

EXPLANATORY STATEMENT  
STATUTORY RULES 1982 NO 235  
ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE  
SUPERANNUATION ACT 1976 - SUPERANNUATION (ELIGIBLE EMPLOYEES)  
REGULATIONS (AMENDMENT)

LEGISLATIVE BASIS FOR THE REGULATIONS

The Superannuation Act 1976 (the Act) provides a contributory superannuation scheme for Commonwealth employees.

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

Persons eligible to contribute under the Act are referred to in the Act as "eligible employees".

Sub-section 3(1) of the Act defines the term "eligible employee". In accordance with the definition, the term does not include a person included in a prescribed class of persons. Thus, certain classes of employees may be excluded by regulation from becoming contributors. The classes of persons so excluded are prescribed in the Superannuation (Eligible Employees) Regulations.

BACKGROUND

The Australian Shipping Commission is an "approved authority" for the purposes of the Act. Full time officers, employees and Statutory office holders of the Commission may, at their own request, contribute under the Act, subject to certain service qualifications.

The Commission intends to establish a separate superannuation scheme for its Commissioners, officers and employees with effect from 1 October 1982.

Existing Commissioners, officers and employees who are "eligible employees" for the purposes of the Act will be given the option of transferring to the new scheme. Officers and employees who do so will cease to be "eligible employees" by virtue of paragraph 4(a) of the Superannuation (Eligible Employees) Regulations, which provides that employees of an "approved authority" who are members of a superannuation or retirement scheme applying to that authority, or who are required by their terms and conditions of employment to become members of such a scheme cease to be contributors under the Act. There is, however, no comparable provision in the Regulations that ceases Commissioners (and statutory office holders in general) as contributors under the Act and it is intended that this situation be remedied in the proposed amending regulations.

It is also intended that persons who are Commissioners, officers or employees of the Commission as at 1 October 1982, or are appointed or become employed after that date, and who are not "eligible employees" for the purposes of the Act, will not be entitled to become contributors under the Act in future. Such persons will look to the Commission's own scheme for any superannuation cover.

An exception is made in the case of former contributors who were entitled to invalidity pension under the Act immediately before being appointed to or employed by the Commission. It is appropriate that such persons again become contributors under the Act upon the cancellation of their invalidity pensions and, accordingly, the regulations do not exclude them from becoming "eligible employees".

#### CONTENT OF THE REGULATIONS

The amendments to the Superannuation (Eligible Employees) Regulations contained in the Statutory Rule exclude from becoming contributors under the Act:-

- (a) statutory office holders who are members of, or who are required by their terms and conditions of employment to become members of, a superannuation or retirement scheme applying to holders of that office;
- (b) persons who were Commissioners, officers or employees of the Commission immediately before 1 October 1982 who were not contributors; and
- (c) persons who are appointed to or become employed by the Commission on or after 1 October 1982 who immediately before being so appointed or employed were not contributors and not entitled to invalidity pension.

SR No 226/82