

# State Authorities Superannuation Regulation 2005

[2005-500]



New South Wales

## Status Information

### Currency of version

Historical version for 26 August 2005 to 8 December 2005 (accessed 9 January 2025 at 7:29)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 September 2005

# State Authorities Superannuation Regulation 2005



New South Wales

## Contents

<b>Part 1 Preliminary</b> .....	4
1 Name of Regulation .....	4
2 Commencement .....	4
3 Definitions .....	4
<b>Part 2 General provisions supplementary to Act</b> .....	5
4 Early retirement age .....	5
5 Determination of loading in respect of shift allowance.....	5
6 Minimum amount for election to defer benefit .....	7
7 Payment by STC in relation to post payment surcharge assessment notice received by former contributor .....	8
.....	8
<b>Part 3 Benefit reduction provisions</b> .....	8
<b>Division 1 Benefit reductions relating to tax liabilities</b> .....	8
8 Definitions .....	8
9 Prescription of benefits .....	8
10 Reduction for section 37 of Act.....	9
11 Reduction for sections 39 and 40 of Act .....	10
12 Reduction for section 41 of Act.....	10
13 Reduction for section 42 of Act.....	11
14 Reduction for section 43 of Act.....	12

15 Transferred contributors: reduction of benefits.....	13
16 Reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 45A (3) .....	14
17 Further reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 45A (5) .....	14
18 Limitation on payment of penalty interest.....	15
19 Surcharge deduction amount .....	15
<b>Division 2 Benefit reductions relating to early release of benefits on ground of severe financial hardship or on compassionate grounds</b> .....	16
20 Application of Division .....	16
21 Reduction of benefits.....	16
22 Consent to benefit reduction .....	17
23 Release of benefits during transitional period .....	17
<b>Part 4 Firefighters award</b> .....	18
24 Meaning of “permanent firefighter” and “retained firefighter” .....	18
25 Prescription of firefighters award.....	18
26 Provision of information.....	18
27 Existing firefighters may no longer apply for cover for additional benefit.....	18
28 Existing or new firefighters who elect to relinquish cover for additional benefit .....	18
29 New firefighter employees covered for additional benefit.....	19
30 Transfer of amount to Death and Disability Superannuation Fund .....	19
<b>Part 5 Miscellaneous</b> .....	19
31 Savings provision.....	19
32 Validation of shift loading determinations .....	19

# State Authorities Superannuation Regulation 2005



New South Wales

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the [State Authorities Superannuation Act 1987](#).

JOHN DELLA BOSCA, M.L.C., Special Minister of State

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation may be cited as the [State Authorities Superannuation Regulation 2005](#).

### 2 Commencement

This Regulation commences on 1 September 2005.

**Note—**

This Regulation replaces the [State Authorities Superannuation Regulation 2000](#) which is repealed on 1 September 2005 by section 10 (2) of the [Subordinate Legislation Act 1989](#).

### 3 Definitions

(1) In this Regulation:

**accrued benefit points** has the same meaning as in section 36 of the Act.

**additional surcharge amount** means the amount of superannuation contributions surcharge assessed to be payable by a post payment surcharge assessment notice.

**Commissioner of Taxation** means the person holding office for the time being as the Commissioner of Taxation under a law of the Commonwealth.

**post payment surcharge assessment notice** means a notice of assessment of superannuation contributions surcharge under the [Superannuation Contributions Tax \(Assessment and Collection\) Act 1997](#) of the Commonwealth in respect of the employer contributions paid to the Fund on behalf of a former contributor, being a notice that is received by the former contributor after a benefit has commenced to be

paid or has been paid to the former contributor.

**surcharge debt account** has the same meaning as in section 45A of the Act.

**surcharge deduction cap** means the maximum surcharge deduction amount that may be determined by STC under section 45A (1C) of the Act in relation to a benefit payable to a former contributor.

**the Act** means the [State Authorities Superannuation Act 1987](#).

**total surcharge amount**, in respect of a former contributor, means the sum of:

- (a) the total amount of superannuation contributions surcharge that has been assessed to be payable in respect of employer contributions paid to the Fund on the contributor's behalf up to and including the date on which the former contributor receives a post payment surcharge assessment notice, and
- (b) the amount (if any) of general interest charged in respect of the additional surcharge amount payable under that notice, and
- (c) the amount of interest (if any) payable in respect of the surcharge debt account kept in respect of the former member.

