



Statutory Rules 1988 No. 1

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Superannuation (Transfer Arrangements) Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Superannuation Act 1976*.

Dated 24 November 1988.

N. M. STEPHEN

Governor-General

By His Excellency's Command,

Minister of State for Finance

Commencement

1. These Regulations shall be deemed to have taken effect from and including 31 March 1977.

Principal Regulations

2. In these Regulations, "Principal Regulations" means the Superannuation (Transfer Arrangements) Regulations.

3. After regulation 10 of the Principal Regulations the following regulation is inserted:

Application of the Act to certain transferring TAFE Teachers

"11. The Act and the provisions of the Act specified in Schedule 8 apply subject to the modifications specified in that Schedule to and in relation to those persons to whom section 126 of the Act applies who:

- (a) become, on 31 March 1977, eligible employees by virtue of their becoming, on that day, officers of the Commonwealth Teaching Service;
- (b) were, immediately before becoming such officers, employed in the teaching service of New South Wales and engaged in full-time teaching duties in the Australian Capital Territory in connection with the provision of technical and further education, that is to say, education provided by way of a course of instruction or training:
 - (i) that is, or that is preparatory to, a course of a kind relevant to a trade, technical or other skilled occupation; or
 - (ii) that otherwise meets the educational needs of persons who are not enrolled in a full-time course of education at a primary school, a secondary school or a secondary college;
- (c) were, on 30 March 1977, members of the superannuation scheme constituted by the Superannuation Act, 1916, of the State of New South Wales, as amended and in force on that day; and
- (d) since so becoming eligible employees:
 - (i) have continued to be, and are, eligible employees; or
 - (ii) have, on one occasion only, ceased to be eligible employees and have not, after so ceasing, again become eligible employees.”.

Schedule 8

4. The Principal Regulations are amended by adding at the end the following Schedule:

SCHEDULE 8

Regulation 11

MODIFICATIONS—CERTAIN TRANSFERRING TAFE TEACHERS

Modifications	
Section	
55	Insert in paragraph (1) (a) “or section 130B or 130C” after “or (3)”.
	Insert in paragraph (2) (a) “or section 130B or 130C” after “sub-section 56 (4)”.
56	Omit from paragraph (1) (a) “and”.
	After paragraph (1) (b) insert the following word and paragraph: “; and (c) neither section 130B nor 130C applies to the person;”.
	Omit from paragraph (2) (a) “and”.
	After paragraph (2) (b) insert the following word and paragraph: “; and (c) neither section 130B nor 130C applies to the person;”.
	Omit from paragraph (3) (a) “and”.
	After paragraph (3) (b) insert the following word and paragraph: “; and (c) neither section 130B nor 130C applies to the person;”.
	Omit from subregulation (4) “Where a”, substitute “Where section 130B or 130C does not apply to a person and that”.
59	Insert in paragraph (a) “, 130B or 130C” after “section 60”.
60	Insert in section 60 “and 130B or 130C does not apply to that person” after “section 59”.

