a) is insufficient to offset the deficiency fully – further debit each contributor's account to the extent necessary to cover the deficiency.

***Division 4 – Lump sum benefits***

**30. Interpretation of Division 4**

- (1) In this Division –

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***benefit multiple factor*** means the benefit multiple factor derived by reference to the rate of contribution of a contributor and –

(a) in respect of the service of an existing contributor before 1 July 1993, is as follows:

Contribution rate (% of salary)	Benefit multiple factor
0	0.000
2.75	0.100
5.5	0.200
6	0.206
7	0.217
8	0.229
9	0.242
10	0.254
11	0.267

(b) in respect of the service of a contributor on or after 1 July 1993, is as follows:

Contribution rate (% of salary)	Benefit multiple factor
0	0.0000

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Contribution rate (% of salary)	Benefit multiple factor
2.5	0.1000
5	0.2000
6	0.2125
7	0.2250
8	0.2375
9	0.2500
10	0.2625
11	0.2750
12	0.2850
13	0.2950
14	0.3050
15	0.3150

- (2) For the purposes of this Division, if a contributor has been absent on leave without pay, or on less than full pay –
- (a) during the period of 3 years immediately preceding the time of his or her –
    - (i) resignation or dismissal; or
    - (ii) redundancy or compulsory retirement; or

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(iii) retirement due to age, total and permanent incapacity or partial and permanent incapacity; or

(iv) death; or

(b) during the 12 months immediately preceding the commencement of his or her interim invalidity pension –

the contributor's average annual salary is to be calculated as if he or she had continued to be employed in the same capacity on his or her full pay during the whole period.

**31. Calculation of prospective service for contributors employed otherwise than full-time**

(1) If –

(a) a contributor is employed otherwise than on a full-time basis on the day of the contributor's death or the day of cessation of his or her employment; and

(b) a benefit becomes payable to, or in respect of, that contributor under regulation 36 or 37 –

his or her prospective service is to be calculated in accordance with the following formula:

$$PS = (A \times B) \div C$$

where –

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**PS** is the contributor's prospective service expressed in years;

**A** is the period expressed in years commencing on the day immediately following the day of the contributor's death or the day of cessation of his or her employment and ending on the day on which –

- (a) he or she would have attained the age of 60 years; or
- (b) he or she would have achieved 25 calendar years of service –

whichever is the earlier;

**B** is the full-time equivalent of the contributor's length of service expressed in years as at the date of retirement or death;

**C** is the contributor's length of service expressed in years as at the date of retirement or death.

- (2) For the purposes of subregulation (1), a reference to working otherwise than on a full-time basis is taken to include a reference to working on a part-time basis or participating in an accumulated leave scheme or any similar arrangement.
- (3) Despite subregulations (1) and (2), if, after such inquiry as the Commission thinks fit, the Commission is satisfied that the hours of

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employment of a contributor were reduced by the contributor's Agency for medical reasons which subsequently led to his or her death or retirement on total and permanent incapacity or partial and permanent incapacity, the Commission may, for the purposes of regulations 36 and 37, calculate the contributor's prospective service as if the reduction in hours had not occurred.

**32. Adjustment of service and salary for contributors employed otherwise than full-time**

- (1) For the purposes of calculating the lump sum benefit to be paid to a contributor who at any time was employed otherwise than on a full-time basis, his or her length of service as such a contributor is to be adjusted to full-time equivalent service.
- (2) For the purpose of calculating the lump sum or pension benefit to be paid to a contributor who, during the final 3 years of service was employed otherwise than on a full-time basis, his or her salary is taken to be the salary that the contributor would have received if he or she had been employed on a full-time basis during that period of service.

**33. Benefit on early retirement of contributors**

- (1) If a contributor retires otherwise than by reason of total and permanent incapacity, or partial and permanent incapacity, after attaining the preservation age but on or before attaining the

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age of 65 years, he or she is entitled to a lump sum benefit calculated in accordance with the following formula:

$$LS = FAS(3) \times ABMF \times (1 - PP)$$

where –

*LS* is the lump sum benefit payable;

*FAS(3)* is –

- (a) the average annual salary paid or payable to the contributor in respect of the period of 3 years immediately preceding retirement; or
- (b) in the case of a contributor whose length of service at the time of his or her retirement is less than 3 years, the average annual salary paid or payable in respect of the actual period of service;

*ABMF* is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the contributor's length of service in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

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*PP* is the percentage of the lump sum benefit that the contributor has elected, under regulation 59, to be taken as a pension.

- (2) If a contributor to whom this regulation applies retires, the Commission is to pay the benefit calculated under subregulation (1) to that contributor in accordance with regulation 59.

**34. Benefit on redundancy or compulsory retirement**

- (1) Subject to subregulation (2) and regulation 35, if –
- (a) a contributor is retired for the reason that –
    - (i) his or her service, office or position is unnecessary; or
    - (ii) the work for which he or she was engaged is finished; or
    - (iii) diminution of work necessitates a reduction in the number of employees; or
  - (b) a contributor, the term of whose appointment is fixed by an Act, is not at the end of a term reappointed to his or her office and does not, by reason of another appointment, continue to be a contributor; or
  - (c) a contributor, who is a contract employee, ceases to be a contract

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employee by reason of his or her contract not being renewed by the employer; or

- (d) a contributor is retired by virtue of voluntary redundancy under an employment redundancy program or ceases to be a contributor as a result of a prescribed arrangement –

the contributor is entitled to a lump sum benefit calculated in accordance with this regulation.

- (2) If a person ceases to be a contributor under this regulation and his or her length of service is less than 3 years, he or she is taken to have resigned and is entitled to a benefit calculated under regulation 38.
- (3) If a person to whom subregulation (1) refers is a contributor who is under the age of 60 years, his or her lump sum benefit is to be calculated in accordance with the following formula:

$$LS = FAS(3) \times ABMF \times (1 - PP)$$

where –

*LS* is the lump sum benefit payable;

*FAS(3)* is –

- (a) the average annual salary paid or payable to the contributor in respect of the period of 3 years immediately preceding the cessation of his or her service; or

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- (b) in the case of a contributor whose length of service at the time of the cessation of his or her service is less than 3 years, the average annual salary paid or payable in respect of the actual period of service;

*ABMF* is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the contributor's length of service expressed in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

*PP* is –

- (a) in the case of a contributor who has attained the preservation age, the percentage of the lump sum that the contributor has elected, under regulation 59, to be taken as a pension; or
  - (b) in the case of a contributor who has not attained the preservation age, 0.
- (4) If a contributor to whom subregulation (1) refers is 60 years of age or more but less than 65 years of age, his or her lump sum benefit is to be

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calculated in accordance with the following formula:

$$LS = \{[FAS(3) \times ABMF] + [FAS(3) \times PBMF]\} \times (1 - PP)$$

where –

*LS* is the lump sum benefit payable;

*FAS(3)* is –

- (a) the average annual salary paid or payable to the contributor in respect of the period of 3 years immediately preceding the cessation of his or her service; or
- (b) in the case of a contributor whose length of service at the time of the cessation of his or her service is less than 3 years, the average annual salary paid or payable in respect of the actual period of service;

*ABMF* is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the contributor's length of service expressed in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

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**PBMF** is the contributor's prospective benefit multiple factor, calculated by taking the basic contribution rate applicable to the contributor and multiplying the benefit multiple factor prescribed for that rate of contribution under regulation 30 by the contributor's length of prospective service expressed in years, commencing on the day after the day of his or her cessation of employment and concluding on the day when he or she would have attained the age of 65 years;

**PP** is the percentage of the lump sum benefit that the contributor has elected, under regulation 59, to be taken as a pension.

- (5) If a contributor to whom subregulation (4) applies is employed or has at any previous time been employed otherwise than on a full-time basis as a contributor, the contributor's prospective service for the purpose of this regulation is to be calculated in accordance with the following formula:

$$PS = (A \times B) \div C$$

where –

**PS** is the contributor's prospective service expressed in years;

**A** is the period expressed in years commencing on the day after his or her cessation of employment and ending on

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the day on which he or she would have attained the age of 65 years;

**B** is the full-time equivalent of the contributor's length of service expressed in years as at the date of cessation of his or her service;

**C** is the contributor's length of service expressed in years as at the date of cessation of his or her service.

- (6) If a contributor who is entitled to a benefit calculated under this regulation has attained his or her preservation age, the Commission is to pay the benefit so calculated to that contributor in accordance with regulation 59.

**35. Savings for entitlements of certain contributors under *Retirement Benefits Act 1982***

- (1) An existing contributor who, under regulation 34(1)(d), ceases to be a contributor as a result of a prescribed arrangement may, by notice in writing to the Commission, elect to receive a benefit under this regulation instead of a benefit under regulation 34.
- (2) An existing contributor who has at all times contributed at the basic contribution rate is entitled to a lump sum benefit equal to 3.5 times the balance of the contributor's account under regulation 28 together with a sum calculated under regulation 43(5).

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- (3) An existing contributor who has at any time contributed at a rate greater than 5% of salary is entitled to a lump sum benefit equal to the total of –
- (a) an amount equal to 3.5 times the part of the balance of the contributor’s account under regulation 28 that the contributor would have received if he or she had, at all relevant times, been paying contributions at the basic contribution rate; and
  - (b) the balance, if any, of that account after deduction of the part referred to in paragraph (a); and
  - (c) an amount calculated under regulation 43(5).
- (4) If a contributor who is entitled to a benefit calculated under this regulation has attained his or her preservation age, the Commission is to pay the benefit so calculated to that contributor in accordance with regulation 59.

**36. Benefit for full benefits contributors on death, terminal medical condition or retirement due to total and permanent incapacity**

- (1) Subject to subregulation (2), if, before attaining the age of 65 years, a full benefits contributor –
- (a) dies; or

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- (ab) is determined by the Commission under regulation 96A to have a terminal medical condition and that contributor subsequently retires on the grounds of having a terminal medical condition within 6 months after the date of that determination; or
- (b) is determined by the Commission to be suffering from total and permanent incapacity in accordance with regulation 96, and that contributor subsequently retires on the grounds of ill health within 6 months after the date of the Commission's determination –

a lump sum benefit is to be calculated in accordance with the following formula:

$$LS = \{[FAS(3) \times ABMF] + [FAS(3) \times PBMF]\} \times (1 - PP)$$

where –

*LS* is the lump sum benefit payable;

*FAS(3)* is –

- (a) the average annual salary paid or payable to the contributor in respect of the period of 3 years immediately preceding his or her death or retirement due to total and permanent incapacity or a terminal medical condition; or
- (b) in the case of a contributor whose length of service at the time of his

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or her death or retirement due to total and permanent incapacity or a terminal medical condition is less than 3 years, the average annual salary paid or payable in respect of the actual period of service;

***ABMF*** is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the contributor's length of service in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

***PBMF*** is, subject to regulation 31, the contributor's prospective benefit multiple factor, calculated by taking the basic contribution rate applicable to the contributor and multiplying the benefit multiple factor prescribed for that rate of contribution under regulation 30 by whichever is the lesser of the following:

- (a) the contributor's length of prospective service expressed in years, commencing on the day immediately following the day of his or her death or retirement due to total and permanent incapacity or a terminal medical condition

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and ending on the day on which he or she would have attained the age of 60 years;

(b) 25 years;

*PP* is the percentage of the lump sum benefit that the contributor or the surviving partner of the contributor has elected, under regulation 59, to be taken as a pension.

- (2) If a contributor to whom this regulation applies retires on the grounds of total and permanent incapacity, the Commission is to pay the benefit calculated under subregulation (1) to that contributor in accordance with regulation 59.
- (3) If a contributor to whom this regulation applies dies, the Commission is to pay the benefit calculated under subregulation (1) in accordance with regulation 110.
- (4) If a contributor to whom this regulation applies retires on the grounds of having a terminal medical condition, the Commission is to pay the benefit calculated under subregulation (1) in accordance with the conditions of release of benefits applicable to regulated superannuation funds under the SIS regulations.

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**37. Benefit for limited benefits contributors on death, terminal medical condition or retirement due to total and permanent incapacity**

(1) If, before attaining the age of 65 years, a limited benefits contributor –

(a) dies; or

(ab) is determined by the Commission under regulation 96A to have a terminal medical condition and that contributor subsequently retires on the grounds of having a terminal medical condition within 6 months after the date of that determination; or

(b) is determined by the Commission, in accordance with regulation 96, to be suffering from total and permanent incapacity and that contributor subsequently retires on the grounds of ill health within 6 months after the date of the Commission’s decision –

a lump sum benefit is to be calculated in accordance with the following formula:

$$LS = \{[FAS(3) \times ABMF] + [FAS(1) \times PS \times PRC]\} \times (1 - PP)$$

where –

*LS* is the lump sum benefit payable;

*FAS(3)* is –

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- 
- (a) the average annual salary paid or payable to the contributor in respect of the period of 3 years immediately preceding his or her death or retirement due to total and permanent incapacity or a terminal medical condition; or
  - (b) in the case of a contributor whose length of service at the time of his or her death or retirement due to total and permanent incapacity or a terminal medical condition is less than 3 years, the average annual salary paid or payable in respect of the actual period of service;

***ABMF*** is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the contributor's length of service expressed in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

***FAS(I)*** is –

- (a) the salary paid or payable to the contributor in respect of the 12 months immediately preceding his or her death or retirement due

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to total and permanent incapacity or a terminal medical condition; or

- (b) in the case of a contributor whose length of service at the time of his or her death or retirement due to total and permanent incapacity or a terminal medical condition is less than 12 months, the average annual salary paid or payable in respect of the actual period of service;

***PS*** is, subject to regulation 31, the contributor’s prospective service expressed in years commencing on the day immediately following the day of his or her death or retirement due to total and permanent incapacity or a terminal medical condition and concluding on the day when he or she would have attained the age of 60 years;

***PRC*** is the relevant rate of employer superannuation contributions calculated –

- (a) by reference to the salary, within the meaning of the Act, of the employee; and
- (b) in accordance with the “charge percentage” specified in section 19(2) of the *Superannuation Guarantee (Administration) Act*

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1992 of the Commonwealth, as amended from time to time –

as at the date of the contributor's death or retirement due to total and permanent incapacity or a terminal medical condition;

*PP* is the percentage of the lump sum benefit that the contributor or the surviving partner of the contributor has elected, under regulation 59, to be taken as a pension.

- (2) If a limited benefits contributor retires, as mentioned in subregulation (1)(b), on the ground of total and permanent incapacity, the Commission is to pay the benefit calculated under subregulation (1) to that contributor in accordance with regulation 59.
- (3) If a limited benefits contributor dies, the Commission is to pay the benefit calculated under subregulation (1) in accordance with regulation 110.
- (4) If a contributor to whom this regulation applies retires on the grounds of having a terminal medical condition, the Commission is to pay the benefit calculated under subregulation (1) in accordance with the conditions of release of benefits applicable to regulated superannuation funds under the SIS regulations.

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**38. Benefit payable on resignation or dismissal of contributors**

- (1) If a contributor ceases, before attaining his or her preservation age, to be a contributor by reason of –
- (a) resignation; or
  - (b) dismissal –

he or she is entitled to a benefit as provided in this regulation.

- (2) For the purposes of subregulation (1), the benefit for a contributor who has completed 5 or more years' service as a contributor is to be a lump sum benefit calculated in accordance with the following formula:

$$LS = FAS(3) \times ABMF$$

where –

*LS* is the lump sum benefit payable;

*FAS(3)* is –

- (a) the average annual salary paid or payable to the contributor in respect of the period of 3 years immediately preceding resignation or dismissal; or
- (b) in the case of a contributor whose length of service at the time of his or her resignation or dismissal is less than 3 years, the average

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annual salary paid or payable in respect of the actual period of service;

*ABMF* is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the contributor's length of service expressed in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications.

(3) For the purposes of subregulation (1), the benefit for a contributor who has completed less than 5 years' service as a contributor is to be a lump sum benefit calculated in accordance with whichever of the following formulae provides the greater benefit:

- (a)  $LS = RC + \{[S \times SBMF \times FAS(3)] \times (n \div 1825)\}$ ;
- (b)  $LS = RC + NCSB$

where –

*LS* is the lump sum benefit payable;

*RC* is the balance of contributions and interest in the contributor's account established under regulation 28;

*S* is the number of days, expressed in years, for which contributions were received;

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***SBMF*** is the State's benefit multiple factor which is –

- (a) in respect of a person contributing at the rate of 2.5% of salary, a factor of 0.075; or
- (b) in all other cases, a factor of 0.15;

***FAS(3)*** is –

- (a) the average annual salary paid or payable to the contributor in respect of the period of 3 years immediately preceding resignation or dismissal; or
- (b) in the case of a contributor whose length of service at the time of his or her resignation or dismissal is less than 3 years, the average annual salary paid or payable in respect of the actual period of service;

***n*** is the number of days for which contributions were received;

***NCSB*** is the employer component of the benefit determined in accordance with subregulation (4).

- (4) For the purposes of the definition of *NCSB* in subregulation (3), the employer component of the benefit is the amount that would have been payable if, for each period of the contributor's

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service that is within a period referred to in column 1 of the table to this regulation –

- (a) the employer component had been determined at the rate specified opposite the period in column 2 of the table; and
- (b) interest had been paid in relation to the employer component for the relevant period at the rate specified opposite the period in column 3 of the table.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Relevant period</b>	<b>Contribution rate</b>	<b>Interest rate</b>
1 July 1994 – 30 June 1995	5%	The long term bond rate during the relevant period
1 July 1995 – 30 June 1998	6%	The long term bond rate during the relevant period
1 July 1998 – 24 April 2000	7%	The long term bond rate during the relevant period

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25 April 2000 – 30 June 2000	7%	The rate payable to a member of the Tasmanian Accumulation Scheme who had not made an election for investment choice under the Trust Deed during the relevant period
1 July 2000 – 30 June 2002	8%	The rate payable to a member of the Tasmanian Accumulation Scheme who had not made an election for investment choice under the Trust Deed during the relevant period

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1 July 2002 – 22 March 2014	The “charge percentage” specified in section 19(2) of the <i>Superannuation Guarantee (Administration) Act 1992</i> of the Commonwealth	The rate payable to a member of the Tasmanian Accumulation Scheme who had not made an election for investment choice under the Trust Deed during the relevant period
From 23 March 2014	The “charge percentage” specified in section 19(2) of the <i>Superannuation Guarantee (Administration) Act 1992</i> of the Commonwealth	The rate payable to a member of the Tasmanian Accumulation Scheme who had his or her entire account balance invested in the RBF Balanced Investment Option
From transfer date onwards	The “charge percentage” specified in section 19(2) of the <i>Superannuation Guarantee (Administration) Act 1992</i> of the Commonwealth	The interest rate determined under regulation 92

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**39. Benefit payable on death or retirement after retirement age**

- (1) If a contributor continues to be a permanent employee after attaining the age of 65 years, the contributor is entitled on death or retirement or on attaining the age of 70 years, whichever is the earlier, to a lump sum benefit calculated in accordance with the following formula:

$$LS = \{[FAS(3) \times ABMF] + [FAS(3) \times SBMF \times PRS]\} \times (1 - PP)$$

where –

*LS* is the lump sum benefit payable;

*FAS(3)* is –

- (a) the average annual salary received by a contributor in respect of the period of 3 years immediately preceding his or her death or retirement or attaining the age of 70 years; or
- (b) in the case of a contributor whose length of service at the time of his or her death or retirement is less than 3 years, the average annual salary received in respect of the actual period of service;

*ABMF* is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or

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those rates of contribution under regulation 30 by the contributor's length of service expressed in years to the day when he or she ceased paying contributions under regulation 21(3)(e) or regulation 21(4) at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

***SBMF*** is the State's benefit multiple factor which is –

- (a) in respect of a person contributing at the rate of 2.5% of salary, a factor of 0.075; or
- (b) in all other cases, a factor of 0.15;

***PRS*** is the contributor's length of service after attaining the age of retirement expressed in years commencing on the day when he or she ceased paying contributions under regulation 21(3)(e) or regulation 21(4) and ending on the day of his or her actual retirement or death or at the age of 70 years, whichever is the earlier;

***PP*** is the percentage of the lump sum benefit that the contributor or the surviving partner of the contributor has elected under regulation 59 to be taken as a pension.

- (2) If a contributor referred to in subregulation (1) retires, the Commission is to pay the benefit

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calculated under subregulation (1) to that contributor in accordance with regulation 59.

- (3) If a contributor referred to in subregulation (1) dies, the Commission is to pay the benefit payable under subregulation (1) in accordance with regulation 110.

**40. Preservation of contributions**

- (1) In this regulation –

*benefit* means a benefit calculated under regulation 34, 35 or 38;

*employee component* means a benefit less the employer component of that benefit;

*employer component* means the employer component determined under regulation 86 as if the relevant contributor had always contributed at the basic contribution rate.

- (2) A benefit in respect of a contributor who, at the time of his or her compulsory retirement or redundancy, resignation, dismissal or cessation of employment as a result of a prescribed arrangement, has not attained the preservation age is to be preserved compulsorily as provided by this regulation until –
- (a) the contributor retires from the workforce after attaining the preservation age and elects, by notice in writing to the Commission, to receive the benefit; or

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- (b) the benefit is payable in accordance with regulation 51.
- (3) A benefit calculated under regulation 34 in respect of an existing contributor is to be preserved as follows:
- (a) the employee component is to be transferred to an investment account in the name of the contributor; and
  - (b) the employer component is to be transferred to a compulsory preservation account in the name of the contributor –
- or in accordance with an election of the contributor under subregulation (5).
- (4) A benefit calculated under regulation 34 in respect of a contributor, other than an existing contributor, is to be preserved as follows:
- (a) the employee component is to be transferred to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor; and
  - (b) the employer component is to be transferred to a compulsory preservation account in the name of the contributor –
- or in accordance with an election of the contributor under subregulation (5).
- (5) A contributor may elect for a benefit calculated under regulation 34 to be preserved as follows:

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- (a) the total amount of the benefit; or
- (b) the total of –
  - (i) 3.5 times the part of the balance of the contributor’s account under regulation 28 that the contributor would have received if he or she had, at all relevant times, been paying contributions at the basic contribution rate; and
  - (ii) the balance, if any, of that account after deduction of the part referred to in subparagraph (i) –

whichever total amount is the lesser, is to be transferred to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor and the balance is to be transferred to a compulsory preservation account in the name of the contributor.

- (6) A benefit calculated under regulation 35 is to be preserved as follows:
  - (a) the total benefit is to be transferred to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor;
  - (b) if the contributor so elects, the employee component of the benefit payable is to be transferred to an investment account in the name of the contributor and the

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employer component of that benefit is to be transferred to a compulsory preservation account in the name of the contributor.

- (7) A benefit calculated under regulation 38(2) is to be preserved as follows:
- (a) the employee component is to be transferred to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor;
  - (b) the employer component is to be transferred to a compulsory preservation account in the name of the contributor.
- (8) A benefit calculated under regulation 38(3) is to be preserved as follows:
- (a) the amount standing to the credit of the contributor's account is to be transferred to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor;
  - (b) the balance of the total benefit is to be transferred to a compulsory preservation account in the name of the contributor.
- (9) If a contributor does not, within a reasonable period as determined by the Commission, elect a complying superannuation scheme to which a benefit, or a component of a benefit, is to be transferred under subregulation (3), (4), (5), (6),

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(7) or (8), the benefit, or component of the benefit, in relation to a contributor, is to be transferred to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

**41. Payment of preserved benefits**

- (1) On application in writing to the Commission by a contributor who is entitled to a benefit under regulation 40(3), (4), (6) or (7) and who was a contributor on 30 June 1999, the Commission must pay to him or her an amount calculated in accordance with subregulation (3), (4) or (5).
- (2) Subregulation (1) does not apply to a contributor who has made an election under regulation 40(6)(b).
- (3) If the benefit is calculated under regulation 34, the amount payable is the lesser of the total amount of the benefit and the total of the following amounts:
  - (a) an amount equal to 3.5 times the part of the balance of the contributor's account under regulation 28 as at 30 June 1999 that the contributor would have received if he or she had, at all relevant times, been paying contributions at the basic contribution rate;
  - (b) the balance, if any, of that account as at 30 June 1999 after deduction of the part referred to in paragraph (a).

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- (4) If the benefit is calculated under regulation 35, the amount payable is the total of the following amounts:
- (a) an amount equal to 3.5 times the part of the balance of the contributor's account under regulation 28 as at 30 June 1999 that the contributor would have received if he or she had, at all relevant times, been paying contributions at the basic contribution rate;
  - (b) the balance, if any, of that account as at 30 June 1999 after deduction of the part referred to in paragraph (a).
- (5) If the benefit is calculated under regulation 38(2), the amount payable is the amount of the employee component calculated as at 30 June 1999.
- (6) A contributor who is entitled to be paid an amount in accordance with subregulation (1) may apply in writing to the Commission –
- (a) to be paid the whole or a part of the amount; or
  - (b) to transfer the whole or a part of the amount –
    - (i) to a complying superannuation scheme elected by that contributor; or
    - (ii) if an election is not made under subparagraph (i) within a

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reasonable period determined by the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

- (7) If an amount is paid under subregulation (1), the Commission must debit the compulsory preservation account in the name of the contributor with the amount payable under regulation 87 and the amount, if any, payable under regulation 88.
- (8) If an existing contributor becomes entitled to a lump sum benefit under this Part other than a benefit mentioned in regulation 40(2), the benefit is to be transferred –
  - (a) to a complying superannuation scheme elected by that contributor; or
  - (b) if an election is not made under paragraph (a) within a reasonable period determined by the Commission – to an eligible rollover fund chosen by the Commission.

**42. Minimum benefit for 2.5% contributors**

- (1) The minimum benefit payable by the Commission to, or on behalf of, a contributor making contributions at the rate of 2.5% of salary is the greater of the benefit calculated under regulation 33, 34, 35, 36, 37, 38 or 39,

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whichever is appropriate, and the benefit determined in accordance with the following formula:

$$LS = RC + NCSB + SAFB$$

where –

**LS** is the benefit payable to the contributor;

**RC** is the balance of contributions and interest of the contributor's account established under regulation 28;

**NCSB** is the employer component of the benefit determined in accordance with subregulation (2);

**SAFB** is the balance as at 30 June 1994 of the contributor's account as an eligible employee under the SAF Agreement indexed at a rate declared by the Commission as being equal to whichever is the greater of –

(a) variations in the AWOTE; or

(b) variations in the Consumer Price Index.

- (2) For the purposes of the definition of NCSB in subregulation (1), the employer component of the benefit is the amount that would have been payable if, for each period of the contributor's service that is within a period referred to in column 1 of the table to this regulation –

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- (a) the employer component had been determined at the rate specified opposite the period in column 2 of the table; and
- (b) interest had been paid in relation to the employer component for the relevant period at the rate specified opposite the period in column 3 of the table.

<b>Column 1 - Relevant period</b>	<b>Column 2 - Contribution rate</b>	<b>Column 3 - Interest rate</b>
1 July 1994 – 30 June 1995	5%	The long term bond rate during the relevant period
1 July 1995 – 30 June 1998	6%	The long term bond rate during the relevant period
1 July 1998 – 24 April 2000	7%	The long term bond rate during the relevant period

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25 April 2000 – 30 June 2000	7%	The rate payable to a member of the Tasmanian Accumulation Scheme who had not made an election for investment choice under the Trust Deed during the relevant period
1 July 2000 – 30 June 2002	8%	The rate payable to a member of the Tasmanian Accumulation Scheme who had not made an election for investment choice under the Trust Deed during the relevant period

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23 March 2014 until transfer date	The “charge percentage” specified in section 19(2) of the <i>Superannuation Guarantee (Administration) Act 1992</i> of the Commonwealth	The rate payable to a member of the Tasmanian Accumulation Scheme who had his or her entire account balance invested in the RBF Balanced Investment Option
From transfer date onwards	The “charge percentage” specified in section 19(2) of the <i>Superannuation Guarantee (Administration) Act 1992</i> of the Commonwealth	The interest rate determined under regulation 92

**43. Supplemental lump sum benefit payable in certain cases**

- (1) If an existing contributor, to whom regulation 33, 34, 35 or 39 or clause 7 of Schedule 1 applies, retires and makes an election under regulation 59(6) to receive a pension calculated under Schedule 1, the Commission may pay to the contributor a supplemental lump sum benefit in accordance with this regulation.
- (2) In relation to an existing contributor to whom subregulation (1) applies, eligibility for a supplemental lump sum benefit is to be calculated in accordance with the following formula:

$$E = A \times (1 - PP) - \{ [B \times C \times (1 - PP)] + D \}$$

where –

**E** is the amount required to determine eligibility for the supplemental lump sum benefit;

**A** is the amount of the lump sum benefit payable under regulation 33, 34 or 39 before taking into account any election made under regulation 59;

**PP** is the proportion of the lump sum benefit which the contributor has elected, under regulation 59, to convert to a pension;

**B** is the annual amount of pension that would be payable to the contributor under clause 5, 6 or 8 of Schedule 1 before

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taking into account any election made  
under regulation 59;

**C** is the conversion factor derived having  
regard to the age of the contributor at the  
date of retirement as follows:

Age	Pension conversion factor
55	11
56	10.8
57	10.6
58	10.4
59	10.2
60	10.0
61	9.8
62	9.6
63	9.4
64	9.2
65	9.0
66	8.8
67	8.6
68	8.4
69	8.2
70	8.0

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*D* is the sum referred to in subregulation (5),  
calculated as at the date of the retirement  
of the contributor.

- (3) Subregulation (2) does not apply to an existing contributor to whom clause 7 of Schedule 1 applies.
- (4) If, under subregulation (2), the product of the formula is negative, a supplemental lump sum benefit is payable and is to be calculated as provided in subregulation (5).
- (5) For the purposes of this regulation, the supplemental lump sum benefit comprises a sum equal to the balance, as at 30 June 1994, of the contributor's account under the SAF Agreement, indexed at a rate declared by the Commission as being equal to whichever is the greater of –
  - (a) movements in the AWOTE; or
  - (b) movements in the Consumer Price Index.
- (6) For the purposes of subregulation (5), the indexation rate declared by the Commission is to be reviewed as at 1 March and 1 September in each year in accordance with the AWOTE or Consumer Price Index figure most recently published before that review.