**Note—**

Section 3 (1) of the Act defines **STC** as the SAS Trustee Corporation continued under the [Superannuation Administration Act 1996](#).

- (2) Notes in the text of this Regulation do not form part of this Regulation.

## **Part 2 General provisions supplementary to Act**

### **4 Early retirement age**

For the purposes of the definition of **early retirement age** in section 3 (1) of the Act, the prescribed early retirement age is 58 years.

### **5 Determination of loading in respect of shift allowance**

- (1) In this clause:

**base salary**, in relation to a contributor, means the remuneration, salary or wages payable to the contributor under an award of an industrial tribunal or under an industrial or enterprise agreement, but excluding all additional allowances payable to the contributor.

**relevant period**, in relation to a contributor, means the period of 12 months ending with 31 December immediately preceding the date on which the salary of the contributor is to be calculated for the purposes of the Act.

**relevant shift** means a shift worked by an employee in respect of which a shift allowance is payable by an employer.

**trade union** means:

- (a) an industrial organisation of employees registered or recognised as such under the *Industrial Relations Act 1996*, or
- (b) an association of employees registered as an organisation under the *Workplace Relations Act 1996* of the Commonwealth.

(2) For the purposes of section 4 (1) (a) of the Act, the loading (if any) to be treated as part of a contributor's salary for the purposes of the Act must be determined by reference to subclause (3), (4) or (5) according to whichever subclause is appropriate to the contributor.

(3) If:

- (a) there is in force an agreement between, or a practice accepted by, a trade union and the employer of a contributor which was in force immediately before 18 December 1987, and
- (b) the effect of the agreement or practice is that amounts that the employer pays to the contributor as shift allowances for relevant shifts worked by the contributor during a relevant period are treated as a loading for superannuation purposes, and
- (c) the total of those amounts is greater than that which would be determined under subclause (4) for that year in respect of the contributor,

then, for the purposes of section 4 (1) (a) of the Act, that total is the contributor's loading for those shift allowances.

(4) Except where subclause (3) or (5) applies, if a contributor is paid shift allowances for shifts that the contributor has worked during a relevant period, then, for the purposes of section 4 (1) (a) of the Act, the contributor's loading for those allowances is to be determined by reference to the number of relevant shifts the contributor is taken to have worked (as calculated in accordance with subclause (6)) during the relevant period. The loading is:

- (a) if during the relevant period the contributor is taken to have worked not more than 104 relevant shifts—no amount, or
- (b) if during the relevant period the contributor is taken to have worked more than 104 but not more than 156 relevant shifts—an amount equal to 10 per cent of the contributor's base salary for that period, or
- (c) if during the relevant period the contributor is taken to have worked more than 156 but not more than 208 relevant shifts—an amount equal to 15 per cent of the

contributor's base salary for that period, or

(d) if during the relevant period the contributor is taken to have worked more than 208 relevant shifts—an amount equal to 20 per cent of the contributor's base salary for that period.

(5) If the amounts actually paid or payable to a contributor as shift allowances for shifts that the contributor has worked during a relevant period are less than the loading determined for the period in respect of the contributor in accordance with subclause (4), then, for the purposes of section 4 (1) (a) of the Act, the total of those amounts is the contributor's loading for those allowances.

(6) For the purposes of subclause (4), the number of relevant shifts a contributor is taken to have worked during a relevant period is the number calculated as follows:

$$N = \frac{H}{H_0} \times S$$

where:

**N** is the number of relevant shifts the contributor is taken to have worked during the relevant period.

**H** is the number of hours per shift regularly required to be worked in relevant shifts during the relevant period.

**H<sub>0</sub>** is the smallest number of hours per shift regularly required to be worked (whether by the contributor or any comparable worker) in relevant shifts during any calendar year after 1987, including the relevant period.

**S** is the sum of:

(a) the number of relevant shifts the contributor actually worked during the relevant period, and

(b) the number of relevant shifts the contributor would have actually worked during the relevant period but for the contributor being on leave, being leave for which a shift allowance or an equivalent allowance or loading (including that part of annualised salary that replaces shift allowance in respect of the contributor) is paid.

## 6 Minimum amount for election to defer benefit

The amount prescribed for the purposes of section 43 (1) and (1A) of the Act is \$500.

### Note—

Section 43 of the Act provides for a contributor's benefit under the Act to be deferred in certain circumstances pending the happening of certain events.

