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SPECIAL SUPPLEMENT



New South Wales

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

Parliamentary Contributory Superannuation Act 1971

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Parliamentary Contributory Superannuation Act 1971*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

Under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth, superannuation contributions surcharge may be payable to the Commissioner of Taxation in respect of employer contributions paid to the Parliamentary Contributory Superannuation Fund on behalf of a member. Before a superannuation benefit is paid, the Trustees of the Fund are required to deduct from the benefit an amount to offset the surcharge that may be payable. The maximum amount that may be deducted is capped ("the surcharge deduction cap").

The object of this Regulation is to amend the *Parliamentary Contributory Superannuation Regulation 2003*:

- (a) to limit the liability of a former member for superannuation contributions surcharge arising from assessments made after benefits have commenced to be paid or been paid to the former member and that is additional to the amount already offset, and
- (b) to prescribe the maximum surcharge deduction amounts that may be determined by the Trustees in respect of certain periods when benefits payable to members accrued so that the maximum amounts will be in line with the maximum surcharge rates being charged or to be phased in by the Commonwealth for those periods.

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Explanatory note

The Regulation sets out the circumstances in which the Trustees may reimburse a former member for additional superannuation contributions surcharge paid by the former member to the Commissioner of Taxation or, at the request of the former member, pay additional surcharge to the Commissioner on behalf of the former member.

The Regulation also enables the Trustees to reduce the benefit paid to the former member to offset additional superannuation contributions surcharge payable by the former member.

This Regulation is made under the *Parliamentary Contributory Superannuation Act 1971*, including sections 26D (3) and (8)–(10) and 33 (the general regulation-making power).

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Clause 1

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

Parliamentary Contributory Superannuation Act 1971

1 Name of Regulation

This Regulation is the *Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004*.

2 Commencement

- (1) This Regulation commences on the day it is published in the Gazette, except as provided by subclause (2).
- (2) Schedule 1 [3] commences on 1 July 2004.

3 Amendment of Parliamentary Contributory Superannuation Regulation 2003

The *Parliamentary Contributory Superannuation Regulation 2003* is amended as set out in Schedule 1.

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 2 Definitions

Insert in alphabetical order:

additional surcharge amount means the amount of superannuation contributions surcharge assessed to be payable by a post payment surcharge assessment notice.

Commissioner of Taxation means the person holding office for the time being as the Commissioner of Taxation under a law of the Commonwealth.

post payment surcharge assessment notice means a notice of assessment of superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth in respect of the employer contributions paid to the Fund on behalf of a former member, being a notice that is received by the former member (whether before, on or after the commencement of clause 12A of this Regulation) after a benefit has commenced to be paid or has been paid to the former member.

surcharge debt account has the same meaning as in section 26D of the Act.

surcharge deduction cap means the maximum surcharge deduction amount that may be determined by the trustees under section 26D (3) of the Act in relation to a benefit payable to a former member.

total surcharge amount, in respect of a former member, means the sum of:

- (a) the total amount of superannuation contributions surcharge that has been assessed to be payable in respect of employer contributions paid to the Fund on the member's behalf up to and including the date on which the former member receives a post payment surcharge assessment notice, and
- (b) the amount (if any) of general interest charged in respect of the additional surcharge amount payable under that notice, and

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Amendments

Schedule 1

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- (c) the amount of interest (if any) payable in respect of the surcharge debt account kept in respect of the former member.

[2] Clauses 12A–12C

Insert after clause 12:

12A Payment by trustees in relation to post payment surcharge assessment notice received by former member

- (1) If the total surcharge amount in respect of a former member who has paid an additional surcharge amount to the Commissioner of Taxation exceeds the surcharge deduction cap, the trustees may reimburse the former member by paying to the former member an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former member by the trustees under this clause or the Act for the purposes of superannuation contributions surcharge.
- (2) The trustees may, at the request of a former member who has received a post payment surcharge assessment notice with respect to an additional surcharge amount that would, if paid, result in, or that has resulted in, the total surcharge amount exceeding the surcharge deduction cap, pay to the Commissioner of Taxation on behalf of the former member an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former member by the trustees under this clause or the Act for the purposes of superannuation contributions surcharge.

