

South Australia

**SUPERANNUATION REGULATIONS 2001**

*These regulations are published under the Legislation Revision and Publication Act 2002 and incorporate all amendments in force as at **17 April 2003**.*

*Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.*

# REGULATIONS UNDER THE SUPERANNUATION ACT 1988

## SUPERANNUATION REGULATIONS 2001

being

No. 145 of 2001: *Gaz.* 28 June 2001, p. 2455<sup>1</sup>

as varied by

No. 190 of 2001: *Gaz.* 9 August 2001, p. 2915<sup>2</sup>

No. 241 of 2001: *Gaz.* 1 November 2001, p. 4818<sup>3</sup>

No. 29 of 2002: *Gaz.* 16 May 2002, p. 1917<sup>4</sup>

No. 190 of 2002: *Gaz.* 3 October 2002, p. 3598<sup>5</sup>

**No. 41 of 2003: *Gaz.* 17 April 2003, p. 1778<sup>6</sup>**

- <sup>1</sup> Came into operation 1 July 2001: reg. 2.
- <sup>2</sup> Came into operation 9 August 2001: reg. 2.
- <sup>3</sup> Came into operation 1 November 2001: reg. 2.
- <sup>4</sup> Came into operation 16 May 2002: reg. 2.
- <sup>5</sup> Came into operation 3 October 2002: reg. 2.
- <sup>6</sup> **Came into operation 17 April 2003: reg. 2.**

**NOTE:**

- *Asterisks indicate repeal or deletion of text.*
- *Entries appearing in bold type indicate the amendments incorporated since the last reprint.*
- *For the legislative history of the regulations see Appendix.*

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**Superannuation Regulations 2001**

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**Part 1—Preliminary**

**Citation**

1. These regulations may be cited as the *Superannuation Regulations 2001*.

**Commencement**

2. These regulations come into operation on 1 July 2001.

**Revocation**

3. The *Superannuation Regulations 1988* are revoked.

**Interpretation**

4. In these regulations, unless the contrary intention appears—

"**the Act**" means the *Superannuation Act 1988*;

"**the revoked regulations**" means the *Superannuation Regulations 1988* revoked by regulation 3;

"**the South Australian Superannuation Scheme**" or "**the Scheme**" means the scheme of superannuation established by the Act and (where the context admits) includes the scheme of superannuation established by a corresponding previous enactment.

## Part 2—Election of members of Board

### Interpretation

5. In this Part, unless the contrary intention appears—

"**hour of nomination**" means the hour by which nominations must be received by the Electoral Commissioner;

"**voter**" means a person who is, by virtue of regulation 8, eligible to vote at an election.

### Election of members

6. The election of members of the Board must be conducted by the Electoral Commissioner in accordance with this Part.

### Timetable for elections

7. (1) The Electoral Commissioner must publish in a daily newspaper circulating throughout the State a notice setting out the timetable for each election held under this Part.

(2) The notice must—

- (a) fix the date (not being less than 14 days from publication of the notice) and the hour by which nominations must be received by the Electoral Commissioner; and
- (b) fix the date on or before which the Commissioner will post ballot papers to voters or give ballot papers to employers for distribution to voters; and
- (c) fix the date (not being less than 21 days nor more than 28 days after the date fixed under paragraph (b)) and the hour by which completed ballot papers must be returned to the Electoral Commissioner.

(3) The Electoral Commissioner must determine the timetable in consultation with the Board.

### Persons eligible to vote

8. (1) Persons who were—

- (a) contributors as defined in section 4(1) of the Act; or
- (b) members of the Southern State Superannuation Scheme established by the *Southern State Superannuation Act 1994*,

on the day preceding the day on which notice was published under regulation 7 are eligible to vote at the election.

(2) The Board must within 7 days after the notice was published give the Electoral Commissioner a list of the voters who are eligible to vote at the election.

