



Superannuation (CSS) Salary Regulations 1978

Statutory Rules No. 282, 1978

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This compilation was rectified to take into account a retrospective amendment made by Act No. 36, 2022. The original compilation and any other previous compilations for this point in time are available in the replacement history on the Federal Register of Legislation.

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This is a compilation of the *Superannuation (CSS) Salary Regulations 1978* that shows the text of the law as amended and in force on 2 March 1999 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name of regulations

These regulations are the *Superannuation (CSS) Salary Regulations 1978*.

2 Commencement

These regulations shall be deemed to have taken effect from and including 1 July 1976.

3 Interpretation

- (1) In these regulations, ***the Act*** means the *Superannuation Act 1976*.
- (2) In Parts 4 and 5, unless the contrary intention appears, ***salary*** has the same meaning as in section 5 of the Act.

Part 2—Allowances

4 Interpretation

- (1) In this Part, a reference to an allowance of a prescribed kind shall be read as a reference to an allowance of one of the following kinds:
- (a) an allowance that is payable to an eligible employee by reason that he temporarily performs the whole or a part of the duties of an office of a higher classification than the classification of the office occupied by him;
 - (c) an allowance that is payable to an eligible employee by reason that he is liable to be called upon to perform duties or work at any time during which he is off duty;
 - (d) an allowance that is payable to an eligible employee by reason that he is required in the performance of his duties or work to be in charge of staff, equipment or premises;
 - (e) an allowance that is payable to an eligible employee in lieu of payments for overtime or other extra duty work;
 - (f) an allowance that is payable to an eligible employee as compensation for the physical hardships or discomforts associated with the duties or work that he is required to perform;
 - (g) an allowance not otherwise referred to in this regulation that is payable to an eligible employee by reason that he is required to perform any special function as part of his duties or work.
- (2) In this Part:
- (a) a reference to an allowance includes, where the salary of an eligible employee is increased in respect of a period because the employee temporarily performs higher duties or acts in a higher rank or position, a reference to any part of the salary payable to the eligible employee in respect of that period that is attributable solely to his or her so performing or acting and is not payable during that period on any other ground or additional ground; and
 - (b) an allowance constituted by such a part of salary shall be taken to be an allowance of a prescribed kind referred to in paragraph (1)(a).

5 Certain allowances to be treated as salary

Each of the following kinds of allowance is a kind of allowance that is to be treated as salary for the purposes of the Act:

- (a) an allowance that is payable to an eligible employee as compensation for any loss of salary or wages incurred by the eligible employee while he is undergoing a course of training for the purpose of promotion to another office;
- (b) an allowance that is payable to an eligible employee by reason that:

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- (i) he possesses a qualification (including the completion of a course, of study or training, success at a particular level in an examination or the holding of any degree, diploma, licence or certificate); or
 - (ii) he has acquired a particular standard of proficiency in any skill related to the performance of his duties or work;
- (c) an allowance that is payable to an eligible employee by reason of the length of his period of service and the standard of efficiency attained by him in the performance of his duties or work;
- (d) an allowance that is payable to an eligible employee in respect of housing or quarters while he holds a particular office or performs particular duties or work;
- (f) an allowance that, pursuant to a law in force in the United Kingdom, is payable to an eligible employee, being a person who was engaged or appointed for employment in the United Kingdom and whose salary is fixed and payable in sterling, in order to compensate him for an increase in the cost of living;
- (g) an allowance that is payable to an eligible employee, being a person who has not attained the age of 21 years, by reason:
 - (i) that he is married; or
 - (ii) that he is required to perform duties or work of a kind normally performed by a person who has attained the age of 21 years;
- (h) an allowance that is payable to an eligible employee by reason that he is employed in the Public Service Board in the position of Chairman, Promotions Appeal Committee;
- (j) an allowance that is payable to an eligible employee (being an eligible employee referred to in paragraph (ea) of the definition of ***eligible employee*** in subsection 3(1) of the Act) in pursuance of:
 - (i) where the eligible employee is employed as a member of the staff of the Legal Aid Commission of Western Australia established under the *Legal Aid Commission Act, 1976* of the State of Western Australia—the provisions of paragraph 4 in the Schedule to the agreement made on 12 January 1978 between the Commonwealth and that State in relation to the provision in that State of legal aid to which that agreement relates;
 - (ii) where the eligible employee is employed as a member of the staff of the Legal Services Commission established under the Legal Services Commission Act, 1977 of the State of South Australia—the provisions of paragraph 4 in the Schedule to the agreement made on 4 December 1978 between the Commonwealth and that State in relation to the provision in that State of legal assistance to which that agreement relates;
 - (iii) where the eligible employee is employed as a member of the staff of the Legal Aid Commission of Queensland established under the *Legal Aid Act 1978* of the State of Queensland—the provisions of paragraph 4 in the Schedule to the agreement made on 26 June 1979 between the Commonwealth and that State in relation to the provision in that State of legal assistance to which that agreement relates; or

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- (iv) where the eligible employee is employed as a member of the staff of the Legal Aid Commission established under the *Legal Aid Commission Act 1978* of the State of Victoria—the provisions of paragraph 4 in the Schedule to the agreement made on 20 December 1979 between the Commonwealth and that State in relation to the provision in that State of legal aid to which the agreement relates;
- (k) an allowance that is payable to an eligible employee, being a person to whom subsection 16(3) of the *Trade Union Training Authority Amendment Act 1978* applies, under subsection 16(5) of that Act;
- (l) an allowance of a prescribed kind, other than an allowance referred to in Part 2C, or a Parliamentary employment allowance within the meaning of Part 2D in respect of which a person has made an election in accordance with that Part, that is payable on a regular basis to an eligible employee.

6 Payment of allowance of a prescribed kind on a regular basis

- (1) An allowance of a prescribed kind is taken, for the purposes of paragraph 5(1) or 8QA(1)(b), to be payable to an eligible employee on a regular basis only if the allowance is payable in respect of duties or work performed by the eligible employee for a continuous period that commences:
 - (a) immediately after the eligible employee has performed for a continuous period of 12 months duties or work in respect of the performance of which an allowance of the same kind as that allowance has been paid or is payable to the eligible employee; or
 - (b) where a certificate in respect, of the eligible employee has been given under subregulation (2)—on the day specified in the certificate.
- (2) If the Commissioner is of the opinion that there is a likelihood that, from and including a particular day:
 - (a) an eligible employee will, for a continuous period of not less than 12 months, perform duties or work in respect of the performance of which an allowance of a prescribed kind will be payable to him; or
 - (b) where the eligible employee has, for a continuous period of less than 12 months immediately preceding the particular day, performed duties or work in respect of the performance of which an allowance of a prescribed kind has been paid or is payable to him—the eligible employee will, for a continuous period of less than 12 months that together with the first-mentioned period will not be less than a period of 12 months, perform duties or work in respect of the performance of which an allowance of the same kind, as that allowance will be payable to him;the Commissioner shall give a certificate to that effect specifying the day (not being a day earlier than the day on which the certificate is given) on which the period referred to in paragraph (a) or (b), as the case may be, in relation to the eligible employee will commence.
- (3) For the purposes of this regulation, where:

- (a) for a continuous period immediately preceding a period of leave of absence, an eligible employee performs duties or work in respect of the performance of which an allowance of a prescribed kind is payable to him;
- (b) that allowance or an allowance of the same kind as that allowance is not payable to him during the period of leave; and
- (c) immediately after the expiration of the period of leave, the eligible employee performs, for a continuous period, duties or work in respect of the performance of which an allowance of the same kind as that allowance is payable to him;

the period of leave shall be disregarded and the periods during which he performs those duties or that work, being the period immediately preceding that period of leave and the period immediately following that period of leave, shall be deemed to be a continuous period.

- (4) Where an allowance of a prescribed kind is payable to an eligible employee during a period of leave of absence, the eligible employee shall, for the purposes of this regulation, be deemed to perform during the period of leave of absence the duties or work in respect of the performance of which that allowance is payable.

7 Circumstances where part of salary or wages not to be treated as salary for purposes of Act

- (1) Where:
 - (a) an allowance of a kind referred to in paragraph 5(j) or (k) is payable to an eligible employee; and
 - (b) a part (in this subregulation referred to as the *relevant part*) of that allowance is payable to the eligible employee by reason of a reduction in, or the discontinuance of, the payment to the eligible employee of another allowance, not being an allowance of a kind referred to in regulation 5, that is or was payable to the eligible employee;

so much of the salary or wages of the eligible employee as is equal to the amount of the relevant part of that allowance shall not be treated as salary for the purposes of the Act.

- (2) Where:
 - (a) an eligible employee performs on a particular day duties or work in respect of the performance of which an allowance of a prescribed kind is payable to the eligible employee and that allowance is payable on a regular basis to the eligible employee; and
 - (b) at any time during the relevant period an allowance of the same kind as the allowance referred to in paragraph (a) was payable to the eligible employee at a rate that is lower than the rate at which the allowance referred to in paragraph (a) is payable;

so much of the salary or wages payable to the eligible employee on the particular day as is equal to the amount by which the amount of the allowance referred to in paragraph (a) exceeds the amount of the allowance that would be payable to the eligible employee on the particular day if he or she had continued to perform

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those duties, or that work, performed by him or her during the relevant period in respect of which an allowance of the same kind as the allowance referred to in paragraph (a) was payable to him or her at the lower or lowest rate, as the case may be, shall not be treated as salary for the purposes of the Act.

- (3) In this regulation, **relevant period**, in relation to an eligible employee who performs on a particular day duties or work in respect of the performance of which an allowance of a prescribed kind is payable, means:
- (a) if paragraph (b) does not apply—the period of 12 months immediately preceding the particular day; or
 - (b) if the eligible employee has, for a continuous period of less than 12 months immediately preceding the particular day, performed the duties or work performed by him or her on the particular day or duties or work in respect of the performance of which an allowance of the same kind as the allowance payable to him or her on the relevant day has been paid or is payable to him or her—that lesser period.

8 Salary for purposes of determination of certain benefits

- (1) Where:
- (a) a person has ceased to be an eligible employee:
 - (i) by reason of early retirement; or
 - (ii) in circumstances that entitle him to age retirement pension; and
 - (b) on the relevant day the person performed duties or work in respect of the performance of which an allowance of a prescribed kind has been paid or is payable to him and that allowance was taken to be payable to the person on a regular basis by reason only that a certificate in respect of the person had been given by the Commissioner under subregulation 6(2);
- then, for the purposes of the definition of **final annual rate of salary** in subsection 3(1) of the Act, the annual rate of salary of that person on the relevant day shall be an amount equal to the amount per annum that would, for the purposes of the Act, have been the annual rate of salary of the person on that day if the certificate referred to in paragraph (b) had not been given.
- (2) In this regulation, **relevant day**, in relation to a person who has ceased to be an eligible employee, means:
- (a) except where paragraph (b) applies—his last day of service; or
 - (b) if his final annual rate of salary is ascertained by reference to the annual rate of salary payable to him on a day other than his last day of service—that other day.

Part 2A—Employees in receipt of shift allowance

8A Interpretation

(1) In this Part:

pay period, in relation to a person who is, or has ceased to be, an eligible employee, means:

- (a) where the first day of service of the person is not a pay day in relation to the person—the period commencing on the first day of service of the person and ending on the expiration of the day immediately preceding the pay day in relation to the person first occurring after his or her first day of service;
- (b) each period commencing on a pay day in relation to the person (not being the pay day in relation to the person last preceding his or her last day of service) and ending on the expiration of the day immediately preceding the next following pay day in relation to the person;
- (c) the period commencing on the pay day in relation to the person last preceding his or her last day of service and ending on the expiration of his or her last day of service; and
- (d) where there is no pay day in relation to the person that falls within the period commencing on his or her first day of service and ending on the expiration of his or her last day of service—that period.

prescribed eligible employee means an eligible employee who is, under the terms and conditions of his or her employment, entitled to receive as part of his or her salary or wages, in addition to the amount payable to the eligible employee in respect of the actual performance of his or her work or duties, an amount that is payable to the eligible employee solely by reason that the eligible employee has performed work or duties during specified hours that are, under those terms and conditions of employment, normal hours of duty for the eligible employee.

shift allowance means:

- (a) so much of the salary or wages of a prescribed eligible employee as is, under the terms and conditions of his or her employment, payable to the prescribed eligible employee solely by reason that the prescribed eligible employee has performed work or duties during specified hours that are, under those terms and conditions of employment, normal hours of duty for the prescribed eligible employee; and
- (b) where a prescribed eligible employee is, under the terms and conditions of his or her employment, entitled to receive, as part of his or her salary or wages in respect of a period of leave of absence, an amount that is payable to the prescribed eligible employee in lieu of any amount of salary or wages of the kind referred to in paragraph (a) that the prescribed eligible employee would have been likely to earn if the eligible employee had not been on leave of absence during that period—so much of the salary or wages of the prescribed eligible employee as is so payable to him or her.

