

Superannuation (Existing Invalidation Pensioners) Regulations (Amendment) 1993 No. 347

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 347

Issued by the authority of the Minister for Finance

Superannuation Act 1976

Superannuation (Existing Invalidation Pensioners) Regulations (Amendment)

The *Superannuation Act 1976* (the 1976 Act) makes provision for and in relation to an occupational superannuation scheme (the CSS) for Commonwealth employees and for certain other persons. The CSS has operated since 1 July 1976, replacing the scheme provided for under the *Superannuation Act 1922* (the 1922 Act).

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

Special arrangements apply in relation to persons who were entitled to invalidity pensions under the 1922 Act on 30 June 1976 and who subsequently became members of the CSS. These special arrangements are provided by way of modifications to the 1976 Act contained in the Superannuation (Existing Invalidation Pensioners) Regulations (the Principal Regulations) made under section 180 of the 1976 Act.

The *Superannuation Legislation Amendment Act 1992* (the Amending Act) amended the 1976 Act to provide for additional benefits in certain limited circumstances that are required as a result of the *Superannuation Guarantee (Administration) Act 1992* and to provide for certain other changes to Commonwealth superannuation schemes.

The amending Regulations amend the Principal Regulations as a consequence of amendments to the 1976 Act by the Amending Act. The amendment contained in the Regulations is outlined in the Attachment.

The Amending Act amended the 1976 Act by inserting a new subsection 168(12) which provides that regulations for the purposes of section 180 made within a period of 12 months after that amendment may be expressed to have taken effect from and including the day on which that amendment was made.

In accordance with subsection 168(12) of the 1976 Act, the amending Regulations are taken to have commenced on 18 December 1992, the date of commencement of that subsection. The retrospectivity will not affect the rights of any person (other than the Commonwealth) in a manner prejudicial to that person, nor will it impose any liability on such a person. The amending Regulations are, therefore, in accord with the *Acts Interpretation Act 1901* and do not contravene subsection 48(2) of that Act.

ATTACHMENT

SUPERANNUATION (EXISTING INVALIDITY PENSIONERS) REGULATIONS AMENDMENT)

THE AMENDMENT

The Amending Act made a number of amendments to section 128 of the 1976 Act, which provides for the treatment of transfer values from other superannuation schemes to the CSS. Subsection 128(4) -which provides for the payment, on cessation of CSS membership and in certain circumstances, of an additional lump sum benefit based on the employer component of the transfer value - was amended to provide that the additional lump sum benefit should also include an amount equal to the interest that would have accrued on that amount if it had been paid into the CSS Fund and not the Consolidated Revenue Fund. (Amounts in the CSS Fund accrue interest in accordance with determinations made by the CSS Board of Trustees.)

The Principal Regulations modify the 1976 Act by inserting a new section 130B, which provides for the payment of an additional lump sum benefit in circumstances similar to those under subsection 128(4), except that it relates to transfer values paid in under the 1922 Act.

The regulations amend inserted section 130B to provide that the additional lump sum benefit provided for under those arrangements also includes an interest component. That interest would be calculated from 1 July 1976 or the day the transfer value was paid to the Commonwealth, whichever is the later.

In accordance with subsection 168(12) of the 1976 Act, the amendment is expressed as being taken to have commenced on 18 December 1992.