

# State Authorities Superannuation (Transitional Provisions) Regulation 1988

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New South Wales

## Status Information

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# State Authorities Superannuation (Transitional Provisions) Regulation 1988



New South Wales

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# State Authorities Superannuation (Transitional Provisions) Regulation 1988



New South Wales

## Part 1 General

### 1 Name of Regulation

This Regulation may be cited as the *State Authorities Superannuation (Transitional Provisions) Regulation 1988*.

### 2 Commencement

This Regulation shall take effect on 1 April 1988.

### 3 Definitions

(1) In this Regulation—

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

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

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

**earlier Fund** means the Public Authorities Superannuation Fund established in accordance with the earlier Act.

**final average salary** and **final salary** have the same meanings as they have in section 36 of the current Act.

**new Fund** means the State Authorities Superannuation Fund established by the Board in accordance with the *Superannuation Administration Act 1987*.

**pension** means a pension payable under this Regulation.

**superannuation year** means the period that commenced or commences on 1 April in any calendar year and ended or ends on 31 March in the next ensuing calendar year.

(2) In this Part, Part 6 (clause 46 excepted) and Part 7—

**transferred contributor** means a person who has become a contributor by virtue of clause 3 of Schedule 3 to the current Act (savings and transitional provisions).

#### 4 Transferred contributors

- (1) If, immediately before 1 April 1988, a transferred contributor was, in accordance with section 12 of the earlier Act (additional benefit), covered for the additional benefit, that contributor—
  - (a) shall be taken to be covered for the additional benefit under the current Act, and
  - (b) shall pay the additional benefit levy as required by section 22 (2) of that Act (approval of application) as if that contributor had lodged with the Board an application under section 20 of that Act (additional benefit) which had been approved by the Board.
- (2) If, immediately before 1 April 1988, any allowances or other kinds of remuneration were treated as salary for the purposes of the earlier Act in relation to a transferred contributor, they shall continue to be treated as salary for the purposes of the current Act, but only as regards that contributor.

#### 5 Transferred accounts and reserves

The contributor's account that is established under section 12 (1) of the current Act (contributors' accounts) in respect of a transferred contributor shall be so established with a credit balance equal to the balance at credit on 31 March 1988 in the account that had been established under section 9 (1) of the earlier Act (certain accounts and reserves to be established) in respect of that contributor.

#### 6 Application of certain definitions to transferred contributor

- (1) For the purpose of applying the definition of **accrued benefit points** in section 36 of the current Act (definitions) to a transferred contributor, that definition shall be construed as if the reference in it to contributed points figures included a reference to the total of the contributed points figures calculated in relation to that contributor under the earlier Act on 31 March 1988 but multiplied by 0.72.
- (2) For the purposes of applying the current Act to a transferred contributor, such a contributor's entry date shall be taken to be the date that was regarded as the entry date applicable to the transferred contributor under the earlier Act.
- (3) For the purpose of applying the definition of **contributed points figure** in section 36 of the current Act to a transferred contributor, that definition shall be construed as if the reference in that definition to applicable contribution periods included a reference to applicable months as defined by section 24 of the earlier Act, but with the result derived from the formula for those months multiplied by 0.72.

- (4) In applying the calculation of **prospective benefit points** in section 36 of the current Act to a transferred contributor, that calculation shall be subject to a minimum value of 0.7 multiplied by the number of prospective benefit points that would have been calculated under that Act if the early retirement age had been 60 years.

## 7 Adjustment of benefit where broken service recognised

- (1) This clause applies to a transferred contributor in respect of whom an order has been in force under the *New South Wales Retirement Benefits Regulation 1983* at any time with respect to one or more periods of employment of that contributor which occurred before 1 July 1985.
- (2) If a transferred contributor to whom this clause applies has received an allowance with respect to a period of employment to which an order under the *New South Wales Retirement Benefits Regulation 1983* has been in force, the employer-financed benefit payable under the current Act to or in respect of the transferred contributor shall be reduced by the following amount in respect of each such period—

$$J = S \times \frac{A}{W}$$

where—

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

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

## Part 2 Special conditions for former Local Government Pension Fund contributors

### 8 Definitions

In this Part—

**applicable month** has the meaning that that expression had under section 24 of the

earlier Act (interpretation).

**former Act** means the [Local Government and Other Authorities \(Superannuation\) Act 1927](#).

**former Fund** means the Local Government Pension Fund established under the former Act.

**guaranteed pension points**, in relation to a transferred contributor, means a number of points which is the greater of 0 and the number determined by the formula—

$$J = S \times \frac{A}{W}$$

where—

**S** represents the number of guaranteed pension points to be calculated,

**P** represents the number of prospective benefit points which would have been calculated under the current Act if the age for early retirement had been 65 years,

**A** represents the number of accrued benefit points calculated as if 1 April 1988 were the transferred contributor's exit date under the current Act,

**B** represents the number of accrued benefit points at the transferred contributor's exit date under the current Act, and

**R** represents the number of prospective benefit points calculated in respect of the transferred contributor in accordance with section 36 of the current Act (definitions) as modified by clause 6 (4).

**notional accumulation**, in relation to a transferred contributor who became a contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act, means an amount equal to the sum of—

- (a) the amount credited to the general reserve or the special reserve of the former Fund under section 15AO (3), 15AP (9) or 15AQ (10) of the former Act in respect of that contributor,
- (b) in respect of each superannuation year during the period beginning with the date on which that contributor became a contributor to the former Fund and ending with 30 June 1985, an amount equal to—
  - (i) 5.25 per cent of the salary of that contributor, based on the rate of salary determined under section 15AV of the former Act in respect of that superannuation year, or



- (ii) 1.5 times the contributions paid or payable by that contributor in that superannuation year under the former Act,

whichever is the less,

- (c) in respect of each applicable month in relation to that contributor under the earlier Act, an amount equal to—

- (i) 5.25 per cent of the salary of that contributor, multiplied by the salary ratio of that contributor in respect of that month as determined by the Board, based on the rate of salary determined under section 6 of the earlier Act (salary) in respect of that month, or

- (ii) 1.5 times the contributions paid or payable by that contributor in that month under the earlier Act,

whichever is the less, and

- (d) in respect of each applicable contribution period since 1 April 1988, an amount equal to—

- (i) 5.25 per cent of the salary of that contributor, multiplied by the salary ratio of that contributor in respect of that period, based on the rate of salary determined under section 26 of the current Act (salary basis for contributions) in respect of that period, or

- (ii) 1.5 times the contributions paid or payable by that contributor under the current Act,

whichever is the less,

together with interest at a rate or rates determined by the Board, but reduced by an amount or amounts calculated in such manner as the Board may determine in respect of the costs of administering the scheme and such other charges as may be determined by the Board.

