



STATUTORY RULES

1974 No. 4

220

REGULATION UNDER THE DEFENCE FORCE RETIREMENT
AND DEATH BENEFITS ACT 1973-1974. *

I, THE GOVERNOR-GENERAL of Australia, acting with the
advice of the Executive Council, hereby make the following
Regulation under the Defence Force Retirement and Death
Benefits Act 1973-1974.

Dated this *twenty-sixth* day of *November*, 1974.

John R. Kerr

Governor-General.

By His Excellency's Command,

[Signed] *Lance Barnard*
Minister of State for Defence.

AMENDMENT OF THE DEFENCE FORCE RETIREMENT AND
DEATH BENEFITS REGULATIONS +

The Defence Force Retirement and Death Benefits
Regulations are amended by adding at the end thereof

* Notified in the Australian Government Gazette on

27 November 1974

+ Statutory Rules 1973, No. 260.

the following regulations:-

"8.(1) For the purposes of sub-section 85(2) of the Act, the Authority shall ascertain the amount that, for the purposes of Part X of the Act, is to be treated as the amount of aggregate pay received by an existing contributor in respect of each part of his period of previous contributory qualifying service that is a constant pay period in accordance with the formula $\frac{14ab}{100}$, where -

- a is the daily rate of pay applicable to him in respect of each day during the constant pay period; and
- b is the number of pay-days that occurred during the constant pay period.

"(2) The Authority shall ascertain the daily rate of pay applicable to an existing contributor in respect of each day during his period of previous contributory qualifying service in accordance with this regulation.

"(3) In ascertaining the daily rate of pay applicable to an existing contributor in respect of a day, the Authority shall have regard to -

- (a) the rank and pay of the existing contributor on that day;
- (b) the basis on which contributions by the existing contributor on that day would have been assessed if the former scheme had been in operation on that day and the maximum daily rate of active pay applicable to him on that day under that scheme had been -

- (i) where he made contributions under the Superannuation Act or the previous legislation in respect of that day -- the rate of pay (calculated on a daily basis) applicable to him in respect of that day for the purposes of assessing those contributions or, where those contributions were assessed otherwise than in relation to such a rate of pay, an equivalent rate of pay; or
 - (ii) where he did not make contributions under the Superannuation Act or the previous legislation in respect of that day -- the rate of pay (calculated on a daily basis) or equivalent rate of pay, that would have been applicable to him in respect of that day for the purposes of assessing his contributions in respect of that day if sub-paragraph (i) then applied to him;
- (c) any election made by the existing contributor in respect of that day that modified the rate of pay for the purposes of determining contributions by him under the previous legislation;
- (d) any refund that --
 - (i) was applicable to the existing contributor on that day; or
 - (ii) would have been applicable to the existing contributor on that day if the provisions relating to elections under

the former scheme were in force on that day and he had not made an election that he would have been entitled to make under those provisions; and

- (e) the maximum daily rate of active pay applicable to him on the date of commencement of the period of his full-time service that was continuous with service on or after 1 October 1972.

"(4) In this regulation -

'constant pay period', in relation to an existing contributor, means a period during which the same daily rate of pay is applicable to him in respect of each day comprising that period;

'former scheme' means the previous benefits scheme as in force on 30 September 1972;

'pay-day' means any of the following days:-

- (a) 21 September 1972;
- (b) the first day of each consecutive period of 14 days preceding 21 September 1972;

'period of previous contributory qualifying service' has the same meaning as in Part X of the Act.

"9. For the purposes of sub-section 89(6) of the Act, the following payments are payments of a prescribed kind:-

- (a) a payment of a gratuity under section 40, 42, 52 or 56A of the previous Act;
- (b) a payment of a gratuity under sub-section 41(3) or section 47 of the Defence Forces Retirement Benefits Act 1948 as amended and in force from time to time before 14 December 1959;

Prescribed payments for the purposes of sub-section 89(6) of the Act.

- (c) a payment of a gratuity under section 6 or paragraph 7(1)(a) of the Defence Forces Special Retirement Benefits Act 1960;
- (d) a payment of deferred pay or interest on deferred pay under regulation 51, 74, 151 or 153 of the Naval Financial Regulations;
- (e) a payment of a gratuity under regulation 158, 269 or 291A of the Naval Financial Regulations;
- (f) a payment of a gratuity by virtue of regulation 7 of the Naval Financial (Citizen Forces) Regulations;
- (g) a payment of a gratuity under regulation 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 200 or 200A of the Military Financial Regulations;
- (h) a payment of deferred pay or interest on deferred pay under regulation 546 or 547 of the Air Force Regulations;
- (i) a payment of a gratuity under regulation 636, 637, 638, 639, 640, 641, 642 or 643 of the Air Force Regulations; and
- (j) a payment of the nature of a payment referred to in paragraph (d), (e), (f), (g), (h) or (i), being a payment under legislation relating to conditions of service of members of the Defence Force other than the War Gratuity Act 1945-1966."