*Division 5 – Interim pensions*

**44. Interim invalidity pensions**

- (1) If the Commission determines, under regulation 96, that a contributor meets the

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criteria for interim invalidity and that contributor has been absent from duty on sick leave without pay for a continuous period of 30 days –

- (a) that contributor is entitled to a pension equal to 75% of the salary that he or she would have received in respect of the previous period of 12 months if he or she had continued to be employed in his or her usual capacity; and
  - (b) that pension is payable from the later of the following days:
    - (i) the day on which the Commission receives the application for an invalidity benefit under regulation 96;
    - (ii) the day after the last day of the period of 30 days' sick leave without pay; and
  - (c) that pension is payable for a period determined by the Commission not exceeding 2 years.
- (2) If, after such inquiry as he or she thinks fit, the Commission is satisfied that a contributor has reduced his or her hours of work for medical reasons, the Commission may, for the purpose of subregulation (1), determine that the contributor's salary is to be an amount that it considers to be fair and equitable.
- (3) An interim invalidity pension is subject to indexation as provided by regulation 63.

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(4) If the period for which an interim invalidity pension payable to a contributor under this regulation has expired, the pension ceases and unless –

- (a) the Commission grants a total and permanent incapacity benefit to the contributor; or
- (b) the Commission grants a partial and permanent incapacity benefit to the contributor; or
- (c) the contributor returns to duty –

the contributor is taken to have ceased to be a member of the contributory scheme as from the cessation of the interim invalidity pension.

(5) On the cessation of a contributor's membership under subregulation (4) –

- (a) he or she is entitled to a benefit calculated in accordance with regulation 38; and
- (b) the Commission is to transfer the amount referred to in regulation 41(5) –
  - (i) to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor; or
  - (ii) if an election is not made under subparagraph (i) within a reasonable period determined by

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the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

(6) If –

- (a) the membership of a contributor ceases under subregulation (4); and
- (b) the contributor subsequently recommences duty in his or her position or any other position within an Agency for which he or she is qualified by education, training or experience –

the Commission must, subject to subregulations (7), (8) and (9), reinstate the contributor's membership in the contributory scheme as if the transfer had not occurred and adjust the contributor's entitlements accordingly.

(7) On the reinstatement of a contributor's membership under subregulation (6) –

- (a) the contributor must, as from the day when he or she recommences duty, contribute to the contributory scheme at the rate at which he or she was contributing before the commencement of his or her interim invalidity pension; and
- (b) the period between the cessation of payment of the interim invalidity pension

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and the recommencement of duty is to be treated, for the purposes of these regulations, as leave without pay.

- (8) The Commission is not to reinstate a person as a member of the contributory scheme unless –
- (a) the amount transferred under subregulation (5)(b) may be transferred to the contributory scheme from the superannuation fund elected by the person, or the eligible rollover fund selected by the Commission, whichever is applicable; and
  - (b) the person arranges for the transfer of the benefit to the contributory scheme; and
  - (c) the Commission is satisfied that the amount transferred to the contributory scheme fairly corresponds with the benefit referred to in subregulation (5)(a).
- (9) The Commission is not to reinstate a person as a member of the contributory scheme unless the Commission is satisfied that any gainful employment that the person has undertaken after the cessation of the person's interim invalidity pension and before the person's recommencement of duty was undertaken in order to facilitate that return to duty.
- (10) An interim invalidity pension ceases to be payable if the interim invalidity pensioner ceases to be an employee.

**45. Interim pensions for surviving partners**

- (1) If a contributor dies, the surviving partner of that contributor is entitled to an interim pension equal to 75% of the salary paid or payable to the contributor in respect of the previous period of 12 months of employment.
- (2) If, after such inquiry as the Commission thinks fit, the Commission is satisfied that a contributor's hours of employment had been reduced for medical reasons, the Commission may, for the purposes of subregulation (1), determine that the contributor's salary is to be an amount that the Commission considers to be fair and equitable.
- (3) A pension under subregulation (1) is payable until the surviving partner makes an election under regulation 59 or a period of 3 months elapses, whichever is the earlier.
- (4) An interim pension payable under this regulation is not subject to indexation.

***Division 6 – Prescribed arrangements***

**46. Declaration of prescribed arrangement**

- (1) A declaration of a prescribed arrangement under regulation 3(3) may provide that, on and from a day specified in the declaration, regulation 47 is to have effect in respect of the rights and entitlements of all contributors whose terms of employment are affected by the prescribed arrangement.

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- (2) If the declaration provides that regulation 47 is to have effect, the declaration is to specify a commencement day for the purposes of that regulation and, on publication of the declaration, the application of that regulation extends to the contributors accordingly.

**47. Application of prescribed arrangements to contributors**

- (1) This regulation applies to contributors to whom a declaration of a prescribed arrangement is expressed to apply.
- (2) Within 60 days after the commencement day specified in the declaration under regulation 46(2), the Commission must, in writing, notify the contributors to whom this regulation applies of –
  - (a) their entitlements under regulation 34 or, if applicable, regulation 35, and the value of the employer component of those entitlements under regulation 87; and
  - (b) the difference in the level of employer superannuation support provided under regulation 87 for entitlements calculated under this Part and the “charge percentage” specified in section 19(2) of the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth, as amended from time to time.

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- (3) After receipt of the notification and within 6 months after the commencement day specified in the declaration under regulation 46(2) or a longer period determined by the Commission, a contributor may, in writing, notify the Commission and the person or organisation to which the relevant services have been transferred that he or she elects not to continue as a contributor.
- (4) A notice of election under subregulation (3) is to include –
  - (a) a copy of the notification referred to in subregulation (2); and
  - (b) a statement to the effect that the contributor making the election has taken into account the matters referred to in that notification.
- (5) On making an election under subregulation (3), a contributor –
  - (a) is taken to have ceased to be a contributor, with effect from a day determined by the Commission, as a result of the relevant prescribed arrangement; and
  - (b) is entitled to a lump sum benefit calculated in accordance with regulation 34 or, if applicable, regulation 35.

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- (6) A contributor who does not make an election as mentioned in subregulation (3) is taken to remain as a contributor.

**PART 5 – POWERS AND DUTIES OF COMMISSION**

***Division 1 – Compulsory preservation accounts and  
investment accounts***

**48. Establishment of compulsory preservation accounts**

- (1) The Commission –
  - (a) is to establish a compulsory preservation account in the name of the relevant contributor for each benefit entitlement which is to be compulsorily preserved under regulation 40; and
  - (b) is to credit to that account any benefit entitlement which under that regulation is to be transferred to that account.
- (2) The benefit entitlements preserved under this regulation include all benefit entitlements, or proportions of benefit entitlements, which are to be preserved in accordance with regulation 40.
- (3) The benefit entitlements compulsorily preserved in an account established under this regulation are to be indexed at a rate declared by the Commission as being equal to whichever is the greater of –
  - (a) movements in the AWOTE; or
  - (b) movements in the Consumer Price Index.
- (4) For the purpose of subregulation (3), the indexation rate declared by the Commission is to be reviewed as at 1 March and 1 September in

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each year in accordance with the AWOTE or Consumer Price Index figure most recently published before that review.

- (5) Except as provided by subregulation (6), regulation 52 or 96, if a contributor in whose name a compulsory preservation account has been established reaches his or her preservation age, the balance of that account is to be transferred, after deduction of any tax liability –
- (a) to an account, in the name of the contributor, in a complying superannuation scheme elected by the contributor; or
  - (b) if an election is not made under paragraph (a) within a reasonable period determined by the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.
- (6) Except as provided by regulation 52 or 96, if a contributor in whose name a compulsory preservation account has been preserved in accordance with regulation 40(3)(b) or regulation 40(6)(b) reaches his or her preservation age, the balance of that account is to be transferred, after deduction of any tax liability, to an investment account in the name of the contributor.
- (7) An amount standing to the credit of a compulsory preservation account may be paid by

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the Commission only where regulated superannuation funds are permitted under the SIS Act to make such a payment in similar circumstances.

- (8) If a person holding a compulsory preservation account dies, the Commission is to pay the balance of that person's account in accordance with regulation 110.
- (9) If the balance of a person's compulsory preservation account is an amount in relation to which regulated superannuation funds are permitted under the SIS Act to make such a payment in similar circumstances, the Commission may pay all of the amount in the compulsory preservation account to –
  - (a) an account, in the name of the person, elected by the person; or
  - (b) if an election is not made under paragraph (a) within a reasonable period determined by the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

**49. Establishment of investment accounts**

- (1) The Commission is to establish an investment account in the name of the relevant existing contributor –

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- (a) for a benefit entitlement, arising under regulation 34 or 35, to which regulation 40(3) or regulation 40(6)(b) applies; or
  - (b) in respect of an Investment 12 Account member –

and is to credit to the account any benefit entitlement which under regulation 40 is to be transferred into that account.

- (2) The Commission must credit to an investment account established under subregulation (1) interest at a rate determined in accordance with regulation 92 (which, accordingly, may be either positive or negative interest) in respect of the amounts from time to time standing to the credit of the account.
- (3) There are to vest in a contributor –
  - (a) the benefit entitlements credited to an investment account for the contributor established under subregulation (1); and
  - (b) any interest, in relation to the benefit entitlements, that is credited under subregulation (2) –

less any deductions made for contributions tax in accordance with the law of the Commonwealth.

- (4) An amount standing to the credit of an investment account may be paid by the Commission only where regulated superannuation funds are permitted under the

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SIS Act to make such a payment in similar circumstances.

- (5) If a person who holds an investment account dies, the Commission is to pay the balance of the account under regulation 110.

*Division 2 – Payment of benefits*

**50. Time and manner of benefit payments**

- (1) The Commission is to use its best endeavours to ensure that a person who is entitled to a benefit under these regulations is paid that benefit as soon as practicable after the entitlement arises.
- (2) If the Commission is satisfied that there has been an unreasonable delay in paying a person a benefit to which the person is entitled under these regulations, the Commission may pay such interest on the benefit (or any part of the benefit) as the Commission considers fair having regard to all the circumstances including, without limiting this, whether any act or omission of the person caused or contributed to the delay.

**51. Release of preserved benefits**

- (1) If the Commission is required to preserve a lump sum benefit entitlement under Part 4 or 5, that benefit entitlement may be paid by the Commission only if regulated superannuation funds are permitted under the SIS Act to make such a payment in similar circumstances.
- (2) The Commission must notify –

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- (a) a Fund member; or
- (b) a person entitled to the preserved benefit in accordance with regulation 110 –

whichever is appropriate, of the entitlement to a preserved benefit that has become payable, by sending a written notice to that person's last known address.

- (3) If a person with an entitlement to a preserved benefit dies, the Commission is to pay that benefit in accordance with regulation 110.
- (4) If the Commission has –
  - (a) determined under regulation 96(8) that a person with an entitlement to a preserved benefit is suffering from total and permanent incapacity; or
  - (b) determined under regulation 96A that a person with an entitlement to a preserved benefit has a terminal medical condition –

the Commission is to pay that benefit to that person.

**52. Early release of benefits**

- (1) In this regulation –

*child*, in respect of a Fund member, includes a step-child of the Fund member;

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*dependant*, in respect of a Fund member, includes –

- (a) the spouse of the Fund member;  
and
- (b) a child of the Fund member; and
- (c) any other person with whom the Fund member has an interdependency relationship within the meaning of section 10A of the SIS Act;

*medical transport* means transport by land, water or air for the purposes of medical attention.

- (2) This regulation applies only to a Fund member who holds an account under regulation 48 or 49.
- (3) A Fund member may apply to the Commission, in a form approved by the Commission, for a determination in accordance with this regulation for the early release of the whole or a part of an amount standing to the credit of the Fund member's account under regulation 48 or 49.
- (4) Subject to Part 7 but despite any other provision of these regulations, the Commission may make a determination for the early release of the whole or a part of an amount mentioned in subregulation (3) if the Commission is satisfied that –
  - (a) the amount to be released is required –

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- (i) to pay for medical treatment or medical transport for the Fund member or a dependant; or
  - (ii) to enable the Fund member to make a payment on a loan, to prevent –
    - (A) foreclosure of a mortgage on the Fund member’s principal place of residence; or
    - (B) exercise by the mortgagee of an express or statutory power of sale over the Fund member’s principal place of residence; or
  - (iii) to modify the Fund member’s principal place of residence, or vehicle, to accommodate the special needs of the Fund member, or a dependant, arising from severe disability; or
  - (iv) to pay for expenses associated with the Fund member’s palliative care, in the case of impending death; or
  - (v) to pay for expenses associated with a dependant’s death, funeral, burial or, in the case of impending death, palliative care; or

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- (vi) to meet expenses for any other purpose which the Commission determines to be consistent with a ground mentioned in the preceding subparagraphs of this paragraph –  
  
and in any such case the Fund member does not have the financial capacity to meet that expense or those expenses; or
  - (b) the Fund member is in severe financial hardship as mentioned in regulation 53(5)(a) or (b).
- (5) In each 12-month period, beginning on the date of the first payment, the Commission may, under this regulation, pay by way of early release of a Fund member's benefit entitlement –
  - (a) a single lump sum that is to be –
    - (i) in respect of an amount released under subregulation (4)(a)(ii), not more than the total of the amounts referred to in subregulation (4); or
    - (ii) in respect of a Fund member who is in severe financial hardship as mentioned in regulation 53(5)(a), an amount not less than \$1 000 and not more than \$10 000 or, if the amount of the Fund member's benefit entitlement is less than \$1 000, the amount of that benefit entitlement; or

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- (iii) in respect of a Fund member who is in severe financial hardship as mentioned in regulation 53(5)(b), an amount not more than the amount of his or her benefit entitlement; or
  - (b) in respect of any other amount released under subregulation (4), such amounts with such frequency as the Commission considers appropriate after consideration of the relevant application and accompanying evidence.
- (6) An amount released under this regulation may be paid to any person as the Commission determines.
- (7) If the Commission has paid an amount by way of early release under this regulation, the Commission must reduce the balance of the relevant Fund member's account or accounts under regulation 48 or 49 accordingly.
- (8) If the Commission is not satisfied that an applicant has established grounds for the early release of the whole or a part of his or her benefit, the Commission may decline to proceed with consideration of the application until the applicant has produced such relevant information as the Commission may require.

**53. When Commission may make determination allowing early release of money**

- (1) The Commission must not make a determination under regulation 52 that money is required for medical treatment unless 2 medical practitioners (at least one of whom must be a specialist) certify that –
  - (a) the medical treatment is necessary to –
    - (i) treat a life-threatening illness or injury; or
    - (ii) alleviate acute or chronic pain; or
    - (iii) alleviate an acute or chronic mental disturbance; and
  - (b) the treatment is not readily available to the Fund member, or the dependant, through the public health system.
- (2) The Commission must not make a determination under regulation 52 that money is required for medical transport unless the medical treatment for which the medical transport is required has been certified, under subregulation (1), as necessary for a reason mentioned in subregulation (1)(a).
- (3) The Commission must not make a determination under regulation 52 that money is required on the ground mentioned in regulation 52(4)(a)(ii) unless the Fund member provides the Commission with a written statement from the mortgagee that –

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- (a) payment of an amount is overdue; and
  - (b) if the Fund member fails to pay the amount, the mortgagee will –
    - (i) foreclose the mortgage on his or her principal place of residence; or
    - (ii) exercise its express or statutory power of sale over his or her principal place of residence.
- (4) A statement under subregulation (3) is to specify –
- (a) an amount that is equal to 3 months' repayments under the mortgage; and
  - (b) an amount that is equal to 12 months' interest on the outstanding balance of the loan at the time the statement is made.
- (5) For the purposes of regulation 52(4), a Fund member is taken to be in severe financial hardship if –
- (a) the Commission is satisfied that –
    - (i) based on written evidence provided by at least one department or agency of the Commonwealth responsible for administering a class of Commonwealth income support payments –

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- (A) the Fund member has received Commonwealth income support payments for a continuous period of 26 weeks; and
  - (B) the Fund member was in receipt of payments of that kind on the date of the written evidence; and
- (ii) the Fund member is unable to meet reasonable and immediate family living expenses; or
- (b) the Fund member has reached the age that is his or her preservation age plus 39 weeks and the Commission is satisfied that –
  - (i) based on written evidence provided by at least one department or agency of the Commonwealth responsible for administering a class of Commonwealth income support payments, the Fund member received Commonwealth income support payments for a cumulative period of 39 weeks after he or she reached his or her preservation age; and
  - (ii) the Fund member was not gainfully employed on a full-time or part-time basis on the date of

his or her application under this regulation.

- (6) The written evidence referred to in subregulation (5)(a) is of no effect if it is dated more than 21 days before the date of the relevant application to the Commission.

**54. Payment if beneficiary incapable**

Subject to Parts 7 and 8 but despite any other provision of these regulations, if a person entitled to receive a benefit or other payment under these regulations is unable to make reasonable judgments as to the management of his or her affairs, the Commission may withhold payment of the benefit or other amount due for a period of up to 30 days or for such longer period as may be directed by the Tasmanian Civil and Administrative Tribunal.

**55. Payment if beneficiary bankrupt**

If a person to whom a benefit under these regulations is payable is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the law relating to bankruptcy, the Commission may pay the whole or part of that benefit to the administrator of the bankrupt estate.

**56. Unclaimed benefits**

- (1) If –

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- (a) the Commission has, in writing and in accordance with the law of the Commonwealth, advised the person entitled to a benefit that has become payable under these regulations of the person's entitlement; and
- (b) a period of 6 months has elapsed without response from that person –

the benefit entitlement is taken to be unclaimed money.

- (2) The Commission must complete and forward a statement of unclaimed money, together with payment, in accordance with the *Unclaimed Money Act 2015*, as follows:
  - (a) in respect of a 6-month period ending on 30 June, on or before the following 31 October;
  - (b) in respect of a 6-month period ending on 31 December, on or before the following 30 April;
  - (c) for such other period as is allowed by the *Unclaimed Money Act 2015*.

***Division 3 – Overdue contributions and overpayment of pensions***

**57. Recovery of overdue contributions and payments**

- (1) If any contributions or other payments that are required under these regulations, or were required under the former regulations, to be

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made by a contributor are, for any reason, in arrears, the Commission may determine an amount of interest that is payable, by the contributor, in relation to the amount in arrears.

(1A) If –

- (a) any contributions or other payments that are required under these regulations, or were required under the former regulations, to be made by a contributor are, for any reason, in arrears; and
- (b) the amount of the arrears, together with any interest that the Commission determines under subregulation (1) is payable on that amount, has not been otherwise paid to the Commission by the contributor –

the amount in arrears, together with the amount of the interest payable on that amount, may be deducted from the contributor's salary in any instalments that the Commission determines, and the Agency by which the contributor is employed must cause the amount to be deducted accordingly and paid to the Commission.

- (2) The Commission may recover in a court of competent jurisdiction amounts payable to the Commission by any person, or may deduct them from any money payable under these regulations to, or in respect of, that person.
- (3) To avoid doubt, the Commission's powers under subregulations (1) and (2) are discretionary.

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**58. Overpayment of pensions or benefits**

If a person has received a payment of a pension or other benefit under these regulations or the former regulations and it is subsequently discovered that the payment was in excess of the amount properly payable –

- (a) the Commission may require repayment to be made on any terms that the Commission thinks just; or
- (b) the Commission may write off the whole or any part of the excess amount so paid if the Commission is satisfied that –
  - (i) forcing that person to repay the excess amount would impose on the person undue financial hardship or would be inequitable; and
  - (ii) the payment of the excess amount was not due to the fault of the person.

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**PART 6 – PENSIONS**

**59. Conversion of lump sum benefits to pensions**

- (1) Except as provided in regulation 60(6), a person who is entitled to receive a lump sum benefit under Part 4 or 5 may, subject to subregulation (5), elect to convert the whole or a part of the lump sum into a pension, as provided by regulation 60.
- (2) Except as provided in regulation 60(6), a person who –
  - (a) was –
    - (i) as at 14 May 1999, a member of the scheme established under Part 4, or the scheme established under Part 5, of the *Retirement Benefits Regulations 1994*; or
    - (ii) as at 14 May 1999, entitled to a benefit under Part 6 or 7 of the *Retirement Benefits Regulations 1994*; or
    - (iii) a transferred investment account holder, within the meaning of the Trust Deed; and
  - (b) was a transferring member immediately before the transfer date; and
  - (c) at all times since first becoming a member of the Tasmanian Accumulation Scheme, until immediately before the

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transfer date, retained an interest in that scheme; and

(d) has –

(i) attained his or her preservation age; or

(ii) retired on the grounds of total and permanent incapacity as determined by the Commission under regulation 96(3); and

(e) transfers to the contributory scheme the amount to be converted from a lump sum –

may, subject to subregulation (5), elect to convert the whole or a part of the lump sum into a pension, as provided by regulation 60.

(3) Except as provided in regulation 60(6), a person who –

(a) was, immediately before the transfer date, a Fund member; and

(b) has –

(i) attained his or her preservation age; or

(ii) retired on the grounds of total and permanent incapacity as determined by the Commission under regulation 96(3); or

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(iii) been determined by the Commission under regulation 96A(1) to have a terminal medical condition; and

(c) transfers to the contributory scheme the amount to be converted from a lump sum –

may, subject to subregulation (5), elect to convert the whole or a part of the lump sum into a pension, as provided by regulation 60.

- (4) Except as provided in regulation 60(6), the surviving partner of a person to whom subregulation (2) or (3) relates may, subject to subregulation (5), elect to convert the whole or a part of the lump sum into a pension, as provided by regulation 60.
- (5) If a contributor retires on the grounds of total and permanent incapacity and his or her lump sum benefit under regulation 36 or 37 is greater than \$50 000, the Commission must convert the contributor's benefit entitlement to a pension as provided by regulation 60.
- (6) A contributor to whom subregulation (5) applies may before his or her pension commences under that subregulation elect, in writing to the Commission, to commute any part of the contributor's pension under subregulation (5) to –
- (a) a lump sum benefit not exceeding \$50 000; and

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- (b) if the Commission approves, an additional lump sum benefit not exceeding \$30 000; and
  - (c) if the Commission approves, an additional lump sum benefit for any one or more of the following:
    - (i) to pay for medical treatment, or medical transport, for the contributor;
    - (ii) to modify the contributor's principal place of residence, or vehicle, to accommodate the special needs of the contributor relating to the person's physical or mental capacities;
    - (iii) to pay for the palliative care of the contributor;
    - (iv) to meet expenses for any other purpose that the Commission determines is consistent with the needs of the contributor related to the contributor's retirement.
- (7) A payment under subregulation (6) is not payable, and interest does not accrue, before the date of the Commission's final decision determined in accordance with regulation 104.
- (8) The Minister may, by notice published in the *Gazette*, amend the amounts specified in subregulations (5) and (6) by substituting another amount for an amount specified in that

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subregulation, with effect from a date specified in the notice.

- (9) . . . . .
- (10) A person who is entitled to receive more than one lump sum benefit under these regulations is to make an election in respect of each benefit separately.
- (11) An election under subregulation (1) is to be made in writing to the Commission –
- (a) in respect of a contributor, on or before the event on which the lump sum benefit becomes payable or within a period of 3 months after that event or any extended period that the Commission allows; or
  - (b) in respect of the surviving partner of a contributor, within a period of 6 months immediately following the Commission’s determination under regulation 109 that he or she is the surviving partner of the contributor.
- (12) If a contributor or the surviving partner of a contributor fails to make an election as mentioned in subregulation (11), the benefit entitlement is to be transferred –
- (a) to an account, in the name of the person, in a complying superannuation scheme elected by that person; or
  - (b) if an election is not made under paragraph (a) within a reasonable period

determined by the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

**60. Payment of pensions if lump sum converted**

- (1) If an election is made under regulation 59(1), (2), (3) or (4), the person entitled is to be paid out of the Fund a pension equal to the amount of the relevant lump sum entitlement forgone divided by the conversion factor that is applicable under regulation 61 to that person on the date on which the election becomes effective.
- (2) In the case of a surviving partner of a contributor, the effective date for the purposes of subregulation (1) is the day immediately following the day on which the election is received by the Commission.
- (3) If the election has been made under regulation 59(1), (2), (3) or (4) by a person for the conversion of the whole or part of his or her lump sum entitlement into a pension, the lump sum entitlement is to be reduced by the Commission in accordance with the election and any remaining balance is to be transferred –
  - (a) to an account in a complying superannuation scheme elected by that person; or
  - (b) if an election is not made under paragraph (a) within a reasonable period

determined by the Commission – to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

- (4) Despite regulation 59(1), (2) and (3), an existing contributor may, on ceasing to be a contributor, or on attaining the age of 55 years having ceased to be a contributor as a result of a prescribed arrangement, elect in writing to the Commission to substitute the benefit payable under Part 4 with the benefit payable as appropriate under Schedule 1.
- (5) An election by a contributor under subregulation (4) in respect of a lump sum benefit determined under regulation 36 is to be an election to convert the whole of that lump sum into a pension.
- (6) Any benefit payable under regulation 110(1)(b) or (c) or regulation 110(2), or any interest payable under regulation 50(2), is not to be converted to a pension.

#### **61. Pension conversion factors**

- (1) For the purposes of regulation 60, the Commission must –
  - (a) determine pension conversion factors from time to time, on the advice of the Actuary; and

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- (b) publish those factors by notice in the *Gazette*; and
  - (c) cause the factors to be reviewed by the Actuary at least once a year and at such other times as the Commission determines.
- (2) Different factors may be determined depending on the age and gender of the person entitled to a benefit and whether there is a reversionary right to his or her surviving partner.
- (3) If –
  - (a) an existing contributor is entitled to a benefit under regulation 33, 34, 35, 36 or 39; or
  - (b) a person to whom, immediately before the commencement day, regulation 17 of the *Retirement Benefits (Transitional) Regulations 1994* applied ceases employment after attaining his or her preservation age; or
  - (c) a person in respect of whom an investment account has been established under regulation 49 ceases employment after attaining the preservation age and the balance of the account comprises solely –
    - (i) the original benefit entitlement (less any deductions for fees or tax) that –

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- (A) the person became entitled to under regulation 37 or 37A of the *Retirement Benefits Regulations 1994*, regulation 48 or 49 of the *Retirement Benefits Regulations 2005* or regulation 34 or 35 of these regulations; and
  - (B) was preserved in the Fund under regulation 43(4)(a) and (b), or regulation 43(5)(b), of the *Retirement Benefits Regulations 1994*, regulations 54(3)(a) and (b), or regulations 54(4)(a) and (b), of the *Retirement Benefits Regulations 2005* or regulation 40(3)(a) and (b), or regulation 40(6)(b), of these regulations; and
- (ii) any earnings applied in respect of the original benefit entitlement (less any deductions for fees or tax), if the amount –
- (A) at all times before the commencement day had been invested in the default investment option

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specified by the Board from time to time under the *Retirement Benefits Regulations 2005* and the Trust Deed; and

- (B) at all times on and after the commencement day had been in an investment account –

the conversion factor in respect of an election made by that person or by his or her surviving partner, in respect of the benefit entitlement under the contributory scheme, is 12 or the factor last determined by the Commission, whichever factor provides the higher pension.

- (4) Subregulation (3) does not apply to –

- (a) an existing contributor who receives a benefit under regulation 41(3) or (4); or
- (b) a person who was an existing contributor whose benefit has been preserved as mentioned in regulation 43(4)(a) and (b), or regulation 43(5)(b), of the *Retirement Benefits Regulations 1994* and who has made an election –
- (i) under regulation 60(4) of the *Retirement Benefits Regulations 1994*; or

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- (ii) under regulation 62(5)(a) or (b) of the *Retirement Benefits Regulations 2005* as in force immediately before the date of commencement of section 39 of the *Public Sector Superannuation (Miscellaneous Amendments) Act 2009*; or
  - (iii) to cash the whole of his or her benefit or to have the whole or part of the balance of his or her benefit rolled over to an RSA or complying superannuation scheme; or
- (c) a person who was an existing contributor whose benefit has been preserved as mentioned in regulation 54(3)(a) and (b), or regulation 54(4)(b), of the *Retirement Benefits Regulations 2005* and who has made an election –
- (i) under regulation 62(5)(a) or (b) of the *Retirement Benefits Regulations 2005* as in force immediately before the date of commencement of section 39 of the *Public Sector Superannuation (Miscellaneous Amendments) Act 2009*; or
  - (ii) to cash the whole of his or her benefit or to have the whole or part of the balance of his or her benefit rolled over to an RSA or

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- complying superannuation  
scheme; or
- (d) a person who was an existing contributor whose benefit has been preserved as mentioned in regulation 40(3)(a) and (b), regulation 40(4)(a) and (b) or regulation 40(6)(b) and who has made an election to cash the whole of his or her benefit or to have the whole or part of the balance of his or her benefit rolled over to an RSA or complying superannuation scheme; or
- (e) any amount to which a person became entitled under Part 8 as a result of becoming a non-member spouse within the meaning of section 90XD of the *Family Law Act 1975* of the Commonwealth; or
- (f) any amounts transferred to the contributory scheme as mentioned in regulation 59(2)(e) or regulation 59(3)(c).
- (5) If, within the period specified in regulation 59(11), an existing contributor or the surviving partner of an existing contributor elects to commute a lump sum on 2 or more occasions under regulation 59, the conversion factor –
- (a) in respect of the first election, is to be 12;  
and

- (b) in respect of each subsequent election, is to be the appropriate pension conversion factor determined under subregulation (1)(a).

**62. Pensions payable to surviving partners**

- (1) The surviving partner of a pensioner is entitled to a pension calculated at the rate specified in subregulation (2) if the pensioner, at the date of his or her death, was in receipt of a pension –
  - (a) as mentioned in clause 2(3) of Part 4 of Schedule 3, if the pensioner’s pension was calculated –
    - (i) by reference to a factor of 12; or
    - (ii) on the basis that the pension was to revert to the surviving partner of the pensioner; or
  - (b) calculated on the basis of the reversion of the pension to his or her surviving partner under regulation 59; or
  - (c) calculated by reference to a factor of 12 as specified in regulation 61(3); or
  - (d) calculated under Schedule 1.
- (1A) A surviving partner of a pensioner is not entitled to an amount under subregulation (1) in respect of a period if the person received an amount under regulation 62A(1) in respect of that period.

