

EXPLANATORY STATEMENT

STATUTORY RULES 1985 NO. 344
ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUPERANNUATION ACT 1976
SUPERANNUATION (RETIRING AGE) REGULATIONS (AMENDMENT)

LEGISLATIVE BASIS FOR THE REGULATIONS

Section 168 of the Superannuation Act 1976 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all 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.

Sub-section 3(1) of the Act defines "maximum retiring age" as 65 years or such lesser age as, under regulations made under the Act, is the maximum retiring age applicable to a person or class of persons.

Regulation 4 of the Superannuation (Retiring Age) Regulations specifies age 60 years as the "maximum retiring age" applicable to certain classes of persons.

BACKGROUND

The invalidity and death benefits payable to, or in respect of, a contributor under the Act have regard, in most cases, to the contributor's period of prospective service. "Period of prospective service" refers to the aggregate of the period of contributory service at the date the person ceases to be an eligible employee and the period from that date until the person's "maximum retiring age".

Maximum retiring ages lower than age 65 which are applicable to certain contributors under their terms and conditions of employment do not apply automatically for the purposes of the Act. It is therefore necessary for such lesser maximum retiring ages to be prescribed in regulations to enable invalidity and death benefits, where based on years of prospective service, to be determined by reference to those lesser ages.

CONTENT

Sub-regulation 4(1) of the Superannuation (Retiring Age) Regulations prescribes certain classes of persons whose maximum retiring age for the purposes of the Act is age 60 years but, in the case of persons who were contributors to the superseded (pre 30 June 1976) Superannuation Scheme, excludes persons whose selected retiring age under that Scheme was age 65. The Regulations amend sub-regulation 4(1) by adding to the classes of persons whose maximum retiring age for the purposes of the Act is 60 years, those persons who are employees within the meaning of Commonwealth Employees (Redeployment and Retirement) Act 1979 and whose maximum retiring age under that Act is the age of 60 years. This enables the payment of the appropriate invalidity and death benefits to or in respect of such persons where the benefits are based on years of prospective service.

The Regulations take effect on and from 11 January 1986. This corresponds with the amendments to the Commonwealth Employees (Redeployment and Retirement) Regulations which prescribe Air Traffic Controllers and certain former Air Traffic Controllers as classes of employees with a maximum retiring age of 60 years for the purposes of the Commonwealth Employees (Redeployment and Retirement) Act 1979 on and from 11 January 1986.

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