

South Australia

Superannuation Variation Regulations 2004

under the *Superannuation Act 1988*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Superannuation Variation Regulations 2004*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Superannuation Regulations 2001*

4—Substitution of heading

Part 4 Division 3—delete the heading and substitute:

Division 3—Related provisions

5—Variation of regulation 29—Salary in relation to fixed term appointments

Regulation 29—after subregulation (11) insert:

- (11a) Any determination of salary under this regulation must, if relevant, take into account, and operate subject to, the provisions of regulation 29A.
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6—Insertion of regulation 29A

After regulation 29 insert:

29A—Special provision relating to certain TEC contracts without tenure

- (1) Despite any other regulation, but subject to subregulation (2), if a contributor employed pursuant to a TEC contract without tenure has, at any time before he or she entered into that contract, been employed pursuant to a TEC contract with tenure (including such a contract at a lower position and including such a contract entered into before the commencement of this regulation), then, during the first 12 months of employment pursuant to the TEC contract without tenure, 86.9565% of the proportion of the value of the total remuneration package specified in the contract that applies under regulation 28 will be taken to be the contributor's salary for the purpose of determining contributions and benefits with respect to the contributor's membership of the Scheme.
- (2) Subregulation (1) does not apply—
 - (a) in respect of a contributor who has been previously employed pursuant to another TEC contract without tenure, other than where the contributor, at any time after the end of that TEC contract without tenure, was employed pursuant to a TEC contract with tenure or was employed in a position with permanency; or
 - (b) for the purpose of determining benefits with respect to a contributor's membership of the Scheme in a case involving—
 - (i) the invalidity of the contributor (irrespective of the age of the contributor); or
 - (ii) the termination of the relevant contract by an act of the employer (including a retrenchment); or
 - (iii) the death of the contributor.
- (3) In this regulation—

TEC contract with tenure, in relation to a contributor, means a TEC contract—

 - (a) that provides that the contributor will be entitled to some other specified appointment as an employee (without any requirement for selection processes to be conducted) in the event that he or she is not reappointed to the position held under the contract at the end of a term of appointment or employment or in other circumstances specified in the contract (whether or not the contract is under Part 7 of the *Public Sector Management Act 1995*); or

- (b) that is under Part 7 of the *Public Sector Management Act 1995* and does not exclude the operation of subsection (5) of section 34 of the *Public Sector Management Act 1995* (being a contract under section 34 of that Act that does not make provision for an appointment in the manner and circumstances contemplated by subsection (4) of that section);

TEC contract without tenure, in relation to a contributor, means a TEC contract that is not a TEC contract with tenure.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on

No 238 of 2004