

## EXPLANATORY STATEMENT

STATUTORY RULES 1986 NO 265

ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE  
SUPERANNUATION ACT 1976 - SUPERANNUATION (ELIGIBLE  
EMPLOYEES) REGULATIONS (AMENDMENT)

Section 168 of the Superannuation Act 1976 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters that the Act requires or permits to be prescribed, or that are necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

The Act provides a contributory superannuation scheme for Commonwealth employees. Persons eligible to contribute under the Act are referred to in the Act as "eligible employees".

Sub-section 3(1) of the Act defines the term "eligible employee". In accordance with paragraph (j) of the definition, the term does not include a person included in a prescribed class of persons. Thus, certain classes of employees may be excluded by regulation from becoming, or remaining, contributors. The classes of persons so excluded are prescribed in the Superannuation (Eligible Employees) Regulations (the Regulations).

Paragraphs 4(1) and 4(n) of the Regulations include, as a prescribed class of persons for the purposes of the definition of "eligible employee" in sub-section 3(1) of the Act, persons becoming employees of the Australian National Airlines Commission or of the Australian Shipping Commission on or after 1 July 1980 and 1 October 1982 respectively other than those who, immediately before becoming so employed, were eligible employees or invalidity pensioners. The term "invalidity pensioner" is defined in regulation 3 as meaning a person to whom an invalidity pension under the Act, or a pension of a kind referred to in section 64A or 65 of the Superannuation Act 1922, is payable or would have been payable had the pension not been suspended.

It has been realised that, to enable the legislation to operate effectively, the definition of "invalidity pensioner" in regulation 3 should be amended to have regard to the repeal of sections 64A and 65 of the Superannuation Act 1922 and to remove from the scope of the definition persons to whom deferred invalidity pensions are payable under either of the two Acts or to whom such a pension would have been payable if it had not been suspended.

Persons employed by the Northern Territory are eligible employees for the purposes of the Act by virtue of their employment by authorities or bodies that are approved authorities for the purposes of the Act. Holders of statutory offices established under a law of the Territory may also be eligible employees for the purposes of the Act.

The Northern Territory Government will be introducing a superannuation scheme for its employees (other than members of the Northern Territory Police Force), established by the Superannuation Act 1986 of the Northern Territory, with effect from 1 October 1986. It is intended that the following arrangements apply as a consequence of the introduction of the Northern Territory superannuation scheme:

- (a) those Northern Territory employees (other than members of the Northern Territory Police Force) and statutory office-holders who are eligible employees for the purposes of the Act on 30 September 1986 are to have the option of:
  - (i) remaining eligible employees for the purposes of the Act; or
  - (ii) ceasing to be eligible employees for the purposes of the Act and becoming members of the Northern Territory superannuation scheme;
- (b) persons who are Northern Territory employees or holders of Northern Territory statutory offices on 30 September 1986 but who are not eligible employees for the purposes of the Act on that date are to be excluded from becoming eligible employees while they are so employed or the holders of such offices; and
- (c) persons who become, on or after 1 October 1986, Northern Territory employees or statutory office-holders are to be excluded from becoming, or remaining, eligible employees for the purposes of the Act while they are so employed or the holders of such offices.

Groups (b) and (c) would not include persons who:

- (i) are or become so employed while on leave without pay from employment by the Commonwealth or a Commonwealth authority;
- (ii) are or become members of the Northern Territory Police Force; or
- (iii) are invalidity pensioners as defined in regulation 3.

The existing paragraph 4(a) of the Regulations will operate to exclude from remaining eligible employees for the purposes of the Act those in group (a) above who elect to become members of the Northern Territory scheme. Amendment of the Regulations is, however, necessary to exclude those in groups (b) and (c) above from becoming, or remaining, eligible employees for the purposes of the Act.

The proposed Statutory Rule makes the necessary amendments to the definition of "invalidity pensioner" in regulation 3 and amends regulation 4 to exclude those in groups (b) and (c) above from becoming, or remaining, eligible employees for the purposes of the Act.

The amendments are to come into operation on 1 October 1986.

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