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Papua New Guinea (Staffing Assistance) (Superannuation) Amendment Regulations 2004 (No. 1)¹

Statutory Rules 2004 No. 1²

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Papua New Guinea (Staffing Assistance) Act 1973*.

Dated 10 JUN 2004 2004

PM Jeffery

Governor-General

By His Excellency's Command

NICK MINCHIN
Minister for Finance and Administration

1 Name of Regulations

These Regulations are the *Papua New Guinea (Staffing Assistance) (Superannuation) Amendment Regulations 2004* (No. 1).

2 Commencement

These Regulations commence on the date of their notification in the *Gazette*.

3 Amendment of *Papua New Guinea (Staffing Assistance) (Superannuation) Regulations 1973*

Schedule 1 amends the *Papua New Guinea (Staffing Assistance) (Superannuation) Regulations 1973*.

Schedule 1 Amendments

(regulation 3)

[1] Subregulation 4 (1), definition of *pension*

substitute

pension:

- (a) means a pension payable under these Regulations; and
- (b) includes:
 - (i) an associate pension under regulation 91; and
 - (ii) a pension payable, before the commencement of these Regulations, under the Superannuation Ordinance, being a pension that is preserved and continued in existence by, and payable under, these Regulations.

[2] After subregulation 42 (1A)*insert*

- (1B) However, subregulations (1) and (1A) do not apply to an associate pension under Part 9 that a deceased pensioner was receiving at the time of his or her death.

[3] After Part VIII*insert*

Part 9 Family law superannuation splitting

Division 1 Preliminary

90 Definitions for Part 9

- (1) In this Part:

associate pension means an associate pension under regulation 91.

base amount means:

- (a) for a splitting agreement — the base amount specified in, or calculated under, the agreement; or
 (b) for a splitting order — the amount allocated under subsection 90MT (4) of the FL Act.

family law value means the amount determined in accordance with the FLS Regulations that apply for paragraph 90MT (2) (a) of the FL Act.

Note This amount is determined by applying those regulations, whether or not an order has been made under subsection 90MT (1) of the FL Act.

FL Act means the *Family Law Act 1975*.

FLS Regulations means the *Family Law (Superannuation) Regulations 2001*.

member spouse has the same meaning as in Part VIIIB of the FL Act.

non-member spouse has the same meaning as in Part VIII B of the FL Act.

non-standard pension means a pension other than a standard pension.

Note **Pension** is defined in subregulation 4 (1).

operative time, in relation to a splitting agreement or a splitting order, means the time that is the operative time for Part VIII B of the FL Act in relation to a payment split under the agreement or order.

original interest means a superannuation interest to which regulation 91 applies.

payment split has the same meaning as in Part VIII B of the FL Act.

splitting agreement means:

- (a) a superannuation agreement (within the meaning of Part VIII B of the FL Act); or
- (b) a flag lifting agreement (within the meaning of Part VIII B of the FL Act) that provides for a payment split.

splitting order has the same meaning as in Part VIII B of the FL Act.

splitting percentage means:

- (a) for a splitting agreement — the percentage specified in the agreement under subparagraph 90MJ (1) (c) (iii) of the FL Act; or
- (b) for a splitting order — the percentage specified in the order under subparagraph 90MT (1) (b) (i) of the FL Act.

standard pension means any of the following:

- (a) a pension under regulation 30, 32, 34, 47, 111G, 111J, 111P or 111W;
- (b) a pension under regulation 35 (other than subregulation (4));
- (c) a pension under regulation 41 (other than subregulation (2));
- (d) a pension under regulation 42 (other than subregulation (6));
- (e) an associate pension.

superannuation interest has the same meaning as in Part VIII B of the FL Act.

transfer amount means:

- (a) if a splitting percentage applies — the amount calculated by multiplying the splitting percentage by the family law value; or
 - (b) if a splitting percentage does not apply — the base amount.
- (2) For the definition of *family law value* in subregulation (1), in applying the FL Regulations, the relevant date is taken to be the date on which the operative time occurs.

