

Superannuation (Former Provident Account Contributors) Regulations (Amendment) 1996 No. 103

EXPLANATORY STATEMENT

STATUTORY RULES 1996 No. 103

Issued by the Authority of the Minister for Finance

Superannuation Act 1976

Superannuation (Former Provident Account Contributors) 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.

The *Superannuation Act 1922* (the 1922 Act) provided superannuation arrangements for Commonwealth employees which comprised a pension scheme for those who met the required medical standard and a lump sum provident account for those who did not.

The CSS replaced the scheme under the 1922 Act with effect from 1 July 1976. The 1922 Act superannuation arrangements were closed from that date and persons who were contributors to the scheme under the 1922 Act on 30 June 1976 were transferred to the CSS on 1 July 1976. Special arrangements apply in relation to the transferred contributors.

Section 183 of the 1976 Act enables that Act to be modified by regulations in relation to the transferred contributors. Special arrangements applicable to the transferred contributors made in regulations under that section include arrangements for former provident account contributors contained in the Superannuation (Former Provident Account Contributors) Regulations (the Principal Regulations).

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.

Item 80 of Schedule 2 to the amending Act amended section 62 of the 1976 Act, which provides for the payment of a lump sum benefit in the case of involuntary retirement, to introduce the concept of "notional contributions" where a person has been in receipt of partial invalidity pension under section 77 or 78 of that Act prior to becoming entitled to the benefit. The amendment is intended to ensure that the person is not disadvantaged when the employer component of their benefit is a lump sum calculated from their accumulated basic contributions rather than a pension expressed as a percentage of their final annual rate of salary. The item omitted subsections 62(2) and (2A) and inserted subsections 62(2), (2A), (2B), (2C) and (2D).

THE AMENDMENTS

Regulation 1

This regulation provides that subregulations 4.1, 4.3, 4.4, and 4.5 commence on 23 June 1995 and subregulation 4.2 commences on 1 July 1995.

Regulation 2

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

Regulation 3

This regulation changes the name of the **Principal Regulations from Superannuation (Former Provident Account Contributors) Regulations to Superannuation (CSS) Former Provident Account Contributors** Regulations.

Regulation 4

This regulation modifies the Schedule to the Principal Regulations which applies in relation to former provident account contributors.

Subregulation 4.1

This subregulation substitutes a new modification for the existing modification of section 62 of the 1976 Act as a consequence of the amendments made to that section by item 80 of Schedule 2 to the amending Act. Subsection 62(2) provides a methods of calculating benefits on involuntary retirement for a person who ceases to be a CSS member before 1 July 2000 and subsection 62(2B) provides for a method of calculating benefits in those circumstances for a person who ceases after that date.

The existing modification of subsection 62(2) of the 1976 Act applies in relation to lump sum benefits payable to former provident account contributors who had superannuation rights from previous employment and had elected to pay transfer values to the superannuation scheme established by the superseded Act.

Subregulation 4.1 omits the modifications to section 62 and inserts new modifications to that section to provide for benefits on involuntary retirement for a former provident account contributor including the calculation of notional contributions where relevant as a consequence of item 80 of Schedule 2 to the amending Act.

The first and second modifications inserted by the subregulation maintain the existing provisions in relation to former provident account contributors by means of paragraphs 62(2AA)(a) and (b), except where such persons have at any time been in receipt of partial invalidity pension. In these cases the subregulation 62(2AA)(b)(ii) provides for lump sum benefits to be calculated on the basis of the contributions that would have been payable had salary not been reduced because of the payment of partial invalidity pension.

The third modification inserts a reference to the new subsection 62(2BA) in subsection 62(2A).

The fourth and fifth modifications maintain the existing provisions in relation to former provident account contributors who cease to be CSS members after 1 July 2000 except where such persons have at any time been in receipt of partial invalidity pension. In these cases the subregulation 62(2BA)(b)(ii) provides for lump sum benefits to be calculated on the basis of the

contributions that would have been payable had salary not been reduced because of the payment of partial invalidity pension.

The sixth and seventh modifications inserts in paragraphs 62(2C)(a) and (b) reference to the new subsection 62(2BA).

The eighth modification repeats an existing modification which provides for the calculation of a minimum benefit in certain circumstances.