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- (2) The pension payable to a surviving partner under subregulation (1) is payable at the rate of two-thirds of the pension that the pensioner was receiving immediately before the death of the pensioner.
- (3) A pension being paid to a surviving partner arising from the death of an existing contributor or a pensioner ceases to be paid with effect from the date of death of that surviving partner.
- (4) A pension that has been calculated on the basis that there is to be no reversion of that pension to a surviving partner on the death of a pensioner ceases to be paid with effect from the date of death of that pensioner.
- (5) A pension is payable under this regulation to the surviving partner of a pensioner even though the marriage took place, or the significant relationship within the meaning of the *Relationships Act 2003* commenced, after the retirement of the pensioner.

**62A. Provisional surviving partner pension**

- (1) A person is entitled to a pension calculated in accordance with regulation 62(2) if the Commission, on the basis of information before the Commission and any further information provided to the Commission in accordance with a requirement under subregulation (6), is satisfied that –
  - (a) the person was, at the date of a pensioner's death, the spouse of the

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pensioner and the pensioner was, at the date of the pensioner's death, in receipt of a pension calculated as referred to in regulation 62(1)(a), (b), (c) or (d); and

- (b) the person is reasonably likely to meet the requirements of regulation 109 for the person to be determined to be the surviving partner of the pensioner.
- (2) The pension payable under subregulation (1) to a person who was, at the date of a pensioner's death, the spouse of the pensioner is payable from the day after the date of death of the pensioner until the earlier of the following:
- (a) the day on which a pension becomes payable to the person under regulation 62;
  - (b) the day on which the Commission makes a determination under subregulation (3) that the pension is to cease to be payable to the person.
- (3) The Commission may determine that a pension payable under subregulation (1) to a person who was, at the date of a pensioner's death, the spouse of the pensioner is to cease to be payable to the person because the person is not likely to meet the requirements of regulation 109 for the person to be determined to be the surviving partner of the pensioner.
- (4) The Commission must provide, to a person to whom a determination under subregulation (3)

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relates, reasons for the making of the determination.

- (5) A pension payable to a person under subregulation (1) is subject to indexation as provided by regulation 63.
- (6) The Commission –
- (a) may require a person to provide to the Commission information required by the Commission in order for the Commission to be reasonably satisfied of the identity of the person or that the person is a surviving partner of a pensioner; and
  - (b) may refuse to pay a pension to the person until such information is provided to the Commission.
- (7) If the Commission determines under regulation 109 that a person to whom a pension has been paid in accordance with this regulation is not the surviving partner of the pensioner in relation to whom the pension was payable –
- (a) the Commission may, by notice to the person, require the person to refund to the Fund, by the date specified in the notice, the amount of the pension paid under this regulation; and
  - (b) the amount specified in the notice is a debt due and payable by the person to the Fund.

**63. Half-yearly adjustments to pensions**

- (1) A pension under these regulations, other than an interim pension payable under regulation 45, is to be increased by the Commission in each half-year in accordance with this regulation.
- (2) As soon as practicable after the end of the first quarter in each half-year, the Commission is to obtain from the Australian Statistician a notice specifying the percentage by which the Consumer Price Index for that quarter is greater or less than the Consumer Price Index for the preceding half-year.
- (3) As soon as practicable after obtaining a notice under subregulation (2), the Commission is to declare the percentage by which pensions are to be increased in respect of the half-year following the relevant date mentioned in that subregulation.
- (4) A percentage declared under subregulation (3) in respect of a half-year is to be the same as the percentage specified in the notice obtained by the Commission under subregulation (2).
- (5) Despite subregulation (4), if the percentage specified in the notice obtained by the Commission under subregulation (2) is a negative, the percentage declared under subregulation (3) is to be zero.
- (6) An increase in a pension in respect of any half-year made under this regulation is to be made –

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- (a) by increasing the rate at which, immediately before the making of the adjustment, the pension was payable by the percentage declared in respect of that half-year under subregulation (3); and
  - (b) so as to operate from and including the first pay-day in that half-year.
- (7) The following provisions apply to the first increase of a pension that first becomes payable under this regulation:
- (a) in the case of a pension that comes into force during the first quarter of any half-year, the first increase to that pension is to be made so as to operate from the first pay-day after the end of that half-year;
  - (b) in the case of a pension that comes into force during the second quarter of any half-year, the first increase to that pension is to be made so as to operate from the first pay-day after the end of the half-year next following that half-year;
  - (c) the amount by which a pension is to be increased is to be calculated in accordance with the formula set out in subregulation (8).
- (8) For the purposes of subregulation (7)(c), the formula is as follows:

$$P = A \times (B \div 182)$$

where –

***P*** is the amount by which the pension is to be increased;

***A*** is the annual amount by which the pension would have been increased in accordance with subregulation (6);

***B*** is the number of days falling within the period beginning with the day on which the pension came into force and ending –

(a) if that day falls within the second quarter of any half-year, at the end of the first quarter of the half-year next following; or

(b) if that day falls within the first quarter of any half-year, at the end of that quarter.

- (9) If a pension is payable to a surviving partner or a child, subregulations (7) and (8) have effect as if that pension had come into force when the pension payable to that pensioner came into force.

#### **64. Duration of pensions**

- (1) A benefit converted to a pension under regulation 59 is payable during the life of the pensioner and, except as otherwise provided by these regulations, is payable from –

(a) in the case of a benefit payable under Part 4, regulation 102 or Schedule 1 –

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- (i) the day after the date of retirement or death of the contributor; or
  - (ii) the day after the date of the Commission's final decision under regulation 104; or
- (b) in any other case, the date when an election to convert that benefit to a pension takes effect –  
  
whichever is the later.
- (2) Subregulation (1) does not apply to an interim pension payable under regulation 44 or 45, a pension payable under regulation 62A or a child's pension.
- (3) A child's pension commences on the date of the event by virtue of which it becomes payable and ceases to be payable on –
  - (a) the child attaining the age of 18 years unless subregulation (4) applies to the child; or
  - (b) the death of the child; or
  - (c) the cessation of the circumstances in respect of which it is payable –  
  
whichever happens first.
- (4) In the case of a child who is receiving full-time education at a school, college, university or other educational or training institution, the child's pension ceases to be payable –

- (a) when the child attains the age of 25 years; or
- (b) when the child ceases to receive full-time education at a school, college, university or other educational or training institution –

whichever happens first.

**65. Time and manner of payment of pensions**

- (1) A pension payable under these regulations is to be paid in fortnightly instalments.
- (2) In order to ascertain the amount of a fortnightly pension, the annual amount of the pension is to be divided by 26.
- (3) A pension or other benefit payable under these regulations –
  - (a) in the case of a child’s pension, is to be paid to a parent or guardian of the child in any manner the Commission determines, having regard to any wishes of that parent or guardian in respect of the payment; or
  - (b) in the case of any other pension or benefit, is to be paid to the person entitled to it in any manner the Commission determines, having regard to any wishes of that person in respect of the payment.

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**66. Right of certain pensioners to commute pensions to lump sum**

(1) A pensioner who –

- (a) immediately before the commencement day, was in receipt of a widow's pension or widower's pension which first became payable under the *Retirement Benefits Act 1970* or the *Superannuation Act 1938*; and
- (b) has not attained the age of 60 years –

may, within 3 months after attaining that age, elect to commute the whole or part of that pension into a lump sum payment as provided in this regulation.

(2) A pensioner who –

- (a) is in receipt of an invalidity pension that first became payable under the *Retirement Benefits Act 1982*; or
- (b) immediately before 27 July 2005, was in receipt of a total and permanent incapacity pension or a partial and permanent incapacity pension calculated under clause 7 of Schedule 3 to the *Retirement Benefits Regulations 1994* or the corresponding provision of any of the former regulations; or
- (c) becomes entitled to a total and permanent incapacity pension or partial and permanent incapacity pension under

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clause 7 of Schedule 1 to these regulations –

may elect to commute the whole or part of that pension to a lump sum payment.

- (3) An election under subregulation (2) is to be made within 6 months after the person attains the age of 60 years, 63 years or 65 years and may be made on one occasion only.
- (4) A surviving partner who becomes entitled to a pension under regulation 62(1) may, within a period of 3 months immediately following the Commission's determination under regulation 109 that the partner is a surviving partner, elect to commute the whole or part of that pension into a lump sum payment as provided in this regulation.
- (5) A person who makes an election under this regulation is entitled to a lump sum benefit equal to the amount of the pension forgone by him or her multiplied by the commutation factor that is applicable to that person on the date on which his or her election becomes effective.
- (6) The lump sum benefit entitlement under subregulation (5) may be paid out of the Fund to an account, in the name of the person, in a complying superannuation scheme elected by that person.
- (7) When an election is made under this regulation, the pension is to be reduced with effect from the day following receipt of the election by the

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Commission by the percentage of the pension specified in the election.

- (8) For the purposes of subregulation (2), the commutation factor for determining a lump sum payment under subregulation (5) for each \$1 of pension commuted by a person in receipt of either a total and permanent incapacity pension or a partial and permanent incapacity pension is as follows:

Age of pensioner on date on which election becomes effective	Commutation factor
65	6.5
63	6.5
60	7.5

- (9) For the purposes of subregulations (1) and (4), the commutation factor for determining a lump sum payment under subregulation (5) for each \$1 commuted by a pensioner is as follows:

Age of pensioner on date on which election becomes effective	Commutation factor
Over 90 years	Factor to be determined by Actuary
90 years	2.5
89 years and under 90 years	2.7
88 years and under 89 years	2.9

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Age of pensioner on date on which election becomes effective	Commutation factor
87 years and under 88 years	3.1
86 years and under 87 years	3.3
85 years and under 86 years	3.5
84 years and under 85 years	3.7
83 years and under 84 years	3.9
82 years and under 83 years	4.1
81 years and under 82 years	4.3
80 years and under 81 years	4.5
79 years and under 80 years	4.9
78 years and under 79 years	5.3
77 years and under 78 years	5.7
76 years and under 77 years	6.1
75 years and under 76 years	6.5
74 years and under 75 years	6.7
73 years and under 74 years	6.9
72 years and under 73 years	7.1
71 years and under 72 years	7.3
70 years and under 71 years	7.5

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Age of pensioner on date on which election becomes effective	Commutation factor
69 years and under 70 years	7.7
68 years and under 69 years	7.9
67 years and under 68 years	8.1
66 years and under 67 years	8.3
65 years and under 66 years	8.5
64 years and under 65 years	8.7
63 years and under 64 years	8.9
62 years and under 63 years	9.1
61 years and under 62 years	9.3
60 years and under 61 years	9.5
59 years and under 60 years	9.7
58 years and under 59 years	9.9
57 years and under 58 years	10.1
56 years and under 57 years	10.3
55 years and under 56 years	10.5
54 years and under 55 years	10.6
53 years and under 54 years	10.7
52 years and under 53 years	10.8

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Age of pensioner on date on which election becomes effective	Commutation factor
51 years and under 52 years	10.9
50 years and under 51 years	11.0
49 years and under 50 years	11.1
48 years and under 49 years	11.2
47 years and under 48 years	11.3
46 years and under 47 years	11.4
45 years and under 46 years	11.5
44 years and under 45 years	11.6
43 years and under 44 years	11.7
42 years and under 43 years	11.8
41 years and under 42 years	11.9
under 41 years	12.0

- (10) This regulation applies to an applicant for an invalidity pension as if he or she were an invalidity pensioner.

**67. Amounts of pensions to be rounded off**

If an amount of pension that is calculated under these regulations leaves a fraction of a cent, and the fraction –

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- (a) is 0.5 cent or more, that amount is to be increased to the next highest whole number of cents; or
- (b) is less than 0.5 cent, that amount is to be reduced to the next lowest whole number of cents.

**67A. Commission may make certain deductions from pensions**

The Commission may deduct from a pension payable to a person –

- (a) the amount of any fees payable to an authorised deposit-taking institution in relation to the payment of the pension to an overseas account; and
- (b) any other costs directly incurred by the Commission in order to pay the pension to the person in accordance with the instructions of the person.

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**PART 7 – TAXATION, PRESERVATION AND  
PAYMENT OF LUMP SUM AND PENSION BENEFIT  
ENTITLEMENTS**

**68. Calculation of notional contributions surcharge amounts**

For the purposes of this Part, the Commission must calculate for each contributor a notional contributions surcharge amount having regard to the contributor's salary and the notional surchargeable contributions factor provided to the Commission by the Actuary as required by the law of the Commonwealth and these regulations.

**69. Calculation of notional taxed contributions**

For the purposes of this Part, the Commission must calculate for each contributor the notional taxed contributions for a financial year having regard to Division 292 of the *Income Tax Assessment Act 1997* of the Commonwealth.

**70. Provision of information**

- (1) The Commission must provide the Actuary with such information in respect of contributors or pensioners as may be necessary for the purposes of this Part.
- (2) The Commission must provide the Taxation Commission with such information in respect of

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contributors or pensioners as may be required under the law of the Commonwealth.

**71. When benefit entitlements become payable**

For the purposes of this Part, a person's benefit under these regulations that –

- (a) includes a payment by the Minister; and
- (b) is not an interim invalidity pension under regulation 44, a pension payable under regulation 62A or an interim pension payable under regulation 45 –

is taken to be payable at the time the person is paid the benefit.

**72. Contributions and benefit entitlements subject to taxation**

- (1) For the purpose of taxation of superannuation contributions under the law of the Commonwealth, the Commission is to treat –
  - (a) salary sacrifice contributions as concessional contributions; and
  - (b) member contributions that have been included in the assessable income of the Fund as concessional contributions; and
  - (c) member contributions that have not been included in the assessable income of the

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- Fund as non-concessional contributions;  
and
- (d) the element untaxed in the fund of a roll-over superannuation benefit as assessable income of the Fund; and
  - (e) the element untaxed in the fund of a benefit transferred under regulation 48(5) as assessable income of the Fund.
- (2) The Commission, having regard to the law of the Commonwealth, must –
- (a) establish and maintain policies and administrative procedures in respect of the taxation of –
    - (i) superannuation contributions; and
    - (ii) superannuation benefits; and
  - (b) determine, from time to time –
    - (i) the proportion of a superannuation benefit that is to be treated by the Commission as an element untaxed in the fund for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth; and
    - (ii) the proportion of a superannuation benefit that is to be treated by the Commission as

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an element taxed in the fund for the purposes of that Act; and

- (iii) the proportion of a superannuation benefit that is to be treated by the Commission as a tax free component for the purposes of that Act.

- (3) The Commission, in accordance with the law of the Commonwealth, must –

- (a) deduct from the following all amounts required to be paid as taxation under the law of the Commonwealth:

- (i) superannuation contributions;

- (ii) roll-over superannuation benefits;

- (iii) benefits transferred under regulation 48(5);

- (iv) superannuation benefits; and

- (b) remit those amounts to the Taxation Commission.

**73. Provision of certain information by Commission**

- (1) The Commission must provide to the Taxation Commissioner, as required by the law of the Commonwealth, with particulars of the notional contributions surcharge amount in respect of each contributor or pensioner.

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- (2) An amount under subregulation (1) is to take into account separately the amount payable to each contributor or pensioner in respect of benefit entitlements accruing under Part 4, 5 or 6, regulation 102 or Schedule 1.
  - (3) If a contributor or pensioner so requests, the Commission is to give to that person a copy of the particulars given to the Taxation Commissioner under subregulation (1) relating to that person together with details of how the amount was calculated.
  - (4) If a contributor or pensioner believes that the amount referred to in subregulation (1) is incorrect owing to either a miscalculation of matters ascertained by the Actuary or a mistake of fact, the contributor or pensioner may, by notice in writing to the Commission –
    - (a) request that the calculation of the amount be reviewed; and
    - (b) request the Commission to consider any evidence which the contributor or pensioner may submit to the Commission.

**74. Establishment of surchargeable contributions debt account**

- (1) On receipt of the first assessment notice from the Taxation Commissioner in respect of a contributor or pensioner, the Commission must establish a surchargeable contributions debt

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account in respect of the contributor or pensioner.

- (2) The Commission must debit the surchargeable contributions debt account with the amount of any surcharge liability specified in the assessment notice relating to the contributor or pensioner.
- (3) If the surchargeable contributions debt account is in debit at the end of a financial year, the Commission must, in accordance with the law of the Commonwealth, debit the account with interest.
- (4) If a lump sum or a pension benefit entitlement becomes payable by the Commission to a contributor or pensioner whose surchargeable contributions debt account is in debit, the Commission must pay to the Taxation Commissioner, within one month after the day on which the lump sum or the first instalment of pension becomes payable, the amount by which the account is in debit in respect of that benefit entitlement.
- (5) The Commission, at least annually, must inform each contributor or pensioner of the balance of the contributor's or pensioner's surchargeable contributions debt account and of any debits or credits, including interest, to that account.

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**75. Right of members to pay into surchargeable contributions debt accounts**

- (1) A contributor or pensioner may make payments to his or her surchargeable contributions debt account to reduce in full or in part the balance of that account.
- (2) A payment made under subregulation (1) by a contributor or pensioner is taken not to be a contribution for the purposes of these regulations.
- (3) A payment made under subregulation (1) by an Agency on behalf of a contributor or pensioner as part of his or her remuneration is taken to be a contribution by that Agency for the purposes of these regulations.
- (4) On receipt of a payment under this regulation, the Commission must –
  - (a) credit the surchargeable contributions debt account of the relevant contributor or pensioner with that amount; and
  - (b) take any other action required under the law of the Commonwealth relating to the surcharge liability.

**76. Reduction of benefit entitlements**

- (1) A benefit or benefit entitlement payable under these regulations is to be reduced at the time of payment by the Commission to the extent of the



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- (c) if a person elects to commute all of his or her lump sum benefit entitlement payable under these regulations to a pension calculated under regulations 60 and 61 –
- (i) part of the benefit must be taken as a lump sum sufficient to discharge the balance of his or her surchargeable contributions debt account; and
  - (ii) an amount representing any part of that account attributable to that benefit entitlement is to be deducted from the benefit entitlement before the commutation to a pension; and
- (d) if a person elects to commute all of a benefit entitlement payable under the contributory scheme to a pension substituted under regulation 102 or a pension in accordance with Schedule 1, the amount by which the annual pension is to be reduced is determined in accordance with the following formula:

$$PR = SCDA \div CF$$

where –

***PR*** is the amount by which the annual pension payable to a pensioner is to be reduced;

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*SCDA* is the balance of the surchargeable contributions debt account attributable to the benefit entitlement at the time when the surcharge liability is payable;

*CF* is the appropriate age, marital and gender factor specified for a pension determined by the Commission in accordance with regulation 61(1) or (2).

- (3) A person who receives an assessment notice in respect of a pension payable under these regulations may elect in writing to the Commission to commute sufficient of the person's pension to a lump sum to discharge the balance of the person's surchargeable contributions debt account.
- (4) On receipt of an election by a person under subregulation (3), the Commission must –
  - (a) reduce the pension as provided by subregulation (2); and
  - (b) pay the lump sum to the person to enable the person to discharge the balance of the person's surchargeable contributions debt account.

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**PART 8 – FAMILY LAW (SPLITTING OF  
SUPERANNUATION INTERESTS)**

**77. Interpretation of Part 8**

In this Part –

*Family Law Act* means the *Family Law Act 1975* of the Commonwealth;

*flag lifting agreement* has the meaning given by section 90XN of the Family Law Act;

*flagging order* means an order mentioned in section 90XU(1) of the Family Law Act;

*member* has the meaning given by section 90XD of the Family Law Act;

*member spouse* has the meaning given by section 90XD of the Family Law Act;

*non-member spouse* has the meaning given by section 90XD of the Family Law Act;

*operative time* has the meaning given by section 90XD of the Family Law Act;

*splittable payment* has a meaning in accordance with section 90XE of the Family Law Act;

*splitting instrument* means a superannuation agreement, a flagging order, a flag lifting agreement or a splitting order;

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*splitting order* means an order mentioned in section 90XT(1) of the Family Law Act;

*spouse* has the meaning given by section 90XD of the Family Law Act;

*superannuation agreement* has the meaning given by section 90XH and 90XHA of the Family Law Act;

*superannuation interest* has the meaning given by section 90XD of the Family Law Act.

**78. Application of Part 8**

This Part applies to –

- (a) any splitting instrument that has an operative time on or after 28 December 2002; and
- (b) any benefit under these regulations that is a superannuation interest.

**79. Objects of Part 8**

- (1) The objects of this Part are to carry into effect the provisions of the Family Law Act relating to the splitting of superannuation interests.
- (2) If a provision of this Part is inconsistent with a provision of the Family Law Act, the latter provision prevails to the extent of the inconsistency.

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**80. Duty of Commission to give effect to splitting instruments under Family Law Act**

- (1) If a splitting instrument affects an entitlement to a benefit of a member spouse under these regulations, the Commission must give effect to that instrument in paying or determining that benefit.
- (2) For the purposes of subregulation (1), the Commission is to reduce the benefit payable to the member spouse in accordance with the splitting instrument.
- (3) Except as provided by subregulation (4) and regulation 80A, the Commission is not to make a payment to a non-member spouse under this Part before a splittable payment is payable to, or in respect of, the relevant member spouse.
- (4) If the Commission has established a separate account for a non-member spouse under regulation 81, the Commission may make a payment to that non-member spouse in respect of that account as may be required to give effect to the splitting instrument.

**80A. Commission to determine certain policies and procedures in respect of payment splits**

- (1) In this regulation –

*payment split* has the meaning given by section 90XD of the Family Law Act;

*relevant benefit* means a benefit –

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- (a) in relation to the TASS Scheme within the meaning of Part 13, as defined in that Part; and
- (b) in relation to the SFCS Scheme within the meaning of Part 14, as defined in that Part;

*relevant Commonwealth legislation* includes –

- (a) the Family Law Act; and
- (b) the *Superannuation Industry (Supervision) Act 1993* of the Commonwealth;

*relevant scheme* includes –

- (a) the TASS Scheme within the meaning of Part 13; and
- (b) the SFCS Scheme within the meaning of Part 14.

(2) If a payment split is implemented by the Commission in respect of a relevant scheme, the Commission must adjust, vary or reduce the relevant benefit payable, or which may become payable, under the relevant scheme –

- (a) on such basis, and at such time, as the Commission determines; and
- (b) in such a manner, including by the establishment of a debt account, as the Commission determines; and

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- (c) in accordance with the relevant Commonwealth legislation.
- (3) In order to give effect to the relevant Commonwealth legislation or for any other purpose, the Commission may formulate and give effect to policies and procedures in relation to one or more of the following:
- (a) the timing of the calculation of the value of the interest of a non-member spouse of a person who is a member of a relevant scheme;
  - (b) the manner in which the interest of a member of a relevant scheme is adjusted following a payment split;
  - (c) any other matter that the Commission considers relevant to –
    - (i) a payment split; or
    - (ii) the interests of a member, or a non-member spouse, in relation to a payment split.

**81. Accounts for non-member spouse**

- (1) This regulation applies in respect of a member spouse who has a compulsory preservation account.
- (2) For the purposes of giving effect to a splitting instrument, the Commission, having regard to the advice of the Actuary, may adjust the balance of a compulsory preservation account of

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a member spouse to give effect to the division of the superannuation interest of the member spouse in accordance with that instrument.

- (3) For the purposes of this Part, the Commission may establish and maintain one or more separate accounts for a non-member spouse as the Commission considers expedient.
- (4) For the purposes of giving effect to a splitting instrument, the Commission, having regard to the advice of the Actuary, is to credit an appropriate amount to an account of a non-member spouse as may be required to give effect to that instrument.

**82. Commutation of pension on death of non-member spouse**

- (1) If a share of a pension is payable to a non-member spouse under this Part, the Commission is to commute that share to a lump sum if that non-member spouse predeceases the member spouse in respect of whom the pension is being paid.
- (2) For the purposes of subregulation (1), the commutation factors are to be determined by the Commission on the advice of the Actuary.
- (3) A share of a pension paid or payable to a non-member spouse under this Part does not revert to the widow or widower of that non-member spouse on the death of that non-member spouse.

- (4) A lump sum payment calculated under subregulation (1) is to be paid to the legal personal representative of the non-member spouse and is to be made in accordance with Part VIIIB of the Family Law Act.
- (5) A share of a pension payable to a non-member spouse under this Part ceases –
  - (a) on the death of the relevant member spouse; or
  - (b) if a reversionary pension is payable in respect of a member spouse, on the cessation of that reversionary pension.

### **83. Effect of benefit under splitting instruments**

If a member spouse dies and is survived by a non-member spouse who has received, is receiving or is entitled to receive a benefit under a splitting instrument in respect of the superannuation interest of the member spouse, that non-member spouse is not entitled to a benefit under these regulations in respect of the deceased member spouse except in accordance with that instrument.

### **84. Fees for administration of Part 8**

For the purposes of administering this Part, the Commission may charge reasonable fees in accordance with the Family Law Act.

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**85. Provision of information by Commission**

If an eligible person, within the meaning of section 90XZB of the Family Law Act, has applied to the Commission for information in accordance with that section about the superannuation interest of a member, the Commission must comply with the requirements of that Act.

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**PART 9 – FINANCIAL**

**86. Determination of employer component of benefits**

- (1) For the purposes of these regulations, the employer component of a benefit to be paid by the Minister is, subject to subregulation (2), five-sevenths.
- (2) The Minister may, on advice from the Actuary and by notice published in the *Gazette*, determine that the employer component of a benefit to be paid by the Minister is to be the proportion specified in the notice.
- (3) A notice under subregulation (2) –
  - (a) may have effect in respect of a class of benefits specified in the notice; and
  - (b) may have effect as from a date specified in the notice; and
  - (c) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**86A. Provision of proportion and periods for purposes of section 61(5) of Act**

- (1) For the purposes of section 61(5) of the Act, the proportion of the amount of a benefit paid by the Fund to a former TGIO employee is the employer component of the benefit, as determined under regulation 86.

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- (2) For the purposes of section 61(5) of the Act, the prescribed period, in relation to the proportion of the amount of a benefit paid, is within 30 days after the benefit is paid.

**87. Payments to Fund by Minister**

- (1) If a benefit is payable under these regulations, the Minister is to pay the proportion of that benefit that is provided by this regulation.
- (2) The payment in the case of a person who receives –
- (a) a lump sum benefit from the Fund under regulation 33, 36, 37, 39 or 82 or, if such a benefit is converted to a pension under regulation 59, that pension; or
  - (b) an interim invalidity pension payable under regulation 44; or
  - (c) an interim pension payable under regulation 45 –

is to be an amount in respect of each pension or lump sum payment equal to the proportion determined under regulation 86(2) of the lump sum or pension that would have been payable if the person had always contributed at the basic contribution rate.

- (3) The payment in the case of a person who is paid a lump sum benefit from the Fund under regulation 41 is to be an amount equal to –

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- (a) if the person is a contributor to whom regulation 34 refers who –
- (i) becomes entitled to an amount under regulation 41; and
  - (ii) ceases to be a contributor otherwise than by reason of a prescribed arrangement –
- the whole of the amount, less the sum payable from the Fund under regulation 40(6)(a); or
- (b) if the person ceases to be a contributor as a result of a prescribed arrangement and is entitled to both a benefit under regulation 34 and an amount under regulation 41(3)(a) – the total benefit payable under regulation 34 less the amount payable from the Fund under regulation 40(6)(a); or
- (c) if the person ceases to be a contributor as a result of a prescribed arrangement and is entitled to a benefit under regulation 35 and an amount under regulation 41(7) – the total benefit payable under regulation 35 that exceeds the balance of his or her account under regulation 28; or
- (d) if the person ceases to be a contributor in accordance with regulation 38 and becomes entitled to a benefit payable under regulation 41(5) – the whole of the benefit that exceeds the balance standing

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to the credit of the contributor's account under regulation 28.

- (4) The payment in the case of a person entitled to a lump sum benefit which becomes payable under regulation 48 is to be an amount equal to the whole of that lump sum benefit.
- (5) The payment in the case of a person entitled to a pension continued or payable under Schedule 3 is to be an amount calculated as a percentage of the pension, which is to be the same percentage that the Minister was contributing towards that pension or benefit immediately before the commencement day.
- (6) The payment in the case of a person who receives a pension payable under regulation 62 or regulation 62A is to be an amount calculated as a percentage which is to be the same percentage that the Minister was contributing immediately before the date of death of the relevant pensioner.
- (7) The payment in the case of a person who receives a lump sum payment from the Fund under regulation 66 is to be an amount calculated as a percentage of the lump sum which is the same percentage that the Minister was contributing towards the pension payable immediately before the election to commute all or part of that pension to a lump sum payment.
- (8) The payment in the case of a person who receives a lump sum or pension payment from the Fund under regulation 102 is to be an amount

determined by the Commission on the advice of the Actuary.

- (9) References in this regulation to pensions are taken to be references to pensions as increased each half-year under regulation 63.
- (10) The amount payable by the University of Tasmania in respect of a former employee of the Tasmanian College of Advanced Education who was transferred in employment to the University of Tasmania is to be calculated in accordance with Schedule 2.
- (11) An amount that, but for this subregulation, would have been payable by the Minister under this regulation in respect of a person for whom money is deposited in the Fund under regulation 89 is to be paid from the money so deposited and any accretions to that money.
- (12) If the total of the money deposited in the Fund under regulation 89 and all accretions to that money is insufficient to meet an amount payable under this regulation, the Minister must pay to the Fund or the separate accounts referred to in regulation 89 an amount sufficient to enable the first-mentioned amount to be so paid.

**88. Payments to Fund in respect of benefits reduced under Part 7**

- (1) This regulation applies to a benefit which has been reduced under Part 7.

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- (2) Despite regulation 87, the Minister is to pay to the Fund, in respect of a benefit which has been reduced under regulation 76(2), an amount equal to the proportion of the lump sum benefit determined under regulation 86(2) before the reduction of the relevant surchargeable contributions debt account.

**89. Provision for certain State authorities**

- (1) The Commission must maintain separate accounts for money paid to the Commission under –
- (a) section 29D of the *Retirement Benefits Act 1982*; or
  - (b) section 29E of the *Retirement Benefits Act 1982*; or
  - (c) if appropriate, a prescribed arrangement.
- (2) The Commission must credit to the separate accounts as may be appropriate –
- (a) all such money paid; and
  - (b) interest at a rate determined in accordance with regulation 92 (which, accordingly, may be either positive or negative interest) in respect of the amounts from time to time standing to the credit of those accounts.
- (3) The Commission may debit the separate accounts with any of the following amounts:

- (a) an amount relating to the taxation liability and to the expenses incurred in the administration of the accounts;
- (b) an amount authorised by these regulations;
- (c) an amount approved by an instrument in writing made by the Minister for the purposes of these regulations.