Division 2 Benefits for non-member spouse

91 Associate pension for non-member spouse

- (1) This regulation applies to a superannuation interest under these Regulations (the *original interest*) if:
 - (a) the Commissioner receives a splitting agreement or splitting order in respect of the additional interest; and
 - (b) the original interest is not an entitlement to a pension under subregulation 35 (4), 41 (2) or 42 (6) or regulation 43; and
 - (c) the member spouse and the non-member spouse are both alive at the operative time; and
 - (d) if a base amount applies — the base amount at the operative time is not more than the family law value.
- (2) The non-member spouse is entitled to an associate pension from the operative time.
- (3) The annual rate of associate pension payable to the non-member spouse is calculated as follows:

Step 1 Identify the transfer amount in relation to the non-member spouse.

Step 2 Identify a factor for the non-member spouse that is equal to the value P_{y+m} specified in subclause 2 (2) of Schedule 4 to the FLS Regulations.

Note The associate pension payable to a non-member spouse does not include a reversionary component.

Step 3 Divide the transfer amount by the factor worked out in step 2.

The result is the annual rate of the associate pension.

92 Commutation of small associate pension

- (1) If the annual rate of associate pension to which the non-member spouse becomes entitled is less than \$1 300, the non-member spouse may elect to commute the pension.
- (2) The election must be made in writing to the Commissioner not later than 3 months after the non-member spouse becomes entitled to the pension.
- (3) If the non-member spouse makes the election, the non-member spouse is entitled instead to a lump sum equal to the transfer amount.
- (4) The amount specified in subregulation (1) is to be indexed in the same way, and at the same time, as a standard pension is indexed under Part XA.

93 Reduction of standard pension

- (1) The annual rate of the standard pension that is payable at the operative time in respect of the original interest is reduced to an amount calculated as follows:

Step 1 Identify the annual rate of standard pension that was payable in relation to the member spouse immediately before the operative time.

Step 2A If the standard pension payable in relation to the member spouse is a pension payable to a widow, or an associate pension, identify a factor for the member spouse that is equal to the value

$$P_{y+m}$$

specified in subclause 2 (2) of Schedule 4 to the FLS Regulations, calculated immediately before the operative time.

Step 2B If step 2A does not apply, identify a factor for the member spouse that is equal to the value

$$(P_{y+m} + (r \times R_{y+m}))$$

specified in subclause 2 (2) of Schedule 4 to the FLS Regulations, calculated immediately before the operative time.

Step 3 Multiply the annual rate of standard pension by the factor worked out in step 2A or 2B.

Step 4 Identify the transfer amount in relation to the non-member spouse and subtract it from the amount worked out in step 3.

Step 5 Divide the amount worked out in step 4 by the factor worked out in step 2A or 2B.

The result is the annual rate of the standard pension payable after the operative time in respect of the original interest.

(2) The reduction under subregulation (1) is to be disregarded in calculating the amount of any non-standard pension that later becomes payable.

Example

The reduction will be disregarded in calculating the amount of a pension under regulation 43 in respect of a child of the member spouse after the death of the member spouse.

[4] After subregulation 111J (1)

insert

- (1A) However, subregulation (1) does not apply to an associate pensioner under Part 9 that a deceased pensioner was receiving at the time of his or her death.

Notes

1. These Regulations amend Statutory Rules 1973 No. 239, as amended by 1974 Nos. 128 and 156; 1975 Nos. 134 and 179; 1976 Nos. 74, 138 and 183; 1977 Nos. 65, 145 and 218; 1978 Nos. 92 and 155; 1981 No. 387; Act No. 93, 1986; Statutory Rules 1987 No. 63; Act No. 125, 1989; Statutory Rules 2001 No. 309; 2002 No. 37.
2. Notified in the *Commonwealth of Australia Gazette* on / 2004.

18 June