**transferred contributor** means a person who has become a contributor by virtue of clause 3 of Schedule 3 to the current Act (savings and transitional provisions) after having become a contributor to the earlier Fund by virtue of the operation of Schedule 6 to the earlier Act (transitional provisions—Local Government Pension Fund).

#### **9 Application of the definition of “prospective benefit points” to transferred contributor**

For the purpose of applying section 36 of the current Act (definitions) to a transferred contributor, that contributor’s average contribution rate per cent referred to in the definition of **prospective benefit points** in that section shall be construed in such a way as to exclude from calculation any period which occurred before the date when the transferred contributor last became a contributor under Part 3D of the former Act (pension fund provisions).

## 10 Benefit to be adjusted in certain circumstances

- (1) This clause applies to a transferred contributor who, in the opinion of the Board, has received, or will receive—
  - (a) in the case of a transferred contributor whose service was terminated, or who died, before 1 July 1993—a gratuity under section 97 of the *Local Government Act 1919*, or
  - (b) in the case of a transferred contributor whose service is terminated, or who dies, on or after that date—a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an employee of the council and calculated by reference to the period of the employee’s service with the council.
- (2) Where the employer-financed benefit payable in respect of a transferred contributor to whom this clause applies is determined without reference to the notional accumulation of that contributor, the amount determined in accordance with subclause (3) shall—
  - (a) be deducted from the employer-financed benefit otherwise payable under the current Act, and
  - (b) be paid by the Board to the employer who employed that contributor on that contributor’s exit date.
- (3) For the purposes of subclause (2), the amount is—
  - (a) 0, or
  - (b) an amount calculated in accordance with the formula set out in subclause (4), whichever is the greater.
- (4) The formula referred to in subclause (3) is as follows—

$$J = S \times \frac{A}{W}$$

where—

**A** represents the amount to be calculated,

**G** represents the amount referred to in subclause (1) as the gratuity payable under the *Local Government Act 1919*,

**E** represents the employer-financed benefit that would be payable but for this clause, and

**M** represents the employer-financed benefit that would have been payable to the

transferred contributor concerned if the employer-financed benefit had been based on the maximum benefit points for that contributor.

**Editorial note—**

Clause 10 (4) was amended by Gazette No 18 of 14.2.1997, p 552, Sch 1.1 [3]. The text of the amendment reads as follows—

**[3] Clause 10 (4)**

Omit “under section 97 of the *Local Government Act 1919*”.

Insert instead “to or in respect of the transferred contributor”.

(5) Where the employer-financed benefit payable in respect of the transferred contributor is determined by reference to the notional accumulation of that contributor, the Board shall pay to the employer who employed that contributor on that contributor’s exit date an amount equal to—

(a) 0, or

(b) an amount calculated in accordance with the formula set out in subclause (6), whichever is the greater.

(6) The formula referred to in subclause (5) is as follows—

$$J = S \times \frac{A}{W}$$

where—

**A** represent the amount to be determined,

**E** represents the employer-financed benefit that would have been payable under the current Act but for this subclause, and

**N** represents the notional accumulation of the transferred contributor concerned.

(7) An amount payable to an employer under subclause (2) or (5) shall be paid from the appropriate reserve established by the Board.

(8) If the employer-financed benefit payable is reduced by the operation of subclause (2), the number of accrued benefit points for the transferred contributor shall be taken to have been reduced in proportion to the amount by which the benefit was reduced.

**11 Additional benefit for qualified transferred contributors**

(1) This clause applies to a transferred contributor who—

(a) becomes covered for the additional benefit under the current Act, or

(b) by virtue of clause 4 (transferred contributors), is taken to be covered for that additional benefit.

(2) If—

(a) a benefit becomes payable under section 38 of the current Act (benefit on death before early retirement age) or section 39 of that Act (benefit on total and permanent invalidity before early retirement age) to or in respect of a transferred contributor to whom this clause applies, or

(b) a benefit is paid under section 37 of that Act (benefit at or after early retirement or on death at or after early retirement age) and the Board is satisfied that a benefit would have been payable under section 38 or 39 of that Act if the early retirement age had been 60 years,

the lump sum benefit calculated in accordance with the formula specified in subclause (3) is payable to or in respect of that contributor.

(3) The formula referred to in subclause (2) is as follows—

$$J = S \times \frac{A}{W}$$

where—

**L** represents the amount to be calculated,

**S** represents the transferred contributor's final salary,

**P** represents the number of prospective benefit points which would have been calculated under clause 6 (4) if the early retirement age had been 65 years, and

**R** represents the number of prospective benefit points which would have been calculated under clause 6 (4).

(4) If, in applying the formula specified in subclause (3), P is not more than R, no lump sum is payable.

## **12 Minimum benefit for qualified transferred contributors**

(1) In this clause, a reference to an employer-financed benefit includes a lump sum benefit payable under clause 11 (additional benefit for qualified transferred contributors).

(2) This clause applies to a transferred contributor who—

(a) becomes covered for the additional benefit under the current Act, or

(b) by virtue of clause 4 (transferred contributors), is taken to be covered for that additional benefit,

and who in either case became a contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act.

(3) If—

(a) a benefit becomes payable under section 38 of the current Act (benefit on death before early retirement age) or section 39 of that Act (benefit on total and permanent invalidity before early retirement age) to or in respect of a transferred contributor to whom this clause applies and no election is made under clause 16 (1) or 17 (1), or

(b) a benefit is paid under section 37 of that Act (benefit at or after early retirement or on death at or after early retirement age) and the Board is satisfied that a benefit would have been payable under section 38 or 39 of that Act if the early retirement age had been 60 years,

the employer-financed benefit in respect of that contributor shall be not less than the amount determined in accordance with subclause (4).

(4) For the purposes of subclause (3), the amount referred to in that subclause is the sum of—

(a) the notional accumulation, and

(b) the amount calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**A** represents the amount to be calculated,

**M** represents the number under the heading “Multiplier of salary” in Schedule 1 opposite the age specified in years in that Schedule that was the age of the transferred contributor at that contributor’s exit date, and

**S** represents—

(a) if the transferred contributor contributed to the new Fund at the rate of 1 per cent of salary—two-sevenths of that contributor’s final salary,

(b) if the transferred contributor contributed to the new Fund at the rate of 2 per cent of salary—four-sevenths of that contributor’s final salary,

(c) if the transferred contributor contributed to the new Fund at the rate of 3 per cent of salary—six-sevenths of that contributor’s final salary, or

(d) if the transferred contributor contributed to the new Fund at a rate exceeding

3 per cent of salary—that contributor’s final salary.