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Modifications	
<i>Section</i>	
67	Insert in subsection (2) "where section 130E or 130I does not apply, and" after "then." Insert in subsection (3) "then, except where section 130E or 130I applies." after "years." Insert in subsection (4) "then, except where section 130E or 130I applies." after "years."
68	Insert in subsection (2) "where section 130E or 130H does not apply, and" after "then." Insert in subsection (3) "then, except where section 130E or 130H applies." after "years." Insert in subsection (4) "then, except where section 130E or 130H applies." after "years."
70	Insert in subsection (2) "then, except where section 130F or 130I applies." after "years." Insert in subsection (3) "then, except where section 130F or 130I applies." after "years." Insert in subsection (4) "then, except where section 130F or 130I applies." after "years."
71	Insert in subsection (2) "then, except where section 130F or 130H applies." after "years." Insert in subsection (3) "then, except where section 130F or 130H applies." after "years." Insert in subsection (4) "then, except where section 130F or 130H applies." after "years."
78	Insert in the definition of "A" in subparagraph (2) (a) (i)", 130E or 130H" after "section 68". Insert in the definition of "A" in subparagraph (2) (b) (iii)", 130F or 130H" after "section 71".
80	Insert in paragraph (1) (b) "2, or" after "Division" (second occurring).
82	Insert in subsection (2) ", 130E or 130I" after "section 67".
83	Insert in subsection (2) ", 130E or 130H" after "section 68".
85	Insert in subsection (2) ", 130F or 130I" after "section 70".
86	Insert in subsection (2) ", 130F or 130H" after "section 71".
90	Add at the end of subsection (1) ", 130B or 130C".
97	Add at the end of subsection (4) ", 130B or 130C".
98	Insert in paragraph (4) (a) ", 130E or 130I" after "section 67". Insert in paragraph (4) (b) ", 130E or 130H" after "section 68".
100	Insert in paragraph (4) (a) ", 130F or 130I" after "section 70". Insert in paragraph (4) (b) ", 130F or 130H" after "section 71".
102	Add at the end of subsection (3) ", 130B or 130C".
103	Insert in paragraph (3) (a) ", 130E or 130I" after "section 67". Insert in paragraph (3) (b) ", 130E or 130H" after "section 68" (first occurring).
104	Insert in paragraph (3) (a) ", 130F or 130I" after "section 70". Insert in paragraph (3) (b) ", 130F or 130H" after "section 71" (first occurring).
111	Omit from paragraph (1) (b) "Part VI.", substitute "Part VI or Division 2 of Part IX."
<i>Part IX</i>	Omit Division 2, substitute the following Division: "Division 2—Certain Teachers with Preserved Rights from Previous Employment "127. (1) In this Division, unless the contrary intention appears: 'prescribed eligible employee' means a relevant eligible employee by whom, or on whose behalf, there has been paid to the Commissioner, in accordance with subsection 128 (1), an amount equal to, or that includes, the amount of the transfer value that became payable to or in respect of that person under the State Scheme; 'prescribed person' means a person who: (a) has ceased to be a prescribed eligible employee; and (b) has not, after so ceasing, again become an eligible employee;

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'relevant eligible employee' means a person who:

- (a) has become, on the transfer day, an eligible employee by virtue of his or her becoming, on that day, an officer of the Commonwealth Teaching Service;
- (b) was, immediately before becoming such an officer, employed in the teaching service of New South Wales and engaged in full-time teaching duties in the Australian Capital Territory in connection with the provision of technical and further education, that is to say, education provided by way of a course of instruction or training:
 - (i) that is, or that is preparatory to, a course of a kind relevant to a trade, technical or other skilled occupation; or
 - (ii) that otherwise meets the educational needs of persons who are not enrolled in a full-time course of education at a primary school, a secondary school or a secondary college;
- (c) was, immediately before becoming an eligible employee, a member of the superannuation scheme constituted by the State Act as amended and in force immediately before the transfer day; and
- (d) has, since so becoming an eligible employee, continued to be, and is, an eligible employee;

'State Act' means the Superannuation Act, 1916, of the State of New South Wales;

'State scheme' means the superannuation scheme constituted by the State Act as amended and in force at the relevant time;

'State employment', in relation to a person who is a relevant eligible employee (whether or not he or she is a prescribed eligible employee), means the employment in which that person was engaged immediately before he or she became a relevant eligible employee;

'transfer day' means 31 March 1977.

"(2) In this Division:

- (a) a reference, in relation to a relevant eligible employee, to the transfer value payable to or in respect of the member under the State scheme upon the termination of his or her State employment is a reference to a benefit consisting solely of a lump sum payable to or in respect of the member under that scheme upon the termination of his or her State employment otherwise than on the ground of invalidity or of physical or mental incapacity to perform the duties of the employment;
- (b) a reference to the amount of a transfer value to which paragraph (a) applies does not include a reference to any part of the lump sum that was based on contributions by the member that were of a similar nature to supplementary contributions under this Act or to contributions under the superseded Act for reserve units of pension; and
- (c) a reference to the employer component of the annual rate of pension to which a person would have been entitled under the State scheme is a reference to so much of the annual rate of pension to which he or she would have been so entitled as would have been based upon contributions made under the State scheme by the employer of that person.