### Nominations

9. A nomination for election must be—

- (a) in a form approved by the Electoral Commissioner; and
- (b) signed by at least ten voters; and

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- (c) received by the Electoral Commissioner at or before the hour of nomination.

**Election without ballot**

**10.** (1) If the number of persons nominated is the same or less than the number of vacancies to be filled by election, the Electoral Commissioner must, by notice in a daily newspaper circulating throughout the State and in the *Gazette*, declare that the vacancy or vacancies has or have been filled by the person or persons nominated.

(2) If the number of persons nominated is greater than the number of vacancies to be filled the following regulations apply.

**Ballot papers**

**11.** (1) The Electoral Commissioner must provide each voter with a ballot paper and an envelope addressed to the Commissioner for the purpose of returning the ballot paper after completion.

(2) The names of the candidates must appear on the ballot papers in a vertical list in an order determined by the Electoral Commissioner by lot.

(3) If ballot papers are not printed on watermarked paper they must be initialled by the Electoral Commissioner or by a person authorised for that purpose by the Commissioner.

(4) The Electoral Commissioner may provide a voter with a ballot paper and envelope—

- (a) by posting the ballot paper and envelope to the voter at his or her last known address;  
or
- (b) by giving the ballot paper and envelope to the voter's employer to give to the voter.

**Electoral material to be provided with ballot papers**

**12.** (1) Subject to this regulation, the Electoral Commissioner must, at the request of a candidate, include with ballot papers provided to voters material provided by the candidate promoting the candidate's election.

(2) Promotional material must be provided to the Commissioner at or before the hour of nomination.

(3) The material must not include more than 200 words nor more than one photograph and may be printed by the Commissioner in such form as he or she thinks fit for the purpose of posting or distributing to voters.

**Voting**

**13.** (1) A voter who wishes to vote must—

- (a) indicate on the ballot paper the candidate to whom the voter gives his or her first preference and the voter may indicate the order of his or her preference for the other candidates; and
- (b) place the ballot paper in the envelope provided, seal the envelope and sign it; and
- (c) return the envelope to the Electoral Commissioner.

(2) A voter's preference for candidates must be indicated by consecutive numbers (commencing with the number "1") placed in the squares opposite the names of the candidates on the ballot paper.

**Duplication and late return of ballot papers**

**14.** (1) If more than one ballot paper is returned under the name of the same voter all, except the first to be returned, will be rejected or, if the Electoral Commissioner does not know which was returned first, all, except the first to be recorded against the name of the voter, will be rejected.

(2) If more than one ballot paper is returned in an envelope none of the ballot papers returned in that envelope will be counted.

(3) A ballot paper returned to the Electoral Commissioner after the close of the poll will not be counted.

**Counting of votes**

**15.** The following provisions apply to the counting of votes:

- (a) after counting first preferences the candidate with the fewest first preferences must be excluded and if more candidates remain than the number of vacancies to be filled each ballot paper counted to the excluded candidate must be counted to the candidate (if any) next in order of the voter's preference;
- (b) this process must be continued until the number of candidates remaining is equal to the number of vacancies to be filled;
- (c) where two candidates have an equal number of votes and one of them must be excluded the Electoral Commissioner must determine the question by lot.

**Scrutineers**

**16.** (1) Subject to subregulation (2), the Electoral Commissioner may permit such scrutineers as he or she thinks fit to be present at the counting of votes.

(2) A candidate in the election cannot be a scrutineer.

**Declaration of election**

**17.** When the number of candidates remaining is equal to the number of vacancies to be filled the Electoral Commissioner must by notice in a daily newspaper circulating throughout the State and in the *Gazette* declare that the candidate or candidates has or have been elected to fill the vacancy or vacancies.



**Superannuation Regulations 2001****Part 3—Commutation of pensions****Division 1—Preliminary****Interpretation**

**18.** For the purposes of this Part a pensioner's annual pension is the pensioner's fortnightly pension multiplied by 313 and divided by 12.

