

SUPERANNUATION ACT 1916—REGULATION

(Relating to those contributors to the State Superannuation Fund who are 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, and in pursuance of the Superannuation Act 1916, 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 Superannuation Regulations are amended by omitting Regulation 18F (Salary of executive officers etc.) and by inserting instead the following Regulation:

Salary of executive officers etc.

18F. (1) For the purposes of paragraph (c) of the definition of “salary” in section 3AA (1) of the Act, “**salary**” in relation to a contributor 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 contributor as the occupant of the position; and
- (b) the cost of providing employment benefits for the contributor as the occupant of the position or, if the contributor has in accordance with subclause (2), elected to have treated as salary

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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 contributor.

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

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

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

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

- (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 contributor’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 contributor’s employer in respect of the contributor and payments by that employer of any approved costs associated with the contributor’s membership of that scheme.

EXPLANATORY NOTE

The object of this Regulation is to substitute for Regulation 18F of the Principal Regulations a new Regulation 18F which will define for the purposes of the Superannuation Act 1916 the expression “salary” in relation to those contributors to the State Superannuation Fund 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 the substituted Regulation 18F, contributors to the State Superannuation Fund 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.