## **7 Payment by STC in relation to post payment surcharge assessment notice received by former contributor**

- (1) If the total surcharge amount in respect of a former contributor who has paid an additional surcharge amount to the Commissioner of Taxation exceeds the surcharge deduction cap, STC may reimburse the former contributor by paying to the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.
- (2) STC may, at the request of a former contributor who has received a post payment surcharge assessment notice with respect to an additional surcharge amount that would, if paid, result in, or that has resulted in, the total surcharge amount exceeding the surcharge deduction cap, pay to the Commissioner of Taxation on behalf of the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.

### **Note—**

Clause 17 provides for further reduction of certain benefits resulting from the liability of a former contributor for superannuation contributions surcharge.

## **Part 3 Benefit reduction provisions**

### **Division 1 Benefit reductions relating to tax liabilities**

#### **8 Definitions**

In this Part:

***continuous contributory service***, in relation to a contributor, means the period beginning with the contributor's entry date and ending with the contributor's exit date.

***taxable date*** means the date on which STC first becomes or became liable to pay income tax under a Commonwealth taxation law in respect of employers' contributions to the Fund.

#### **9 Prescription of benefits**

- (1) Subject to subclause (2), the kinds of benefits prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) are the benefits provided by section 37, 39, 40, 41, 42 or 43 of the Act.
- (2) A benefit arising as the result of the death of a person may be reduced by STC to offset tax liabilities of the Fund only as provided by clause 15.



**Note—**

Section 37 of the Act provides for the payment of a benefit at or after a contributor's early retirement or on the contributor's death at or after reaching the early retirement age.

Section 39 of the Act provides for the payment of a benefit if a contributor becomes a total and permanent invalid before reaching early retirement age.

Section 40 of the Act provides for the payment of a benefit if a contributor becomes a partial and permanent invalid before reaching the early retirement age.

Section 41 of the Act provides for the payment of a benefit when a contributor resigns or is dismissed or discharged before reaching the early retirement age.

Section 42 of the Act provides for the payment of a benefit if a contributor is retrenched before reaching the early retirement age.

Section 43 of the Act provides for a contributor's benefit to be deferred in certain circumstances pending the happening of certain events.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

**10 Reduction for section 37 of Act**

(1) If a benefit, other than a benefit arising as the result of the death of the contributor, becomes payable under section 37 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).

(2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times F \times 0.15$$

where:

**R** represents the amount of the reduction.

**A** represents the accrued benefit points for the contributor at the contributor's exit date.

**B** represents the period in days of continuous contributory service that began on the taxable date.

**C** represents the period in days of continuous contributory service for the contributor.

**F** represents the contributor's final average salary.

**Note—**

Section 37 of the Act provides for the payment of a benefit at or after a contributor's early retirement or on the contributor's death at or after reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

### 11 Reduction for sections 39 and 40 of Act

- (1) If a benefit becomes payable under section 39 or 40 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).
- (2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$

where:

**R** represents the amount of the reduction.

**A** represents the accrued benefit points for the contributor at the contributor's exit date.

**B** represents the period in days of continuous contributory service that began on the taxable date.

**C** represents the period in days of continuous contributory service for the contributor.

**S** represents the contributor's final salary.

#### Note—

Section 39 of the Act provides for the payment of a benefit if a contributor becomes a total and permanent invalid before reaching the early retirement age.

Section 40 of the Act provides for the payment of a benefit if a contributor becomes a partial and permanent invalid before reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

### 12 Reduction for section 41 of Act

- (1) If:
  - (a) a benefit becomes payable under section 41 of the Act, and
  - (b) the contributor's period of continuous contributory service is 10 years or more,the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).
- (2) For the purposes of subclause (1), the formula is:

$$R = T \times C \times \frac{A}{Y} \times 0.025 \times 0.15$$

where:

**R** represents the amount of the reduction.

**T** represents the period (expressed in years, with any fractional part of a year being calculated on the basis of complete contribution periods) that commenced on the taxable date or the contributor's entry date (whichever last occurred) and ended on the contributor's exit date.

**C** represents the amount of the contributor-financed benefit payable under section 41 (2) (a) of the Act.

**A** represents the accrued benefit points for the contributor at the contributor's exit date.

**Y** represents the number ascertained by adding together all of the contributor's contributed points figures calculated in relation to the contributor for the applicable contribution periods for the contributor.

- (3) A benefit payable under section 41 of the Act is not to be reduced if the contributor's period of continuous contributory service is less than 10 years.

