

1991—No. 350

**PUBLIC SECTOR EXECUTIVES SUPERANNUATION ACT
1989—REGULATION**

(Relating to the membership of the Public Sector Executives Superannuation Scheme of those persons who are listed as employees in Schedule 1 to the Act)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Public Sector Executives Superannuation Act 1989, has been pleased to make the Regulation set forth hereunder.

J. J. FAHEY
Minister for Industrial Relations,
Minister for Further Education,
Training and Employment.

The Public Sector Executives Superannuation Regulation 1989 is amended by inserting after clause 3 the following clause:

Salary of executive officers etc.

4. (1) For the purposes of paragraph (c) of the definition of “salary” in section 3 of the Act, “**salary**”, in relation to an employee or a member who is occupying a position referred to in Schedule 1 to the Act, means the aggregate of:

- (a) the monetary remuneration payable to the employee or member as the occupant of the position; and
- (b) the cost of providing employment benefits for the employee or member as the occupant of the position or, if the employee or member has in accordance with subclause (2), elected to have treated as salary for the purposes of this Act none of that cost or only a specified proportion of that cost—none of that cost or, as the case may be, the specified proportion of that cost,

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expressed as an annual rate, but does not include any performance-related incentive payment made to that employee or member.

(2) An employee or member referred to in subclause (1) may elect to have treated as salary for the purposes of the Act:

- (a) none of the cost to the employer of providing the employee or member with employment benefits referred to in subclause (1) (b); or
- (b) only a specified proportion of that cost.

(3) If an employee or member is appointed to a position referred to in Schedule 1 to the Act, the employee or member may, from time to time:

- (a) elect to reduce the proportion of the cost of providing the employee's or member's employment benefits that is treated as salary for the purposes of the Act; or
- (b) elect to increase that proportion or, if none of the cost of providing the employee or member with prescribed employment benefits is currently treated as part of the employee's or member's salary for the purposes of the Act, to nominate a proportion of that cost, but so that the percentage increase in the salary of the employee or member for the purposes of the Act is not greater than the percentage of any increase in the remuneration package of the employee or member since the last occasion on which the employee or member had an opportunity to make an election under this paragraph.

(4) The qualification in subclause (3) (b) does not apply when the employee or member:

- (a) is appointed:
 - (i) to another position referred to in Schedule I to the Act; or
 - (ii) to a position of chief executive officer or senior executive officer; or
 - (iii) as a police executive officer; or

(b) becomes the holder of an office nominated for the purposes of section 11A of the Statutory and Other Offices Remuneration Act 1975.

(5) For the purposes of this clause, **“employment benefit”** means any component of the remuneration package of the employee or member that is not subject to the payment of personal income tax, except a component of that package that consists of payments of contributions payable to a superannuation scheme by the employer of the employee or member in respect of the employee or member and payments by that employer of any approved costs associated with the employee’s or member’s membership of the scheme.

EXPLANATORY NOTE

The object of this Regulation is to define for the purposes of the Public Sector Executives Superannuation Act 1989 the expression “salary” in relation to those persons who hold positions listed in Schedule 1 to that Act. (Positions recently listed in that Schedule include those held by certain senior officers of the Judicial Commission of New South Wales and the Prospect County Council.)