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- (2) Where it is necessary to ascertain, for the purposes of this Part, the number of pay periods in relation to a person who is, or has ceased to be, an eligible employee that are included in a particular period, then:
- (a) except where paragraph (b) applies in relation to the particular period:
 - (i) if the commencement of the particular period coincides with the commencement of a pay period in relation to the person but the expiration of the particular period does not coincide with the expiration of that pay period or a subsequent pay period in relation to the person, the pay period in relation to the person that commences on the last of the pay days in relation to the person that fall within the particular period shall be taken as not being included in the particular period;
 - (ii) if the commencement of the particular period does not coincide with the commencement of a pay period in relation to the person but the expiration of the particular period coincides with the expiration of such a pay period, the pay period in relation to the person that ends on the day immediately preceding the pay day, or the first of the pay days, in relation to the person that falls or fall within the particular period shall be taken as not being included in the particular period; and
 - (iii) if the commencement of the particular period does not coincide with the commencement of a pay period in relation to the person and the expiration of the particular period does not coincide with the expiration of such a pay period:
 - (A) the pay period in relation to the person that ends on the day immediately preceding the pay day, or the first of the pay days, in relation to the person that falls or fall within the particular period shall be taken to be included in the particular period; and
 - (B) the pay period in relation to the person that commences on that pay day or the last of those pay days shall be taken as not being included in the particular period; or
 - (b) if the particular period consists only of a part of a pay period in relation to the person—that pay period shall be taken to be included in the particular period.
- (3) Where:
- (a) a person who is, or was at any time, a prescribed eligible employee has been, or was, on leave of absence for part of a period during which the person has been, or was, a prescribed eligible employee; and
 - (b) the person was not, during the period of leave of absence, entitled to be paid an amount in respect of shift allowance;
- then:
- (c) in ascertaining, for the purpose of the application of paragraph 8C(a) or 8D(1)(a) to and in relation to the person, the length and continuity of any period (in this subregulation referred to as a *relevant period*) of which the

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period of leave of absence is a part—the period of leave of absence shall be treated as being an integral part of the relevant period; and

(d) in ascertaining, for the purpose of the application of a provision of this Part other than paragraph 8C(a) or 8D(1)(a) to and in relation to a person, the length and continuity of a relevant period:

(i) if more than one pay day in relation to the person falls within the period of leave of absence:

(A) the period commencing on the first of the pay days in relation to the person that fall within the period of leave of absence and ending on the day immediately preceding the last of those pay days shall be disregarded; and

(B) the parts of the relevant period that, but for this paragraph, would have been taken to be separated by the period referred to in sub-subparagraph (A) shall be deemed to be continuous;

(ii) if only one pay day in relation to the person falls within the period of leave of absence and the expiration of the period of leave of absence coincides with the expiration of the pay period in relation to the person that commences on that pay day or with the expiration of the relevant period:

(A) the pay period commencing on that pay day or the period commencing on that pay day and ending on the expiration of the relevant period (as the case requires) shall be disregarded; and

(B) the day immediately preceding that pay day and the day immediately following that pay period or the relevant period (as the case may be) shall be deemed to be consecutive days; or

(iii) if subparagraph (i) or (ii) does not apply—the period of leave of absence shall be treated as being an integral part of the relevant period.

8B Payment of shift allowance on a regular basis

For the purposes of this Part, shift allowance shall not be taken to have been, during a particular period, payable on a regular basis to an eligible employee who has been during the whole or any part of that period a prescribed eligible employee unless shift allowance has been paid, or is payable, to the eligible employee in respect of work or duties performed during a number of the pay periods in relation to the eligible employee that are included in that particular period that is equal to not less than 75 per cent of the total number of those pay periods.

8C Circumstances where part of salary or wages not to be treated as salary for purposes of Act

Where the salary or wages of a prescribed eligible employee on a particular day includes, or include, an amount in respect of shift allowance, so much of that

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salary or those wages as is equal to the amount in respect of shift allowance is not to be treated as salary for the purposes of the Act unless:

- (a) the prescribed eligible employee has been an eligible employee for a continuous period of not less than 12 months immediately preceding that day; and
- (b) shift allowance has been payable on a regular basis to the prescribed eligible employee during the period of 12 months immediately preceding that day.

8D Annual rate of salary of eligible employee who has received shift allowance on a regular basis during period of 12 months

(1) Where:

- (a) a person is on a particular day, and has been for a continuous period of not less than 12 months immediately preceding that day, an eligible employee;
- (b) the person (whether or not he or she is on the particular day a prescribed eligible employee) was, during the whole or any part of the period of 12 months immediately preceding that day, a prescribed eligible employee; and
- (c) shift allowance has been payable on a regular basis to the person during the period referred to in paragraph (b);

the annual rate of salary of the person on the particular day shall, for the purposes of the Act, be an amount equal to whichever is the less of:

- (d) the amount per annum ascertained in accordance with the formula:
 $A \times B$; and
- (e) the amount per annum ascertained in accordance with the formula:
 $C + D$

where:

A is the highest amount of salary paid or payable to the person in respect of a pay period in relation to the person included in the period of 12 months immediately preceding the particular day;

B is the number of pay periods in relation to the person included in the period of 12 months immediately preceding the particular day;

C is the annual rate of the salary (within the meaning of section 5 of the Act) that would be payable to the person on the particular day if the salary or wages payable to the person on that day did not include an amount in respect of shift allowance; and

D is:

- (f) if paragraph (g) or (h) does not apply—the total amount of shift allowance paid or payable to the person in respect of:
 - (i) work or duties performed during the pay periods in relation to the person included in the period of 12 months immediately preceding the particular day; and

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- (ii) any period of leave of absence during that period when the person was entitled to receive shift allowance;
- (g) if paragraph (h) does not apply and shift allowance:
 - (i) in respect of work or duties performed by the person during specified hours of duty (in this paragraph referred to as the **relevant hours**) on any day during the period of 12 months immediately preceding the particular day; or
 - (ii) in respect of any period of leave of absence during that period when the person was entitled to receive shift allowance;
 was payable to the person at a rate that is not the same as the rate at which shift allowance would be payable to the person:
 - (iii) in respect of the same work or duties if the person performed that work or those duties during the same relevant hours on the particular day; or
 - (iv) if the person were on leave of absence on the particular day; as the case may be—the total amount of shift allowance that would have been payable to the person in respect of:
 - (v) work or duties performed during the pay periods in relation to the person included in the period of 12 months immediately preceding the particular day; and
 - (vi) periods of leave of absence included in that period when the person was entitled to receive shift allowance;
 if shift allowance in respect of the work or duties referred to in subparagraph (i) or in respect of the period of leave of absence referred to in subparagraph (ii) had been payable to the person at the last-mentioned rate; or
- (h) if, at any time during the period of 12 months immediately preceding the particular day, the person was an approved part-time employee—the amount ascertained in accordance with the formula:

EF**G**

where:

E is:

- (i) in the case of a person in relation to whom paragraph (f) would, but for this paragraph, have applied—the total amount of shift allowance referred to in that paragraph; or
- (ii) in the case of a person in relation to whom paragraph (g) would, but for this paragraph, have applied—the total amount of shift allowance referred to in that paragraph;

F is the total number of hours that would have been the normal hours of duty of the person during that period of 12 months if during the whole of that period the person had performed his or her work or duties on a full-time basis; and

G is the total number of hours that, in accordance with the terms and conditions of employment applying from time to time to the person during

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that period of 12 months, were the normal hours of duty of the person during that period.

(2) For the purposes of subregulation (1):

(a) the reference in the definition of *A* to the amount of salary paid or payable to a person in respect of a pay period in relation to the person is a reference to:

(i) in a case where subparagraph (ii) does not apply—the amount of salary (within the meaning of section 5 of the Act) paid or payable to the person in respect of the pay period or, if during the whole or part of the pay period the person was an approved part-time employee, an amount of salary equal to the amount ascertained:

(A) except where sub-subparagraph (B) applies—in accordance with the formula:

$$\frac{BD}{E}$$

; or

(B) where the salary (within the meaning of section 5 of the Act) of the person in respect of the pay period or that part of the pay period when the person was an approved part-time employee (as the case may be) included an allowance that was payable to the person in an amount that is the same as the amount that the person would have received in respect of that allowance if the person had, during the pay period or that part of the pay period, performed his or her work or duties on a full-time basis—in accordance with the formula:

$$\frac{(B - C)D}{E} + C$$

; or

(ii) in a case where, by virtue of regulation 8C, an amount (in this subparagraph referred to as the **relevant amount**) equal to an amount in respect of shift allowance included in the salary or wages paid or payable to the person in respect of that pay period is not, in relation to the person, to be treated as salary for the purposes of the Act—the aggregate of the amount of salary first mentioned in subparagraph (i) in relation to the person and the relevant amount or, if during the whole or part of the pay period the person was an approved part-time employee, an amount of salary equal to the amount ascertained:

(A) except where sub-subparagraph (B) applies—in accordance with the formula:

$$\frac{BD}{E}$$

; or

(B) where the salary (with the meaning of section 5 of the Act) of the person in respect of the pay period or that part of the pay period when the person was an approved part-time employee (as the case may be) included an allowance that was payable to the person in an amount that is the same as the amount that

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the person would have received in respect of that allowance if the person had, during the pay period or that part of the pay period, performed his or her work or duties on a full-time basis—in accordance with the formula:

$$\frac{(B - C) D}{E} + C$$

where:

B is:

- (iii) in the case of a person in relation to whom subparagraph (i) applies—the amount of salary first-mentioned in that subparagraph in relation to the person; or
- (iv) in the case of a person in relation to whom subparagraph (ii) applies—the amount of the aggregate referred to in that subparagraph in relation to the person;

C is:

- (v) in the case of a person in relation to whom sub-subparagraph (i)(B) applies—the amount of the allowance referred to in that sub-subparagraph payable to the person in respect of the pay period or that part of the pay period when the person was an approved part-time employee (as the case may be); or
- (vi) in the case of a person in relation to whom sub-subparagraph (ii)(B) applies—the amount of the allowance referred to in that sub-subparagraph payable to the person in respect of the pay period or that part of the pay period when the person was an approved part-time employee (as the case may be);

D is the number of hours that would have been the normal hours of duty of the person for the pay period if during the whole of that period the person had performed his or her work or duties on a full-time basis; and

E is the number of hours that, in accordance with the terms and conditions of employment applying in relation to the person in respect of the pay period, were the normal hours of duty of the person for that pay period; and

- (b) a reference in paragraph (1)(g) to the rate at which shift allowance in respect of work or duties performed during specified hours of duty on a day or in respect of a period of leave of absence was, or would be, payable to a person shall, in the case of a person to whom the shift allowance is, under the terms and conditions of his or her employment, payable in a fixed amount and not at a specified rate, be read as a reference to the amount so fixed in respect of the shift allowance that was, or would be, payable to the person.

8E Annual rate of salary on last day of service of certain persons who have ceased to be eligible employees

- (1) In this regulation, *final year of service*, in relation to a person who has ceased to be an eligible employee and has been, immediately before his or her so ceasing,

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an eligible employee for a continuous period of not less than 12 months, means the period of 12 months ending on the expiration of his or her last day of service.

