

Superannuation (Salary) Regulations (Amendment) 1995 No. 275

EXPLANATORY STATEMENT

STATUTORY RULES 1995 No. 275

Issued by the Authority of the Minister for Finance

Superannuation Act 1976

Superannuation (Salary) Regulations (Amendment)

The *Superannuation Act 1976* (the Act) makes provision for and in relation to an occupational superannuation scheme (the CSS) for certain Commonwealth employees and other persons. Members of the CSS are referred to as eligible employees.

Section 168 of the Act provides that the Governor-General may make regulations for the purposes of the Act.

Contributions paid by CSS members and employers and CSS benefits payable to or in respect of members are expressed as a proportion of the member's annual rate of salary. Section 5 of the Act provides that a member's annual rate of salary on any particular day is the amount per annum of salary payable to the person on that day. For this purpose salary means salary or wages and includes any allowance or value of an allowance provided for in the regulations and excludes any part of salary or wages which the regulations provide is not to be treated as salary for the purposes of the Act.

Regulations for the purposes of section 5 are contained in the Superannuation (Salary) Regulations (the Principal Regulations).

Generally, non-cash benefits, such as the use of a motor vehicle, received by members of the CSS as part of their remuneration arrangements are not included in salary for the purposes of the Act.

Remuneration arrangements are expected to be introduced for certain CSS members which will permit payment of a cash allowance in lieu of a non-cash benefit (eg, in lieu of the use of a motor vehicle). To ensure that equity is maintained between those officers who choose the allowance and those who do not, it is appropriate that an allowance in lieu of a non-cash benefit normally should not be included in salary for the purposes of the Act.

The Superannuation (Salary) Regulations (Amendment) (the amending Regulations) amends the Principal Regulations to provide that, except where the amount would be included in salary by the operation of existing provisions of the Principal Regulations, a cash amount received in lieu of a non-cash benefit would not be treated as salary for the purposes of the Act.

The amending Regulations also amend the citation of the Principal Regulations to identify their application to the CSS. This change is in keeping with similar amendments to other regulations under the Act.

The amending Regulations commenced on gazettal.

ATTACHMENT

SUPERANNUATION (SALARY) REGULATIONS (AMENDMENT)

The details of the Regulations are as follows:

Regulation 1

This provides that the Superannuation (Salary) Regulations (the Principal Regulations) are amended by these Regulations.

Regulation 2

This amends regulation 1 of the Principal Regulations which provides for the citation of the Principal Regulations. The new citation is the Superannuation (CSS) Salary Regulations.

Regulation 3 and 4

These provisions make technical amendments to Part 2E of the Principal Regulations as a consequence of the new Division to be inserted in this Part by regulation 5. Part 2E prescribes the salary arrangement for certain persons who, under their terms and conditions of appointment or employment, are able to vary the remuneration benefits in order to receive a mix of monetary and non-monetary benefits. Such arrangements are commonly referred to as flexible remuneration packages.

Regulation 5

This inserts Division 2 (which contains regulation 8QB) in Part 2E of the Principal Regulations. Regulation 8QB provides that, in certain circumstances, an amount that is payable to a CSS member is not to be treated as salary for the purposes of the Act if the person chooses to receive that amount in lieu of a non-monetary benefit,

Regulation 8QB does not apply in respect of amounts that are payable under a flexible remuneration package described in Division 1 of Part 2E. The regulation also does not apply if regulation 5 of the Principal Regulations provides that either the cash amount or the value of the non-cash benefit which has been cashed-out is to be treated as salary.