**Note—**

Section 41 of the Act provides for the payment of a benefit if a contributor resigns, is dismissed or discharged before reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

### **13 Reduction for section 42 of Act**

- (1) If a benefit becomes payable under section 42 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).
- (2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$

where:

**R** represents the amount of the reduction.

**A** represents the accrued benefit points for the contributor at the contributor's exit date.

**B** represents the period in days of continuous contributory service that began on the taxable date.

**C** represents the period in days of continuous contributory service for the contributor.

**S** represents the contributor's final salary.

**Note—**

Section 42 of the Act provides for the payment of a benefit if a contributor is retrenched before reaching the early retirement age.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

**14 Reduction for section 43 of Act**

(1) If a contributor elects to make provision for a deferred benefit under section 43 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).

(2) For the purposes of subclause (1), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times F \times K^n \times 0.15$$

where:

**R** represents the amount of the reduction.

**A** represents the accrued benefit points for the contributor at the contributor's exit date.

**B** represents the period in days of continuous contributory service that began on the taxable date.

**C** represents the period in days of continuous contributory service for the contributor.

**F** represents the contributor's final average salary.

**K** represents the discount factor determined by STC for the purposes of section 43 (6) (b) of the Act.

**n** represents the period between the contributor's age at his or her exit date and the early retirement age, the period being expressed in years with any fractional part of a year being calculated on the basis of complete contribution periods.

**Note—**

Section 43 of the Act provides for a contributor's benefit to be deferred in certain circumstances pending the happening of certain events.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

## 15 Transferred contributors: reduction of benefits

(1) If a transferred contributor referred to in the *State Authorities Superannuation (Transitional Provisions) Regulation 1988*, or any other person, having a right to do so, elects under clause 38 of that Regulation, to take a pension benefit, then, subject to subclause (3), the reduction in benefit prescribed for the purposes of section 45A of the Act (but limited to the matters referred to in subsection (2) of that section) is the amount calculated in accordance with the formula set out in subclause (2).

(2) For the purposes of subclause (1), the formula is:

$$R = \frac{B}{C} \times 0.15 \times P$$

where:

**R** represents the amount of the reduction.

**B** represents the period in days of continuous contributory service that began on the taxable date.

**C** represents the period in days of continuous contributory service for the transferred contributor concerned.

**P** represents:

- (a) the proportion of the pension that is attributable to accrued benefit points and that, but for this clause, would be payable under clause 40, 41, 42 or 43 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* to that transferred contributor, or
- (b) if that transferred contributor has died—the proportion of the pension that is attributable to accrued benefit points and that, but for this clause, would be payable under clause 44 of that Regulation to the spouse or de facto partner of that contributor.

(3) If, in accordance with clause 38 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988*, the transferred contributor or other person referred to in subclause (1) elects to convert to a pension benefit only a portion of the benefit points of the transferred contributor, the benefit to be derived from the benefit points remaining after conversion is subject to reduction in accordance with the relevant provisions of this Part that apply to that benefit.

(4) If the benefit of a transferred contributor within the meaning of the *State Authorities Superannuation (State Public Service Superannuation Scheme Transfer) (Savings and Transitional) Regulation 1989* is required to be reduced in accordance with a formula

set out in clause 10, 11, 13 or 14 of this Regulation, the multiple “0.025” specified in the formula is, in relation to the contributor, to be read as the multiple “0.03”.

**Note—**

Clause 38 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* deals with elections by transferred contributors (as defined in clause 3 (2) of that Regulation) to take pension benefits.

Clause 40 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is a normal employer-financed pension without reversion.)

Clause 41 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is a normal employer-financed pension with reversion.)

Clause 42 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is an employer-financed pension—invalidity without reversion.)

Clause 43 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is an employer-financed pension—invalidity with reversion.)

Clause 44 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* provides for the calculation of the employer-financed pension payable to the spouse or de facto partner of a deceased transferred contributor (as so defined) who elects to take a pension benefit provided by that clause.

Section 45A of the Act empowers STC to reduce benefits to offset certain tax liabilities of the Fund.

**16 Reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 45A (3)**

For the purposes of section 45A (3) of the Act, the benefits provided under the following provisions of the Act are prescribed:

- (a) section 37 (Benefit at or after early retirement or on death at or after early retirement age),
- (b) section 38 (Benefit on death before early retirement age),
- (c) section 39 (Benefit on total and permanent invalidity before early retirement age),
- (d) section 40 (Benefit on partial and permanent invalidity before early retirement age),
- (e) section 41 (Benefit on resignation, dismissal or discharge before early retirement age),
- (f) section 42 (Benefit on retrenchment before early retirement age),
- (g) section 43 (Deferred benefit).

