

Superannuation (CSS) Former Eligible Employees Regulations (Amendment) 1997 No. 327

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 327

Issued by the authority of the Minister for Finance and Administration

Superannuation Act 1976

Superannuation (CSS) Former Eligible Employees Regulations (Amendment)

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

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

Persons eligible to contribute under the Act are referred to as "eligible employees". The term "eligible employee" is defined under subsection 3(1) of the Act.

Section 126A of the Act provides that regulations may modify the Act in its application to, or in respect of, a person who ceases to be an eligible employee and who, immediately after ceasing, becomes a member of another superannuation scheme. Regulations for the purposes of Section 126A of the Act are contained in the Superannuation (CSS) Former Eligible Employees Regulations (the principal Regulations).

The purpose of Regulations 15 and 15A is to provide for modification of the Act as it applies to certain employees affected by privatisation or outsourcing. Regulation 15 of the principal Regulations provides for the Act to be amended in accordance with Schedule 11 of the Regulations in order to provide an additional preservation option referred to as Delayed Updated Pension (DUP). This preservation option is available to members affected by asset sales or outsourcing of Commonwealth owned operations. Section 144H of the Act as amended then provides a methodology for the Consumer Price Index (CPI) update of final salary of those affected in order to calculate this Delayed Updated Pension.

Regulation 15A of the principal Regulations provides for the Act to be amended in accordance with Schedule 11A of the Regulations in order to update final salary by CPI for former employees of nominated facilities retrenched within 3 years of transfer day. Section 61AA of the Act as amended then provides a methodology for the CH update of final salary of those affected from the date of sale or outsourcing to the date of retrenchment.

Paragraphs 144H(1)(b) and 61AA(1)(b) of the Act provide that preserved benefits may fluctuate with CH variations. In circumstances where CPI falls this can result in a fall in the value of benefits. This is inconsistent with other superannuation legislation that ensures preserved benefits are protected from suffering a decrease in value.

Paragraphs 144H(1)(b) and 61AA(1)(b) also provide for salary to be updated from the end of the last quarter to the date that the benefit is paid using an assumed rate of CPI increase equal to that over the last completed quarter. Where the CPI has fallen in the completed quarter prior to the date on which the benefit is paid, the final CPI figure for benefit calculation purposes to be that which has been, published, as at the end of that quarter.

Under the amendments, the relevant adjustments to final salary contained in Schedules 11 and 11A of the principal Regulations will become the difference between:

- * the last published CPI before the member ceases to be an eligible employee; and
- * the highest CPI in the published series that commences with the last published CPI before the member ceases to be an eligible employee and finishes with the last published CPI prior to the date on which the person ceases employment or the date on which the person is retrenched,

where this difference is expressed as a percentage of the last published CPI before the member ceases to be an eligible employee.

There will be no adjustment for the period between the end of the quarter immediately preceding commencement of the pension and the pension commencement date.

The amendments will come into effect on 1 January 1998.