

1990 - No. 442

**STATE AUTHORITIES SUPERANNUATION ACT 1987 -
REGULATION**

(State Authorities Superannuation (Hunter District Water Board
Employees' Provident Fund Transfer) Regulation 1990)

NEW SOUTH WALES



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WHEREAS:

- (a) in accordance with clause A14.1 of the Hunter District Water Board Employees' Provident Fund Trust Deed, the Hunter Water Board has notified the Trustees of the Provident Fund that it will terminate its contributions to that Fund and that Board and the Trustees have agreed that the termination should be effective as from 30 June 1990; and
- (b) clause A14.1 f of the Trust Deed provides that employees of the Hunter Water Board who are members of the Provident Fund are to cease to be members as at the date of termination and requires the Trustees to appropriate in respect of each of those employees that portion of the assets of that Fund which the Trustees have determined to be equal to the employee's interest in that Fund; and
- (c) in accordance with clause A14.1 g of the Trust Deed, arrangements have been made between the State Authorities Superannuation Board and the Trustees for the transfer to the State Authorities Superannuation Fund, on the terms and conditions specified in this Regulation, of the assets of the Provident Fund appropriated by the Trustees in accordance with clause A14.1 f of the Trust Deed; and
- (d) it is desirable that effect be given to those arrangements,

His Excellency the Governor, with the advice of the Executive Council, and in pursuance of the State Authorities Superannuation Act 1987,

has therefore been pleased to make the Regulation set forth hereunder.

JOHN FAHEY
Minister for Industrial Relations and Employment.

Citation

1. This Regulation may be cited as the State Authorities Superannuation (Hunter District Water Board Employees' Provident Fund Transfer) Regulation 1990.

Commencement

2. This Regulation commences on 1 July 1990.

Definitions

3. (1) In this Regulation:

"employee" means an employee of the Hunter Water Board;

"notional accumulation", in relation to a transferred contributor, means an amount equal to the sum of:

(a) the amount transferred to the SAS Fund under clause 5 (4) of this Regulation in respect of the contributor from sub-Accounts 3 and 4 of the Provident Fund, as specified in clause A8.1 a of the Trust Deed; and

(b) in respect of each "applicable contribution period" from and including 1 July 1990 - an amount equal to whichever is the smaller of the following:

(i) 0.85 of 6 per cent of the salary of that contributor, multiplied by the salary ratio of that contributor in respect of that period, based on the rate of salary determined under section 26 of the Act (Salary basis for contributions) in respect of that period; or

(ii) 0.85 of 1.5 times the contributions paid or payable by that contributor in that period under the Act,

together with interest at a rate or rates determined by the SAS Board, but reduced by an amount or amounts calculated in such

a manner as that Board determines in respect of the costs of administering the SAS Scheme and such other charges (if any) as are determined by that Board;

“Provident Fund” means the Hunter District Water Board Employees’ Provident Fund established by the Trust Deed;

“Provident Scheme” means the superannuation scheme established by the Trust Deed;

“SAS Board” means the State Authorities Superannuation Board established under the Superannuation Administration Act 1987;

“SAS Fund” means the State Authorities Superannuation Fund;

“SAS Scheme” means the State Authorities superannuation Scheme established by the Act;

“the Act” means the State Authorities Superannuation Act 1987;

“the Trust Deed” means the Hunter District Water Board Employees’ Provident Fund Trust Deed;

“transferdate” means 1 July 1990;

“transferred contributor” means a person who has become a contributor to the Fund by virtue of clause 5.

Application of certain definitions to transferred contributor

4. (1) For the purposes of applying the Act to a transferred contributor, the contributor’s entry date is to be taken to be the date or, if more than one, the latest date on which the transferred contributor commenced employment with the Hunter Water Board.

(2) For the purposes of applying section 36 of the Act (Definitions) to a transferred contributor, that contributor’s average contribution rate per cent referred to in the definition of “prospective benefit points” in that section is to be construed in such a way as to exclude from calculation any period which occurred before the transfer date.

(3) In relation to a transferred contributor, the definition of “accrued benefit points” in section 36 of the Act is to be construed as if the reference in that definition to contributed points figures included a reference to the number of transferred benefit points for the contributor calculated in accordance with clause 6 (1).

(4) For the purposes of applying the definition of “final average salary” in section 36 of the Act to a transferred contributor, that definition is to be read as if the contributor had become a new contributor on the transfer date.

Transfer of certain Hunter Water Board employees to the State Authorities Superannuation Scheme

5. (1) An employee who, immediately before the transfer date, was a contributor to the Provident Fund is, on that date, to be taken to have become a contributor to the SAS Fund by virtue of having made an election under section 19 of the Act (Election to contribute to the Fund).

(2) When an employee becomes a contributor to the SAS Fund in accordance with subclause (1):

- (a) the employee ceases to be a contributor to the Provident Fund; and
- (b) no benefit under the Provident Scheme is payable to or in respect of that employee.

(3) A transferred contributor may, at any time, make an application under section 20 of the Act (Additional benefit), subject to that section.

