

Superannuation (Salary) Regulations (Amendment) 1992 No. 219

EXPLANATORY STATEMENT

STATUTORY RULES 1992 No. 219

ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUPERANNUATION ACT 1976

SUPERANNUATION (SALARY) REGULATIONS (AMENDMENT)

The Superannuation Act 1976 (the Act) makes provision for and in relation to an occupational superannuation scheme for Commonwealth employees and for certain other persons. Members of the scheme are referred to in the Act as eligible employees.

Section 168 of the Act provides that the Governor-General may make regulations for the purposes of the Act.

Subsection 5(2) of the Act provides that, subject to subsection 5(3), the annual rate of salary of an eligible employee on a particular day is an amount equal to the amount per annum of the salary payable to him on that day.

Subsection 5(3) provides that the regulations may provide that the eligible employee's annual rate of salary for the purposes of the Act on a particular day shall be an amount equal to such amount per annum as is ascertained under the regulations.

Regulations for the purposes of section 5 are contained in the Superannuation (Salary) Regulations (the Principal Regulations).

The rate of contribution payable under the Act by an eligible employee is expressed in the Act as a percentage of his or her fortnightly rate of salary. The rate of pension payable is expressed as a percentage of his or her final annual rate of salary. The terms "fortnightly rate of salary" and "final annual rate of salary" are both defined in subsection 3(1) of the Act by reference to the eligible employee's annual rate of salary.

Repatriation institutions are to be transferred progressively from Commonwealth to State control. The first transfer is to occur on 1 July 1992.

Staff of a repatriation institution who are eligible employees and who accept an offer of employment with a State as a consequence of the transfer of an institution are to be entitled to remain as eligible employees while employed by that State or an authority of the State.

Staff of a repatriation institution who accept State employment may be entitled to income supplementation where their salary reduces as a result of the change to State employment.

- (b) continue to be employed in that employment or other employment with the State to which they have been compulsorily transferred;
- (c) are in receipt of income supplementation; and
- (d) continue to be eligible employees.

regulation 8T

Regulation 8T provides for the annual rate of salary on a particular day of a person to whom Part 2F applies. That annual rate of salary is to be the sum of

- (a) the annual rate of salary applying to his or her job with the State or State authority; and
- (b) subject to certain qualifications, the annual rate of income supplementation.

Income supplementation can be payable as salary maintenance, higher duties allowance, shift penalty or restricted duties adjustment or a combination of these. The amount of income supplementation paid as higher duties allowance, shift penalty or restricted duties adjustment is to be included in the annual rate of income supplementation only if it is an eligible allowance under regulation 8U.

Where the person is a part-time employee, the amount of income supplementation to be recognised will be the full-time rate. This is in accordance with the normal arrangements for determining the annual rate of salary for part-time employees.

regulation 8U

Regulation 8U provides that, for the purposes of regulation 8T, an amount of a person's income supplementation is an eligible allowance if it satisfies the following criteria:

- (a) that it is payable to the person as higher duties allowance, shift penalty or restricted duties adjustment;
- (b) that it is payable to the person during a period when an (b) allowance is payable to the person by a State for employment by the State because of a condition or circumstance of that employment and that allowance is taken to be payable on a regular basis; and
- (c) that it is payable to the person because of a condition or circumstance of the person's employment with a repatriation institution before its transfer to State control that is comparable to the condition or circumstance mentioned in (b).

ATTACHMENT

SUPERANNUATION (SALARY) REGULATIONS (AMENDMENT)

The details of the proposed regulations are as follows -

Regulation 1

This regulation provides that the Superannuation (Salary) Regulations (Amendment) commences on 1 July 1992.

Regulation 2

This regulation provides that the Superannuation (Salary) Regulations are amended as set out in the amending Regulations.

Regulation 3

This regulation provides for the insertion of Part 2F in the Principal Regulations (sections 8R to 8U) to provide for an annual rate of salary for eligible employees who are employed by a State or an authority of a State as a consequence of the transfer of a repatriation institution to State control.

regulation 8R

Subregulation 8R(1) contains definitions of the terms "Income Supplementation" and "the Agreement" for the purposes of Part 2F.

The term "Income Supplementation" refers to the income supplementation payable to a person in accordance with the Agreement.

The term "the Agreement" refers to the agreement between the Commonwealth, the Australian Council of Trade Unions and its affiliates in relation to the transfer of staff in repatriation institutions to State employment as part of the transfer of those institutions to State control.

Subregulation 8R(2) provides that a reference to a State in Part 2F includes a reference to an authority of that State.

regulation 8S

Regulation 8S describes the class of persons to whom Part 2F is to apply.

Those persons are eligible employees who:

(a) accept employment with a State as a consequence of the transfer of a repatriation institution to State control;

Income supplementation will be paid by the Commonwealth in accordance with an agreement between the Commonwealth and the Australian Council of Trade Unions and those affiliated Unions whose members are involved in the transfer.

Income supplementation will comprise three elements, that is, salary maintenance, higher duties payment and shift penalty and restricted duties adjustment.

As income supplementation is to be paid by the Commonwealth rather than the State it will not be included automatically in a person's annual rate of salary for the purposes of the Act.

Income supplementation is to be included in the annual rate of salary of a staff member of a repatriation institution who accepts State employment on the transfer of the institution in certain circumstances.

Salary maintenance component is to be included in all cases. The higher duties allowance, shift penalty and restricted duties components are to be included where similar payments being received as a State employee are included in the person's annual rate of salary. For example, if shift penalties being received by the person for shift work performed for the State are included in the person's annual rate of salary, the shift penalty component of the income supplementation will also be included.

The Principal Regulations already provide for the recognition of income maintenance payments to persons transferred from Commonwealth to State employment as part of the transfer of legal aid functions on the same basis.

The Regulations amend the Principal Regulations to give effect to the above-mentioned arrangements in relation to income supplementation.

The details of the Regulations are explained in the Attachment.

The Regulations operate from 1 July 1992.

A State allowance is payable on a regular basis during a period if it is taken by other provisions of the Principal Regulations to be payable on a regular basis. Those other provisions are:

- (a) in the case of higher duties allowance and restricted duties allowance - regulation 6; and
- (b) in the case of shift allowance - regulation 8B.

The term "restricted duties adjustment" as used in paragraph (a) immediately above (paragraph 8U(5)(a) of the Regulations) includes a close call, on call or stand-by allowance.

As an example, regulation 8U will provide that income supplementation that is paid as a higher duties allowance will be an eligible allowance if higher duties allowance is paid to the person by the State for higher duties performed as a State employee and that State higher duties allowance is payable to the person on a regular basis as provided for in regulation 6. (An allowance that is payable on a regular basis as provided for in regulation 6 forms part of a person's annual rate of salary for the purposes of the Act.)