

# **Superannuation (Former Eligible Employees) Regulations (Amendment) 1994 No. 447**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1994 No. 447**

Issued by the authority of the Minister for Finance

*Superannuation Act 1976*

Superannuation (Former Eligible Employees) Regulations (Amendment)

The *Superannuation Act 1976* (the Act) makes provision for, and in relation to, an occupational superannuation scheme for certain Commonwealth employees and other persons.

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

Persons eligible to contribute under the Act are referred to as "eligible employees". The term "eligible employee" is defined under subsection 3(1) of the Act.

Section 126A of the Act provides that regulations may modify the Act in its application to, or in respect of, a person who ceases to be an eligible employee and who, immediately after ceasing, becomes a member of another superannuation scheme.

Section 155B of the Act provides that regulations may modify the Act in its application to, or in respect of, a person who ceases to be an eligible employee on taking up employment with the purchaser or transferee of an organisation, business, service, asset or function.

Regulations for the purposes of section 126A and 155B of the Act are contained in the Superannuation (Former Eligible Employees) Regulations,

The regulations provide an additional option under which eligible employees who

- must cease to be eligible employees on the sale or transfer of function of a Commonwealth facility; and
- elect to preserve their superannuation rights either under Division 3 or 3A of Part IX of the Act on sale; and
- remain continuously employed by the purchaser or transferee or any successor to that purchaser or transferee; and
- are subsequently retrenched within three years of the sale or transfer

may convert their accrued preserved benefits to a superannuation retrenchment benefit that is similar to the benefits that are otherwise available under the involuntary retirement benefit provisions of the Act.

The option is to be made available to former eligible employees of a facility nominated by the Minister with the agreement of the Superannuation Board of Trustees No. 2.

This option has previously been made available to relevant staff affected by the sale of Repatriation General Hospital Hollywood and is intended to be made available on the same basis

to relevant staff affected by the sale of Repatriation General Hospital Greenslopes. However, the Regulations provide for generic availability where a facility is nominated as one to which the option should apply, thereby avoiding the need for further amendment by Regulation. Nevertheless, it is not intended that the option be generally available.

Details of the amendments are attached.

The amendments commenced on Gazettal.

## ATTACHMENT

### SUPERANNUATION (FORMER ELIGIBLE EMPLOYEES) REGULATIONS (AMENDMENT)

The details of the regulations are as follows:

Regulation 15A The subregulation 15A(1) sets out the definitions to apply in the regulations.

The regulations will apply in respect of a facility nominated by the Minister, with the agreement of the Board, to certain persons who:

- are persons to whom section 126A of the Act applies who cease to be eligible employees on the sale or transfer of function of a nominated Commonwealth facility and who become members of a superannuation scheme provided by the purchaser or transferee, or subsequent purchaser or transferee as owner or operator, of that facility; and
- are persons to whom section 155B of the Act applies because they have ceased to be eligible employees on the sale or transfer of function of a nominated Commonwealth facility; and
- have made an election that Division 3 of Part IX or Division 3A of Part IX of the Act (as modified in accordance with Schedule 11) applies to preserve their superannuation benefits

where those persons:

- are retrenched by the purchaser or transferee, or subsequent purchaser or transferee as owner or operator, of a nominated facility within three years of the day of the transfer and before attaining the age of 60 years, and
- were continuously employed by the purchaser throughout the period from the transfer day to their retrenchment, and no later than 21 days after their retrenchment,
- provide to the Commissioner for Superannuation documentary evidence of their retrenchment, and
- make an election that benefits under Division 2 of Part V of the Act (as amended by Schedule 11A) apply to them in place of benefits otherwise payable under Division 3 of Part IX of the Act or Division 3A of Part IX of the Act (as modified in accordance with Schedule 11).

#### Schedule 11

Schedule 11 is amended by clause 3 of the regulations in order to accommodate a change in a reference in the schedule, made necessary by the insertion of the subregulation 15A(2) and the consequent renumbering of subregulations.

#### Schedule 11A

Schedule 11A is amended by clause 4 of the regulations to

- amend the heading of this Schedule, and
- amend references in the Schedule, made necessary by the insertion of subregulation 15A(2).

#### Transitional

Clause 5 of the regulations inserts a provision whereby the arrangement in respect of certain staff affected by the sale of Repatriation General Hospital Hollywood as provided in the original Regulation 15A remains in force.