

EXPLANATORY STATEMENT

STATUTORY RULES 1985 NO 74

ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUBJECT: SUPERANNUATION ACT 1976 - SUPERANNUATION
(TRANSFER ARRANGEMENTS) REGULATIONS (AMENDMENT)

Section 168 of the Superannuation Act 1976 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters which the Act requires or permits to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

The Act makes provision for and in relation to an occupational superannuation scheme for persons employed by the Commonwealth, and for certain other persons.

Sub-section 126(2) of the Act provides that the regulations may make provision for modifying the Act, or a provision of the Act specified in the regulations, in the application of the Act or that provision to and in relation to a contributor under the Act who, at any time before he became a contributor, was a member of a superannuation scheme, or to and in relation to such a class of contributors. Sub-section 126(3) provides that the modifications may include, but are not limited to, modifications providing for the payment of contributions and benefits in addition to, or in substitution for, those provided under the Act.

Sub-section 168(3) provides that regulations made after 31 December 1978 by virtue of sub-section 126(2) may be expressed to have taken effect from and including a day not earlier than 12 months before the making of the regulations.

Regulations made by virtue of sub-section 126(2) are contained in the Superannuation (Transfer Arrangements) Regulations.

The Regulations amend the Superannuation (Transfer Arrangements) Regulations by inserting Schedule 5 to modify certain provisions of the Act in their application to Dr G.A. Ramsey who was appointed as a Commissioner of the Commonwealth Tertiary Education Commission on and from 1 July 1984 in accordance with section 10 of the Commonwealth Tertiary Education Commission Act 1977. In accordance with section 24 of that Act, Dr Ramsey also became Chairman of the Advanced Education Council of the Commission on and from 1 July 1984.

Dr Ramsey became a contributor under the Act on 4 December 1984 by virtue of a direction under section 14 of the Act. He had been a contributor under the South Australian State Superannuation Scheme from 1 February 1958. Following the cessation of his membership of the South Australian Scheme, he received a refund of his contributions.

It is intended that, provided Dr Ramsey pays to the Superannuation Fund the amount of his refund of contributions from the South Australian Scheme, the period from 1 February 1958 to 3 December 1984 be recognised as contributory service for the purposes of the Act.

Sections 127 and 128 of the Act provide that a person who becomes a contributor under the Act may pay to the Commissioner for Superannuation a transfer value from a superannuation scheme of which he was previously a member in exchange for a credit of a period of contributory service for the purposes of the Act. A transfer value is a lump sum benefit from the previous scheme that includes a component based on employer contributions and that was payable upon the termination of the employment to which the previous scheme related otherwise than on the ground of invalidity or physical or mental incapacity.

Section 129 of the Act enables a lump sum benefit from a previous scheme that does not form part of a transfer value to be paid into the Superannuation Fund and be treated as supplementary contributions.

Section 16 of the Act provides that a new contributor may be required to undergo a medical examination. Section 130 provides that section 16 does not apply in certain circumstances where a new contributor pays a transfer value to the Commissioner.

The Regulations modify sections 127 to 130 to provide that, if Dr Ramsey pays to the Commissioner for Superannuation the amount refunded to him from the South Australian State Superannuation Scheme:

- . Dr Ramsey's period of contributory service under the Act will be increased by the period from 1 February 1958 to 3 December 1984;
- . the whole of the amount will be paid into the Superannuation Fund and be treated as basic contributions; and
- . Dr Ramsey will not be required to undergo a medical examination.

The Regulations also omit section 129 as that section will not apply to Dr Ramsey.

The Regulations also repeal and remake Schedule 4 of the Superannuation (Transfer Arrangements) Regulations which modifies sections 127 to 130 of the Act in their application to Mr B.V. McKay who was appointed Director-General of Health on and from 10 September 1984. The Schedule includes modifications to sub-section 128(3) which provides that, in certain circumstances where a lump sum benefit becomes payable under the Act to a contributor, two-sevenths of a transfer value that had been paid to the Commissioner for Superannuation in respect of the contributor shall be deemed to be basic contributions. The remade Schedule will omit the sub-section as it is not appropriate that it apply to Mr McKay.

The Regulations relating to Dr Ramsey operate with effect from 4 December 1984, the date from which he became a contributor under the Act and those relating to Mr McKay operate from 10 September 1984, the date from which Schedule 4 was inserted in the Superannuation (Transfer Arrangements) Regulations.

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