**90. Provision for payments by the State**

- (1) An amount that is required by these regulations to be paid to the Fund by the Minister is to be paid by the Minister out of the Public Account.
- (2) If the Commission requires a payment under these regulations by the Minister, the claim issued by the Commission is to be in a form determined by the Commission.

**91. Apportionment of employer liability**

- (1) In this regulation –

*apportionment transfer* means a transfer where a contributor is appointed, transferred or promoted from –

- (a) a State-owned company or Government Business Enterprise to another State-owned company or Government Business Enterprise; or

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(b) a State-owned company or Government Business Enterprise to a non-funding Agency; or

(c) a non-funding Agency to a State-owned company or Government Business Enterprise;

***current Agency*** means the State-owned company, Government Business Enterprise, or non-funding Agency, in which the contributor is currently employed;

***former Agency*** means the State-owned company, Government Business Enterprise, or non-funding Agency, in which the contributor was formerly employed immediately before he or she was subject to an apportionment transfer;

***non-funding Agency*** means an Agency where the employer component of the superannuation benefits payable to a contributor is paid by the Minister.

(2) If a contributor is subject to an apportionment transfer on or after the commencement day, the current Agency may request the Commission, within 60 days after the date of the apportionment transfer, to apportion the employer liability in accordance with this regulation.

(3) On a request being made by the current Agency under subregulation (2), the former Agency must pay to the current Agency an amount determined

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by the Commission in accordance with the following formula:

$$P = ABMF \times FAS(1) \times AF \times ES$$

where –

*P* is the amount to be paid by the former Agency to the current Agency;

*ABMF* is the contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the contributor's length of service expressed in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

*FAS(1)* is the salary paid or payable to the contributor in respect of the 12 months immediately before the cessation of his or her employment in the former Agency;

*AF* is an actuarial factor determined by the Commission on the advice of the Actuary having regard to the age of the contributor;

*ES* is the employer component of the benefit determined under regulation 86.

- (4) For the purposes of the definition of *ABMF* in subregulation (3), a contributor's length of

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service is taken to end on the day when he or she ceased employment in the former Agency.

- (5) A determination under subregulation (3) is to be made by the Commission and provided to the former Agency within 60 days after a request is made by the current Agency under subregulation (2).
- (6) An amount payable under subregulation (5) is to be made by the former Agency to the current Agency within 30 days after the date of receipt of the Commission's determination.
- (7) A payment made by the former Agency to the current Agency in accordance with this regulation extinguishes any superannuation liability of the former Agency in respect of the contributor.
- (8) The Commission is not to apportion the employer liability of any benefit arising from an appointment, promotion or transfer of a contributor to a current Agency that occurred before the commencement day.

**92. Determination of interest rates**

- (1) For the purposes of Part 4, regulation 49 and regulation 89, the interest rate is to be calculated as at 30 June of each financial year.
- (2) The interest rate is to be determined by the Commission, on the advice of the Actuary.

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- (3) In determining the interest rate for a financial year, the Commission is to take into account the administration, taxation and other expenses that –
  - (a) were paid or payable by the Commission in respect of that financial year; and
  - (b) are likely to be incurred by the Commission in the financial year immediately following that financial year.
- (4) The Commission may determine an interim interest rate.
- (5) For the purposes of Part 4, interest commences to accrue, in respect of a contributor's contributions that are to be credited to his or her account, on the day those contributions or other payments made by, or on behalf of, the contributor are received by the Commission and ceases to accrue on the day on which that contributor ceases to be a contributor.
- (6) For the purpose of regulation 89, interest commences to accrue on the day on which the money is received by the Commission.
- (7) To avoid doubt, a rate of interest or interim interest calculated or determined under this regulation may be either a positive or negative rate of interest.

**PART 10 – DISCRETIONARY POWERS OF  
COMMISSION**

*Division 1 – Reduction in salary*

**93. Interpretation of Division 1**

In this Division –

*relevant period* means the period commencing on the day on which a reduction in a contributor's salary took effect and ending on –

- (a) the day on which, by reason of a subsequent increase or increases of salary, his or her salary becomes equal to, or greater than, the salary payable immediately before the reduction took effect; or
- (b) the day on which he or she ceased to be a contributor –

whichever happens first.

**94. Reduction in salary of certain contributors**

- (1) If there is a reduction in the salary of a contributor who is not excluded from the application of this regulation under subregulation (2), he or she may, in accordance with this regulation, continue to pay the same contributions to the Fund in respect of the relevant period as he or she was paying

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immediately before the reduction in salary took effect.

- (2) This regulation does not apply to –
- (a) a contributor whose salary is reduced by reason –
    - (i) of his or her participation in an accumulated leave scheme; or
    - (ii) of becoming a part-time employee, whether permanent, fixed-term or temporary; or
    - (iii) that, as a part-time employee, whether permanent, fixed-term or temporary, his or her designated hours of employment have been reduced by his or her Agency; or
  - (b) a member of a board who, under section 31 of the Act, has no entitlement to contribute to the contributory scheme in respect of his or her membership of that board; or
  - (c) a member of the contributory scheme to whom section 32 of the Act applies.
- (3) A contributor to whom this regulation applies may, not later than one year after the reduction in his or her salary, apply in writing to the Commission for the Commission’s approval to pay contributions in accordance with this regulation.

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- (4) The Commission may approve an application under subregulation (3) by a contributor if satisfied that it is just and equitable to do so, having regard to the duration of the period when the contributor's salary was higher than his or her salary at the time when the application was made and, if the Commission so approves, the Commission must accordingly determine –
- (a) an amount to be regarded as the contributor's salary for the purposes of this regulation; and
  - (b) the rate at which contributions should be paid; and
  - (c) any arrears of contributions and interest required to be paid by the contributor.
- (5) For the purposes of subregulation (4)(a), the amount determined by the Commission must not exceed the contributor's salary payable immediately before the reduction took effect.
- (6) If an approval is given under subregulation (4) and the contributor has paid –
- (a) contributions in accordance with the Commission's determination; and
  - (b) any arrears of contributions and interest as determined by the Commission –

the contributor's entitlement to a pension or lump sum benefit is to be calculated as if his or her salary had remained as determined by the Commission during the relevant period.

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***Division 2 – Miscellaneous powers of Commission***

**95. Determination of questions arising under regulations**

(1) If a question arises as to –

- (a) whether any amount periodically paid or payable to or on behalf of a contributor is to be regarded as part of that contributor's salary for the purposes of these regulations; or
- (b) the rate of a contributor's salary at any particular time; or
- (c) whether any amount received by a contributor is to be regarded as the amount of an allowance; or
- (d) the nature or length of a contributor's service; or
- (e) whether a contributor is unable, by reason of bodily infirmity, physical incapacity or mental incapacity, to perform his or her duties –

the question is to be determined by the Commission.

(2) In making a determination for the purposes of subregulation (1)(d), the Commission is to have regard to the contributor's terms of employment.

**96. Power of Commission to determine invalidity**

(1) In this regulation –

*interim invalidity*, in relation to a contributor, means incapacity or infirmity of such a kind that the Commission is satisfied that the contributor –

- (a) is unfit to perform the duties of his or her office or position; and
- (b) is likely to recover sufficiently so as to enable him or her to perform the duties of his or her position, or the duties of some other office or position for which he or she is reasonably qualified by education, training or experience; and
- (c) should not be retired on the grounds of total and permanent incapacity or partial and permanent incapacity;

*partial and permanent incapacity*, in respect of an existing contributor, means infirmity or incapacity suffered by the contributor of such a kind that the Commission –

- (a) is satisfied, by reason of the contributor's suffering from that infirmity or incapacity, that the contributor is unfit to continue to perform the duties of his or her

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office or position or the duties of some other office or position for which he or she may be suited by training, experience and aptitude, or any of them; and

- (b) is not satisfied that, by reason of the contributor so suffering, the contributor is, and until the age of 65 years will continue to be, unfit to continue to perform the duties of his or her office or position or the duties of some other office or position referred to in paragraph (a);

***total and permanent incapacity***, in relation to a person, means ill-health, whether physical or mental, such that the Commission is reasonably satisfied that the person is unlikely ever again to engage in gainful employment for which the person is reasonably qualified by education, training or experience.

- (2) An application by a contributor for an invalidity benefit is to be made to the Commission in a form approved by the Commission.
- (3) If the Commission has received an application for an invalidity benefit from a contributor, the Commission must determine whether that contributor is suffering from –
- (a) total and permanent incapacity; or

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- (b) in the case of an existing contributor, partial and permanent incapacity; or
  - (c) interim invalidity.
- (4) If the Commission has received an application for an invalidity benefit from a contributor, the Commission –
  - (a) may require the contributor to submit to a medical examination for the purposes of making a determination in relation to the application; and
  - (b) may refuse to determine the application until the contributor submits to such an examination.
- (5) If an application has been received from a contributor for an invalidity benefit, the Commission may, subject to regulation 101, make a determination in respect of that contributor's eligibility for an invalidity benefit only while that contributor remains in the employment of an Agency.
- (6) The Commission must periodically determine whether an interim invalidity pensioner is eligible to continue to receive the whole or part of his or her interim invalidity pension.
- (7) When making a determination under subregulation (6) in relation to an interim invalidity pensioner, the Commission must also determine whether that pensioner is suffering from –

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- (a) total and permanent incapacity; or
  - (b) partial and permanent incapacity, in the case of an existing contributor.
- (8) If the Commission has received an application for the early release of a preserved benefit on the ground of total and permanent incapacity from a person who has a preserved benefit under these regulations, the Commission is to determine whether that person is suffering from total and permanent incapacity.
- (9) In making a determination under this regulation, the Commission is to have regard to –
- (a) at least one medical report, in respect of the relevant person’s medical condition, prepared during the preceding period of 6 months by a medical practitioner appointed by the contributor; and
  - (b) any medical evidence and reports, prepared by medical practitioners who have been approved by the Commission, that the Commission thinks fit; and
  - (c) any other medical evidence, or other evidence, that the Commission thinks fit.
- (10) If the Commission has made a final decision in accordance with regulation 104, in respect of an application for an invalidity benefit, the Commission must notify in writing the Head of the Agency in which the contributor is employed of his or her decision.

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- (11) A contributor who was in receipt of an interim invalidity pension which has expired may be entitled to a further interim invalidity pension at the time, and in the circumstances, that the Commission may determine, if the contributor meets the requirements of these regulations.

**96A. Determination of terminal medical condition**

- (1) The Commission may determine that a contributor has a terminal medical condition.
- (2) In making a determination under subregulation (1), the Commission is to have regard to –
- (a) at least one medical report, in respect of the relevant person’s medical condition, prepared during the preceding period of 6 months by a medical practitioner appointed by the contributor; and
  - (b) any medical evidence and reports, prepared by medical practitioners who have been approved by the Commission, that the Commission thinks fit; and
  - (c) any other medical evidence, or other evidence, that the Commission thinks fit.
- (3) The Commission may make a determination under subregulation (1) in relation to a contributor whether or not the Commission has determined invalidity under regulation 96(3) in relation to the contributor.

**97. Broken service**

- (1) If the service of a contributor is broken for a period not exceeding –
  - (a) 6 weeks as the result of the resignation of that person from employment in an Agency; or
  - (b) 3 months as the result of the resignation of that person from employment in an Agency on becoming a candidate for election as a member of a House of Parliament; or
  - (c) 3 months for any other reason –and that person requests in writing to the Commission within 3 months after again becoming a permanent employee or being employed under a prescribed contract of employment, the Commission may determine that the break does not affect the continuity of that person's service.
- (2) If subregulation (1) applies in relation to a break of service and, as a result of the break in service, the person's contributory scheme benefit has been transferred to –
  - (a) a superannuation fund elected by the person; or
  - (b) an eligible rollover fund selected by the Commission –

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the Commission may, subject to subregulation (3), reinstate the person's membership of the contributory scheme as if the transfer had not occurred and adjust the person's entitlement accordingly.

- (3) The Commission may not reinstate a person's membership of the contributory scheme under subregulation (2) unless –
  - (a) the transfer of the benefit to the contributory scheme under that subregulation is arranged by the person; and
  - (b) the Commission is satisfied that the amount of the benefit transferred, or proposed to be transferred, to the contributory scheme under that subregulation fairly corresponds to the benefit transferred to the fund referred to in subregulation (2)(a) or (b).
- (4) If the Commission determines, under subregulation (1), that the break does not affect the continuity of that person's service, that person may purchase the period of service which, but for subregulation (1), would have constituted a break in his or her service, as if it were leave without pay under regulation 26(2) or (3).
- (5) This regulation has effect despite any other provision of these regulations.

**98. Medical examinations for entitlement to full benefits**

- (1) A contributor is entitled to be treated as a full benefits contributor only as provided by this regulation.
- (2) A contributor who is not so entitled to be treated as a full benefits contributor is taken to be a limited benefits contributor.
- (3) A contributor becomes a full benefits contributor if –
  - (a) a medical practitioner employed or approved by the Commission has examined the contributor and has signed a certificate stating that, in his or her opinion, the contributor is not affected by any physical or mental defect likely to render the contributor incapable, before attaining the age of 60 years, of performing his or her duties; and
  - (b) after considering the certificate of the medical practitioner, the Commission accepts the contributor as a full benefits contributor.
- (4) A contributor who –
  - (a) does not undergo a medical examination referred to in subregulation (3); or
  - (b) having undergone such a medical examination, is not accepted by the

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is taken to be a limited benefits contributor and to remain such a contributor until he or she –

- (c) undergoes a medical examination referred to in subregulation (3) and is accepted by the Commission as a full benefits contributor; or
  - (d) has, while being continuously employed, made contributions to the contributory scheme for a total period of 10 years, in which case he or she is taken to be a full benefits contributor.
- (5) For the purpose of subregulation (4)(d), the total period of 10 years is not taken to include –
- (a) any periods purchased under regulation 17; or
  - (b) any service while on sick leave without pay after the commencement day.

**99. Medical examinations for interim invalidity pensioners**

- (1) An interim invalidity pensioner must submit to a medical examination as and when required by the Commission and, if he or she fails to do so, the Commission may suspend payment of the pensioner's pension until the pensioner submits to the medical examination.

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- (2) If the Commission suspends payment of a pension under subregulation (1), the pension ceases to be payable for the period of the suspension.

**99A. Reduction or suspension of interim invalidity pensions in certain cases**

- (1) Subregulation (2) applies in relation to an interim invalidity pension in respect of an interim invalidity pensioner if the pensioner –
- (a) is engaged in any business or occupation on his or her own account; or
  - (b) is undertaking gainful employment; or
  - (c) has recovered from his or her bodily infirmity, physical incapacity or mental incapacity so as to be able to undertake gainful employment in an occupation for which he or she is reasonably qualified by education, training or experience; or
  - (d) is in receipt of –
    - (i) regular workers compensation payments under the *Workers Rehabilitation and Compensation Act 1988*; or
    - (ii) regular weekly payments under Part 7 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011* –

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and the combined payments of the interim invalidity pension and those workers compensation payments or regular weekly payments exceed the salary received, or taken by the Commission to have been received, by the pensioner in the previous 12 months.

- (2) If this subregulation applies in relation to an interim invalidity pension in respect of an interim invalidity pensioner, the Commission may –
  - (a) suspend the pension payable to that interim invalidity pensioner for the period, or until the occurrence of an event, determined by the Commission; or
  - (b) reduce the amount of that pension to an amount that, in the Commission's opinion, the circumstances of the case warrant, for the period, or until the occurrence of an event, determined by the Commission.
- (3) The Commission –
  - (a) may from time to time require an interim invalidity pensioner to provide the Commission with evidence of the pensioner's invalidity or financial circumstances; and
  - (b) may suspend payment of the pensioner's interim invalidity pension while the pensioner fails to provide the evidence to the Commission.

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(4) If –

- (a) payment of an interim invalidity pension has been suspended under subregulation (3); and
- (b) the interim invalidity pensioner subsequently provides the Commission with the required evidence –

the Commission may reinstate payment of the pensioner’s interim invalidity pension inclusive of any part of the period of that suspension.

**100. False or misleading information**

(1) A person must not –

- (a) in a certificate, return, declaration or other document given or sent to, or lodged with, the Commission by or on behalf of that person for the purposes of these regulations –
  - (i) knowingly provide information that is false or misleading; or
  - (ii) knowingly withhold any relevant information; or
- (b) for the purposes of a medical examination required to be undergone under these regulations –
  - (i) knowingly provide the medical practitioner who makes the examination with information as

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to the state of the person's health or medical history that is false or misleading; or

- (ii) knowingly withhold any relevant information.

Penalty: Fine not exceeding 50 penalty units.

- (2) If a person is convicted of an offence under subregulation (1), the Commission may –

- (a) in the case of a contributor, determine –

- (i) that the person immediately ceases to be a contributor and is not eligible, either permanently or for any period that the Commission determines, to contribute to the Fund; or

- (ii) if contributions have not commenced, that the person is not eligible to commence contributing to the Fund either permanently or for any period that the Commission determines; or

- (b) in the case of a pensioner, determine that his or her pension is cancelled immediately; or

- (c) in the case of a person other than a contributor or pensioner, determine that the person is not eligible to commence contributing to the Fund, either

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permanently or for any period that the Commission determines.

- (3) If the Commission has determined, under subregulation (2), that a contributor who has been convicted of an offence under subregulation (1) should cease to be a member of the contributory scheme, the Commission must, as soon as practicable, transfer –

(a) to an account, in the name of the contributor, in a complying superannuation scheme elected by that contributor; or

(b) if an election is not made under paragraph (a) within a reasonable period determined by the Commission – to an eligible rollover fund chosen by the Commission –

a lump sum benefit calculated in accordance with the formula in regulation 42.

- (4) For the purposes of subregulation (3), any employer superannuation contributions payable are to be paid by the relevant Agency.

**101. Power of Commission to reinstate lost rights**

- (1) If the Commission is satisfied, after the inquiry, if any, that the Commission thinks fit, that –
- (a) a person has, otherwise than through his or her own fault, lost or ceased to be

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entitled to a right, privilege or benefit under –

- (i) these regulations; or
- (ii) the *Retirement Benefits Act 1982* or the *Retirement Benefits Act 1993*; or
- (iii) the former regulations –

to which he or she was otherwise entitled or which he or she might have otherwise obtained; and

- (b) it is equitable that he or she should be allowed to have the enjoyment of that right, privilege or benefit –

the Commission, with the approval of the Minister, may permit that person to exercise the right or grant to him or her the privilege or benefit.

- (2) The Commission may exercise its powers under subregulation (1) in relation to a right, privilege or benefit –
  - (a) in any circumstances that the Commission thinks fit; and
  - (b) even though the time prescribed for doing any act in respect of the right, privilege or benefit may have expired.
- (3) The Commission must not exercise its powers under subregulation (1) –

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- (a) so as to allow a person, who, at the time when the Commission makes a determination under that subregulation, is not an employee, to become a contributor; or
  - (b) so as to allow a person who is no longer a contributor to effect a change in the date on which he or she became a contributor; or
  - (c) so as to allow a person to utilise a percentage calculated, or factor determined, by the Actuary which is not the relevant percentage or factor in force at the time of the Minister's approval; or
  - (d) so as to allow a person who has received payment of a benefit, pension or lump sum to revoke under regulation 115A(1) the election to receive the benefit, pension or lump sum.
- (4) The Commission, in the exercise of its powers under subregulation (1), may impose any conditions and requirements, that the Commission considers just and the Minister approves.

**102. Power of Commission to grant pensions or lump sums not in accordance with regulations**

- (1) If an existing contributor elects in writing to the Commission to receive a benefit to which the contributor would have been entitled under the *Retirement Benefits Act 1982*, the Commission is

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to substitute the benefit payable under these regulations with the benefit payable under that Act on any terms and conditions that the Commission considers to be fair and equitable.

- (2) For the purposes of subregulation (1), a reference to an existing contributor includes that contributor's surviving partner or, in the absence of a surviving partner, that contributor's legal personal representative.
- (3) For the purposes of subregulation (1), the Commission is to calculate the benefit entitlement under the SAF Agreement by taking the balance standing to the credit of the contributor's account under the SAF Agreement, as at 30 June 1994, and indexing that balance at a rate declared by the Commission, for each period of 6 months, as being equal to whichever is the greater of –
  - (a) movements in AWOTE; or
  - (b) movements in the Consumer Price Index.
- (4) For the purpose of subregulation (3), movements in AWOTE or Consumer Price Index figures are to be calculated using the most recently published figures before the indexation under subregulation (3) is applied.
- (5) Despite subregulation (1), the Commission may make payments of interest in respect of any benefit entitlement or further payments of interest in respect of any refunds of contributions or other payments in any circumstances the Commission considers appropriate.

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- (6) For the purpose of determining a benefit to be substituted under subregulation (1), the Commission is to calculate that benefit by reference to the balance of that contributor's account established under regulation 28.

**PART 11 – REVIEW OF COMMISSION’S DECISIONS**

**103. Commission not subject to direction**

- (1) Except as provided in this Part, a person is not to give a direction to the Commission, vary a decision of the Commission or substitute a decision for a decision of the Commission if compliance with the direction, the variation or the substituted decision would be contrary to law or to these regulations.
- (2) Subregulation (1) does not apply to –
  - (a) a direction given by a court; or
  - (b) a direction given by a beneficiary that relates to the method of payment of the benefit entitlement payable to that beneficiary; or
  - (c) a direction, given by a beneficiary, that relates to a member investment option available under these regulations in relation to that beneficiary’s benefit entitlement.

**104. Statutory hearing**

- (1) In respect of any application, request or question arising under regulation 73 or Part 10, the Commission must –
  - (a) make a preliminary decision on the matter; and

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- (b) notify the applicant or person making the request in writing of the preliminary decision; and
  - (c) advise the applicant or person making the request that, if he or she does not take any action under this regulation, the preliminary decision will become final.
- (2) An applicant or person making the request may, within 21 days after the date of a notification under subregulation (1), elect by notice in writing to the Commission –
  - (a) to appear and be heard before the Commission; and
  - (b) to submit any additional medical report or other evidence.
- (3) Before making a final decision on the application, request or question, the Commission may do one or more of the following, as the Commission considers appropriate:
  - (a) require the applicant to undergo a further medical examination by a medical practitioner or practitioners approved by the Commission;
  - (b) seek further information from the applicant’s Head of Agency or former Head of Agency;
  - (c) seek further information concerning the applicant’s capacity and prospects for employment;

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- (d) require the applicant or person making the request to submit further evidence as the Commission may consider appropriate.
- (4) The Commission, in the exercise of its powers under subregulation (3), may impose any terms or conditions that the Commission considers fair and equitable.
- (5) If an election under subregulation (2) is not made within the required time, the preliminary decision is taken to be the final decision of the Commission.
- (6) The Commission may reduce or extend the period referred to in subregulation (2) on the written application of the applicant within the period of 21 days referred to in that subregulation.

**105. Right to apply to Supreme Court for declaration as to validity**

- (1AA) In this regulation, a reference to a final decision under regulation 104 is taken to include a reference to a decision under regulation 99A.
- (1) If the Commission has made a final decision under regulation 104 adversely to an applicant, the applicant may, within 6 months after notification of the final decision, require the Commission to apply to the Supreme Court for a declaration in respect of that final decision.

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- (2) Subject to subregulation (3), the Supreme Court may, on an application under subregulation (1), make a declaration, having regard to facts existing and events that had occurred at the time when the Commission’s final decision was made, as to the validity or otherwise of that final decision.
- (3) The Supreme Court must not make a declaration under subregulation (2) in respect of a final decision of the Commission the validity of which cannot be decided at the time when the Court is asked to make the declaration.
- (4) For the purpose of reviewing a final decision by the Commission, the Supreme Court has all the powers and discretions that are conferred on the Commission by law or under the Act.
- (5) The Supreme Court may make a declaration –
  - (a) affirming the Commission’s final decision; or
  - (b) remitting the matter to which the Commission’s final decision relates to the Commission for reconsideration in accordance with the directions of the Court; or
  - (c) varying the Commission’s final decision; or
  - (d) setting aside the Commission’s final decision and substituting another decision for that final decision of the Commission.

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- (6) Except as provided in subregulations (7) and (8), the cost of making the application to the Supreme Court is to be met by the Commission from the Fund.
- (7) If an applicant requires the Commission to apply to the Supreme Court for a declaration, he or she must pay to the Commission at the time of making that request an application fee of 200 fee units.
- (8) If the Supreme Court considers that the request made by the applicant is frivolous or not in good faith, the Court may award costs in full or part against that applicant.

**106. Appeal against decisions, determinations or orders of Commission**

- (1) Despite regulation 105, a person may appeal to a judge against any decision, determination or order of the Commission.
- (2) An appeal under this regulation is to be by way of rehearing and instituted, heard and determined in accordance with the *Supreme Court Rules 2000* relating to appeals from statutory tribunals other than courts.

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**PART 12 – MISCELLANEOUS AND SUPPLEMENTAL**

**107. Reduction or withholding of benefits**

A benefit or any other amount payable under these regulations is to be reduced or withheld if so required to give effect to Part 7 or 8.

**108. Pensions and benefits not assignable**

- (1) Except as provided by regulation 110(4), an entitlement under these regulations –
  - (a) is not available as security for a loan and is not otherwise subject to any assignment, mortgage, charge, encumbrance or lien; and
  - (b) on the death of the person so entitled, is not, in the absence of a surviving partner, available as an asset in his or her estate for the payment of his or her debts or liabilities.
- (2) A pension or other benefit payable under these regulations is not capable of being assigned, charged, taken in execution or passed under any law to any person other than the pensioner to whom, or for whose benefit, it is payable.
- (3) Subregulation (2) does not prevent a pensioner or other person entitled to a benefit from assigning to, or charging in favour of, the Commission any pension or other benefit so far as may be necessary for securing the payment of money payable to the Commission.

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- (4) This regulation does not disturb the effect of Part 8.

**109. Determination of surviving partner**

- (1) If the Commission is satisfied that, at the time of a Fund member's death –
- (a) a person –
    - (i) was the spouse of the Fund member who was living with the Fund member on a genuine domestic basis; and
    - (ii) was receiving significant financial support from the Fund member; or
  - (b) if there is no person referred to in paragraph (a), a person was the spouse of the Fund member and was living with the Fund member on a genuine domestic basis; or
  - (ba) if there is no person referred to in paragraph (a) or (b), a person was the spouse of the Fund member and, but for a medical reason or because of the care needed to be provided to the person, would have been living with the Fund member; or
  - (c) if there is no person referred to in paragraph (a), (b) or (ba), a person was the spouse of the Fund member who was

not living with the Fund member on a genuine domestic basis but was receiving significant financial support from the Fund member –

the Commission must determine that person to be the surviving partner of the Fund member.

- (2) The Commission must not determine more than one person to be the surviving partner of a Fund member.
- (3) In determining whether a person is the surviving partner of a Fund member, the Commission may have regard to such matters as it considers relevant.

**110. Payment of benefits on death of Fund member**

- (1) Except as provided in subregulations (2) and (3), if a benefit is payable under these regulations on the death of a Fund member, that benefit is to be paid to –
  - (a) the surviving partner of that Fund member; or
  - (b) if there is no surviving partner, the person with whom the Fund member was in a caring relationship which was the subject of a deed of relationship registered under Part 2 of the *Relationships Act 2003*, which deed was revoked by the death of that Fund member; or

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- (c) if there is no person referred to in paragraph (a) or (b), the estate of that Fund member, subject to the production of grant of probate or letters of administration.
- (2) A Fund member may, by notice in writing to the Commission –
  - (a) elect that in the event of his or her death all or part of the benefit payable on his or her death is to be paid to his or her estate; or
  - (b) revoke any such election –and, if the election is in force, subregulation (1) does not apply to any part of the benefit that is subject to the election.
- (3) Subregulation (1) does not apply if a Fund member has elected in writing to the Commission before the commencement of the *Relationships Act 2003* to have all or part of a death benefit paid to his or her estate.
- (4) If a benefit that does not exceed \$50 000 becomes payable under these regulations following the death of a Fund member and within 3 months after the death the Commission has not received –
  - (a) a certified copy of the probate of the will, or the letters of administration of the estate, of the deceased Fund member; or

- (b) a notice of intention to apply for a grant of probate of the will, or letters of administration of the estate, of the deceased Fund member –

the Commission may make a payment of the benefit to a person or persons who appear to be entitled to the benefit in the testate or intestate administration of the estate of the Fund member, as the case may require.

- (5) If the Commission, after making reasonable enquiries, is unable to determine a person entitled to that benefit in the testate or intestate administration of the estate of the Fund member, the Commission may pay that benefit to any person the Commission considers appropriate.

**111. Duties of responsible officers and Commission to provide information**

- (1) In this regulation –

*relationship status* means the status of being married or in a significant relationship, within the meaning of the *Relationships Act 2003*, or in a caring relationship which is the subject of a deed of relationship registered under Part 2 of that Act.

- (2) A responsible officer must –

- (a) if an employee becomes a contributor, immediately notify the Commission in a form approved by the Commission of the

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following particulars relating to the contributor:

- (i) his or her surname and given names;
  - (ii) his or her date of birth;
  - (iii) his or her sex and relationship status;
  - (iv) his or her postal address;
  - (v) his or her private address;
  - (vi) his or her employment status and percentage of full-time equivalent hours;
  - (vii) the date of commencement of his or her service;
  - (viii) his or her rate of salary;
  - (ix) his or her tax file number; and
- (b) on being notified of any changes in the information referred to in paragraph (a)(i), (ii), (iii), (iv), (v) or (ix), notify the Commission of those changes; and
- (c) notify the Commission of any changes in the information referred to in paragraph (a)(vi), (vii) or (viii); and
- (d) on resignation, death or retirement of a contributor, provide the Commission

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with any documents completed by the contributor, his or her surviving partner or his or her legal personal representative and the responsible officer that may be necessary to support the payment of benefits accruing under these regulations.

- (3) On request from the Commission, the responsible officer of an Agency must provide the Commission with the tax file number of a contributor who is employed in that Agency.
- (4) On receipt of information referred to in subregulation (2), the Commission must deliver or forward to the contributor –
  - (a) any relevant forms, notice of election and brochures required to be provided to the contributor by these regulations; and
  - (b) information and notices required to be provided to the contributor under any law of the Commonwealth for the purposes of these regulations.
- (5) The Commission is to maintain a record in respect of each contributor including in particular a copy of all notifications issued or received under this regulation.
- (6) In any proceedings against the Commission –
  - (a) if a document purporting to be a copy of a notification under this regulation is in the record relating to a contributor, that document is evidence that the

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notification has been issued to and received by the contributor; and

- (b) if a document purporting to be a copy of any information given by the Commission to a person relating to his or her benefit entitlement under these regulations is in the record relating to that person, that document is evidence that that information was given to that person.