- (5) In subclause (4), a reference to a rate, in relation to a transferred contributor, is a reference to the rate at which the contributor last elected or is taken to have last elected to contribute immediately before the benefit became payable.
- (6) If a benefit becomes payable to a transferred contributor to whom this clause applies under section 40 of the current Act (benefit on partial and permanent invalidity before early retirement age), the employer-financed benefit in respect of that contributor shall be not less than the notional accumulation.
- (7) If—
  - (a) a benefit becomes payable under section 37 of the current Act to or in respect of a transferred contributor to whom this clause applies,
  - (b) no election is made under clause 15 (pension rights—exit after age 60), and
  - (c) the employer-financed benefit would, but for the operation of this subclause, be reduced by the operation of clause 10 (benefit to be adjusted in certain circumstances),

the employer-financed benefit in respect of the person shall be not less than the notional accumulation.

### **13 Minimum benefit for transferred contributors not qualified**

- (1) This clause applies to a transferred contributor other than one who—
  - (a) becomes covered for the additional benefit under the current Act, or
  - (b) is taken, by virtue of clause 4 (transferred contributors), to be covered for that additional benefit,and who in either case became a contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act.
- (2) If—
  - (a) a benefit becomes payable in respect of a transferred contributor to whom this clause applies under section 38 of the current Act (benefit on death before early retirement age), and
  - (b) no election is made under clause 17 (pension rights—death),the employer-financed benefit in respect of that contributor shall be not less than the notional accumulation.
- (3) If a benefit under—

- (a) section 39 of the current Act (benefit on total and permanent invalidity before early retirement age), or
- (b) section 40 of that Act (benefit on partial and permanent invalidity before early retirement age),

becomes payable to a transferred contributor to whom this clause applies, the employer-financed benefit in respect of that contributor shall be not less than the notional accumulation.

(4) If—

- (a) a benefit becomes payable to or in respect of a transferred contributor to whom this clause applies under section 37 of the current Act (benefit at or after early retirement or on death at or after early retirement age),
- (b) no election is made under clause 15 (pension rights—exit after age 60), and
- (c) the employer-financed benefit would, but for the operation of this subclause, be reduced by the operation of clause 10 (benefit to be adjusted in certain circumstances),

the employer-financed benefit in respect of that contributor shall be not less than the notional accumulation.

#### **14 Debiting of accounts**

- (1) Whenever the Board pays a benefit in accordance with clause 11 (additional benefit for qualified transferred contributors) or clause 12 (minimum benefit for qualified transferred contributors), the Board shall—
  - (a) debit the Additional Benefit Reserve Fund established under the current Act with the amount of the additional benefit which would have been payable if an additional benefit had been paid under that Act, and
  - (b) debit the remainder to the appropriate employer reserve.
- (2) Whenever the Board pays a benefit in accordance with clause 13 (minimum benefit for transferred contributors not qualified), the Board shall debit the appropriate employer reserve with the difference between the amount of the benefit so paid and the amount that, but for that clause, would have been paid under the current Act.

#### **15 Pension rights—exit after age 60**

- (1) A transferred contributor who, having attained 60 years of age on or before the contributor's exit date, retires and thereby becomes entitled to be paid the benefit provided by section 37 of the current Act (benefit at or after early retirement or on death at or after early retirement age) may elect to convert to a pension in

accordance with clause 41 (employer-financed pension—normal retirement with reversion) benefit points to which the transferred contributor is entitled.

- (2) The benefit points to which the election referred to in subclause (1) relates are the transferred contributor's accrued benefit points.
- (3) Those benefit points which the transferred contributor does not elect to convert to a pension shall be applied towards payment of a lump sum in accordance with section 37 of the current Act.

## **16 Pension rights—total and permanent invalidity**

(1) If—

- (a) a transferred contributor becomes entitled to be paid the benefit provided by section 39 of the current Act (benefit on total and permanent invalidity before early retirement age), or
- (b) a transferred contributor retires and thereby becomes entitled to be paid the benefit provided by section 37 of the current Act (benefit at or after early retirement or on death at or after early retirement age) and the Board is satisfied that that contributor would have been entitled to be paid the benefit provided by section 39 of that Act if the early retirement age had been 60 years,

that contributor may elect to convert to a pension in accordance with clause 43 (employer-financed pension—invalidity with reversion) benefit points to which that contributor is entitled.

- (2) The benefit points to which the election referred to in subclause (1) relates are the transferred contributor's accrued benefit points, prospective benefit points and guaranteed pension points.
- (3) If the transferred contributor does not elect to convert all of the benefit points specified in subclause (2) into a pension, the proportion of accrued benefit points and prospective benefit points which was not so converted shall be applied to the payment of a lump sum in accordance with section 37 or 39 of the current Act, as the case may require.

## **17 Pension rights—death**

(1) If the spouse or de facto partner of a deceased transferred contributor becomes entitled to be paid—

- (a) the benefit provided by section 38 of the current Act (benefit on death before early retirement age), or
- (b) the benefit provided by section 37 of that Act (benefit at or after early retirement or on death at or after early retirement age),



that spouse or de facto partner may elect to convert to a pension in accordance with clause 44 (employer-financed pension—spouse or de facto partner) the benefit points to which that contributor was entitled at death.

- (2) The benefit points in respect of which an election under subclause (1) may be made are the accrued benefit points, prospective benefit points and guaranteed pension points which would have accrued in respect of the transferred contributor had the contributor become entitled to a benefit under section 39 of the current Act (benefit on total and permanent invalidity before early retirement age).
- (3) If the spouse or de facto partner of the transferred contributor does not elect to convert into a pension all of the benefit points referred to in subclause (2), the proportion of accrued benefit points and prospective benefit points which has not been so converted shall be applied towards the payment of a lump sum in accordance with section 37 or 39 of the current Act, as the case may require.

## 18 Payment of pensions

- (1) Subject to subclause (2), a pension is payable to or in respect of a former transferred contributor in accordance with Parts 6 and 7.
- (2) If a transferred contributor or a former transferred contributor dies leaving a dependent child, a pension is, subject to clause 46 (pensions in respect of children and orphans), payable in accordance with Part 6.

## Part 3 Special conditions for former retirement fund contributors

### 19 Definitions

In this Part—

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

**transferred contributor** means a person who has become a contributor by virtue of clause 3 of Schedule 3 to the current Act (savings and transitional provisions) after having become a contributor to the earlier Fund by virtue of Schedule 7 of the earlier Act (transitional provisions—New South Wales Retirement Fund).

### 20 Application of certain definitions to transferred contributors

- (1) For the purpose of applying the definition of **prospective benefit points** in section 36 of the current Act (definitions) to a transferred contributor, the reference in that definition to applicable contribution periods shall be construed as including any period occurring before that contributor's entry date where that period would have been taken into account in calculating a benefit payable to that contributor under the former Act—
  - (a) if the benefit had become payable immediately before 1 April 1988, and

(b) if the former Act had then been in force.

- (2) For the purpose of applying the definition of **average contribution rate per cent** in section 36 of the current Act to a transferred contributor, that definition shall be construed as if a reference in it to the sum of rates per cent of salary at which a contributor was liable to pay a contribution for a contribution period were a reference to the sum of benefit points accrued by the transferred contributor.