"128. (1) Where:

- (a) upon the termination of a relevant eligible employee's State employment, a transfer value is payable to the relevant eligible employee under the State scheme; and

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(b) an amount equal to the amount of that transfer value is paid by, or on behalf of, the relevant eligible employee to the Commissioner: the succeeding provisions of this section have effect.

“(2) Where an amount (in this section referred to as the ‘transferred amount’) has been paid by or on behalf of a person to the Commissioner under subsection (1):

(a) so much of the transferred amount as is equal to the employee component of the transfer value shall be paid by the Commissioner into the Superannuation Fund, and, for the purposes of this Act, the amount so paid by the Commissioner into the Superannuation Fund shall, subject to subsection (3), be deemed to be basic contributions paid by the person to the Commissioner under this Act: and

(b) so much of the transferred amount as is equal to the employer component of the transfer value shall be paid by the Commissioner into the Consolidated Revenue Fund.

“(3) If, upon the person ceasing to be a relevant eligible employee, a lump sum benefit becomes payable to or in respect of that person under or in accordance with subsection 62 (2), 69 (2), 72 (2), 73 (2), 84 (2), 87 (2), 88 (1), 99 (2) or 101 (2), then, for the purpose of calculating the amount of that benefit, the amount of his or her accumulated basic contributions shall be deemed to be the amount that would have been the amount of his or her accumulated basic contributions if the amount paid into the Superannuation Fund in respect of the person under paragraph (2) (a) had been an amount equal to two-sevenths of the transferred amount.

“(4) If, upon the person ceasing to be an eligible employee, a lump sum benefit becomes payable to or in respect of the person under section 80 or 111 and the amount, or a part of the amount, paid into the Consolidated Revenue Fund in respect of the person under paragraph (2) (b) is an amount that was payable to the person, upon the termination of his or her State employment, under the State scheme, there is payable to or in respect of the person an additional lump sum benefit of an amount equal to that last-mentioned amount.

“(5) There shall be added to the period that, but for this subsection, would be the person’s period of contributory service, the period that, for the purposes of section 28B of the State Act as amended and in force immediately before the transfer day, would have been his or her period of contributory service if he or she had retired from his or her State employment on 30 March 1977.

“(6) For the purposes of this section:

(a) the employee component of the transfer value payable to or in respect of a person is the part of that transfer value that was based upon contributions made by the person; and

(b) the employer component of the transfer value payable to or in respect of a person is the part of that transfer value that was based upon contributions by an employer or employers of the person.

“129. (1) Where:

(a) upon the termination of a relevant eligible employee’s State employment, a lump sum became payable to or in respect of the person under the State scheme; and

(b) that lump sum, or a part of that lump sum, is an amount that is based upon contributions by the member and, if subsection 128 (1) applies to the person, does not form part of the transfer value referred to in that subsection:

he or she may, within a period of 3 months after the date on which he or she becomes a relevant eligible employee, or within such further period as the Commissioner in special circumstances allows, pay to the Commissioner the whole or a part of the amount of the lump sum or that part of that lump sum, as the case may be, and request the Commissioner, in writing, to treat the amount so paid by him or her to the Commissioner as an amount of supplementary contributions paid by him or her under this Act.

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“(2) The Commissioner shall pay the amount so paid to the Commissioner into the Fund, and the amount shall, for the purposes of this Act, be deemed to be an amount of supplementary contributions paid by the person under this Act.

“130. (1) Subject to subsection (2), section 16 does not apply to a person who is a prescribed eligible employee.

