

Superannuation (CSS) Deferred Benefits Regulations (Amendment) 1996 No. 98

EXPLANATORY STATEMENT

STATUTORY RULES 1996 No. 98

Issued by the Authority of the Minister for Finance

Superannuation Act 1976

Superannuation (CSS) Deferred Benefits 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. That scheme is known as the Commonwealth Superannuation Scheme (CSS).

Section 168 of the 1976 Act provides that the Governor-General may make regulations for the purposes of that Act.

Section 136 of the 1976 Act describes and provides for the calculation of deferred benefits under the 1976 Act. Deferred benefits which are applicable become payable at age 65 or at an earlier time in the event of death, invalidity or at the choice of the CS S member once he or she has reached the minimum retiring age.

Subsection 136(5) of the 1976 Act provides that the regulations may make provision for modifying the Act in relation to a person, or a class of persons, to whom subsection 136(4) applies.

The regulations for the purposes of subsection 136(5) are contained in the **Superannuation (CSS) Deferred Benefits Regulations** (the Principal Regulations).

The Schedule to the Principal Regulation contains modifications of the 1976 Act in relation to certain persons to whom subsection 136(4) of the 1976 Act applies.

The *Superannuation Legislation Amendment Act (No. 1) 1995* (the amending Act) amended the 1976 Act in certain ways that necessitated amendments to the regulations that modify that Act. Subsection 168(12A) was inserted to provide that regulations arising from the amendments to the Act may be made with retrospective effect within one year after the amending Act received Royal Assent. The Regulations amend the Principal Regulations as a consequence of the amendments to the 1976 Act contained in the amending Act.

The amending Act necessitated amendments to the Superannuation (CSS) Former Eligible Employees Regulations (the FEE Regulations), including in relation to deferred benefits payable in accordance with regulation 16 of the FEE Regulations. That regulation provides that modifications of the 1976 Act included in Schedule 12 of the FEE Regulations applies to persons who ceased to be eligible employees before 1 July 1995 and elected to take deferred benefits, and the modifications included in Schedule 12A of the FEE Regulations apply to persons who cease to be eligible employees on or after 1 July 1995 and elect to take deferred benefits. These amendments are taken to have commenced on 23 June 1995.

Schedule 12A of the FEE Regulations modifies section 138 of the 1976 Act, which relates to the payment of deferred benefits. However, SR No. 406 of 1995 (Superannuation (Deferred Benefits) Regulations (Amendment)), which was deemed to take effect on 1 July 1995 further modifies section 138. From that date, therefore, there are two parallel modified versions of section 138.

The Superannuation (CSS) Deferred Benefits Regulations (Amendment) provides that the modification of section 138 by the Principal Regulations does not affect the operation of the modifications in Schedule 12A of the FEE Regulations.

THE AMENDMENTS

Regulation 1

This regulation provides that the regulations commence on 1 July 1995.

Regulation 2

This regulation provides that the Principal Regulations are amended by the amending Regulations.

Regulation 3

This regulation amends regulation 4 of the Principal Regulations which enables the fund to satisfy the requirements of the *Superannuation Industry (Supervision) Act 1993* and regulations made under that Act (SIS).

Subregulation 3.1

This subregulation rewords subregulation 4(1) of the Principal Regulations to include a reference to subregulation 4(4) which is inserted by the amending regulations.

Subregulation 3.2

This subregulation omits and replaces subregulation 4(3) of the Principal Regulations. The replacement subregulation provides that, subject to subregulation 4(4) of the Principal Regulations, subsection 138(3) of the 1976 Act is to be read as if subparagraph (a)(ii) and paragraph (b) of that subsection were omitted.

Subregulation 3.3

This subregulation inserts subregulation 4(4) into the Principal Regulations. This subregulation provides that subregulation 4(3) does not affect the operation of item 1 of Schedule 12A of the FEE Regulations in relation to employees to whom that Schedule applies.