

Public Authorities Superannuation (Transitional Provisions) Regulation 1985

[1985-245]



New South Wales

Status Information

Currency of version

Current version for 12 July 1991 to date (accessed 26 June 2024 at 8:34)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Authorisation

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File last modified 7 July 1994

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Public Authorities Superannuation (Transitional Provisions) Regulation 1985



New South Wales

1 Name of Regulation

This Regulation may be cited as the *Public Authorities Superannuation (Transitional Provisions) Regulation 1985*.

2 Commencement

This Regulation shall take effect on and from 1 July 1985.

3 Definitions

(1) In this Regulation:

the Act means the *Public Authorities Superannuation Act 1985*.

transferred contributor means a transferred contributor as defined in clause 1 of Schedule 6, or clause 1 of Schedule 7, to the Act.

(2) Expressions used in this Regulation have the same respective meanings as they have in Part 5 of the Act.

4 Election by transferred contributor to take pension benefit

(1) An election by a transferred contributor to take the benefit provided by clause 8 (2) and (3) of Schedule 6, or clause 8 (2) or (3) of Schedule 7, to the Act shall:

(a) be in a form approved by the Board, and

(b) specify such matters and be accompanied by such information provided by the employer of the transferred contributor at the time of retirement as the Board reasonably requires.

(2) The election shall be lodged at the office of the Board:

(a) in the case of an election to take a benefit referred to in subclause (1) instead of the whole or a specified part of the benefit provided by section 26 of the Act (benefit at age 65 or on early retirement or on death on or after age 60)—before

or within the period of 2 months that next succeeds the date of the transferred contributor's ceasing to be an employee or attaining the age of 65 years, whichever first occurs, or

- (b) in the case of an election to take a benefit referred to in subclause (1) instead of the whole or a specified part of the benefit provided by section 28 of the Act (benefit on total and permanent disablement before age 60)—within the period of 3 months (or such further period as the Board may in special circumstances allow) that next succeeds the date of the transferred contributor's ceasing to be an employee.

5 Payment of pension benefit to transferred contributor

The benefit provided by clause 8 (2) and (3) of Schedule 6, or clause 8 (2) or (3) of Schedule 7, to the Act shall be calculated with effect from the exit date of the transferred contributor who elected to take the benefit or the date on which that transferred contributor attains the age of 65 years, whichever first occurs, and shall be payable in equal fortnightly instalments.

6 Employer-financed benefit as pension

- (1) Where an election is made by a transferred contributor to take the benefit provided by clause 8 (2) and (3) of Schedule 6 to the Act instead of the whole or part of the benefit provided by section 26 of the Act, the pension which is the benefit provided by clause 8 (2) of Schedule 6 to the Act shall be determined according to the following formula:

$$P = F \times 0.0016 \times Q \times (1 - 0.025 \times T)$$

where:

P is the annual pension payable,

F is the final average salary of the transferred contributor,

Q is the number of benefit points to which the election relates, and

T is the number of whole years (a fraction of a year which does not form part of a whole year counting as a whole year) by which the exit date of the transferred contributor precedes the date of the transferred contributor's 65th birthday.

- (2) Where an election is made by a transferred contributor to take the benefit provided by clause 8 (2) and (3) of Schedule 6 to the Act instead of the whole or part of the benefit provided by section 28 of the Act, the pension which is the benefit provided by clause 8 (2) of Schedule 6 to the Act shall be determined accordingly to the following formula:

$$P = F \times 0.0016 \times Q \times (1 - 0.025 \times T)$$

where:

P is the annual pension payable,

S is:

- (a) where the transferred contributor has not attained the age of 58 years on or before the exit date—the transferred contributor’s final salary,
- (b) where the transferred contributor has attained the age of 58 years, but has not attained the age of 59 years, on or before the exit date—the average of the transferred contributor’s final salary and salary at 31st December last preceding the exit date, or
- (c) where the transferred contributor has attained the age of 59 years on or before the exit date—the transferred contributor’s final average salary, and

Q is the number of benefit points to which the election relates.

