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Statutory Rules 1992 No. ¹

4281

Superannuation (Continuing Contributions for Benefits) Regulations² (Amendment)

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

Dated 17 December 1992.

BILL HAYDEN

Governor-General

By His Excellency's Command,

Ralph Willis

Minister of State for Finance

1. Amendment

1.1 The Superannuation (Continuing Contributions for Benefits)
 Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*,
 s. 48.]

2. Regulation 2 (Interpretation)

2.1 After the definition of “employee of ASP Ship Management”, insert:

“ ‘mobility allowance’ means an allowance of that name payable in accordance with a determination made under section 82D of the *Public Service Act 1922*;”.

3. Regulation 3A (Classes of persons to whom section 14A applies)

3.1 Add at the end:

- “; (h) a class of persons, each of whom:
- (i) is eligible to be paid a mobility allowance or would be eligible to be paid the allowance except for the amount of income that the person is receiving; and
 - (ii) was an eligible employee immediately before becoming eligible to be paid the allowance; and
 - (iii) is not a member of the Superannuation (1990) Scheme.”.

4. Regulation 4 (When s. 14A no longer applies)

4.1 Add at the end:

“(7) Section 14A of the Act ceases to apply to a person mentioned in paragraph 3A (h) at the end of:

- (a) the day on which the person ceases to be eligible to be paid a mobility allowance for a reason other than the amount of income that the person is receiving; or
- (b) the day immediately before the person is required to be a member of the Superannuation (1990) Scheme while the person:
 - (i) is eligible to be paid a mobility allowance; or
 - (ii) would be eligible to be paid the allowance except for the amount of income that he or she is receiving;

whichever occurs first.”.

5. Regulation 5 (Application of Act)

5.1 Omit “the Schedule”, substitute “Schedule 1”.

5.2 Add at the end:

“(2) The Act applies, subject to the modifications set out in Schedule 2, to a person referred to in paragraph 3A (h).”.

6. Schedule

6.1 Omit “SCHEDULE”, substitute “SCHEDULE 1”.

6.2 Omit “Regulation 5”, substitute “Subregulation 5 (1)”.

7. New Schedule 2

7.1 Add at the end of the Regulations:

SCHEDULE 2

Subregulation 5 (2)

**MODIFICATIONS OF THE ACT IN RELATION TO
PERSONS ELIGIBLE TO BE PAID A MOBILITY ALLOWANCE**

1. Section 3 (Interpretation)

1.1 Subsection 3 (1):

After the definition of “minimum retiring age”, insert:

“ ‘**mobility allowance**’ means an allowance of that name payable in accordance with a determination made under section 82D of the *Public Service Act 1922*;”.

SCHEDULE 2 — continued

2. Section 5 (Annual rate of salary)

2.1 Subsection 5 (2):

Omit the subsection, substitute:

“(2) The annual rate of salary on a particular day of a person who is referred to in paragraph 3A (h) of the Superannuation (Continuing Contributions for Benefits) Regulations is:

- (a) an amount equal to the amount of salary per year payable on that day in respect of the office that the person held immediately before becoming eligible for a mobility allowance; or
- (b) if the person makes an election under subsection 47A (1)—the maximum amount per year of mobility allowance payable to a person.”.

3. Section 47 (Decreases in salary)

3.1 Add at the end:

“(5) This section does not apply to an eligible employee who makes an election under subsection 47A (1).”.

4. New section 47A

4.1 After section 47, insert:

Election relating to mobility allowance

“47A. (1) An eligible employee who:

- (a) is eligible to be paid a mobility allowance; or
- (b) would be eligible to be paid a mobility allowance except for the amount of income that he or she is receiving;

(in this regulation called ‘the applicant’) may make an election in writing to the Commissioner to have the applicant’s annual rate of salary taken to be the maximum amount per year of mobility allowance payable to a person.

SCHEDULE 2 — continued

“(2) The applicant must make the election not later than 3 months after the day on which the applicant:

- (a) becomes eligible to be paid a mobility allowance; or
- (b) would have become eligible to be paid a mobility allowance except for the amount of income that he or she is receiving.

“(3) If:

- (a) the applicant makes an election under subsection (1); and
- (b) as a consequence of the election, the applicant’s annual rate of salary is less than the annual rate of salary:
 - (i) payable to the applicant on the last anniversary of the applicant’s birth before the date of the election; or
 - (ii) taken, under subsection 47 (1) or (3), to have been payable to the applicant on the last anniversary;

the applicant’s annual rate of salary on the last anniversary of the applicant’s birth before the day on which the applicant:

- (c) became eligible to be paid a mobility allowance; or
- (d) would have become eligible to be paid a mobility allowance except for the amount of income that he or she is receiving;

is taken to be the applicant’s annual rate of salary immediately after the election for the purpose of calculating the amount of the basic contribution payable by the applicant on each contribution day after the date of the election and before the first anniversary of the applicant’s birth after that date.”.

5. Section 51 (Leave of absence without pay)

5.1 After subsection 51 (1), insert:

“(1AA) In spite of subsection (1), this section does not apply to an eligible employee who:

- (a) is eligible to be paid a mobility allowance; or
- (b) would be eligible to be paid a mobility allowance except for the amount of income that the person is receiving.”.

SCHEDULE 2 — continued

6. Section 110A (Interpretation)

6.1 Definition of “designated employer”:

After paragraph (c), insert:

- “(ca) if the employee
- (i) is eligible to be paid a mobility allowance; or
 - (ii) would be eligible to be paid a mobility allowance except for the amount of income that the person is receiving;
- the Department, approved authority or person who is, or would be, responsible for the payment of the allowance; or”.

6.2 Definition of “productivity employee”:

Omit the definition, substitute:

“ ‘**productivity employee**’ means an eligible employee who:

- (a) is eligible to be paid a mobility allowance; or
- (b) would be eligible to be paid a mobility allowance except for the amount of income that he or she is receiving.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on L 1992. 24 December |
2. Statutory Rules 1981 No. 36 amended by 1987 No. 290; 1989 No. 168; 1990 Nos. 179 and 379; 1991 Nos. 97, 168, 446 and 465; 1992 Nos. 27, 213 and 323.