

1995—No. 415

**STATE AUTHORITIES SUPERANNUATION ACT 1987—
REGULATION**

(State Authorities Superannuation Regulation 1995)

NEW SOUTH WALES



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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.

BOB CARR,
Premier.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the State Authorities Superannuation Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. In this Regulation:

“**accrued benefit points**” has the same meaning as in section 36 of the Act;

“**the Act**” means the State Authorities Superannuation Act 1987.

Note: Section 3 (1) of the Act defines “Board” as the State Authorities Superannuation Board referred to in section 4 of the Superannuation Administration Act 1991.

**PART 2—GENERAL PROVISIONS SUPPLEMENTARY TO
ACT**

Early retirement age

4. For the purposes of the definition of “early retirement age” in section 3 (1) of the Act, the prescribed early retirement age is 58 years.

Determination of loading in respect of shift allowance

5. (1) In this clause:

“**base salary**”, in relation to a contributor, means the remuneration, salary or wages payable to the contributor under an award of an industrial tribunal or under an industrial or enterprise agreement, but excluding all additional allowances payable to the contributor;

“**relevant period**”, in relation to a contributor, means the period of 12 months ending with 31 December immediately preceding the date on which the salary of the contributor is to be calculated for the purposes of the Act;

“**relevant shift**” means a shift worked by an employee for which payment is made by an employer;

“**trade union**” means:

- (a) an industrial organisation of employees registered or recognised as such under the Industrial Relations Act 1991; or
- (b) an association of employees registered as an organisation under the Industrial Relations Act 1988 of the Commonwealth.

(2) For the purposes of section 4 (1) (a) of the Act, the loading (if any) to be treated as part of a contributor’s salary for the purposes of the Act must be determined by reference to subclause (3), (4) or (5) according to whichever subclause is appropriate to the contributor.

(3) If:

- (a) there is in force an agreement between, or a practice accepted by, a trade union and the employer of a contributor which was in force immediately before 18 December 1987; and
- (b) the effect of the agreement or practice is that amounts that the employer pays to the contributor as shift allowances for relevant shifts worked by the contributor during a relevant period are treated as a loading for superannuation purposes; and
- (c) the total of those amounts is greater than that which would be determined under subclause (4) for that year in respect of the contributor,

then, for the purposes of section 4 (1) (a) of the Act, that total is the contributor's loading for those shift allowances.

(4) Except where subclause (3) or (5) applies, if a contributor is paid shift allowances for shifts that the contributor has worked during a relevant period, then, for the purposes of section 4 (1) (a) of the Act, the contributor's loading for those allowances is:

- (a) if during the relevant period the contributor has worked not more than 104 relevant shifts—no amount; or
- (b) if during the relevant period the contributor has worked more than 104 but not more than 156 relevant shifts—an amount equal to 10 per cent of the contributor's base salary for that period; or
- (c) if during the relevant period the contributor has worked more than 156 but not more than 208 relevant shifts—an amount equal to 15 per cent of the contributor's base salary for that period; or
- (d) if during the relevant period the contributor has worked more than 208 relevant shifts—an amount equal to 20 per cent of the contributor's base salary for that period.

(5) If the amounts actually paid or payable to a contributor as shift allowances for shifts that the contributor has worked during a relevant period are less than the loading determined for the period in respect of the contributor in accordance with subclause (4), then, for the purposes of section 4 (1) (a) of the Act, the total of those amounts is the contributor's loading for those allowances.

Minimum amount for election to preserve benefit

6. The amount prescribed for the purposes of section 43 (1) and (1A) of the Act is \$500.

Note: Section 43 of the Act provides for a contributor's benefit under the Act to be preserved in certain circumstances pending the happening of certain events.

PART 3—BENEFIT REDUCTION PROVISIONS

Definitions

7. In this Part:

“**continuous contributory service**”, in relation to a Contributor, means the period beginning with the contributor's entry date and ending with the contributor's exit date;

“**taxable date**” means the date on which the Board first becomes or became liable to pay income tax under a Commonwealth taxation law in respect of employers' contributions to the Fund.

Prescription of benefits

8. (1) Subject to subclause (2), the kinds of benefits prescribed for the purposes of section 45A of the Act are the benefits provided by section 37, 39, 40, 41, 42 or 43 of the Act.

(2) A benefit arising as the result of the death of a person may be reduced by the Board to offset tax liabilities of the Fund only as provided by clause 14.