**Division 2—Commutation of pensions****Right to apply for commutation**

**19.** (1) A pensioner referred to in the left column of the following table may apply to the Board for commutation of the whole or a part of his or her pension in accordance with this Division during the period set out in the right column of the table:

| <b>Pensioner who may commute</b>   | <b>Period for application</b>  |
|--|--|
| A pensioner who is entitled to a retirement pension  | within 3 months after the pension first becomes payable  |
| A pensioner in receipt of an invalidity pension  | within 3 months after reaching the age of retirement   |
| A pensioner in receipt of a retrenchment pension   | within 3 months after the pensioner reaches the age of 55 years or the pension first becomes payable, whichever is later |
| A contributor who resigns before reaching 55 years of age pursuant to a voluntary separation package and is entitled to a pension under section 39A(3g) of the Act | within 3 months after the pension first becomes payable.   |

(2) The spouse of a deceased contributor who is entitled to a pension may apply to the Board for commutation of the whole or part of the pension—

- (a) within 6 months after the death of the contributor; or
- (b) where the pension has been suspended under section 45 of the Act—within 3 months after the spouse first becomes entitled to the pension.

(3) Where a pension payable to a spouse is reduced (but not suspended) under section 45 of the Act, an application for commutation of the part of the pension previously denied to the spouse may be made within 3 months after he or she first becomes entitled to it (but only if a part or the whole of the other part of the pension has already been commuted).

(4) Where—

- (a) part only of a retrenchment pension is available to a pensioner because the pension is reduced under section 45; and
- (b) the pensioner has commuted the whole, or a part, of that part of the pension,

the pensioner may, in accordance with this Division within 3 months after he or she reaches the age of retirement, commute the whole or a part of the part of the pension previously denied to him or her because of the reduction.

(5) The Board must commute the pension within one month after receiving the application and must pay the lump sum within 14 days after commutation.

(6) The Board may extend the time within which a person may apply for commutation of a pension if, in the Board's opinion, the person was not at fault in failing to apply within the time prescribed by this regulation.

**Commutation factors**

20. (1) The following tables set out commutation factors:

(a) in the case of a pension payable to a contributor—

| <b>Age at time of commutation</b> | <b>Amount of lump sum for each dollar of annual pension commuted</b> |
|-----------------------------------|--|
| less than 55 . . . . .            | \$11.50  |
| 55 - 56 . . . . .                 | \$11.50 - \$11.30  |
| 56 - 57 . . . . .                 | \$11.30 - \$11.10  |
| 57 - 58 . . . . .                 | \$11.10 - \$10.90  |
| 58 - 59 . . . . .                 | \$10.90 - \$10.70  |
| 59 - 60 . . . . .                 | \$10.70 - \$10.50  |
| 60 - 61 . . . . .                 | \$10.50 - \$10.30  |
| 61 - 62 . . . . .                 | \$10.30 - \$10.10  |
| 62 - 63 . . . . .                 | \$10.10 - \$9.90   |
| 63 - 64 . . . . .                 | \$9.90 - \$9.70  |
| 64 - 65 . . . . .                 | \$9.70 - \$9.50  |
| 65 - 66 . . . . .                 | \$9.50 - \$9.30  |
| 66 - 67 . . . . .                 | \$9.30 - \$9.10  |
| 67 - 68 . . . . .                 | \$9.10 - \$8.80  |
| 68 - 69 . . . . .                 | \$8.80 - \$8.50  |
| 69 - 70 . . . . .                 | \$8.50 - \$8.20  |
| 70 - 71 . . . . .                 | \$8.20 - \$7.90  |
| 71 - 72 . . . . .                 | \$7.90 - \$7.60  |
| 72 - 73 . . . . .                 | \$7.60 - \$7.30  |
| 73 - 74 . . . . .                 | \$7.30 - \$7.00  |
| 74 - 75 . . . . .                 | \$7.00 - \$6.70  |