- (2) This regulation applies to a person who:
- (a) has ceased to be an eligible employee by reason of:
 - (i) death; or
 - (ii) retirement on the ground of invalidity before attaining his or her maximum retiring age; and
 - (b) was not, on his or her last day of service, a person in relation to whom regulation 8D applied.
- (3) Where this regulation applies to a person and:
- (a) the person:
 - (i) immediately before his or her ceasing to be an eligible employee, has been an eligible employee for a continuous period of not less than 12 months; and
 - (ii) has been during the whole or any part of his or her last year of service a prescribed eligible employee;and shift allowance has been payable on a regular basis to the person during that year; or
 - (b) if paragraph (a) does not apply in relation to the person:
 - (i) the person became a prescribed eligible employee within the period of 12 months ending on the expiration of his or her last day of service;
 - (ii) shift allowance has been payable on a regular basis to the person during the period commencing on the day within the period referred to in subparagraph (i) on which the person became a prescribed eligible employee or, if the person became a prescribed eligible employee on more than one occasion within that period, on the day within that period on which the person last became a prescribed eligible employee and ending on the expiration of his or her last day of service; and
 - (iii) a certificate in respect of the person has been given under subregulation (4);

then, the annual rate of salary of the person on his or her last day of service shall be an amount equal to whichever is the less of:

- (c) the amount ascertained in accordance with the formula:
$$A \times B ; \text{ and}$$
- (d) the amount ascertained in accordance with:
 - (i) in the case of a person in relation to whom paragraph (a) applies—the formula:
$$C + D ; \text{ or}$$
 - (ii) in the case of a person in relation to whom paragraph (b) applies—the formula:
$$C + \frac{EF}{G}$$

where:

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A is the highest amount of salary paid or payable to the person in respect of a pay period in relation to the person included:

- (e) in the case of a person in relation to whom paragraph (a) applies—in his or her final year of service; or
- (f) in the case of a person in relation to whom paragraph (b) applies—in the period referred to in subparagraph (b)(ii);

B is:

- (g) except where paragraph (h) applies—the number of pay periods in relation to the person included in his or her final year of service; or
- (h) if the person has been an eligible employee for a continuous period of less than 12 months immediately preceding his or her last day of service—the number of pay periods in relation to the person that would have been included in the period of 12 months ending on the expiration of his or her last day of service if the person had been an eligible employee during the whole of that period;

C is the annual rate of the salary (within the meaning of section 5 of the Act) payable to the person on his or her last day of service;

D is:

- (j) if paragraph (k) or (ka) does not apply—the total amount of shift allowance paid or payable to the person in respect of:
 - (i) work or duties performed during the pay periods in relation to the person included in his or her final year of service; and
 - (ii) any period of leave of absence during that year when the person was entitled to receive shift allowance;
- (k) if paragraph (ka) does not apply and shift allowance:
 - (i) in respect of work or duties performed by the person during specified hours of duty (in this paragraph referred to as the **relevant hours**) on any day during his or her final year of service; or
 - (ii) in respect of any period of leave of absence during that year when the person was entitled to receive shift allowance;

was payable to the person at a rate that is not the same as the rate at which shift allowance would be payable to the person:

- (iii) in respect of the same work or duties if the person performed that work or those duties during the same relevant hours on his or her last day of service; or
- (iv) if the person were on leave of absence on his or her last day of service;

as the case may be—the total amount of shift allowance that would have been payable to the person in respect of:

- (v) work or duties performed during the pay periods in relation to the person included in his or her final year of service; and
- (vi) periods of leave of absence included in that year when the person was entitled to receive shift allowance;

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if shift allowance in respect of the work or duties referred to in subparagraph (i) or in respect of the period of leave of absence referred to in subparagraph (ii) had been payable to the person at the last-mentioned rate; or

- (ka) if, at any time during his or her final year of service, the person was an approved part-time employee—the amount ascertained in accordance with the formula:

HJ

K

where:

H is:

- (i) in the case of a person in relation to whom paragraph (j) would, but for this paragraph, have applied—the total amount of shift allowance referred to in that paragraph; or
- (ii) in the case of a person in relation to whom paragraph (k) would, but for this paragraph, have applied—the total amount of shift allowance referred to in that paragraph;

J is the total number of hours that would have been the normal hours of duty of the person during his or her final year of service if during the whole of that year the person had performed his or her work or duties on a full-time basis; and

K is the total number of hours that, in accordance with the terms and conditions of employment applying from time to time to the person during his or her final year of service, were the normal hours of duty of the person during that year;

E is:

- (m) if paragraph (n) or (na) does not apply—the total amount of shift allowance paid or payable to the person in respect of:
 - (i) work or duties performed during the pay periods in relation to the person included in the period referred to in subparagraph (b)(ii) in relation to the person; and
 - (ii) any period of leave of absence during that period when the person was entitled to receive shift allowance;
- (n) if paragraph (na) does not apply and shift allowance:
 - (i) in respect of work or duties performed by the person during specified hours of duty (in this paragraph referred to as the **relevant hours**) on any day during the period referred to in subparagraph (b)(ii) in relation to the person; or
 - (ii) in respect of any period of leave of absence during that period when the person was entitled to receive shift allowance;was payable to the person at a rate that is not the same as the rate at which shift allowance would be payable to the person:
 - (iii) in respect of the same work or duties if the person performed that work or those duties during the same relevant hours on his or her last day of service; or

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(iv) if the person were on leave of absence on his or her last day of service;

as the case may be—the total amount of shift allowance that would have been payable to the person in respect of:

(v) work or duties performed during the pay periods in relation to the person included in the period referred to in subparagraph (b)(ii) in relation to the person; and

(vi) periods of leave of absence included in that period when the person was entitled to receive shift allowance;

if shift allowance in respect of the work or duties referred to in subparagraph (i) or in respect of the period of leave of absence referred to in subparagraph (ii) had been payable to the person at the last-mentioned rate; or

(na) if, at any time during the period referred to in subparagraph (b)(ii) in relation to the person, the person was an approved part-time employee—the amount ascertained in accordance with the formula:

HJ

K

where:

H is:

(i) in the case of a person in relation to whom paragraph (m) would, but for this paragraph, have applied—the total amount of shift allowance referred to in that paragraph; or

(ii) in the case of a person in relation to whom paragraph (n) would, but for this paragraph, have applied—the total amount of shift allowance referred to in that paragraph;

J is the total number of hours that would have been the normal hours of duty of the person during the period referred to in subparagraph (b)(ii) in relation to the person if during the whole of that period the person had performed his or her work or duties on a full-time basis; and

K is the total number of hours that, in accordance with the terms and conditions of employment applying from time to time to the person during the period referred to in subparagraph (b)(ii) in relation to the person, were the normal hours of duty of the person during that period.

F is:

(o) except where paragraph (p) applies—the number of days in the pay periods in relation to the person included in his or her final year of service; or

(p) if the person was an eligible employee for a continuous period of less than 12 months immediately preceding his or her last day of service—the number of days in the pay periods in relation to the person that would have been included in the period of 12 months ending on the expiration of his or her last day of service if the person had been an eligible employee during the whole of that period; and

G is the number of days in the pay periods in relation to the person included in the period referred to in subparagraph (b)(ii) in relation to the person.

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- (4) Where:
- (a) subparagraphs (3)(b)(i) and (ii) apply in relation to a person to whom this regulation applies; and
 - (b) the Commissioner is of the opinion that there is a likelihood that, if the first-mentioned person had not ceased to be an eligible employee, shift allowance would have been payable on a regular basis to the person during the period of 12 months that commenced on the day on which the period referred to in subparagraph (3)(b)(ii) in relation to the person commenced; the Commissioner shall give a certificate to that effect specifying the day on which the first-mentioned period commenced.
- (5) For the purposes of subregulation (3):
- (a) the reference in the definition of *A* to the amount of salary paid or payable to a person in respect of a pay period in relation to the person is a reference to the amount (in this paragraph referred to as the **relevant amount**) of the aggregate of:
 - (i) the amount of salary (within the meaning of section 5 of the Act) paid or payable to the person in respect of the pay period; and
 - (ii) the amount, being an amount equal to the amount in respect of shift allowance included in the salary or wages paid or payable to the person in respect of that pay period, that, by virtue of regulation 8C, is not, in relation to the person, to be treated as salary for the purposes of the Act;or if during the whole or part of the pay period the person was an approved part-time employee, an amount of salary equal to the amount ascertained:
 - (iii) except where subparagraph (iv) applies—in accordance with the formula:
$$\frac{BD}{E} ; \text{ or}$$
 - (iv) where the salary (within the meaning of section 5 of the Act) of the person in respect of the pay period or that part of the pay period when the person was an approved part-time employee (as the case may be) included an allowance that was payable to the person in an amount that is the same as the amount that the person would have received in respect of that allowance if the person had, during the pay period or that part of the pay period, performed his or her work or duties on a full-time basis—in accordance with the formula:
$$\frac{(B - C) D}{E} + C$$
 - $\frac{(B - C) D}{E} ; \text{ or}$
- where:
- B** is the relevant amount;
- C** is the amount of the allowance referred to in subparagraph (iv) payable to the person in respect of the pay period or that part of the pay period when the person was an approved part-time employee (as the case may be);

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D is the number of hours that would have been the normal hours of duty of the person for the pay period if during the whole of that period the person had performed his or her work or duties on a full-time basis; and

E is the number of hours that, in accordance with the terms and conditions of employment applying in relation to the person in respect of the pay period, were the normal hours of duty of the person for that pay period;

- (b) a reference in paragraph 3(k) or (n) to the rate at which shift allowance in respect of work or duties performed during specified hours of duty on a day or in respect of a period of leave of absence was, or would be, payable to a person shall, in a case where the shift allowance is, under the terms and conditions of employment of the person, payable in a fixed amount and not at a specified rate, be read as a reference to the amount so fixed in respect of the shift allowance that was, or would be, payable to the person.

Part 2B—Employees in receipt of expenses of office allowance

8F Interpretation

In this Part, *expenses of office allowance* means an allowance that is payable to an eligible employee as compensation for general expenses incurred, or likely to be incurred, by the eligible employee in connection with the office or position held, or the duties of which are performed, by the eligible employee.

8G Part of salary or wages not to be treated as salary for purposes of Act

Where the salary or wages of an eligible employee includes, or include, an amount in respect of an expenses of office allowance, so much of that salary or those wages as is equal to the amount in respect of that allowance is not to be treated as salary for the purposes of the Act.

8H Final annual rate of salary

Where:

- (a) a person ceases to be an eligible employee;
- (b) the person's final annual rate of salary is to be ascertained by reference to the annual rate of salary of the person on a day (in this regulation referred to as the *relevant day*) that is earlier than the day of commencement of this regulation; and
- (c) the salary or wages payable to the person on the relevant day included an amount in respect of an expenses of office allowance;

then, for the purposes of the definition of *final annual rate of salary* in subsection 3(1) of the Act, the annual rate of salary of the person on the relevant day shall be an amount equal to the amount per annum that would, for the purposes of the Act, have been the annual rate of salary of the person on that day if the salary or wages payable to the person on that day had not included the amount in respect of the expenses of office allowance.

Part 2C—Employees in receipt of certain payments

8I Interpretation

In this Part:

location allowance means an allowance payable as part of salary or wages to an eligible employee because of special disadvantages or hardships associated with working or performing duties in a particular geographical locality.

overtime payment means an amount by way of salary or wages, not being a shift allowance within the meaning of Part 2A or an allowance referred to in paragraph 4(e), that is payable to an eligible employee as compensation for performance of work or duties during hours additional to the hours specified under his or her terms and conditions of employment as the eligible employee's normal hours of duty.

8J Part of salary or wages not to be treated as salary for purposes of Act— location allowance or overtime payment

Any part of the salary or wages of an eligible employee that consists of a location allowance or an overtime payment is not to be treated as salary for the purposes of the Act.

8K Final annual rate of salary in case of location allowance or overtime payment

Where:

- (a) a person ceases to be an eligible employee;
- (b) the person's final annual rate of salary is to be ascertained by reference to the annual rate of salary of the person on a day before the commencement of this regulation; and
- (c) the salary or wages payable to the person on that day included an amount in respect of a location allowance or an overtime payment (or both);

then, for the purposes of the definition of **final annual rate of salary** in subsection 3(1) of the Act, the annual rate of salary of the person on that day shall be an amount equal to the amount per annum that would, for the purposes of the Act, have been the annual rate of salary of the person on that day if the salary or wages payable to the person on that day had not included the amount in respect of that allowance or payment (or both).

Part 2D—Employees in receipt of staff (member of parliament) allowance or departmental liaison officer allowance

8M Interpretation

In this Part, unless the contrary intention appears:

departmental liaison officer allowance means the allowance that, under the terms and conditions of employment of an eligible employee referred to in paragraph (b) of the definition of ***identified eligible employee*** is, in addition to the amount of salary payable to the eligible employee in respect of the performance of duties as departmental liaison officer attached to the office of a Minister, payable to him or her solely by reason of being wholly occupied in performing those duties.

identified eligible employee means:

- (a) an eligible employee who is a member of the staff of:
 - (i) a person who holds, or has held, a relevant office;
 - (ii) a person in respect of whom a determination by the Prime Minister under section 12 of the *Members of Parliament (Staff) Act 1984* is in force; or
 - (iii) a person who has been a senator or a member of the House of Representatives and was, immediately before he or she ceased to be a senator or a member, a person in respect of whom a determination referred to in subparagraph (ii) was in force; or
- (b) an eligible employee who, being an officer or employee in the Australian Public Service, is attached to the office of a Minister as a departmental liaison officer.

Parliamentary employment allowance means:

- (a) a departmental liaison officer allowance; or
- (b) a staff (member of parliament) allowance.

relevant office has the same meaning as in the *Members of Parliament (Staff) Act 1984*.

staff (member of parliament) allowance means the allowance that, under the terms and conditions of employment of an eligible employee who is a member of the staff of a person referred to in subparagraph (a)(i), (ii) or (iii) of the definition of ***identified eligible employee*** is, in addition to the amount of salary payable to the eligible employee in respect of the performance of duties as a member of the staff of such a person, payable to him or her solely by reason of being wholly occupied in performing those duties.

