

EXPLANATORY STATEMENT

STATUTORY RULES 1987 NO 114
ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUBJECT: 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 all 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".

By virtue of the definition of "eligible employee" in sub-section 3(1) of the Act, and sections 11, 12, 13 and 14, a permanent employee is required to become an eligible employee, while a temporary employee or the holder of a statutory office may do so at his or her own request subject to certain qualifications. In accordance with paragraph (j) of the "eligible employee" definition, the term does not include a person included in a prescribed class of persons. Thus, certain classes of persons may be excluded by regulation from becoming, or remaining, contributors. The classes of persons so excluded are prescribed in the Superannuation (Eligible Employees) Regulations.

Prior to the enactment of amendments to the Governor-General Act 1974 contained in the Public Service Reform Act 1984, members of the Governor-General's staff were employed as exempt employees in accordance with an order under sub-section 8A(1) of the Public Service Act 1922. They were therefore temporary employees for the purposes of the Act and membership of the Commonwealth Superannuation Scheme (CSS) was optional for them.

However, section 13 of the Governor-General Act 1974, inserted by section 141 of the Public Service Reform Act 1984, provides that the Official Secretary may, on behalf of the Commonwealth, employ, under an agreement in writing, a person as a member of the Governor-General's staff. Such persons are permanent employees for the purposes of the Act and are therefore eligible employees.

Following the enactment of section 13 of the Governor-General Act 1974, members of the Governor-General's staff then employed under the Public Service Act were offered employment under that section. In cases where those persons were not eligible employees, acceptance of the offer meant that they automatically became eligible employees.

It is intended that those persons who are employed as members of the Governor-General's staff under section 13 of the Governor-General Act 1974 and who, immediately before becoming so employed, were employed as members of the Governor-General's staff in accordance with an order under sub-section 8A(1) of the Public Service Act 1922 and were not eligible employees for the purposes of the Act shall, if they so request, be excluded from being eligible employees. The Statutory Rule amends the Superannuation (Eligible Employees) Regulations to achieve this intention.

The amending Regulation operates from the date of gazettal.

SR NO 114/87