

Public Authorities Superannuation (Closed Local Government Schemes Transfer) (Savings and Transitional) Regulation 1986

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New South Wales

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New South Wales

1 Name of Regulation

This Regulation may be cited as the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) (Savings and Transitional) Regulation 1986*.

2 Interpretation

(1) In this Regulation:

Benefits Fund means the Superannuation Benefits Fund established under section 15S of the earlier Act.

contributor to the Benefits Fund means a person in respect of whom contributions are made to the Benefits Fund.

contributor to the Provident Fund means a person in respect of whom contributions are made to the Provident Fund.

current insurance policy, in relation to a person, means an insurance policy in force in respect of that person that was effected by that person or accepted by the Local Government Superannuation Board under Part 2 of the earlier Act and that is kept in force by the payment of the premiums thereon under section 6 of the earlier Act.

date of transfer, in relation to a person, means the date on which the election by the person in accordance with clause 4, 5 or 6 to contribute to the Fund takes effect.

Provident Fund means the Local Government Provident Fund established under section 8 of the earlier Act.

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

the Board means the Public Authorities Superannuation Board continued by the Act.

the earlier Act means the *Local Government and Other Authorities (Superannuation)*

Act 1927.

the election period means the period commencing on and including 1 September 1986 and ending on and including 31 March 1988.

the Fund means the Public Authorities Superannuation Fund established, maintained and managed by the Board in accordance with the Act.

transferred contributor means a person whose election to contribute to the Fund in accordance with clause 4, 5 or 6 has taken effect.

(2) In relation to a transferred contributor:

- (a) the definition of **accrued benefit points** in section 24 of the Act shall be construed as if a reference in that definition to contributed points figures included a reference to the number of transferred benefit points for the contributor calculated in accordance with clause 10,
- (b) the definition of **average contribution rate per cent** in section 24 of the Act shall be construed for the purposes only of the definition of **prospective benefit points** in that section as if a reference in the firstmentioned definition to an applicable month were a reference to an applicable month occurring after the transferred contributor's date of transfer, and
- (c) the contributor's entry date shall be deemed to be the date on which the transferred contributor last became subject to the provisions of the earlier Act.

3 Operation

The provisions of this Regulation operate in addition to, and have effect notwithstanding, any provision of the Act or the earlier Act.

4 Election by insurance policy holders to join the Fund

- (1) Within the election period, a person who is the holder of a current insurance policy may, subject to section 55 of the Act (making of elections and applications):
 - (a) apply to surrender or to have cancelled all current insurance policies in the person's name and direct payment to the Board of any money payable in respect of the surrender or cancellation,
 - (b) if the person has any amount standing to the person's credit in the Provident Fund, apply to have that amount transferred to the Fund, and
 - (c) elect under section 11 of the Act to contribute to the Fund.
- (2) Subclause (1) does not apply to a person who has at any time been exempted from the obligation to effect insurance under section 4 of the earlier Act by virtue of section 7 (1) (c) of the earlier Act, unless the person has subsequently been informed that an

insurance company will accept the risk of that insurance as mentioned in section 7A (1) of the earlier Act.

- (3) An election takes effect on the first day of a month to be determined by the Board.
- (4) Where an election by a person takes effect, the Board shall:
 - (a) cause the insurance policies to be surrendered or cancelled,
 - (b) pay the proceeds of the surrender or cancellation to the Fund,
 - (c) transfer any amount standing to the person's credit in the Provident Fund to the Fund, and
 - (d) of the amounts paid or transferred under paragraph (b) or (c):
 - (i) credit 50 per cent to the contributor's account established under section 9 (1) of the Act, and
 - (ii) credit 50 per cent to the appropriate employer reserve established in the Fund under section 9 of the Act.
- (5) A person referred to in subclause (1) who becomes a transferred contributor shall:
 - (a) pay the death and disability levy in accordance with section 12 (6) of the Act on and from the date of transfer, and
 - (b) be deemed to do so pursuant to an approved application under section 12 of the Act.

