

State Authorities Superannuation (Transport Officers' Gratuity Scheme Transfer) (Savings and Transitional) Regulation 1989

[1989-692]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Previously named**
State Authorities Superannuation (Transport Officers' Gratuity Scheme Transfer) Regulation 1989
- **Does not include amendments by**
[Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2017 No 63](#) (not commenced — to commence on 14.1.2018)

Authorisation

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New South Wales

1 Name of Regulation

This Regulation may be cited as the *State Authorities Superannuation (Transport Officers' Gratuity Scheme Transfer) (Savings and Transitional) Regulation 1989*.

2 Commencement

This Regulation is to be taken to have commenced on 1 April 1989.

3 Definitions

(1) In this Regulation:

Fund means the State Authorities Superannuation Fund.

service, in relation to a transferred transport officer, means the number of whole calendar months before 1 April 1989 that would have been taken into account in calculating the benefit that would have been payable to the officer if he or she had continued to be subject to the Transport Officers' Gratuity Scheme.

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

transferred transport officer means a person who has become a contributor to the Fund by virtue of clause 4 (1).

Transport Officers' Gratuity Scheme means the scheme set out in sections 132A-132C of the *Transport Act 1930* (as preserved by clause 43 of Schedule 7 to the *Transport Administration Act 1988*).

(2) In relation to a transferred transport officer, the definition of **accrued benefit points** in section 36 of the Act is to be construed as if the reference in that section to contributed points figures included a reference to the number of transferred benefit points for the officer calculated in accordance with clause 5.

- (3) For the purpose of applying the definition of **final average salary** in section 36 of the Act to a transferred transport officer, that definition is to be read as if the officer had become a new contributor on 1 April 1989.

4 Transfer of certain transport officers to the State Authorities Superannuation Scheme

- (1) A person who, immediately before 1 April 1989, was eligible for a gratuity under the Transport Officers' Gratuity Scheme is, on that day, to be taken to have become a contributor to the Fund by virtue of having made an election under section 19 of the Act (Election to contribute to the Fund).
- (2) With respect to such an election, section 19 of the Act is to be construed as if subsections (2)–(4) of that section had not been enacted.
- (3) If a person becomes a contributor by virtue of subclause (1), then:
 - (a) the Transport Officers' Gratuity Scheme ceases to apply to the person, and
 - (b) a gratuity under that Scheme is not payable to or in relation to that person.
- (4) A person who becomes a contributor by virtue of subclause (1) is entitled to make an application under section 20 of the Act (Additional benefit) for an additional benefit only if the person has elected to contribute to the Fund under clause 6 (2) of this Regulation.

5 Benefit points to be credited to a transferred transport officer

- (1) A transferred transport officer is, in respect of his or her service before 1 April 1989, entitled to a number of transferred benefit points calculated in accordance with the following formula:

$$P = Y \times 2.3$$

where:

P represents the number of points to be calculated, and

Y represents the number of completed years of service, with the fractional part of any year calculated on the basis of completed calendar months.

- (2) For each whole calendar month of service beginning on 1 April 1989, there accrues to each transferred transport officer one-twelfth of 2.3 benefit points.
- (3) Subclause (2) has effect irrespective of the number of benefit points that may accrue to each officer as a result of the officer's contributing to the Fund under clause 6.
- (4) This clause is subject to clause 5A.

5A Minimum benefit payable to a transferred transport officer

(1) If a benefit calculated under section 37 of the Act (Benefit at or after early retirement or on death at or after early retirement age) would, but for this clause, be payable to or in respect of a transferred transport officer but the benefit is less than the amount calculated in accordance with the formula set out in subclause (2), then, instead of that benefit, the benefit payable to or in respect of the officer is that amount.

(2) The formula is:

$$A = NBP \times 0.025 \times FS$$

where:

A is the amount to be calculated, and

NBP is the number of benefit points which have been allocated to the member in accordance with clause 5, and

FS is the member's final salary (as defined in section 36 of the Act).

(3) If a benefit calculated under section 37 of the Act has been paid to or in respect of a transferred transport officer before the commencement of this clause and the amount of the benefit is less than the amount of the benefit that would have been payable had this clause been in force at the time of the officer's retirement or death, a further benefit equal to the difference between those amounts is payable to or in respect of the officer.