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(b) in the case of a spouse of a deceased contributor—

| <b>Age of spouse at time of<br/>commutation</b> | <b>Amount of lump<br/>sum for each dollar<br/>of annual pension<br/>commuted</b> |
|---|--|
| less than 50 . . . . .                          | \$11.50  |
| 50 - 55 . . . . .                               | \$11.50 - \$11.00  |
| 55 - 60 . . . . .                               | \$11.00 - \$9.75   |
| 60 - 65 . . . . .                               | \$9.75 - \$8.50  |
| 65 - 70 . . . . .                               | \$8.50 - \$7.25  |
| 70 - 80 . . . . .                               | \$7.25 - \$4.75  |
| 80 - 90 . . . . .                               | \$4.75 - \$2.25  |
| 90 - 100 . . . . .                              | \$2.25 - \$0.00  |

**Division 3—General**

**Restriction on commutation**

21. (1) The Board must not pay a lump sum to the spouse of a contributor unless it is satisfied that no other spouse of the contributor is entitled to part of the pension commuted by the Board.

(2) The Board is not liable to any person in respect of a payment made by the Board in accordance with subregulation (1).

**Adjustment of commutation factors**

22. When determining the amount of the lump sum payable on commutation the commutation factor must be adjusted proportionately to the age of the applicant expressed in years and completed months.

**Rounding off lump sums**

23. When determining the amount of a lump sum payable on commutation the Board may round the amount to the nearest dollar.

## Part 4—Salary

### Division 1—Non TEC salary

#### Interpretation

24. In this Division, unless the contrary intention appears—

"salary" means salary as defined by the second definition of "salary" in section 4(1) of the Act.

#### Exclusion of certain remuneration from salary

25. (1) Subject to this regulation, the following allowances and payments are excluded from the definition of "salary" in the Act:

district and locality allowances;

construction or industry allowances;

travelling allowances;

meal allowances;

living away from home allowances;

shift work allowances;

allowances for work on public holidays or weekends not being those paid on an annual basis;

special justices allowances;

underground allowances;

payments for overtime at penalty rates;

allowances for rent, house allowed rent free, light and fuel.

(2) A higher duties allowance is excluded from the definition of "salary" in the Act for the purpose of calculating contributions and where such an allowance has been paid for a continuous period of less than 12 months it is excluded from the definition of "salary" for the purposes of calculating benefits as well but where such an allowance has been paid for a continuous period of 12 months or more, it will, subject to subregulation (3), be included as a component of salary for the purpose of calculating benefits.

(3) Where the amount of the allowances has changed during the period of 12 months immediately preceding termination of the contributor's employment, the allowance will be included as a component of salary for the purpose of calculating benefits at the lowest level paid during that period.

(4) In subregulation (2)—

"higher duties allowance" does not include remuneration received by a contributor pursuant to a fixed term appointment within the meaning of regulation 29.

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(5) Allowances or other payments in respect of membership of a statutory body are excluded from the definition of "**salary**".

(6) The following allowances and payments are excluded from the definition of "**salary**":

- (a) an allowance to compensate an employee for being denied a right of private practice or for being unable to exercise a right of private practice because of the nature of his or her employment;
- (b) an allowance or payment to compensate an employee in respect of money that was earned by the employee in the exercise of a right of private practice but was paid to his or her employer.

(7) Expense allowances paid to the Agent-General are a component of the Agent-General's salary for the purposes of the definition of "**salary**".

(8) This regulation does not exclude an allowance or payment from the definition of "**salary**" in the Act that was paid to an employee and treated as salary at the commencement of the Act unless the employee has elected, by notice in writing to the Board, to exclude the allowance or payment for the purpose of determining his or her salary.

