

Superannuation (Approved Part-time Employees) Regulations (Amendment) 1995 No. 336

EXPLANATORY STATEMENT

STATUTORY RULES 1995 No. 336

Issued by the Authority of the Minister for Finance

Superannuation Act 1976

Superannuation (Approved Part-time Employees) Regulations (Amendment)

The *Superannuation Act 1976* (the 1976 Act) makes provision for and in relation to an occupational superannuation scheme, the Commonwealth Superannuation Scheme (the CSS), for Commonwealth employees and certain other persons. Members of the CSS are referred to in that Act as eligible employees.

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

The purpose of the Regulations is to remove the inequity in the partial invalidity pension provisions for certain approved part-time employees.

Members of the CSS may include part-time employees who are included in a class of approved part-time employees. Approved part-time employees are declared by the Minister.

Section 155 of the 1976 Act provides that that Act may be modified by regulations in relation to members, or former members, of the CSS who are, or have been, approved part-time employees for the purposes of that Act. Regulations for the purposes of section 155 are contained in the **Superannuation (Approved Part-time Employees) Regulations** (the Principal Regulations).

Basically, the Principal Regulations modify the 1976 Act to adjust the contributions and benefits payable under the Act by, or in respect of, approved part-time employees. In most cases that adjustment has regard to the proportion of full-time hours worked by the part-time employee.

Where a CSS member has a reduction in salary for health reasons, the 1976 Act provides that the member may be entitled to receive a partial invalidity pension (PIP) under section 78 of the 1976 Act. Similarly, a PIP may be payable under section 77 of the 1976 Act in respect of a reduction in salary experienced by a former retired member on re-employment after invalidity retirement.

The PIP payable under section 78 or section 77 is generally a proportion of the amount of the decrease in salary. In most cases that proportion equals the proportion of final annual rate of salary that was paid to the person as an invalidity pension (section 77) or would have been paid to the person as an invalidity pension, had the member been retired on invalidity grounds instead of accepting the reduced salary (section 78).

The Principal Regulations modify sections 77 and 78 of the 1976 Act in their application to approved part-time employees. A PIP may be payable to an approved part-time employee either because of re-deployment to, or re-employment in, a lower position or because of a reduction in the number of part-time hours worked. In such cases PIP is generally a percentage of the income loss.

However, where the approved part-time employee is not a partial contributor immediately before the salary reduction or the invalidity retirement, as appropriate, PIP is further reduced by the proportion the reduced number of hours worked by the part-time employee bears to the full-time hours for his or her position. (The term "partial contributor" is used in the Principal Regulations to identify those CSS members who are, or have been, approved part-time employees and whose contributions and benefits are, or will be, reduced by the modifications. It does not refer to all CSS members who are approved part-time employees. For example, when a CSS member changes from full-time to part-time employment he or she generally does not become a partial contributor until that part-time employment has been continuous for 12 months.)

The effect of the modifications to sections 77 and 78 in the Principal Regulations is that certain persons whose salary is reduced for medical reasons (eg, a person who changes from full-time to part-time hours in the same position) may receive a lower rate of PIP than other persons who suffer a similar reduction in salary because of re-deployment to a lower level. This effect was unintended and is inequitable.

The amending Regulations amended the Principal Regulations by omitting the second and sixth modification to section 77 and the third and tenth modification to section 78. The effect of the omission of these modifications is that PIP's for all approved part-time employees will be calculated on the same basis, which removes the inequity in the provisions as presently modified.

The amendments to the Regulations also changed the citation of the Principal Regulations to conform with the recently adopted method of citation for regulations under the 1976 Act. The new citation is "Superannuation (CSS) Approved Part-time Employees Regulations".

The amending Regulations commenced on gazettal.