

# **Superannuation (CSS) Salary Regulations Amendment 1999 (No. 1)**

## **1999 No. 29**

### EXPLANATORY STATEMENT

STATUTORY RULES 1999 No. 29

Issued by the authority of the Minister for Finance and Administration

Superannuation (CSS) Salary Regulations Amendment 1999 (No. 1)

The *Superannuation Act 1976* (the 1976 Act) makes provision for, and in relation to, the Commonwealth Superannuation Scheme (CSS) which is an occupational superannuation scheme for Commonwealth employees and for certain other persons. Section 168 of the 1976 Act provides that the Governor-General may make regulations, for the purposes of that Act.

These Regulations amend the **Superannuation (CSS) Salary Regulations** (the Principal Regulations) to provide that the annual rate of salary for the purposes of section 5 of the 1976 Act for an eligible employee who is mentioned in or included in a class of persons mentioned in a remuneration determination, is an amount mentioned in or ascertained under that remuneration determination.

The Regulations are intended to provide flexibility in setting superannuation salary without affecting eligible employees' accrued superannuation benefits.

Section 5 of the 1976 Act provides, among other things, that the regulations may prescribe that the annual rate of salary of an eligible employee on a particular day is an amount equal to such an amount as is worked out under the regulations. Regulations for the purposes of section 5 are contained in the Principal Regulations. The rate of contribution payable under the 1976 Act by a member of the CSS is based on the member's annual rate of salary and the rate of pension payable generally is based on that salary.

The Principal Regulations currently provide flexibility for employers and employees to set an annual rate of salary for the purposes of the 1976 Act for a CSS member who is covered by a Certified Agreement or an Australian workplace agreement made under the *Workplace Relations Act 1996* and certain other agreements. However, some CSS members have their remuneration set by a determination made by the Remuneration Tribunal.

The Regulations amend the Principal Regulations to ensure that the additional flexibility provided for persons covered by agreements is also available for persons whose remuneration is determined under subsection 7(3) of the *Remuneration Tribunal Act 1973* in certain circumstances. Additional flexibility in setting the annual rate of salary for CSS purposes is available to persons where they are mentioned in, or included in a class of persons who are mentioned in, such a remuneration determination which expressly provides that the annual rate of salary of the persons for CSS purposes is an amount mentioned in or ascertained under the remuneration determination.

Employees accrued superannuation entitlements will not be affected by the Regulations. Existing provisions contained in section 47 of the 1976 Act ensure that accrued entitlements are maintained unless the member elects otherwise.

The Regulations will commence on gazettal. The details of the Regulations are described in the attachment.

ATTACHMENT

## **SUPERANNUATION (CSS) SALARY REGULATIONS (AMENDMENT)**

### **Regulation 1**

This provides that the amending Regulations are the Superannuation (CSS) Salary Amendment Regulations 1999 (No. 1).

### **Regulation 2**

This provides that the Regulations commence on gazettal.

### **Regulation 3**

**Regulation 3** provides that the Principal Regulations are amended by Schedule 1 of the Regulations.

### **Schedule 1- Amendments of Superannuation (CSS) Salary Regulations**

**Item 1** of Schedule 1 substitutes a new regulation 1 in the Principal Regulations. The substituted regulation reflects the current drafting style adopted by the Office of Legislative Drafting whereby the titles of all Principal Regulations are to include the year they were made.

**Item 2** substitutes a new heading for Part 2EA.

**Item 3** inserts a definition of "remuneration determination" in regulation 8QC of the Principal Regulations.

**Item 4** substitutes a new regulation 8QD in the Principal Regulations. The substituted regulation provides flexibility in setting salary for CSS purposes for those classes of persons who had flexibility in setting salary for CSS purposes because of the replaced regulation 8QD, as well as providing similar flexibility in setting CSS salary for persons mentioned in, or included in classes of persons mentioned in, a remuneration determination.

Paragraph (a) of subregulation 8QD(1) provides that this regulation applies to those CSS members to whom the replaced regulation 8QD applied, namely CSS members bound by an agreement expressly providing that the annual rate of salary for CSS purposes is mentioned in, or ascertained under the agreement.

Paragraph (b) of subregulation 8QD(1) provides that this regulation applies to a new class of CSS members, namely persons mentioned in, or included in a class of persons mentioned in, a remuneration determination in which express provision is made that the annual rate of salary for CSS purposes is an amount mentioned in or ascertained under the remuneration determination.

Subregulation 8QD(2) provides that despite any other provision contained in the Principal Regulations, the annual rate of salary for CSS purposes for persons to whom paragraph (a) or (b) of subregulation 8QD(1) applies is the amount mentioned in the agreement or remuneration determination referred to in that paragraph.