**112. Contributors seconded to Commonwealth, another State, a Territory or private sector**

- (1) If a contributor was transferred to the Public Service of the Commonwealth or of another State or of a Territory otherwise than in a permanent capacity before 1 July 1994, any salary paid by the Commonwealth, that State or that Territory in respect of service in that Public Service is taken to be salary within the meaning of these regulations and his or her rights and obligations under these regulations are to be adjusted accordingly.
- (2) Despite subregulation (1), a contributor who is seconded –
  - (a) to the public service of the Commonwealth; or
  - (b) to the public service of another State or a Territory; or
  - (c) to employment in the private sector –

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continues to be a contributor and the period during which he or she is so seconded is taken to be service for the purposes of these regulations.

- (3) The employer to which the contributor is seconded must pay to the Minister an amount of employer superannuation contributions at a rate equivalent to the rate applicable to a contributor who is employed in the Agency from which the contributor has been seconded.
- (4) In the case of a secondment –
  - (a) the contributor must pay contributions to the contributory scheme based on the salary received during the period of the secondment; and
  - (b) the employer to which the contributor is seconded must pay to the Agency from which the contributor has been seconded an amount of employer superannuation contributions based on that salary and at a rate equivalent to the rate applicable to a contributor who is employed in the Agency from which the contributor has been seconded; and
  - (c) any benefit under these regulations payable to the contributor is to be determined by reference to that salary.
- (5) Despite subregulations (3) and (4), if an employer to which a contributor is seconded has made payments to the Minister in respect of a seconded employee before the commencement day, the employer must continue to make those

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payments to the Minister unless otherwise agreed with the Agency from which the contributor has been seconded.

**113. Pensions and benefits not office of profit under Crown**

A person in receipt of a pension under these regulations or who is entitled to a preserved benefit under regulation 48 does not, for the purposes of any Act, hold an office or place of profit under the Crown arising from that receipt or entitlement.

**114. Proof of service of notices and documents**

A correctly addressed copy of a notice or document kept by the Commission, including a copy kept in electronic form, is evidence that the notice or document has been served by the Commission on the addressee.

**115. Applications for pensions and lump sum payments**

- (1) An application for a pension or lump sum benefit is to be in a form approved by the Commission.
- (2) An application for a pension or lump sum benefit is to be supported by such evidence as the Commission may require for the purpose of establishing an entitlement to the pension or lump sum benefit.

**115A. Revocation of elections made by persons**

(1) If –

- (a) a person has made an election under these regulations to –
  - (i) receive a benefit; or
  - (ii) receive the whole or part of a benefit as a lump sum or pension; or
  - (iii) commute all or part of a pension to a lump sum; and
- (b) the payment of the benefit, pension or lump sum has not commenced –

the person may, with the approval of the Commission under subregulation (2) and in accordance with the conditions and requirements, if any, of the approval, revoke the election.

- (2) The Commission may approve the revocation by a person under subregulation (1) of an election made by the person, if the Commission is satisfied that –
  - (a) the effect of the election is inconsistent with the intention of the person at the time at which the person made the election; and
  - (b) it would be just and equitable to do so.

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- (3) The Commission may, in an approval under subregulation (2), impose conditions and requirements that the Commission thinks fit.

**116. Power of Commission to seek further information**

- (1) The Commission may require a person making an application for the payment of a benefit under these regulations –
- (a) to provide the Commission with any reports, certificates, documents or information required for the purpose of establishing an entitlement to the benefit; or
  - (b) to provide the Commission with authority to obtain from another person any such reports, certificates, documents or information.
- (2) A requirement may be made only in respect of reports, certificates, documents or information that are relevant to the assessment of an application for the payment of a pension or a benefit.
- (3) If a person fails to comply with subregulation (1), the Commission may take any action in respect of the benefit which, in the opinion of the Commission, would place the person as nearly as possible in the same position as if that subregulation had been complied with.

**117. Power of Commission to withhold payment of benefits**

The Commission may withhold payment of benefits payable under these regulations if, after such investigation as the Commission thinks fit, the Commission has a reasonable doubt as to whether or not the claimant is entitled to receive the benefit.

**118. Savings and transitional provisions**

The savings and transitional provisions specified in Schedule 3 have effect.

**PART 13 – TASMANIAN AMBULANCE SERVICE  
SUPERANNUATION SCHEME**

*Division 1 – Preliminary*

**119. Interpretation of Part 13**

- (1) In this Part, unless the contrary intention appears –

*Ambulance Service* means the Ambulance Service as defined in the *Ambulance Service Act 1982*;

*award* means –

- (a) an agreement that is certified, or an award that is made, on or after 1 July 1986; and
- (b) any arrangement which the Ambulance Service and the Board agreed, before the commencement of the Act, is to be treated as an award; and
- (c) any other arrangement which the Ambulance Service and the Commission agree, from time to time, is to be treated as an award;

*benefit* means any entitlement paid, or authorised to be paid, by the Commission out of the TASS Fund under these regulations to, or in respect of, a member, less the amount, if any, of Commonwealth taxation that is deducted

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from the entitlement in accordance with law;

***composite salary*** means composite salary or wages (excluding overtime) as defined in the relevant award;

***compulsory contributions*** means –

- (a) contributions the Ambulance Service makes for a member to the TASS Scheme under an award; and
- (b) contributions the Ambulance Service makes for a member for the purpose of avoiding any superannuation guarantee charge;

***date of admission***, in relation to a member, means the date on which the member became a member of the former superannuation scheme;

***day worker*** means an employee whose ordinary weekly hours of work are performed within the days Monday to Friday inclusive;

***employee*** means any person in service other than a person who, under section 37 of the Act, is not entitled to be a member of the TASS Scheme;

***employer contributions*** means contributions paid to the TASS Scheme by the Ambulance Service in accordance with

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regulation 129 and includes contributions paid in respect of a member by the Ambulance Service in accordance with regulation 130(6) and any contributions paid by the Ambulance Service under the former superannuation scheme, the TASS Trust Deed or a former trust deed;

*final average salary*, in relation to a member, has the meaning it has in regulation 120;

*former shiftworker* means a member –

- (a) whose employment status has changed from shiftworker to day worker; and
- (b) who elected at the date of the change in the member's employment status to be classified as a former shiftworker for the purposes of the TASS Trust Deed, a former trust deed or these regulations; and
- (c) who had served at least 20 years of service as a shiftworker; and
- (d) who had attained the age of 55 years at the time of the change in the member's employment status, unless the Ambulance Service and the Commission agree to waive this requirement; and

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- (e) who is contributing at the rate of 5% of the member's equivalent composite salary;

***former superannuation scheme*** means the Ambulance Service Superannuation Scheme established, by the Ambulance Commission, of Tasmania under the *Ambulance Act 1959* and administered by the former Trustee before 30 June 2006;

***former trust deed*** means a trust deed, other than the TASS Trust Deed, entered into by the Ambulance Commission for the purposes of the TASS Scheme;

***incapacity*** means permanent incapacity or temporary incapacity;

***member*** means a person to whom regulation 126 applies and who retains an interest in the TASS Fund in accordance with these regulations;

***member contributions*** means contributions paid in accordance with regulation 130;

***normal retirement date***, in relation to a member, means the day on which the member attains the age of 65 years;

***part-time employment*** means employment for less time per week than the standard time per week which is applicable to the member's occupation by reason of –

- (a) an award; or

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- (b) a condition of employment specified by the Ambulance Service (disregarding overtime or similar arrangements);

*permanent incapacity*, in relation to a member –

- (a) means totally and permanently disabled, or suffering total and permanent disablement, or any corresponding term as defined in an insurance policy, continued or effected by the Commission, which provides benefits on disablement and is a policy under which the member is insured, and includes any period of absence stipulated in the policy; or
- (b) if there is no such insurance policy in respect of the member, has the meaning determined by the Commission and notified to the members from time to time;

*reorganisation of the Ambulance Service* includes any amalgamation, merger, reconstruction, arrangement, or takeover, involving the Ambulance Service;

*required payment date*, in relation to a member, means the date at which the member's benefit must be paid, or begin to be paid, under law;

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***retrenchment***, in relation to a member, means the termination by the Ambulance Service of the employment of the member before the normal retirement date for any of the following reasons:

- (a) the work for which the member was engaged has been completed;
- (b) the position for which the member was engaged has ceased to exist and the member's services are no longer required;
- (c) the amount of work to be carried out by the Ambulance Service has diminished and has rendered necessary or expedient a reduction in the number of employees;
- (d) as a result of the reorganisation of the Ambulance Service, or rearrangement of staff for business policy reasons, the member's services have become redundant –

if, in the opinion of the Commission, the Ambulance Service has not offered comparable alternative employment to the member;

***salary*** – see regulation 121;

***scheme earning rate*** means –

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- (a) in respect of contributions made, or taken to be made, before 1 July 1990 – the rate of 10% per annum from 1 July 1987 (or the date on which the contribution was made, if that date is after 1 July 1987) to and including 30 June 1990; and
- (b) in respect of contributions made, or taken to be made, on and from 1 July 1990 (or the date on which the contribution was made, if that date is after 1 July 1990) to and including 30 June 2006 – the rate declared as scheme earning rates under the provisions of the former superannuation scheme; and
- (c) in respect of contributions made, or taken to be made, on and from 1 July 2006 and before the day on which this Part commences – the rate determined under subclause 8.1.1 of the TASS Trust Deed; and
- (d) in respect of contributions made, or taken to be made, on and from the day on which this Part commences – the rate determined under regulation 145(1);

*service* means actual employment or appointment (counted in years and

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complete months) to perform functions for the purposes of the *Ambulance Service Act 1982*, in respect of which the member receives salary and includes any period during which the member suffers a temporary incapacity;

***shiftworker*** means an employee whose ordinary weekly hours of work are performed in accordance with a roster that regularly includes Saturdays, Sundays and public holidays;

***superannuation guarantee charge*** means a charge or tax imposed on employers for not making certain superannuation contributions or providing certain superannuation benefits;

***TASS Fund*** means the assets and liabilities of the TASS Scheme continued under the Act and administered by the Commission as a subfund of the Fund;

***TASS Scheme*** means the scheme continued under section 36 of the Act;

***TASS Trust Deed*** means the Trust Deed terminated by section 35 of the Act;

***temporary incapacity***, in relation to a member –

- (a) means totally and temporarily disabled, or suffering total and temporary disablement, or any corresponding term as defined in

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an insurance policy, continued or effected by the Commission, which provides benefits on disablement and is a policy under which the member is insured, and includes any period of absence stipulated in the policy; or

- (b) if there is no such insurance policy in respect of the member, has the meaning determined by the Commission and notified to the members from time to time;

*transferring member* means any person who immediately before 30 June 2006 –

- (a) was contributing to, or required to contribute to, or was taken to be contributing to, the former superannuation scheme; and
  - (b) was an employee.
- (2) In this Part, a reference to a period expressed in years includes, where appropriate, a reference to a period expressed in years together with a fraction of a year that is expressed in days.

**120. Final average salary**

- (1) Subject to this section, in this Part, the final average salary in relation to a member is the average of the member's salaries on the first day of each July in the period of 3 years ending on the date on which the member leaves service.

- (2) If a member is a former shiftworker, the final average salary in relation to the member is the average of the highest 3 consecutive years of salary of the member before the date on which the member left service.
- (3) If the member joined the service during the period of 3 years ending on the date on which the member leaves service, the member's salary at the date on which the member joined the service is taken, for the purposes of subregulation (1), to have been received by the member before that date.

## **121. Salary**

- (1) The definition of salary in regulation 3 does not apply in this Part.
- (2) In this Part, a reference to salary in respect of a member who is not a shiftworker, means the gross annual wage or salary of the member, including –
  - (a) margins for skill; and
  - (b) any amount paid for or on behalf of, or the value assessed by the Commission of non-pecuniary benefits received by, the member, if the member has the option of receiving the amount or benefit as annual wage or salary –

but not including overtime and any other payments and allowances.

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(3) In this Part, a reference to salary in respect of a member who is a shiftworker, means the gross annual wage or salary of the member, including –

- (a) shift allowance; and
- (b) margins for skill; and
- (c) any amount paid for or on behalf of, or the value assessed by the Commission of non-pecuniary benefits received by, the member, if the member has the option of receiving the amount or benefit as annual wage or salary –

but not including overtime and any other payments and allowances.

(4) Despite subregulations (2) and (3) –

- (a) during any period of absence without wage or salary, the salary of a member for the purposes of these regulations is to be adjusted in accordance with any express provisions in that regard in these regulations; and
- (b) the member's salary is to be taken to continue unaltered throughout any period during which the member suffers a temporary incapacity; and
- (c) in respect of a former shiftworker, salary means, except for the purposes of regulation 140, composite salary; and

- (d) the member's salary may be adjusted by the Commission for all or any purposes of these regulations having regard to regulation 130(6).

## **122. Application of regulations to members**

Parts 4, 5 (apart from sections 54, 55, 56, 57 and 58), 6, 7 and 14, and regulations 94 and 101, of these regulations do not apply in relation to a member.

### *Division 2 – Operation of Fund*

## **123. Operation of the TASS Fund**

- (1) On and from the day on which the TASS Trust Deed is terminated under section 35 of the Act, the Commission must continue to maintain the TASS Fund.
- (2) The TASS Fund consists of the accounts and reserves that the Commission considers to be necessary or convenient for the administration of the TASS Scheme.
- (3) The Commission may cause to be met from the TASS Fund –
  - (a) the administration costs and management charges, in relation to the TASS Scheme, that are determined by the Commission to arise from the performance and exercise of the Commission's functions and powers under these regulations in

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- relation to the administration and management of the TASS Scheme; and
- (b) benefits payable under these regulations in relation to the TASS Scheme; and
  - (c) expenses associated with the investment of money standing to the credit of the TASS Fund; and
  - (d) amounts in payment of any tax, duty, impost or surcharge liability imposed, under a law of the Commonwealth or the State, on the TASS Fund or in respect of any benefits payable by the Commission from the TASS Fund.
- (4) The Commission must not make any payments from the TASS Fund to the Commission or the Ambulance Service except for –
- (a) expenses incurred in the administration of the TASS Scheme; or
  - (b) a refund of overpaid contributions; or
  - (c) payments that are permitted by the SIS Act.

**124. Taxation provision account**

- (1) The Commission may establish within the TASS Fund a taxation provision account for TASS Fund accounting purposes.
- (2) If a taxation provision account has been established under subregulation (1), the

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Commission is to credit to the account any tax deducted from members' accounts and any taxation provision applicable to the TASS Fund's investment earnings.

- (3) If a taxation provision account has been established under subregulation (1), the Commission is to debit to the account all or part of the tax, paid to the Taxation Commissioner in accordance with the *Income Tax Assessment Act 1936* of the Commonwealth and the *Income Tax Assessment Act 1997* of the Commonwealth, that is applicable to the TASS Fund.
- (4) If, at the end of a financial year, the taxation provision account established under subregulation (1) is in surplus or deficit, the Commission must determine whether or not to –
  - (a) distribute the surplus to, or recover the deficit from, members or the TASS Fund; or
  - (b) carry forward the provision to the next financial year.

**125. Investment income reserve account**

- (1) The Commission may establish within the TASS Fund an investment income reserve account.
- (2) If an investment income reserve account is established under subregulation (1), any surplus or deficit investment income in the TASS Fund may be credited to, or debited from, the account

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and distributed to, or deducted from, members' accounts.

- (3) If, at the end of a financial year, the investment income reserve account established under subregulation (1) is in surplus, the Commission must determine, on the advice of the Actuary, whether or not to distribute all or part of the surplus to members by way of an adjustment to investment returns or by way of transfer to the TASS Fund.
- (4) If, at the end of a financial year, the investment income reserve account established under subregulation (1) is in deficit, the Commission must, on the advice of the Actuary, reduce members' account balance by way of adjustment to investment returns or by way of transfer from the TASS Fund.

***Division 3 – Membership***

**126. Membership of TASS Scheme**

Each person who is a transferring member is a member of the TASS Scheme and remains a member of the Scheme if he or she maintains a financial interest in the TASS Fund in accordance with these regulations.

**127. Establishment of members' accounts**

- (1) The Commission may establish the accounts, and determine the administrative policy and terms and conditions, that are necessary for the

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efficient and effective administration of members' accounts.

- (2) Any account for a member that was maintained by the Commission before the commencement of this regulation is taken to be an account established under subregulation (1).
- (3) After members' accounts are established, the Commission –
  - (a) must credit to the accounts, if appropriate –
    - (i) all Ambulance Service superannuation contributions paid on behalf of members; and
    - (ii) all contributions paid by members; and
    - (iii) investment returns in relation to members determined according to the scheme earning rates; and
    - (iv) any other amount that is authorised by these regulations and that the Commission considers appropriate; and
  - (b) may debit to the accounts, if appropriate –
    - (i) surcharge liability payments, taxation provisions or any other amounts required by the law of

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- the Commonwealth or State in relation to members; and
- (ii) the cost of providing cover for benefits on the death or incapacity of a member as provided by these regulations; and
- (iii) administration costs and management charges as provided by these regulations; and
- (iv) any other amount authorised by these regulations and considered appropriate by the Commission.

**128. Death and incapacity cover**

- (1) The Commission –
  - (a) may arrange cover for death and incapacity benefits in relation to members; and
  - (b) may receive and give full and effectual receipts, release and discharges in respect of the payment of any moneys under any such cover as may be required from the Commission and which it thinks proper, having regard to the circumstances.
- (2) Any cover for death and incapacity benefits that is arranged by the Commission in relation to members is to be in the name of the Commission

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and remain under the control of the Commission while the cover is subject to these regulations.

(3) Only the Commission –

- (a) is entitled to enforce any rights, remedies or contracts in connection with, or incidental to, any cover for death and incapacity benefits that is arranged by the Commission in relation to members; and
- (b) is entitled to the full benefits and advantages of such cover –

and no member, or any person claiming through or under a member, has or may claim any right, title or interest in or to any such cover or contract or in respect of moneys payable under the cover or contract.

(4) If the Commission takes out or increases insurance, or seeks to do so, in relation to a member's benefit and the insurer –

- (a) does not accept the member on the standard terms; or
- (b) restricts the level or scope of insurance claim in relation to a member; or
- (c) for any reason does not pay the whole or any part of a claim in relation to a member –

the Commission must modify the member's benefit as it considers appropriate, if to do so is not contrary to law or the requirements imposed

in similar circumstances on regulated superannuation funds by the SIS Act.

***Division 4 – Contributions***

**129. Contributions**

- (1) The Commission must, having regard to the Actuary's recommendations, determine the rate at which the Ambulance Service must contribute to the TASS Scheme in respect of members.
- (2) The Commission may at any time, as it thinks fit, alter the rate at which the Ambulance Service must contribute to the TASS Scheme in respect of members.
- (3) The Ambulance Service must contribute to the TASS Scheme in respect of a member at the rate determined by the Commission, until the member leaves service or receives a benefit under regulation 134(10) or regulation 136(2).
- (4) The Commission may, having regard to the advice of the Actuary, decide that contributions are not required from the Ambulance Service.
- (5) The Ambulance Service must contribute to the TASS Scheme the additional amounts, if any, that the Minister, on the recommendation of the Actuary, directs so as to enable the Commission to meet its obligations to the TASS Scheme under these regulations.

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**130. Obligations of members to contribute**

- (1) The rate of member contributions is 5%, 6%, 7%, 8%, 9%, 10% or 11% of salary, as selected by the member.
- (2) A member may, with effect from 1 July each year or another date that is agreed by the Commission, change the member's contribution to any of the rates specified in subregulation (1).
- (3) Until the rate of contribution is changed under subregulation (2), a transferring member is taken to be making the same rate of contribution, including no contribution, as he or she was making, or was taken to be making, under the TASS Trust Deed immediately before 30 June 2006.
- (4) A member must contribute to the TASS Scheme at the rate, specified in subregulation (1), selected by that member, until the earliest of the dates on which the member –
  - (a) leaves service; or
  - (b) reaches the normal retirement date; or
  - (c) reaches the required payment date.
- (5) Despite subregulation (4), no member contributions are payable while a member suffers a temporary incapacity and the member contributions that would, but for this subregulation, otherwise be payable are taken to have been paid by the member.

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- (6) A member who is an employee, the Commission and the Ambulance Service may agree that instead of deducting the member's contributions from the member's salary, an amount equal to those contributions, after allowing for contributions tax, and any other tax agreed between the member and the Ambulance Service, is paid to the Commission by the Ambulance Service in respect of the member in lieu of salary.
- (7) Any deductions from a member's salary by the Ambulance Service and paid to the Commission, or amounts paid to the Commission in lieu of a member's salary, which do not comply with subregulations (4), (5) or (6), as the case may be, or with the member's instructions, are taken to not be contributions under these regulations and are to be repaid to the member.
- (8) Unless otherwise agreed under subregulation (6), the Ambulance Service is to automatically deduct from the member's salary the regular contributions of a member.

**131. Time and manner of paying contributions**

- (1) Unless otherwise approved by the Commission, the Ambulance Service must cause to be shown as separately identifiable amounts on each payslip of each member the amount of Ambulance Service additional employer contributions made to the TASS Fund on the member's behalf and the amount of member

contributions deducted from the member's salary.

- (2) The responsible officer must certify and forward, within 7 days of the relevant payday, a return to the Commission, in the form determined by the Commission, detailing the total amount for that pay period of Ambulance Service superannuation contributions, additional employer contributions and member contributions paid on behalf of each member.
- (3) Contributions, including additional employer contributions, payable by the Ambulance Service or deducted from the member's salary are to be forwarded to the Commission within 7 days of the relevant payday.

### **132. Temporary absences**

- (1) If a member –
  - (a) takes unpaid leave with the Ambulance Service's consent; or
  - (b) elects, with the consent of the Commission, to suspend or reduce contributions –

then, during that period –

- (c) the member's salary is taken to continue unaltered; and
- (d) the member may contribute amounts approved by the Commission; and

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- (e) if the period is in respect of unpaid leave, the Ambulance Service's liability to contribute under regulation 129 in respect of that member ceases except to the extent that the Commission requires in relation to administration costs and management charges in relation to the TASS Scheme; and
- (f) if the period is in respect of an election to suspend or reduce contributions, the Ambulance Service's liability to contribute under regulation 129 in respect of the member ceases except –
  - (i) to the extent that the Commission requires in relation to administration costs and management charges in relation to the TASS Scheme; and
  - (ii) for compulsory contributions; and
- (g) the Commission may discontinue or reduce any insurance in relation to the member and make consequential adjustments to benefits as it considers appropriate; and
- (h) the Commission may require the member to provide the evidence of the member's good health that may be necessary to reinstate any insurance; and
- (i) the Commission may, in its discretion, formulate any other terms relating to the calculation of any benefit in relation to

the member which may become payable during or after that period.

- (2) The Commission must notify the member of any adjustment or determination made, or terms formulated under, this regulation which affects, or could affect, the member's benefit.

### **133. Part-time employment**

- (1) In relation to any period of part-time employment, or any portion of such a period, the Ambulance Service may request the Commission to give effect to any or all of the following provisions:
  - (a) the contributions payable by and in respect of the member during the period of part-time employment may be adjusted as the Commission considers to be reasonable and equitable having regard to –
    - (i) the time per week for which the member is engaged in part-time employment; and
    - (ii) the standard time per week referred to in the definition of *part-time employment*; and
    - (iii) the wishes of the Ambulance Service; and
    - (iv) any relevant provision contained in the law prescribed for

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regulated superannuation funds in similar circumstances;

- (b) the basis of determining the member's benefit may be adjusted in the manner that the Commission considers reasonable and equitable, having regard to –
    - (i) the extent to which the contributions are adjusted under paragraph (a); and
    - (ii) any other matters referred to in that paragraph;
  - (c) the Commission may seek to adjust any insurance in relation to the member as it considers to be appropriate in the circumstances and may require the member subsequently to provide the evidence of good health that may be necessary in connection with the insurance;
  - (d) the Commission may vary any adjustment made under this regulation in the event of any material alteration in the circumstances of the part-time employment of the member.
- (2) The Commission must notify the member of any adjustment or determination made under this regulation which affects, or could affect, the member's benefit.

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*Division 5 – Benefits*

**134. Benefit payment standards**

- (1) Benefits become payable to or in respect of a member when any of the events specified in this Division occur in relation to the member.
- (2) Benefits payable under this Part may be paid by the Commission only if regulated superannuation funds are permitted by the SIS Act to make such payments in similar circumstances.
- (3) All benefits in respect of a member that are preserved in accordance with this Part or by the Commission under these regulations must be preserved and vested in the member in the accounts that the Commission determines having regard to the member's wishes.
- (4) A preserved benefit becomes payable when the Commission is either notified, or becomes aware, that the member has satisfied the conditions of release set out in this Part.
- (5) The Commission must notify the member, the member's surviving partner or the member's legal personal representative of the entitlement of the member to a preserved benefit when it becomes payable under this Part, by sending a written notice to the last known address of the member, partner or representative, respectively.
- (6) A person who receives or claims a benefit from the TASS Scheme must produce to the

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Commission the information, documents and other evidence that the Commission requires the person to produce for the purposes of these regulations.

- (7) If a person fails to produce to the Commission the information, documents and other evidence required by the Commission under subregulation (6), the Commission may withhold or suspend payment of the benefit or refuse to consider the claim until the requirement is met.
- (8) A benefit payable under this Part (other than a temporary incapacity benefit) must be paid as a lump sum.
- (9) When a lump sum becomes payable under this Part, the lump sum, subject to regulation 153, is to be transferred, after deduction of any tax liability –
  - (a) to an account in the name of the person entitled to the benefit, in a superannuation fund elected by the person; or
  - (b) if an election is not made within a reasonable period, as determined by the Commission, to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.
- (10) Except when the member receives a benefit under regulation 140, if a member remains in service but reaches the required payment date,

the Commission must pay to or on behalf of that member the benefit under regulation 136(1) or (2).

- (11) At the time that a benefit of a member becomes payable or available for transfer, the Commission may reduce the benefit by any amount owed by the member to the TASS Scheme or the Commission, if a regulated superannuation fund would be permitted by the SIS Act to make such a reduction in similar circumstances.

**135. Transfer of benefit to RSA or complying superannuation scheme**

- (1) The Commission must transfer a member's benefit to an RSA or a complying superannuation scheme –
- (a) if at any time a member so elects; or
  - (b) without the consent of the member, if it is otherwise lawful to so transfer a member's benefit without the consent of the member.
- (2) A transfer under this regulation may only occur if regulated superannuation funds are permitted under the SIS Act to make such a transfer in similar circumstances.
- (3) If a member makes an election under this regulation but remains in service, the Commission must determine the appropriate amount to be transferred in the circumstances.

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- (4) A transfer of a benefit under this regulation satisfies the member's entitlement to any benefit in respect of the amount transferred and the Commission may declare that it satisfies the member's entitlement in full.
- (5) The Commission is not responsible for the manner in which the trustee of another fund to which a benefit is transferred under this regulation deals with the benefit.

**136. Retirement benefit**

- (1) A member who leaves service –
  - (a) at or after the normal retirement date; or
  - (b) within 10 years before the normal retirement date; or
  - (c) with the consent of the Ambulance Service, at any time, on the grounds of ill-health such that the member is, in the opinion of the Commission, unable to continue employment with the Ambulance Service but is not eligible for a benefit under regulation 139 –

is entitled to a benefit equal to the amount calculated in accordance with the following formula:

Final average salary x Accrued retirement multiple

where –

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***accrued retirement multiple*** means the total of the amounts obtained by multiplying the number of years of service as a member during which the member's contribution rate was the percentage set out in the first column of the table below by the corresponding percentage specified in the second column of the table.

<b>Column 1 – Member Contribution Rate</b>	<b>Column 2 – Percentage</b>
1. 4.7%	17.375%
2. 5%	17.75%
3. 6%	19.00%
4. 7%	20.25%
5. 8%	21.50%
6. 9%	22.75%
7. 10%	24.00%
8. 11%	25.25%

- (2) The Commission may pay to a member who –
- (a) is in service on or after the normal retirement date; and
  - (b) requests payment –

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a benefit equal to the benefit which would have been payable under subregulation (1) had the member retired on the normal retirement date, together with interest from that date at the scheme earning rate.

**137. Reductions in salary**

If a member's benefit becomes payable to or in respect of a member and the member's salary is less than the highest of the member's previous salaries, the benefit payable in relation to the member may be increased by the amount that the Commission may determine having regard to the advice of the Actuary.

**138. Death benefit**

- (1) Subject to subregulation (2), on the death of a member in service, the Commission must pay –
  - (a) in respect of a member who has not attained the age of 55 years at the date of his or her death – an amount equal to the benefit which would have been payable under regulation 136(1) had the member remained in service until the member attained the age of 55 years and assuming, for the prospective period from the date of the member's death until the day on which the member would have attained the age of 55 years, that the member's contribution rate is 6% and the member's salary remains unchanged over that period; or

- (b) in respect of any other member – an amount equal to the benefit which would have been payable under regulation 136(1) had the member retired on the day of his or her death.
- (2) In respect of a member whose date of admission was on or before 30 June 1994, the benefit payable under subregulation (1) must not be less than the aggregate of the benefit which would have been payable under the SAF Agreement in force at that date and the death benefit under the SAF Agreement at that date.

### **139. Permanent incapacity**

A member who leaves service because of permanent incapacity is entitled to a benefit equal to the amount calculated under regulation 138.

### **140. Temporary incapacity**

If, before the normal retirement date, a member suffers temporary incapacity and remains in service, at each date on which proceeds of insurance in respect of the member is credited to the scheme there is payable to the member a benefit equal to the amount of the proceeds.

### **141. Leaving service**

- (1) Subject to subregulation (2), a member who leaves service in circumstances other than those specified in regulation 136(1), regulation 138 or

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regulation 139 is entitled to a benefit equal to the amount calculated using the following formula:

Final average salary x Accrued retirement multiple x factor

where –

*accrued retirement multiple* means the amount as set out in regulation 136(1);

*factor* means the factor determined in accordance with the table to this subregulation, with completed months counted pro rata.

