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Statutory Rules 1996 No. *L1*

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Superannuation (CSS) Former Eligible Employees 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

L

1996.

13 June

L WILLIAM DEANE
Governor-General

By His Excellency's Command,

L
Minister for Finance

JOHN FAHEY

1. Commencement

1.1 Regulations 3, 4, 5, 8, 12, 13, 14, 15, 18 and 19 are taken to have commenced on 23 June 1995.

[NOTE: The remainder of these Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

2. Amendment

2.1 The Superannuation (CSS) Former Eligible Employees Regulations are amended as set out in these Regulations.

3. Regulation 3 (Interpretation)

3.1 Add at the end:

“(2) A reference in the Schedules to ‘the FEE Regulations’ is a reference to these Regulations.”.

4. Regulation 13 (Application of the Act to certain former employees of repatriation institutions who join State superannuation schemes)

4.1 Omit the regulation, substitute:

“13. (1) The Act is modified in accordance with Schedule 9 in its application to each person who:

- (a) is a person to whom section 126A of the Act applies; and
- (b) is taken, by force of subsection 15 (2) of the *Repatriation Institutions (Transfer) Act 1992*, to have resigned from the Australian Public Service at the start of the day (in this subregulation called ‘**the relevant day**’) on which a State, or an authority of a State, started to operate a repatriation institution (within the meaning of that Act); and
- (c) was an eligible employee immediately before the relevant day; and
- (d) had, before the relevant day, completed 1 year’s employment that qualifies under section 132 of the Act as eligible employment; and
- (e) on the relevant day is, for the purposes of the *Repatriation Institutions (Transfer) Act 1992*, in acceptable continuing employment at that repatriation institution; and
- (f) becomes a member of a State superannuation scheme; and
- (g) ceased, or will cease, to be an eligible employee before 1 July 1995.

“(2) The Act is modified in accordance with Schedule 9A in its application to each person who:

- (a) is a person to whom section 126A of the Act applies; and
- (b) is taken, by force of subsection 15 (2) of the *Repatriation Institutions (Transfer) Act 1992*, to have resigned from the Australian Public Service at the start of the day (in this subregulation called ‘**the relevant day**’) on which a State, or an authority of a State, started to operate a repatriation institution (within the meaning of that Act); and
- (c) was an eligible employee immediately before the relevant day; and
- (d) on the relevant day is, for the purposes of the *Repatriation Institutions (Transfer) Act 1992*, in acceptable continuing employment at that repatriation institution; and
- (e) becomes a member of a State superannuation scheme; and
- (f) ceases to be an eligible employee on or after 1 July 1995.”.

5. Regulation 14 (Application of the Act to certain Northern Territory employees)

5.1 Omit the regulation, substitute:

“14. (1) The Act is modified in accordance with Schedule 10 in its application to each person who:

- (a) is a person to whom section 126A of the Act applies; and
- (b) is engaged in employment under a contract of service that is an Executive Contract of Employment within the meaning of:
 - (i) section 3 of the *Public Sector Employment (Interim Arrangements) Act 1992*; or
 - (ii) section 3 of the *Public Sector Employment and Management Act 1993*;of the Northern Territory; and

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- (c) is a member, in accordance with that contract of service, of a superannuation scheme other than the scheme constituted by the Act; and
- (d) ceased, or will cease, to be an eligible employee before 1 July 1995.

“(2) The Act is modified in accordance with Schedule 10A in its application to each person who:

- (a) is a person to whom section 126A of the Act applies; and
- (b) is engaged in employment under a contract of service that is an Executive Contract of Employment within the meaning of:
 - (i) section 3 of the *Public Sector Employment (Interim Arrangements) Act 1992*; or
 - (ii) section 3 of the *Public Sector Employment and Management Act 1993*;
of the Northern Territory; and
- (c) is a member, in accordance with that contract of service, of a superannuation scheme other than the scheme constituted by the Act; and
- (d) ceases to be an eligible employee on or after 1 July 1995.”.

6. Regulation 15A (Application of Act to eligible employees affected by transfer of certain Commonwealth facilities)

6.1 Subparagraph 15A (3) (d) (ii):

Omit “Commissioner”, substitute “Board”.

6.2 Subparagraph 15A (5) (c) (i):

Omit “Commissioner”, substitute “Board”.

6.3 Subparagraph 15A (5) (c) (ii):

Omit “Commissioner”, substitute “Board”.

7. Regulation 15B (Application of Act to eligible employees affected by Qantas sale)

7.1 Paragraph 15B (4) (b):

Omit “Commissioner”, substitute “Board”.