7 Contributor-financed benefit as pension

Where an election is made by a transferred contributor to take the benefit provided by clause 8 (2) and (3) of Schedule 6 to the Act instead of the whole or a specified part of the benefit provided by section 26 of the Act, the pension which is the benefit provided by clause 8 (3) of Schedule 6 to the Act shall be determined according to the following formula:

$$P = F \times 0.0016 \times Q \times (1 - 0.025 \times T)$$

where:

P is the annual pension payable,

L is the amount of the benefit provided by section 26 of the Act or, as the case may be, the specified part of that benefit, and

C is the appropriate number in Column 2, 3 or 4 of the Table to this clause, having regard to the transferred contributor’s age as from when the pension is calculated, and to whether the transferred contributor is a man or a woman.

Table

Division factor for converting lump sum to annual pension

Column 1	Column 2	Column 3	Column 4
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	Male (No pension to spouse)	Male or female (with pension to spouse)	Female (no pension to spouse)
Person who attained age of 60 but not 61	11.4	14.0	13.3
Person who attained age of 61 but not 62	11.1	13.7	13.0
Person who attained age of 62 but not 63	10.8	13.4	12.6
Person who attained age of 63 but not 64	10.6	13.1	12.3
Person who attained age of 64 but not 65	10.3	12.8	11.9
Person who attained age of 65	10.0	12.5	11.5

8 Election by spouse of deceased contributor to take pension benefit

An election by the spouse of a deceased transferred contributor to take the benefit provided by clause 9 (2) of Schedule 6 to the Act or clause 11 (1) or 12 (1) of this Regulation shall be lodged at the office of the Board within the period of 3 months (or such further period as the Board may in special circumstances allow) that next succeeds the death of the transferred contributor.

9 Payment of pension benefit to spouse

The benefit provided by clause 9 (2) of Schedule 6 to the Act or clause 11 (1) or 12 (1) of this Regulation shall be calculated with effect from the date of death of the transferred contributor whose spouse elected to take the benefit and shall be payable in equal fortnightly instalments.

10 Spouse benefit as pension—death of contributor before age 60

Where an election is made by the spouse of a deceased transferred contributor to take the benefit provided by clause 9 (2) of Schedule 6 to the Act instead of the whole or a specified part of the employer-financed part of the benefit provided by section 27 of the Act (benefit on death before age 60), the pension which is the benefit provided by clause 9 (2) of Schedule 6 to the Act shall be determined according to the following formula:

$$P = F \times 0.0016 \times Q \times (1 - 0.025 \times T)$$

where:

P is the annual pension payable,

S is the final salary of the transferred contributor, and

Q is the number of benefit points to which the election relates.

11 Choice of benefit for spouse—contributor transferred from Local Government Pension Fund dying after age 60

(1) Where the spouse of a deceased employee who was a transferred contributor within the meaning of Schedule 6 to the Act becomes entitled to be paid the benefit provided by section 26 of the Act (benefit at age 65 or on early retirement or on death at or after age 60) the spouse may elect, in a form approved by the Board for the purposes of this clause, to take, instead of the whole or a specified part of the employer-financed part of that benefit, a pension for life determined according to the following formula:

$$P = F \times 0.0016 \times Q \times (1 - 0.025 \times T)$$

where:

P is the annual pension payable,

S is the final salary of the transferred contributor,

Q is the number of benefit points to which the election relates, and

T is the number of whole years (a fraction of a year which does not form part of a whole year counting as a whole year) by which the time of death precedes the date of the transferred contributor's 65th birthday.

(2) Notwithstanding subclause (1), where, but for this subclause, a person would be entitled to more than one pension under subclause (1), the person is entitled to one only of those pensions being, where the pensions are not equal, the greater or greatest of them.

(3) Part 2 of Schedule 6 to the Act applies to and in respect of a pension under subclause (1) in the same way as it applies to and in respect of a pension referred to in clause 8 (2) or (9) of that Schedule.

12 Choice of benefit for spouse—contributor transferred from Retirement Fund dying after age 60

(1) Where the spouse of a deceased employee who was a transferred contributor within the meaning of Schedule 7 to the Act becomes entitled to be paid the benefit provided by section 26 of the Act (benefit at age of 65 or on early retirement or on death at or after age 60) the spouse may elect, in a form approved by the Board, to take, instead of the whole or a specified part of that benefit, a pension for life of the actuarial

equivalent, determined by the Board, of the benefit or part of the benefit that would have been payable if an election under this clause had not been made.