8N Election—Parliamentary employment allowance

- (1) An identified eligible employee who has, from and including a day earlier than the date of commencement of this Part, continuously performed, and performs, duties or work in respect of the performance of which an amount in respect of a Parliamentary employment allowance has been paid or is payable to him or her, may, not later than 3 months after that date of commencement or within such further period as the Commissioner allows, by notice in writing to the Commissioner, elect that the allowance is not to be treated as salary for the purposes of the Act.
- (2) An identified eligible employee who has, from and including a day not earlier than the date of commencement of this Part, continuously performed, and performs, duties or work in respect of the performance of which an amount in respect of a Parliamentary employment allowance has been paid or is payable to him or her, may, not later than 3 months after that day or within such further period as the Commissioner allows, by notice in writing to the Commissioner, elect that the allowance is not to be treated as salary for the purposes of the Act.
- (3) Nothing in this regulation shall be taken to preclude an identified eligible employee who has made an election under subregulation (1) or (2) in respect of a Parliamentary employment allowance payable in relation to the continuous performance of duties or work from making another election, being an election under subregulation (2), in respect of such an allowance payable in relation to duties or work performed subsequently to, but not continuously with, the first-mentioned duties or work.
- (4) Where a person makes an election under subregulation (1) in respect of a Parliamentary employment allowance:
 - (a) in the case where, on and from the day of the election, the allowance would, except for this subregulation, be treated as salary for the purposes of the Act—commencing on that day; or
 - (b) in any other case—commencing on the day on which, except for this subregulation, the allowance would be treated as salary for the purposes of the Act;the allowance is not to be treated as salary for the purposes of the Act.
- (5) Where a person makes an election under subregulation (2) in respect of a particular Parliamentary employment allowance, then, commencing on the day on which, except for this subregulation, the allowance would be, or would have been, treated as salary for the purposes of the Act, that allowance is not to be treated as salary for the purposes of the Act.

Part 2E—Flexible remuneration packages

Division 1—Total employment cost packages

8P Interpretation

- (1) In this Division:

relevant agreement means an employment agreement:

- (a) to which an eligible employee is a party; and
- (b) under which the eligible employee may choose, in respect of part of his or her remuneration, whether to take that part in money or in a non-monetary form (which may be in the form of a top-up arrangement); and
- (c) that states in monetary terms the total value of that remuneration.

top-up arrangement has the meaning given by subregulation (2).

- (2) Subject to subregulations (3) and (4), a **top-up arrangement** is an arrangement between the person (**the payee**) to whom, under the arrangement, remuneration is paid and the person (**the payer**) who pays the remuneration, by which the payer makes contributions in respect of the payee to a superannuation scheme.
- (3) An arrangement is not a top-up arrangement unless:
- (a) the contributions mentioned in subregulation (2):
 - (i) constitute part of the payee's overall remuneration; and
 - (ii) are not paid as an addition to remuneration otherwise payable; and
 - (b) the payer makes payments under the Act:
 - (i) in respect of the payee; and
 - (ii) in relation to the employment or office to which the arrangement relates.
- (4) The reference in subregulation (2) to a superannuation scheme is taken:
- (a) to include a reference to a scheme applying only in respect of the payee; and
 - (b) not to include a reference to the scheme constituted by the Act.

8Q Executive employees—flexible remuneration packages

- (1) This regulation applies, subject to regulation 8QA, to an eligible employee who:
- (a) is appointed or employed by an authority or body mentioned in column 2 of an item in Part 1 of Schedule 1; or
 - (b) is appointed by or under, or employed under a law mentioned in column 2 of an item in Part 2 of Schedule 1; or
 - (c) holds an office mentioned in column 2 of an item in Part 3 of Schedule 1; under, or in accordance with, a relevant agreement.

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- (2) For the purposes of the Act, the annual rate of salary on a particular day of an eligible employee to whom this regulation applies is an amount equal to the total yearly value on that day of that employee's remuneration (including his or her non-monetary entitlements) under that agreement, multiplied by the percentage set out in column 3 of the item in Schedule 1 that applies to the eligible employee.
- (3) For the purposes of the Act, the annual rate of salary on a particular day of an eligible employee who is:
- (a) employed by the Northern Territory of Australia under a relevant agreement; or
 - (b) employed under a relevant agreement by an authority or body established by or under a law of the Northern Territory of Australia; or
 - (c) appointed by or under, or employed under, a law of the Northern Territory of Australia in accordance with a relevant agreement;
- is an amount equal to the amount that is his or her notional salary on that day for the purposes of that agreement.

8QA Higher duties allowances

- (1) For the purposes of subregulation 8Q(2), the total yearly value of the remuneration of an eligible employee on a particular day is taken to include an allowance (however described) at the annual rate that applies under subregulation (3), if the allowance:
- (a) is payable on that day to the eligible employee because he or she is temporarily performing the whole or part of the duties of an office that has a higher classification than the office that the person occupies; and
 - (b) is payable to the eligible employee on a regular basis (within the meaning of regulation 6).
- (2) For the purposes of paragraphs 8(1)(b) and (1)(b) of this regulation, an allowance that satisfies the criterion stated in paragraph (1)(a) is taken to be an allowance of a prescribed kind within the meaning of Part 2.
- (3) The annual rate of allowance that applies on a particular day for the purposes of subregulation (1) is the lowest annual rate at which an allowance of a kind referred to in paragraph (1)(a) was payable to the eligible employee during:
- (a) if paragraph (b) does not apply—the period of 12 months that ended at the end of the day immediately preceding that particular day; or
 - (b) if the eligible employee has performed:
 - (i) the duties performed by him or her on that particular day; or
 - (ii) duties of an office that has a higher classification than the office that the person occupies;for a lesser continuous period that ended at the end of the day immediately preceding that particular day—that period.

Division 2—Other flexible remuneration packages

8QB Certain payments not to be treated as salary

An amount that is payable in accordance with the terms and conditions of appointment or employment of an eligible employee is not to be treated as salary for the purposes of the Act if:

- (a) those terms and conditions are not contained in an agreement that is a relevant agreement within the meaning of Division 1; and
- (b) that amount is paid, at the election of the eligible employee, instead of a non-monetary benefit to which the eligible employee is otherwise entitled under those terms and conditions; and
- (c) that amount is not payable as, or in place of, an allowance of a kind that, under regulation 5, is to be treated as salary for the purposes of the Act.

Part 2EA—Employees under certain agreements or determinations

8QC Interpretation

In this Part:

agreement means an AWA, a certified agreement or a relevant agreement.

AWA means an Australian workplace agreement within the meaning of the *Workplace Relations Act 1996*.

certified agreement means an agreement certified under Division 4 of Part VIB of the *Workplace Relations Act 1996*.

relevant agreement has the same meaning as it has in Part 2E, but does not include a relevant agreement mentioned in paragraph 8Q(3)(a), (b) or (c).

remuneration determination means a determination made by the Remuneration Tribunal under subsection 7(3) of the *Remuneration Tribunal Act 1973*.

8QD Annual rate of salary (Act, s 5(3))

- (1) This regulation applies to an eligible employee who:
 - (a) is bound by an agreement in which express provision is made that, for the Act, the employee's annual rate of salary is an amount mentioned in, or ascertained under, the agreement; or
 - (b) is mentioned in, or is included in a class of persons mentioned in, a remuneration determination in which express provision is made that, for the Act, the employee's annual rate of salary is an amount mentioned in, or ascertained under, the remuneration determination.
- (2) Despite any other provision in these regulations, for the Act, the annual rate of salary on a particular day for the employee is an amount equal to the amount, per annum, referred to in subregulation (1).

Part 2F—Certain employees who transfer to repatriation institutions

8R Interpretation

- (1) In this Part:

Income Supplementation means an amount payable by or on behalf of the Commonwealth to a person under the Agreement by way of Income Supplementation.

the Agreement means the agreement between the Commonwealth and the Australian Council of Trade Unions and its affiliates relating to the transfer of staff in repatriation hospitals from employment with the Commonwealth to employment with the States.

- (2) A reference in this Part to a State is taken to include a reference to an authority of that State.

8S Persons to whom this Part applies

This Part applies to a person who:

- (a) was an eligible employee employed at a repatriation institution (within the meaning of the *Repatriation Institutions (Transfer) Act 1992*) immediately before the day mentioned in paragraph (b); and
- (b) is taken, by force of subsection 15(2) of that Act, to have resigned from the Australian Public Service at the start of the day on which a State starts to operate that repatriation institution; and
- (c) is engaged in employment:
 - (i) at that repatriation institution; or
 - (ii) at another appropriate State institution (within the meaning of that Act); or
 - (iii) in a position to which he or she has been compulsorily transferred by that State;for which Income Supplementation is payable to the person; and
- (d) is an eligible employee.

8T Annual rate of salary

- (1) For the purposes of the Act, the annual rate of salary on a particular day of a person to whom this Part applies is the amount that is equal to the sum of:
- (a) the amount that, apart from this regulation, would be the person's annual rate of salary on that day in employment of a kind mentioned in paragraph 8S(c); and

- (b) subject to subregulation (2), the amount of the person's annual rate of Income Supplementation on that day that is payable as salary maintenance; and
 - (c) subject to subregulation (2), the amount of the person's annual rate of Income Supplementation on that day that is an eligible allowance under regulation 8U.
- (2) In the case of a person who is a part-time employee, the reference in paragraph (1)(b) or (c) to the amount of the person's annual rate of Income Supplementation is taken to be a reference to the amount that would be the person's annual rate of Income Supplementation of the relevant kind if the person's employment were full-time employment.

8U Eligible allowances

- (1) For the purposes of paragraph 8T(1)(c), the amount mentioned in that paragraph (in this regulation called ***the relevant amount***) is an eligible allowance if it satisfies the criteria stated in this regulation.
- (2) The relevant amount must be payable to a person as:
 - (a) a higher duties allowance; or
 - (b) a shift penalty; or
 - (c) a restricted duties adjustment.
- (3) The relevant amount must be payable to a person during a period when an allowance (in this regulation called a ***State allowance***):
 - (a) is payable to the person, by the State that employs the person, because of a condition or circumstance of the person's employment by that State; and
 - (b) is taken, under subregulation (5), to be payable on a regular basis to the person during the period.
- (4) The relevant amount must be payable to a person because of a condition or circumstance of the person's former employment (at the repatriation institution mentioned in paragraph 8S(a)) that is comparable to the condition or circumstance mentioned in paragraph (3)(a).
- (5) A State allowance is taken to be payable on a regular basis to a person during a period if it is an allowance that is taken:
 - (a) in the case of a higher duties allowance or a restricted duties adjustment—under regulation 6; or
 - (b) in the case of a shift penalty—under regulation 8B;
 to be payable on a regular basis to the person during the period.
- (6) In paragraph (5)(a), ***restricted duties adjustment*** includes a close call, on call or stand-by allowance.

Part 2G—Senior Officers' allowance

8V Definitions

- (1) In this Part:

Senior Officers' allowance means the allowance payable under Clause 3 of Schedule 5 to Attachment C to the Agreement between the Commonwealth Government and public sector unions known as "Improving Productivity, Jobs and Pay in the Australian Public Service 1992-1994" and dated December 1992.

- (2) For the purposes of this Part:

- (a) an eligible employee who is an unattached officer is taken to hold an office that has the same classification as the classification that the employee has as an unattached officer; and
- (b) in relation to an eligible employee who is an unattached officer, a reference to an office held by an employee includes a reference to the classification that the unattached officer has as an unattached officer.

8W Circumstances in which Senior Officers' allowance to be treated as salary

Subject to regulations 8Y and 8Z, Senior Officers' allowance payable to an eligible employee is to be treated as salary for the purposes of the Act if and only if:

- (a) it is payable in respect of an office held by the employee; or
- (b) it is taken under regulation 8X to be payable to the eligible employee on a regular basis; or
- (c) the eligible employee:
 - (i) holds an office (in this paragraph called the **first office**) in respect of which he or she is entitled to receive Senior Officers' allowance but has elected not to do so; and
 - (ii) temporarily performs the duties of an office (the **second office**) that is classified at the same level as the first office and receives Senior Officers' allowance in respect of the second office.

8X Payment of Senior Officers' allowance on a regular basis

- (1) In this regulation:

higher duties allowance means an allowance of the kind described in paragraph 4(1)(a).

- (2) If an eligible employee:

- (a) holds an office (**the first office**) in respect of which Senior Officers' allowance is payable (whether or not he or she has elected not to receive that allowance); and

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- (b) temporarily performs the duties of another office (*the second office*) in respect of which Senior Officers' allowance is payable;

Senior Officers' allowance in respect of the second office is taken to be payable to the eligible employee on a regular basis if he or she is entitled to receive higher duties allowance that is taken, under regulation 6, to be payable on a regular basis.