“(2) Where:

- (a) a person ceases to be a prescribed eligible employee because of death or retirement on the ground of invalidity;
- (b) the person was, on 30 March 1977, a contributor for limited benefits for the purposes of the State Act as amended and in force immediately before the transfer day;
- (c) when the person so ceases to be a prescribed eligible employee, the person's period of contributory service is less than 20 years and he or she has not attained his or her maximum retiring age; and
- (d) the Commissioner is of the opinion that the death of the person, or the incapacity which was the ground for the retirement of the person, was caused, or was substantially contributed to:
 - (i) by the physical or mental condition of the person that was relevant for the purposes of the State Act or, if there was more than one such condition, by those conditions or one or more of those conditions; or
 - (ii) by a physical or mental condition or conditions of the person, connected with the physical or mental condition of the person that was relevant for the purposes of the State Act or, if there was more than one such condition, with those conditions or one or more of those conditions;

the Commissioner shall issue in respect of the person a benefit classification certificate in which there is or are specified the physical or mental condition or conditions of the person that was or were relevant for the purposes of the State Act and, for the purposes of this Act, the certificate shall be taken to have been issued under subsection 16 (4) and to have been in force in respect of the person immediately before his or her death or retirement.

“(3) In this section, a reference to the physical or mental condition or conditions of a person that was or were relevant for the purposes of the State Act shall be read as a reference to a physical or mental condition or conditions of the person that, in the opinion of the Commissioner, was or were the physical or mental condition or conditions of the person by reason of which, at the time the person became, or last became, a contributor under the State Act, he or she was accepted as a contributor for limited benefits.

“130A. (1) This section applies to a relevant eligible employee:

- (a) who is a prescribed eligible employee; or
- (b) to whom, upon the termination of his or her State employment, pension became payable under the State scheme.

“(2) The provisions of sections 185 and 186 and the Superannuation (Additional Contributions) Regulations apply to and in relation to a relevant eligible employee to whom this section applies as if, in those sections or Regulations:

- (a) a reference to an existing contributor were a reference to a relevant eligible employee;
- (b) a reference to the amount of the previous contribution (including contribution for reserve units) of an existing contributor were a reference to the amount of the contribution made, or required to be made, under the State scheme by a relevant eligible employee in respect of units of pension, including reserve units of pension, on the pay day last preceding the transfer day;
- (c) a reference to the amount of the initial basic contribution of an existing contributor were a reference to the amount of the basic contribution made or required to be made, by a relevant eligible employee on the contribution day that falls on 14 April 1977;
- (d) a reference to the first contribution day were a reference to the contribution day that falls on 14 April 1977;

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- (e) a reference to the amount of the previous contribution (excluding contribution for reserve units) of an existing contributor were a reference to the amount of the contribution made, or required to be made, under the State scheme by a relevant eligible employee in respect of units of pension, other than reserve units of pension, on the pay day last preceding the transfer day;
- (f) a reference to the commencing day were a reference to 31 March 1977; and
- (g) a reference in subsection 186 (9) to the regulations were a reference to the Superannuation (Additional Contributions) Regulations.

“130B. Where a prescribed person is entitled to standard age retirement pension by virtue of subsection 55 (1) or (2) or standard early retirement pension by virtue of section 59, then, unless he or she is a prescribed person to whom section 130C applies, the annual rate of that pension is the amount per annum equal to the sum of the amount per annum to which he or she would, but for this section, be entitled in accordance with the provisions of this Act and the amount in dollars (if any) ascertained in accordance with the formula:

$$\frac{A}{B} (C - DE)$$

where:

