

# **Superannuation (Former Eligible Employees) Regulations (Amendment) 1994 No. 19**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 1994 No. 19**

Issued by authority of the Minister for Finance

*Superannuation Act 1976*

Superannuation (Former Eligible Employees) Regulations (Amendment)

The *Superannuation Act 1976* (the Act) makes provision for and in relation to an occupational superannuation scheme for certain Commonwealth employees and other persons.

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

Persons eligible to contribute under the Act are referred to as "eligible employees". The term "eligible employee" is defined under subsection 3(1) of the Act.

Section 126A of the Act provides that regulations may modify the Act in its application to or in respect of a person who ceases to be an eligible employee and who immediately after ceasing, becomes a member of another superannuation scheme.

Section 155B of the Act provides that regulations may modify the Act in its application to or in respect of a person who ceases to be an eligible employee on taking up employment with the purchaser or transferee of an organisation, business, service, asset or function.

Regulations for the purposes of section 126A and 155B of the Act are contained in the Superannuation (Former Eligible Employees) Regulations.

The regulations provide an additional option under which eligible employees who

- must cease to be eligible employees on the sale of Repatriation General Hospital Hollywood, and
  - who elect to preserve their superannuation rights either under Division 3 or 3A of Part IX of the Act on sale,
- and
- who remain continuously employed by the purchaser or subsequent owner of the hospital, and
  - are subsequently retrenched by that person within three years of the sale
  - may convert their accrued preserved benefits to a superannuation retrenchment benefit that is similar to the benefits that are otherwise available under the involuntary retirement benefit provisions of the Act.

Details of the amendments are attached.

The amendments will come into effect on Gazettal.

## ATTACHMENT

### SUPERANNUATION (FORMER ELIGIBLE EMPLOYEES REGULATIONS (AMENDMENT))

The details of the Regulations are as follows -

#### Regulation 15A

The subregulation 15A(1) sets out the definitions to apply in the regulation.

The regulation will apply in respect of certain persons if they are

- persons to whom section 126A of the Act applies who cease to be eligible employees on the sale of Repatriation General Hospital Hollywood and who become members of a superannuation scheme provided by the purchaser of the hospital, and
- persons to whom section 155B of the Act applies because they have ceased to be eligible employees on the sale of Repatriation General Hospital Hollywood, and
- if they have made an election that Division 3 of Part IX or Division 3A of Part IX of the Act (as modified in accordance with Schedule 11) applies to preserve their superannuation benefits.

The regulation modifies the Act in accordance with the provisions set out in Schedule 11A. The amended provisions will apply in respect of persons mentioned above who:

- are retrenched by the purchaser of the Repatriation General Hospital Hollywood within three years of the day of the sale and before attaining 60 years of age, and
- were continuously employed by the purchaser or subsequent owner of that hospital throughout the period from the sale day to their retrenchment, and
- no later than 21 days after their retrenchment,
- provide to the Commissioner for Superannuation documentary evidence of their retrenchment, and
- make an election that benefits under Division 2 of Part V of the Act (as amended by Schedule 11 A) apply to them in place of benefits otherwise payable under Division 3 of Part IX of the Act or Division 3A of Part IX of the Act (as modified in accordance with Schedule 11).

#### Schedule 11

Schedule 11 is amended by clause 3 of the regulations to

- amend the heading of this Schedule, and
- amend subsection 144A(1) of the Act to provide that Division 3A of Part IX of the Act applies as modified by the schedule.

#### Schedule 11A

This Schedule modifies the Act so that the intended class of persons, ie, those that are retrenched within three years of the sale of the Repatriation General Hospital Hollywood, are able to convert the preserved benefits for which they elected, on ceasing to be eligible

employees as a result of the sale of the hospital, to an involuntary retirement benefit under the Act.

Paragraph 1 modifies the Act by inserting a new subsection 58(3B) of the Act to provide that the eligible persons, as defined by subregulation 15A(4), are taken to have retired involuntarily in the terms of the Act.

Paragraph 2 modifies the Act by inserting a new subsection 60(2) so that the calculation of the standard pension benefit under the modified invalidity retirement benefit provisions is based on the age of the eligible persons on their day of retrenchment and not their day of ceasing eligible employment, as would otherwise have been the case.

Paragraph 3 modifies the Act by replacing the existing subsection 61(4) in respect of the eligible persons with a new subsection 61(4) so that the calculation of the persons additional pension has regard to age on the day of retrenchment and salary as updated in accordance with the new section 61AA.

Paragraph 4 modifies the Act by inserting a new section 61AA which provides the method for updating the final salary for superannuation purposes from the date of ceasing eligible employment (ie, the day of sale of Repatriation General Hospital Hollywood, to the date of retrenchment) by the change in the Consumer Price Index over that period.

Paragraph 5 modifies the Act by inserting a new subsection 62(1A) which provides that eligible persons may elect for a lump sum benefit in place of a pension, ie, the same option as is available on involuntary retirement, in the terms of the Act, from Commonwealth employment.

Paragraph 6 modifies the Act by inserting a new subparagraph 110R(1)(a)(iv) so that productivity benefits are payable to eligible persons in the same manner to persons that were otherwise retired involuntarily.

Paragraph 7 modifies the Act by omitting paragraph 110R(4)(b) of the Act so that productivity benefits are payable to eligible persons in the same manner to persons that were otherwise retired involuntarily despite the fact that they may have made an election under section 137 of the Act on ceasing to be eligible employees.