## 21 Contribution rates

- (1) A transferred contributor may contribute to the new Fund at a rate of contribution which is not 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent of the transferred contributor's salary, but no such contributor may contribute to that Fund more than 9 per cent of his or her salary.
- (2) A transferred contributor who does not, before 31 December in any year, make an election under section 27 of the current Act (variations of contribution rate) shall be taken to have made such an election specifying, in accordance with subsection (2) (b) of that section, a rate equal to the rate which applied in respect of that contributor on that date.
- (3) A transferred contributor referred to in subclause (1) who wishes to make an election under section 27 of the current Act may make that election by specifying the number of benefit points to be accrued for a superannuation year.
- (4) An election made in accordance with subclause (3) shall be taken to specify a rate per cent of the transferred contributor's salary sufficient to increase by the number of benefit points specified in the election the accrued benefit points for the superannuation year concerned.

## 22 Adjustment of points accrual—persons under age 59 years and 11 months

- (1) This clause applies to a transferred contributor who, on 1 April 1986, had not attained the age of 59 years and 11 months and who, on 1 April in any succeeding superannuation year, has not attained that age.
- (2) In this clause—

**adjusted points limit** means the number calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**A** represents the adjusted points limit to be determined, and

**L** represents one ninth of the maximum number of benefit points for which the

transferred contributor could have contributed in accordance with clause 7 of Schedule 7 to the earlier Act (transitional provisions—New South Wales Retirement Fund) in the superannuation year which commenced on 1 April 1987.

- (3) For the purposes of this clause, but subject to subclauses (4) and (5), for each 1 per cent of salary contributed to the new Fund by a transferred contributor for the superannuation year that commences on 1 April 1988, and each successive superannuation year, the number of benefit points accrued is—
  - (a) the number of points specified in Schedule 2, or
  - (b) the number of points that is equal to one-ninth of the adjusted points limit for the transferred contributor,whichever is the greater.
- (4) The maximum number of benefit points that may be accrued in any superannuation year by the application of subclause (3) (a) is 9.
- (5) The maximum number of benefit points that may be accrued in any superannuation year by the application of subclause (3) (b) is the adjusted points limit for the transferred contributor concerned.

### **23 Adjustment of points accrual—persons aged over 59 years and 11 months**

- (1) This clause applies to a transferred contributor who had attained the age of 59 years and 11 months on 1 April 1986.
- (2) The adjusted points limit for a transferred contributor to whom this clause applies shall be calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**L** represents the adjusted points limit to be calculated, and

**N** represents the number of benefit points accrued by the transferred contributor in accordance with clause 7 of Schedule 7 to the earlier Act (transitional provisions—New South Wales Retirement Fund) in the superannuation year which commenced on 1 April 1987.

- (3) A transferred contributor to whom this clause applies is required to contribute the percentage of salary determined in accordance with subclause (4) in order to accrue 1 benefit point.
- (4) The percentage of salary required to be contributed under subclause (3) is whichever of the following is the smaller—

(a) 1, or

(b) the number calculated by the following formula—

$$J = S \times \frac{A}{W}$$

where—

**K** represents the number to be calculated,

**C** represents the transferred contributor's contribution rate per cent as at 31 March 1988, and

**L** represents the adjusted points limit calculated in accordance with subclause (2).

(5) The maximum number of benefit points that may be accrued in any superannuation year by the operation of subclause (4) (b) is—

(a) the adjusted points limit for the transferred contributor, or

(b) 9,

whichever is the greater.

(6) A transferred contributor to whom this clause applies whose contribution rate per cent on 31 March 1988 is 0 shall be taken to have a contribution rate per cent of 1 and the Board may make such arrangements as it thinks fit in relation to the deduction of contributions for such a contributor.

#### **24 Pension rights—exit after age 60**

(1) A transferred contributor who, having attained 60 years of age on or before that contributor's exit date, retires and thereby becomes entitled to be paid the benefit provided by section 37 of the current Act (benefit at or after early retirement or on death at or after early retirement age) may elect to convert to a pension in accordance with—

(a) clause 40 (employer-financed pension—normal retirement without reversion), or

(b) clause 41 (employer-financed pension—normal retirement with reversion),

benefit points to which that contributor is entitled.

(2) The benefit points to which the election referred to in subclause (1) relates are the transferred contributor's accrued benefit points.

(3) Those benefit points which the transferred contributor does not elect to convert to a pension shall be applied to payment of a lump sum in accordance with section 37 of the current Act.

## **25 Pension rights—total and permanent invalidity**

(1) If—

- (a) a transferred contributor becomes entitled to be paid the benefit provided by section 39 of the current Act (benefit on total and permanent invalidity before early retirement age), or
- (b) a transferred contributor retires and thereby becomes entitled to be paid the benefit provided by section 37 of the current Act (benefit at or after early retirement or on death at or after early retirement age) and the Board is satisfied that that contributor would have been entitled to be paid the benefit provided by section 39 of that Act if the early retirement age had been 60 years,

that contributor may elect to convert to a pension in accordance with—

- (c) clause 42 (employer-financed pension—invalidity without reversion),
- (d) clause 43 (employer-financed pension—invalidity with reversion),

benefits points to which he or she is entitled.

- (2) The benefit points to which the election referred to in subclause (1) relates are the transferred contributor's accrued benefit points and prospective benefit points.
- (3) If the transferred contributor does not elect to convert all of the benefit points specified in subclause (2) into a pension, the proportion of accrued benefit points and prospective benefit points which was not so converted shall be applied towards the payment of a lump sum benefit in accordance with section 37 or 39 of the current Act, as the case may require.

## **26 Pension rights—death**

(1) If the spouse or de facto partner of a deceased transferred contributor becomes entitled to be paid—

- (a) the benefit provided by section 38 of the current Act (benefit on death before early retirement age), or
- (b) the benefit provided by section 37 of that Act (benefit at or after early retirement or on death at or after early retirement age),

that spouse or de facto partner may elect to convert to a pension in accordance with clause 44 (employer-financed pension—spouse or de facto partner) the benefit points to which that contributor was entitled at death.

- (2) The benefit points in respect of which an election under subclause (1) may be made are the accrued benefit points and prospective benefit points which would have accrued to the transferred contributor had that contributor become entitled to a

benefit under section 39 of the current Act (benefit on total and permanent invalidity before early retirement age).

- (3) If the spouse or de facto partner of a transferred contributor does not elect to convert to a pension all of the benefit points referred to in subclause (2), the proportion of accrued benefit points and prospective benefit points which has not been so converted shall be applied towards the payment of a lump sum benefit in accordance with section 37 or 38 of the current Act, as the case may require.

## **27 Payment of pensions**

A pension is payable to or in respect of a former transferred contributor in accordance with Parts 6 and 7.