- A is the number of complete years in the period that, for the purposes of section 28B of the State Act as amended and in force immediately before the transfer date, would have been the person's period of contributory service if he or she had retired from his or her State employment on 30 March 1977;
- B is the number of complete years in the period that would, but for section 130D, be the person's period of contributory service;
- C is the number of dollars included in the employer component of the annual rate of pension to which the person would have been entitled under the State scheme if:
 - (a) the State Act (other than Division 6 of Part IV), as amended and in force immediately before the transfer day, had continued to apply to the person;
 - (b) the person had continued to be a member of the State scheme from and including the transfer day to and including his or her last day of service;
 - (c) the person had ceased to be such a member upon attaining the age in years at which he or she ceased to be a prescribed eligible employee;
 - (d) the person had, immediately before he or she so ceased to be such a member, been contributing under the State scheme for the number of units (other than reserve units) for which he or she was contributing immediately before the transfer day; and
 - (e) the salary applicable to the person for the purposes of the State Act, as amended and in force immediately before the transfer day, on the person's last day of service had been the salary applicable to the person on the day immediately preceding the transfer day;
- D is:
 - (a) where the person ceased to be an eligible employee on or after attaining the age of 60 years:
 - (i) if the person's period of contributory service is 30 years and he or she has attained the age of 65 years—50 per cent; or
 - (ii) in any other case—such percentage as, having regard to the person's age on his or her last day of service and to the number of complete years included in the person's period of contributory service, is applicable to the person in accordance with Table 1 or 2 in Schedule 1, or in accordance with Schedule 2, as the case requires; or
 - (b) where the person ceased to be an eligible employee before attaining the age of 60 years—such percentage as would be the percentage applicable to the person in accordance with Schedule 2 if:
 - (a) subsection 55 (2) applied in relation to the person;
 - (b) the person's age on his or her last day of service had been 60 years; and

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- (c) the percentage applicable to the person in accordance with Schedule 2 was reduced by 4 per cent of that percentage for each year, or part of a year, included in the period commencing on the day immediately following his or her last day of service and ending on the day immediately preceding the day on which the 60th anniversary of his or her birth will occur; and

E is the number of dollars included in the amount that, for the purposes of the State Act as amended and in force immediately before the transfer day, was the person's annual rate of salary immediately before that day.

"130C. (1) This section applies to a prescribed person who:

- (a) except where paragraph (b) applies—while that person was a member of the State scheme; or
 (b) where the person was such a member on more than 1 occasion—while he or she was last such a member:

abandoned a number of units of pension (not being units that he or she had abandoned and taken up before 1 February 1977 or units that he or she had abandoned by virtue of an election made under subsection 10W (2) of the State Act as amended and in force on or after 13 January 1977) in accordance with the rules of that scheme (in this section referred to as his or her 'abandoned units') that exceeds one half of the number of units (other than units that he or she had at any time abandoned and taken up on or after 1 February 1977) for which he or she was contributing on 30 March 1977 (in this section referred to as his or her 'contributory units').

"(2) Where a prescribed person to whom this section applies is entitled to standard age retirement pension by virtue of subsection 55 (1) or 55 (2) or standard early retirement pension by virtue of section 59, the annual rate of that pension is the amount per annum that would be payable to that person in accordance with section 130B if:

- (a) he or she were a prescribed person other than a prescribed person to whom this section applies; and
 (b) the number of units for which he or she had been contributing immediately before the transfer day was a number of units for which he or she would have been contributing at that time if he or she had not abandoned any units of pension, other than a unit of pension that he or she had abandoned by virtue of an election made under subsection 10W (2) of the State Act as amended and in force on or after 13 January 1977;

reduced by an amount in dollars (if any) ascertained in accordance with the formula:

$$\frac{A(30 - B)}{30}.$$

"(3) For the purposes of the application in relation to a prescribed person to whom this section applies of the formula in subsection (2):

A is the number of dollars included in the annual rate of pension to which the person would have been entitled under Division 2A of Part IV of the State Act as amended and in force immediately before the transfer day if:

- (a) the State Act (other than Division 6 of Part IV) as amended and in force on that day had continued to apply to the person;
 (b) the person had continued to be a member of the State scheme from and including the transfer day to and including his or her last day of service;
 (c) the person had ceased to be such a member upon attaining the age in years at which he or she ceased to be a prescribed eligible employee;
 (d) the number of reduced value units in respect of which pension would have been payable under that Division:
 (i) in the case of a person who has attained the age of 47 years on his or her last day of service—was the number by which the number of the person's abandoned units exceeds the number (disregarding any fraction) equal to one half of the number of his or her contributory units; or