**Exclusion of non-monetary remuneration**

**26.** Where a non-monetary component of a contributor's remuneration that is excluded from the definition of "**salary**" is changed—

- (a) to a monetary amount that is included as salary under the Act and these regulations for the purpose of determining both contributions and benefits; or
- (b) to another form of non-monetary remuneration that is included as salary under section 4(2c) of the Act for the purpose of determining both contributions and benefits,

the amount of the contributor's salary will be taken not to include that component for the purpose of determining benefits unless at least five years has elapsed since the change occurred and the value of the component has been included as a component of salary for the purpose of calculating contributions continuously since the change occurred.

**Prescription of enterprise agreements**

**27.** The following enterprise agreements are prescribed for the purposes of section 4(2c)(b) of the Act:

- (aa) Adelaide Festival Centre, Professional and Administration Agreement 2001;
- (a) Carclew Youth Arts Centre Enterprise Agreement No. 3;
- (b) Country Arts SA Enterprise Agreement No. 3;
- (c) Department of Administrative and Information Services—Forestry SA Enterprise Agreement 1999;
- (d) Department of Human Services Medical Officers Enterprise Agreement 2001;
- (e) the Flinders University of South Australia Certified Agreement 1997-1999;

- (ea) House of Assembly Enterprise Agreement 2002;
- (f) the Land Management Corporation Enterprise Agreement 2000;
- (g) Legal Services Commission of South Australia Enterprise Agreement 1999;
- (gaa) Legislative Council Enterprise Agreement 2002;
- (ga) Nurses' (South Australian Public Sector) Enterprise Agreement 2001;
- (gab) Parliament (Joint Services) Act 1985 Enterprise Agreement 2002;
- (h) Ports Corp South Australia Enterprise Bargaining Agreement 2000-2001;
- (i) the Public Trustee Office Enterprise Agreement 2000;
- (ia) SA Water Corporation Enterprise Agreement 2001;
- (ib) South Australian Education Staff (Government Preschools, Schools and TAFE) Certified Agreement 2002;
- (j) the South Australian Government Wages Parity Enterprise Agreement 1999;
- (jaa) State Governor's Establishment Enterprise Agreement 2002;
- (ja) TransAdelaide Infrastructure Certified Agreement 2001;
- (jb) TransAdelaide Maintenance Certified Agreement 2001;
- (jc) TransAdelaide Operations Certified Agreement 2001;
- (jd) TransAdelaide Salaried, Professional and Technical Employees Certified Agreement 2001;
- (k) the University of South Australia Academic and General Staff Enterprise Agreement 2000;
- (l) the University of South Australia Security and Grounds Staff Enterprise Agreement 2000;
- (m) West Beach Trust Enterprise Agreement 2002.

## **Division 2—TEC salary**

### **Proportion of remuneration package that is salary**

**28.** (1) Subject to this regulation and to Division 3, the proportion of the value of the total remuneration package specified in a TEC contract for the purposes of the first definition of "salary" in section 4(1) of the Act is—

- (a) in respect of a new scheme contributor—82.5 per cent;
- (b) in respect of an old scheme contributor—78.5 per cent.

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- (2) Where a component of the total remuneration package specified in a TEC contract is—
- (a) a higher duties allowance; or
  - (b) a bonus; or
  - (c) an allowance to compensate an employee for being denied a right of private practice or for being unable to exercise a right of private practice because of the nature of his or her employment; or
  - (d) an allowance or payment to compensate an employee in respect of money that was earned by the employee in the exercise of a right of private practice but was paid to his or her employer,

the amount of the contributor's salary for the purpose of determining both contributions and benefits will be taken to be an amount equivalent to the relevant proportion prescribed by subregulation (1) of the value of the total remuneration package excluding the value of that component.

(3) If, on the commencement of regulation 24AC of the revoked regulations, the salary of a contributor whose salary is to be determined under the first definition of "**salary**" in section 4(1) of the Act would have been less than it would be if determined under the second definition of "**salary**" in the Act, the proportion of the value of the total remuneration package specified in the contributor's TEC contract is the proportion that ensures that the value of the contributor's salary under both definitions of "**salary**" in the Act was the same at the commencement of that regulation.