- (2) Part 2 of Schedule 6 to the Act applies to and in respect of a pension under subclause (1) in the same way as it applies to and in respect of a pension referred to in clause 8 (2) or (9) of that Schedule.

13 Allocation of certain employers' contributions under Act No 70, 1972

- (1) This clause applies to a transferred contributor referred to in clause 3 of Schedule 7 to the Act in respect of whom one or more secondary employers would have been liable to make a payment under section 32 of the earlier Act to a primary employer if a benefit had become payable to the transferred contributor from the New South Wales Retirement Benefits Fund immediately before 1 July 1985.
- (2) If, within the period of 3 months after a benefit becomes payable in respect of a transferred contributor, the primary employer requests the Board to make a determination under this subclause, the Board shall determine in respect of that contributor:
- (a) the amount of the employer-financed benefit, calculated in accordance with section 32 (5) (b) of the Act, that would have become payable had the benefit provided by that subsection become payable on 1 July 1985,
 - (b) the amount (if any) of interest that the Board, in its absolute discretion, thinks appropriate to allow in respect of the amount referred to in paragraph (a), and
 - (c) the amount, in relation to each secondary employer, that represents the proportion of the sum of the amounts referred to in paragraphs (a) and (b) for which each such employer should be liable, having regard to the length of service of the transferred contributor with that employer.
- (3) When a determination has been made under this clause, the amount referred to in subclause (2) (c) in relation to a secondary employer:
- (a) shall be debited from the reserve in which contributions of that secondary employer are held, and
 - (b) shall be credited to the reserve in which contributions of the primary employer are held.
- (4) In this clause:

primary employer has the same meaning as it has in section 32 of the earlier Act.

secondary employer has the same meaning as it has in section 32 of the earlier Act.

the earlier Act means the [New South Wales Retirement Benefits Act 1972](#).

14 Adjustment of benefits where broken service recognised under Act No 70, 1972

- (1) This clause applies to a transferred contributor referred to in clause 3 of Schedule 7 to the Act in respect of whom an order has been in force under Part II of the 1983 Regulation at any time in relation to one or more periods of employment occurring before 1 July 1985.
- (2) If a transferred contributor to whom this clause applies has received an allowance in relation to a period of employment in respect of which an order under Part II of the 1983 Regulation has been in force, the employer-financed benefit payable under the Act to or in respect of the transferred contributor shall be reduced by the following amount in respect of each such period:

$$P = F \times 0.0016 \times Q \times (1 - 0.025 \times T)$$

where:

J represents the amount by which the employer-financed benefit is to be reduced,

S represents the amount of the contributor's salary, as used in the calculation of the benefit payable to or in respect of the transferred contributor under the Act,

A represents the amount of the allowance received by the transferred contributor, and

W represents the annual wages of the transferred contributor, as determined by the Board, immediately before the allowance became payable to the transferred contributor.

- (3) In this clause:

allowance, in relation to a transferred contributor, means such part of the amount of a benefit that has been paid to the transferred contributor from a superannuation scheme as, in the opinion of the Board, represents the employer-financed component of the benefit.

the 1983 Regulation means the *New South Wales Retirement Benefits Regulation 1983*.

the earlier Act means the *New South Wales Retirement Benefits Act 1972*.

15 Entry date for transferred contributors

- (1) In relation to a transferred contributor as defined in clause 1 of Schedule 7 to the Act, the contributor's entry date for the purposes of the Act shall be deemed to be the date on which the contributor's previous service commenced.
- (2) A transferred contributor's previous service is the period before 1 July 1985 that would have been taken into account in calculating the benefit payable to the contributor under the *New South Wales Retirement Benefits Act 1972* if such a benefit had

become payable immediately before 1 July 1985.

- (3) Nothing in this clause affects the operation of clause 6A of Schedule 7 to the Act.
- (4) In relation to a transferred contributor (other than a transferred contributor referred to in clause 3 of Schedule 7 to the Act), the definition of **accrued benefit points** in section 24 of the Act is to be construed as if a reference in that definition to contributed points figures included a reference to the number of transferred benefit points of the contributor that the Board has determined for the contributor under clause 6 (3) of that Schedule.