

State Superannuation Amendment Regulations 2021

SL 2021/49

Made by the Governor in Executive Council.

1. Citation

These regulations are the *State Superannuation Amendment Regulations 2021*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *State Superannuation Regulations 2001*.

4. Regulation 3 amended

- (1) In regulation 3(1) delete the definition of *eligible rollover fund*.
- (2) In regulation 3(1) insert in alphabetical order:

dependant has the meaning given in the SIS Act section 10(1);

permitted nominee, in relation to a Member, means —

- (a) the executor of the Member's will or administrator of the Member's estate; or
- (b) a dependant of the Member;

5. Regulation 48 amended

- (1) Delete regulation 48(1) and insert:

- (1) In this regulation —

death benefit, of a Gold State Super Member, means the following —

- (a) a benefit that becomes payable under regulation 39 or 43(a) because the Member has died;
 - (b) the Member's GSS withdrawal benefit that becomes payable because the Member has died;
 - (c) a benefit that becomes payable to the Member under the Gold State Super Scheme, to the extent that it has not been paid or transferred under regulation 47 before the Board is notified of the Member's death.
- (1A) A Gold State Super Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —
 - (a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —
 - (i) a permitted nominee of the Member specified in the notice; or
 - (ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and
 - (b) includes a statement that the nomination is to remain in force —
 - (i) indefinitely; or
 - (ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.
- (1B) A binding death benefit nomination given by a Gold State Super Member comes into force when it is received by the Board and remains in force until any of the following occurs —
 - (a) the Board receives a notice given by the Member revoking the binding death benefit nomination;
 - (b) the Board receives a subsequent binding death benefit nomination given by the Member;
 - (c) the Member ceases to be a Gold State Super Member;
 - (d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.
- (1C) If a binding death benefit nomination is in force in respect of a Gold State Super Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any

person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

- (a) cannot be found after the Board has made reasonable enquiries; or
- (b) is not a permitted nominee of the Member at the time of the Member's death.

(1D) If no binding death benefit nomination is in force in respect of a Gold State Super Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

- (2) In regulation 48(2) delete “subregulation (1) to the executor” and insert:

subregulation (1C) or (1D) to the executor of a Member's will

- (3) In regulation 48(3) delete “if —” and insert:

if no binding death benefit nomination is in force in respect of a Gold State Super Member when the Member dies, or subregulation (1C)(a) or (b) applies, and —

- (4) Delete regulation 48(4).

Note: The heading to amended regulation 48 is to read:

Binding death benefit nomination and payment of death benefit

6. Regulation 79 amended

In regulation 79(3) delete “an eligible rollover fund if that fund is permitted by the SIS Act” and insert:

the Commonwealth Commissioner of Taxation if the Commissioner is permitted under the Commonwealth Unclaimed Money Act

Note: The heading to amended regulation 79 is to read:

Transfer of benefit to other scheme or fund or Commonwealth Commissioner of Taxation

7. Regulation 80 amended

- (1) Delete regulation 80(1) and insert:

(1) In this regulation —

death benefit, of a West State Super Member, means the following —

- (a) a benefit that becomes payable under the West State Super Scheme because the Member has died;
- (b) the Member's WSS withdrawal benefit that becomes payable because the Member has died;
- (c) a benefit that becomes payable to the Member under the West State Super Scheme but is not paid or transferred under regulation 79 before the Board is notified of the Member's death.

(1A) A West State Super Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

- (a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —
 - (i) a permitted nominee of the Member specified in the notice; or
 - (ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);and
- (b) includes a statement that the nomination is to remain in force —
 - (i) indefinitely; or
 - (ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(1B) A binding death benefit nomination given by a West State Super Member comes into force when it is received by the Board and remains in force until any of the following occurs —

- (a) the Board receives a notice given by the Member revoking the binding death benefit nomination;
- (b) the Board receives a subsequent binding death benefit nomination given by the Member;
- (c) the Member ceases to be a West State Super Member;
- (d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.

(1C) If a binding death benefit nomination is in force in respect of a West State Super Member when the

Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —

- (a) cannot be found after the Board has made reasonable enquiries; or
- (b) is not a permitted nominee of the Member at the time of the Member's death.

