

EXPLANATORY STATEMENT

STATUTORY RULES 1990 NO. 179
ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

SUPERANNUATION ACT 1976
SUPERANNUATION (CONTINUING CONTRIBUTIONS FOR BENEFITS)
REGULATIONS (AMENDMENT)

The Superannuation Act 1976 (the Act) makes provision for and in relation to an occupational superannuation scheme for persons employed by the Commonwealth and for certain other persons. Persons eligible to contribute under the Act are referred to in the Act as "eligible employees".

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

Subsection 3(1) of the Act defines the term "eligible employee". In accordance with paragraph (ea) of the definition, the term includes a person to whom section 14A applies. Such persons include persons specified in regulations under the section. The regulations may also specify persons to whom the section does not apply.

The section ceases to apply to a person at a time specified in the section or at such other time as is fixed by or under the regulations in relation to the person.

Regulations for the purposes of section 14A are contained in the Superannuation (Continuing Contributions for Benefits) Regulations (the Regulations).

The Australian Postal Corporation and the Australian Telecommunications Corporation are approved authorities for the purposes of the Act. As a consequence, employees of the Corporations are either eligible employees or are eligible to become eligible employees. Corporation statutory office-holders also may be eligible employees.

Both Corporations will be establishing separate superannuation schemes for their employees and statutory office-holders with effect from 1 July 1990. These are to be known as the "Australia Post Superannuation Scheme" and the "Telecom Superannuation Scheme". Employees and statutory office-holders of the Corporations who are eligible employees on 30 June 1990 are to have the option of transferring to the Corporation schemes.

It is intended that the only employees of, or office holders in, the two Corporations who are to be able to be eligible employees on or after 1 July 1990 be those who -

- (a) are employees of, or office-holders in, the two Corporations on 30 June 1990;
- (b) are eligible employees on 30 June 1990; and
- (c) do not elect to become members of the relevant Corporation schemes.

Neither of the two Corporations will be approved authorities for the purposes of the Act after 30 June 1990. Instead, it is intended that Corporation employees and statutory office-holders who are eligible employees on 30 June 1990 (other than those who, on 1 July 1990, become members of the relevant Corporation scheme) become on 1 July 1990 persons to whom section 14A of the Act applies. They will then remain eligible employees from that date by virtue of paragraph (ea) of the eligible employee definition.

It is intended that those eligible employees who are on leave without pay from employment by the Commonwealth or an approved authority (other than those to whom Division 2 of Part IV of the Public Service Act 1922 applies) and employed by, or holding an office in, one of the Corporations on 30 June 1990 remain persons to whom section 14A applies until -

- (a) they become members of the particular Corporation scheme; or
- (b) they elect that section 14A no longer apply to them; or
- (c) the end of the period of leave without pay current at 30 June 1990,

whichever first occurs.

The remainder (including those to whom Division 2 of Part IV of the Public Service Act 1922 applies) are to remain persons to whom section 14A applies and thus eligible employees until they become members of a Corporation scheme or cease to be Corporation employees or office-holders, whichever is the earlier.

The Regulations give effect to the above intentions.

The opportunity has also been taken to amend the definition of "superannuation scheme" in regulation 2 of the Principal

Regulations so that the term will not include a scheme, or part of a scheme, established solely to provide the 3% productivity superannuation benefit. This will ensure that a person will not cease to be a person to whom section 14A of the Act applies merely because such a scheme, or such a part of a scheme, applies to him or her.

Details of the Regulations are set out in the attachment.

S.R. 218/90

ATTACHMENT

SUPERANNUATION (CONTINUING CONTRIBUTIONS FOR
BENEFITS) REGULATIONS (AMENDMENT)

Regulation 1

This provides for the Regulations to commence on 1 July 1990.

Regulation 2

This explains that the term "Principal Regulations" means the Superannuation (Continuing Contributions for Benefits) Regulations

Regulation 3

Regulation 2 of the Principal Regulations defines the term "superannuation scheme". Regulation 3 of the amending Regulations amends the definition to ensure that it does not include a scheme, or part of a scheme, established solely to provide the 3% productivity superannuation benefit for the person concerned.

Regulation 4

This amends regulation 3 of the Principal Regulations to provide that section 14A does not apply to persons who become members of the Australian Postal Corporation, or of the Australian Telecommunications Corporation, superannuation scheme on 1 July 1990.

Regulation 5

This replaces regulation 3A of the Principal Regulations, and inserts new paragraphs 3A(b) and (c), to include as persons to whom section 14A applies, those who are, on 30 June 1990 -

- (a) employees of, or holders of statutory office in, either of the Corporations, and continue to be such employees or office-holders; and
- (b) eligible employees.

Regulation 6

This regulation amends regulation 4 of the Principal Regulations to insert a new subregulation 4(3) to fix the times at which section 14A ceases to apply to employees of, and office-holders in, either of the Corporations referred to in the replaced regulation 3A. The times so fixed are -

- (a) the day on which the person -
 - (i) ceases to be an employee of, or office-holder in, the particular Corporation; or
 - (ii) becomes a member of the "relevant superannuation scheme" (as defined in the new subregulation 4(4)) in relation to that Corporation; and

- (b) in addition, where on 30 June 1990 the person is employed by, or an office-holder in, the particular Corporation while on leave without pay from employment by the Commonwealth or an approved authority (other than a person to whom Division 2 of Part IV of the Public Service Act 1922 applies) - the day on which the person-
- (i) becomes a member of the "relevant superannuation scheme" in relation to the Corporation;
 - (ii) elects that section 14A is to no longer apply to him or her; or
 - (iii) completes the period of leave without pay current at 30 June 1990.

The regulation also amends regulation 4 of the Principal Regulations to insert a new subregulation 4 (4) to define the term "relevant superannuation" scheme for the purposes of the new subregulation 4(3).