(4) The proportion determined under subregulation (3) as at the commencement of regulation 24AC of the revoked regulations will continue to apply in relation to the contributor during his or her membership of the Scheme.

**Division 3—Provisions applicable to both TEC salary and non TEC salary****Salary in relation to fixed term appointments**

**29.** (1) This regulation applies to, and in relation to, a contributor whether he or she is employed pursuant to a TEC contract or not.

(2) Subject to subregulations (4) and (5), where a contributor has, during his or her membership of the Scheme, been appointed to a higher position for a limited term of less than five years, the contributor's salary for the purpose of determining contributions and benefits will, during the term of the appointment, be taken to be the contributor's basic salary.

(3) Subject to subregulation (7), where a contributor has, during his or her membership of the Scheme, been appointed to a higher position for a limited term of five years or more, the contributor's salary for the purpose of determining contributions and benefits will thereafter be taken to be the highest level of salary achieved by the contributor during his or her membership of the Scheme.

(4) A contributor who has been appointed to a higher position for a limited term of less than five years will be taken, for the purposes of subregulations (2) and (3), to have been appointed for a term of five years or more if the term of that appointment when aggregated with the term of a previous appointment or appointments to higher positions during the contributor's membership of the scheme is five years or more.

(5) A contributor who has been appointed to a higher position for a limited term of less than five years will, if the term is extended to five years or more, be taken, for the purposes of subregulations (2) and (3) to have been appointed for a term of five years or more on the day on which the term is extended.

(6) The highest level of salary achieved by the contributor will be determined by comparing the salary levels for the time being of all positions held by the contributor during his or her membership of the Scheme and the following provisions will apply for the purpose of the comparison:

(a) where the salary applicable to the position that the contributor holds or to a position previously held by the contributor has been reduced (except for disciplinary reasons) or the position has ceased to exist, the salary of the position will be taken to be—

(i) where the salary has been reduced—the salary of that position on the last day on which the contributor was employed in the position before the reduction;

(ii) where the position has ceased to exist and subparagraph (i) does not apply—the salary of that position on the last day on which the contributor was employed in the position,

adjusted to reflect changes in the Consumer Price Index between that day and the day on which the comparison is made;

(b) where the contributor holds, or held, a position pursuant to special conditions as to salary negotiated with his or her employer, the salary of the position will be taken to be the salary for the time being of the position (or the notional salary of the position determined under paragraph (a) if applicable) increased in accordance with the special conditions.

(7) The contributor's salary for the purposes of determining contributions and benefits will be taken to be the contributor's basic salary if the contributor has, by notice in writing to the Board within two months of the commencement of the fixed term appointment referred to in subregulation (3), made an election to that effect.

(8) An election referred to in subregulation (7) cannot be revoked and, as well as applying in relation to the fixed term appointment in relation to which it was made, applies also in relation to all subsequent periods served by the contributor pursuant to fixed term appointments.

(9) An election made by an officer of the teaching service before regulation 24B of the revoked regulations came into force under the corresponding regulation in force at that time will be taken to be an election referred to in subregulation (7) of this regulation.

(10) A person who is employed pursuant to a fixed term appointment when he or she becomes a member of the Scheme will be taken, for the purposes of this regulation, to have been appointed to the higher position on the day on which he or she became a member of the Scheme.



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(11) Subregulations (3) and (4) do not apply to, or in relation to, the appointment of a contributor to a higher position for a limited term of two years or less if that term commences during the limited term of an existing appointment and expires on or before the end of the longer term.

