

EXPLANATORY STATEMENT

STATUTORY RULES 1987 NO. 155
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. "Minimum retiring age" is also defined in sub-section 3(1) of the Act as 60 years or such lesser age as, under the regulations made under the Act, is the minimum retiring age applicable to a person or class 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. In accordance with the definition of "period of prospective service" in sub-section 3(1) of the Act, the term means 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 are prescribed as the maximum retiring ages for the purposes of the Act, in the Superannuation (Retiring Age) Regulations. 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.

Under the Act a contributor with more than one year's contributory service who retires voluntarily on or after attaining age 60 is entitled to be paid an age retirement pension in accordance with Division 1 and, if appropriate, a lump sum in accordance with Division 3 of Part V. A contributor whose terms and conditions of employment provide for voluntary retirement on or after attaining an age less than 60 is entitled, upon such voluntary retirement, to be paid an early retirement pension in accordance with Division 2 and, if appropriate, a lump sum in accordance with Division 3 of Part V, provided that lesser age has been prescribed in the Superannuation (Retiring Age) Regulations as the minimum retiring age in respect of the class of persons within which the contributor falls.

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CONTENT

Regulations 4 and 5 of the Superannuation (Retiring Age) Regulations prescribe maximum and minimum retiring ages for the purposes of the Superannuation Act applicable to eligible employees under that Act. The new Regulations repeal Regulations 4 and 5 and substitute Regulations 4(1) and 5(1) which provide, by means of a general statement covering all eligible employees, that the maximum or minimum retiring age applicable to an eligible employee shall be the maximum or minimum retiring age applicable to that person under his or her terms and conditions of employment or appointment.

Regulations 4(3) and 5(2) ensure that the terms and conditions of employment, referred to in Regulations 4(1) and 5(1), applicable to employees of bodies that were prescribed authorities for the purposes of the Commonwealth Employees (Redeployment and Retirement) Act 1979 will, following the repeal of that Act, include those provisions of the Public Service Act 1922 which form part of the terms and conditions which apply to those employees until the employing authorities make any modifications or other arrangements in respect of retirement provisions.

Regulation 4(2) ensures that persons whose terms and conditions of employment or appointment specify a maximum retiring age of less than 65 years but who had contributed under the Superannuation Act 1922 for units of pension based on a retiring age of 65 years, retain a maximum retiring age of 65 years for the purposes of the Superannuation Act 1976. As was the case with the provisions of the repealed Regulations, this ensures that these employees retain the maximum invalidity and death cover under the Commonwealth Superannuation Scheme consistent with their entitlement under the 1922 Act.

The Regulations take effect from the date of gazettal.

(SR No. 169/87)