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- (ii) in the case of a person who has not attained the age of 47 years on his or her last day of service—if the person had attained the age of 47 years on his or her last day of service and the number of reduced value units applicable to the person had been equal to the number of his or her abandoned units; and
- (e) the salary applicable to the person for the purposes of the State Act, as amended and in force immediately before the transfer day, on the person's last day of service had been the salary applicable to the person on the day immediately preceding the transfer day; and

B is the number of complete years included in so much of the period commencing on the transfer day and ending on the person's last day of service as is included in the period that would, but for section 130D, be the person's period of contributory service.

"130D. Where a prescribed person whose period of contributory service is less than 30 years would have been entitled on his or her last day of service to retire on pension under section 21 of the State Act, as amended and in force immediately before the transfer day, if:

- (a) the State Act as so amended and in force had continued to apply to the person until and including that day; and
- (b) the person had continued to be an employee for the purposes of that Act as so amended and in force until and including that day;

then, for the purposes of sections 130B and 130C and of the application, for the purposes of those sections, of any other provision of this Act, the period of contributory service of that person shall be deemed to be 30 years.

"130E. Where a prescribed person is entitled, by virtue of subsection 66 (1), to invalidity pension in accordance with section 67 or 68, then, unless that person is a prescribed person to whom section 130H or 130I applies, the annual rate of pension to which the person is entitled is the amount per annum equal to the sum of the amount per annum to which he or she would, but for this section, be entitled in accordance with the provisions of this Act and the amount in dollars (if any) ascertained in accordance with the formula:

$$\frac{A}{B} (C - DE)$$

where:

- A** is the number of complete years in the period referred to in subsection 128 (5);
- B** is the number of complete years in the period that would, but for section 130J, be the person's period of prospective service;
- C** is the number of dollars included in the employer component of the annual rate of pension to which the person would have been entitled under the State scheme if:
 - (a) the State Act (other than Division 6 of Part IV), as amended and in force immediately before the transfer day, and continued to apply to the person;
 - (b) the person had continued to be a member of the State scheme from and including the transfer day to and including his or her last day of service;
 - (c) the person had, on his or her last day of service, been:
 - (i) except where subparagraph (ii) applies—a contributor for full benefits within the meaning of the State Act as amended and in force immediately before the transfer day; or
 - (ii) in the case of a person who, on 30 March 1977, was a contributor for limited benefits—a contributor for limited benefits within the meaning of the State Act as amended and in force immediately before the transfer day;
 - (d) the person had ceased to be a member of the State scheme in the same circumstances in which he or she ceased to be a prescribed eligible employee;

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- (e) the person had, immediately before he or she so ceased to be such a member, been contributing under the State scheme for the number of units (other than reserve units) for which he or she was contributing immediately before the transfer day; and
- (f) the salary applicable to the person for the purposes of the State Act, as amended and in force immediately before the transfer day, on the person's last day of service had been the salary applicable to the person on the day immediately preceding the transfer day;

D is:

- (a) except where paragraph (b) applies—50 per cent; or
- (b) in the case of a person whose period of contributory service is not less than 31 years—such percentage as, having regard to the number of complete years included in the person's period of contributory service, is applicable to the person in accordance with columns 1 and 3 of Schedule 3; and

E is the number of dollars included in the amount that, for the purposes of the State Act, as amended and in force immediately before the transfer day, was the person's annual rate of salary immediately before that day.