(12) In this regulation, unless the contrary intention appears—

"**basic salary**" in relation to a contributor on a particular day means—

- (a) where the contributor was not employed pursuant to a fixed term appointment on that day—the contributor's salary on that day;
- (b) where the contributor was employed pursuant to a fixed term appointment on that day—the salary for the time being payable in respect of the position (or an equivalent position) held by the contributor immediately before the commencement of the fixed term appointment or, where the contributor has held two or more consecutive fixed term appointments, immediately before the commencement of the first of those appointments;

"**fixed term appointment**" in relation to a contributor means the appointment of the contributor to a higher position for a limited term;

"**higher position**" in relation to a contributor means a position in which the salary, or the aggregate of the various components of the salary, received by the contributor exceeds the salary, or the aggregate of the various components of the salary, received by the contributor in the same or some other position held by the contributor immediately before appointment to the higher position;

"**salary**" means the salary defined by the first or second definitions of "**salary**" in the Act as modified by the provisions of Division 1 or 2 applicable from time to time in relation to a contributor.

**Election to reduce salary**

**30.** (1) A contributor's salary will not be taken under regulation 29 to be the highest level of salary achieved by the contributor if the contributor has made an election under this regulation which has not been revoked.

(2) If—

- (a) the highest level of salary achieved by a contributor was achieved, pursuant to a TEC contract; and
- (b) the contributor is now receiving a reduced salary (except where the reduction is due to a reduction in hours of employment or for disciplinary reasons),

the contributor may, by written notice to the Board, elect that regulation 29 will not apply to him or her.

(3) An election under subregulation (2) that has not been revoked remains in force despite the fact that the requirements of subregulation (2)(a) or (b) are no longer satisfied.

(4) Where an election under subregulation (2) is in force, the contributor's salary for the purposes of calculating benefits will be determined in accordance with the following formula:

$$S = S_1 \left[ \frac{CM - X}{CM} \right] + \frac{S_2 \times X}{CM}$$

Where

S is the salary

S<sub>1</sub> is the highest level of salary (as determined in accordance with regulation 29) achieved by the contributor before the contributor's election under subregulation (1) adjusted to reflect changes in the level of remuneration under TEC contracts since the time of that election

CM is the number of contribution months in the contributor's contribution period

X is the number of contribution months in that part of the contributor's contribution period occurring after the election

S<sub>2</sub> is the amount that would, but for this subregulation, have been the contributor's salary for the purpose of determining benefits.

(5) Subject to subregulation (6), an election under subregulation (2) cannot be revoked.

(6) An election under subregulation (2) may be revoked by the contributor by written notice to the Board if the value in relation to the contributor of S<sub>2</sub> in the formula in subregulation (4) exceeds the value of S<sub>1</sub> in the formula.

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**Part 5—General**

**Prescribed authorities etc**

**31.** The following are prescribed for the purposes of section 5(1)(b) of the Act:

Aboriginal Cultural Institute Incorporated

Aboriginal Lands Trust

A.I.D.S. Council of South Australia Incorporated

Austraining International Pty. Ltd.

Australian Prudential Regulation Authority

Australian Quarantine and Inspection Service

Foundation for Multi-Disciplinary Education in Community Health

Innovation Management Pty. Limited

The Jam Factory Workshops Incorporated

Murray-Darling Basin Commission

The Ombudsman

South Australian Oil and Gas Corporation Pty. Ltd.

**Fund's share of administration costs**

**32.** For the purposes of section 17(7)(b) of the Act prescribed percentage is 30.

**Removal or variation of conditions on benefits**

**33.** Where the benefits payable to or in relation to a contributor are subject to a condition because the contributor's health at the time of his or her acceptance as a contributor appeared to the Board to create a risk of invalidity or premature death, the Board may, on the basis of medical evidence submitted to it—

(a) remove the condition; or

(b) vary the condition (but only if the variation is for the benefit of the contributor or of another person in respect of the contributor).