**17 Further reduction of certain benefits resulting from liability for superannuation**

**contributions surcharge: section 45A (5)**

- (1) STC may, at the request of a former contributor:
  - (a) adjust the amount of a benefit payable to the former contributor by reducing the benefit by an amount (the **reduction amount**) that is equivalent to the lesser of:
    - (i) the additional surcharge amount, and
    - (ii) the amount (not being less than nil) that is equal to the amount of the surcharge deduction cap less any previously met surcharge liability, and
  - (b) pay an amount equal to the reduction amount to the former contributor or to the Commissioner of Taxation.
- (2) In subclause (1), **previously met surcharge liability** means the sum of:
  - (a) all amounts paid by the former contributor to STC or the Commissioner of Taxation in relation to the total surcharge amount of the former contributor, and
  - (b) all amounts in respect of which adjustments relating to the benefit of the former contributor have previously been made under this clause or the Act in relation to superannuation contributions surcharge.
- (3) For the purposes of determining an adjustment under this clause, STC may obtain actuarial advice or advice from any other persons, as STC thinks fit.
- (4) This clause does not authorise STC to pay any amount that would result in payments made to or on behalf of the former contributor exceeding the total benefits to which the former contributor is entitled.

**18 Limitation on payment of penalty interest**

Clauses 7 and 17 do not authorise STC to pay any amount of general interest charged in respect of an additional surcharge amount payable under a post payment surcharge assessment notice unless the request for the payment is made within such period after the notice is received as STC considers reasonable.

**19 Surcharge deduction amount**

For the purposes of section 45A (1C) of the Act, the surcharge deduction amount determined by STC must not exceed the sum of:

- (a) an amount that is 15% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued after 20 August 1996 and before 1 July 2003, and
- (b) an amount that is 14.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2003

and before 30 June 2004, and

- (c) an amount that is 12.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2004 and before 30 June 2005, and
- (d) an amount that is 10% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2005.

## **Division 2 Benefit reductions relating to early release of benefits on ground of severe financial hardship or on compassionate grounds**

### **20 Application of Division**

The following benefits may be the subject of a reduction under this Division:

- (a) a benefit under section 37 (Benefit at or after early retirement or on death at or after early retirement age),
- (b) a benefit under section 38 (Benefit on death before early retirement age),
- (c) a benefit under section 39 (Benefit on total and permanent invalidity before early retirement age),
- (d) a benefit under section 40 (Benefit on partial and permanent invalidity before early retirement age),
- (e) a benefit under section 41 (Benefit on resignation, dismissal or discharge before early retirement age),
- (f) a benefit under section 42 (Benefit on retrenchment before early retirement age),
- (g) a benefit under section 42AB (Compulsory preservation of benefits after changeover day),
- (h) a deferred benefit.

### **21 Reduction of benefits**

- (1) This clause applies to the reduction of benefits payable under the Act to or in respect of a contributor or former contributor (other than a benefit payable under section 43B or 43C of the Act) to whom a benefit has been previously released on the grounds of the contributor's or former contributor's severe financial hardship or on compassionate grounds.
- (2) If a benefit is released to a former contributor who has provided for a deferred benefit, STC must, on and from the date of the release, reduce the amount of the deferred benefit by the amount of benefit released. The amount of benefit payable when the



deferred benefit is payable is to be reduced accordingly.

- (3) In any other case, STC must create a debt account in the Fund in respect of the contributor and must when a benefit is payable reduce the benefit that is payable by the amount debited to the debt account at the time the benefit is payable.
- (4) Despite subclause (3), if a contributor provides for a deferred benefit under the Act after the release of a benefit to the contributor concerned and before a benefit is otherwise payable, STC must, on and from the date the benefit is deferred, calculate the amount of benefit deferred and reduce that amount by the amount debited to the debt account at the time the benefit is deferred. The amount of benefit payable when the deferred benefit is payable is to be reduced accordingly.
- (5) The amount debited to the debt account is to be the amount of benefit released together with interest on that amount at a rate determined by STC.
- (6) STC may obtain actuarial advice for the purpose of determining the amount of a reduced benefit.

## **22 Consent to benefit reduction**

Before releasing a benefit on the grounds of severe financial hardship or on compassionate grounds, STC must obtain the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.