- (3) If an eligible employee who holds an office in respect of which Senior Officers' allowance is not payable is temporarily performing the duties of an office in respect of which Senior Officers' allowance is payable, Senior Officers' allowance is taken to be payable to the eligible employee on a regular basis if he or she:
 - (a) is entitled to receive higher duties allowance:
 - (i) that is taken, under regulation 6, to be payable on a regular basis; and
 - (ii) that is not, under subregulation 7(2), excluded from being treated as salary; and
 - (b) has not elected to receive overtime payments instead of Senior Officers' allowance.
- (4) If an eligible employee:
 - (a) is temporarily performing the duties of an office in respect of which Senior Officers' allowance is payable (whether or not he or she holds an office in respect of which Senior Officers' allowance is payable); and
 - (b) is entitled to receive higher duties allowance in respect of those duties; and
 - (c) commences to perform the duties of another office (*the second office*) in respect of which Senior Officers' allowance is payable at the same or a higher rate;

Senior Officers' allowance is taken to be payable to the eligible employee on a regular basis at the rate appropriate to the second office if:

 - (d) the higher duties allowance that the eligible employee is entitled to receive in respect of the second office:
 - (i) is taken, under regulation 6, to be payable to the employee on a regular basis; and
 - (ii) is not, under subregulation 7(2), excluded from being treated as salary; and
 - (e) the eligible employee has not elected to receive, in respect of the second office, overtime payments instead of Senior Officers' allowance.

8Y Part of salary or wages not treated as salary in certain circumstances

- (1) In this regulation:

relevant period, in relation to an eligible employee who, on a particular day, performs duties or work in respect of which Senior Officers' allowance is payable, means:

- (a) unless paragraph (b) applies—the period of 12 months immediately preceding the particular day; or

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- (b) if, for a continuous period of less than 12 months immediately preceding the particular day, the eligible employee has performed duties or work in respect of which Senior Officers' allowance is payable to him or her—that lesser period.

(2) If:

- (a) on a particular day an eligible employee performs the duties of an office in respect of which Senior Officers' allowance is payable; and
- (b) that allowance is taken to be payable to the employee on a regular basis; and
- (c) at any time during the relevant period, the employee temporarily performed the duties of an office in respect of which Senior Officers' allowance was payable to the employee at a rate that is lower than the rate of the allowance referred to in paragraph (a);

the amount worked out in accordance with the formula in subregulation (3) is not to be treated as salary for the purposes of the Act.

(3) The amount referred to in subregulation (2) is:

$$A - B$$

where:

A is the amount of the allowance referred to in paragraph (2)(a) payable to the eligible employee in respect of the particular day;

B is the amount of the allowance that would have been payable to the eligible employee in respect of the particular day if he or she had continued to perform those duties or that work performed by him or her during the relevant period in respect of which the allowance was payable to him or her at the lower or lowest rate.

8Z Senior Officers' allowance not treated as salary for determination of certain benefits

(1) If:

- (a) a person has ceased to be an eligible employee:
 - (i) by reason of early retirement; or
 - (ii) in circumstances that entitle him or her to an age retirement pension; and
- (b) on the relevant day:
 - (i) he or she performed duties or work in respect of which Senior Officers' allowance is payable to him or her; and
 - (ii) that allowance was taken to be payable to him or her, or payable to him or her at a particular rate, on a regular basis only because the Commissioner had given a certificate under subregulation 6(2);

then, for the purposes of the definition of *final annual rate of salary* in subsection 3(1) of the Act, his or her annual rate of salary on the relevant day is

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taken to be an amount equal to the amount per annum that would, for the purposes of the Act, have been his or her annual rate of salary on that day if that certificate had not been given.

- (2) In subregulation (1), the relevant day in relation to an eligible employee is:
- (a) unless paragraph (b) applies—his or her last day of service; or
 - (b) if his or her final annual rate of salary is ascertained by reference to the annual rate of salary payable to him or her on a day other than his or her last day of service—that other day.

Part 3—Temporary employees

9 Interpretation

- (1) In this Part, a reference to the basic salary of an eligible employee on a particular day is a reference to:
- (a) in the case of an eligible employee:
 - (i) whose salary or wages includes, or include, an allowance or the value of an allowance; or
 - (ii) to whom is payable an allowance, or the value of an allowance, that is, in relation to the eligible employee, an allowance of a kind that, under these regulations, is to be treated as salary for the purposes of the Act;
so much of the salary (within the meaning of section 5 of the Act) of the eligible employee on that day as would be payable to him or her if the eligible employee were not entitled to receive on that day any amount in respect of:
 - (iii) an allowance, or the value of an allowance, that is part of the salary or wages of the eligible employee; or
 - (iv) an allowance, or the value of an allowance of a kind referred to in subparagraph (ii) in relation to the eligible employee;
together with, in a case where, by virtue of a provision of these regulations, a specified part of the salary or wages of the eligible employee is not to be treated as salary for the purposes of the Act, any amount that, but for that provision, would be included in the salary (within the meaning of section 5 of the Act) of the eligible employee on that day; or
 - (b) in any other case—the salary (within the meaning of section 5 of the Act) of the eligible employee on that day.
- (2) For the purposes of this Part, an eligible employee, being a temporary employee, shall be taken to perform, or to have performed, prescribed work on a particular day if:
- (a) on the particular day the eligible employee performs, or has performed, work other than:
 - (i) where subparagraph (ii) or (iii) does not apply in relation to the eligible employee—the work in respect of which the eligible employee was paid, or is entitled to receive, the salary by reference to which the fortnightly basic contribution payable by the eligible employee on the contribution day last preceding the particular day was calculated;
 - (ii) where the eligible employee was not required to make contributions on the contribution day last preceding the particular day—the work in respect of which the eligible employee was paid, or is entitled to receive, the salary by reference to which the fortnightly basic contribution that would have been payable by the eligible employee

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- on that contribution day would have been calculated if the eligible employee had been required to make contributions on that contribution day; or
- (iii) where the contribution day last preceding the particular day occurred before the first day of service of the eligible employee—the work that the eligible employee performed on his or her first day of service; and
 - (b) the basic salary of the eligible employee on the particular day exceeds the basic salary that would be payable to the eligible employee on that day if the eligible employee had continued to perform, and performed on that day, the work referred to in subparagraph (a)(i), (ii) or (iii) (as the case may be).

10 Circumstances where part of salary or wages of temporary employee not to be treated as salary

- (1) Where an eligible employee, being a temporary employee, performs prescribed work on a particular day, so much of the salary or wages of the eligible employee as is equal to the amount of the difference between:
 - (a) the basic salary of the eligible employee on the particular day; and
 - (b) the basic salary that would be payable to the eligible employee on the particular day if the eligible employee had continued to perform, and performed on that day, the work referred to in whichever of subparagraphs 9(2)(a)(i), (ii) and (iii) applies in relation to the eligible employee;
 is not to be treated as salary for the purposes of the Act unless:
 - (c) the eligible employee has, during the period of 12 months immediately preceding the particular day, continuously performed prescribed work; or
 - (d) a certificate specifying a day not later than the particular day has been given under subregulation (3) in respect of the eligible employee.
- (2) Where:
 - (a) an eligible employee, being a temporary employee, performs prescribed work on a particular day;
 - (b) the eligible employee has:
 - (i) during a period of not less than 12 months immediately preceding the particular day; or
 - (ii) if a certificate specifying a day not later than the particular day has been given in respect of the eligible employee under subregulation (3)—from and including the day specified in the certificate;
 continuously performed prescribed work; and
 - (c) at any time during the relevant period the basic salary of the eligible employee was less than the basic salary that would have been payable at that time to the eligible employee if at that time the eligible employee had been performing the work performed by him or her on the particular day;
 so much of the salary or wages of the eligible employee as is equal to the difference between:
 - (d) the basic salary of the eligible employee on the particular day; and

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- (e) the basic salary that would be payable to the eligible employee on the particular day if the eligible employee had continued to perform, and performed on that day, the prescribed work that the eligible employee performed at the time during the relevant period when the basic salary of the eligible employee was less than the basic salary payable to him or her at any other time during that period;

is not to be treated as salary for the purposes of the Act.

- (3) If the Commissioner is of the opinion that there is a likelihood that, from and including a particular day:
 - (a) an eligible employee, being a temporary employee, will perform prescribed work for a continuous period of not less than 12 months; or
 - (b) where the eligible employee, being a temporary employee, has performed prescribed work for a continuous period of less than 12 months immediately preceding the particular day—the eligible employee will perform prescribed work for a continuous period of less than 12 months that together with the first-mentioned period will not be less than a period of 12 months;

the Commissioner shall give a certificate to that effect specifying the day (not being a day earlier than the day on which the certificate is given) on which the period referred to in paragraph (a) or (b), as the case may be, in relation to the eligible employee will commence.

- (4) For the purposes of this regulation, where:
 - (a) an eligible employee, being a temporary employee, performs prescribed work for a continuous period immediately preceding a period of leave of absence;
 - (b) subregulation (5) does not apply in relation to the period of leave; and
 - (c) immediately after the expiration of that period of leave, the eligible employee again performs prescribed work;

the period of leave shall be disregarded and the periods during which he performs prescribed work, being the period immediately preceding that period of leave and the period immediately following that period of leave, shall be treated as a continuous period.

- (5) Where:
 - (a) an eligible employee, being a temporary employee, performs prescribed work immediately before a period of leave of absence; and
 - (b) the salary payable to the eligible employee on each day during the period of leave of absence is higher than the basic salary of the eligible employee in respect of that day;

the eligible employee shall, for the purposes of this regulation, be deemed to perform during that period the prescribed work referred to in paragraph (a).

- (6) In subregulation (2), **relevant period**, in relation to an eligible employee who, being a temporary employee, performs prescribed work on a particular day, means:

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- (a) if paragraph (b) does not apply—the period of 12 months immediately preceding the particular day; or
- (b) if the eligible employee has, for a continuous period of less than 12 months immediately preceding the particular day, performed prescribed work—that lesser period.

11 Final annual rate of salary of certain temporary employees

- (1) Where:
 - (a) a person who has ceased to be an eligible employee:
 - (i) by reason of early retirement; or
 - (ii) in circumstances that entitle him to age retirement pension; was on his last day of service a temporary employee;
 - (b) before the relevant day a certificate specifying a day not later than the relevant day had been given in respect of the person under subregulation 10(3);
 - (c) during the period that commenced on the day specified in the certificate and ended on the expiration of his last day of service, the person continuously performed prescribed work; and
 - (d) the person did not continuously perform prescribed work during the period of 12 months immediately preceding his last day of service;then, for the purposes of the definition of ***final annual rate of salary*** in subsection 3(1) of the Act, the annual rate of salary of that person on the relevant day shall be an amount equal to the amount per annum of the salary (within the meaning of section 5 of the Act) that would be payable to the eligible employee on the relevant day if the eligible employee had continued to perform, and performed on that day, the work referred to in whichever of subparagraphs 9(2)(a)(i), (ii) and (iii) applies in relation to the eligible employee.
- (2) In this regulation, ***relevant day***, in relation to a person who has ceased to be an eligible employee, means:
 - (a) except where paragraph (b) applies—his last day of service; or
 - (b) if his annual rate of salary is ascertained by reference to the annual rate of salary payable to him on a day other than his last day of service—that other day.

Part 4—Employees on leave of absence

12 Interpretation

In this Part:

- (a) a reference, in relation to an eligible employee who undertakes prescribed employment during a period of leave of absence without pay, to an approved organization shall be read as a reference to:
 - (i) an organization registered pursuant to the *Conciliation and Arbitration Act 1904* of which eligible employees are members; or
 - (ii) an association to which such an organization is affiliated;being an organization or association that, in accordance with the conditions set out in a direction given by the Board under subsection 51(1) of the Act in respect of the period of leave of the eligible employee; has agreed to make payments to the Commonwealth in respect of the higher amount that, in pursuance of a provision of the Act, is likely to become payable out of the Consolidated Revenue Fund in respect of the eligible employee by reason that salary is payable to the eligible employee during the period of leave of absence at an annual rate that is higher than the annual rate of his notional salary;
- (b) a reference, in relation to an eligible employee who is on leave of absence without pay, to the notional salary of the eligible employee on a particular day during the period of leave of absence shall be read as a reference to the amount of the salary that would be payable to the eligible employee on that day if the eligible employee had continuously performed during the period of leave of absence, and had performed on that day, on a full-time basis the work or duties in respect of which salary was payable to the eligible employee on the day (in this paragraph referred to as the **relevant day**) immediately preceding the day on which the period of leave of absence commenced less the amount or value of any allowance (other than an allowance that was included in the salary payable to the eligible employee on the relevant day) that would be included in that salary;
- (c) a reference, in relation to an eligible employee who is on leave of absence without pay, to prescribed employment shall be read as a reference to:
 - (i) employment with the Commonwealth or with an authority of the Commonwealth;
 - (ii) employment with Commonwealth Hostels Limited, Commonwealth Brickworks (Canberra) Limited or any other company that is, for the purposes of section 71 of the *Public Service Act 1922*, declared by regulations made under that Act to be a company in which Australia has an interest;
 - (iii) work or employment that is in the interests of the defence or public safety of Australia or the Territories;
 - (iv) service as a representative in another country of the Government of Australia;

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- (v) employment with the Northern Territory of Australia; or
- (vi) employment on a full-time basis in an office within an approved organization; and
- (d) a reference, in relation to an eligible employee who undertakes prescribed employment during a period of leave of absence without pay, to prescribed leave shall be read as a reference to leave of absence granted to the eligible employee in accordance with the terms and conditions of the prescribed employment undertaken by the eligible employee.

