

EXPLANATORY STATEMENT  
STATUTORY RULES 1988 NO 59  
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 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 definitions of "eligible employee", "permanent employee" and "temporary employee" in subsection 3(1) of the Act, the term "eligible employee" includes officers and employees for the purposes of the Public Service Act 1922, any other persons employed by the Commonwealth and persons employed by an "approved authority". 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 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 (the Regulations).

Subsection 3(1) of the Act defines "approved authority" as:

- (a) an authority or other body specified in the regulations as an approved authority for the purposes of the Act, being an authority or body of a kind described in the definition; or
- (b) an authority or body that was an approved authority for the purposes of the Superannuation Act 1922 immediately before 1 July 1976, the date of commencement of the Act.

Authorities or bodies that have become approved authorities since 1 July 1976 are specified in the Superannuation (Approved Authorities) Regulations.

The Australian National Airlines Commission (the Commission) is an approved authority for the purposes of the Act. Section 15 of the Australian Airlines (Conversion to Public Company) Act 1988 (Act No 6 of 1988) (the Airlines Act) provides for the Commission to be deemed to be a body registered as a company under subsection 86(2) of the Companies Act 1981. The body corporate that was known as the Australian National

Airlines Commission immediately before the commencement of section 15 of the Airlines Act continues in existence under the name Australian Airlines Limited (the Company). Section 15 of the Airlines Act is to come into operation on a day to be fixed by proclamation. Section 29 of the Airlines Act provides that each person who is a staff member of the Commission immediately before the deemed registration of the Company will continue to be employed on the same terms and conditions.

Persons referred to in section 29 of the Airlines Act who were eligible employees for the purposes of the Act immediately before the deemed incorporation of the Company and certain other staff who join the Company on or after that date are eligible to contribute under the Act because the Company has been specified as an approved authority for the purposes of the Act by related amendments to the Superannuation (Approved Authorities) Regulations. Those amendments have effect from the date of commencement of section 15 of the Airlines Act.

In accordance with arrangements introduced on 1 July 1980 in relation to staff of the Commission:

- persons who were employed immediately before that date who were not eligible employees; and
- persons who became employed on or after that date who were not eligible employees and were not entitled to an invalidity pension under the Act or the Superannuation Act 1922 immediately before becoming so employed

were not entitled to contribute under the Act. Instead they were to have the option of joining a superannuation scheme run by the Commission or having no occupational superannuation arrangements apply to them. Persons employed by the Commission immediately before 1 July 1980 who were eligible employees were given the option of transferring to a superannuation scheme run by the Commission or continuing to contribute under the Act. These arrangements, insofar as they restricted the entitlement of employees of the Commission to contribute under the Act, were given effect by the paragraphs 4(a), (k) and (l) of the Principal Regulations.

These arrangements are to continue to apply in respect of persons to whom section 29 of the Airlines Act applies and similar arrangements are to apply to other persons who become employees of the Company on or after the date of its deemed incorporation. Regulation 4 of the Regulations therefore amends the Principal Regulations to prescribe as

a class of persons for the purposes of paragraph (j) of the definition of "eligible employee" in subsection 3(1) of the Act persons who:

- (a) immediately before 1 July 1980 were employed by Australian Airlines, and have continued to be so employed and were not eligible employees immediately before that date;
- (b) were employed by Australian Airlines on or after 1 July 1980 but before the transition, have continued to be so employed, and were not immediately before becoming so employed eligible employees or entitled to an invalidity pension under the Act or the Superannuation Act 1922.
- (c) on or after the transition become employed by Australian Airlines and continue to be so employed, who were not entitled to an invalidity pension under the Act or the Superannuation Act 1922 immediately before becoming so employed and are not persons to whom Division 2 or 3 of Part IV of the Public Service Act 1922 applies.

Paragraph 4(a) of the Principal Regulations will continue to operate to ensure that persons who join, or who are required to join, a superannuation scheme run by the Company are also included in a prescribed class of persons.

Terms used in the Principal Regulations are defined in regulation 3. Regulation 3 of the Regulations amends regulation 3 of the Principal Regulations to include definitions for the terms "Australian Airlines" and "transition" which are used in the new paragraphs 4(k), (l) and (la). The term "Australian Airlines" is defined to mean the body corporate that existed by virtue of section 6 of the Australian National Airlines Act 1945, under the name "Australian National Airlines Commission" and whose name was changed at the transition, by virtue of subsection 16(1) of the Airlines Act to "Australian Airlines Limited". The term "transition" is defined to mean the commencement of section 15 of the Airlines Act.

By regulation 1 of the Regulations, regulation 4 operates on and from the date on which section 15 of the Australian Airlines (Conversion to Public Company) Act 1988 comes into operation.

SR No 90/88