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Statutory Rules 1994 No. L<sup>1</sup>

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## Superannuation (Former Eligible Employees) Regulations<sup>2</sup> (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Superannuation Act 1976*.

Dated L 1994.

11 February/  
L BILL HAYDEN  
Governor-General

By His Excellency's Command,

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Minister for Finance

KIM C. BEAZLEY/

### 1. Amendment

1.1 The Superannuation (Former Eligible Employees) Regulations are amended as set out in these Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

**2. New regulation 15A**

**2.1 After regulation 15, insert:**

**Application of Act to eligible employees affected by privatisation of the Repatriation General Hospital, Hollywood**

“15A. (1) In this regulation:

‘**Hollywood employee**’ means a person to whom this regulation applies in accordance with subregulation (2);

‘**Hospital**’ means the hospital at Hollywood, Western Australia, known at the commencement of this regulation as the Repatriation General Hospital, Hollywood;

‘**purchaser**’ means, collectively:

- (a) the purchaser or transferee from the Commonwealth of the Hospital; and
- (b) any successor to that purchaser or transferee as owner or operator of the Hospital;

‘**sale day**’ means the day at the commencement of which the sale or transfer of the Hospital by the Commonwealth has effect.

“(2) This regulation applies to a person if:

- (a) immediately before the sale day, the person was an eligible employee performing duties at the Hospital; and
- (b) section 126A of the Act applies to the person because the person:
  - (i) has ceased to be an eligible employee in circumstances connected with the sale or transfer of the Hospital; and
  - (ii) becomes a member of a superannuation scheme (other than the superannuation scheme constituted by the Act) provided by, or on behalf of, the purchaser to its employees; and
- (c) section 155B of the Act applies to the person; and
- (d) not later than 21 days after ceasing to be an eligible employee, the person either:
  - (i) made an election under section 137 of the Act that Division 3 of Part IX of the Act apply to the person; or

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- (ii) made an election for the purposes of this subregulation, by notice in writing to the Commissioner, that Division 3A of Part IX of the Act (as modified in accordance with Schedule 11 of these Regulations) apply to the person.

“(3) The Act is modified in accordance with Schedule 11 in relation to each person to whom this subregulation applies, that is, a Hollywood employee who made an election mentioned in subparagraph (2) (d) (ii).

“(4) The Act is modified in accordance with Schedule 11A in relation to each person to whom this subregulation applies, that is, a Hollywood employee who:

- (a) is retrenched by the purchaser within 3 years of the sale day and before attaining the age of 60 years; and
- (b) was continuously employed by the purchaser throughout the period beginning on the sale day and ending on the person’s retrenchment; and
- (c) not later than 21 days after the person’s retrenchment:
  - (i) provides to the Commissioner documentary evidence of the retrenchment; and
  - (ii) makes an election for the purposes of this subregulation, by notice in writing to the Commissioner, that benefits under Division 2 of Part V of the Act (as modified in accordance with Schedule 11A of these Regulations) become payable to or in relation to the person in place of the benefits otherwise payable under Division 3 of Part IX of the Act, or under Division 3A of Part IX of the Act (as modified in accordance with Schedule 11 of these Regulations), to or in relation to the person.”.

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**3. Schedule 11 (Employees of services etc. sold, privatised, etc. delayed updated pension modifications)**

3.1 Heading:

Omit:

**“SCHEDULE 11** Subregulation 15 (1)

**EMPLOYEES OF SERVICES ETC. SOLD, PRIVATISED, ETC  
DELAYED UPDATED PENSION MODIFICATIONS”,**

substitute:

**“SCHEDULE 11** Subregulations 15 (1)  
and 15A (4)

**MODIFICATIONS—EMPLOYEES AFFECTED BY  
PRIVATISATION, ETC. (DELAYED UPDATED PENSION)”.**

3.2 Inserted subsection 144A (1):

After “Regulations”, insert “, or the election under paragraph 15A (2) (d) of those Regulations,”.