8. Regulation 16 (Application of Act to certain employees affected by privatisation, etc.—deferred benefit)

8.1 Omit the regulation, substitute:

“16. (1) The Act is modified in accordance with Schedule 12 in its application to each person who:

- (a) is either:**
 - (i) a person to whom section 155B of the Act applies; or**
 - (ii) a person to whom section 126A of the Act applies and who ceases to be an eligible employee in circumstances connected with the sale or transfer of an organisation, business, service or asset;**

and

- (b) makes an election under section 137 of the Act; and**
- (c) ceased, or will cease, to be an eligible employee before 1 July 1995.**

“(2) The Act is modified in accordance with Schedule 12A in its application to each person who:

- (a) is either:**
 - (i) a person to whom section 155B of the Act applies; or**
 - (ii) a person to whom section 126A of the Act applies and who ceases to be an eligible employee in circumstances connected with the sale or transfer of an organisation, business, service or asset; and**
- (b) makes an election under section 137 of the Act; and**
- (c) ceases to be an eligible employee on or after 1 July 1995.”.**

9. Schedule 5 (Modification—Employees of, and holders of statutory offices in, Australian Postal Corporation, Australian Telecommunications Corporation, and Australian and Overseas Telecommunications Corporation)

9.1 Substituted section 132:

Omit “Superannuation (Former Eligible Employees) Regulations”, substitute “FEE Regulations”.

10. Schedule 7 (Modifications—Employees of Australian Defence Industries Ltd)

10.1 Item 18:

Omit from substituted subsection 139 (1) “Superannuation (Former Eligible Employees) Regulations”, substitute “FEE Regulations”.

11. Schedule 8 (Modifications—Employees of Coselco Mimotopes Pty Ltd)

11.1 Item 1:

Omit from substituted subsection 139 (1) “Superannuation (Former Eligible Employees) Regulations”, substitute “FEE Regulations”.

12. Schedule 9 (Modifications—former employees of repatriation institutions who become members of state superannuation schemes)

12.1 Omit the heading, substitute:

“SCHEDULE 9 Subregulation 13 (1)

**MODIFICATIONS—FORMER EMPLOYEES OF
REPATRIATION INSTITUTIONS WHO CEASE TO BE
ELIGIBLE EMPLOYEES BEFORE 1 JULY 1995”.**

12.2 Item 1:

Omit from inserted section 80AA “regulation 13 of the Superannuation (Former Eligible Employees) Regulations”, substitute “subregulation 13 (1) of the FEE Regulations”.

12.3 Item 2:

Omit inserted subsection 137 (1A), substitute:

“(1A) A person specified in subregulation 13 (1) of the FEE Regulations is taken to have given a notice under subsection (1) on the relevant day within the meaning of that subregulation.”.

12.4 Item 5:

Omit from substituted subsection 139 (1) “regulation 13 of the Superannuation (Former Eligible Employees) Regulations”, substitute “subregulation 13 (1) of the FEE Regulations”.

12.5 Item 8:

Omit from inserted paragraph 139 (2A) (b) “regulation 13 of the Superannuation (Former Eligible Employees) Regulations”, substitute “subregulation 13 (1) of the FEE Regulations”.

13. New Schedule 9A

13.1 After Schedule 9, insert:

“SCHEDULE 9A Subregulation 13 (2)

**MODIFICATIONS—FORMER EMPLOYEES OF
REPATRIATION INSTITUTIONS WHO CEASE TO BE
ELIGIBLE EMPLOYEES ON OR AFTER 1 JULY 1995**

1. New section 80AA:

After section 80, insert in Division 5 of Part V:

**Exclusion of this Part in respect of certain employees of
repatriation institutions**

‘80AA. This Part does not apply in respect of a person specified in subregulation 13 (2) of the FEE Regulations.’.

2. Subsection 137 (2):

Omit the subsection, substitute:

‘(2) A person specified in subregulation 13 (2) of the FEE Regulations is taken to have given a notice under subsection (1) on the relevant day within the meaning of that subregulation.’.

3. Subsection 138 (2):

Omit 'payable on', substitute 'payable, subject to subsection 138 (2A), on'.

4. Section 138:

After subsection (2), insert:

'(2A) If:

- (a) apart from this subsection, a benefit would be payable under subsection (2) in respect of a person by reason of the occurrence of a date specified in paragraph (2) (c) or (d); and
- (b) on the day that was, in relation to the person, the relevant day within the meaning of subregulation 13 (2) of the FEE Regulations, the person was employed at a repatriation institution, within the meaning of the *Repatriation Institutions (Transfer) Act 1992*; and
- (c) the person has remained, on and from that day, continuously in employment of a kind specified in subsection (2B);

the benefit does not become payable under subsection (2) until the person ceases to be in employment of a kind specified in subsection (2B).

'(2B) For the purposes of paragraph (2A) (c), the following kinds of employment are specified:

- (a) employment at the repatriation institution at which the person was employed on the day identified in that paragraph as the relevant day in relation to the person; and
- (b) if that repatriation institution was, on that day:
 - (i) operated by a State—other employment by that State, or by an authority of that State; or
 - (ii) operated by an authority of a State—other employment by that authority, or employment by that State or another authority of that State.'".

14. Schedule 10 (Modifications—certain Northern Territory employees)

14.1 Omit the heading, substitute:

“SCHEDULE 10 Subregulation 14 (1)

**MODIFICATIONS—CERTAIN NORTHERN TERRITORY
EMPLOYEES WHO CEASE TO BE ELIGIBLE EMPLOYEES
BEFORE 1 JULY 1995”.**

14.2 Item 1:

Omit the item substitute:

“1. Paragraph 58 (2) (b):

Omit ‘ceases to be an eligible employee for any reason other than death or involuntary retirement;’, substitute ‘becomes a person to whom subregulation 14 (1) of the FEE Regulations applies;’.