<b>Column 1 – Age of member</b>	<b>Column 2 – Factor</b>
50 or more	1
49	0.980
48	0.961
47	0.942
46	0.924
45	0.906
44	0.888
43	0.871
42	0.853
41	0.837
40	0.820

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<b>Column 1 – Age of member</b>	<b>Column 2 – Factor</b>
39	0.804
38	0.788
37	0.773
36	0.758
35 or less	0.750

- (2) If the member is leaving service as a result of retrenchment, the member is entitled to a benefit under regulation 136(1).

**142. Augmentation**

- (1) The Commission may, with the approval of the Ambulance Service and having regard to the advice of the Actuary, augment any benefit payable from the TASS Scheme.
- (2) Despite subregulation (1), the augmentation of a benefit payable under regulation 141(1) may not exceed the amount calculated by the Actuary as the member's equitable share of the TASS Scheme.
- (3) The Ambulance Service must contribute the additional amount determined by the Commission, having regard to the advice of the Actuary, to be required to provide the augmented benefit.

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- (4) If a death benefit becomes payable from the TASS Scheme and the Commission considers that it may be augmented by a tax deduction, the Commission may augment the death benefit by the amount of the expected tax deduction.

**143. Minimum benefit**

The benefit payable to or in respect of a member who dies or leaves service for any reason is not to be less than the minimum benefit that is –

- (a) specified in a current benefit certificate issued by the Actuary in accordance with the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth; and
- (b) required by law to be vested in the member as a consequence of the member's participation in the TASS Scheme.

**144. Members whose date of admission is on or before 30 June 1996**

The amount of any benefit payable under regulation 136(1) or regulation 141 to a member whose date of admission is on or before 30 June 1996 must not be less than the aggregate of –

- (a) the amount payable at the date of leaving service as if the equivalent provision of the governing rules of the former

superannuation scheme as at 30 June 1994 were still in effect on the date of leaving service; and

- (b) the amount of the member's benefit on leaving service as at 30 June 1994 under the rules of the Tasmanian Accumulation Scheme at that date, less any tax payable on the transfer of that benefit to the former superannuation scheme together with interest at the scheme earning rate from 30 June 1994 to the date of leaving service; and
- (c) 3% of the member's salary for the period 1 July 1994 to the earlier of 30 June 1996 and the date the member leaves service, less any contributions tax payable on that amount, plus interest at the scheme earning rate to the date of leaving service.

***Division 6 – Financial provisions***

**145. Fixing of scheme earning rate**

- (1) The Commission is to calculate and determine a scheme earning rate (which may be positive or negative) at least annually, having regard to –
  - (a) the earning rates of the TASS Fund; and
  - (b) the Commission's investment strategy and policy; and

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- (c) any allowances for unrealised capital gains or losses; and
  - (d) the cost of administration, investment management, taxation and other expenses the Commission has paid or is likely to pay for the cost of administering or managing the scheme.
- (2) The Commission, at least annually, is to credit (or debit, where appropriate) to a member's account or accounts interest at the scheme earning rate.
- (3) The Commission may, whenever it considers appropriate, calculate and determine an interim earning rate (which may be positive or negative) having regard to the matters referred to in subregulation (1), to be applied –
  - (a) to a benefit which becomes payable or to a transfer of a benefit in respect of a member; or
  - (b) for any other purpose –for the period since 30 June 2006 or the last date at which a scheme earning rate or interim earning rate was determined, whichever is the later.
- (4) The Commission must determine whether the scheme earning rate or interim earning rate is to be applied –
  - (a) on daily balances; or

- (b) on average balances; or
- (c) on some other basis.

**146. Time and manner of benefit payments**

- (1) The Commission is to use its best endeavours to ensure that a benefit payable under this Part is paid as soon as practicable but in any case not later than 20 working days after the Commission has received a completed payment instruction form for a benefit from a member or the member's legal personal representative.
- (2) The Commission may at its discretion credit interest at a rate determined in accordance with regulation 145 to a benefit which is not paid within this period.

**147. Taxation of contributions and lump sum benefits**

- (1) For the purposes of taxation of superannuation contributions under the law of the Commonwealth, the Commission is to treat –
  - (a) as concessional contributions all employer contributions; and
  - (b) as concessional contributions all member contributions which have been included in the assessable income of the TASS Fund; and
  - (c) as non-concessional contributions all member contributions which have not

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- been included in the assessable income of the TASS Fund; and
- (d) as assessable income of the TASS Fund the element untaxed in the fund of roll-over superannuation benefits; and
  - (e) as assessable income of the TASS Fund the element untaxed in the fund of transferred superannuation benefits.
- (2) The Commission, having regard to the law of the Commonwealth, must –
- (a) establish and maintain policies and administrative procedures with respect to the taxation of superannuation contributions and superannuation benefits; and
  - (b) determine, from time to time –
    - (i) the proportion of a superannuation benefit that is to be treated by the Commission as an element untaxed in the fund for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth; and
    - (ii) the proportion of a superannuation benefit that is to be treated by the Commission as an element taxed in the fund for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth; and

- (iii) the proportion of a superannuation benefit that is to be treated by the Commission as the tax free component for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth.
- (3) The Commission, in accordance with the law of the Commonwealth, must deduct from roll-over superannuation benefits, superannuation contributions and superannuation benefits all amounts required to be paid as taxation under the law of the Commonwealth and remit those amounts to the Taxation Commissioner.
- (4) A benefit payable under these regulations is to be reduced in accordance with regulation 149(12) at the time of payment by the Commission.

#### **148. Notional taxed contributions**

For the purposes of these regulations, the Commission must calculate for each member the notional taxed contributions for a financial year having regard to Division 292 of the *Income Tax Assessment Act 1997* of the Commonwealth and the *Income Tax Assessment (1997 Act) Regulations 2021* of the Commonwealth.

**149. Establishment of surchargeable contributions debt account**

- (1) The Commission must calculate for each member a notional contributions surcharge amount having regard to –
  - (a) the member's salary; and
  - (b) either –
    - (i) the notional surchargeable contributions factor provided to the Commission by the Actuary as required by the law of the Commonwealth and these regulations; or
    - (ii) if no such factor has yet been provided, the last such factor that was current for the former superannuation scheme immediately before 30 June 2006.
- (2) The Commission must provide the Taxation Commissioner, as required by the law of the Commonwealth, with particulars of the notional contributions surcharge amount in respect of each member.
- (3) If a member requests, the Commission is to give to the member a copy of the particulars in relation to that member given to the Taxation Commissioner under subregulation (2), together with details of how the notional contributions surcharge amount was calculated.

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- (4) If a member believes that the amount referred to in subregulation (2) is incorrect, the member may by notice in writing to the Commission –
- (a) request that the calculation of the amount be reviewed; and
  - (b) request the Commission to consider any evidence which the member may submit to it.
- (5) If a surchargeable contributions debt or similar account was established for a member for the purposes of the former superannuation scheme, the TASS Trust Deed or a former trust deed, the account continues to have effect as if it was a surchargeable contributions debt account established by the Commission under this regulation.
- (6) Subject to subregulation (7), on receipt of an assessment notice from the Taxation Commissioner in respect of a member, the Commission must –
- (a) establish a surchargeable contributions debt account in the name of the member; and
  - (b) debit that account by the amount of any surcharge contributions tax liability specified in the notice of assessment relating to the member; and
  - (c) pay that amount to the Taxation Commissioner.

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- (7) On receipt of an assessment notice, or amended assessment notice, from the Taxation Commissioner in respect of a member in circumstances where a surchargeable contributions debt account has already been established for the member, the Commission –
- (a) must not debit the account by the amount of the surcharge contributions tax liability specified in the notice; and
  - (b) must adjust the balance of the account to reflect the change in the member's surcharge contributions tax liability required by the notice by comparison with the last of such notices previously provided by the Taxation Commissioner in respect of the member; and
  - (c) must pay or recover from the Taxation Commissioner the amount by which the surchargeable contributions debt account has been adjusted under paragraph (b).
- (8) If the surchargeable contributions debt account is in debit at the end of a financial year, the Commissioner must, in accordance with the law of the Commonwealth, debit the account with interest.
- (9) A member may make payments to his or her surchargeable contributions debt account to reduce in full or in part the balance of the account, and any such payment is taken not to be a contribution for the purposes of these regulations.

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- (10) A payment made under this regulation by the Ambulance Service on behalf of a member as part of the member's remuneration is taken to be a contribution by the Ambulance Service for the purposes of these regulations.
- (11) On receipt of a payment under subregulation (9) or (10) in relation to a member, the Commission must –
- (a) credit the surchargeable contributions debt account of the member; and
  - (b) take any other action required under the law of the Commonwealth relating to the surcharge contribution tax liability.
- (12) If a lump sum benefit entitlement becomes payable by the Commission to a member whose account, established or maintained under this regulation, is or has been in debit, the Commission must reduce the benefit payable by the extent of –
- (a) the balance of the member's surchargeable contributions debt account; and
  - (b) any foregone investment earnings and associated amounts.
- (13) The Commission must, at least annually, inform each member of the balance of the member's surchargeable contributions debt account and of any debits or credits, including interest, to that account.

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**150. Provision of certain information to and by the Commission**

- (1) The Commission must provide the Actuary with the information in respect of members that is necessary for the purposes of these regulations.
- (2) The Commission must provide the Taxation Commissioner with the information in respect of members that is required under the law of the Commonwealth.
- (3) The Commission must, at least annually, distribute to each member –
  - (a) a report of its operations during the last financial year; and
  - (b) a statement of the benefit entitlement of the member and the balance of the member's account, detailing the total interest credited or debited, administration costs and management charges, death and incapacity premiums deducted and any surcharge or taxation liabilities deducted from the account or accounts; and
  - (c) a statement of the Commission's current investment strategies and performance.

**151. Ambulance Service to provide Commission with certain information about members**

- (1) The Ambulance Service must provide to the Commission, in the manner and form, if any,

that the Commission determines, the information or evidence that the Commission requires in relation to members who are or were employees of the Service.

- (2) If the Ambulance Service fails to provide under subregulation (1) information or evidence that is relevant to the payment of a benefit to, or in relation to, a member, the Commission may defer the payment of the benefit to, or in relation to, the member until the information or evidence is provided.

## **152. Certificates**

The Commission must obtain from the Actuary all relevant certificates required by the SIS Act to be obtained by regulated superannuation defined benefit funds from actuaries, together with all other certificates required to be obtained by the Commission from the Actuary by law.

### *Division 7 – General provisions*

## **153. Payment on death or permanent incapacity**

- (1) If a member becomes entitled to a permanent incapacity benefit, the Commission must pay the benefit to the member, unless, in the opinion of the Commission, the member is incapable of administering his or her own affairs, in which case the Commission must pay the benefit to the member's spouse or legal personal representative.

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- (2) Except as provided in subregulation (3), if a lump sum benefit is payable under these regulations on the death of a member, the benefit is to be paid to –
- (a) the surviving partner of the member; or
  - (b) if there is no surviving partner of the member – the person with whom the member was in a caring relationship which was the subject of a deed of relationship, registered under Part 2 of the *Relationships Act 2003*, which was revoked by the death of the member; or
  - (c) if there is no person referred to in paragraph (a) or (b) – the estate of the member, subject to the production of grant of probate or letters of administration; or
  - (d) a person, where applicable, in accordance with regulation 156.
- (3) Despite subregulation (2), a member may, by notice in writing to the Commission –
- (a) elect that in the event of the member’s death all or part of the benefit payable on the member’s death is to be paid to the member’s estate; or
  - (b) revoke any such election –

and where the election is in force, subregulation (2) does not apply to any part of the benefit that is subject to the election.

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- (4) This regulation does not apply to a person who, at the date of a member's death –
  - (a) was the spouse of the member; and
  - (b) was separated and living apart from the member; and
  - (c) was not, in the opinion of the Commission, receiving significant financial support from the member.
- (5) If, on the death of a member, a question arises as to who is the surviving partner of the member at the time of the member's death, for the purposes of these regulations the question is to be determined by the Commission having regard to the matters that it considers relevant.
- (6) If the Commission is unable to determine who is the surviving partner of the member at the time of the member's death after any enquiry it considers appropriate under this regulation, any benefit that would otherwise be payable to the surviving partner of the member is to be paid to the member's legal personal representative.
- (7) When determining a question under subregulation (5), the Commission must not determine more than one person to be the surviving partner of a member.

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**154. Making of elections, directions, claims or applications**

- (1) An election, direction, claim or application under this Part –
  - (a) must be in writing signed by the person entitled to make the election, direction, claim or application; and
  - (b) must be in the form determined by the Commission; and
  - (c) subject to subregulation (2), is not valid until it is received by the Commission; and
  - (d) takes effect when it is received by the Commission, except that the Commission may, if it thinks fit, accept that an election, direction, claim or application lodged with the Ambulance Service takes effect from the day it is so lodged.
- (2) If –
  - (a) an election, direction, claim or application under this Part is not received by the Commission within the time prescribed for the election, direction, claim or application; and
  - (b) the Commission is satisfied that, having regard to all the circumstances of the case, it is desirable that the election,

direction, claim or application should be accepted –

the Commission may, subject to the terms and conditions, if any, that it imposes, accept the election, direction, claim or application and deal with it as if it had been received within the time so prescribed.

**155. Recovery of money owing to Scheme**

- (1) The Commission may recover from a member, beneficiary or other person any money which was paid in excess of the member's benefit, together with interest calculated in accordance with this regulation, unless the Commission, having regard to the circumstances of the member, determines otherwise.
- (2) The Commission must recover from the Ambulance Service any payment to the TASS Fund of Ambulance Service superannuation contributions, additional employer contributions, and member contributions, that have not been forwarded to the Commission within 7 days of the relevant payday and those payments attract interest calculated in accordance with this regulation.
- (3) Payments from the Ambulance Service to the TASS Fund of Ambulance Service superannuation contributions, additional employer contributions and member contributions are to be credited to the members' accounts as if they were received on the relevant payday.

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- (4) The interest determined under subregulation (2) is the liability of the Ambulance Service and not the member.
- (5) Interest is calculated on a daily basis using the Bloomberg's 90 day Bank Bill Swap Reference Rate, as published in the *Australian Financial Review*, on the day the amount became due for payment, plus 4%.
- (6) Interest is payable on any amount owing to the TASS Fund calculated from the date on which the amount becomes due for payment until the date on which the amount, together with interest if applicable, is fully recovered by, or otherwise paid to, the Commission.
- (7) Any interest paid under this regulation is to be credited to the investment income reserve account established under regulation 125.

**156. Payment without grant of probate**

If, 3 months after the death of a member, a benefit not exceeding \$50 000 is payable under this Part and the Commission has not received –

- (a) a certified copy of the probate of the will, or letters of administration of the estate, of the deceased member; or
- (b) a notice of intention to apply for a grant of probate of the will, or letters of administration of the estate, of the deceased member –

the Commission may, at its discretion, make a payment of the benefit to that member's legal personal representative.

**157. Provision of information to Minister**

The Commission must, on the written request of the Minister, provide to the Minister any information, relating to the TASS Scheme or the TASS Fund, that the Minister may reasonably require.

**158. Arrangements to be made for dealing with inquiries or complaints in relation to TASS Scheme**

- (1) The Commission must take all reasonable steps to ensure there are at all times arrangements in place under which –
  - (a) a member or former member may make an inquiry into, or complaint about, the operation or management of the TASS Scheme in relation to that person; and
  - (b) the legal personal representative of a former member may make an inquiry into, or complaint about, the operation or management of the TASS Scheme in relation to the former member; and
  - (c) without limiting the generality of paragraph (a) or (b), any person may make an inquiry into, or complaint about, a decision of the Commission that relates

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to the payment of a death benefit in accordance with the TASS Scheme if –

- (i) the person has an interest in the death benefit; or
  - (ii) the person claims to be, or is, entitled to a death benefit in relation to a person referred to in this subregulation.
- (2) The Commission is to deal with an inquiry or complaint within 90 days of receiving notice in writing of the inquiry or complaint.
  - (3) The Commission may charge a fee in relation to the making of an inquiry or complaint and may waive or reduce the fee if it is satisfied that the applicant's intended use of information that may be obtained by making the inquiry or complaint is of general public interest or benefit.
  - (4) The fee that may be charged under subregulation (3) is not to exceed 400 fee units (inclusive of GST).
  - (5) If the Commission believes the fee charged under subregulation (3) may exceed 25 fee units (inclusive of GST), the Commission must notify the applicant and inquire whether the applicant wishes to proceed with the applicant's inquiry or complaint.

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**PART 14 – STATE FIRE COMMISSION  
SUPERANNUATION SCHEME**

*Division 1 – Preliminary*

**159. Interpretation of Part 14**

(1) In this Part –

*award* means an agreement or award certified or made on or after 1 July 1987 or any other arrangement which the State Fire Commission and the Commission agree should be treated as an award;

*benefit* means any entitlement paid, or authorised to be paid, by the Commission out of the SFCS Fund under these regulations to, or in respect of, a member, less the amount, if any, of Commonwealth taxation that is deducted from the entitlement in accordance with law;

*date of admission*, in relation to a member, means the date on which the member became a member of the former superannuation scheme;

*employee* means a person appointed or employed under the *State Service Act 2000* to perform functions for the purposes of the *Fire Service Act 1979*;

*employer contributions* means contributions paid to the SFCS Scheme by the State

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Fire Commission in accordance with these regulations and includes contributions paid in respect of a member by the State Fire Commission in accordance with regulation 170(3) or under the former superannuation trust deed, a former SFCS trust deed or the SFCS Trust Deed;

***Fire Brigades Scheme*** means the Fire Brigades Commission of Tasmania Retiring Allowance Death and Disablement Benefit Scheme established under the provisions of the *Fire Brigades Regulations 1965* as in force immediately before 1 October 1973;

***former interest rates*** means the interest rates declared from time to time by the former trustee under the former superannuation trust deed, a former SFCS trust deed or the SFCS Trust Deed;

***former superannuation scheme*** means the State Fire Commission Superannuation Scheme as administered by the former trustee immediately before 24 June 2005;

***former SFCS trust deed*** means a trust deed, other than the SFCS Trust Deed, entered into by the State Fire Commission in relation to the SFCS Scheme;

***former superannuation trust deed*** means the deed of trust executed by the State Fire Commission on 17 January 1995 to

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govern the administration of the former superannuation scheme, as that deed was amended from time to time;

***former trustee*** means the State Fire Commission Superannuation Scheme Pty Ltd (ACN 067 921 760) in its capacity as trustee of the former superannuation scheme;

***Guarantee Act*** means, as the case requires –

- (a) the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth; or
- (b) the *Superannuation Guarantee Charge Act 1992* of the Commonwealth;

***incapacity*** means permanent incapacity or temporary incapacity;

***initial accrual***, in relation to a member, means –

- (a) the multiple, of the member's salary, determined by the Actuary at the member's date of admission; and
- (b) the multiple, determined from time to time after that date by the Actuary, of any credit, in respect of the member, to the SFCS Scheme that results from an agreement by the member, or by

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the trustees of a previous plan, to the termination of benefits under the previous plan;

***interest rates*** means the former interest rates and the interest rates determined by the Commission from time to time under regulation 185;

***member*** means a person to whom regulation 166 applies and who retains an interest in the SFCS Fund in accordance with these regulations;

***member contributions*** means contributions paid in accordance with regulation 170(1);

***minimum requisite benefit***, in relation to a member, means the minimum benefit required by the SIS Act to be vested in the member;

***normal retirement date***, in relation to a member, means the day on which the member attains the age of 65 years;

***permanent incapacity*** means –

- (a) totally and permanently disabled; or
- (b) suffering total and permanent disablement; or

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- (c) any expression of similar import to an expression in paragraph (a) or (b) –

as defined in any insurance policy continued or effected by the Commission which provides Group Life or similar insurance to the Commission in respect of members and beneficiaries;

***previous plan*** means any superannuation plan –

- (a) that was approved by the former trustee; and
- (b) in which a member participated before being accepted as a member of the former superannuation scheme; and
- (c) from which moneys or other assets were credited to the former scheme;

***rate of accrual***, in relation to a member, means –

- (a) the rate determined, at the member's date of admission, by the actuary for the former superannuation scheme or by the Actuary; and
- (b) the rate determined, from time to time after the member's date of admission, by –

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(i) the actuary for the former superannuation scheme;  
or

(ii) the actuary under a former SFCS trust deed or the SFCS Trust Deed; or

(iii) the Actuary –

having regard to the member's initial accrual, as the rate (expressed as a proportion of the member's salary) at which that member's normal retirement benefit is taken to accrue during the period between the member's date of admission and the normal retirement date;

***redundancy***, in relation to a member, means termination of the member's employment because –

(a) his or her service, office or position is unnecessary; or

(b) the work for which he or she was engaged is finished; or

(c) a reduction of employees is necessary because the work to be performed by the employees has decreased; or

(d) the member is retired under a voluntary redundancy program;

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***resignation***, in relation to a member, means the worker has, before attaining the preservation age, ceased to be gainfully employed by the State Fire Commission for any reason other than death, incapacity, retirement or redundancy;

***salary***, in relation to a member – see regulation 160;

***service***, in relation to a member – see regulation 161;

***SFCS Fund*** means the fund, administered as a subfund of the Fund, consisting of the assets and liabilities of the SFCS Scheme;

***SFCS Scheme*** means the part of the former superannuation scheme that is continued by section 44 of the Act;

***SFCS Trust Deed*** means the trust deed terminated by section 43 of the Act;

***State Fire Commission*** means the State Fire Commission established under section 7 of the *Fire Service Act 1979*;

***Tasmania Fire Service*** has the same meaning as in the *Fire Service Act 1979*;

***temporary incapacity*** means –

- (a) totally but temporarily disabled;
- or

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(b) suffering total but temporary disablement; or

(c) any expression, of similar import to an expression in paragraph (a) or (b) –

as defined in any insurance policy continued or effected by the Commission which provides Group Salary Continuance or similar insurance to the Commission in respect of members and beneficiaries;

***transfer amount*** means, in respect of a transferring member, the amount in respect of that member that is transferred to the SFCS Scheme from the former superannuation scheme;

***transferring member*** means any person –

(a) who, immediately before 1 May 2006, was a member of the former superannuation scheme; and

(b) whose date of admission was before 1 July 2005; and

(c) who is not classified as temporary under the Tasmanian Fire Fighting Industry Employees Award.

(2) In this Part, a reference to a period expressed in years includes, where appropriate, a reference to

a period expressed in years together with a fraction of a year that is expressed in days.

**160. Meaning of salary**

- (1) The definition of salary in regulation 3 does not apply in this Part.
- (2) Subject to subregulations (3) and (4), in this Part, a reference to salary in relation to a member, means the gross annual wage or salary paid, or payable, or both, by the State Fire Commission to or on behalf of a member and includes any payments and allowances, other than allowances for rent and overtime work.
- (3) Subject to subregulation (4), a member's salary, in relation to any period of absence without wage or salary, is to be adjusted in accordance with any relevant express provisions in this Part.
- (4) A member's salary is to be taken to continue unaltered throughout any period during which the member suffers a temporary incapacity.

**161. Meaning of service**

- (1) Subject to subregulation (2), in this Part, a reference to service in respect of a member is a reference to the most recent uninterrupted period of continuous employment with the Tasmania Fire Service in respect of which the member receives a salary and includes any period during which a benefit is paid to the member under regulation 183(1).

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- (2) A member's service is, in respect of any period of absence from employment without salary, to be adjusted in accordance with any relevant provisions of this Part.
- (3) For the purposes of this regulation, a member is to be taken to have ceased employment if –
  - (a) the age and terms of employment of the member preclude the member's continued eligibility for membership of the SFCS Scheme; or
  - (b) having regard to the age of the member, the Commission is satisfied that the benefit in respect of the member may be released and the Commission, at the member's request, has, in its discretion, permitted the release.

**162. Application of regulations to members**

Parts 4, 5 (apart from sections 54, 55, 56, 57 and 58), 6, 7 and 13, and regulations 94 and 101, of these regulations do not apply in relation to a member.

***Division 2 – Operation of SFCS Fund***

**163. Operation of SFCS Fund**

- (1) On and from the day on which the Trust Deed, within the meaning of section 42 of the Act, is terminated under section 43 of the Act, the Commission must maintain the SFCS Fund.

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- (2) The SFCS Fund consists of the accounts and reserves that the Commission considers to be necessary or convenient for the administration of the SFCS Scheme.
- (3) The Commission may cause to be met from the SFCS Fund –
- (a) the administration costs and management charges, in relation to the SFCS Scheme, that are determined by the Commission to arise from the performance and exercise of the Commission’s functions and powers under these regulations in relation to the administration and management of the SFCS Scheme; and
  - (b) benefits payable under these regulations in relation to the SFCS Scheme; and
  - (c) expenses associated with the investment of money standing to the credit of the SFCS Fund; and
  - (d) any audit, insurance or actuarial costs incurred in the administration of the SFCS Scheme in accordance with these regulations.
- (4) The Commission may, where appropriate, cause to be met from the SFCS Fund the payment of any tax, duty, impost or surcharge liability imposed under the law of the Commonwealth or the State on the SFCS Fund or in respect of any benefits payable by the Commission from the SFCS Fund.

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- (5) To the extent that a deduction under subregulation (4) is directly attributable to a contribution to the SFCS Scheme, the Commission, on receiving the contribution or at a time that the Commission, in its absolute discretion, considers expedient in the circumstances, may –
- (a) deduct, or cause to be deducted, from the contribution or relevant member’s account, the amount that the Commission considers appropriate to provide for the relevant amount of the duty, tax, surcharge, impost, fee or charge; and
  - (b) may retain the amount within the SFCS Fund until the Commission gives effect to subregulation (4).
- (6) The Commission must not make any payments from the SFCS Fund to the Commission or the State Fire Commission except for –
- (a) expenses incurred in the administration of the SFCS Scheme; or
  - (b) a refund of overpaid contributions; or
  - (c) a payment permitted by the SIS Act.

**164. Taxation provision account**

- (1) The Commission may establish within the SFCS Fund a taxation provision account for SFCS Fund accounting purposes.

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- (2) If a taxation provision account has been established under subregulation (1), the Commission is to credit to the account any tax deducted from members' accounts and any taxation provision applicable to the SFCS Fund's investment earnings.
  - (3) If a taxation provision account has been established under subregulation (1), the Commission is to debit to the account all or part of the tax, paid to the Taxation Commissioner in accordance with the *Income Tax Assessment Act 1936* of the Commonwealth and the *Income Tax Assessment Act 1997* of the Commonwealth, that is applicable to the SFCS Fund.
  - (4) If, at the end of a financial year, the taxation provision account established under subregulation (1) is in surplus or deficit, the Commission must determine whether or not to –
    - (a) distribute the surplus to, or recover the deficit from, members or the SFCS Fund by way of adjusting investment returns or a transfer to or from the SFCS Fund; or
    - (b) carry forward the provision to the next financial year.

**165. Investment income reserve account**

- (1) The Commission may establish within the SFCS Fund an investment income reserve account.
- (2) If an investment income reserve account is established under subregulation (1), any surplus

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or deficit investment income in the SFCS Fund may be credited to, or debited from, the account and distributed to, or deducted from, members' accounts.

- (3) If, at the end of a financial year, the investment income reserve account established under subregulation (1) is in surplus, the Commission must determine, on the advice of the Actuary, whether or not to distribute all or part of the surplus to members by way of an adjustment to investment returns or by way of transfer to the SFCS Fund.
- (4) If, at the end of a financial year, the investment income reserve account established under subregulation (1) is in deficit, the Commission must, on the advice of the Actuary, reduce members' account balances by way of adjustment to investment returns or by way of transfer from the SFCS Fund.

***Division 3 – Membership***

**166. Membership of SFCS Scheme**

Each person who is a transferring member and an employee appointed or employed before 1 July 2005 is a member of the SFCS Scheme and remains a member of the Scheme if he or she maintains a financial interest in the SFCS Fund in accordance with these regulations.

**167. Establishment of members' accounts**

- (1) The Commission may establish the accounts, and determine the administrative policy and terms and conditions, that are necessary for the efficient and effective administration of members' accounts.
- (2) Any account for a member that was maintained by the Commission before the commencement of this regulation is taken to be an account established under subregulation (1).
- (3) After members' accounts are established, the Commission –
  - (a) must credit to the accounts, if appropriate –
    - (i) all State Fire Commission superannuation contributions paid on behalf of members; and
    - (ii) all contributions paid by members; and
    - (iii) investment returns determined according to the interest rates calculated under regulation 185(1); and
    - (iv) any other amount that is authorised by these regulations and that the Commission considers appropriate; and

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- (b) may debit to the accounts, if appropriate –
  - (i) surcharge liability payments, taxation provisions or any other amounts required by the law of the Commonwealth or State; and
  - (ii) the cost of providing cover for benefits on the death or incapacity of a member as provided by these regulations; and
  - (iii) administration costs and management charges as provided by these regulations; and
  - (iv) any other amount authorised by these regulations and considered appropriate by the Commission.

**168. Death and incapacity cover**

- (1) The Commission –
  - (a) may arrange cover for death and incapacity benefits in relation to members; and
  - (b) may receive and give full and effectual receipts, release and discharges in respect of the payment of any moneys under any such cover as may be required from the Commission and which it thinks proper, having regard to the circumstances.

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(2) Any cover for death and incapacity benefits that is arranged by the Commission in relation to members is to be in the name of the Commission and remain under the control of the Commission while the cover is subject to these regulations.

(3) Only the Commission –

(a) is entitled to enforce any rights, remedies or contracts in connection with, or incidental to, any cover for death and incapacity benefits in relation to members that is arranged by the Commission; and

(b) is entitled to the full benefits and advantages of such cover –

and no member, or any person claiming through or under a member, has or may claim any right, title or interest in or to any such cover or contract or in respect of moneys payable under such cover or contract.

(4) If the Commission takes out or increases insurance, or seeks to do so, in relation to a member's benefit and the insurer –

(a) does not accept the member on the standard terms; or

(b) restricts the level or scope of insurance claim in relation to a member; or

(c) for any reason does not pay the whole or any part of a claim in relation to a member –

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the Commission must modify the member's benefit as it considers appropriate, if to do so is not contrary to law or the requirements imposed in similar circumstances on regulated superannuation funds by the SIS Act.

