

**1998 - No. 192**

**STATE AUTHORITIES SUPERANNUATION ACT 1987 -  
REGULATION**

(Relating to the periodic adjustment of certain pensions)

NEW SOUTH WALES



*[Published in Gazette No. 44 of 30 March 1990]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the State Authorities Superannuation Act 1987, has been pleased to make the Regulation set forth hereunder.

JOHN FAHEY  
Minister for Industrial Relations and Employment.

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**Commencement**

1. (1) Clause 2 of this Regulation is to be taken to have commenced on 21 September 1989.

(2) Clause 3 of this Regulation is to be taken to have commenced on 1 January 1990.

**Amendment**

2. The State Authorities Superannuation (Transitional Provisions) Regulation 1988 is amended by omitting Part 7 and by inserting instead the following Part:

## PART 7 - PERIODIC ADJUSTMENT OF PENSIONS

### Definitions

47. (1) In this Part:

"**adjustment date**", in relation to an adjustment period, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that adjustment period;

"**adjustment percentage**", in relation to an adjustment period, means, subject to clause 49 (2), the percentage for that period calculated in accordance with clause 49 (Calculation of adjustment percentage):

"**adjustment period**" means:

- (a) the period of 6 months beginning on 1 January 1989; or
- (b) the period of 12 months beginning on 1 July 1989; or
- (c) the period of 12 months beginning on 1 July in any subsequent year,

as the case requires;

"**December quarter**" means the quarter commencing on 1 October in each year;

"**index number**", in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Commonwealth Statistician under the Census and Statistics Act 1905 of the Commonwealth;

"**June quarter**" means the quarter commencing on 1 April in each year;

"**quarter**", in relation to a year, means the period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in that year.

(2) If a pension is to be adjusted under this Part by reference to the adjustment percentage for an adjustment period, a reference (however expressed) in this Part to adjusting the pension is a reference to:

- (a) where the adjustment percentage is calculated in accordance with the formula set out in clause 49 (1) (a) - increasing the pension; or

- (b) where the adjustment percentage is calculated in accordance with the formula set out in clause 49 (1) (b) - reducing the pension.

**Restriction on automatic adjustment of pension**

**48. (1)** If the Board is of the opinion that an increase in accordance with this Part in the pension payable to a person would prejudicially affect that person as regards some advantageous situation in which, but for being so affected, that person would be placed, the Board may

- (a) determine not to pay the amount of the increase; or
- (b) determine to pay a specified increase of a lesser amount; or
- (c) determine to decrease the pension to a specified amount.

**(2)** A determination made under subclause (1) has effect according to its tenor, and once the determination has had effect a person is not entitled to be paid or to recover any amount that would have been payable but for the determination.

**(3)** A determination made under subclause (1) must be disregarded in calculating a pension payable to the spouse of a deceased pensioner to whom the determination relates but such a determination may be made in relation to the pension so calculated.

**Calculation of adjustment percentage**

**49. (1)** For the purposes of the definition of "**adjustment percentage**" in clause 47 (1), the percentage for an adjustment period is to be calculated:

- (a) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period was greater than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was greater than the index number for the immediately preceding June quarter - in accordance with the following formula:

$$P = \frac{100(C-L)}{L} \quad ; \text{ or}$$

- (b) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period

was less than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was less than the index number for the immediately preceding June quarter - in accordance with the following formula:

$$P = \frac{100(C-L)}{L}$$

where, in the case of either formula:

P represents the percentage to be obtained; and

C represents the index number for the June quarter in the adjustment period concerned; and

L represents the index number for the immediately preceding December quarter or the immediately preceding June quarter, as the case requires.

(2) There is to be no adjustment percentage for an adjustment period if:

- (a) the percentage calculated for that period in accordance with this clause is less than 1 per cent; or
- (b) the index number for the June quarter in that period is the same as the index number for the immediately preceding June quarter.

(3) If there is to be no adjustment percentage for an adjustment period, then, for the purposes of calculating the percentage for the next adjustment period:

- (a) the index number for the June quarter in the first-mentioned period is to be taken to have not been published; and
- (b) the index number for that quarter is to be taken to be the same as the index number for the June quarter in the last year for which there was an adjustment percentage.