(1D) If no binding death benefit nomination is in force in respect of a West State Super Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

(2) In regulation 80(2) delete “subregulation (1) to the executor” and insert:

subregulation (1C) or (1D) to the executor of a Member's will

(3) In regulation 80(3) delete the passage that begins with “If the Board —” and ends with “hardship,” and insert:

If —

- (a) either —
 - (i) no binding death benefit nomination is in force in respect of a West State Super Member when the Member dies; or
 - (ii) subregulation (1C)(a) or (b) applies;and
- (b) the Board —
 - (i) has been unable, after making reasonable enquiries, to find an executor of the Member's will or administrator of the Member's estate; or
 - (ii) considers it desirable to do so in order to relieve or avoid hardship,

(4) Delete regulation 80(4).

Note: The heading to amended regulation 80 is to read:

Binding death benefit nomination and payment of death benefit

8. Regulation 121 amended

(1) Delete regulation 121(1) and insert:

(1) In this regulation —

death benefit, of a GESB Super Member, means the following —

- (a) a benefit that becomes payable under regulation 115 because the Member dies;
- (b) any other benefit or amount that becomes payable under the GESB Super Scheme because the Member dies;
- (c) a benefit that becomes payable to the Member under the GESB Super Scheme but is not paid or transferred under regulation 120 before the Board is notified of the Member's death.

(1A) A GESB Super Member may at any time give the Board a notice (a **binding death benefit nomination**) that —

- (a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —
 - (i) a permitted nominee of the Member specified in the notice; or
 - (ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);and
- (b) includes a statement that the nomination is to remain in force —
 - (i) indefinitely; or
 - (ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

(1B) A binding death benefit nomination given by a GESB Super Member comes into force when it is received by the Board and remains in force until any of the following occurs —

- (a) the Board receives a notice given by the Member revoking the binding death benefit nomination;
- (b) the Board receives a subsequent binding death benefit nomination given by the Member;
- (c) the Member ceases to be a GESB Super Member;
- (d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.

- (1C) If a binding death benefit nomination is in force in respect of a GESB Super Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —
- (a) cannot be found after the Board has made reasonable enquiries; or
 - (b) is not a permitted nominee of the Member at the time of the Member's death.
- (1D) If no binding death benefit nomination is in force in respect of a GESB Super Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.
- (2) In regulation 121(2) delete “subregulation (1) to the executor” and insert:
- subregulation (1C) or (1D) to the executor of a Member's will
- (3) In regulation 121(3) delete the passage that begins with “If the Board —” and ends with “hardship,” and insert:
- If —
- (a) either —
 - (i) no binding death benefit nomination is in force in respect of a GESB Super Member when the Member dies; or
 - (ii) subregulation (1C)(a) or (b) applies;and
 - (b) the Board —
 - (i) has been unable, after making reasonable enquiries, to find an executor of the Member's will or administrator of the Member's estate; or
 - (ii) considers it desirable to do so in order to relieve or avoid hardship,
- (4) Delete regulation 121(4).

Note: The heading to amended regulation 121 is to read:

Binding death benefit nomination and payment of death benefit

9. Regulation 126 amended

In regulation 126 delete “an eligible rollover fund if that fund is permitted by the SIS Act” and insert:

the Commonwealth Commissioner of Taxation if the Commissioner is permitted under the Commonwealth Unclaimed Money Act

Note: The heading to amended regulation 126 is to read:

Transfer of Member's balance to Commonwealth Commissioner of Taxation

10. Regulation 194 replaced

Delete regulation 194 and insert:

194. Binding death benefit nomination and payment of lump sum death benefit

(1) In this regulation —

Retirement Income (Lump Sum) Member means a Retirement Income Member who has selected a lump sum death benefit.

(2) If a Retirement Income (Lump Sum) Member dies while there is still an amount in the Member's retirement income account, the Board must pay a benefit (the Member's ***death benefit***) of an amount equal to the balance of the account in accordance with this regulation.