14.3 Item 5:

Omit from substituted paragraph 110TB (a) “regulation 14 of the Superannuation (Former Eligible Employees) Regulations”, substitute “subregulation 14 (1) of the FEE Regulations”.

14.4 Item 9:

Omit from substituted subsection 139 (3) “regulation 14 of the Superannuation (Former Eligible Employees) Regulations”, substitute “subregulation 14 (1) of the FEE Regulations”.

15. New Schedule 10A

15.1 After Schedule 10, insert:

“SCHEDULE 10A Subregulation 14 (2)

**MODIFICATIONS—CERTAIN NORTHERN TERRITORY
EMPLOYEES WHO CEASE TO BE ELIGIBLE EMPLOYEES
ON OR AFTER 1 JULY 1995**

1. Paragraph 58 (2) (b):

Omit ‘ceases to be an eligible employee for any reason other than death or involuntary retirement;’, substitute ‘becomes a person to whom subregulation 14 (2) of the FEE Regulations applies;’.

2. Section 110T:

Omit the section, substitute:

'110T. A person who becomes entitled to benefits under section 55 or 59 is taken to have given the Board a notice of election to have this Part apply to the person.'

3. Subsection 110TA (1):

After paragraph (b), insert:

'and (c) the additional age retirement pension or the additional early retirement pension, as the case may be;'

4. Subsection 110TA (2):

Omit the subsection.

5. Paragraph 110TB (a):

Omit the paragraph, substitute:

'(a) the date on which the person turns 65 or, if the person is on that date a person to whom subregulation 14 (2) of the FEE Regulations applies, the date on which he or she ceases:

- (i) to be employed by the Northern Territory of Australia or an authority or body established by or under a law of the Northern Territory; or
- (ii) to hold a statutory office established by a law of the Northern Territory;'

6. Subsection 137 (2):

Omit the subsection, substitute:

'(2) A person who is not entitled to benefits under section 55 or 59 is taken to have given the Board a notice mentioned in subsection (1).'

7. Subsection 138 (1):

Omit the subsection, substitute:

‘(1) Subject to this Division, deferred benefits are applicable to a person who, under subsection 137 (2), is taken to have given the Board a notice mentioned in subsection 137 (1).’.

8. Subsections 138 (3) and (4):

Omit the subsections, substitute:

‘(3) If the person is, on the date mentioned in paragraph 138 (2) (c) or (d), a person to whom subregulation 14 (2) of the FEE Regulations applies, subsection 138 (2) does not apply to the person until he or she ceases:

- (a) to be employed by the Northern Territory of Australia or an authority or body established by or under a law of the Northern Territory; or
- (b) to hold a statutory office established by a law of the Northern Territory;’.”.

16. Schedule 11 (Modifications—employees affected by privatisation, etc. (Delayed updated pension))

16.1 Item 1:

Omit from inserted subsection 144A (1) “Superannuation (Former Eligible Employees) Regulations”, substitute “FEE Regulations”.

17 Schedule 11A (Modifications—former employees of nominated facilities retrenched within 3 years of transfer day)

17.1 Item 1:

Omit from inserted subsection 58 (3B) “Superannuation (Former Eligible Employees) Regulations”, substitute “FEE Regulations”.

17.2 Item 5:

Omit from inserted subsection 62 (1A) “Commissioner”, substitute “Board”.

18. Schedule 12 (Employees of services etc. sold, privatised, etc. deferred benefits modifications)

18.1 Omit the heading, substitute:

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“SCHEDULE 12 Subregulation 16 (1)

**MODIFICATIONS—EMPLOYEES OF SERVICES ETC.
SOLD, PRIVATISED ETC. WHO CEASE TO BE ELIGIBLE
EMPLOYEES BEFORE 1 JULY 1995”.**

19. New Schedule 12A

19.1 After Schedule 12, insert:

“SCHEDULE 12A Subregulation 16 (2)

**MODIFICATIONS—EMPLOYEES OF SERVICES ETC.
SOLD, PRIVATISED ETC. WHO CEASE TO BE ELIGIBLE
EMPLOYEES ON OR AFTER 1 JULY 1995**

1. Subsection 138 (3):

Omit the subsection, substitute:

‘(3) Paragraph 2 (c) does not apply unless the person will have reached the 55th anniversary of his or her birth by the date so selected.’”.

20. Schedule 13 (Arrangements for Qantas employees)

20.1 Heading:

Omit “Subregulation 15B (2)”, substitute “Subregulation 15B (6)”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on *L* 1996. *20 June*
2. Statutory Rules 1986 No. 266 as amended by 1987 No. 307; 1989 Nos. 16 and 306; 1990 Nos. 141, 177 and 451; 1991 Nos. 161 and 445 (as amended by 1992 No. 212); 1992 Nos. 94, 170, 212 and 271; 1993 No. 262; 1994 Nos. 19, 247, 346, 359 and 447; 1995 Nos. 93 and 236; 1996 No. 2.