13 Salary of certain eligible employees on leave of absence without pay

- (1) In respect of an eligible employee who is on leave of absence without pay, the annual rate of salary of the person on a particular day during a relevant period (as defined in subregulation (1A)) that is, or forms part of, a period of leave of absence without pay is, for the purposes of the Act, an amount per annum equal to the annual rate of the notional salary of the eligible employee on that day.
- (1A) For the purposes of subregulation (1), a relevant period is:
 - (a) a period during which:
 - (i) section 51 of the Act does not apply to the eligible employee; and
 - (ii) section 51A of the Act does not apply to the eligible employee; and
 - (iii) circumstances prescribed by subregulation (2) do not apply in respect of the eligible employee; or
 - (b) a period during which section 51A of the Act applies to the eligible employee, being a period that forms part of his or her period of contributory service.
- (2) For the purposes of subparagraph (1A)(a)(iii), prescribed circumstances apply in respect of an eligible employee:
 - (a) where:
 - (i) the eligible employee is on leave of absence without pay and section 51 of the Act does not apply to the eligible employee;
 - (ii) the leave of absence has been granted for the purpose of enabling the eligible employee to undertake, and the eligible employee undertakes, employment in a teaching capacity with the University of New South Wales in the Faculty of Military Studies at the Royal Military College; and
 - (iii) during the period of leave of absence salary is payable to the eligible employee in respect of the employment referred to in subparagraph (ii) at an annual rate that is higher than the annual rate of the notional salary of the eligible employee; or
 - (b) where:
 - (i) at any time on or after 3 February 1977 the eligible employee is on leave of absence without pay, being leave of absence granted for a period of not less than 12 months in respect of which the Board has directed that subsection 51(1) of the Act does not apply;

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- (ii) the leave of absence has been granted for the purpose of enabling the eligible employee to undertake, and the eligible employee undertakes, employment on a full-time basis in an office within an approved organization; and
 - (iii) during the period of leave of absence salary is payable to the eligible employee in respect of the employment referred to in subparagraph (ii) at an annual rate that is higher than the annual rate of the notional salary of the eligible employee; or
- (c) where:
 - (i) the eligible employee is on leave of absence without pay for a period of not less than 12 months in respect of which the Board has directed that subsection 51(1) of the Act does not apply;
 - (ii) the leave of absence has been granted for the purpose of enabling the eligible employee to undertake, and the eligible employee undertakes, prescribed employment other than employment of the kind referred to in paragraph 12(c)(vi); and
 - (iii) during the period of leave of absence salary is payable to the eligible employee in respect of the prescribed employment that he has undertaken at an annual rate that is higher than the annual rate of the notional salary of the eligible employee; or
- (d) where:
 - (i) an eligible employee to whom section 51 of the Act does not apply is on leave of absence without pay from the Australian and Overseas Telecommunications Corporation; and
 - (ii) that leave has been granted to the eligible employee to enable him or her to undertake employment with Telecom Australia (International) Limited; and
 - (iii) the eligible employee is engaged in that employment at an annual rate of salary that is higher than the annual rate of the notional salary of the eligible employee; or
- (e) where:
 - (i) an eligible employee to whom section 51 of the Act does not apply is on leave of absence without pay from the Australian and Overseas Telecommunications Corporation; and
 - (ii) that leave has been granted to the eligible employee to enable that employee to undertake employment with Advanced Network Management Pty Ltd; and
 - (iii) the eligible employee is engaged in that employment at an annual rate of salary that is higher than the annual rate of the notional salary of that employee.

14 Maximum rate of salary payable to eligible employees undertaking employment with approved organisations

Where:

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- (a) the circumstances referred to in paragraph 13(2)(b) apply in respect of an eligible employee who is undertaking employment on a full-time basis in an office within an approved organization; and
- (b) salary in respect of the employment referred to in paragraph (a) is payable to the eligible employee at an annual rate that is higher than:
 - (i) in the case of an eligible employee who holds within the approved organization an office, not being an office within a branch of the organization—the annual rate of salary payable to an officer of the Australian Public Service occupying an office classified as Senior Executive Band 2 that attracts the minimum rate of salary for that band; and
 - (ii) in any other case—the annual rate of salary payable to an officer of the Australian Public Service occupying an office classified as Senior Officer Grade B and in receipt of salary at the maximum rate applicable to that office;

the annual rate of salary of the eligible employee on a particular day, not being a day before 3 February 1977, during the period of leave of absence shall, for the purposes of the Act, be an amount per annum equal to the annual rate of salary payable on that day to the officer of the Australian Public Service referred to in subparagraph (b)(i) or (ii), as the case may be.

15 Salary of certain eligible employees undertaking employment during a period of leave of absence without pay

- (1) This regulation applies to an eligible employee in respect of whom the circumstances referred to in paragraph 13(2)(b) or (c) apply where the eligible employee undertakes prescribed employment (being employment of the same kind as the eligible employee's initial employment) in respect of which the salary payable to the eligible employee is higher than the salary that would be payable to the eligible employee if the eligible employee had continued to undertake his initial employment.

- (2) Where:

- (a) this regulation applies to an eligible employee who is on leave of absence;
 - (b) the eligible employee has not, during the period of 12 months immediately preceding a particular day in the period of leave of absence, continuously undertaken prescribed employment, being prescribed employment by virtue of which this regulation applies to the eligible employee; and
 - (c) a certificate specifying a date not later than the particular day has not been given under subregulation (4) in respect of the eligible employee;

the annual rate of salary of the eligible employee on the particular day shall, for the purposes of the Act, be an amount per annum equal to the annual rate of salary that would be payable to the eligible employee on the particular day if the eligible employee had continued to undertake his initial employment.

- (3) Where:

- (a) this regulation applies to an eligible employee who is on leave of absence;
 - (b) the eligible employee has:

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- (i) during a period of not less than 12 months immediately preceding a particular day in the period of leave of absence; or
- (ii) if a certificate specifying a date not later than the particular day has been given in respect of the eligible employee under subregulation (4)—from and including the day specified in the certificate;

continuously undertaken prescribed employment, being prescribed employment by virtue of which this regulation applies to the eligible employee; and

- (c) at any time during the relevant period the eligible employee has been paid in respect of prescribed employment that he has undertaken salary at an annual rate that is lower than the annual rate of salary of the eligible employee on that particular day;

then, subject to regulation 16, the annual rate of salary of the eligible employee on the particular day in the period of leave of absence shall, for the purposes of the Act, be an amount per annum equal to the annual rate of salary that would be payable to him on the particular day if he had continued to undertake the employment in respect of which salary was payable to him at the lower or lowest rate, as the case may be, during the relevant period.

- (4) If the Commissioner is of the opinion that there is a likelihood that, from and including a particular day during the period of leave of absence:
 - (a) an eligible employee to whom this regulation applies will, for a continuous period of not less than 12 months, undertake the prescribed employment by virtue of which this regulation applies to the eligible employee; or
 - (b) where the eligible employee has undertaken the prescribed employment referred to in paragraph (a) for a continuous period of less than 12 months immediately preceding the particular day—the eligible employee will undertake that employment for a continuous period of less than 12 months that together with the first-mentioned period will not be less than a period of 12 months;

the Commissioner shall give a certificate to that effect specifying the day (not being a day earlier than the day on which the certificate was given) on which the period referred to in paragraph (a) or (b), as the case may be, in relation to the eligible employee will commence.

- (5) For the purposes of this regulation, where:
 - (a) immediately before a period of prescribed leave this regulation applies to an eligible employee;
 - (b) subregulation (6) does not apply in relation to the period of prescribed leave; and
 - (c) this regulation again applies to the eligible employee on the expiration of the period of prescribed leave;

the period of prescribed leave shall be disregarded and the periods in respect of which this regulation applies to the eligible employee, being the period immediately preceding the period of prescribed leave and the period immediately following the period of prescribed leave, shall be treated as a continuous period.

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- (6) Where:
- (a) immediately before a period of prescribed leave this regulation applies to an eligible employee; and
 - (b) during the period of prescribed leave salary is payable to the eligible employee at a rate that is higher than the rate of salary that would be payable to the eligible employee if during that period the eligible employee were undertaking the eligible employee's initial employment;
- the eligible employee shall, for the purposes of this regulation, be deemed to undertake prescribed employment during the period of prescribed leave.

- (7) In this regulation:

initial employment, in relation to an eligible employee who undertakes prescribed employment during a period of leave of absence without pay, means the prescribed employment first undertaken by the eligible employee after the commencement of the period of leave of absence.

relevant period, in relation to an eligible employee who undertakes prescribed employment on a particular day during a period of leave of absence without pay, means:

- (a) if paragraph (b) does not apply—the period of 12 months immediately preceding the particular day; or
- (b) if the eligible employee has, for a continuous period of less than 12 months immediately preceding the particular day, performed prescribed employment, being prescribed employment by virtue of which this regulation applies to the eligible employee—that lesser period.

16 Salary for purposes of determination of certain benefits

- (1) Where:
- (a) a person has ceased to be an eligible employee:
 - (i) by reason of early retirement; or
 - (ii) in circumstances that entitle him to age retirement pension;
 - (b) on the relevant day the person was an eligible employee to whom regulation 15 applied;
 - (c) before the relevant day, a certificate specifying a day not later than the relevant day had been given in respect of the person under subregulation 15(4); and
 - (d) the person had not during the period of 12 months immediately preceding the relevant day, continuously undertaken prescribed employment, being prescribed employment by virtue of which regulation 15 applied to the person;

then, for the purposes of the definition of **final annual rate of salary** in subsection 3(1) of the Act, the annual rate of salary of that person on the relevant day shall be an amount equal to the amount per annum that would, for the purposes of the Act, have been the annual rate of salary of the person on that day if the certificate referred to in paragraph (c) had not been given.

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- (2) In this regulation, **relevant day**, in relation to a person who has ceased to be an eligible employee, means:
- (a) except where paragraph (b) applies—his last day of service; or
 - (b) if his annual rate of salary is ascertained by reference to the annual rate of salary payable to him on a day other than his last day of service—that other day.

17 Annual rate of salary of certain employees where anniversary of birth occurs during period of leave of absence etc.

- (1) Where:
- (a) a certificate in respect of an eligible employee has been given by the Commissioner under subregulation 6(2);
 - (b) during any part of the period specified in the certificate:
 - (i) the eligible employee, not being an eligible employee referred to in subparagraph (ii), was on leave of absence; or
 - (ii) the eligible employee, being an eligible employee in respect of whom the circumstances referred to in paragraph 13(2)(b) or (c) apply, was on prescribed leave;
 - (c) an anniversary of the birth of the eligible employee occurred during that period of leave of absence or prescribed leave; and
 - (d) subregulation 6(3) applies in relation to the eligible employee;

the annual rate of salary of the eligible employee on that anniversary of his birth shall, for the purposes of section 46 of the Act, be an amount per annum equal to the annual rate of salary that would be payable to the eligible employee on that anniversary if he had continued to perform during the period of leave of absence or prescribed leave the duties or work last performed by him before the commencement of that period.

- (2) Where:
- (a) a certificate in respect of an eligible employee has been given by the Commissioner under subregulation 10(3);
 - (b) during any part of the period specified in the certificate the eligible employee was on leave of absence;
 - (c) an anniversary of the birth of the eligible employee occurred during that period of leave of absence; and
 - (d) subregulation 10(4) applies in relation to the eligible employee;

the annual rate of salary of the eligible employee on that anniversary of his birth shall, for the purposes of section 46 of the Act, be an amount per annum equal to the annual rate of salary that would be payable to the eligible employee on that anniversary if he had continued to perform during the period of leave of absence the work last performed by him before the commencement of the period of leave of absence.

- (3) Where:
- (a) a certificate in respect of an eligible employee to whom regulation 15 applies has been given by the Commissioner under subregulation 15(4);

Regulation 17

- (b) during any part of the period specified in the certificate the eligible employee was on prescribed leave;
 - (c) an anniversary of the birth of the eligible employee occurred during that period of prescribed leave; and
 - (d) subregulation 15(5) applies in relation to the eligible employee;
- the annual rate of salary of the eligible employee on that anniversary of his birth shall, for the purposes of section 46 of the Act, be an amount per annum equal to the annual rate of salary that would be payable to the eligible employee on that anniversary if he had continued to undertake during the period of prescribed leave the prescribed employment last undertaken by him before the commencement of the period of prescribed leave.