(3) A Retirement Income (Lump Sum) Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —

(a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

(i) a permitted nominee of the Member specified in the notice; or

(ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

(b) includes a statement that the nomination is to remain in force —

(i) indefinitely; or

(ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

- (4) A binding death benefit nomination given by a Retirement Income (Lump Sum) Member comes into force when it is received by the Board and remains in force until any of the following occurs —
 - (a) the Board receives a notice given by the Member revoking the binding death benefit nomination;
 - (b) the Board receives a subsequent binding death benefit nomination given by the Member;
 - (c) the Member ceases to be a Retirement Income Member;
 - (d) for a nomination that includes a statement referred to in subregulation (3)(b)(ii) — the period referred to in that subregulation expires.
- (5) If a binding death benefit nomination is in force in respect of a Retirement Income (Lump Sum) Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —
 - (a) cannot be found after the Board has made reasonable enquiries; or
 - (b) is not a permitted nominee of the Member at the time of the Member's death.
- (6) If no binding death benefit nomination is in force in respect of a Retirement Income (Lump Sum) Member when the Member dies, or subregulation (5)(a) or (b) applies, the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

11. Regulation 196U replaced

Delete regulation 196U and insert:

196U. Binding death benefit nomination and payment of lump sum death benefit

- (1) In this regulation —
Term Allocated Pension (Lump Sum) Member means a Term Allocated Pension Member who has selected a lump sum death benefit.
- (2) If a Term Allocated Pension (Lump Sum) Member dies while there is still an amount in the Member's term allocated pension account, the Board must pay a benefit (the Member's *death benefit*) of an amount equal to the balance of the account in accordance with this regulation.

- (3) A Term Allocated Pension (Lump Sum) Member may at any time give the Board a notice (a ***binding death benefit nomination***) that —
- (a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —
 - (i) a permitted nominee of the Member specified in the notice; or
 - (ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);and
 - (b) includes a statement that the nomination is to remain in force —
 - (i) indefinitely; or
 - (ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.
- (4) A binding death benefit nomination given by a Term Allocated Pension (Lump Sum) Member comes into force when it is received by the Board and remains in force until any of the following occurs —
- (a) the Board receives a notice given by the Member revoking the binding death benefit nomination;
 - (b) the Board receives a subsequent binding death benefit nomination given by the Member;
 - (c) the Member ceases to be a Term Allocated Pension Member;
 - (d) for a nomination that includes a statement referred to in subregulation (3)(b)(ii) — the period referred to in that subregulation expires.
- (5) If a binding death benefit nomination is in force in respect of a Term Allocated Pension (Lump Sum) Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —
- (a) cannot be found after the Board has made reasonable enquiries; or
 - (b) is not a permitted nominee of the Member at the time of the Member's death.
- (6) If no binding death benefit nomination is in force in respect of a Term Allocated Pension (Lump Sum) Member when the Member dies, or

subregulation (5)(a) or (b) applies, the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

12. Regulation 196V amended

In regulation 196V(2) after "executor" insert:

of the reversionary pensioner's will

13. Regulation 219 amended

- (1) In regulation 219(1) delete "a benefit of an amount equal to the balance of the account to the executor or administrator of the Member's estate." and insert:

a benefit (the Member's *death benefit*) of an amount equal to the balance of the account in accordance with this regulation.

- (2) After regulation 219(1) insert:

- (1A) A GESB Super (Retirement Access) Member may at any time give the Board a notice (a *binding death benefit nomination*) that —

- (a) directs the Board to pay the whole of any death benefit that may become payable in respect of the Member to —

- (i) a permitted nominee of the Member specified in the notice; or
- (ii) 2 or more permitted nominees of the Member specified in the notice, in percentages specified in the notice (the aggregate of which must equal 100%);

and

- (b) includes a statement that the nomination is to remain in force —

- (i) indefinitely; or
- (ii) for the period approved by the Board under regulation 246C(2) at the time the nomination is given.

- (1B) A binding death benefit nomination given by a GESB Super (Retirement Access) Member comes into force when it is received by the Board and remains in force until any of the following occurs —
- (a) the Board receives a notice given by the Member revoking the binding death benefit nomination;
 - (b) the Board receives a subsequent binding death benefit nomination given by the Member;
 - (c) the Member ceases to be a GESB Super (Retirement Access) Member;
 - (d) for a nomination that includes a statement referred to in subregulation (1A)(b)(ii) — the period referred to in that subregulation expires.
- (1C) If a binding death benefit nomination is in force in respect of a GESB Super (Retirement Access) Member when the Member dies, the Board must pay the Member's death benefit in accordance with the nomination unless any person specified in the nomination as a person to whom all or any percentage of the death benefit is to be paid —
- (a) cannot be found after the Board has made reasonable enquiries; or
 - (b) is not a permitted nominee of the Member at the time of the Member's death.
- (1D) If no binding death benefit nomination is in force in respect of a GESB Super (Retirement Access) Member when the Member dies, or subregulation (1C)(a) or (b) applies, then subject to subregulation (3) the Board must pay the Member's death benefit to the executor of the Member's will or administrator of the Member's estate.