6 Contribution rates

(1) On and after 1 April 1989, a transferred transport officer is entitled to elect to pay no contributions to the Fund, despite being entitled to receive points in accordance with clause 5 (2).

(2) A transferred transport officer may elect to contribute to the Fund in accordance with section 19 of the Act (Election to contribute to the Fund) (subsection (2) (b) excepted).

(3) A transferred transport officer making an election under section 19 (1) of the Act must specify one of the rates referred to in subclause (4) as the rate at which he or she will contribute to the Fund.

(4) For the purposes of subclause (3), the rates are 1, 2, 3, 4, 5, 6 and 6.7 per cent of the salary of the officer concerned.

(5) An initial election under subclause (2) may be lodged with the Board during the period beginning with 1 April 1989 and ending with 31 October in that year.

(6) An election under subclause (2) takes effect on a date not later than 1 January 1990 to be determined by the Board.

- (7) The Board is required to nominate a period in each year during which a transferred transport officer is entitled to make an election varying his or her existing contribution rate.
- (8) During the period nominated under subclause (7), a transferred transport officer may vary his or her existing contribution rate to another of the rates specified in subclause (4).
- (9) A transferred transport officer who elects to contribute to the Fund under subclause (2) may decide to make no contributions to the Fund only as provided by section 28 of the Act (Variations of contribution rate : hardship).

7 Leave without pay and extended leave

- (1) Any continuous period of leave without pay, or extended leave, exceeding 3 months, taken before 1 April 1989, is not to be regarded as service for the purpose of clause 5 (1).
- (2) On and after 1 April 1989, benefit points under clause 5 (2) do not accrue to a transferred transport officer for any month for the whole of which that officer was on leave without pay.

8 Recognition of previous service

For the purposes of the Act, a transferred transport officer's entry date is to be taken to be the date on which the officer's service began for the purposes of the Transport Officers' Gratuity Scheme.

9 Circumstances in which a transferred transport officer ceases to be entitled to special benefit

- (1) This clause applies to the following employers:
 - (a) the State Rail Authority of New South Wales,
 - (b) the State Transit Authority of New South Wales,
 - (c) the Roads and Traffic Authority of New South Wales,
 - (d) the Crown in its capacity as the employer of persons employed in the Ministry of Transport,
 - (e) Rail Access Corporation,
 - (f) Freight Rail Corporation,
 - (g) the Railway Services Authority of New South Wales,
 - (h) RailCorp.

- (2) If a transferred transport officer, for reasons other than retirement at or after reaching the early retirement age, death, physical or mental incapacity or retrenchment, ceases to be employed by an employer to whom this clause applies, then:
 - (a) the officer ceases to be a contributor to the Fund for the purposes of clause 4 (1), and
 - (b) clause 5 ceases to apply to the officer from the date on which the officer ceases to be so employed.
- (3) However, such an officer who has elected to contribute to the Fund under clause 6 (2) may continue as a contributor to the Fund if otherwise entitled to do so by the Act, but in that case the officer must, if contributing at the rate of 6.7 per cent of his or her salary, continue to contribute at that rate until the officer's next election to vary the rate of contribution takes effect.
- (4) Subclause 2 (a) and (b) do not apply to a transferred transport officer referred to in subclause (2) if the officer (not having in the interim been employed by an employer to whom this clause does not apply) is, within a reasonable period determined by the Board, employed by another employer to whom this clause applies.
- (5) If a transferred transport officer's employment is or was transferred from the State Transit Authority of New South Wales to RailCorp, that transfer is taken, for the purpose of subclause (2), not to be a cessation of employment.

10 Payment by employer to be treated as payment by the Board

- (1) If an employer to whom clause 9 applies has, during the period beginning with 1 April 1989 and ending with 6 October 1989, paid a gratuity under the Transport Officers' Gratuity Scheme to a transferred transport officer, the payment is to be regarded as a payment made by the Board under the Act.
- (2) A transferred transport officer who has been paid such a gratuity is not entitled to any further benefit either under the Act or this Regulation.