## **28 Minimum benefit in certain cases**

- (1) If the amount of a benefit that would, but for this clause, be payable under—
- (a) section 38 of the current Act (benefit on death before early retirement age),
  - (b) section 39 of that Act (benefit on total and permanent invalidity before early retirement age), or
  - (c) section 40 of that Act (benefit on partial and permanent invalidity before early retirement age),

to or in respect of a transferred contributor would be less than a lump sum benefit calculated in respect of that contributor in accordance with subclause (2), the Board shall, instead of paying the first-mentioned benefit, pay that lump sum benefit to that contributor or, if the case so requires, to such person as would have been entitled under section 38 of that Act to the first-mentioned benefit.

- (2) The lump sum benefit referred to in subclause (1) shall be calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**Z** represents the lump sum benefit to be calculated,

**A** represents the final salary for the transferred contributor concerned, and

**N** represents the number of periods for that contributor which would have been applicable contribution periods for that contributor if—

- (a) the current Act had been in force at that contributor's entry date, and
- (b) that contributor had become a contributor under the current Act on that date.

- (3) Whenever the Board pays a benefit in accordance with this clause, it shall—
- (a) debit the Additional Benefit Reserve Fund with the amount of the additional benefit which would have been payable if an additional benefit had been paid under the current Act, and
  - (b) debit the remainder to the appropriate employer reserve.

## **Part 4 Special provisions for former transport fund contributors**

### **29 Definitions**

In this Part—

**former Act** means the *Transport Employees retirement Benefits Act 1967*.

**transferred contributor** means a person who has become a contributor by virtue of clause 3 of Schedule 3 to the current Act (savings and transitional provisions) after having become a contributor to the earlier Fund by virtue of the *Public Authorities Superannuation (Transport Retirement Fund Closure) Regulation 1986*.

### **30 Application of certain definitions to transferred contributors**

- (1) For the purpose of applying the definition of **prospective benefit points** in section 36 of the current Act (definitions) to a transferred contributor, the reference in that definition to applicable contribution periods shall be construed as including any period occurring before that contributor's entry date where that period would have been taken into account in calculating a benefit payable to that contributor under the *New South Wales Retirement Benefits Act 1972* if—
- (a) the benefit had become payable immediately before 1 April 1988,
  - (b) that contributor had been entitled to a benefit under that Act, and
  - (c) that Act had been in force at the relevant time.
- (2) For the purpose of applying the definition of **average contribution rate per cent** in section 36 of the current Act to a transferred contributor, that definition shall be construed as if a reference in it to the sum of the rates per cent of salary at which a contributor was liable to pay a contribution for a contribution period were a reference to the sum of benefit points accrued by the transferred contributor.

### **31 Pension rights—exit after age 60**

- (1) A transferred contributor who, having attained 60 years of age on or before the contributor's exit date, retires and thereby becomes entitled to be paid the benefit provided by section 37 of the current Act (benefit at or after early retirement or on death at or after early retirement age) may elect to convert to a pension in accordance with—

- (a) clause 40 (employer-financed pension—normal retirement without reversion), or
  - (b) clause 41 (employer-financed pension—normal retirement with reversion),
- benefit points to which that contributor is entitled.
- (2) The benefit points in respect of which an election may be made under subclause (1) are the transferred contributor's accrued benefit points.
  - (3) Those benefit points which the transferred contributor does not elect to convert to a pension shall be applied towards payment of a lump sum benefit in accordance with section 37 of the current Act.

### **32 Pension rights—total and permanent invalidity**

- (1) If—
  - (a) a transferred contributor becomes entitled to be paid the benefit provided by section 39 of the current Act (benefit on total and permanent invalidity before early retirement age), or
  - (b) a transferred contributor retires and thereby becomes entitled to be paid the benefit provided by section 37 of the current Act (benefit at or after early retirement or on death at or after early retirement age) and the Board is satisfied that a benefit would have been payable to that contributor under section 39 of that Act if the early retirement age had been 60 years,that contributor may elect to convert to a pension in accordance with—
  - (c) clause 42 (employer-financed pension—invalidity without reversion), or
  - (d) clause 43 (employer-financed pension—invalidity with reversion),benefit points to which that contributor is entitled.
- (2) The benefit points to which the election referred to in subclause (1) relates are the transferred contributor's accrued benefit points and prospective benefit points.
- (3) If the transferred contributor concerned does not elect to convert all of the benefit points specified in subclause (2) into a pension, the proportion of accrued benefit points and prospective benefit points which was not so converted shall be applied towards the payment of a lump sum benefit in accordance with section 37 or 39 of the current Act, as the case may require.

## **Part 5 Special provisions for certain former local government scheme**



## contributors

### 33 Definitions

In this Part—

**applicable month** has the meaning that that expression had under section 24 of the earlier Act (interpretation).

**former Act** means the *Local Government and Other Authorities (Superannuation) Act 1927*.

**notional accumulation**, in relation to a transferred contributor, means an amount equal to the sum of—

- (a) the amounts credited to the appropriate employer reserve established under the former fund in accordance with clause 6 (3) of the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986* in respect of that contributor,
- (b) in respect of each applicable month in relation to that contributor under the earlier Act, an amount equal to—
  - (i) 5.25 per cent of the salary of that contributor, multiplied by the salary ratio of that contributor in respect of that month as determined by the Board, based on the rate of salary determined under section 6 of the earlier Act (salary) in respect of that month, or
  - (ii) 1.5 times the contributions paid or payable by that contributor in that month under the earlier Act,whichever is the less, and
- (c) in respect of each applicable contribution period since 1 April 1988, an amount equal to—
  - (i) 5.25 per cent of the salary of that contributor, multiplied by the salary ratio of that contributor in respect of that period, based on the rate of salary determined under section 26 of the current Act (salary basis for contributions) in respect of that period, or
  - (ii) 1.5 times the contributions paid or payable by that contributor under the current Act,

whichever is the less,

together with interest at a rate or rates determined by the Board, but reduced by an amount or amounts calculated in such manner as the Board may determine in respect of the costs of administering the scheme and such other charges as may be determined by

the Board.

**transferred contributor** means a person who has become a contributor by virtue of clause 3 of Schedule 3 to the current Act (savings and transitional provisions) after having become a contributor to the earlier Fund by virtue of the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986*.

#### **34 Application of certain definition to transferred contributors**

For the purpose of applying the definition of **prospective benefit points** in section 36 of the current Act (definitions) to a transferred contributor, the reference in that definition to applicable contribution periods shall be construed in such a way as to exclude from calculation any service which occurred before that contributor's date of transfer to the earlier Fund under the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986*.

#### **35 Benefit to be adjusted in certain circumstances**

The provisions of clause 10 (benefit to be adjusted in certain circumstances) apply to a transferred contributor as if that contributor were a transferred contributor to whom Part 2 applies if the transferred contributor, in the opinion of the Board, has received, or will receive—

- (a) in the case of a transferred contributor whose service was terminated, or who died, before 1 July 1993—a gratuity under section 97 of the *Local Government Act 1919*, or
- (b) in the case of a transferred contributor whose service is terminated, or who dies, on or after that date—a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an employee of the council and calculated by reference to the period of the employee's service with the council.

