

1993—No. 166

**STATE AUTHORITIES NON-CONTRIBUTORY
SUPERANNUATION ACT 1987—REGULATION**

(Relating to the reduction of deferred accrued benefits)

NEW SOUTH WALES



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HIS Excellency the Governor has, with the advice of the Executive Council, on the certificate of the Minister for Industrial Relations given in accordance with section 34 (2) the State Authorities Non-contributory Superannuation Act 1987 and in pursuance of that Act, been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD, M.P.,
Attorney General and
Minister for Industrial Relations.

The State Authorities Non-contributory Superannuation Regulation 1988 is amended:

(a) by inserting in clause 3, before the definition of “Parent Fund”, the following definition:

“deferred accrued benefit” means a benefit of the kind referred to in section 26E of the Act;

(b) by omitting clause 9 (immediate payment of benefit—special circumstances) and clause 10 (preservation of benefits);

(c) by omitting from clause 12 (1) the words “and section 24 (benefit to be preserved)” and by inserting instead “, section 24 (benefit to be preserved) and section 26E (non-contributing employees to have deferred accrued benefit instead of basic benefit)”;.

(d) by inserting after clause 14 the following clauses:

Reduction of deferred accrued benefit—ordinary cases

15. (1) Whenever a deferred accrued benefit:

- (a) is payable in respect of an employee who is not an irregular employee; or
- (b) is preserved in accordance with section 26F of the Act (deferred accrued benefit to be preserved on transfer of employment) in respect of an employee who is not an irregular employee,

the reduction in benefit prescribed for the purpose of section 26A of the Act (power of the Board to reduce benefits to offset certain tax liabilities of a fund maintained under section 9 (1)) is the amount calculated in accordance with the formula set out in subclause (2).

(2) For the purposes of subclause (1), the formula is:

$$R = 0.03 \times F \times Z \times 0.15$$

where:

R represents the amount of the reduction;

F represents the employee's final average salary;

Z represents the employee's years of eligible service calculated on a daily basis, during the period commencing on the taxable date and ending on 30 June 1992.

(3) This clause does not apply where the deferred accrued benefit is payable in consequence of the death of a person who was, immediately before death, an employee.

Reduction of deferred accrued benefit—irregular employees

16. (1) Whenever a deferred accrued benefit:

- (a) is payable in respect of an irregular employee; or
- (b) is preserved in respect of an irregular employee in accordance with section 26F of the Act (deferred accrued benefit to be preserved on transfer of employment),

the reduction in benefit prescribed for the purpose of section 26A of the Act (power of the Board to reduce benefits to offset certain tax liabilities of a fund maintained under section 9 (1)) is the amount calculated in accordance with the formula set out in subclause (2).

(2) For the purposes of subclause (1), the formula is:

$$R = 0.03 \times P \times V \times 0.15$$

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where:

- R represents the amount of the reduction;
- P represents the Parent Fund average salary in respect of the period of 12 months ending on 30 June 1993;
- V represents the sum of the periodical entitlement factors in respect of each relevant period which elapsed while the person concerned was an irregular employee during any period commencing on or after the taxable date and ending on or before 30 June 1992.

(3) A periodical entitlement factor is, in respect of any relevant period, the amount determined by the formula:

$$A = \frac{I}{E}$$

where:

- A represents the amount to be determined;
- I represents the salary actually paid to the person concerned as an irregular employee in respect of the relevant period;
- E represents the Parent Fund average salary in respect of that period.

(4) This clause does not apply where the deferred accrued benefit is payable in consequence of the death of a person who was, immediately before death, an irregular employee.

EXPLANATORY NOTE

This Regulation amends the State Authorities Non-contributory Superannuation Regulation 1988 (the “Principal Regulation”) and is consequent on the Superannuation Legislation (Superannuation Guarantee Charge) Amendment Act 1992 (which introduced deferred accrued benefits for non-contributing employees in the State Authorities Non-contributory Superannuation Scheme from and including 30 June 1992). The amendment extends the benefit reduction provisions in Part 3 of the Principal Regulation to benefits of that kind.

This Regulation also repeals clauses 9 and 10 of the principal Regulation. Those clauses are now covered by provisions in the State Authorities Non-contributory Superannuation Act 1987 and are therefore redundant.

This Regulation is made under the State Authorities Non-contributory Superannuation Act 1987, including section 26A and section 34 (the general regulation making power).