



New South Wales

First State Superannuation Regulation 2018

under the

First State Superannuation Act 1992

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *First State Superannuation Act 1992*.

DOMINIC PERROTTET, MP
Treasurer

Explanatory note

The object of this Regulation is to repeal and remake, with no substantial amendments, the *First State Superannuation Regulation 2013*, which would otherwise be repealed on 1 September 2018 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to:

- (a) the prescription of paid maternity leave, paid parental leave, paid adoption leave, weekly workers compensation payments and certain non-cash employment benefits provided by an employer as part of a salary in respect of which employers are required to make superannuation contributions for employees under the First State Superannuation Scheme, and
- (b) the exemption of employers from the obligation to make superannuation contributions for certain employees in relation to specified types of employment, and
- (c) the prescription of employee salary contribution percentages on which the levels of compulsory employer superannuation contributions under the *First State Superannuation Act 1992* are based, and the periods in which the percentages apply, to replace, and add to, those provided for in that Act, and
- (d) savings and formal matters.

This Regulation is made under the *First State Superannuation Act 1992*, including sections 4, 8 (5) (a), 8 (2A) and 15 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

Contents

	Page
1 Name of Regulation	3
2 Commencement	3
3 Definition	3
4 Allowances and payments included as salary and wages	3
5 Exempted employment	4
6 Compulsory employer contributions—salary contribution percentage	4
7 Repeal	4
8 Savings	4

First State Superannuation Regulation 2018

under the

First State Superannuation Act 1992

1 Name of Regulation

This Regulation is the *First State Superannuation Regulation 2018*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *First State Superannuation Regulation 2013*, which would otherwise be repealed on 1 September 2018 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation:

the Act means the *First State Superannuation Act 1992*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Allowances and payments included as salary and wages

(1) For the purposes of section 4 (1) (a) (iii) of the Act, the following payments are prescribed:

- (a) payments for maternity leave,
- (b) payments for parental leave other than payments required to be made under the *Paid Parental Leave Act 2010* of the Commonwealth,
- (c) payments for adoption leave,
- (d) weekly workers compensation payments.

(2) The weekly workers compensation payments to be treated as salary for the purposes of section 4 (1) (a) (iii) of the Act do not include any amount by which the aggregate of:

- (a) the weekly workers compensation paid to an injured employee, and
- (b) the salary actually paid to that employee while partially incapacitated, exceeds the salary that the employee would probably have been earning but for the injury (assuming the employee had continued to be employed in the same or some comparable employment).

(3) For the purposes of section 4 (1) (a) (iv) of the Act, all non-cash employment benefits provided by an employer to an employee that attract compulsory employer superannuation contributions under an industrial award applicable to the employee are prescribed employment benefits.

(4) In this clause:

weekly workers compensation payments, in relation to an employee, means weekly payments of compensation under the *Workers Compensation Act 1987* (or the provisions of the *Workers' Compensation Act 1926* as applied by that Act) payable to the employee because the employee is partially incapacitated for work through injury.

5 Exempted employment

The following employment is prescribed for the purposes of section 8 (5) (a) of the Act:

- (a) employment as an election official under the *Electoral Act 2017*, but only if the person's appointment under that Act is limited to employment at a voting centre (including an early voting centre) for an election conducted under that Act,
- (b) employment as an electoral official under the *Local Government Act 1993*, but only if the person's appointment under that Act is limited to employment at a polling place or a pre-poll voting office for an election conducted under that Act,
- (c) employment in the Public Service to enable the NSW Education Standards Authority to exercise its functions.

6 Compulsory employer contributions—salary contribution percentage

For the purposes of section 8 (2A) of the Act, the following periods and percentages are prescribed to replace, or in addition to, those in the table to section 8 (2) of the Act:

Year starting on 1 July 2015	9.5
Year starting on 1 July 2016	9.5
Year starting on 1 July 2017	9.5
Year starting on 1 July 2018	9.5
Year starting on 1 July 2019	9.5
Year starting on 1 July 2020	9.5
Year starting on 1 July 2021	10
Year starting on 1 July 2022	10.5
Year starting on 1 July 2023	11
Year starting on 1 July 2024	11.5
Year starting on or after 1 July 2025	12

7 Repeal

The *First State Superannuation Regulation 2013* is repealed.

8 Savings

Any act, matter or thing that, immediately before the repeal of the *First State Superannuation Regulation 2013*, had effect under that Regulation continues to have effect under this Regulation.