

South Australia

## **Superannuation (Transferred Contributors) Variation Regulations 2005**

under the *Superannuation Act 1988*

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### **Part 1—Preliminary**

#### **1—Short title**

These regulations may be cited as the *Superannuation (Transferred Contributors) Variation Regulations 2005*.

#### **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 regulation 29B**

Regulation 29B—delete the regulation and substitute:

#### **29B—Special provision relating to certain transferred contributors**

- (1) Subregulation (2) applies to a contributor who—
    - (a) is employed by a relevant entity; and
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- (b) is, while retaining his or her position with the entity (the ***substantive position***), occupying an alternative position whereby he or she is working within or for an administrative unit (the ***alternative position***).
- (2) Despite any other regulation (and despite any provision to the contrary in the Act), the salary of a contributor to whom this subregulation applies will, for the purpose of determining contributions and benefits, be taken to be—
  - (a) if the contributor has occupied the alternative position for less than 12 months—the salary received by the contributor in respect of the substantive position immediately before beginning to occupy the alternative position; and
  - (b) if—
    - (i) the contributor has occupied the alternative position for 12 months or more; and
    - (ii) the contributor's remuneration in respect of that position is the same as, or less than 25 per cent higher than, his or her remuneration in respect of the substantive position immediately before beginning to occupy the alternative position,the salary received by the contributor in respect of the alternative position; and
  - (c) if—
    - (i) the contributor has occupied the alternative position for 12 months or more; and
    - (ii) the contributor's remuneration in respect of that position is at least 25 per cent higher than his or her remuneration in respect of the substantive position immediately before beginning to occupy the alternative position,salary calculated in accordance with subregulation (4).
- (3) Despite any other regulation (and despite any provision to the contrary in the Act), the salary of a contributor who transfers from employment with a relevant entity to employment with an administrative unit, and whose employment with the entity ceases on or following the transfer, will, for the purpose of determining contributions and benefits, be taken to be—
  - (a) if the contributor's remuneration in respect of employment with the administrative unit is the same as, or less than 25 per cent higher than, his or her remuneration in respect of employment with the entity immediately before his or her transfer to the administrative unit—the salary received by the contributor in respect of his or her employment with the administrative unit; and

- (b) if the contributor's remuneration in respect of employment with the administrative unit is at least 25 per cent higher than his or her remuneration in respect of employment with the entity immediately before his or her transfer to the administrative unit—salary determined in accordance with subregulation (4).
- (4) Salary for the purposes of determining contributions and benefits under subregulation (2)(c) and subregulation (3)(b) is to be determined in accordance with the following formula:

$$S = S_1 + ((S_2 - S_1) \times 25\%)$$

Where—

$S$  is the salary

$S_1$  is the highest level of salary received by the contributor while employed by, and undertaking duties for, the relevant entity, adjusted to reflect any movement in salaries for the same classification with that employer

$S_2$  is the salary received by the contributor in respect of his or her employment with the administrative unit, adjusted to reflect any movement in salaries for the same classification with that employer.

- (5) For the purposes of the definition of  $S_1$  and  $S_2$  in subregulation (4), if the classification level of the position occupied by a contributor no longer exists when his or her salary is to be determined under that subregulation, adjustments will then be made according to changes in the Consumer Price Index from the day on which the classification level ceased to exist.
- (6) In this regulation—

**administrative unit** means an administrative unit under the *Public Sector Management Act 1995*;

**relevant entity** means an entity that has entered into an arrangement with the Board under section 5 of the Act.

## Schedule 1—Transitional provision

### 1—Transitional provision

If an amount taken to be salary under regulation 29B of the *Superannuation Regulations 2001* is, for the purpose of determining contributions in relation to a contributor between 13 January 2005 and the day on which these regulations come into operation, higher than the amount taken to be salary under that regulation as recast by regulation 4 of these regulations, the Board may determine the contributor's contributions for that period on the basis of the lower amount.

**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 24 November 2005

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