Part 5—Miscellaneous

18 Eligible employees transferred outside the Australian Public Service

- (1) Where, in pursuance of arrangements made under section 47DA of the *Public Service Act 1922* as modified and adapted by the Papua New Guinea Independence (Public Service) Regulations, an eligible employee has, whether before or after the commencing day, been transferred for a specified period to an office in the Public Service of the Independent State of Papua New Guinea, the annual rate of salary of that eligible employee on a particular day (not being a day before the commencing day) during the specified period shall, for the purposes of the Act, be an amount per annum equal to the annual rate of salary (in this regulation referred to as the eligible employee's **notional salary**) that would be payable to the eligible employee on that day in respect of the duties that the eligible employee would be likely to perform as an officer of the Australian Public Service on that day if the eligible employee had not been transferred to that office.
- (2) Where the duties that an eligible employee would, but for the transfer referred to in subregulation (1), be likely to perform as an officer of the Australian Public Service on a particular day are not the duties last so performed by the eligible employee before that transfer, the notional salary of the eligible employee on the particular day shall not, for the purposes of subregulation (1), include any allowance, or the value of any allowance, that, but for this subregulation, would be included in his notional salary.

19 Variation of salary with retrospective effect

- (1) Where:
 - (a) after an anniversary of the birth of a person who is, or has ceased to be, an eligible employee, the annual rate of salary of the person on that anniversary is varied; and
 - (b) section 47 of the Act does not apply in relation to the annual rate of salary of the person on that anniversary;then, for the purposes of section 46 of the Act, the annual rate of salary of the person on that anniversary shall be an amount equal to the amount per annum that, but for that variation, would have been his annual rate of salary on that anniversary.
- (2) Where:
 - (a) after an anniversary of the birth of a person who is, or has ceased to be, an eligible employee, the annual rate of salary of the person on that anniversary is varied;
 - (b) section 47 of the Act applied in relation to the annual rate of salary of the person on that anniversary; and

Regulation 19

- (c) the annual rate of salary as varied of the person on that anniversary is higher than the annual rate of salary that, but for that variation, would, in accordance with section 47 of the Act, be deemed to be his annual rate of salary on that anniversary;

then, for the purposes of section 46 of the Act, the annual rate of salary of the person on that anniversary shall be an amount per annum equal to the annual rate of salary that, but for that variation, would, in accordance with section 47 of the Act, be deemed to have been payable to the person on that anniversary.

(3) Where:

- (a) subsection 47(1) of the Act applies in relation to the annual rate of salary of a person (being a person who is, or has ceased to be, an eligible employee) on an anniversary of his birth (in this subregulation referred to as the **relevant anniversary**); and

- (b) after the relevant anniversary, the highest annual rate of salary that was payable to the person on any day during the period commencing on the anniversary of his birth last preceding the relevant anniversary and ending on the day immediately preceding the relevant anniversary is varied;

then, for the purposes of section 46 of the Act, the annual rate of salary of the person on any day during that period on which salary was payable to him at that highest rate shall be an amount equal to the amount per annum that, but for that variation, would have been his annual rate of salary on that day.

(4) Where:

- (a) a person who is, or has ceased to be, an eligible employee has made an election under subsection 47 (2) of the Act by virtue of a decrease in his annual rate of salary;

- (b) subsection 47(3) of the Act applies in relation to the annual rate of the salary of the person on the anniversary of his birth next following the date of the decrease; and

- (c) after that anniversary, the highest annual rate of salary that was payable to the person on any day during the period commencing on the date of the decrease and ending on the day immediately preceding that anniversary is varied;

then, for the purposes of section 46 of the Act, the annual rate of salary of the person on any day during that period on which salary was payable to him at that highest rate shall be an amount equal to the amount per annum that, but for that variation, would have been his annual rate of salary on that day.

(5) Where:

- (a) a person who is, or has ceased to be, an eligible employee has made an election under subsection 47(2) of the Act by virtue of a decrease in his annual rate of salary;

- (b) subsection 47(4) of the Act applies in relation to the annual rate of the salary of the person on the anniversary of his birth last preceding the date of the decrease; and

Regulation 20

(c) after the date of the election, the annual rate of the salary that was payable to the person on the date of the decrease is varied;
then, for the purposes of subsection 47(4) of the Act, the annual rate of salary of the person on the date of the decrease shall be an amount equal to the amount per annum that, but for that variation, would have been his annual rate of salary on that date.

20 Annual rate of salary of certain redeployed eligible employees etc.

(1) In this regulation:

classification, office of Secretary, officer, Secretary, Senior Executive Service office, Senior Executive Service officer and *unattached Secretary* have the same meaning as in subsection 7(1) of the Public Service Act.

fixed-term appointment means:

- (a) in relation to a Secretary—a fixed-term appointment within the meaning of section 37 of the Public Service Act; or
- (b) in relation to a Senior Executive Service officer—a fixed-term appointment within the meaning of section 44 of that Act.

relevant day, in relation to an eligible employee to whom this regulation applies, means the day on which the eligible employee became such an eligible employee.

(2) For the purposes of this regulation, the question whether the classification of an office is equal to, higher than, or lower than, the classification of another office is to be determined in accordance with subsections 28(2) and (3) of the Public Service Act.

(3) Subject to subregulation (6), where:

- (a) an eligible employee, being a Secretary or an unattached Secretary:
 - (i) is appointed to an office of Secretary of lower classification than the classification of the office of Secretary held immediately before the appointment, or last held before the appointment, by the eligible employee; or
 - (ii) is transferred to a Senior Executive Service office; or
 - (iii) has his or her classification reduced to a classification that is, for the purposes of the Public Service Act, a Senior Executive Service classification; or
 - (iv) is appointed to the office of Administrator of the Territory of Norfolk Island and the salary payable in respect of that office is less than the salary payable to him or her immediately before the appointment; or
- (b) an eligible employee, being a Senior Executive Service officer, is transferred to an office of lower classification than the classification of the office held, immediately before the transfer, by the eligible employee;

then, unless on the day on which the eligible employee is so appointed or transferred or has his or her classification so reduced the eligible employee is, by virtue of subregulation (4), an eligible employee to whom this regulation applies,

Regulation 20

the eligible employee becomes on that day an eligible employee to whom this regulation applies.

- (4) If an eligible employee becomes an eligible employee to whom this regulation applies, then, subject to subregulation (7), the employee continues to be an eligible employee to whom this regulation applies until:
 - (a) in the case of an eligible employee referred to in subparagraph (3)(a)(iv)—the salary payable to the eligible employee ceases to be lower than the salary payable to an officer whose classification is the same as the classification of the eligible employee immediately before the relevant day; or
 - (b) in any other case—the eligible employee ceases to be an officer having a classification that is lower than his or her classification on the day immediately before the relevant day in relation to the eligible employee.
- (5) Where:
 - (a) this regulation applies to an eligible employee; and
 - (b) if the eligible employee had, on any particular day (being the relevant day in relation to the eligible employee or any day after that relevant day), been an officer having the same classification as, or a classification equal to, the classification of the eligible employee on the day immediately preceding the relevant day in relation to the eligible employee, the annual rate of the salary that would have been payable to the eligible employee (in this subregulation referred to as his or her *notional salary*) on the particular day would have been higher than the annual rate of salary by reference to which the fortnightly basic contribution of the eligible employee:
 - (i) where subparagraph (ii) does not apply—on the contribution day last preceding the particular day; or
 - (ii) where the particular day is a contribution day—on the particular day; was calculated;

then, the annual rate of salary of the eligible employee on the particular day shall, for the purposes of the Act, be an amount per annum equal to the annual rate of the notional salary of the eligible employee on that day.
- (6) Subregulation (3) does not apply to an eligible employee who is appointed or transferred to an office, or has his or her classification reduced, in any of the circumstances referred to in paragraph (3)(a) or (b) if the eligible employee:
 - (a) immediately before the day that, but for this subregulation, would have been the relevant day in relation to the eligible employee, held an office of Secretary under a fixed-term appointment or was a Senior Executive Service officer by virtue of a fixed-term appointment;
 - (b) is, on the day referred to in paragraph (a), given a fixed-term appointment to an office of Secretary or as a Senior Executive Service officer; or
 - (c) makes, on the day referred to in paragraph (a), an election under subsection 47(2) of the Act in relation to the appointment, transfer or reduction in classification occurring on that day.

Regulation 21

- (7) An eligible employee to whom this regulation applies ceases to be such an eligible employee if the eligible employee:
- (a) at any time after the relevant day in relation to the eligible employee, makes (whether in relation to the appointment, transfer or reduction in classification by virtue of which the eligible employee became such an eligible employee or in relation to any subsequent appointment or transfer to another office) an election under subsection 47(2) of the Act;
 - (b) is, at any time after the relevant day in relation to the eligible employee, given a fixed-term appointment to an office of Secretary or as a Senior Executive Service officer; or
 - (c) having been transferred from a Senior Executive Service office to an office (in this subregulation referred to as a **prescribed office**) that is not an office of Secretary or a Senior Executive Service office, is next transferred from that prescribed office to a prescribed office of a lower classification than the classification of the first-mentioned prescribed office.

21 Annual rate of salary of certain eligible employees in Commonwealth Scientific and Industrial Research Organisation

- (1) In this regulation:

relevant appointment means a position as an officer in the Organisation for which the designation, under the officer's terms and conditions of service, is:

- (a) Director of Institute;
- (b) Chief of Division, Grade 1, 2, 3 or 4;
- (c) Executive Secretary;
- (d) Senior Executive, Level 4, 5 or 6;
- (e) First Assistant Secretary;
- (f) Senior Assistant Secretary;
- (g) Assistant Secretary; or
- (h) Director of Technical Services.

Organisation has the same meaning as in the *Science and Industry Research Act 1949*.

- (2) Where an eligible employee holding a particular relevant appointment is transferred to another position in the Organisation (whether or not another relevant appointment), or subsequently holds any other such position, being in either case a position in respect of which a lower annual rate of salary is payable, the annual rate of salary for the purposes of the Act of the eligible employee on a particular day is, subject to subregulation (3), an amount equal to the amount per annum that would be the amount of the annual rate of salary for the purposes of the Act of the eligible employee on that day if he or she held a position in the Organisation on that day having the same classification as the classification applicable to that particular relevant appointment.
- (3) The amount of an allowance payable to an eligible employee in relation to a particular relevant appointment shall be disregarded in calculating under

Regulation 22

subregulation (2) the amount of his or her annual rate of salary for the purposes of the Act on a particular day unless the amount of the allowance was included in the amount of his or her annual rate of salary for the purposes of the Act immediately before any transfer from that relevant appointment.

- (4) Subregulation (2) applies to an eligible employee transferred as referred to in that subregulation subject to any right or entitlement applicable immediately before the transfer, under subsection 47(1) of the Act, in relation to the ascertainment of his or her annual rate of salary.
- (5) Subregulation (2) does not apply if the eligible employee:
 - (a) on the day on which, but for this provision, that subregulation would first apply to him or her, makes an election under subsection 47(2) of the Act in relation to the transfer occurring on that day; or
 - (b) has been appointed to be an officer of the Organisation only for a specified period.
- (6) Subregulation (2) ceases to apply if the eligible employee:
 - (a) having been transferred from a relevant appointment to a position in the Organisation that is not a relevant appointment, is subsequently transferred (whether or not immediately after holding that position) to another position in the Organisation, being a position:
 - (i) that is not a relevant appointment; and
 - (ii) that has a lower classification than the classification applicable, immediately before that subsequent transfer, to the first-mentioned position; or
 - (b) ceases to be an officer of the Organisation.
- (7) Subregulation (2) ceases to apply from and including a day on which, whether in relation to a transfer from the relevant appointment or any further transfer within the Organisation, the eligible employee makes an election under subsection 47(2) of the Act.
- (8) Subregulation (2) ceases to apply from and including a day on which, whether or not because of a further transfer within the Organisation, the eligible employee's annual rate of salary for the purposes of the Act is greater than the annual rate of salary for the purposes of the Act that would be applicable to the eligible employee on that day if he or she held a position in the Organisation on that day having the same classification as the classification applicable to the particular relevant appointment.

22 Annual rate of salary of employees remunerated under incentive schemes

- (1) In this regulation, *incentive scheme* means a scheme incorporated in a written agreement under which an eligible employee is entitled to earn part of his or her total remuneration by way of commissions or bonuses, or both, that become payable, in accordance with performance criteria applied individually to a class of eligible employees in which he or she is included, as set out in the agreement in relation to work or duties specified in the agreement.

Regulation 23

- (2) Where an incentive scheme is applicable to an eligible employee who is an employee of the Australian and Overseas Telecommunications Corporation, the annual rate of salary for the purposes of the Act of the eligible employee on a particular day is an amount equal to the amount per annum that would be the annual rate of salary for the purposes of the Act of the eligible employee on that day in accordance with the agreement to which that incentive scheme relates if:
 - (a) the incentive scheme was not applicable to the eligible employee on that day; and
 - (b) the eligible employee held, on that day, as such an employee, a position having the same rank or classification as the rank or classification applicable to the eligible employee on that day in relation to his or her employment in accordance with the incentive scheme.
- (3) Subregulation (2) applies to an eligible employee to whom an incentive scheme is applicable subject to any right or entitlement applicable immediately before that scheme became applicable, under subsection 47(1) of the Act. in relation to the ascertainment of his or her annual rate of salary.

