

EXPLANATORY STATEMENT

STATUTORY RULES 1985 NO. 204
ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUBJECT: SUPERANNUATION ACT 1976 - SUPERANNUATION
(SALARY) REGULATIONS (AMENDMENT)

Section 168 of the Superannuation Act 1976 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters which the Act requires or permits to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

The Act makes provision for and in relation to an occupational superannuation scheme for persons employed by the Commonwealth, and for certain other persons.

Under the Act, the rate of fortnightly contributions payable by a contributor is expressed as a percentage of the fortnightly rate of his or her salary. In accordance with sub-section 3(1) of the Act, "fortnightly rate of salary" in relation to a contributor means an amount equal to one-twenty-sixth of the amount of his or her annual rate of salary.

The rates of employer-financed invalidity, age and early retirement pensions payable under the Act are expressed as percentages of the former contributor's final annual rate of salary. In accordance with sub-section 3(1) of the Act, "final annual rate of salary" means, in the generality of cases, the person's annual rate of salary on his or her last day of service.

Sub-section 5(2) of the Act provides that, subject to sub-section 5(3), the "annual rate of salary" of a contributor on a particular day is an amount equal to the amount per annum of the salary for the purposes of the Act payable to the contributor on that day. Sub-section 5(3) of the Act provides that the regulations may provide that, in a case specified in the regulations, the annual rate of salary of a contributor on a particular day shall, for the purposes of the Act or a provision of the Act specified in the regulations, be an amount equal to such amount per annum as is ascertained under the regulations.

Regulations for the purposes of section 5 are contained in the Superannuation (Salary) Regulations.

Section 47 of the Act provides that, where there is a reduction in a contributor's salary, the contributor's annual rate of salary for the purposes of the Act after the reduction is to be:

- (a) if no election is made under sub-section 47(2) - fixed at the annual amount applicable immediately before the reduction; or
- (b) if an election is made under sub-section 47(2) - the annual amount of the lower rate of salary as updated from time to time.

It is intended, however, that, in the case of an officer of the Australian Public Service (other than a fixed-term appointee):

- (a) who is a Secretary of a Department and who is redeployed to a lower classification of Secretary or to a Senior Executive Service classification; or
- (b) who is a Senior Executive Service officer and who is redeployed to a lower Senior Executive Service classification or to a lower classification that is not a Senior Executive Service classification,

and who does not make an election under sub-section 47(2), the annual rate of salary of the person for the purposes of the Act after the redeployment, or subsequent such redeployments, be the annual rate of salary as updated from time to time applicable to the classification held by the person immediately before the first such redeployment.

The regulations amend the Superannuation (Salary) Regulations to provide accordingly.

The regulations are expressed to come into effect on the date of their notification in the Gazette.

SR No 220/85