***Division 4 – Contributions***

**169. State Fire Commission superannuation contributions**

- (1) Unless otherwise agreed between the Commission and the State Fire Commission having regard to the advice of the Actuary, the State Fire Commission must contribute to the SFCS Scheme the percentage of the salaries of members who are employees, or another amount, that the Actuary recommends from time to time.
- (2) A contribution must be made for so long as the Actuary recommends.
- (3) The State Fire Commission must contribute to the SFCS Scheme such additional amounts as the Minister, on the recommendation of the Actuary, may direct, so as to enable the Commission to meet its liabilities under these regulations.

**170. Obligations of members to contribute**

- (1) A member who is an employee must contribute at the rate of 5% of the member's salary until the earlier of the following:
  - (a) the normal retirement date;

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- (b) the day on which the member ceases to be an employee.
- (2) Despite subregulation (1) –
  - (a) no contribution is payable by a member while he or she suffers a temporary incapacity and is in receipt of a benefit under regulation 183; and
  - (b) the contributions that would otherwise be payable by the member but for this subregulation are, for the purposes of these regulations, taken to have been paid by the member.
- (3) A member who is an employee, the Commission and the State Fire Commission may agree that instead of deducting the member's contributions from the member's salary, an amount equal to those contributions, after allowing for contributions tax, and any other tax agreed between the member and the State Fire Commission, is to be paid to the Commission by the State Fire Commission in respect of the member in lieu of salary.
- (4) Any –
  - (a) deductions from a member's salary by the State Fire Commission that are paid to the Commission and do not comply with subregulation (1) or (2) or with the member's instructions; and
  - (b) amounts paid to the Commission in lieu of salary that do not comply with

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subregulation (3) or with the member's instructions –

are taken not to be contributions under these regulations and are to be repaid to the member.

- (5) Unless otherwise agreed under subregulation (3), the State Fire Commission must automatically deduct from a member's salary the member's regular contributions.

**171. Time and manner of paying contributions**

- (1) Unless otherwise approved by the Commission, the State Fire Commission must cause to be shown as separately identifiable amounts on each payslip of each member –
- (a) the amount of State Fire Commission additional employer contributions made, in respect of the member, to the SFCS Fund; and
  - (b) the amount of member contributions deducted from the member's salary.
- (2) The responsible officer must certify and forward, within 7 days of each pay day, a return to the Commission, in the form determined by the Commission, specifying the total amount for that pay period of –
- (a) State Fire Commission superannuation contributions; and
  - (b) additional employer contributions; and

(c) member contributions –  
paid on behalf of each member.

- (3) Contributions, including additional employer contributions, payable by the State Fire Commission or deducted from the member's salary are to be forwarded to the Commission within 7 days of the relevant payday.

**172. Leave of absence**

- (1) This regulation only applies to a member if the State Fire Commission grants the member unpaid leave of absence.
- (2) During the period of leave of a member –
- (a) the member's salary is to be taken for the purposes of these regulations to continue unaltered; and
  - (b) the member is not required to contribute but may make the contributions, if any, that the Commission permits, having regard to the provisions that apply under the SIS Act in relation to regulated superannuation funds; and
  - (c) the State Fire Commission is not required to contribute in respect of the member except to the extent –
    - (i) that the Commission requires in connection with any administration costs and management charges payable by

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the State Fire Commission in relation to the member; and

- (ii) as required by the Guarantee Act so that the State Fire Commission does not incur an individual superannuation guarantee shortfall, within the meaning of the Guarantee Act, in relation to the member.
- (3) Despite any other provision of these regulations, during the period of leave of a member the Commission may, at its discretion, take action to cause death and incapacity cover in respect of the member to be discontinued.
- (4) If the Commission causes under subregulation (3) death and incapacity cover in respect of a member to be discontinued during a period, any death and incapacity benefit payable in respect of the member is to be adjusted to the extent, if any, that the Commission considers appropriate having regard to these regulations.
- (5) If the Commission causes under subregulation (3) death and incapacity cover in respect of a member to be discontinued during a period of leave of the member, the Commission may, when the period ends, require the member to submit such satisfactory evidence of good health as the Commission may require in support of an application by the Commission for the reinstatement of such cover in respect of the member.

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- (6) The Commission may, at its discretion, determine that a period of leave of a member is to be wholly or partially excluded from the determination of any benefit that may become payable in respect of the member, whether the benefit arises during or after the end of the period.
- (7) The Commission must, as soon as reasonably practicable, notify a member of each adjustment or determination that is made under this regulation and that affects, or could affect, any benefit that may become payable in respect of the member.

**173. Part-time employees**

- (1) In this regulation –

*part-time employment*, in relation to a member, means employment, by the State Fire Commission, where the member is required to be engaged in the employment for less time per week than the standard time per week that is, disregarding overtime or similar arrangements, applicable to the member's occupation by reason of an award or a condition of employment specified by the State Fire Commission.

- (2) The State Fire Commission may request the Commission to give effect to this regulation in relation to any period, or part of a period, of part-time employment of a member.

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- (3) If there is a material alteration in the circumstances of part-time employment of a member, the Commission may vary any adjustment made under this regulation relating to the part-time employment of the member.
- (4) The contributions payable by and in respect of a member during the relevant period of part-time employment are to be adjusted by the Commission as the Commission considers to be reasonable and equitable having regard to –
  - (a) the time per week for which the member is engaged in part-time employment; and
  - (b) the standard time per week referred to in the definition of part-time employment in subregulation (1); and
  - (c) any relevant provisions that apply under the SIS Act in relation to regulated superannuation funds; and
  - (d) the wishes of the State Fire Commission.
- (5) The basis of the determination of any benefit in respect of a member who has engaged in a period of part-time employment, whether the benefit arises during or after the period, is to be adjusted to the extent, if any, and in the manner, that the Commission considers to be reasonable and equitable having regard to –
  - (a) the extent to which the contributions payable by or in respect of the member have been adjusted under subregulation (4); and

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- (b) the matters referred to in subregulation (4).
- (6) The Commission may adjust any amount of death and incapacity cover in respect of a member, either for the duration of a period of part-time employment of the member or for the remainder of the period during which the cover relates to the member, to the extent, if any, and in the manner, that the Commission considers to be appropriate in the circumstances.
- (7) If a member ceases to be engaged in part-time employment or there is a material alteration in the circumstances of part-time employment of a member, the Commission may require the member to submit satisfactory evidence of good health in relation to any death and incapacity cover sought by the Commission in respect of the member.
- (8) The Commission must notify a member as soon as reasonably practicable after making under this regulation an adjustment or determination that affects, or may affect, any benefit that may become payable in respect of the member.

*Division 5 – Benefits*

**174. Benefit payment standards**

- (1) Benefits become payable to or in respect of a member when any of the events specified in this Division occur in relation to the member.

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- (2) Benefits payable under these regulations may be paid by the Commission only if regulated superannuation funds are permitted by the SIS Act to make such payments in similar circumstances.
- (3) All benefits in respect of a member that are preserved in accordance with this Part or by the Commission under these regulations must be preserved and vested in the member in the accounts that the Commission determines having regard to the member's wishes.
- (4) A preserved benefit becomes payable in respect of a member when the Commission is either notified, or becomes aware, that the member has satisfied the conditions of release set out in this Division.
- (5) The Commission must notify the member, the member's surviving partner or the member's legal personal representative of the entitlement of the member to a preserved benefit when it becomes payable under this Part, by sending a written notice to the last known address of the member, partner or representative, respectively.
- (6) A person who receives or claims a benefit from the SFCS Scheme must produce to the Commission the information, documents and other evidence that the Commission requires the person to produce for the purposes of these regulations.
- (7) If a person fails to produce to the Commission the information, documents and other evidence

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required by the Commission under subregulation (6), the Commission may withhold or suspend payment of the benefit or refuse to consider the claim until the requirement is met.

- (8) A benefit payable under this Part (other than a temporary incapacity benefit) must be paid as a lump sum.
- (9) When a lump sum becomes payable under this Part, the lump sum, subject to regulation 182, is to be transferred, after the deduction of any tax liability –
  - (a) to an account, in the name of the person entitled to the benefit, in a superannuation fund elected by the person; or
  - (b) if an election is not made within a reasonable period, as determined by the Commission, to the Taxation Commissioner to be dealt with under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

**175. Transfer of benefit out of scheme**

- (1) A member may, in writing, elect –
  - (a) to cash the whole of the member's benefit; or

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- (b) to have the whole of the member's benefit rolled over to a complying superannuation scheme.
- (2) A member must provide to the Commission, at the same time as the member makes an election under subregulation (1), a written release from any further liability to the member under the scheme, which release is to take effect when the Commission gives effect to the election under subregulation (4).
- (3) If a member makes an election under subregulation (1), the member's benefit is to be calculated as the greater of the benefit entitlement options that the member would have had under this Division if the member had ceased to be an employee, at the date of the election, for reasons other than death, ill health, permanent incapacity or temporary incapacity.
- (4) If the Commission receives from a member an election under subregulation (1) and a written release under subregulation (2) that is in a form that is satisfactory to the Commission, the Commission, subject to subregulation (5), must give effect to the election.
- (5) A benefit may be paid by the Commission in accordance with an election under subregulation (4) only if regulated superannuation funds are permitted under the SIS Act to make such a payment in similar circumstances.

- (6) The Commission must not charge any exit fee for any amounts that are rolled over to a complying superannuation scheme.
- (7) If the Commission gives effect under subregulation (4) to an election, the member's entitlement to a benefit from the SFCS Scheme is satisfied in full.
- (8) If a member has elected to have all of his or her benefit rolled over to a complying superannuation scheme, the Commission is not responsible for the manner in which the trustee of the other scheme deals with any amount transferred or rolled over.

#### **176. Minimum benefit**

Despite any other provision of these regulations, the minimum benefit payable to or in respect of a member who ceases to be an employee for any reason is –

- (a) if the member was a member of the former superannuation scheme as at 30 June 1992, the aggregate of –
  - (i) the benefit that would have been payable under these regulations had the member ceased to be an employee at 30 June 1992 and these regulations had then been in force, accumulated with interest from that date at the interest rates; and

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- (ii) the minimum requisite benefit accrued from 1 July 1992; and
- (b) if the member became a member of the former superannuation scheme on or after 1 July 1992, the minimum requisite benefit.

**177. Reductions in salary**

When a benefit becomes payable to or in respect of a member who is an employee and the member's salary is less than the highest of the member's previous salaries, the amount of benefit payable to or in respect of the member may be increased by the amount that the Commission determines having regard to the advice of the Actuary.

**178. Normal retirement benefit**

- (1) If a member ceases to be an employee at the normal retirement date, the Commission must pay to the member an amount determined as follows –
  - (a) 15% of salary for each year of service completed on or before 30 June 1990; and
  - (b) 20% of salary for each year of service completed after 1 July 1990 and before 1 July 2005; and
  - (c) 16% of salary for each year of service completed on or after 1 July 2005.

- (2) Despite subregulation (1), an amount payable under that subregulation must not be less than the amount determined under regulation 181.
- (3) For the purposes of subregulation (1), service is to be calculated in years and complete months.

**179. Late retirement benefit**

If a member remains an employee after the normal retirement date, the Commission must pay to the member, on the member ceasing to be an employee, an amount equal to the sum of –

- (a) the benefit that would have been payable at the normal retirement date in accordance with regulation 178 if the member had retired at that date; and
- (b) any contributions made to the SFCS Scheme from the normal retirement date by the member or the Commission, less any amount deducted from that amount in accordance with regulation 163(5); and
- (c) interest, on the amounts referred to in paragraphs (a) and (b), at the interest rates.

**180. Early retirement benefit**

- (1) If a member ceases to be an employee –
  - (a) within 10 years before the normal retirement date; or

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- (b) with the consent of the Commission, at any time before the normal retirement date because of ill health which, in the opinion of the Commission, is not permanent incapacity –

the Commission must pay to the member an amount equal to the amount determined by the Actuary to have accrued under regulation 178(1)(a), (b) and (c) to the date on which the member ceases to be an employee, having regard to the rate of accrual applicable to the member and the member's initial accrual, if any.

- (2) Despite subregulation (1), the amount payable under that subregulation must not be less than the amount determined under regulation 181.

**181. Leaving the service**

- (1) If a member whose date of admission is before 1 July 1990 ceases to be an employee before the normal retirement date in circumstances in which no other benefit is payable under this Division, the Commission must pay to that member the greater of the following:
  - (a) an amount determined under subregulation (2) for the purposes of this paragraph;
  - (b) an amount determined under subregulation (3) for the purposes of this paragraph.

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- (2) The amount determined for the purposes of subregulation (1)(a) is the amount equal to the sum of –
- (a) the amount consisting of the transfer amount, and all contributions made, or taken to be made, by the member to the SFCS Scheme, less any amounts deducted in accordance with regulation 163(5); and
  - (b) if –
    - (i) the member has not completed 5 years of service as at 1 July 2005 – 2.5% of the amount determined in accordance with paragraph (a) for each complete year of service as at 1 July 2005; or
    - (ii) the member has completed 5 years of service as at 1 July 2005 but has not completed 10 years of service as at 1 July 2005 – 7.5% of the amount determined in accordance with paragraph (a) for each complete year of service as at 1 July 2005; or
    - (iii) the member has completed 10 years of service as at 1 July 2005 but has not completed 15 years of service as at 1 July 2005 – 10% of the amount determined in accordance with paragraph (a) for

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each complete year of service as at 1 July 2005; or

- (iv) the member has completed 15 years or more of service as at 1 July 2005 – 20% of the amount determined in accordance with paragraph (a) for each complete year of service as at 1 July 2005.

- (3) The amount determined for the purposes of subregulation (1)(b) is the amount equal to the sum of –

- (a) the amount consisting of –

- (i) that element of the transfer amount comprising all contributions, made, or taken to be made, before 1 July 1990, by the member, to the former superannuation scheme or to the Fire Brigades Scheme, less any amounts deducted in accordance with regulation 163(5); and

- (ii) interest, on that element of the transfer amount and those contributions, calculated, from 1 July 1990, at the interest rates; and

- (b) the amount consisting of that element of the transfer amount comprising all contributions made, or taken to be made, on and from 1 July 1990, by the member, to the former superannuation scheme and

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- the Fire Brigades Scheme and all contributions made or taken to be made by the member to the SFCS Scheme, less any amounts deducted in accordance with regulation 163(5), together with interest on that element of the transfer amount and those contributions at the interest rates; and
- (c) the amount consisting of 10% of the amounts determined in accordance with paragraphs (a) and (b) for each completed year of service but not exceeding 100% of that amount.
- (4) If a member whose date of admission is on or after 1 July 1990 ceases to be an employee before the normal retirement date in circumstances in which no other benefit is payable under this Division, the Commission must pay to that member an amount equal to the sum of –
- (a) the amount consisting of –
- (i) the transfer amount, and all contributions made, or taken to be made, by the member to the SFCS Scheme, less any amounts deducted in accordance with regulation 163(5); and
- (ii) interest on the transfer amount and those contributions at the interest rates; and

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- (b) 10% of the amount determined in accordance with paragraph (a) for each completed year of service but not more than 100% of that amount.
- (5) Despite any other provision of this regulation, if the member ceases to be an employee by reason of dismissal, or resignation to avoid dismissal, for alleged misconduct or alleged neglect of duty, the benefit payable to the member under this regulation is the amount equal to –
  - (a) if the member’s date of admission is before 1 July 1990 – the sum of the amounts determined in accordance with subregulation (3)(a) and (b); or
  - (b) if the member’s date of admission is on or after 1 July 1990 – the amount determined in accordance with subregulation (4)(a).
- (6) Despite any other provision of this regulation, if the member ceases to be an employee because of redundancy, the amount payable to the member under this regulation may be increased to an amount that the Commission, with the consent of the State Fire Commission and having regard to the advice of the Actuary, considers to be equitable in the circumstances.
- (7) Despite any other provision of this regulation, if the member is dismissed, or the member’s employment is terminated, and the member applies to the appropriate industrial tribunal, the Commission must not pay any benefit to or in

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respect of that member until the application has been heard and determined.

- (8) For the purposes of this regulation, service is to be calculated in years and complete months.

**182. Entitlement to death or permanent incapacity benefit**

- (1) If a member who is an employee –

- (a) dies before the normal retirement date, or ceases to be an employee before the normal retirement date as a result of permanent incapacity; and
- (b) at the date of death or permanent incapacity, has not been refused any cover for death and permanent incapacity benefits or is a member to whom no restriction or limitation applies to the amount of such cover –

the Commission must pay in respect of the member an amount equal to the greater of –

- (c) 5 times the member's salary; or
- (d) the amount that would have been payable under regulation 180 in respect of the member if the member had, on the date of the member's death or permanent incapacity, retired, with the consent of the State Fire Commission, because of ill health.
- (2) If a member who is an employee –

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- (a) dies before the normal retirement date, or ceases to be an employee before the normal retirement date as a result of permanent incapacity; and
- (b) at the date of death or permanent incapacity, has been refused any cover for death and permanent incapacity benefits or is a member in respect of whom a restriction or limitation applies to the amount of such cover –

the Commission must pay in respect of the member an amount equal to the sum of –

- (c) the amount that would have been payable in respect of the member under regulation 180 if the member had, on the date of the member's death or permanent incapacity, retired, with the consent of the State Fire Commission, because of ill health; and
- (d) any amount of cover credited to the SFCS Scheme in respect of the member in accordance with the applicable insurance cover –

except that the amount must not exceed the amount of 5 times the member's salary.

- (3) If a member dies while in the employment of the State Fire Commission on or after the normal retirement date, the Commission must pay in respect of that member an amount equal to that which would have been payable under

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regulation 179 if the member had retired on the date of his or her death.

**183. Temporary incapacity pension**

(1) If –

- (a) a member is, because of injury or illness, absent from the employment of the Tasmania Fire Service for a continuous period of 3 months before the normal retirement date; and
- (b) the provider to the Commission of Group Salary Continuance or similar insurance is satisfied that the member is suffering a temporary incapacity –

the Commission must, subject to subregulation (2), pay to or in respect of the member an annual income equal to 75% of the member's salary.

(2) The amount of the annual income for the purposes of subregulation (1) must be reduced by any amount (expressed as annual amounts) received by the member independently of the SFCS Scheme –

- (a) as periodic income from the State Fire Commission; or
- (b) under an award; or
- (c) as periodic income from any personal sickness and accident policy; or

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- (d) as periodic compensation under any Act of the State or the Commonwealth, or instrument under such an Act, whether as workers' compensation, accident compensation, social service payment or otherwise –

which, in the opinion of the Commission, relates to reduced income-earning capacity of the member arising from the inability of the member to work by reason of injury or illness and which relates to the period in respect of which a payment is made under subregulation (5).

- (3) If a member is absent from the employment of the Tasmania Fire Service by reason of illness or injury for a continuous period of 3 months before the normal retirement date in circumstances to which subregulation (1) does not apply, the Commission may, in its absolute discretion, if, after consideration of the medical evidence it thinks fit, it is satisfied that the member is unable to resume work by reason of the illness or injury, pay to or in respect of the member an annual income of the amount that it determines, not exceeding the amount of annual income which would have been payable under subregulations (1) and (2) if subregulation (1) had applied in relation to the member.
- (4) The annual income payable under this regulation is payable by equal fortnightly instalments on normal pay days for the Commission.
- (5) The first instalment falls due on the day immediately after the date on which the period

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of 3 months referred to in this regulation expires and instalments continue to be payable until –

- (a) the member returns to active employment with the State Fire Commission; or
- (b) the member begins employment with another employer; or
- (c) if subregulation (1) applies to the member, the member ceases to suffer a temporary incapacity; or
- (d) if subregulation (3) applies to the member, the Commission, after consideration of the medical evidence it thinks fit, is of the opinion that the member is able to resume work; or
- (e) the member suffers a permanent incapacity; or
- (f) the member dies; or
- (g) the member reaches the normal retirement date; or
- (h) the member ceases to be in service; or
- (i) if subregulation (3) applies to the member, a date that the Commission, in its discretion, determines.

**184. Former scheme benefit**

- (1) Subregulation (2) applies in relation to a member if –

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- (a) the member was a member of the Fire Brigades Scheme for whom there was a special policy in force under that Scheme; and
  - (b) the proceeds of the Fire Brigades Scheme were transferred to the former superannuation scheme; and
  - (c) the member retires, dies, suffers a permanent incapacity or leaves the service for any other reason.
- (2) If this subregulation applies in relation to a member, there is payable to or for the benefit of the member, in addition to any other benefit, an amount determined in accordance with this regulation.
- (3) The amount payable under subregulation (2) in respect of a member who retires, dies, suffers a permanent incapacity or resigns from the service is an amount equal to the proceeds transferred to the former superannuation scheme from the Fire Brigades Scheme in respect of that member, increased by the ratio of the member's salary at the date of the member's retirement, death, permanent incapacity or resignation to the member's salary at 1 October 1973.
- (4) The amount payable under subregulation (2) in respect of a member who ceases to be an employee for a reason other than retirement, death, permanent incapacity or resignation is an amount equal to the proceeds transferred to the

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former superannuation scheme from the Fire Brigades Scheme in respect of the member.

***Division 6 – Financial provisions***

**185. Fixing of interest rates**

- (1) The Commission, at least annually, is to calculate and determine interest rates in respect of the SFCS Fund, having regard to –
  - (a) the earning rates of the SFCS Fund; and
  - (b) the Commission’s investment strategy and policy; and
  - (c) any allowances for unrealised capital gains or losses; and
  - (d) the costs, in relation to the SFCS Scheme, of administration, investment management, taxation and other expenses the Commission has paid or is likely to pay.
- (2) The Commission, at least annually, is to credit to a member’s account or accounts interest under this regulation.

**186. Time and manner of benefit payments**

- (1) The Commission is to use its best endeavours to ensure that a benefit payable under this Part is paid as soon as practicable but in any case no later than 20 working days after the Commission has received a completed payment instructions

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form for a benefit from a member or his or her legal personal representative.

- (2) The Commission may at its discretion credit interest at the interest rate determined under these regulations to a benefit which is not paid within the period of 20 working days referred to in subregulation (1).

**187. Taxation of contributions and lump sum benefits**

- (1) For the purposes of taxation of superannuation contributions under the law of the Commonwealth, the Commission is to treat –
- (a) as concessional contributions all employer contributions; and
  - (b) as concessional contributions all member contributions which have been included in the assessable income of the SFCS Fund; and
  - (c) as non-concessional contributions all member contributions which have not been included in the assessable income of the SFCS Fund; and
  - (d) as assessable income of the SFCS Fund the element untaxed of the SFCS Fund of roll-over superannuation benefits; and
  - (e) as assessable income of the SFCS Fund the element untaxed in the SFCS Fund of transferred superannuation benefits.

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- (2) The Commission, having regard to the law of the Commonwealth, must –
- (a) establish and maintain policies and administrative procedures with respect to the taxation of superannuation contributions and superannuation benefits; and
  - (b) determine, from time to time –
    - (i) the proportion of a superannuation benefit that is to be treated by the Commission as an element untaxed in the fund for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth; and
    - (ii) the proportion of a superannuation benefit that is to be treated by the Commission as an element taxed in the fund for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth; and
    - (iii) the proportion of a superannuation benefit that is to be treated by the Commission as the tax free component for the purposes of the *Income Tax Assessment Act 1997* of the Commonwealth.
- (3) The Commission, in accordance with the law of the Commonwealth, must deduct from roll-over

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superannuation benefits, superannuation contributions and superannuation benefits all amounts required to be paid as taxation under the law of the Commonwealth and remit those amounts to the Taxation Commissioner.

- (4) A benefit payable under these regulations is to be reduced in accordance with regulation 189(12) at the time of payment by the Commission.

**188. Notional taxed contributions**

For the purposes of these regulations, the Commission must calculate for each member the notional taxed contributions for a financial year having regard to Division 292 of the *Income Tax Assessment Act 1997* of the Commonwealth and the *Income Tax Assessment (1997 Act) Regulations 2021* of the Commonwealth.

**189. Establishment of surchargeable contributions debt account**

- (1) The Commission must calculate for each member a notional contributions surcharge amount having regard to –
- (a) the member's salary; and
  - (b) the notional surchargeable contributions factor provided to the Commission by the Actuary as required by the law of the Commonwealth and these regulations.

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- (2) The Commission must provide the Taxation Commissioner, as required by the law of the Commonwealth, with particulars of the notional contributions surcharge amount in respect of each member.
  - (3) If a member requests, the Commission is to give to the member a copy of the particulars in relation to that member given to the Taxation Commissioner under subregulation (2), together with details of how the notional contributions surcharge amount was calculated.
  - (4) If a member believes that the amount referred to in subregulation (2) is incorrect, the member may by notice in writing to the Commission –
    - (a) request that the calculation of the amount be reviewed; and
    - (b) request the Commission to consider any evidence which the member may submit to it.
  - (5) If a surchargeable contributions debt or similar account was established for a member under the former superannuation scheme, a former SFCS trust deed or the SFCS Trust Deed, the account continues to have effect as if it was a surchargeable contributions debt account established by the Commission under this regulation.
  - (6) Subject to subregulation (7), on receipt of an assessment notice from the Taxation Commissioner in respect of a member, the Commission must –

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- (a) establish a surchargeable contributions debt account in the name of the member; and
  - (b) debit the surchargeable contributions debt account by the amount of any surcharge contributions tax liability specified in the notice of assessment relating to the member; and
  - (c) pay that amount to the Taxation Commissioner.
- (7) On receipt of an assessment notice, or amended assessment notice, from the Taxation Commissioner in respect of a member in circumstances where a surchargeable contributions debt account has already been established for a member, the Commission –
- (a) must not debit the account by the amount of the surcharge contributions tax liability specified in the notice; and
  - (b) must adjust the balance of the account, to reflect the change in the member's surcharge contributions tax liability required by the notice, by comparison with the last of such notices previously provided by the Taxation Commissioner in respect of the member; and
  - (c) must pay or recover from the Taxation Commissioner the amount by which the surchargeable contributions debt account has been adjusted under paragraph (b).

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- (8) If the surchargeable contributions debt account is in debit at the end of a financial year, the Commission must, in accordance with the law of the Commonwealth, debit the account with interest.
- (9) A member may make payments to his or her surchargeable contributions debt account to reduce in full or in part the balance of the account, and any such payment is taken not to be a contribution for the purposes of these regulations.
- (10) A payment made under this regulation by the State Fire Commission on behalf of a member as part of the member's remuneration is taken to be a contribution by the State Fire Commission for the purposes of these regulations.
- (11) On receipt of a payment under subregulation (9) or (10) in relation to a member, the Commission must –
- (a) credit the surchargeable contributions debt account of the member; and
  - (b) take any other action required under the law of the Commonwealth relating to the surcharge liability.
- (12) If a lump sum benefit entitlement becomes payable by the Commission to a member whose account, established or maintained under this regulation, is or has been in debit, the Commission must reduce the benefit payable by the extent of –

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- (a) the balance of the member's surchargeable contributions debt account; and
  - (b) any foregone investment earnings and associated amounts.
- (13) The Commission must, at least annually, inform each member of the balance of the member's surchargeable contributions debt account and of any debits or credits, including interest, to that account.

**190. Provision of information by Commission**

- (1) The Commission must provide the Actuary with the information in respect of members that is necessary for the purposes of these regulations.
- (2) The Commission must provide the Taxation Commissioner with the information in respect of members that is required under the law of the Commonwealth.
- (3) The Commission must, at least annually, distribute to each member –
  - (a) a report of its operations during the last financial year; and
  - (b) a statement of the benefit entitlement of the member and the balance of the member's account, detailing the total interest credited or debited, administration costs and management charges, death and incapacity premiums

deducted and any surcharge or taxation liabilities deducted from the account or accounts; and

- (c) a statement of the Commission's current investment strategies and performance.

**191. Tasmania Fire Service to provide Commission with certain information about members**

- (1) The Tasmania Fire Service must provide to the Commission, in the manner and form, if any, that the Commission determines, the information or evidence that the Commission requires in relation to members who are or were employees of the Tasmania Fire Service.
- (2) If the Tasmania Fire Service fails to provide under subregulation (1) information or evidence that is relevant to the payment of a benefit to, or in relation to, a member, the Commission may defer the payment of the benefit to, or in relation to, the member until the information or evidence is provided.

**192. Scheme solvency certificates**

The Commission must obtain from the Actuary all relevant certificates required by the SIS Act to be obtained by regulated superannuation defined benefit funds from actuaries, together with all other certificates required to be obtained by the Commission from the Actuary by law.

***Division 7 – General provisions***

**193. Payment on death or permanent incapacity**

- (1) If a member becomes entitled to a permanent incapacity benefit, the Commission must pay the benefit to the member, unless, in the opinion of the Commission, the member is incapable of administering his or her own affairs, in which case the Commission must pay the benefit to the member's spouse or legal personal representative.
- (2) Except as provided in subregulation (3), if a lump sum benefit is payable under these regulations on the death of a member, the benefit is to be paid to –
  - (a) the surviving partner of the member; or
  - (b) if there is no surviving partner of the member – the person with whom the member was in a caring relationship which was the subject of a deed of relationship, registered under Part 2 of the *Relationships Act 2003*, which was revoked by the death of the member; or
  - (c) if there is no person referred to in paragraph (a) or (b) – the estate of the member, subject to the production of grant of probate or letters of administration; or
  - (d) a person, where applicable, in accordance with regulation 196.

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(3) Despite subregulation (2), a member may, by notice in writing to the Commission –

- (a) elect that in the event of the member's death all or part of the benefit payable on the member's death is to be paid to the member's estate; or
- (b) revoke any such election –

and where the election is in force, subregulation (2) does not apply to any part of the benefit that is subject to the election.

(4) This regulation does not apply to a person who –

- (a) was, immediately before the death of a member, the spouse of the member; and
- (b) was, at the time of the member's death, separated and living apart from the member; and
- (c) was not, in the opinion of the Commission, receiving significant financial support from the member.

(5) If, on the death of a member, a question arises as to who is the surviving partner of the member at the time of the member's death, for the purposes of these regulations the question is to be determined by the Commission having regard to the matters that it considers relevant.

(6) If the Commission is unable to determine who is the surviving partner of the member at the time of the member's death after any enquiry it

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considers appropriate under this regulation, any benefit that would otherwise be payable to the surviving partner of the member is to be paid to the member's legal personal representative.

- (7) When determining a question under subregulation (5), the Commission must not determine more than one person to be the surviving partner of a member.