"130F. Where a prescribed person is entitled, by virtue of subsection 66 (2), to invalidity pension in accordance with section 70 or 71, then, unless he or she is a prescribed person to whom section 130H or 130I applies, the annual rate of pension to which the person is entitled is the amount per annum equal to the sum of the amount per annum to which he or she would, but for this section, be entitled in accordance with the provisions of this Act, and the amount in dollars (if any) ascertained in accordance with the formula:

$$\frac{A}{B} (C - DE)$$

where:

- A** is the number of complete years in the period referred to in subsection 128 (5);
- B** is the number of complete years in the period that would, but for section 130J, be the person's period of prospective service;
- C** is the number of dollars included in the employer component of the annual rate of pension to which the person would have been entitled under the State scheme if:
 - (a) the State Act (other than Division 6 of Part IV), as amended and in force immediately before the transfer day, had continued to apply to the person;
 - (b) the person had continued to be a member of the State scheme from and including the transfer day to and including his or her last day of service;
 - (c) the person had, on his or her last day of service, been a contributor for limited benefits within the meaning of the State Act as amended and in force immediately before the transfer day;
 - (d) the person had ceased to be a member of the State scheme in the same circumstances as those in which he or she ceased to be an eligible employee;
 - (e) the person had, immediately before he or she so ceased to be such a member, been contributing under the State scheme for the number of units (other than reserve units) for which he or she was contributing immediately before the transfer day; and
 - (f) the salary applicable to the person for the purposes of the State Act, as amended and in force immediately before the transfer day, on the person's last day of service had been the salary applicable to the person on the day immediately preceding the transfer day;
- D** is such percentage of the person's final annual rate of salary as, having regard to the number of complete years included in the person's period of contributory

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service, is applicable to the person in accordance with columns 1 and 3 of Schedule 5; and

E is the number of dollars included in the amount that, for the purposes of the State Act, as amended and in force immediately before the transfer day, was the person's annual rate of salary immediately before that day.

"130G. Sections 130H and 130I apply to a prescribed person who:

- (a) except where paragraph (b) applies—while that person was a member of the State scheme; or
- (b) where the person was such a member on more than one occasion—while he or she was last such a member:

abandoned a number of units of pension (not being units that he or she had abandoned and taken up before 1 February 1977 or units that he or she had abandoned by virtue of an election made under subsection 10W (2) of the State Act as amended and in force on or after 13 January 1977) in accordance with the rules of that scheme being a number of units of pension that exceeds one half of the number of units (other than units that he or she had at any time abandoned and taken up on or after 1 February 1977) for which he or she was contributing on 30 March 1977.

"130H. (1) Where a prescribed person to whom this section applies is entitled, by virtue of subsection 66 (1), to invalidity pension in accordance with section 68, or, by virtue of subsection 66 (2), to invalidity pension in accordance with section 71, the annual rate of pension to which the person is entitled is the amount per annum that would be payable to him or her in accordance with section 130E or 130F, as the case requires, if:

- (a) he or she were a prescribed person other than a prescribed person to whom this section applies; and
- (b) the number of units for which he or she had been contributing immediately before the transfer day was the number of units for which he or she would have been contributing at that time if he or she had not abandoned any units of pension, other than a unit of pension that he or she had abandoned by virtue of an election made under subsection 10W (2) of the State Act as amended and in force on or after 13 January 1977:

reduced by an amount in dollars (if any) ascertained in accordance with the formula:

$$\frac{A (30 - B)}{30}.$$

"(2) For the purposes of the application in relation to a prescribed person to whom this section applies of the formula in subsection (1):

A is the number of dollars included in the annual rate of pension to which the person would have been entitled under Division 2A of Part IV of the State Act as amended and in force immediately before the transfer day if:

- (a) the State Act (other than Division 6 of Part IV) as amended and in force immediately before the transfer day had continued to apply to the person;
- (b) the person had continued to be a member of the State scheme from and including the transfer day to and including his or her last day of service;
- (c) the person had ceased to be such a member in the same circumstances as those in which he or she ceased to be a prescribed eligible employee;
- (d) the number of reduced value units in respect of which pension would have been payable under that Division:
 - (i) in the case of a person who has attained the age of 47 years on his or her last day of service—was the number by which the number of the person's abandoned units exceeds the number (disregarding any fraction) equal to one half of the number of his or her contributory units; or

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(ii) in the case of a person who has not attained the age of 47 years on his or her last day of service—if the person had attained the age of 47 years on his or her last day of service and the number of reduced value units applicable to the person had been equal to the number of his or her abandoned units; and

(e) the salary applicable to the person for the purposes of the State Act, as amended and in force immediately before the transfer day, on the person's last day of service had been the salary applicable to the person on the day immediately preceding the transfer day; and

B is the number of complete years included in so much of the period commencing on the transfer day and ending on his or her last day of service as is included in his or her period of contributory service.