#### **36 Minimum benefit for qualified transferred contributors**

- (1) This clause applies to a transferred contributor who—
  - (a) was, immediately before becoming a contributor to the earlier Fund, a contributor to the Superannuation Benefits Fund established under section 15S of the former Act, and
  - (b) becomes covered for the additional benefit under the current Act or, by virtue of clause 4 (transferred contributors), is taken to be covered for that additional benefit.
- (2) If a benefit under—
  - (a) section 38 of the current Act (benefit on death before early retirement age), or
  - (b) section 39 of that Act (benefit on total and permanent invalidity before early retirement age),

becomes payable to or in respect of a transferred contributor to whom this clause applies, the employer-financed benefit shall be not less than the amount determined under subclause (3).

- (3) The amount to be determined for the purposes of subclause (2) is the sum of—
- (a) the notional accumulation, and
  - (b) the amount calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**A** represents the amount to be calculated,

**M** represents the number under the heading “Multiplier of salary” in Schedule 1 opposite the age specified in years in that Schedule that was the age of the transferred contributor concerned at that contributor’s exit date, and

**S** represents—

- (a) if the transferred contributor contributed to the new Fund at the rate of 1 per cent of salary—two-sevenths of the transferred contributor’s final salary,
  - (b) if the transferred contributor contributed to the new Fund at the rate of 2 per cent of salary—four-sevenths of the transferred contributor’s final salary,
  - (c) if the transferred contributor contributed to the new Fund at the rate of 3 per cent of salary—six-sevenths of the transferred contributor’s final salary, or
  - (d) if the transferred contributor contributed to the new Fund at a rate exceeding 3 per cent of salary—the transferred contributor’s final salary.
- (4) In subclause (3), a reference to a rate, in relation to a transferred contributor, is a reference to the rate at which the contributor last elected or is taken to have last elected to contribute immediately before the benefit became payable.

### **37 Debiting of accounts**

Whenever the Board pays a benefit in accordance with clause 36 (minimum benefit for qualified transferred contributors), the Board shall—

- (a) debit the Additional Benefit Reserve Fund with the amount of the additional benefit which would have been payable if an additional benefit had been paid under the Act, and
- (b) debit the remainder to the appropriate employer reserve.

## Part 6 Pensions

### 38 Election by transferred contributor to take pension benefit

- (1) An election by a transferred contributor or the spouse or de facto partner of a transferred contributor to take a pension benefit under this Regulation shall—
  - (a) be in a form approved by the Board,
  - (b) be signed by that contributor or spouse or de facto partner, as the case requires,
  - (c) specify such matters and be accompanied by such information as the Board may require,
  - (d) specify the proportion of benefit points to be converted to a pension, the proportion being the same for each class of benefit points which may be so converted, and
  - (e) be lodged at the office of the Board within the period of 3 months (or such extended period as the Board may in special circumstances allow) that immediately follows that contributor's exit date or, if the case requires, the day on which that contributor died.
- (2) The Board is entitled to act on the information provided in accordance with subclause (1).

### 39 Payment of pension benefit

- (1) If a transferred contributor has elected to take a pension benefit under this Regulation, that benefit shall be calculated with effect from that contributor's exit date and is payable in equal fortnightly instalments.
- (2) If the spouse or de facto partner of a deceased transferred contributor has elected to take a pension benefit under this Regulation, that benefit shall be calculated with effect from the date of death of that contributor and is payable in equal fortnightly instalments.

### 40 Employer-financed pension—normal retirement without reversion

- (1) When an election is made by a transferred contributor to take the pension benefit provided by this clause, the pension shall be calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**P** represents the annual pension payable,

**S** represents the transferred contributor's final average salary,

**C** represents the number of benefit points to which the election relates, and

**T** represents the number of whole years by which that contributor's exit date precedes the date of his or her 65th birthday.

- (2) For the purposes of symbol "T" in subclause (1), a fraction of a year which does not form part of a whole year counts as a whole year.

#### **41 Employer-financed pension—normal retirement with reversion**

When an election is made by a transferred contributor to take the pension benefit provided by this clause, the pension shall be calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**P**, **S**, **C** and **T** have the same meanings as in clause 40 (employer-financed pension—normal retirement without reversion).

#### **42 Employer-financed pension—invalidity without reversion**

When an election is made by a transferred contributor to take the pension benefit provided by this clause, the pension shall be calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**P** and **C** have the same meanings as in clause 40 (employer-financed pension—normal retirement without reversion), and

**S** represents the transferred contributor's final salary.

#### **43 Employer-financed pension—invalidity with reversion**

When an election is made by a transferred contributor to take the pension benefit provided by this clause, the pension shall be calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**P** and **C** have the same meanings as in clause 40 (employer-financed pension—normal retirement without reversion), and

**S** represents the transferred contributor's final salary.

#### **44 Employer-financed pension—spouse or de facto partner**

When an election is made by the spouse or de facto partner of a deceased transferred contributor to take the pension benefit provided by this clause, the pension shall be calculated in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where—

**P** and **C** have the same meanings as in clause 40 (employer-financed pension—normal retirement without reversion), and

**S** represents—

- (a) the transferred contributor's final average salary if that contributor died after attaining the age of 60 years, or
- (b) the transferred contributor's final salary if that contributor died before attaining that age.

#### **45 Duration of pensions**

(1) If a pension under clause 41 (employer-financed pension—normal retirement with reversion) or clause 43 (employer-financed pension—invalidity with reversion) is payable—

- (a) that pension is payable during the lifetime of the transferred contributor, and
- (b) on the death of that contributor, a pension is payable to the spouse or de facto partner of that contributor for life at an annual rate equal to 62.5% of the annual rate of pension that was payable to that contributor immediately before that death.

(2) If a pension under clause 40 (employer-financed pension—normal retirement without

reversion) or clause 42 (employer-financed pension—invalidity without reversion) is payable, that pension is payable only during the lifetime of the transferred contributor concerned.

(3) If a pension under clause 44 (employer-financed pension—spouse or de facto partner) is payable, that pension is payable only during the lifetime of the spouse or de facto partner of the transferred contributor concerned.

(4) In this clause—

***spouse or de facto partner***, in relation to a pension payable under clause 41, 43 or 44, means the person who was the spouse or de facto partner of the transferred contributor concerned at the time when the election to take the pension was made.

