

Superannuation (Former Contributors for Units of Pension) Regulations (Amendment) 1991 No. 467

EXPLANATORY STATEMENT

STATUTORY RULES 1991 No. 467

ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUPERANNUATION ACT 1976

SUPERANNUATION (FORMER CONTRIBUTORS FOR UNITS OF PENSION) REGULATIONS (AMENDMENT)

The Superannuation Act 1976 (the 1976 Act) makes provision for and in relation to 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 the 1976 Act.

The superannuation scheme provided under the 1976 Act has operated since 1 July 1976. It replaced the scheme provided under the Superannuation Act 1922 (the 1922 Act). The 1922 Act scheme comprised a Pension Scheme for those who met the required medical standard for entry to that scheme and a lump sum Provident Account for those who did not.

Persons who were contributors to the 1922 Act Pension Scheme or Provident Account on 30 June 1976 were transferred to the 1976 Act scheme on 1 July 1976. Special arrangements apply in relation to the transferred contributors.

Section 183 of the 1976 Act provides that the regulations may modify the 1976 Act in its application to the transferred contributors.

The special arrangements applicable to the transferred Pension Scheme contributors are provided by way of modifications to the 1976 Act contained in the Superannuation (Former Contributors for Units of Pension) Regulations (the Principal Regulations) made under section 183 of that Act.

The amending Regulations amend the Principal Regulations as a consequence of certain amendments made to the 1976 Act and other Regulations under that Act made since the Principal Regulations were made. The amending Regulations also make a number of technical drafting changes to the Principal Regulations. The amendments are explained in detail in the attachment.

The amending Regulations operate from the date of Gazettal.

ATTACHMENT

DETAILS OF THE SUPERANNUATION (FORMER CONTRIBUTORS FOR UNITS OF PENSION) REGULATIONS (AMENDMENT)

Regulation 1

This provides that in these Regulations the Principal Regulations are the Superannuation (Former Contributors for Units of Pension) Regulations.

Regulation 2

This provides for the amendment of the Schedule to the Principal Regulations in accordance with the following paragraphs:

paragraph (a)

Subsection 62(2) of the 1976 Act as modified by the Principal Regulations provides for the lump sum benefit available to a person who elects, on involuntary retirement, to receive a lump sum benefit in lieu of a pension.

Persons who had paid supplementary contributions were also entitled to receive a lump sum of their accumulated supplementary contributions in accordance with subsection 62(3) of the 1976 Act.

Since the Principal Regulations were made, subsection 62(3) has been omitted from the 1976 Act and subsection 62(2) has been amended to include a person's accumulated supplementary contributions in the lump sum provided for in that subsection. Similar amendments have been made to sections 69, 72 and 73 of the 1976 Act.

To reflect these changes, paragraph 2(a) amends the modification to subsection 62(2) of the 1976 Act to provide that a lump sum benefit payable under that subsection as modified by the Principal Regulations will include the amount of the person's accumulated supplementary contributions (if any).

paragraph (b)

Paragraph (2)(b) makes a drafting correction to the modification of subsection 66(1) of the 1976 Act contained in the Principal Regulations.

Paragraphs (c) and (d)

Sections 69 and 72 of the 1976 Act provide for an election for a lump sum invalidity benefit in lieu of a pension for certain persons who are retired on invalidity grounds.

For reasons explained in relation to paragraph 2(a) above, paragraphs 2(c) and 2(d) amend the modifications to section 69 and 72 of the 1976 Act respectively to provide that a lump sum benefit payable under paragraph 69(2)(a) or 72(2)(a) will include the amount of the person's accumulated supplementary contributions (if any).

paragraph (e)

Section 73 of the 1976 Act provides that a lump sum benefit is available on invalidity retirement to a person whose benefit is reduced on medical grounds and whose period of contributory service is less than 8 years.

For reasons explained in relation to paragraph 2(a) above, paragraph 2(e) amends the modification to section 73 of the 1976 Act contained in the Principal Regulations to provide that a lump sum benefit payable under paragraph 73(2)(a) will include the amount of the person's accumulated supplementary contributions (if any).

paragraph (f)

Paragraph 2(f) makes a drafting correction to the modification of paragraph 98(4)(b) of the 1976 Act contained in the Principal Regulations.

paragraph (g)

The modifications included in the Principal Regulations modify subsection 110(10) of the 1976 Act to ensure that it may apply to persons covered by the Principal Regulations. Since the Principal Regulations were made, section 110 of the 1976 Act, including subsection 110(10), has been revised. As the revised subsection 110(10) can apply effectively to persons to whom the Principal Regulations apply without modification, paragraph 2(g) deletes the modification made to that subsection by the Principal Regulations.

paragraph (h)

Paragraph 2(h) makes a drafting correction to the modification of subsection 111(2) of the 1976 Act contained in the Principal Regulations by omitting the subsection and substituting a revised subsection 111(2). The revised subsection 111(2) has regard to the omission of subsections 111(4), (5) and (6) of the 1976 Act and the substitution of a new subsection 111(4) by a subsequent modification of section 111 by the Principal Regulations.

paragraph (i)

Paragraph 2(i) makes a drafting correction to the modification of subsection 111(4) of the 1976 Act contained in the Principal Regulations.

paragraph (j)

Subsection 212A(1) of the 1976 Act as inserted by the Principal Regulations includes definitions of various terms used in Division 8 of Part XII of the 1976 Act as inserted in the 1976 Act by the modifications contained in the Principal Regulations. These include a definition of the term "period of previous service".

"Period of previous service" in relation to a prescribed person means the period that is the aggregate of every period that is included in the person's period of contributory service by virtue of paragraph (b) of the definition of 'period of contributory service' in subsection 3(1) of the 1976 Act as modified by regulation 4 of the Superannuation (Period of Contributory Service) Regulations.

The Superannuation (Period of Contributory Service) Regulations have been amended to provide that those Regulations do not apply to persons who are or who have been approved part-time employees and a definition of 'period of contributory service' to apply to such persons is included in the Superannuation (Approved Part-time Employees) Regulations. This amendment to the Superannuation (Period of Contributory Service) Regulations revised the modified definition of "period of contributory service" and as part of that revision paragraph (b) of the definition became paragraph (e).

The proposed paragraph 2(j) will revise the definition of 'period of previous service' in subsection 212A(1) of the 1976 Act to have regard to the abovementioned changes.