23 Performance pay, bonuses and commissions

- (1) Subject to subregulation (2), an amount of remuneration paid or payable to an eligible employee that is:
 - (a) performance pay; or
 - (b) a bonus; or
 - (c) a commission;is not to be treated as salary for the purposes of the Act.
- (2) This regulation does not apply to:
 - (a) remuneration of a kind referred to in paragraph 5(b) or (c) or regulation 22; or
 - (b) an increment to the salary of an eligible employee that is paid only on condition of a satisfactory performance appraisal.

Schedule 1—Percentage rates for certain eligible employees

(regulations 8P and 8Q)

Part 1—Employees of certain authorities or bodies

| Column 1 Item No. | Column 2 Authority | Column 3 Percentage |
|------------------------------|--|--------------------------------|
| 2 | Civil Aviation Safety Authority | 77 |
| 3 | Indigenous Land Corporation | 70 |
| 4 | Commonwealth Serum Laboratories Limited | 80 |
| 5 | the Dairy Research and Development Corporation | 70 |
| 6 | Health Insurance Commission | 75 |

Part 2—Persons appointed or employed under certain laws

| Column 1 | Column 2 | Column 3 |
|-----------------|--------------------------------|-------------------|
| Item No. | Law | Percentage |
| 1 | <i>Civil Aviation Act 1988</i> | 77 |

Part 3—Persons holding certain offices

| Column 1 Item No. | Column 2 Office | Column 3 Percentage |
|----------------------|--|------------------------|
| 1 | An office of Deputy Commissioner of Police established by Division 1 of Part IV of the <i>Australian Federal Police Act 1979</i> | 70 |
| 2 | An office established under Division 2 of Part IV of the <i>Australian Federal Police Act 1979</i> | 70 |
| 3 | An office of the Dairy Research and Development Corporation established by the <i>Primary Industries and Energy Research and Development Act 1989</i> | 70 |
| 4 | An office established under the <i>Science and Industry Research Act 1949</i> and known as Institute Director | 76.6 |
| 4A | The office of Chief Executive established by the <i>Science and Industry Research Act 1949</i> | 74 |
| 4B | An office established under the <i>Science and Industry Research Act 1949</i> and known as Corporate Executive | 74 |
| 5 | The office of General Manager of the Indigenous Land Corporation established under Division 8 of Part 4A of the <i>Aboriginal and Torres Strait Islander Commission Act 1989</i> | 70 |

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

| | |
|--|--|
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) /sub-subparagraph(s) |
| C[x] = Compilation No. x | pres = present |
| Ch = Chapter(s) | prev = previous |
| def = definition(s) | (prev...) = previously |
| Dict = Dictionary | Pt = Part(s) |
| disallowed = disallowed by Parliament | r = regulation(s)/rule(s) |
| Div = Division(s) | reloc = relocated |
| ed = editorial change | renum = renumbered |
| exp = expires/expired or ceases/ceased to have effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = <i>Legislation Act 2003</i> | Sch = Schedule(s) |
| LIA = <i>Legislative Instruments Act 2003</i> | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given effect | SLI = Select Legislative Instrument |
| (md not incorp) = misdescribed amendment cannot be given effect | SR = Statutory Rules |
| mod = modified/modification | Sub-Ch = Sub-Chapter(s) |
| No. = Number(s) | SubPt = Subpart(s) |
| | <u>underlining</u> = whole or part not commenced or to be commenced |

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

| Number and year | FRLI registration or gazettal | Commencement | Application, saving and transitional provisions |
|-----------------|-------------------------------|-------------------|---|
| 1978 No. 282 | 29 Dec 1978 | 1 July 1976 | |
| 1981 No. 5 | 29 Jan 1981 (F1996B02193) | 29 Jan 1981 | — |
| 1985 No. 204 | 29 Aug 1985 (F1996B02194) | 29 Aug 1985 | — |
| 1985 No. 326 | 5 Dec 1985 (F1996B02195) | 5 Dec 1985 | — |
| 1986 No. 43 | 1 Apr 1986 (F1996B02196) | 1 Apr 1986 | — |
| 1986 No. 49 | 15 Apr 1986 (F1996B02197) | 15 Apr 1986 | — |
| 1987 No. 70 | 6 May 1987 (F1996B02198) | 6 May 1987 | — |
| 1988 No. 171 | 8 July 1988 (F1996B02199) | 8 July 1988 | — |
| 1988 No. 231 | 22 Sept 1988 (F1996B02200) | 22 Sept 1988 | — |
| 1988 No. 250 | 21 Oct 1988 (F1996B02201) | 21 Oct 1988 | — |
| 1988 No. 350 | 21 Dec 1988 (F1996B02202) | 21 Dec 1988 | — |
| 1989 No. 77 | 4 May 1989 (F1996B02203) | 4 May 1989 | — |
| 1990 No. 128 | 19 June 1990 (F1996B02204) | 19 June 1990 | — |
| 1991 No. 167 | 28 June 1991 (F1996B02205) | 1 July 1990 (r 1) | — |
| 1991 No. 312 | 16 Oct 1991 (F1996B02206) | 16 Oct 1991 | — |
| 1991 No. 466 | 19 Dec 1991 (F1996B02207) | 19 Dec 1991 | — |
| 1992 No. 169 | 25 June 1992 (F1996B02208) | 25 June 1992 | — |
| 1992 No. 219 | 30 June 1992 (F1996B02209) | 1 July 1992 (r 1) | — |
| 1992 No. 266 | 26 Aug 1992 (F1996B02210) | 26 Aug 1992 | — |
| 1992 No. 290 | 11 Sept 1992 (F1996B02211) | 11 Sept 1992 | — |
| 1992 No. 397 | 16 Dec 1992 (F1996B02212) | 16 Dec 1992 | — |
| 1992 No. 427 | 24 Dec 1992 (F1996B02213) | 24 Dec 1992 | — |
| 1993 No. 4 | 29 Jan 1993 (F1996B02214) | 29 Jan 1993 | — |
| 1993 No. 102 | 3 June 1993 (F1996B02215) | 3 June 1993 | — |
| 1994 No. 18 | 18 Feb 1994 (F1996B02216) | 18 Feb 1994 | — |
| 1994 No. 249 | 7 July 1994 (F1996B02217) | 7 July 1994 | — |
| 1994 No. 273 | 26 July 1994 (F1996B02218) | 26 July 1994 | — |
| 1995 No. 32 | 8 Mar 1995 (F1996B02219) | 8 Mar 1995 | — |
| 1995 No. 275 | 26 Sept 1995 (F1996B02220) | 26 Sept 1995 | — |
| 1995 No. 348 | 23 Nov 1995 (F1996B02221) | 23 Nov 1995 | — |
| 1995 No. 407 | 19 Dec 1995 (F1996B02222) | 19 Dec 1995 | — |
| 1996 No. 8 | 31 Jan 1996 (F1996B02223) | 31 Jan 1996 | — |
| 1996 No. 204 | 17 Sept 1996 (F1996B02224) | 17 Sept 1996 | — |
| 1997 No. 188 | 1 July 1997 (F1997B02674) | 1 July 1997 (r 1) | — |
| 1999 No. 29 | 2 Mar 1999 (F1999B00027) | 2 Mar 1999 (r 2) | — |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
|--|-----------------|------------|---|---|
| Public Sector Superannuation Salary Legislation Amendment Act 2022 | 36, 2022 | 9 Aug 2022 | Sch 1: 1 July 1986 (s 2(1) item 2) Sch 2: <u>10 Aug 2022 (s 2(1) item 3)</u> | Sch 1 (item 2) and <u>Sch 2</u> |

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| Part 1 | |
| Part 1 heading (prev Part I heading) | |
| Part I heading..... | renum No 169, 1992 |
| r 1..... | am No 275, 1995 |
| | rs No 29, 1999 |
| r 3..... | am No 326, 1985; No 169, 1992 |
| Part 2 | |
| Part 2 heading (prev Part II heading) | |
| Part II heading | renum No 169, 1992 |
| r 4..... | am No 326, 1985; No 250, 1988 |
| r 5..... | am No 5, 1981; No 171, 1988; No 77, 1989; No 169, 1992; Act No 36, 2022 |
| r 6..... | am No 70, 1987; No 397, 1992 |
| r 7..... | am No 5, 1981; No 70, 1987; No 77, 1989 |
| r 8..... | am No 70, 1987 |
| Part 2A | |
| Part 2A heading (prev Part IIA heading) | |
| Part IIA heading..... | renum No. 169, 1992 |
| Part IIA | ad No 326, 1985 |
| r 8A..... | ad No 326, 1985 |
| r 8B..... | ad No 326, 1985 |
| r 8C..... | ad No 326, 1985 |
| r 8D..... | ad No 326, 1985 |
| | am No 49, 1986; No 466, 1991 |
| r 8E | ad No 326, 1985 |
| | am No 49, 1986; No 70, 1987; No 466, 1991 |
| Part 2B | |
| Part 2B heading (prev Part IIB heading) | |
| Part IIB heading..... | renum No 169, 1992 |
| Part IIB | ad No 43, 1986 |
| r 8F..... | ad No 43, 1986 |
| r 8G..... | ad No 43, 1986 |
| r 8H..... | ad No 43, 1986 |
| Part 2C | |
| Part 2C heading (prev Part IIC heading) | |
| Part IIC heading..... | renum No 169, 1992 |

Endnote 4—Amendment history

| Provision affected | How affected |
|---|---|
| Part IIC | ad No 171, 1988 |
| r 8I..... | ad No 171, 1988 |
| | am No 169, 1992 |
| r 8J | ad No 171, 1988 |
| r 8K..... | ad No 171, 1988 |
| Part 2D | |
| Part 2D heading (prev Part IID heading) | |
| Part IID heading..... | renum No 169, 1992 |
| Part IID | ad No 77, 1989 |
| r 8M | ad No 77, 1989 |
| r 8N..... | ad No 77, 1989 |
| Part 2E | |
| Part 2E heading..... | rs No 102, 1993 |
| Part 2E | ad No 169, 1992 |
| Division 1 | |
| Division 1 heading..... | ad No 275, 1995 |
| r 8P..... | ad No 169, 1992 |
| | am No 102, 1993; No 273, 1994; No 275, 1995 |
| r 8Q..... | ad No 169, 1992 |
| | am No 397, 1992; No 427, 1992 |
| | rs No 102, 1993 |
| | am No 32, 1995 |
| r 8QA | ad No 397, 1992 |
| Division 2 | |
| Division 2 | ad No 275, 1995 |
| r 8QB | ad No 275, 1995 |
| Part 2EA | |
| Part 2EA heading..... | rs No 29, 1999 |
| Part 2EA | ad No 188, 1997 |
| r 8QC | ad No 188, 1997 |
| | am No 29, 1999 |
| r 8QD | ad No 188, 1997 |
| | rs No 29, 1999 |
| Part 2F | |
| Part 2F..... | ad No 219, 1992 |
| r 8R | ad No 219, 1992 |
| r 8S..... | ad No 219, 1992 |
| | am No 249, 1994 |
| r 8T | ad No 219, 1992 |

Endnotes

Endnote 4—Amendment history

| Provision affected | How affected |
|--|--|
| r 8U | ad No 219, 1992 |
| Part 2G | |
| Part 2G | ad No 18, 1994 |
| r 8V | ad No 18, 1994 |
| r 8W | ad No 18, 1994 |
| r 8X | ad No 18, 1994 |
| r 8Y | ad No 18, 1994 |
| r 8Z | ad No 18, 1994 |
| Part 3 | |
| Part 3 heading (prev Part III heading) | |
| Part III heading | renum No 169, 1992 |
| r 9 | rs No 326, 1985 |
| r 10 | am No 326, 1985; No 70, 1987 |
| r 11 | am No 326, 1985 |
| Part 4 | |
| Part 4 heading (prev Part IV heading) | |
| Part IV heading | renum No 169, 1992 |
| r 12 | am No 49, 1986; No 266, 1992 |
| r 13 | am No 49, 1986; No 167, 1991; No 312, 1991; No 266, 1992; No 290, 1992; No 4, 1993 |
| r 14 | am No 49, 1986; No 466, 1991 |
| r 15 | am No 49, 1986; No 70, 1987 |
| r 17 | am No 5, 1981; No 49, 1986; No 70, 1987 |
| Part 5 | |
| Part 5 heading (prev Part V heading) | |
| Part V heading | renum No 169, 1992 |
| r 18 | am No 49, 1986 |
| r 19 | rs No 5, 1981 |
| | am No 49, 1986 |
| r 20 | ad No 204, 1985 |
| | am No 49, 1986; No 128, 1990 |
| r 21 | ad No 231, 1988 |
| r 22 | ad No 350, 1988 |
| | am No 4, 1993 |
| r 23 | ad No 18, 1994 |
| Schedule 1 | |
| Schedule 1 | ad No 169, 1992 |
| | am No 427, 1992; No 102, 1993; No 32, 1995; No 348, 1995; No 407, 1995; No 8, 1996; No 204, 1996; No 188, 1997 |