## **23 Release of benefits during transitional period**

- (1) This clause applies to the release of a benefit to a contributor or former contributor on the grounds of severe financial hardship or on compassionate grounds during the transitional period if:
  - (a) the release was not inconsistent with section 43B or 43C of the Act, as amended by the *Superannuation Legislation Amendment Act 2000*, and
  - (b) STC obtained the written consent of the contributor or former contributor to the reduction of benefits as a consequence of the early release.
- (2) Clauses 20 and 21 apply in respect of a release of benefit to which this clause applies in the same way as they apply to a release of benefit after the commencement of those clauses.
- (3) In this clause:

**transitional period** means the period commencing on the date of assent to the *Superannuation Legislation Amendment Act 2000* and ending on the commencement of section 43D of the Act, as substituted by that Act.

## Part 4 Firefighters award

### 24 Meaning of “permanent firefighter” and “retained firefighter”

In this Part:

**2003 firefighters award** means the *Crown Employees (NSW Fire Brigades Firefighting Staff Death and Disability) Award 2003*.

**permanent firefighter** has the same meaning as in the 2003 firefighters award.

**retained firefighter** has the same meaning as in the 2003 firefighters award.

### 25 Prescription of firefighters award

For the purposes of the definition of **firefighters award** in section 46AF of the Act, the 2003 firefighters award is prescribed.

### 26 Provision of information

For the purposes of complying with or giving effect to the 2003 firefighters award, and only with the consent of the relevant employee, STC may provide to New South Wales Fire Brigades or the trustees of the Death and Disability Superannuation Fund under the 2003 firefighters award information about the employee obtained in the administration of the Act.

### 27 Existing firefighters may no longer apply for cover for additional benefit

- (1) This clause applies to an employee who was a permanent firefighter on 27 June 2003 and who had not, before that date, had an application for additional benefit cover approved under section 22 of the Act.
- (2) Despite section 20 of the Act, a person to whom this clause applies is not entitled to be covered for the additional benefit while employed as a permanent firefighter.

### 28 Existing or new firefighters who elect to relinquish cover for additional benefit

- (1) This clause applies to a person who:
  - (a) was a permanent firefighter on 27 June 2003 and elected to relinquish cover for the additional benefit on or before 26 June 2003, or
  - (b) commences employment as a permanent firefighter after 26 June 2003 and who elects to relinquish cover for the additional benefit within the period approved by NSW Fire Brigades for the purposes of this clause.
- (2) Despite section 22 of the Act, if this clause applies:
  - (a) the firefighter ceases to be liable to pay the additional benefit levy in relation to any subsequent period during which the firefighter is not covered, and

- (b) STC must effect the cessation of the additional benefit cover of the person on and from:
  - (i) 27 June 2003—in relation to a person referred to in subclause (1) (a), or
  - (ii) the date advised to STC by NSW Fire Brigades—in relation to a person referred to in subclause (1) (b), and
- (c) the firefighter is not entitled to be covered for the additional benefit while employed as a permanent firefighter.

### **29 New firefighter employees covered for additional benefit**

- (1) This clause applies to an employee who was not a permanent firefighter immediately before 27 June 2003 and who had not had an application for additional benefit cover approved under section 22 of the Act at the time of commencing employment as a permanent firefighter.
- (2) Despite section 20 of the Act, a person to whom this clause applies is not entitled to elect to be covered for the additional benefit while employed as a permanent firefighter.

### **30 Transfer of amount to Death and Disability Superannuation Fund**

STC must, for the purposes of complying with or giving effect to the 2003 firefighters award, transfer to the Death and Disability Superannuation Fund an amount required as an offset under the 2003 firefighters award but only with the consent of the firefighter concerned.

## **Part 5 Miscellaneous**

### **31 Savings provision**

Any act, matter or thing that, immediately before the repeal of the *State Authorities Superannuation Regulation 2000* had effect under that Regulation continues to have effect under this Regulation.

### **32 Validation of shift loading determinations**

Anything done or omitted to be done, on or after 1 March 1999, that would have been validly done or omitted had clause 5 (6), as amended by Schedule 1 [1] to the *State Authorities Superannuation Amendment (Shift Allowance Loading) Regulation 2005*, been in force (under this Regulation, the *State Authorities Superannuation Regulation 2000* or the *State Authorities Superannuation Regulation 1995*) at the time that the thing was done or omitted, is validated.