



New South Wales

State Authorities Superannuation (Government Railways Superannuation Scheme Transfer) (Savings and Transitional) Amendment Regulation 2003

under the

State Authorities Superannuation Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *State Authorities Superannuation Act 1987*.

JOHN DELLA BOSCA, M.L.C.,

Special Minister of State

Explanatory note

Currently, spouse pensions under the former Government Railways Superannuation Scheme (being superannuation allowances and pensions now paid and administered under the *State Authorities Superannuation Act 1987*) are payable only to persons who were spouses or de facto husbands or wives of pensioners or contributors when the superannuation allowance or pension first became payable to the pensioner or contributor concerned.

The objects of this Regulation are:

- (a) to extend the entitlement to a full spouse pension to persons who have been spouses or de facto partners of deceased pensioners or contributors for the period of 3 years immediately before the pensioners' or contributors' deaths and, on a pro rata basis, to persons who have been spouses or partners for a lesser period, if the spouses or partners have or had a dependent child of the particular marriage or relationship or a child of a pensioner or contributor born alive after the pensioner's or contributor's death, and
- (b) to extend entitlements of spouses under the provisions relating to the Scheme to same sex de facto partners.

This Regulation is made under the *State Authorities Superannuation Act 1987*, including section 55 (the general regulation-making power) and clauses 1 and 2 of Schedule 4.

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Clause 1 State Authorities Superannuation (Government Railways Superannuation Scheme Transfer) (Savings and Transitional) Amendment Regulation 2003

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under the

State Authorities Superannuation Act 1987

1 Name of Regulation

This Regulation is the *State Authorities Superannuation (Government Railways Superannuation Scheme Transfer) (Savings and Transitional) Amendment Regulation 2003*.

2 Commencement

- (1) Except as provided by subclause (2), this Regulation is taken to have commenced on 19 January 2001.
- (2) Schedule 1 [4], [7] and [16] are taken to have commenced on 29 November 2002.

3 Amendment of Regulation

The *State Authorities Superannuation (Government Railways Superannuation Scheme Transfer) (Savings and Transitional) Regulation 1990* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Omit the definition of *SAS Board*. Insert instead:

SAS Board means the SAS Trustee Corporation established under the *Superannuation Administration Act 1996*.

[2] Clause 3, definition of “spouse pension”

Insert “or de facto partner” after “the spouse”.

[3] Clause 17 Entitlement to a spouse pension on death of transferred pensioner or transferred contributor

Omit clause 17 (1) (b). Insert instead:

(b) who was the de facto partner of the pensioner,

[4] Clause 17 (1A) and (1B)

Insert after clause 17 (1):

(1A) If a transferred pensioner who was receiving a superannuation allowance under the earlier Act immediately before the transfer date dies on or after the transfer date and is survived by an eligible person:

(a) to whom the pensioner was married, or

(b) who was the de facto partner of the pensioner,

for 3 years or more immediately before the death, then, subject to subclause (5), that person is entitled to receive a spouse pension in accordance with subclause (4).

(1B) If a transferred pensioner who was receiving a superannuation allowance under the earlier Act immediately before the transfer date dies on or after the transfer date and is survived by an eligible person:

(a) to whom the pensioner was married, or

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Schedule 1 Amendments

(b) who was the de facto partner of the pensioner, for less than 3 years immediately before the death, then, subject to subclause (5), that person is entitled to receive a spouse pension in accordance with subclause (4), but reduced on a pro rata basis according to the proportion that the period of the marriage or relationship bears to 3 years.

[5] Clause 17 (2)

Insert “or de facto partner” after “spouse” where firstly and secondly occurring.

[6] Clause 17 (3)

Omit clause 17 (3) (b). Insert instead:

(b) who was the de facto partner of the contributor,

[7] Clause 17 (3A) and (3B)

Insert after clause 17 (3):

(3A) If a transferred contributor who is receiving a pension under this Regulation dies on or after the transfer date and is survived by an eligible person:

(a) to whom the contributor was married, or

(b) who was the de facto partner of the contributor,

for 3 years or more immediately before the death, then, subject to subclause (5), that person is entitled to receive a spouse pension in accordance with subclause (4).

(3B) If a transferred contributor who is receiving a pension under this Regulation dies on or after the transfer date and is survived by an eligible person:

(a) to whom the contributor was married, or

(b) who was the de facto partner of the contributor,

for less than 3 years immediately before the death, then, subject to subclause (5), that person is entitled to receive a spouse pension in accordance with subclause (4), but reduced on a pro rata basis according to the proportion that the period of the marriage or relationship bears to 3 years.

[8] Clause 17 (4)

Omit “subclauses (1)–(3)”. Insert instead “subclauses (1)–(3B)”.

[9] Clause 17 (4) (a)

Insert “or de facto partner” after “spouse” where firstly, secondly and thirdly occurring.

[10] Clause 17 (4) (b)

Insert “or de facto partner” after “spouse”.

[11] Clause 17 (5)

Insert “or de facto partner” after “spouse” where firstly, secondly and thirdly occurring.

[12] Clause 17 (6)

Insert “or de facto partner” after “spouse” where secondly, thirdly and fourthly occurring.

[13] Clause 17 (7)

Insert “or de facto partner” after “spouse” where lastly occurring.

[14] Clause 17 (11)

Insert “or de facto partner” after “spouse” where firstly occurring.

[15] Clause 17 (12)

Insert “or de facto partner” after “spouse” where firstly and secondly occurring.

[16] Clause 17 (13)

Insert after clause 17 (12):

(13) For the purposes of subclauses (1A), (1B), (3A) and (3B), a person is an *eligible person* if:

- (a) the person became the spouse or de facto partner of the transferred pensioner or contributor after the transferred pensioner or contributor became entitled to a superannuation allowance or pension, and

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- (b) the person has or had in his or her marriage or relationship with the transferred pensioner or contributor a child, being:
 - (i) a child of the eligible person and the transferred pensioner or contributor who was, in the opinion of the SAS Board, wholly or substantially dependent on the transferred pensioner or contributor at any time during the marriage or relationship, or
 - (ii) a child of the transferred pensioner or contributor who was conceived before and born alive after the death of the transferred pensioner or contributor.

[17] Clause 18 Election by transferred contributor to take a pension benefit

Insert “or de facto partner” after “spouse” wherever occurring.

[18] Clause 19 Payment of a pension benefit

Insert “or de facto partner” after “spouse” in clause 19 (3).

[19] Clause 20 Resumption of payment of a spouse pension after suspension

Insert “or de facto partner” after “spouse” where firstly and thirdly occurring in clause 20 (1).

[20] Clause 20 (3)

Insert “or de facto partner” after “spouse” where firstly, thirdly and fourthly occurring.

[21] Clause 29 Guarantee

Insert “or de facto partner” after “spouse” wherever occurring in clause 29 (1).

BY AUTHORITY
