



# First State Superannuation Regulation 2013

under the

First State Superannuation Act 1992

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *First State Superannuation Act 1992*.

ANDREW CONSTANCE, MP  
Minister for Finance and Services

## Explanatory note

The object of this Regulation is to remake, without any amendment of substance, the provisions of the *First State Superannuation Regulation 2008* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to:

- (a) the prescription of paid maternity leave, paid parental leave, paid adoption leave, weekly workers compensation payments and certain non-cash benefits provided by an employer as part of a salary in respect of which employers are required to make superannuation contributions for employees under the First State Superannuation Scheme, and
- (b) the exemption of employers from an obligation to make superannuation contributions for certain employees in relation to specified types of employment, and
- (c) savings and formal matters.

This Regulation is made under the *First State Superannuation Act 1992*, including sections 4, 8 (5) (a) and 15 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

## 2013 No 493

First State Superannuation Regulation 2013

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### Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definition	3
4 Allowances and payments included as salary and wages	3
5 Exempted employment	4
6 Saving	4

## First State Superannuation Regulation 2013

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First State Superannuation Act 1992

### 1 Name of Regulation

This Regulation is the *First State Superannuation Regulation 2013*.

### 2 Commencement

This Regulation commences on 1 September 2013 and is required to be published on the NSW legislation website.

**Note.** This Regulation replaces the *First State Superannuation Regulation 2008* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

- (1) In this Regulation:  
*the Act* means the *First State Superannuation Act 1992*.
- (2) Notes included in this Regulation do not form part of this Regulation.

### 4 Allowances and payments included as salary and wages

- (1) For the purposes of section 4 (1) (a) (iii) of the Act, the following payments are prescribed:
  - (a) payments for maternity leave,
  - (b) payments for parental leave other than payments required to be made under the *Paid Parental Leave Act 2010* of the Commonwealth,
  - (c) payments for adoption leave,
  - (d) weekly workers compensation payments.
- (2) The weekly workers compensation payments to be treated as salary for the purposes of section 4 (1) (a) (iii) of the Act do not include any amount by which the aggregate of:
  - (a) the weekly workers compensation paid to an injured employee, and

## 2013 No 493

Clause 5 First State Superannuation Regulation 2013

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- (b) the salary actually paid to that employee while partially incapacitated, exceeds the salary that the employee would probably have been earning but for the injury (assuming the employee had continued to be employed in the same or some comparable employment).
- (3) For the purposes of section 4 (1) (a) (iv) of the Act, all non-cash employment benefits provided by an employer to an employee that attract compulsory employer superannuation contributions under an industrial award applicable to the employee are prescribed employment benefits.
- (4) In this clause:  
*weekly workers compensation payments*, in relation to an employee, means weekly payments of compensation under the *Workers' Compensation Act 1987* (or the provisions of the *Workers' Compensation Act 1926* as applied by that Act) payable to the employee because the employee is partially incapacitated for work through injury.

### 5 Exempted employment

- (1) The following employment is prescribed for the purposes of section 8 (5) (a) of the Act:
- (a) employment as an election official under the *Parliamentary Electorates and Elections Act 1912*,
- (b) employment as an electoral official under the *Local Government Act 1993*,
- but only if the person's appointment under the Act concerned is limited to employment at a polling place on a polling day for an election conducted under that Act.
- (2) In this clause:  
*polling day* means the day on which an election under the *Parliamentary Electorates and Elections Act 1912* or the *Local Government Act 1993* is conducted.  
*polling place* means a place appointed by the Electoral Commissioner to be a polling place for the purpose of taking a poll at an election under the *Parliamentary Electorates and Elections Act 1912* or the *Local Government Act 1993*.

### 6 Saving

Any act, matter or thing that, immediately before the repeal of the *First State Superannuation Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.