Note. Clause 12B provides for further reduction of certain benefits resulting from the liability of a former member for superannuation contributions surcharge.

12B Further reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 26D (8)

- (1) The trustees may, at the request of a former member:
- (a) adjust the amount of a benefit payable to the former member by reducing the benefit by an amount (the *reduction amount*) that is equivalent to the lesser of:
- (i) the additional surcharge amount, and

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Schedule 1 Amendments

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- (ii) the amount (not being less than nil) that is equal to the amount of the surcharge deduction cap less any previously met surcharge liability, and
 - (b) pay an amount that is equal to the reduction amount to the former member or the Commissioner of Taxation.
 - (2) In subclause (1), *previously met surcharge liability* means the sum of:
 - (a) all amounts paid by the former member to the trustees or the Commissioner of Taxation in relation to the total surcharge amount of the former member, and
 - (b) all amounts in respect of which adjustments relating to the benefit of the former member have previously been made under this clause or the Act in relation to superannuation contributions surcharge.
 - (3) For the purposes of determining an adjustment under this clause, the trustees may obtain actuarial advice or advice from any other persons, as the trustees think fit.
 - (4) This clause does not authorise the trustees to pay any amount that would result in payments to or on behalf of the former member exceeding the total benefits to which the former member is entitled.

12C Limitation on payment of penalty interest

Clauses 12A and 12B do not authorise the trustees to pay any amount of general interest charged in respect of an additional surcharge amount payable under a post payment surcharge assessment notice received on or after the commencement of the *Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004* unless the request for the payment is made within such period after the notice is received as the trustees consider reasonable.

[3] Clause 12D

Insert after 12C:

12D Surcharge deduction amount

For the purposes of section 26D (3) (b) of the Act, the surcharge deduction amount determined by the trustees must not exceed the sum of:

Parliamentary Contributory Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Amendments

Schedule 1

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- (a) an amount that is 15% of the employer-financed portion of that part of the benefit payable to the member or former member that accrued after 20 August 1996 and before 1 July 2003, and
 - (b) an amount that is 14.5% of the employer-financed portion of that part of the benefit payable to the member or former member that accrued on or after 1 July 2003 and before 30 June 2004, and
 - (c) an amount that is 13.5% of the employer-financed portion of that part of the benefit payable to the member or former member that accrued on or after 1 July 2004 and before 30 June 2005, and
 - (d) an amount that is 12.5% of the employer-financed portion of that part of the benefit payable to the member or former member that accrued on or after 1 July 2005.



New South Wales

Police Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

Police Regulation (Superannuation) Act 1906

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Police Regulation (Superannuation) Act 1906*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

Under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth, superannuation contributions surcharge may be payable to the Commissioner of Taxation in respect of employer contributions paid to the Police Superannuation Fund on behalf of a contributor. Before a superannuation benefit is paid, the SAS Trustee Corporation is required to deduct from the benefit an amount to offset the surcharge that may be payable. The maximum amount that may be deducted is capped (the “surcharge deduction cap”).

The object of this Regulation is to amend the *Police Superannuation Regulation 2000*:

- (a) to limit the liability of a former contributor for superannuation contributions surcharge arising from assessments made after benefits have commenced to be paid or been paid to the former contributor and that is additional to the amount already offset, and
- (b) to prescribe the maximum surcharge deduction amounts that may be determined by SAS Trustee Corporation in respect of certain periods when benefits payable to contributors accrued so that the maximum amounts will be in line with the maximum surcharge rates being charged or to be phased in by the Commonwealth for those periods.

The Regulation sets out the circumstances in which SAS Trustee Corporation may reimburse a former contributor for additional superannuation contributions surcharge paid by the former contributor to the Commissioner of Taxation or, at the request of the

Police Superannuation Amendment (Superannuation Contributions Surcharge) Regulation
2004

Explanatory note

former contributor, pay additional surcharge to the Commissioner on behalf of the former contributor.

