



Statutory Rules 1994 No. 1 447

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Superannuation (Former Eligible Employees) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,
acting with the advice of the Federal Executive Council, make the
following Regulations under the *Superannuation Act 1976*.

Dated

1 1994.

20 December

1 BILL HAYDEN
Governor-General

By His Excellency's Command,

1
Minister for Finance

KIM C. BEAZLEY

1. Amendment

1.1 The Superannuation (Former Eligible Employees) Regulations
are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Regulation 15A (Application of Act to eligible employees affected by privatisation of the Repatriation General Hospital, Hollywood)

2.1 Omit the regulation, substitute:

Application of Act to eligible employees affected by transfer of certain Commonwealth facilities

“15A. (1) In this regulation:

‘facility’ includes an organisation, business, service, asset, or function;

‘nominated facility’ means a facility nominated by the Minister under subregulation (2);

‘purchaser’, in relation to a nominated facility, means:

- (a) the purchaser or transferee from the Commonwealth of the facility; and
- (b) any successor to that purchaser or transferee as owner or operator of the facility;

‘regulation 15A employee’ means a person to whom this regulation applies in accordance with subregulation (3);

‘transfer day’, in relation to a nominated facility, means the day on which the sale or transfer of the nominated facility by the Commonwealth has effect.

“(2) If a facility of the Commonwealth is to be sold, privatised or transferred to the control of a State or Territory, the Minister may, in writing, with the agreement of the Board, nominate the facility as an facility to which this regulation applies.

“(3) This regulation applies to a person if:

- (a) immediately before the transfer day, the person was an eligible employee performing duties at the nominated facility; and
- (b) section 126A of the Act applies to the person because the person:
 - (i) has ceased, or will cease, to be an eligible employee in circumstances connected with the sale or transfer of the nominated facility; and
 - (ii) became or will become a member of a superannuation scheme (other than the

superannuation scheme constituted by the Act) provided by, or on behalf of, the purchaser to its employees; and

- (c) section 155B of the Act applies to the person; and
- (d) not later than 21 days after ceasing to be an eligible employee, the person either:
 - (i) made an election under section 137 of the Act that Division 3 of Part IX of the Act apply to the person; or
 - (ii) made an election for the purposes of this subregulation, by notice in writing to the Commissioner, that Division 3A of Part IX of the Act (as modified in accordance with Schedule 11 to these Regulations) apply to the person.

“(4) The Act is modified in accordance with Schedule 11 in relation to each person who is a regulation 15A employee who made an election mentioned in subparagraph (3) (d) (ii).

“(5) The Act is modified in accordance with Schedule 11A in relation to each person who is a regulation 15A employee who:

- (a) is retrenched by the purchaser within 3 years of the transfer day and before attaining the age of 60 years; and
- (b) was continuously employed by the purchaser throughout the period beginning on the transfer day and ending on the person’s retrenchment; and
- (c) not later than 21 days after the person’s retrenchment:
 - (i) provides to the Commissioner documentary evidence of the retrenchment; and
 - (ii) makes an election for the purposes of this subregulation, by notice in writing to the Commissioner, that benefits under Division 2 of Part V of the Act (as modified in accordance with Schedule 11A to these Regulations) become payable to or in relation to the person in place of the benefits otherwise payable under Division 3 of Part IX of the Act, or under Division 3A of Part IX of the Act (as modified in accordance with Schedule 11 to these Regulations), to or in relation to the person.”.

3. Schedule 11 (Modifications—employees affected by privatisation, etc. (delayed updated pension))

3.1 Subclause 1.1 (inserted subsection 144A (1)):

Omit “paragraph 15A (2) (d)”, substitute “paragraph 15A (3) (d)”.

4. Schedule 11A (Modifications—former employees of the Repatriation General Hospital, Hollywood, retrenched within 3 years of sale day)

4.1 Omit the heading to the Schedule, substitute:

“**SCHEDULE 11A** Subregulation 15A (5)

MODIFICATIONS—FORMER EMPLOYEES OF NOMINATED FACILITIES RETRENCHED WITHIN 3 YEARS OF TRANSFER DAY”.

4.2 Clause 1 (inserted subsection 58 (3B)):

Omit “subregulation 15A (4)” (twice occurring), substitute “subregulation 15A (5)”.

4.3 Clause 2 (inserted subsection 60 (2)):

Omit “subregulation 15A (4)”, substitute “subregulation 15A (5)”.

4.4 Clause 3 (substituted subsection 61 (4)):

Omit “subregulation 15A (4)” (twice occurring), substitute “subregulation 15A (5)”.

4.5 Clause 4 (inserted subsection 61AA (1)):

Omit “regulation 15A (4)”, substitute “subregulation 15A (5)”.

4.6 Clause 5 (inserted subsection 62 (1A)):

Omit “subregulation 15A (4)”, substitute “subregulation 15A (5)”.

5. Transitional

5.1 Despite the amendments of the Superannuation (Former Eligible Employees) Regulations made by these Regulations:

- (a) regulation 15A of those Regulations as in force immediately before the commencement of these Regulations; and

- (b) the *Superannuation Act 1976* as modified by Schedules 11 and 11A to those Regulations as those Schedules were in force immediately before the commencement of these Regulations;

continue to apply, as if the amendments made by these Regulations had not been made, to persons to whom that regulation, and that Act as modified by those Schedules, applied immediately before the commencement of these Regulations.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on *L* 1994. *36 December*
2. Statutory Rules 1986 No. 266 as amended by 1987 No. 307; 1989 Nos. 16 and 306; 1990 Nos. 141, 177 and 451; 1991 Nos. 161 and 445; 1992 Nos. 94, 170, 212 and 271; 1993 No. 262; 1994 Nos. 19, 247, 346 and 359.

(as amended by 1992 No. 272)