Notes: Section 37 of the Act provides for the payment of a benefit at or after a contributor's early retirement or on the contributor's death at or after reaching the early retirement age.

Section 39 of the Act provides for the payment of a benefit if a contributor becomes a total and permanent invalid before reaching early retirement age.

Section 40 of the Act provides for the payment of a benefit if a Contributor becomes a partial and permanent invalid before reaching the early retirement age.

Section 41 of the Act provides for the payment of a benefit when a contributor resigns or is dismissed or discharged before reaching the early retirement age.

Section 42 of the Act provides for the payment of a benefit if a contributor is retrenched before reaching the early retirement age.

Section 43 of the Act provides for a contributor's benefit to be preserved in certain circumstances pending the happening of certain events.

Section 45A of the Act empowers the Board to reduce benefits to offset certain tax liabilities of the Fund.

Reduction for section 37 of Act

9. (1) If a benefit, other than a benefit arising as the result of the death of the contributor, becomes payable under section 37 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act is the amount calculated in accordance with the formula set out in subclause (2).

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

$$R = A \times \frac{B}{C} \times 0.025 \times F \times 0.15$$

where:

R represents the amount of the reduction;

A represents the accrued benefit points for the contributor at the contributor's exit date;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the contributor;

F represents the contributor's final average salary

Notes: Section 37 of the Act provides for the payment of a benefit at or after a contributor's early retirement or on the contributor's death at or after reaching the early retirement age.

Section 45A of the Act empowers the Board to reduce benefits to offset certain tax liabilities of the Fund.

Reduction for sections 39 and 40 of Act

10. (1) If a benefit becomes payable under section 39 or 40 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act is the amount calculated in accordance with the formula set out in subclause (2).

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

$$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$

where:

R represents the amount of the reduction;

A represents the accrued benefit points for the contributor at the contributor's exit date;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the contributor;

S represents the contributor's final salary.

Notes: Section 39 of the Act provides for the payment of a benefit if a contributor becomes a total and permanent invalid before reaching the early retirement age.

Section 40 of the Act provides for the payment of a benefit if a contributor becomes a partial and permanent invalid before reaching the early retirement age.

Section 45A of the Act empowers the Board to reduce benefits to offset certain tax liabilities of the Fund.

Reduction for section 41 of Act

11. (1) If

- (a) a benefit becomes payable under section 41 of the Act; and
- (b) the contributor's period of continuous contributory service is 10 years or more,

the reduction in benefit prescribed for the purposes of section 45A of the Act is the amount calculated in accordance with the formula set out in subclause (2).

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

$$R = T \times C \times \frac{A}{Y} \times 0.025 \times 0.15$$

where:

R represents the amount of the reduction;

T represents the period (expressed in years, with any fractional part of a year being calculated on the basis of complete contribution periods) that commenced on the taxable date or the contributor's entry date (whichever last occurred) and ended on the contributor's exit date;

C represents the amount of the contributor-financed benefit payable under section 41 (2) (a) of the Act;

A represents the accrued benefit points for the contributor at the contributor's exit date;

Y represents the number ascertained by adding together all of the contributor's contributed points figures calculated in relation to the contributor for the applicable contribution periods for the contributor.

(3) A benefit payable under section 41 of the Act is not to be reduced if the contributor's period of continuous contributory service is less than 10 years.

Note: Section 41 of the Act provides for the payment of a benefit if a contributor resigns, is dismissed or discharged before reaching the early retirement age.

Reduction for section 42 of Act

12. (1) If a benefit becomes payable under section 42 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act is the amount calculated in accordance with the formula set out in subclause (2).

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

$$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$

where:

R represents the amount of the reduction;

A represents the accrued benefit points for the contributor at the contributor's exit date;

B represents the period in days of continuous contributory service that began on the taxable date;

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C represents the period in days of continuous contributory service for the contributor;

S represents the contributor's final salary.

Notes: Section 42 of the Act provides for the payment of a benefit if a contributor is retrenched before reaching the early retirement age.

Section 45A of the Act empowers the Board to reduce benefits to offset certain tax liabilities of the Fund.

Reduction for section 43 of Act

13. (1) If a contributor elects to make provision for a preserved benefit under section 43 of the Act, the reduction in benefit prescribed for the purposes of section 45A of the Act is the amount calculated in accordance with the formula set out in subclause (2).