**Classification of contributors as old scheme contributors**

**34.** A person who applies for acceptance as a contributor after 31 May, 1986, cannot be classified by the Board as an old scheme contributor unless—

(a) immediately before becoming an employee within the meaning of the Act, the applicant was an employee of an instrumentality or agency of the Crown and was a contributor to a superannuation fund or scheme that provided pension benefits to employees of that instrumentality or agency; and

- (b) the applicant had been a contributor to that superannuation fund or scheme since 31 May, 1986; and
- (c) the application was made immediately after the applicant became an employee within the meaning of the Act.

**Contributions by employee on leave without pay**

**35.** A contributor who is on leave without pay for a period of more than 12 months may, with the Board's approval, elect to make contributions during the period of leave after the first 12 months of leave in the following circumstances:

- (a) the contributor is participating in an overseas aid programme; or
- (b) the contributor is on secondment to another employer.

**Notice to the Board on retrenchment**

**36.** A notice given to the Board by an employing authority under section 29(5) of the Act must inform the Board of any inquiries made by the employing authority or by the Commissioner for Public Employment as to other suitable employment available to the contributor with that or any other employing authority and the result of those inquiries.

**Notice to the Board on invalidity**

**37.** (1) The period of notice of termination of employment or resignation pursuant to sections 31(3)(b)(iii) and 37(4)(b)(iii) of the Act is one month.

- (2) A notice must—
  - (a) be accompanied by a certificate in a form approved by the Board from a medical practitioner stating the nature of the invalidity; and
  - (b) inform the Board of any inquiries made by the employer or by the Commissioner for Public Employment as to other suitable employment, carrying a salary of at least 80 per cent of the salary applicable to the contributor's present position, available to the contributor with that or any other employer and the result of those inquiries; and
  - (c) inform the Board of the contributor's existing or future entitlement (if any) to weekly payments of workers compensation.

**Minimum pension payable to eligible children**

**38.** For the purposes of section 38(3) of the Act the prescribed amount of the fortnightly pension is—

- (a) \$8 where a benefit is payable or has been paid to a spouse of the contributor;
- (b) \$12 where no such benefit is or was payable.

**Payment in case of pensioner who is incompetent**

**39.** (1) If the Board is satisfied that a person who is entitled to a pension under the Act is not mentally or physically competent to give the Board directions as to payment of the pension the Board may—

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- (a) continue to make payments in a manner authorised by the pensioner when competent; or
- (b) pay the pension into an account with a financial institution in the name of the pensioner; or
- (c) pay the pension to a person who is caring for the pensioner on condition that it is applied for the maintenance and benefit of the pensioner.

(2) Subregulation (1) is subject to the right of a manager appointed under the *Aged and Infirm Persons' Property Act 1940*, or an administrator appointed under the *Guardianship and Administration Act 1993*, to payment of the pension.

(3) In this regulation—

"**financial institution**" has the meaning given to it by the *Financial Institution Duty Act 1983*.

**Employment of medical practitioner**

**40.** The Board must employ a medical practitioner to advise it on matters relating to the state of health of contributors.

**Notification to Board on change in working hours**

**41.** Where there is a reduction in the time worked by a contributor in full-time employment or a reduction or increase in the time worked by a contributor in part-time employment, the employer must, by notice in writing given to the Board within 14 days of the change, inform the Board of—

- (a) the date of the change; and
- (b) the contributor's salary after the change and the salary that the contributor would receive if in full-time employment; and
- (c) the period during which the changed time is likely to apply; and
- (d) any illness or disability known to the employer that has caused or contributed to the change.

**APPENDIX**

**LEGISLATIVE HISTORY**

*(entries in bold type indicate amendments incorporated since the last reprint)*

|                       |   |
|-----------------------|---|
| <b>Regulation 27:</b> | <b>varied by</b> 190, 2001, reg. 3; 29, 2002, reg. 3; 190, 2002, reg. 3;<br><b>41, 2003, reg. 4</b> |
| Regulation 29(12):    | definition of "fixed term appointment" varied by 190, 2001, reg. 4                                  |
| Regulation 31:        | varied by 241, 2001, reg. 3; 29, 2002, reg. 4   |