**194. Making of elections, directions, claims or applications**

- (1) An election, direction, claim or application under this Part –
- (a) must be in writing signed by the person entitled to make the election, direction, claim or application; and
  - (b) must be in the form determined by the Commission; and
  - (c) subject to subregulation (2), is not valid until it is received by the Commission; and
  - (d) takes effect when it is received by the Commission, except that the Commission may, if it thinks fit, accept that an election, direction, claim or application lodged with the State Fire Commission takes effect from the day it is so lodged.
- (2) If –

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- (a) an election, direction, claim or application under this Part is not received by the Commission within the time prescribed for the election, direction, claim or application; and
- (b) the Commission is satisfied that, having regard to all the circumstances of the case, it is desirable that the election, direction, claim or application should be accepted –

the Commission may, subject to the terms and conditions, if any, that it imposes, accept the election, direction, claim or application and deal with it as if it had been received within the time so prescribed.

**195. Recovery of money owing to Scheme**

- (1) The Commission may recover from a member, beneficiary or other person any money which was paid in excess of the member's benefit, together with interest calculated in accordance with this regulation, unless the Commission, having regard to the circumstances of the member, determines otherwise.
- (2) The Commission must recover from the State Fire Commission any payment to the SFCS Fund of State Fire Commission superannuation contributions, additional employer contributions, and member contributions, that have not been forwarded to the Commission within 7 days of the relevant payday and those payments attract

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interest calculated in accordance with this regulation.

- (3) Payments from the State Fire Commission to the SFCS Fund of State Fire Commission superannuation contributions, additional employer contributions and member contributions are to be credited to the members' accounts as if they were received on the relevant payday.
- (4) The interest determined under subregulation (2) is the liability of the State Fire Commission and not the member.
- (5) Interest is calculated on a daily basis using the Bloomberg's 90 day Bank Bill Swap Reference Rate, as published in the *Australian Financial Review*, on the day the amount became due for payment, plus 4%.
- (6) Interest is payable on any amount owing to the SFCS Fund calculated from the date on which the amount becomes due for payment until the date on which the amount, together with interest if applicable, is fully recovered by, or otherwise paid to, the Commission.
- (7) Any interest paid under this regulation is to be credited to the investment income reserve account established under regulation 165.

**196. Payment without grant of probate**

If, 3 months after the death of a member, a benefit not exceeding \$50 000 is payable under

these regulations and the Commission has not received –

- (a) a certified copy of the probate of the will, or letters of administration of the estate, of the deceased member; or
- (b) a notice of intention to apply for a grant of probate of the will, or letters of administration of the estate, of the deceased member –

the Commission may, at its discretion, make a payment of the benefit to that member's legal personal representative.

**197. Provision of information to Minister**

The Commission must, on the written request of the Minister, provide to the Minister any information, relating to the SFCS Scheme or the SFCS Fund, that the Minister may reasonably require.

**198. Arrangements to be made for dealing with inquiries or complaints in relation to SFCS Scheme**

- (1) The Commission must take all reasonable steps to ensure there are at all times arrangements in place under which –
  - (a) a member or former member may make an inquiry into, or complaint about, the operation or management of the SFCS Scheme in relation to that person; and

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- (b) the legal personal representative of a former member may make an inquiry into, or complaint about, the operation or management of the SFCS Scheme in relation to the former member; and
  - (c) without limiting the generality of paragraph (a) or (b), any person may make an inquiry into, or complaint about, a decision of the Commission that the relates to the payment of a death benefit in relation to the SFCS Scheme if –
    - (i) the person has an interest in the death benefit; or
    - (ii) the person claims to be, or is, entitled to a death benefit in relation to a person referred to in this subregulation.
- (2) The Commission is to deal with an inquiry or complaint within 90 days of receiving notice in writing of the inquiry or complaint.
  - (3) The Commission may charge a fee in relation to the making of an inquiry or complaint and may waive or reduce the fee if it is satisfied that the applicant’s intended use of information that may be obtained by making the inquiry or complaint is of general public interest or benefit.
  - (4) The fee that may be charged under subregulation (3) is not to exceed 400 fee units (inclusive of GST).

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- (5) If the Commission believes the fee charged under subregulation (3) may exceed 25 fee units (inclusive of GST), the Commission must notify the applicant and inquire whether the applicant wishes to proceed with the applicant's inquiry or complaint.

**SCHEDULE 1 – CALCULATION OF CERTAIN  
PENSIONS FOR EXISTING CONTRIBUTORS**  
Regulations 43(1) and (2), 66(2), regulation 73(2) and 76(2)

**1. Interpretation**

(1) In this Schedule –

*average annual salary* means the average annual salary that an existing contributor received in respect of the 12 months before he or she ceased to be an existing contributor.

(2) For the purposes of this Schedule, if at any time during the period of 12 months immediately before retirement or death, a contributor has been absent on leave without pay or on less than full pay, the contributor's average annual salary is to be calculated as if he or she had continued to be employed in the same capacity on full pay during the whole of that period.

**2. Determination of prospective service for purposes of pension payable on total and permanent incapacity or partial and permanent incapacity**

(1) If the Commission determines under regulation 96 that an existing contributor is suffering from total and permanent incapacity, his or her prospective service for the purpose of clause 7 is taken to commence on the day immediately following the date of cessation of

employment and end on the day on which he or she attains, or would have attained –

- (a) the age of 65 years, in the case of an existing contributor who was contributing to the contributory scheme immediately before 1 April 1987 and who has continued at all times to be such a contributor; or
  - (b) the age of 60 years, in the case of a police officer who is an existing contributor who was contributing to the contributory scheme immediately before 1 April 1987 and who has continued at all times to be such a contributor; or
  - (c) the age of 60 years, in the case of a woman who was a contributor within the meaning of the *Retirement Benefits Act 1970* or the *Superannuation Act 1938*; or
  - (d) the age of 55 years, in the case of any other existing contributor.
- (2) If the Commission determines under regulation 96 that an existing contributor is suffering from partial and permanent incapacity, his or her prospective service for the purposes of clause 7 is taken to commence on the day immediately following the date of cessation of employment and end on the day on which he or she attains, or would have attained –
- (a) the age of 60 years, in the case of an existing contributor who was contributing to the contributory scheme

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immediately before 1 April 1987 and who has continued at all times to be such a contributor; or

(b) the age of 55 years, in any other case.

(3) If –

(a) the Commission determines under regulation 96 that an existing contributor is suffering from total and permanent incapacity or partial and permanent incapacity; and

(b) the existing contributor was, on the last day of his or her employment, employed otherwise than on a full-time basis –

the prospective service for the existing contributor is to be calculated in accordance with the following formula:

$$PS = (A \times B) \div C$$

where –

**PS** is the existing contributor's prospective service expressed in years;

**A** is the period expressed in years commencing on the day immediately following the date of cessation of employment of the existing contributor and ending on the day on which he or she attained, or would have attained, the relevant age specified in subclause (1) or (2), as appropriate;

**B** is the full-time equivalent of the existing contributor's length of service expressed in years as at the date of cessation of employment;

**C** is the existing contributor's length of service expressed in years as at the date of cessation of employment.

- (4) For the purposes of subclause (3), a reference to being employed otherwise than on a full-time basis is taken to include employment on a part-time basis or participating in an accumulated leave scheme or any similar arrangement.
- (5) Despite subclauses (3) and (4), if, after such inquiry as the Commission thinks fit, the Commission is satisfied that the hours of employment of an existing contributor were reduced by his or her Agency for medical reasons which subsequently led to his or her retirement on the grounds of total and permanent incapacity or partial and permanent incapacity, the Commission may, for the purposes of this clause, calculate the existing contributor's prospective service as if the reduction in hours had not occurred.

### **3. Determination of service for existing contributor employed otherwise than full-time**

For the purposes of calculating the pension to be paid to an existing contributor who has at any time been employed otherwise than on a full-time basis, his or her length of service is to be adjusted to full-time equivalent service.

**4. Determination of salary for existing contributor employed otherwise than full-time**

For the purpose of calculating the pension to be paid to an existing contributor who has at any time been employed otherwise than on a full-time basis, his or her salary is taken to be the average of the annual salary that he or she would have received if he or she had been employed as a full-time employee in that office or position.

**5. Pension payable to existing contributor on retirement due to age**

The pension payable to an existing contributor to whom regulation 33 applies is an annual sum calculated in accordance with the following formula:

$$P = (FAS(1) \times ABMF \times PP \times ERP) \div 12$$

where –

*P* is the annual amount of pension;

*FAS(I)* is the average annual salary paid or payable to the existing contributor in respect of the year preceding retirement;

*ABMF* is the existing contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the existing contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the

existing contributor's length of service expressed in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

**PP** is the percentage of the lump sum benefit payable under regulation 33 that the existing contributor has elected, under regulation 59, to be converted to a pension;

**ERP** is the early retirement penalty calculated in accordance with clause 9.

**6. Pension payable to existing contributor on redundancy or compulsory retirement**

The pension payable to an existing contributor to whom regulation 34 or 35 applies and who has attained the age of 55 years or more is an annual sum calculated in accordance with the following formula:

$$P = (FAS(1) \times ABMF \times PP \times ERP) \div 12$$

where –

**P** is the annual amount of pension;

**FAS(1)** is the average annual salary paid or payable to an existing contributor in respect of the year preceding redundancy or retirement;

**ABMF** is the existing contributor's adjusted benefit multiple factor, calculated by

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taking the rate or rates of contribution made by the existing contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the existing contributor's length of service in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

*PP* is the percentage of the lump sum benefit payable under regulation 34 or 35 that the existing contributor has elected, under regulation 59, to be converted to a pension;

*ERP* is the early retirement penalty calculated in accordance with clause 9.

**7. Pension payable to existing contributor who is also full benefits contributor on retirement due to incapacity**

If –

- (a) the Commission has determined under regulation 96 that an existing contributor who is also a full benefits contributor is suffering from partial and permanent incapacity or total and permanent incapacity; and
- (b) he or she retires on the grounds of ill-health within 6 months after the Commission's determination –

the annual pension payable is to be calculated in accordance with the following formula:

$$P = \{(FAS(1) \times ABMF) + (FAS(1) \times PBMF)\} \div 12$$

where –

***P*** is the annual amount of pension;

***FAS(1)*** is the average annual salary paid or payable to the existing contributor in respect of the year preceding retirement;

***ABMF*** is the existing contributor's adjusted benefit multiple factor, calculated by taking the rate or rates of contribution made by the existing contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the existing contributor's length of service expressed in years at that rate or for each of those rates of contribution and accumulating each result obtained from those multiplications;

***PBMF*** is the existing contributor's prospective benefit multiple factor, calculated by taking the basic contribution rate applicable to the existing contributor and multiplying the benefit multiple factor prescribed for that rate of contribution under regulation 30 by the existing contributor's length of service in years commencing on and

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from the date of his or her retirement and concluding –

- (a) if he or she has retired due to total and permanent incapacity, on the date on which he or she attains the relevant age provided in clause 2(1); or
- (b) if he or she has retired due to partial and permanent incapacity, on the date on which he or she attains the relevant age provided in clause 2(2).

**8. Pension payable to existing contributor who retires after attaining 65 years**

The pension payable to an existing contributor to whom regulation 39 applies is an annual sum calculated in accordance with the following formula:

$$P = \frac{[FAS(1) \times ABMF \times PP]}{12} + \left\{ \frac{[FAS(1) \times PBMF \times PP]}{12} \times \frac{5}{7} \right\}$$

where –

***P*** is the annual amount of pension;

***FAS(1)*** is the average annual salary paid or payable to the existing contributor in respect of the year preceding retirement;

***ABMF*** is the existing contributor's adjusted benefit multiple factor, calculated by

taking the rate or rates of contribution made by the existing contributor and multiplying the benefit multiple factor prescribed for that rate or those rates of contribution under regulation 30 by the existing contributor's length of service, expressed in years to the date when he or she ceased paying contributions under regulation 21(3)(e) or regulation 21(4) at that rate or for each of those rates of contribution, and accumulating each result obtained from those multiplications;

***PP*** is the percentage of the lump sum benefit payable under regulation 39 that the existing contributor has elected, under regulation 59, to be converted to a pension;

***PBMF*** is the existing contributor's post cessation of contributions benefit multiple factor, calculated by taking the basic contribution rate applicable to the existing contributor and multiplying the benefit multiple factor prescribed for that rate of contribution under regulation 30 by the existing contributor's length of service in years (commencing on and from the date on which he or she ceased paying contributions under regulation 21(3)(e) or regulation 21(4) and ending on the date of the existing contributor's actual retirement or at the age of 70 years, whichever is the earlier).

**9. Early retirement penalty**

- (1) On the retirement of an existing contributor to whom regulation 33, 34 or 35 applies, other than –
- (a) a police officer; or
  - (b) a woman who was appointed as a permanent full-time employee before 1 July 1982 and has been continuously employed in an Agency since that time –

the amount of pension to which he or she is entitled is, subject to subclause (2), to be reduced by 1% for each 3 months or part of 3 months by which he or she retires before attaining the age of 60 years.

- (2) A reduction is not to be made under subclause (1) to the amount of pension payable to an existing contributor if, at the time when he or she becomes entitled to the pension, the pension before an election under regulation 59 is made is greater than or equal to two-thirds of his or her average annual salary in the year immediately preceding retirement.

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**SCHEDULE 2 – TRANSFERRED TCAE EMPLOYEES**  
Regulation 87(10)

**1. Interpretation**

In this Schedule –

*transferred TCAE employee* means a person who –

- (a) was on 1 January 1981 transferred from employment by the Council of the Tasmanian College of Advanced Education to employment by the Council of the University of Tasmania; and
- (b) immediately before that date was a contributor for full benefits or a contributor for limited benefits within the meaning of the *Retirement Benefits Act 1970* or Part VB of the *Superannuation Act 1938*;

*University Council* means the Council of the University of Tasmania established under the *University of Tasmania Act 1992*.

**2. Liability of University Council**

- (1) If a transferred TCAE employee becomes, or has become, entitled to a pension, benefit or other payment under these regulations or the former regulations –

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- (a) the University Council is to pay to the Commission the proportion of the pension, benefit or other amount calculated in accordance with the formula set out in subclause (2); and
  - (b) the Minister is to pay to the Commission the balance of that entitlement.
- (2) The liability of the University Council is to be determined by the following formula:

$$L = (S \div C) \times (PA - PF)$$

where –

*L* is the liability of the University Council;

*S* is the total period of service as an employee of the University Council;

*C* is the total period during which the employee was a member of the contributory scheme;

*PA* is the total amount of pension, benefit or other payment that would be payable under these regulations;

*PF* is the amount of pension, benefit or other payment that is chargeable to the Fund.

- (3) If a pension, benefit or other payment is payable under these regulations –
- (a) regulation 87 has effect in respect of that pension, benefit or other payment as if

the University of Tasmania were the Minister; and

- (b) that pension, benefit or other payment is payable by the University Council out of money available to that Council for the purposes of the *University of Tasmania Act 1992*.

**3. Liability of University Council unaffected in certain cases**

The following Acts do not affect the liability of the University Council to pay the proportion of benefits, calculated in accordance with the formula set out in subclause (2), for a transferred TCAE employee who, before 1 July 1994, ceased to be such an employee if, immediately before that date, the University Council was paying to the Commission a proportion of that part of the pension, benefit or other payment previously calculated under any of those Acts:

- (a) the *Retirement Benefits (Transferred Tasmanian College of Advanced Education Employees) Act 1980*;
- (b) the *Superannuation (Transferred Tasmanian College of Advanced Education Employees) Act 1980*;
- (c) the *Retirement Benefits Act 1993*.

**SCHEDULE 3 – SAVINGS AND TRANSITIONAL  
PROVISIONS**

Regulation 118

**PART 1 – PRELIMINARY**

**1. Interpretation**

In this Schedule –

*child* means a person who –

- (a) has not attained the age of 18 years; or
- (b) not having attained the age of 25 years, is receiving full-time education at a college, school or university;

*former Printing Office employee* means a person who –

- (a) on the day on which the *Printing Authority of Tasmania Act 1994* commenced, was a contributor under the *Retirement Benefits Act 1982*; and
- (b) was, under clause 3 of Schedule 5 to the *Printing Authority of Tasmania Act 1994* as in force on that day, taken to have resigned as an employee but has not ceased to be employed by the Printing Authority of Tasmania;

***former SAF employee*** means a person who, at any time during the period commenced on 1 July 1993 and ended on 30 June 1994, became eligible for a benefit under the SAF Agreement;

***former TGIO employee*** means a person who has ceased to be an employee as mentioned in section 19 of the *Tasmanian Government Insurance Office (Sale) Act 1993*;

***former TT-Line employee*** means a person who –

- (a) on the day on which a company was formed and incorporated under section 5 of the *TT-Line Arrangements Act 1993*, was a contributor under the *Retirement Benefits Act 1982*; and
- (b) was, by reason of clause 4 of Schedule 3 to the *TT-Line Arrangements Act 1993*, taken to have resigned as an employee but has not ceased to be employed by that company;

***Fund*** includes the Superannuation Fund and the Retirement Benefits Fund as established or continued under the former superannuation legislation;

***prescribed period*** means the period commenced on 1 January 1975 and ended on 30 June 1982;

***transferred contributor*** means an existing contributor who, under the *Retirement Benefits Act 1970* or the *Retirement Benefits Act 1982*, elected to transfer from the Fund to the contributory scheme on the transfer basis.

## **2. Application of this Schedule**

This Schedule has effect despite the rescissions effected by regulation 139 of the *Retirement Benefits Regulations 2005* and does not limit the application of section 16 of the *Acts Interpretation Act 1931*.

## **PART 2 – TRANSFER TO CONTRIBUTORY SCHEME**

### **1. Service of certain former employees**

On the death or retirement of a person who, immediately before 1 July 1994, was –

- (a) a former TGIO employee; or
- (b) a former Printing Office employee; or
- (c) a former TT-Line employee; or
- (d) a person who has ceased to be an employee, by reason of being retired compulsorily or being made redundant voluntarily under an employment redundancy program or as a result of a transfer arrangement, and who has

elected to leave his or her contributions in the Fund –

his or her service is taken to be the continuous period for which he or she contributed to the Fund, commencing on the day on which he or she became an employee within the meaning of the *Retirement Benefits Act 1982* and ceasing on the day when he or she died or retired.

### **PART 3 – CALCULATION OF SERVICE**

#### **1. Calculation of service**

If a person –

- (a) has received a refund of contributions from the Fund under the former superannuation legislation; and
- (b) has subsequently recommenced contributing to the contributory scheme, or to the Fund –

his or her employment before the day on which he or she so recommenced contributing does not comprise part of his or her service unless that person has elected, under regulation 17, to purchase recognition of that service in full or in part.

#### **2. Reduction of service in certain cases**

- (1) If an existing contributor who is a transferred contributor had contributed to the Fund for less

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than his or her maximum unit entitlement, this clause has effect in respect of his or her length of service as a contributor.

- (2) For the purposes of subclause (1), the contributor's length of service is to be determined in accordance with the following formula:

$$A = (B \div 2) \times [1 + (C \div D)]$$

where –

**A** is the transferred contributor's length of service expressed in years;

**B** is the period of the transferred contributor's actual length of service expressed in years as at –

(a) in the case of a transferred contributor within the meaning of the *Retirement Benefits Act 1982*, 1 January 1975; or

(b) in the case of a transferred contributor within the meaning of the *Retirement Benefits Act 1970*, 1 July 1971;

**C** is the product obtained by multiplying the number of the units or additional units for which the transferred contributor made contributions at any one time by a number equal to the period expressed in years during which he or she contributed

for each such number of units or additional units;

*D* is the product obtained by multiplying the number of the units or additional units for which the transferred contributor could have contributed at any one time by a number equal to the period expressed in years during which he or she could have contributed for each such number of units or additional units.

- (3) For the purposes of the formula in subclause (2), the maximum value of the following fraction is to be 1:

$$C \div D$$

**3. Election to contribute to Fund on transfer basis under *Retirement Benefits Act 1982***

- (1) If a transferred contributor has not paid the contributions required by section 61(3) of the *Retirement Benefits Act 1982*, this clause has effect in respect of his or her length of service as a contributor.
- (2) The length of service of a transferred contributor to whom subclause (1) refers, for the prescribed period, is to be determined in accordance with the following formula:

$$P = (S \div 2) \times [1 + (T \div U)]$$

where –

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*P* is the transferred contributor's length of service expressed in years;

*S* is the prescribed period;

*T* is the contributions actually paid to the Fund by the transferred contributor during the prescribed period;

*U* is the contributions that would have been paid to the Fund by the transferred contributor during the prescribed period if he or she had elected to become a transferred contributor under the *Retirement Benefits Act 1970*.

- (3) For the purposes of the formula in subclause (2), the maximum value of the following fraction is to be 1:

$$T \div U$$

**4. Interest on benefit adjustment**

A lump sum or pension benefit that is authorised or required by this Schedule to be made out of the contributory scheme to, or in respect of, a former SAF employee is to be paid without the addition of any interest to that payment.

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**PART 4 – TRANSITIONAL AND SAVINGS  
PROVISIONS ARISING FROM FORMER  
REGULATIONS**

**1. Interpretation of Part**

In this Part –

*expiry day* means the day on which the *Retirement Benefits Act 1993* is repealed by the Act;

*expiry of the Retirement Benefits Regulations 2005* means the expiry of the *Retirement Benefits Regulations 2005* effected by the repeal of the *Retirement Benefits Act 1993* by the Act.

**2. Savings for appointments, decisions, determinations, delegations, pensions, &c.**

- (1) Despite the expiry of the *Retirement Benefits Regulations 2005*, the person or organisation who, immediately before the expiry, was the actuary appointed under regulation 20 of those regulations is to be taken to be the actuary appointed under section 47 of the Act for the period for which the person or organisation was so appointed or until the appointment is revoked, if at all, under that section.
- (2) Unless provision is made to the contrary in these regulations, the expiry of the *Retirement Benefits Regulations 2005* does not disturb the effect of any decision, determination, resolution,

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delegation, certificate, suspension or authorisation made or granted by the Board under those regulations, the *Retirement Benefits Regulations 1994* or the *Retirement Benefits (Transitional) Regulations 1994*, or of any condition attached to any such decision, determination, resolution, delegation, certificate, suspension or authorisation.

- (3) Except as provided in these regulations, a pension of any kind that was payable under the former regulations immediately before the expiry day is, on and after that day, payable as a pension of that kind under these regulations.
- (4) The Commission must continue to pay every fortnight in accordance with these regulations an instalment of a pension to which subclause (3) refers that is due on or after the expiry day.

**3. Questions and appeals under former regulations**

- (1) Any question notified in writing to the Board under the former regulations that had not been finally determined by the Board before the expiry day may, on and after that day, be finally determined by the Commission as if the *Retirement Benefits Regulations 2005* had not expired and these regulations had not been made and as if the Commission were the Board.
- (2) An appeal under the *Retirement Benefits Regulations 2005* that had commenced and not been finally disposed of before the expiry day may, on and after that day, be finally disposed of as if the *Retirement Benefits Regulations 2005*

had not expired and these regulations had not been made and as if the Commission were the Board.

**4. Effect of rescissions on rights of action**

The expiry of the *Retirement Benefits Regulations 2005*, and the rescissions effected by regulation 139 of the *Retirement Benefits Regulations 2005*, do not revive any right of action that was not existing immediately before the expiry day.

**5. Continuation of contribution rates**

- (1) If a person was, immediately before the expiry day, making voluntary contributions in accordance with the former regulations, that person is, on and after that day, taken to have made an election to continue to make those voluntary contributions.
- (2) If, immediately before the expiry day, an arrangement with an Agency for the payment of additional employer contributions was in force, that arrangement continues in force subject to these regulations.

**6. Saving for elections**

- (1) Unless provision is made to the contrary in these regulations, the expiry of the *Retirement Benefits Regulations 2005*, and the rescissions effected by regulation 139 of the *Retirement Benefits Regulations 2005* do not disturb the effect of any

election made under the former regulations or of any condition attached to any such election.

- (2) A person who made an election under a provision of the former regulations is to be taken to have made the election under the provision of these regulations that most closely corresponds to the provision of the former regulations.
- (3) A person who was eligible to make an election under a provision of the former regulations within a period which had not expired before the expiry day continues to be eligible under the provision of these regulations that most closely corresponds to the provision of the former regulations.

#### **7. Orders relating to adjustment of pensions**

An order made by the Board in respect of the half-year that last commenced before the expiry day remains in force in respect of that half-year in respect of pensions under these regulations.

#### **8. Persons not obliged to contribute to the Fund**

A person who, immediately before the expiry day, was not obliged to contribute to the Fund under the former regulations continues, on and after that day, not to be obliged to contribute to the Fund under these regulations.

**9. Saving for notional contributions surcharge amounts and notional surchargeable contributions factor**

For the purposes of these regulations –

- (a) the notional contributions surcharge amounts calculated by the Board under regulation 88A of the *Retirement Benefits Regulations 1994* and in force immediately before the expiry day; and
- (b) the notional surchargeable contributions factor provided by the Actuary under that regulation relevant to each of the amounts referred to in paragraph (a) –

continue to have effect as if calculated or provided under regulation 68 of these regulations until they are replaced by notional contributions surcharge amounts or a notional surchargeable contributions factor so calculated or provided.

**PART 5 – MISCELLANEOUS**

**1. Child's pension**

- (1) If –
  - (a) a child's pension continues to be payable under this Schedule; or
  - (b) a child's pension becomes payable under regulation 102 –

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the rate of that child's pension is to be adjusted as provided in this clause.

- (2) If the rate of a child's pension –
- (a) was required to be determined under the former regulations at a rate of 5% of any pension; or
  - (b) is so determined under regulation 102 of these regulations –

and that rate as so determined would be less than \$3 000 a year, that rate is to be increased to \$3 000 a year on the commencement day.

- (3) If the rate of a child's pension –
- (a) was required to be determined under the former regulations at a rate of 20% of any pension; or
  - (b) is so determined under regulation 102 of these regulations –

and that rate as so determined would be less than \$6 000 a year, that rate is to be increased to \$6 000 a year on the commencement day.

**2. Invalidity pensioners who have returned to work and whose pensions have been reduced or suspended**

Despite any other provision of these regulations, if a person who is in receipt of a total and permanent incapacity pension, or a partial and permanent incapacity pension, was reappointed

as a permanent full-time employee, or a permanent part-time employee, before the commencement date and was obliged to contribute to the contributory scheme –

- (a) the person is, if he or she again retires due to invalidity, entitled to a pension calculated at the same rate as the rate at which the total and permanent incapacity pension, or the partial and permanent incapacity pension, that he or she was receiving immediately before his or her reappointment would have been payable if he or she had not been reappointed; or
- (b) the person is, if he or she subsequently retires, entitled to a pension benefit calculated in accordance with the provisions applicable under Parts 4 and 6, but the annual amount of that pension is not to be less than the annual amount of the invalidity pension that would have been payable if he or she had not been reappointed.

### **3. Cessation of suspension or reductions of certain invalidity pensions**

If, before the commencement day, the Board had suspended or reduced a total or permanent incapacity pension, or a partial and permanent incapacity pension, under regulations 85 of the *Retirement Benefits Regulations 2005*, the suspension or reduction, if it is still in force

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immediately before that day, ceases to have effect on and from that day.

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Notified in the *Gazette* on 15 March 2017.

These regulations are administered in the Department of Treasury and Finance.

### NOTES

The foregoing text of the *Public Sector Superannuation Reform Regulations 2017* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 31 March 2022 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<sup>1</sup> <i>Public Sector Superannuation Reform Regulations 2017</i>	S.R. 2017, No. 11	31.3.2017
<i>Tasmanian Civil and Administrative Tribunal (Consequential Amendments) Act 2021</i>	No. 18 of 2021	5.11.2021
<i>Public Sector Superannuation Reform Amendment Regulations 2022</i>	S.R. 2022, No. 11	31.3.2022

<sup>1</sup>Expires 15 March 2027 - Subordinate Legislation Act 1992

### TABLE OF AMENDMENTS

Provision affected	How affected
Regulation 3	Amended by S.R. 2022, No. 11
Regulation 12	Amended by S.R. 2022, No. 11
Regulation 14	Amended by S.R. 2022, No. 11
Regulation 15	Amended by S.R. 2022, No. 11
Regulation 21	Amended by S.R. 2022, No. 11
Regulation 36	Amended by S.R. 2022, No. 11
Regulation 37	Amended by S.R. 2022, No. 11

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Provision affected	How affected
Regulation 40	Amended by S.R. 2022, No. 11
Regulation 41	Amended by S.R. 2022, No. 11
Regulation 44	Amended by S.R. 2022, No. 11
Regulation 48	Amended by S.R. 2022, No. 11
Regulation 51	Amended by S.R. 2022, No. 11
Regulation 54	Amended by No. 18 of 2021, s. 326
Regulation 57	Amended by S.R. 2022, No. 11
Regulation 59	Amended by S.R. 2022, No. 11
Regulation 60	Amended by S.R. 2022, No. 11
Regulation 61	Amended by S.R. 2022, No. 11
Regulation 62	Amended by S.R. 2022, No. 11
Regulation 62A	Inserted by S.R. 2022, No. 11
Regulation 64	Amended by S.R. 2022, No. 11
Regulation 67A	Inserted by S.R. 2022, No. 11
Regulation 69	Amended by S.R. 2022, No. 11
Regulation 71	Amended by S.R. 2022, No. 11
Regulation 77	Amended by S.R. 2022, No. 11
Regulation 80	Amended by S.R. 2022, No. 11
Regulation 80A	Inserted by S.R. 2022, No. 11
Regulation 85	Amended by S.R. 2022, No. 11
Regulation 86A	Inserted by S.R. 2022, No. 11
Regulation 87	Amended by S.R. 2022, No. 11
Regulation 96	Amended by S.R. 2022, No. 11
Regulation 96A	Inserted by S.R. 2022, No. 11
Regulation 99A	Inserted by S.R. 2022, No. 11
Regulation 101	Amended by S.R. 2022, No. 11
Regulation 105	Amended by S.R. 2022, No. 11
Regulation 109	Amended by S.R. 2022, No. 11
Regulation 115A	Inserted by S.R. 2022, No. 11
Part 13	Inserted by S.R. 2022, No. 11
Part 14	Inserted by S.R. 2022, No. 11

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