5 Election by contributors to Provident Fund to join the Fund

- (1) Within the election period, a person (not being a person entitled to make an application and election under clause 4) who is, when he or she makes the application referred to in this subclause, a contributor to the Provident Fund may, subject to section 55 of the Act (making of elections and applications):
 - (a) apply to have transferred to the Fund the amount standing to his or her credit in the Provident Fund,
 - (b) if the person is the holder of any current insurance policies, apply to surrender or to have cancelled those insurance policies and direct payment to the Board of any money payable in respect of the surrender or cancellation, and
 - (c) elect under section 11 of the Act to contribute to the Fund.
- (2) An election takes effect on the first day of a month to be determined by the Board.
- (3) Where an election by a person takes effect, the Board shall:

- (a) transfer the amount standing to that person's credit in the Provident Fund to the Fund,
 - (b) cause any insurance policies referred to in subclause (1) (b) to be surrendered or cancelled,
 - (c) pay the proceeds of the surrender or cancellation to the Fund, and
 - (d) of the amounts transferred or paid under paragraph (a) or (c):
 - (i) credit 50 per cent to the contributor's account established under section 9 (1) of the Act, and
 - (ii) credit 50 per cent to the appropriate employer reserve established in the Fund under section 9 of the Act.
- (4) A person referred to in subclause (1) may, before becoming a contributor, make an application under section 12 of the Act (additional benefit) but, subject to that section, nothing prevents a person so referred to from making such an application after becoming a contributor.

6 Election by contributors to Benefits Fund to join the Fund

- (1) Within the election period, a person who is, when he or she makes the election referred to in this subclause, a contributor to the Benefits Fund may, subject to section 55 of the Act (making of elections and applications), elect under section 11 of the Act to contribute to the Fund.
- (2) An election takes effect on the first day of a month to be determined by the Board.
- (3) Where an election by a person takes effect, the Board shall:
 - (a) transfer the amount standing to that person's credit in the Benefits Fund to the Fund,
 - (b) in respect of an amount equal to the amounts (if any) transferred or paid to that person's servant's account in the Benefits Fund under section 15K (3) (b) or (c) or 15L (9) (a) or (c) of the earlier Act:
 - (i) credit 50 per cent to the contributor's account established under section 9 (1) of the Act, and
 - (ii) credit 50 per cent to the appropriate employer reserve established in the Fund under section 9 of the Act, and
 - (c) in respect of the balance of the amount transferred under paragraph (a):
 - (i) credit 40 per cent to the contributor's account established under section 9 (1) of the Act, and

(ii) credit 60 per cent to the appropriate employer reserve established in the Fund under section 9 of the Act.

(4) A person referred to in subclause (1) who is qualified for additional death benefits and additional disablement benefits (within the meaning of Part 3B of the earlier Act) and who becomes a transferred contributor shall:

(a) pay the death and disability levy in accordance with section 12 (6) of the Act on and from the date of transfer, and

(b) be deemed to do so pursuant to an approved application under section 12 of the Act.

(5) A person referred to in subclause (1) who is not qualified for additional death benefits and additional disablement benefits (within the meaning of Part 3B of the earlier Act) may, before becoming a contributor, make an application under section 12 of the Act (additional benefit) but, subject to that section, nothing prevents a person so referred to from making such an application after becoming a contributor.

7 Employees with 30 years' service entitled to death and disability cover

Where a transferred contributor whose entry date was at least 30 years before 1 July 1985 makes an application under section 12 of the Act (additional benefit) not later than on 30 June 1988, the Board shall approve the application without requiring the contributor to submit to a medical examination.

8 Applicable salary for former contributors to Provident Fund

Where a person is a contributor to the Provident Fund when he or she becomes a transferred contributor and the contributions to the Provident Fund were calculated as a percentage of the person's salary, the person's contributions to the Fund during the superannuation year that commences on 1 April following that person's transfer shall be based on the salary paid to the person by his or her employer at the rate applicable as at 31 December last preceding the commencement of that superannuation year.

9 Cessation of application of the earlier Act

Where a person is a contributor to the Provident Fund or the Benefits Fund when he or she becomes a transferred contributor:

(a) the person ceases to be a contributor to the Provident Fund or the Benefits Fund, as the case requires, and

(b) a benefit under the earlier Act is not payable to or in relation to that person.

10 Benefit points to be credited

(1) The number of transferred benefit points for a transferred contributor is the number determined by the Board, having regard to the information available to it, as the

number of transferred benefit points that the transferred contributor has accrued in accordance with Schedule 1.