**4. New Schedule 11A**

4.1 After Schedule 11, insert:

**SCHEDULE 11A** Subregulation 15A (4)

**MODIFICATIONS—FORMER EMPLOYEES OF THE  
REPATRIATION GENERAL HOSPITAL, HOLLYWOOD,  
RETRENCHED WITHIN 3 YEARS OF SALE DAY**

**1. Section 58:**

After subsection 58 (3A), insert:

“(3B) A person to whom subregulation 15A (4) of the Superannuation (Former Eligible Employees) Regulations applies (in this Division called a “**subregulation 15A (4) person**”) is taken, for the purposes of this Act, to have retired involuntarily.”.

**2. Section 60 :**

After subsection 60 (1), insert:

“(2) In relation to a subregulation 15A (4) person, a reference in this section to the person’s last day of service is taken to be a reference to the day of the person’s retrenchment.”.

**3. Section 61:**

Omit subsection (4), substitute:

“(4) In this section:  
‘last day of service’, in relation to a subregulation 15A (4) person, means the day of the person’s retrenchment;  
‘notional final rate of salary’, in relation to a subregulation 15A (4) person, means the final rate of salary ascertained in accordance with section 61AA.

**4. New section 61AA:**

**CPI update of final salary**

“61AA. (1) For the purposes of subsection 61 (4), the final rate of salary of a regulation 15A (4) person is the amount calculated in accordance with the formula:

$$S \times \frac{CPI^2}{CPI^1}$$

where:

‘S’ is the actual final annual rate of salary of the person as an eligible employee; and

‘CPI<sup>1</sup>’ is the CPI published in respect of the latest complete quarter before the person ceased to be an eligible employee; and

‘CPI<sup>2</sup>’ is:

(a) the number calculated in accordance with the formula:

$$a + b \times \frac{d^1}{d^2}$$

where:

‘a’ is the CPI published in respect of the latest complete quarter that precedes the person’s retrenchment; and

‘b’ is the amount of the difference between the number represented by ‘a’ and the CPI published in respect of the quarter that immediately preceded the quarter referred to in the definition of ‘a’; and

‘d<sup>1</sup>’ is the number of days in the period that begins on the first day of the quarter that immediately follows the quarter referred to in the definition of ‘a’ and ends on the day of the person’s retrenchment; and

‘d<sup>2</sup>’ is the number of days in the quarter that immediately follows the quarter referred to in the definition of ‘a’; or

- (b) if, under paragraph (a), the value of ‘a’ is less than the value of ‘b’—the CPI represented by ‘a’.

“(2) Subject to subsection (3), if at any time after a benefit becomes payable under this Division, the Australian Statistician has published or publishes in respect of a particular quarter a CPI in substitution for a CPI previously published in respect of that quarter, the publication of the later CPI is to be disregarded for the purposes of this section.

“(3) If, at any time, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took or takes place, regard is to be had only to index numbers published in terms of the new reference base.

“(4) In this section:

‘CPI’ means the all groups consumer price index number for the weighted average of the 8 capital cities published by the Australian Statistician;

‘quarter’ means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.”.

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**5. Section 62:**

After subsection 62 (1), insert:

“(1A) A subregulation 15A (4) person may, not later than 3 months after the day of the person’s retrenchment, elect, by notice in writing to the Commissioner, that, in lieu of pension and lump sum benefit being payable under section 55 or 59, benefit be paid under this section.”.

**6. Paragraph 110R (1) (a):**

Add at the end:

“(iv) has attained the age of 55 years and is taken, under subsection 58 (3B) to have retired involuntarily; or”.

**7. Paragraph 110R (4) (b):**

Omit the paragraph.

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**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 1994.
2. Statutory Rules 1986 No. 266 as amended by 1987 No. 307; 1989 Nos. 16 and 306; 1990 Nos. 141, 177 and 451; 1991 Nos. 161 and 445 (as amended by 1992 No. 212); 1992 Nos. 94, 170, 212 and 271; 1993 No. 262.

18 February  
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