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

$$R = A \times \frac{B}{C} \times 0.025 \times F \times K^n \times 0.15$$

where:

R represents the amount of the reduction;

A represents the accrued benefit points for the contributor at the contributor's exit date;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the contributor;

F represents the contributor's final average salary;

K represents the discount factor determined by the Board for the purposes of section 43 (6) (b) of the Act;

ⁿ represents the period between the contributor's age at his or her exit date and the early retirement age, the period being expressed in years with any fractional part of a year being calculated on the basis of complete contribution periods.

Notes: Section 43 of the Act provides for a contributor's benefit to be preserved in certain circumstances pending the happening of certain events.

Section 45A of the Act empowers the Board to reduce benefits to offset certain tax liabilities of the Fund.

Transferred contributors: reduction of benefits

14. (1) If a transferred contributor referred to in the State Authorities Superannuation (Transitional Provisions) Regulation 1988, or any other person, having a right to do so, elects under clause 38 of that Regulation,

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to take a pension benefit, then, subject to subclause (3), the reduction in benefit prescribed for the purposes of section 45A of the Act, including a benefit payable on the death of the transferred contributor who was a pensioner, is the amount calculated in accordance with the formula set out in subclause (2).

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

$$R = \frac{B}{C} \times 0.15 \times P$$

where:

R represents the amount of the reduction;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the transferred contributor concerned;

P represents:

- (a) the proportion of the pension that is attributable to accrued benefit points and that, but for this clause, would be payable under clause 40, 41, 42 or 43 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988 to that transferred contributor; or
- (b) if that transferred contributor has died—the proportion of the pension that is attributable to accrued benefit points and that, but for this clause, would be payable under clause 44 of that Regulation to the spouse of that contributor.

(3) If, in accordance with clause 38 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988, the transferred contributor or other person referred to in subclause (1) elects to convert to a pension benefit only a portion of the benefit points of the transferred contributor, the benefit to be derived from the benefit points remaining after conversion is subject to reduction in accordance with the relevant provisions of this Part that apply to that benefit.

(4) If the benefit of a transferred contributor within the meaning of the State Authorities Superannuation (State Public Service Superannuation Scheme Transfer) Regulation 1989 is required to be reduced in accordance with a formula set out in clause 9, 10, 12 or 13 of this Regulation, the multiple “0.025” specified in the formula is, in relation to the contributor, to be read as the multiple “0.03”.

Notes: Section 45A of the Act empowers the Board to reduce benefits to offset certain tax liabilities of the Fund.

Clause 38 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988 deals with elections by transferred contributors (as defined in clause 3 (2) of that Regulation) to take pension benefits.

Clause 40 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988 sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is a normal employer-financed pension without reversion.)

Clause 41 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988 sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is a normal employer—financed pension with reversion.)

Clause 42 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988 sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is an employer-financed pension—invaliditywithout reversion.)

Clause 43 of the Spate Authorities Superannuation (Transitional Provisions) Regulation 1988 sets out the formula for calculating the pension payable to a transferred contributor (as so defined) who elects to take a pension benefit provided by that clause. (The pension is an employer-financed pension—invaliditywith reversion.)

Clause 44 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988 provides for the calculation of the employer-financed pension payable to the spouse of a deceased transferred contributor (as so defined) who elects to take a pension benefit provided by that clause.

PART 4—MISCELLANEOUS

Notes in text

15. Notes in the text of this Regulation are explanatory notes only and do not form part of this Regulation.

Repeal and saving

16. (1) The State Authorities Superannuation Regulation 1988 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the State Authorities Superannuation Regulation 1988, had effect under that Regulation continues to have effect under this Regulation.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with no changes in substance, the provisions of the State Authorities Superannuation Regulation 1988. The new Regulation deals with the following matters:

- (a) prescribing “the early retirement age” for the purposes of the Act (clause 4);
- (b) providing for loadings in respect of shift allowances to be treated as part of a contributor’s salary for the purposes of the Act (clause 5);
- (c) prescribing the amount below which a contributor cannot elect to preserve a benefit under the Act (clause 6);
- (d) providing for the reduction of certain specified benefits under the Act in order to offset certain tax liabilities of the Fund (Part 3);
- (e) other matters of a machinery nature (Part 4).

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This Regulation is made under the State Authorities Superannuation Act 1987, including section 55 (the general regulation making power) and sections 4 and 45A.

This Regulation deals with matters of a machinery nature, matters arising under legislation that complements Commonwealth legislation and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