- (2) The Board may round off the number of a contributor's accrued transferred benefit points to one or more decimal places, as it thinks fit.

11 Benefit to be adjusted in certain circumstances

- (1) Where:

(a) a gratuity is payable under section 97 of the *Local Government Act 1919* to a transferred contributor, and

(b) the transferred contributor becomes entitled under the Act to payment of a benefit that includes an employer-financed benefit,

the amount of the employer-financed benefit shall, if necessary, be reduced to the extent that will ensure that the total of the gratuity and the employer-financed benefit does not exceed the maximum employer-financed benefit.

- (2) In subclause (1):

maximum employer-financed benefit, in relation to a transferred contributor, means the employer-financed benefit that would have been payable to the transferred contributor if it had been based on the maximum benefit points for the contributor.

12 Guarantee

- (1) This clause applies to a person who is a contributor to the Benefits Fund when he or she becomes a transferred contributor and who:

(a) was qualified for additional death benefits and additional disablement benefits (within the meaning of Part 3B of the earlier Act), or

(b) if not so qualified, is subsequently accepted for additional benefit cover pursuant to section 12 of the Act.

- (2) Notwithstanding any other provision of this Regulation, where:

(a) a benefit under the Act becomes payable to, or in relation to, a person to whom this clause applies, and

(b) in the opinion of the Board, a greater benefit would have been payable under section 15BN (4), 15BUC (3) or 15BUF (2) of the earlier Act if the person had not become a transferred contributor and those sections had applied to or in respect of the person,

the Board shall, instead of paying the benefit that became payable under the provisions of the Act, pay the same benefit as that which would have been payable

under section 15BN (4), 15BUC (3) or 15BUF (2) of the earlier Act.

- (3) Whenever the Board pays a benefit pursuant to subclause (2), the Board shall debit to the appropriate employer reserve established in the Fund under section 9 of the Act (certain accounts and reserves to be established) the difference between the amount of the benefit so paid and the amount that, but for subclause (2), would have been paid under the Act.

13 Transfer of former contributors under earlier Act

- (1) In this clause:

exit date, in relation to a former employee, means the day on which the former employee ceased employment with an employer, that cessation of employment being:

- (a) the only such cessation of employment of the former employee, or
- (b) where there was more than one such cessation of employment of the former employee—the later or latest of those cessations of employment,

or, if the former employee attained the age of 65 years before any such cessation of employment, the day on which the former employee attained that age.

former employee means a person who, immediately before 1 July 1985, was the holder of a current insurance policy or was a contributor to the Provident Fund or the Benefits Fund and:

- (a) who ceased to be such a holder or contributor before the commencement of this Regulation, or
- (b) who, having made a valid election in accordance with clause 4, 5 or 6 before 1 January 1987, ceased to be such a holder or contributor before the election took or takes effect.

- (2) This clause does not apply to any former employee who was the holder of a current insurance policy or was a contributor to the Provident Fund or the Benefits Fund and who resigned from his or her employment if, in the opinion of the Board, the former employee will be paid, or has been paid, a supplementary benefit:

- (a) specified under an industrial award or agreement, or
- (b) at the discretion of the former employee's employer.

- (3) A former employee shall be deemed to have made an election under section 11 of the Act (election to contribute to the Fund) which took effect on the day immediately preceding his or her exit date and, with respect to such an election, section 11 of the Act shall be construed as if subsections (2) and (3) of that section had not been enacted.