- (3) In regulation 219(2) delete “subregulation (1) to the executor” and insert:

subregulation (1C) or (1D) to the executor of a Member's will

- (4) In regulation 219(3):
- (a) delete the passage that begins with “If the Board —” and ends with “hardship,” and insert:

If —

- (a) either —
 - (i) no binding death benefit nomination is in force in respect of a GESB Super

(Retirement Access) Member when the Member dies; or

(ii) subregulation (1C)(a) or (b) applies;

and

(b) the Board —

(i) has been unable, after making reasonable enquiries, to find an executor of the Member's will or administrator of the Member's estate; or

(ii) considers it desirable to do so in order to relieve or avoid hardship,

(b) before “benefit —” insert:

death

(5) Delete regulation 219(4).

Note: The heading to amended regulation 219 is to read:

Binding death benefit nomination and payment of death benefit

14. Regulation 219AA amended

In regulation 219AA delete “an eligible rollover fund if that fund is permitted by the SIS Act” and insert:

the Commonwealth Commissioner of Taxation if the Commissioner is permitted under the Commonwealth Unclaimed Money Act

Note: The heading to amended regulation 219AA is to read:

Transfer of Member's balance to Commonwealth Commissioner of Taxation

15. Regulation 219D amended

(1) In regulation 219D(2) delete “to the fund determined under” and insert:

in accordance with

(2) In regulation 219D(3):

(a) delete “The superannuation fund to which the amount is to be transferred is — ” and insert:

The amount must be transferred to —

- (b) delete paragraph (d) and insert:
 - (d) if none of paragraphs (a), (b) and (c) applies — the Commonwealth Commissioner of Taxation, if the Commissioner is permitted under the Commonwealth Unclaimed Money Act to accept the transfer.

16. Regulation 219H amended

In regulation 219H(2):

- (a) in paragraph (c) delete “fund” and insert:

fund, scheme or person
- (b) delete paragraph (d)(ii) and insert:
 - (ii) the Commonwealth Commissioner of Taxation in accordance with regulation 219D(3)(d), details of how the Commissioner can be contacted.

Note: The heading to amended regulation 219H is to read:

Notice of transfer under r. 219D

17. Regulation 224E amended

In regulation 224E:

- (a) delete the passage that begins with “If the Board” and ends with “fund —” and insert:

If the Board transfers a benefit to the Commonwealth Commissioner of Taxation under regulation 79, 126, 219AA or 219D, the Board must give to the Commissioner —
- (b) in paragraph (a) delete “Member” and insert:

person
- (c) in paragraph (b) delete “Member” and insert:

person entitled to the benefit

- (d) in paragraph (c) delete “trustee of the eligible rollover fund to locate or identify the Member,” and insert:

Commissioner to locate or identify the person entitled to the benefit,

Note: The heading to amended regulation 224E is to read:

**Information to be given if benefit transferred to Commonwealth
Commissioner of Taxation**

18. Regulation 246B amended

In regulation 246B(1)(a) delete “executor or administrator of the estate of a Member —” and insert:

executor of the Member’s will or administrator of the Member’s estate —

19. Regulation 246C inserted

At the end of Part 8 Division 1 insert:

246C. Board must approve period for which limited binding death benefit nominations remain in force

- (1) In this regulation —
limited binding death benefit nomination means a binding death benefit nomination under regulation 48, 80, 121, 194, 196U or 219, other than a binding death benefit nomination that includes a statement that the nomination is to remain in force indefinitely.
- (2) The Board must approve the period for which limited binding death benefit nominations are to remain in force.
- (3) The Board may revoke an approval under subregulation (2) by a subsequent approval under that subregulation.

N. HAGLEY, Clerk of the Executive Council.