“130I. (1) Where a prescribed person to whom this section applies is entitled, by virtue of subsection 66 (1), to invalidity pension in accordance with section 67, or, by virtue of subsection 66 (2), to invalidity pension in accordance with section 70, then, the annual rate of that pension is the amount per annum that would be payable to that person in accordance with section 130E or 130F, as the case requires, if:

(a) the person were a prescribed person other than a prescribed person to whom this section applies; and

(b) the number of units for which the person had been contributing immediately before the transfer day was the number of units for which he or she would have been contributing at that time if he or she had not abandoned any units of pension, other than a unit of pension that he or she had abandoned by virtue of an election made under subsection 10W (2) of the State Act as amended and in force on or after 13 January 1977;

reduced by an amount in dollars (if any) ascertained in accordance with the formula:

$$\frac{A (30 - B)}{30}.$$

“(2) For the purposes of the application in relation to a prescribed person to whom this section applies of the formula in subsection (1):

A is the number of dollars included in the annual rate of pension to which the person would have been entitled under the State scheme if:

(a) the State Act (other than Division 6 of Part IV) as amended and in force immediately before the transfer day had continued to apply in relation to the person;

(b) the person had continued to be a member of the State scheme from and including the transfer day to and including his or her last day of service;

(c) the person had ceased to be such a member in the same circumstances as those in which he or she ceased to be a prescribed eligible employee;

(d) the person had not abandoned any units, other than units that he or she had abandoned by virtue of an election under subsection 10W (2) of the State Act as amended and in force on or after 13 January 1977;

(e) the number of reduced value units in respect of which pension would have been payable under that Division:

(i) in the case of a person who has attained the age of 47 years on his or her last day of service—was the number by which the number of the person's abandoned units exceeds the number (disregarding any fraction) equal to one half of the number of his or her contributory units; or

(ii) in the case of a person who has not attained the age of 47 years on his or her last day of service—if the person had attained the age of 47 years on his or her last day of service and the number of reduced value units applicable to the person had been equal to the number of his or her abandoned units; and

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(f) the salary applicable to the person for the purpose of the State Act, as amended and in force immediately before the transfer day, on the person's last day of service had been the salary applicable to the person on the day immediately preceding the transfer day; and

B is the number of complete years included in so much of the period commencing on the transfer day and ending on the person's last day of service as is included in his or her period of contributory service.

"130J. For the purposes of sections 130E, 130F, 130H and 130I and of the application, for the purposes of those sections, of any other provision of this Act, the period of prospective service of a prescribed person whose period of prospective service would, but for this section, be less than 30 years, shall be deemed to be 30 years."

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Insert in paragraph (a) ", 130E or 130H" after "section 68".

Insert in paragraph (b) ", 130F or 130H" after "section 71".

Omit from paragraph (e) "or 70", substitute ", 70, 130E, 130F or 130I".

Omit from paragraph (e) "or 71", substitute ", 71, 130E, 130F or 130H".

Omit from paragraph (j) "or 70", substitute ", 70, 130E, 130F or 130I".

Omit from paragraph (j) "or 71", substitute ", 71, 130E, 130F or 130H".

Omit from paragraph (k) "or 70", substitute ", 70, 130E, 130F or 130I".

Omit from paragraph (k) "or 71", substitute ", 71, 130E, 130F or 130H".

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on *h* 1988. *2 December*
2. Statutory Rules 1978 No. 225 as amended by 1980 No. 257; 1981 No. 4; 1984 No. 404; 1985 No. 74; 1986 Nos. 90 and 311.