(4) As soon as practicable after the transfer date, the Trustees of the Provident Fund must, in respect of each transferred contributor, transfer to the SAS Fund:

- (a) the amount standing to the contributor's credit in sub-Accounts 1 and 2 of the contributor's account in the Provident Fund, as specified in clause A8.1 a of the Trust Deed, as at the transfer date; and
- (b) any interest or earnings payable to sub-Account 1 or 2 in respect of the contributor under clause A8.2 of the Trust Deed for any period up to the transfer date; and
- (c) the amount standing to the contributor's credit in sub-Accounts 3 and 4 of the contributor's account in the Provident Fund, as specified in clause A8.1 a of the Trust Deed, as at the transfer date; and
- (d) any interest or earnings payable to sub-Account 3 or 4 in respect of the contributor under clause A8.2 of the Trust Deed for any period up to the transfer date; and
- (e) any amount payable to sub-Account 4 in respect of the contributor under clause B6 c of the Trust Deed.

(5) On receipt of the amounts transferred to it in accordance with subclause (4), the SAS Board must:

- (a) establish an account in respect of that contributor under section 12 (1) of the Act (Contributors' accounts); and
- (b) credit to that account the amounts relating to the contributor referred to in subclause (4) (a) and (b); and
- (c) credit to the appropriate employer reserve in the SAS Fund the amounts referred to in subclause (4) (c)–(e) that relate to the contributor.

Benefit points to be credited to a transferred contributor

6. (1) A transferred contributor is, in respect of his or her service before the transfer date, entitled to the number of transferred benefit points calculated in accordance with the following formula:

$$P = \frac{E}{0.025 \times W}$$

where:

P represents the initial points credit; and

E represents the amount relating to the contributor which was credited to the appropriate employer reserve in the SAS Fund in accordance with clause 5 (5) (c) of this Regulation from sub-Accounts 3 and 4 of the Provident Fund, as specified in clause A8.1 a of the Trust Deed; and

W represents the contributor's annual salary at the transfer date.

(2) For the purposes of subclause (1), "salary" has the same meaning as in section 4 of the Act (Salary).

(3) The SAS Board. may round off the number of a transferred contributor's accrued transferred benefit points to not less than one decimal place, as it thinks fit.

Contribution rates

7, (1) An employee who becomes a transferred Contributor may elect to contribute to the SAS Fund at a rate of contribution specified in section 19 of the Act.

(2) If such an employee has failed to make an election under subclause (1) by the transfer date, the employee is to be taken to have elected on that date to contribute at the rate at which he or she was contributing to the Provident Fund.

(3) If the rate at which the employee was contributing to the Provident Fund, as referred to in subclause (2), was a rate other than 1, 2, 3, 4, 5, 5, 7, 8 or 9 per cent, that rate is to be rounded up to the nearest percentage point.

Minimum benefit for transferred contributors on death or invalidity

8. (1) This clause applies to a transferred contributor who:

- (a) is not eligible to apply for the additional benefit; or
- (b) does not make an application for additional benefit coverage under section 20 of the Act; or
- (c) makes an application for such additional benefit coverage but the application is refused.

(2) If a benefit under:

- (a) section 38 of the Act (Benefit on death before early retirement age); or
- (b) section 39 of that Act (Benefit on total and permanent invalidity before early retirement age); or
- (c) section 40 of that Act (Benefit on partial and permanent invalidity before early retirement age),

would have become payable to or in respect of a transferred contributor to whom this clause applies if the words "before attaining the early retirement age" had been omitted from the section concerned, the employer-financed benefit is to be not less than the amount determined under subclause (3).

(3) The amount to be determined for the purposes of subclause (2) is the sum of:

- (a) the notional accumulation; and
- (b) the amount calculated in accordance with the following formula:

$$A = 1.95 \times M \times W$$

where:

A represents the amount to be calculated; and

M represents the number of months of the transferred contributor's contributory service up to 65 years of age, divided by 12; and

W represents the transferred contributor's final salary divided by 52.2.

(4) If a transferred contributor to whom this clause applies has been assigned a medical classification of 1B under clause A10.1 c of the Trust Deed, the benefit payable under subclause (2) in relation to a benefit under section 39 or 40 of the Act is the sum of:

- (a) the notional accumulation; and
- (b) the amount calculated in accordance with the following formula:

$$A = 0.75 \times P$$

where:

A represents the amount to be calculated; and

P represents the amount calculated in accordance with subclause (3) (b).

Benefit for transferred contributors on resignation, dismissal or discharge before early retirement age

9. (1) If a benefit under section 41 of the Act (Benefit on resignation, dismissal or discharge before early retirement age) becomes payable to a transferred contributor, the employer-financed benefit is not to be less than the amount determined under subclause (2).

(2) The amount to be determined for the purposes of subclause (1) is the amount calculated in accordance with the following formula:

$$B = S \times E$$

where:

B represents the amount to be ascertained; and

S represents the lesser of 1.0 and the product of 0.025 times the number of complete years of service; and

E represents the notional accumulation as at the date of resignation.

Hunter Water Board to be billed for the excess amount of the guaranteed benefit

10. (1) The amount by which any benefit payable under clause 8 or 9 exceeds the benefit which the transferred contributor would have been entitled to under the provisions of the Act must be paid by the SAS Board.

(2) If any benefit amount is paid by the SAS Board under subclause (1), that Board must deliver to the Hunter Water Board a statement of account for that amount.

(3) Within 1 month after a statement of account is delivered to the Hunter Water Board, that Board must pay the amount specified in the statement to the SAS Board.

NOTE

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EXPLANATORY NOTE

The object of this Regulation is to transfer to the State Authorities superannuation Scheme members of the Hunter District Water Board Employees' Provident Fund.
