

Superannuation (Continuing Contributions for Benefits) Regulations (Amendment) 1991 No. 168

EXPLANATORY STATEMENT

STATUTORY RULES 1991 No. 168

ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUPERANNUATION ACT 1976

SUPERANNUATION (CONTINUING CONTRIBUTIONS FOR BENEFITS) REGULATIONS
(AMENDMENT)

The Superannuation Act 1976 (the Act) makes provision for and in relation to an occupational superannuation scheme for Commonwealth employees and for certain other persons.

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

Members of the superannuation scheme are referred to in the Act as eligible employees. Paragraph (ea) of the definition of "eligible employee" in subsection 3(1) of the Act includes within the scope of the term a person to whom section 14A of the Act applies.

Subsection 14A applies to persons specified in paragraphs 14A(1)(a) to (d) and to persons specified in regulations by virtue of paragraph 14A(1)(e). In accordance with subsection 14A(1), regulations under the Act may exclude from the application of section 14A persons included by paragraphs 14A(1)(a) to (e). In accordance with subsection 14A(2), the section ceases to apply to certain specified persons at times specified in the section or at such other times as are specified in regulations under the Act. In accordance with subsection 14A(3), and subject to subsections 14A (4) and (5), the Act may be modified by regulations in relation to persons to whom section 14A applies or has applied.

Subsection 168(9) of the Act provides that regulations made within a period of 12 months after 1 July 1990 by virtue of section 14A may be expressed to have taken effect from and including a day not earlier than 1 July 1990.

Regulations for the purposes of section 14A are contained in the Superannuation (Continuing Contributions For Benefits) Regulations (the Principal Regulations).

The Regulations will amend the Principal Regulations as a consequence of certain amendments to the Act by the Superannuation Legislation Amendment Act 1990.

The amendments contained in the Regulations are explained in the Attachment. In accordance with subsection 168(9) of the Act, they will operate with effect from and including 1 July 1990, the date of commencement of the amendments to the Act.

ATTACHMENT

SUPERANNUATION (CONTINUING CONTRIBUTIONS FOR BENEFITS) REGULATIONS (AMENDMENT)

REGULATION 1

This provides for the Superannuation (Continuing Contributions for Benefits) Regulations (Amendment) (the Amending Regulations) to operate with effect from and including 1 July 1990.

REGULATION 2

This provides that the Superannuation (Continuing Contributions for Benefits) Regulations (the Principal Regulations) are amended as set out in the Amending Regulations.

SUBREGULATIONS 3.1 AND 3.2

Paragraph 14A(1)(c) of the Superannuation Act 1976 (the Act) provides that section 14A applies to persons re-appointed or deemed to be re-appointed to the Australian Public Service in accordance with certain provisions of the Public Service Act 1922 (the PS Act). Paragraph 14A(1)(d) provides that the section applies to persons re-appointed or re-employed or deemed to have been re-appointed or re-employed otherwise than in the Australian Public Service in circumstances similar to those applicable in relation to the provisions of the PS Act referred to in paragraph 14A(1)(c).

Paragraphs 18 (b) and (c) of the Superannuation Legislation Amendment Act 1990 (the Amending Act) amended paragraphs 14A(1)(c) and (d) of the Act by inserting references to section 87M of the PS Act in both paragraphs. Regulation 3 of the Principal Regulations provides that section 14A of the Act does not apply to certain persons described in the regulation. In particular, paragraphs 3(1)(j) and (k) provide that the section does not apply to persons deemed to have been re-appointed to the Australian Public Service in accordance with section 87Q of the PS Act, or re-appointed or re-employed or deemed to have been re-appointed or re-employed otherwise than in the Australian Public Service in circumstances like those applicable in relation to section 87Q, where the person was not a member of the superannuation scheme at times specified in the paragraphs.

Subregulation 3.1 and 3.2 of the Amending Regulations amend paragraphs 3(1)(j) and (k) of the Principal Regulations so that they will apply also to persons deemed to have been re-appointed to the Australian Public Service in accordance with section 87M of the PS Act or re-appointed or re-instated in employment otherwise than in the Australian Public Service in circumstances like those applicable in relation to section 87M of the PS Act.

SUBREGULATIONS 4.1, 4.2 AND 4.3

Clause 1 of the Schedule to the Principal Regulations inserted Part VIIIA (comprising sections 124A, 124B, 124C and 124D) in the Act. Part VIIIA contains special provisions to provide continuity of service for the purposes of the Act for certain persons to whom section 14A applies. Section 124E describes the persons to whom Part VIIIA applies.

Subregulation 4.1, 4.2 and 4.3 amend section 124B by inserting references to section 87M of the PS Act in paragraphs 124B(d), (f) and (g) so that Part VIIIA will apply to persons deemed to have been re-appointed to the Australian Public Service in accordance with section 87M of the PS Act or reinstated in employment other than in the Australian Public Service in circumstances like those applicable in relation to section 87M.

SUBREGULATION 4.4

Section 159 of the Principal Act provides for an authority or body that is an approved authority for the purposes of that Act to make payments to the Commonwealth in respect of its employees who are members of the superannuation scheme provided under the Principal Act. Section 84 of the Amending Act made significant amendments to section 159.

Clause 2 of the Schedule to the Principal Regulations inserted section 159A in the Principal Act to provide for employers of certain persons to whom section 14A of the Principal Act applies to make payments to the Commonwealth in respect of those persons. Section 159A reflects the practical effect of section 159 as it stood at the time section 159A was inserted. Subsequent amendments to section 159 have brought it more in line with the substituted section 159A. It is therefore now more convenient to rely upon a modified section 159.

Subsection 160 of the Principal Act requires an authority or body that is an approved authority for the purposes of that Act to meet the cost of certain medical examinations of its employees for the purposes of the Act and enables the Minister to charge part of the costs of the administration of the Act to approved authorities. Section 85 of the Amending Act made significant amendments to section 160.

Clause 3 of the Schedule to the Principal Regulation modified section 160 so that it would apply in relation to certain persons to whom section 14A of the Principal Act applies.

Subregulation 4.4 omits section 159A and modifies section 159 so that it will apply in relation to persons to whom section 14A applies. It also amends the modifications to section 160 in the light of the amendments by section 85 of the Amending Act.