#### **45A Pensions for certain spouses and de facto partners**

(1) If a pension under clause 41 or 43 is payable to a transferred contributor, on the death of that contributor a pension as referred to in clause 45 (1) (b) is, despite clause 45 (4), payable to the spouse or de facto partner of the deceased contributor if the spouse or de facto partner—

(a) became such a spouse or partner after the deceased contributor elected to take the pension, and

(b) has or had in his or her marriage or relationship with the deceased contributor a child, being—

(i) a child of the spouse or de facto partner and the deceased contributor who was, in the opinion of the Board, wholly or substantially dependent on the deceased contributor at any time during the marriage or relationship, or

(ii) a child of the deceased contributor who was conceived before and born alive after the death of the contributor, and

(c) had been married to or the de facto partner of the deceased contributor for 3 years or more immediately before the death of the contributor.

(2) If a pension under clause 41 or 43 is payable to a transferred contributor, on the death of that contributor a pension as referred to in clause 45 (1) (b), reduced on a pro rata basis according to the proportion that the period of the marriage or relationship bears to 3 years, is, despite clause 45 (4), payable to the spouse or de facto partner of the deceased contributor if the spouse or de facto partner—

(a) satisfies the requirements of subclause (1) (a) and (b), and

(b) had been married to or the de facto partner of the deceased contributor for less than 3 years immediately before the death of the contributor.

#### 46 Pensions in respect of children and orphans

(1) In this clause—

**dependent child**, in relation to a deceased transferred contributor, means—

- (a) a child of that contributor who has not attained 16 years of age, or
- (b) a child of that contributor, who has attained 16 years of age but not 25 years of age and who is, in the opinion of the Board, receiving full-time education at a school, college or university and not ordinarily employed or engaged in working for remuneration,

and who in either case was, in the opinion of the Board, wholly or substantially dependent on the transferred contributor immediately before that contributor's death.

**notional pension**, in relation to the spouse or de facto partner of a deceased transferred contributor or pensioner, means—

- (a) where the spouse or de facto partner is entitled to receive the pension provided by clause 41 (employer-financed pension—normal retirement with reversion), the pension that would have been payable to the deceased if he or she had elected to take the pension so provided and had lived, or
- (b) where the spouse or de facto partner is entitled to receive the pension provided by clause 44 (employer-financed pension—spouse or de facto partner), the pension that would have been payable to the deceased if he or she had suffered total and permanent invalidity instead of death and had elected to take the pension provided by clause 43 (employer-financed pension—invalidity with reversion).

**pensioner** means a person entitled to receive a pension payable in accordance with clause 15 (pension rights—exit after age 60), clause 16 (pension rights—total and permanent invalidity) or clause 17 (pension rights—death).

**transferred contributor** means a person who has become a contributor by virtue of clause 3 of Schedule 3 to the current Act (savings and transitional provisions) after having become a contributor to the earlier Fund by virtue of the operation of Schedule 6 to the earlier Act (transitional provisions—Local Government Pension Fund).

- (2) The provisions of this clause apply to the spouse or de facto partner of a deceased pensioner in the same way as they apply to the spouse or de facto partner of a deceased transferred contributor.
- (3) If a transferred contributor or a pensioner dies leaving a dependent child, the Board shall—
  - (a) in respect of the child, pay a pension to the spouse or de facto partner of that



deceased contributor or pensioner or the guardian of the child, or

(b) if the Board thinks fit, expend the pension for the benefit of the child in such manner as it may determine.

(4) A pensioner in respect of whom there exists a notional pension is entitled to only so much of the pension or pensions under subclause (3) as would, when added to the pensioner's actual pension, not exceed that notional pension.

(5) A pension payable under subclause (3) ceases to be payable in respect of a child when the child ceases to be a dependent child.

(6) Subject to any periodical adjustment effected as a result of the operation of Part 7, the rate of pension payable under subclause (3) in respect of a child is—

(a) if a parent of the child is living, a fortnightly amount of \$58.86, or

(b) in any other case, a fortnightly amount of \$139.76.

## Part 7 Periodic adjustment of pensions

### 47 Definitions

(1) In this Part—

**adjustment date**, in relation to an adjustment period, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that adjustment period.

**adjustment percentage**, in relation to an adjustment period, means, subject to clause 49 (2), the percentage for that period calculated in accordance with clause 49 (Calculation of adjustment percentage).

**adjustment period** means—

(a) the period of 6 months beginning on 1 January 1989, or

(b) the period of 12 months beginning on 1 July 1989, or

(c) the period of 12 months beginning on 1 July in any subsequent year,

as the case requires.

**December quarter** means the quarter commencing on 1 October in each year.

**index number**, in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Commonwealth Statistician under the *Census and Statistics Act 1905* of the Commonwealth.

**June quarter** means the quarter commencing on 1 April in each year.

**quarter**, in relation to a year, means the period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in that year.

- (2) If a pension is to be adjusted under this Part by reference to the adjustment percentage for an adjustment period, a reference (however expressed) in this Part to adjusting the pension is a reference to—
- (a) where the adjustment percentage is calculated in accordance with the formula set out in clause 49 (1) (a)—increasing the pension, or
  - (b) where the adjustment percentage is calculated in accordance with the formula set out in clause 49 (1) (b)—reducing the pension.

#### **48 Restriction on automatic adjustment of pension**

- (1) If the Board is of the opinion that an increase in accordance with this Part in the pension payable to a person would prejudicially affect that person as regards some advantageous situation in which, but for being so affected, that person would be placed, the Board may—
- (a) determine not to pay the amount of the increase, or
  - (b) determine to pay a specified increase of a lesser amount, or
  - (c) determine to decrease the pension to a specified amount.
- (2) A determination made under subclause (1) has effect according to its tenor, and once the determination has had effect a person is not entitled to be paid or to recover any amount that would have been payable but for the determination.
- (3) A determination made under subclause (1) must be disregarded in calculating a pension payable to the spouse of a deceased pensioner to whom the determination relates but such a determination may be made in relation to the pension so calculated.

#### **49 Calculation of adjustment percentage**

- (1) For the purposes of the definition of **adjustment percentage** in clause 47 (1), the percentage for an adjustment period is to be calculated—
- (a) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period was greater than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was greater than the index number for the immediately preceding June quarter—in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

- (b) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period was less than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was less than the index number for the immediately preceding June quarter—in accordance with the following formula—

$$J = S \times \frac{A}{W}$$

where, in the case of either formula—

**P** represents the percentage to be obtained, and

**C** represents the index number for the June quarter in the adjustment period concerned, and

**L** represents the index number for the immediately preceding December quarter or the immediately preceding June quarter, as the case requires.