(4) If at any time, whether before, on or after 1 January 1989, the Commonwealth Statistician has published, or publishes in respect of a particular June quarter an index number in substitution for an index number previously published by him or her in respect of that quarter, then, for the purposes of this Part:

- (a) except as provided in paragraph (b) - the publication of the later index number must be disregarded; or

- (b) if the Minister so directs - after the direction is given, regard must be had to the later and not to the earlier index number.

(5) Despite subclause (4), if at any time after 1 January 1989 the Commonwealth Statistician has changed the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Part (after the change takes place), regard must be had only to index numbers published in terms of the new reference base.

**Adjustment of pensions: general cases**

**50. (1)** Subject to this Part, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this clause applies is adjusted, on and from that adjustment date, by that percentage.

(2) This clause applies:

- (a) to a person who last became a pensioner on or before the first day of that particular adjustment period concerned; and
- (b) to a person who is the spouse of a deceased pensioner, where that deceased pensioner last became a pensioner on or before the first day of the particular adjustment period concerned and died before the adjustment date for that period.

**Adjustment of pensions: partial adjustment**

**51. (1)** This clause applies:

- (a) to a person who last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following; and
- (b) to a person who is the spouse of a deceased pensioner, where that deceased pensioner last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following and died before the adjustment date for that adjustment period.

(2) Subject to this Part, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this clause applies is adjusted, on and from that adjustment date, by the

percentage calculated in accordance with the formula set out in subclause (3).

(3) The formula referred to in subclause (2) is:

(a) where the adjustment period is the adjustment period beginning on 1 January 1989:

$$A = P \times \frac{Q}{2}; \text{or}$$

(b) where the adjustment period is the adjustment period beginning on 1 July 1989 or on 1 July in any subsequent year:

$$A = P \times \frac{Q}{4}$$

where, in the case of either formula:

A represents the percentage by which the pension is to be adjusted; and

P represents the adjustment percentage for the particular adjustment period; and

Q represents the number of whole quarters of the particular adjustment period, being the whole quarters after, and (if applicable) the whole quarter on the first day of which:

(a) in the case of a person referred to in subclause (1) (a) - the person last became a pensioner; or

(b) in the case of a person referred to in subclause (1) (b) - the deceased spouse of that person last became a pensioner.

#### **Minimum amount to which pensions may be reduced**

**52.** Irrespective of anything in this Part:

(a) a pension (other than a pension payable to a person by virtue of that person being the spouse of a pensioner) must not be reduced below the fortnightly amount that would have been payable but for this Part; and

(b) a pension payable to a person by virtue of that person being the spouse of a pensioner must not be reduced below the fortnightly amount that would have been payable by

reference to the pension that would have been payable to the former pensioner but for this Part.

**Calculation of percentages**

**53.** If a percentage that is calculated under this Part is or includes a fraction of one-tenth of 1 per cent, then:

- (a) if the fraction is less than one-half of one-tenth - the fraction is to be disregarded; and
- (b) if the fraction is not less than one-half of one-tenth - the fraction is to be treated as one-tenth.

**Further amendments**

**3.** The State Authorities Superannuation (Transitional Provisions) Regulation 1988 is further amended:

- (a) by omitting from clause 46 (6) (a) the matter "a weekly amount of \$26.26" and by inserting instead the matter "a fortnightly amount of \$58.86";
- (b) by omitting from clause 46 (6) (b) the matter "a weekly amount of \$62.37" and by inserting instead the matter "a fortnightly amount of \$139.76".

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**EXPLANATORY NOTE**

The objects of this Regulation are:

- (a) to provide for a once-only adjustment of pensions, payable from the State Authorities Superannuation Scheme for the six monthly period from and including 1 January 1989, in order to align the adjustments to those pensions with other pension adjustments made by the State Authorities Superannuation Board; and
  - (b) then to provide for regular annual adjustments in line with other pension adjustments that are made by the Board in relation to other superannuation schemes administered by that Board.
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