

**STATE AUTHORITIES NON-CONTRIBUTORY
SUPERANNUATION ACT 1987—REGULATION**

(Relating to persons who are employees for the purposes of that Act and are also listed as employees in Schedule 1 to the Public Sector Executives Superannuation Act 1989)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, has, on the certificate of the Minister for Industrial Relations and Minister for Further Education, Training and Employment under section 34 (2) of the State Authorities Non-Contributory Superannuation Act 1987, and in pursuance of that Act, been pleased to make the Regulation set forth hereunder.

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

The State Authorities Non-contributory Superannuation Regulation 1988 is amended by inserting after clause 4 the following clause:

Salary of executive officers etc.

4A. (1) For the purposes of paragraph (c) of the definition of “salary” in section 4A (1) of the Act, “**salary**”, in relation to an employee who occupies a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989 and is a member, or eligible to become a member of the Public Sector Executives Superannuation Scheme, means the aggregate of:

- (a) the monetary remuneration payable to the employee as the occupant of the position; and

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- (b) the cost of providing employment benefits for the employee as the occupant of the position or, if the employee 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,

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

(2) An employee 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 employee's employer of providing the employee with employment benefits referred to in subclause (1) (b); or
- (b) only a specified proportion of that cost.

(3) If an employee is appointed to a position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989, the employee may, from time to time:

- (a) elect to reduce the proportion of the cost of providing the employee'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 with prescribed employment benefits is currently treated as part of the employee's salary for the purposes of the Act, to nominate a proportion of that cost, but so that the percentage increase in the employee's salary for the purposes of the Act is not greater than the percentage of any increase in the remuneration package of the employee since the last occasion on which the employee had an opportunity to make an election under this paragraph.

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

- (a) is appointed:
 - (i) to another position referred to in Schedule 1 to the Public Sector Executives Superannuation Act 1989; 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 employee’s remuneration package 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 employee’s employer in respect of the employee and payments by that employer of any approved costs associated with the employee’s membership of that scheme.

EXPLANATORY NOTE

The object of this Regulation is to insert in the Principal Regulation clause 4A which will define for the purposes of the State Authorities Non-contributory Superannuation Act 1987 the expression “salary” in relation to employees within the meaning of that Act for whom their employers make contributions to the State Authorities Non-contributory Superannuation Fund and who are eligible to become members of the Public Sector Executives Superannuation Scheme by virtue of being holders of positions listed in Schedule 1 to the Public Sector Executives Superannuation Act 1989. (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.) As a result of clause 4A, employees within the meaning of the State Authorities Non-contributory Superannuation Act 1987 who hold positions listed in that Schedule will be able to make the same kinds of choices with respect to superannuation as can be made by chief executive officers, senior executive officers and police executive officers.