- (2) There is to be no adjustment percentage for an adjustment period if—
- (a) the percentage calculated for a year in accordance with subclause (1) (b) is less than 1.1%, or
  - (b) the Index number for the June quarter in that year is the same as the Index number for the immediately preceding June quarter.
- (3) If there is to be no adjustment percentage for an adjustment period, then, for the purposes of calculating the percentage for the next adjustment period—
- (a) the index number for the June quarter in the first-mentioned period is to be taken to have not been published, and
  - (b) the index number for that quarter is to be taken to be the same as the index number for the June quarter in the last year for which there was an adjustment percentage.
- (4) If at any time, whether before, on or after 1 January 1989, the Commonwealth Statistician has published, or publishes in respect of a particular June quarter an index number in substitution for an index number previously published by him or her in respect of that quarter, then, for the purposes of this Part—
- (a) except as provided in paragraph (b)—the publication of the later index number

must be disregarded, or

(b) if the Minister so directs—after the direction is given, regard must be had to the later and not to the earlier index number.

(5) Despite subclause (4), if at any time after 1 January 1989 the Commonwealth Statistician has changed the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Part (after the change takes place), regard must be had only to index numbers published in terms of the new reference base.

(6) The substitution of subclause (2) by the *State Authorities Superannuation (Transitional Provisions) Amendment Regulation 2002* does not affect the calculation of an adjustment percentage for an adjustment period if the June quarter in that year ended before the commencement of subclause (2) as so substituted.

#### **50 Adjustment of pensions: general cases**

(1) Subject to this Part, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this clause applies is adjusted, on and from that adjustment date, by that percentage.

(2) This clause applies—

(a) to a person who last became a pensioner on or before the first day of that particular adjustment period concerned, and

(b) to a person who is the spouse of a deceased pensioner, where that deceased pensioner last became a pensioner on or before the first day of the particular adjustment period concerned and died before the adjustment date for that period.

#### **51 Adjustment of pensions: partial adjustment**

(1) This clause applies—

(a) to a person who last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following, and

(b) to a person who is the spouse of a deceased pensioner, where that deceased pensioner last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following and died before the adjustment date for that adjustment period.

(2) Subject to this Part, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this clause applies is adjusted, on and from that adjustment date, by the

percentage calculated in accordance with the formula set out in subclause (3).

(3) The formula referred to in subclause (2) is—

(a) where the adjustment period is the adjustment period beginning on 1 January 1989,

$$J = S \times \frac{A}{W}$$

(b) where the adjustment period is the adjustment period beginning on 1 July 1989 or on 1 July in any subsequent year—

$$J = S \times \frac{A}{W}$$

where, in the case of either formula—

**A** represents the percentage by which the pension is to be adjusted, and

**P** represents the adjustment percentage for the particular adjustment period, and

**Q** represents the number of whole quarters of the particular adjustment period, being the whole quarters after, and (if applicable) the whole quarter on the first day of which—

(a) in the case of a person referred to in subclause (1) (a)—the person last became a pensioner, or

(b) in the case of a person referred to in subclause (1) (b)—the deceased spouse of that person last became a pensioner.

## **52 Minimum amount to which pensions may be reduced**

Irrespective of anything in this Part—

(a) a pension (other than a pension payable to a person by virtue of that person being the spouse of a pensioner) must not be reduced below the fortnightly amount that would have been payable but for this Part, and

(b) a pension payable to a person by virtue of that person being the spouse of a pensioner must not be reduced below the fortnightly amount that would have been payable by reference to the pension that would have been payable to the former pensioner but for this Part.

## **53 Calculation of percentages**

If a percentage that is calculated under this Part is or includes a fraction of one-tenth of 1 per cent, then—

- (a) if the fraction is less than one-half of one-tenth—the fraction is to be disregarded, and
- (b) if the fraction is not less than one-half of one-tenth—the fraction is to be treated as one-tenth.

### Schedule 1 Scale for calculating additional death benefits and additional disablement benefits

(Clauses 12, 36)

Age in years at exit date	Multiplier of salary	Age in years at exit date	Multiplier of salary
20, or under 20	6.0	40	2.50
21	5.8	41	2.35
22	5.6	42	2.20
23	5.4	43	2.05
24	5.2	44	1.90
25	5.0	45	1.75
26	4.8	46	1.60
27	4.6	47	1.45
28	4.4	48	1.30
29	4.2	49	1.15
30	4.0	50	1.00
31	3.85	51	0.9
32	3.70	52	0.8
33	3.55	53	0.7
34	3.40	54	0.6
35	3.25	55	0.5
36	3.10	56	0.4
37	2.95	57	0.3
38	2.80	58	0.2
39	2.65	59	0.1
		60, or over 60	0

### Schedule 2 Concessional contribution scale for former retirement fund contributors

(Clause 22)

(Points accrued for 1% contribution for 1 year for the superannuation year commencing on 1 April in the year shown for the age next birthday on 1 April in column 1)

AGE	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
18	3.73																		
19	3.58	3.58																	
20	3.45	3.45	3.45																
21	3.32	3.32	3.32	3.32															
22	3.19	3.19	3.19	3.19	3.19														

23	3.07	3.07	3.07	3.07	3.07	3.07	3.07													
24	2.95	2.95	2.95	2.95	2.95	2.95	2.95	2.95												
25	2.84	2.84	2.84	2.84	2.84	2.84	2.84	2.84	2.84											
26	2.73	2.73	2.73	2.73	2.73	2.73	2.73	2.73	2.73	2.73										
27	2.62	2.62	2.62	2.62	2.62	2.62	2.62	2.62	2.62	2.62	2.62									
28	2.52	2.52	2.52	2.52	2.52	2.52	2.52	2.52	2.52	2.52	2.52	2.52								
29	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42							
30	2.32	2.32	2.32	2.32	2.32	2.32	2.32	2.32	2.32	2.32	2.32	2.32	2.32	2.32						
31	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12	2.12					
32	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94	1.94				
33	1.89	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78	1.78			
34	1.83	1.73	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63	1.63		
35	1.77	1.68	1.59	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	1.50	
36	1.71	1.64	1.55	1.47	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37	1.37
37	1.66	1.60	1.52	1.44	1.35	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27	1.27
38	1.61	1.55	1.49	1.41	1.34	1.25	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17	1.17
39	1.56	1.51	1.45	1.39	1.32	1.24	1.16	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08	1.08
40	1.51	1.48	1.42	1.36	1.30	1.22	1.15	1.07	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
41	1.47	1.43	1.39	1.34	1.28	1.22	1.14	1.07	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
42	1.42	1.40	1.36	1.32	1.26	1.20	1.14	1.07	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
43	1.36	1.36	1.33	1.29	1.24	1.19	1.13	1.06	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
44	1.27	1.30	1.30	1.27	1.22	1.17	1.12	1.06	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
45	1.22	1.22	1.24	1.24	1.20	1.16	1.12	1.06	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
46	1.17	1.17	1.17	1.19	1.19	1.15	1.10	1.05	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
47	1.13	1.12	1.12	1.12	1.14	1.14	1.09	1.05	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
48	1.08	1.08	1.08	1.08	1.08	1.09	1.09	1.04	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
49	1.04	1.04	1.04	1.04	1.04	1.04	1.04	1.04	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
50+	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00