- (4) A former employee is not entitled to apply for or be granted additional benefit cover under section 12 of the Act (additional benefit).
- (5) Where, by virtue of subclause (3), a former employee is deemed to have become a contributor, the Board shall calculate the benefit that would have been payable to that former employee under the provisions of the Act.
- (6) For the purposes of calculating the benefit referred to in subclause (5) in relation to a former employee:
 - (a) the number of accrued benefit points used in that calculation is the number of transferred benefit points which would have applied to the former employee if the former employee had been a transferred contributor,
 - (b) the contributor-financed benefit is the amount that would have been credited to the contributor's account if the former employee had become a transferred contributor on the day immediately preceding his or her exit date, and
 - (c) where the benefit is to be calculated according to section 30 (2) of the Act, the term Y in that section shall be construed as if it had the same meaning as the term A in that section.
- (7) Where the benefit calculated in accordance with subclause (5) exceeds the total amount of benefit that was payable or was paid under the provisions of the earlier Act, the difference shall be paid as a supplementary benefit.
- (8) The supplementary benefit payable under subclause (7) shall be paid as a lump sum:
 - (a) subject to paragraphs (b) and (c)—to the former employee to whom the benefit calculated under the provisions of the earlier Act was paid,
 - (b) where that former employee has since died—to the spouse or personal representative of the former employee or in accordance with the provisions of section 58 of the Act (payment without grant of probate etc), or
 - (c) where that former employee is, in the opinion of the Board, incapable of administering his or her affairs by reason of illness, imprisonment or any other cause—in accordance with the provisions of section 62 of the Act (payment where beneficiary incapable).
- (9) Where the Board pays a supplementary benefit pursuant to subclause (7), the Board shall debit the amount of that benefit to the appropriate employer reserve established in the Fund under section 9 of the Act (certain accounts and reserves to be established).
- (10) Where the employment of a former employee ended by resignation or retrenchment after less than 10 years since the date on which the former employee last became

subject to the provisions of the earlier Act, that former employee may, subject to section 55 of the Act (making of elections and applications), elect to take advantage of section 32 of the Act (preserved benefit) provided that the former employee repays to the Board, or makes arrangements satisfactory to the Board for the payment of:

- (a) the amount of any benefit paid or payable under the earlier Act,
- (b) the amount of the supplementary benefit, if any, paid or payable in accordance with subclause (7), and
- (c) interest on that amount or those amounts at a rate determined by the Board.

(11) Where a former employee to whom subclause (10) applies elects to take advantage of section 32 of the Act as provided by that subclause, the provisions of that section apply to that former employee in the same way as they apply to a contributor.

(12) Where a former employee who was a contributor to the Benefits Fund resigned or was dismissed, the amount referred to in section 15Y (1) (b) of the earlier Act shall, instead of being dealt with under that provision, be credited by the Board to the appropriate employer reserve established in the Fund under section 9 of the Act.

14 Transfers from Investment Reserves in Provident Fund and Benefits Fund

In relation to each transferred contributor, there shall be transferred to an Investment Reserve established in the Fund under section 9 of the Act such amount as is determined by the Board, having regard to the information available to it, as representing the transferred contributor's equity in the Investment Reserve of the Provident Fund or the Benefit Fund.

Schedule 1 Transferred benefit points accruing to persons transferring to the fund

(Clause 10 (1))

1 Transferred benefit points accruing to insurance policy holders

- (1) This clause applies to a transferred contributor who has at any time been the holder of a current insurance policy.
- (2) A transferred contributor to whom this clause applies shall, in respect of each month described in subclause (3), accrue as transferred benefit points one-twelfth of the number of benefit points applying in relation to the transferred contributor for that month in accordance with that subclause.
- (3) For each whole month:
 - (a) in which the total sum assured in respect of a transferred contributor under Part 2 of the earlier Act was a sum specified in Column 1 of the Table to this Schedule,

and

(b) which occurred during a period specified in the heading to Column 2, 3, 4, 5 or 6 of that Table,

the number of benefit points appearing opposite that sum in the Column for that period shall apply in relation to the transferred contributor.

2 Transferred benefit points accruing to certain contributors to Provident Fund

- (1) This clause applies to a transferred contributor in respect of whom any amount has at any time been contributed to the Provident Fund but does not apply to a transferred contributor in respect of any contribution so made pursuant to a request under section 7C (1) or (3) of the earlier Act.
- (2) A transferred contributor to whom this clause applies shall accrue the number of transferred benefit points which would be calculated in respect of the transferred contributor under clause 1 if:
 - (a) the transferred contributor was a person to whom that clause applies,
 - (b) the contributions made to the Provident Fund in respect of the transferred contributor had been paid as premiums under Part 2 of the earlier Acts, and
 - (c) the period during which those contributions were made was the period during which the transferred contributor would have been the holder of a current insurance policy if those premiums had been paid.

