

# **Superannuation (CSS) Eligible Employees Regulations Amendment 1995 No. 437**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1995 No. 437**

Issued by the Authority of the Minister for Finance

*Superannuation Act 1976*

Superannuation (CSS) Eligible 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 (CSS), for certain Commonwealth employees and other persons, including employees of approved authorities.

The *Superannuation Act 1990* (the 1990 Act) makes provision for and in relation to the Public Sector Superannuation Scheme (PSS) which replaced the CSS as the main occupational superannuation scheme for a similar group of persons. The PSS commenced on 1 July 1990 and the CSS was closed to new members from that date other than certain persons who had prior membership of the scheme and had retained certain connections with it.

From 1 July 1990 to 30 June 1991, CSS members whose employers provided for PSS membership as well were able to elect to transfer to the new scheme.

The purpose of these regulations is to provide for an additional opportunity for CSS members to elect to transfer to the Public Sector Superannuation Scheme (PSS).

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

Persons eligible to contribute to the CSS (ie, CSS members) are referred to in the 1976 Act as eligible employees. In accordance with paragraph (j) of the definition of "eligible employee" in subsection 3(1) of the 1976 Act, a class of persons (other than persons to whom paragraph (ea) applies) may be excluded by regulation from becoming eligible employees. Regulations for the purposes of the definition of "eligible employee" are contained in the **Superannuation (CSS) Eligible Employees Regulations**.

The amending regulations will allow CSS members to elect to cease to be members of that scheme and to declare their intention to be members of the PSS during the period 1 March 1996 to 31 August 1996. Certain CSS members who may not be able, for various reasons, to take the actions to transfer during that period will have a period of at least three months from the date on which they became able to transfer.

The amendments contained in the regulations are explained in the Attachment.

The date of effect of the amendments is 1 March 1996.

## **ATTACHMENT**

### **SUPERANNUATION (CSS) ELIGIBLE EMPLOYEES REGULATIONS (AMENDMENT)**

#### **BACKGROUND**

Persons eligible to contribute to the CSS (ie, CSS members) are referred to in the 1976 Act as eligible employees. In accordance with paragraph (j) of the definition of "eligible employee" in subsection 3(1) of the 1976 Act, a class of persons (other than persons to whom paragraph (ea) applies) may be excluded by regulation from becoming eligible employees. Persons included in a class of persons who are excluded from becoming eligible employees are prescribed in the **Superannuation (CSS) Eligible Employees Regulations** (the Principal Regulations).

Subregulation 4(1) of the Principal Regulations contains descriptions of classes of persons who are excluded from the definition of "eligible employee" by paragraph of that definition.

## **AMENDMENTS**

### **Regulation 1**

This provides that the amending regulations commence on 1 March 1996.

### **Regulation 2**

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

### **Regulation 3**

Subregulation 1 inserts paragraph (zo) in subregulation 4(1) of the Principal Regulations.

Paragraph (zo) describes a class of persons who declare their intention to join the PSS and elect to cease to be members of the CSS in writing addressed to the CSS Board within a specified period. Persons may not take action under the paragraph if at the time they:

(c) were precluded from membership of the PSS by a provision of the 1990 Act other than the provision that precludes CSS members from also being members of the PSS; or

(d) were only CSS members because of the mobility provisions included in Part IV of the *Public Service Act 1922*.

Subregulation 3.2 inserts subregulations 4(7), (8) and (9) to specify that the period in which action may be taken under paragraph (zo) is 1 March 1996 to 31 August 1996, with certain exceptions contained in subregulations 4(8) and 4(9).

Subregulation 4(8) provides that if special circumstance exist in relation to a person, and the person has not taken action under paragraph 4(1)(zo) during the six month period then he or she may take that action during an extended period. This amendment ensures that all persons covered by the amending regulations have at least a three month period in which to elect to transfer to the PSS.

The special circumstances are, where a person is:

(a) absent from duty on leave without pay; or

(b) precluded from membership of the PSS (by a provision of the 1990 Act other than the provision that precludes CSS members from also being members of the PSS); or

(c) a person whose membership of the CSS arises only from the mobility provisions of the Public Service Act.

If the special circumstances do not apply to the person on 1 August 1996 then the person may take action under paragraph 4(1)(zo) during a period commencing on 1 September 1996 and ending at the end of a period of three months commencing on the last day before 1 September 1996 on which the special circumstances ceased to apply to the person. If the special circumstances do apply to the person on 31 August 1996 then the person may take action under paragraph 4(1)(zo) during a period commencing on 1 September 1996 and ending at the end of a period of three months commencing on the first day after 31 August 1996 on which the special circumstances ceased to apply to the person.

Paragraph 4(9)(a) provides that a person who has been in receipt of invalidity pension before 31 August 1996 may take action under subregulation 4A(1) either during the six month period or during a period ending on a date three months after returning to employment if that date would be later than 1 August 1996.

Paragraph 4(9)(b) allows any person other than an invalidity pensioner who becomes a member of the CSS after 31 May, 1996 to take action under subregulation 4A(1) within a three month period of becoming a member. Section 15A of the 1976 Act prohibits persons from becoming CSS members after 1 July 1990 unless they have a prior connection with the scheme, for example, persons who have made an election for preservation of rights under Part IX of that Act.