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Statutory Rules 1981 No. 1

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## Superannuation (Salary) Regulations<sup>2</sup> (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Superannuation Act 1976*.

Dated 21 January 1981.

ZELMAN COWEN  
Governor-General

By His Excellency's Command,

(Sgd) Margaret Guilfoyle

Minister of State for Finance

### Certain allowances to be treated as salary

1. Regulation 5 of the Superannuation (Salary) Regulations is amended by omitting paragraph (j) and substituting the following paragraph:

“(j) an allowance that is payable to an eligible employee (being an eligible employee referred to in paragraph (ca) of the definition of ‘eligible employee’ in sub-section 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
- (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;”.

**Part of salary or wages not to be treated as salary in certain circumstances**

2. Regulation 7 of the Superannuation (Salary) Regulations is amended by omitting from paragraph (b) of sub-regulation (1) “regulation 4” and substituting “regulation 5”.

**Annual rate of salary of certain employees where anniversary of birth occurs during period of leave of absence, &c.**

3. Regulation 17 of the Superannuation (Salary) Regulations is amended by omitting from sub-regulation (3) “perform” and substituting “undertake”.

4. Regulation 19 of the Superannuation (Salary) Regulations is repealed and the following regulation substituted:

**Variation of salary with retrospective effect**

“19. (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 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
- (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 equal to the amount per annum of the 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) sub-section 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 sub-regulation 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 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 sub-section 47 (2) of the Act by virtue of a decrease in his annual rate of salary;
- (b) sub-section 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 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 sub-section 47 (2) of the Act by virtue of a decrease in his annual rate of salary;
- (b) sub-section 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
- (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 sub-section 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 that, but for that variation, would have been his annual rate of salary on that date.”.

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NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 4 1981.
2. Statutory Rules 1978 No. 282.

29 January/