3 Transferred benefit points accruing to contributors making additional contributions to Provident Fund

- (1) This clause applies to a transferred contributor in respect of whom any amount has at any time been contributed to the Provident Fund pursuant to a request under section 7C (1) or (3) of the earlier Act.
- (2) A transferred contributor to whom this clause applies shall accrue, in respect of each whole month during which he or she made contributions as referred to in subclause (1), one-twelfth of a transferred benefit point for each one per cent of his or her salary contributed to the Provident Fund for that month.
- (3) For the purposes of this clause:
 - (a) for the period ending on 30 June 1985, a transferred contributor to whom this clause applies shall be deemed to have contributed one-third of the contributions made as referred to in subclause (1),
 - (b) for the period commencing on 1 July 1985 and ending on the day preceding the date of transfer, a transferred contributor to whom this clause applies shall be

deemed to have contributed one-half of the contributions made as referred to in subclause (1),

(c) contributions made to the Provident Fund in respect of a year (or part of a year) shall be deemed to have been made at monthly intervals, and

(d) the transferred contributor's salary shall be deemed to have remained the same throughout that year (or part).

4 Transferred benefit points accruing to contributors to Benefits Fund

(1) This clause applies to a transferred contributor who has been a contributor to the Benefits Fund.

(2) A transferred contributor to whom this clause applies shall accrue one-twelfth of three and one-half transferred benefit points for each whole month during which he or she was a contributor to the Benefits Fund.

Table

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Total sum assured	Benefit points re period to 31.12.1954 (inclusive)	Benefit points re period from 1.1.1955 to 31.12.1959 (both inclusive)	Benefit points re period from 1.1.1960 to 31.3.1969 (both inclusive)	Benefit points re period from 1.4.1969 to 30.6.1985 (both inclusive)	Benefit points re period from 1.7.1985 (inclusive) \$
400	1.3	1.3	1.3	1.3	1.95
600	1.5	1.3	1.3	1.3	1.95
800	2.0	1.3	1.3	1.3	1.95
1,000	2.5	1.3	1.3	1.3	1.95
1,200	3.0	1.5	1.3	1.3	1.95
1,400	3.5	1.8	1.3	1.3	1.95
1,600	4.0	2.0	1.3	1.3	1.95
1,800	4.5	2.3	1.3	1.3	1.95
2,000	5.0	2.5	1.3	1.3	1.95
2,200		2.8	1.3	1.3	1.95
2,400		3.0	1.3	1.3	1.95
2,600		3.3	1.3	1.3	1.95
2,800		3.5	1.3	1.3	1.95

3,000	3.8	1.3	1.3	1.95
3,200	4.0	1.3	1.3	1.95
3,400	4.3	1.4	1.3	1.95
3,600	4.5	1.5	1.3	1.95
3,800	4.8	1.6	1.3	1.95
4,000	5.0	1.7	1.3	1.95
4,200		1.8	1.3	1.95
4,400		1.8	1.3	1.95
4,600		1.9	1.3	1.95
4,800		2.0	1.4	2.10
5,000		2.1	1.5	2.25
5,200		2.2	1.5	2.25
5,400		2.3	1.6	2.40
5,600		2.3	1.6	2.40
5,800		2.4	1.7	2.55
6,000		2.5	1.8	2.70
6,200		2.6	1.8	2.70
6,400		2.7	1.9	2.85
6,600		2.8	1.9	2.85
6,800		2.8	2.0	3.00
7,000		2.9	2.0	3.00
7,200		3.0	2.1	3.15
7,400		3.1	2.2	3.30
7,600		3.2	2.2	3.30
7,800		3.3	2.3	3.45
8,000		3.3	2.3	3.45
8,200		3.4	2.4	3.60
8,400		3.5	2.5	3.75
8,600		3.6	2.5	3.75
8,800		3.7	2.6	3.90

9,000	3.8	2.6	3.90
9,200	3.8	2.7	4.05
9,400	3.9	2.7	4.05
9,600	4.0	2.8	4.20
9,800	4.1	2.9	4.35
10,000	4.2	2.9	4.35
10,200	4.3	3.0	4.50
10,400	4.3	3.0	4.50
10,600	4.4	3.1	4.65
10,800	4.5	3.2	4.80
11,000	4.6	3.2	4.80
11,200	4.7	3.3	4.95
11,400	4.8	3.3	4.95
11,600	4.8	3.4	5.10
11,800	4.9	3.4	5.10
12,000	5.0	3.5	5.25