The Regulation also enables the SAS Trustee Corporation to reduce the benefit paid to the former contributor to offset additional superannuation contributions surcharge payable by the former contributor.

This Regulation is made under the *Police Regulation (Superannuation) Act 1906*, including sections 14AA (1C) and (5)–(7) and 24 (the general regulation-making power).

Police Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Clause 1

Police Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

Police Regulation (Superannuation) Act 1906

1 Name of Regulation

This Regulation is the *Police Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004*.

2 Commencement

- (1) This Regulation commences on the day it is published in the Gazette, except as provided by subclause (2).
- (2) Schedule 1 [4] commences on 1 October 2004.

3 Amendment of Police Superannuation Regulation 2000

The *Police Superannuation Regulation 2000* is amended as set out in Schedule 1.

Police Superannuation Amendment (Superannuation Contributions
Surcharge) Regulation 2004

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 3

Omit clause 3. Insert instead:

3 Definitions

In this Regulation:

additional surcharge amount means the amount of superannuation contributions surcharge assessed to be payable by a post payment surcharge assessment notice.

Commissioner of Taxation means the person holding office for the time being as Commissioner of Taxation under a law of the Commonwealth.

post payment surcharge assessment notice means a notice of assessment of superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth in respect of the employer contributions paid to the Fund on behalf of a former contributor, being a notice that is received (on or after the commencement of clause 22A of this Regulation) by the former contributor after a benefit has commenced to be paid or has been paid to the former contributor.

surcharge debt account has the same meaning as in section 14AA of the Act.

surcharge deduction cap means the maximum surcharge deduction amount that may be determined by STC under section 14AA (1C) of the Act in relation to a benefit payable to a former contributor.

the Act means the *Police Regulation (Superannuation) Act 1906*.

total surcharge amount, in respect of a former contributor, means the sum of:

- (a) the total amount of superannuation contributions surcharge that has been assessed to be payable in respect of employer contributions paid to the Fund on the contributor's behalf up to and including the date on

Police Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

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Schedule 1

which the former contributor receives a post payment surcharge assessment notice, and

- (b) the amount (if any) of general interest charged in respect of the additional surcharge amount payable under the notice, and
- (c) the amount of interest (if any) payable in respect of the surcharge debt account kept in respect of the contributor.

Note. Section 1 (2) of the Act defines "STC" as the SAS Trustee Corporation established under the *Superannuation Administration Act 1996*.

[2] Clause 13AA

Insert after clause 13:

13AA Further reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 14AA (5)

- (1) STC may, at the request of a former contributor:
 - (a) adjust the amount of a benefit payable to the former contributor by reducing the benefit by an amount (the *reduction amount*) that is equivalent to the lesser of:
 - (i) the additional surcharge amount, and
 - (ii) the amount (not being less than nil) that is equal to the amount of the surcharge deduction cap less any previously met surcharge liability, and
 - (b) pay an amount that is equal to the reduction amount to the former contributor or the Commissioner of Taxation.
- (2) In subclause (1), *previously met surcharge liability* means the sum of:
 - (a) all amounts paid by the former contributor to STC or the Commissioner of Taxation in relation to the total surcharge amount of the former contributor, and
 - (b) all amounts in respect of which adjustments relating to the benefit of the former contributor have previously been made under this clause or the Act in relation to the superannuation contributions surcharge.

Police Superannuation Amendment (Superannuation Contributions
Surcharge) Regulation 2004

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- (3) For the purposes of determining an adjustment under this clause, STC may obtain actuarial advice or advice from any other persons, as STC thinks fit.
- (4) This clause does not authorise STC to pay any amount that would result in payments made to or on behalf of the former contributor exceeding the total benefits to which the former contributor is entitled.

[3] Clause 22A

Insert after the heading to Part 6:

**22A Payment by STC in relation to post payment surcharge
assessment notice received by former contributor**

- (1) If the total surcharge amount in respect of a former contributor who has paid an additional surcharge amount to the Commissioner of Taxation exceeds the surcharge deduction cap, STC may reimburse the former contributor by paying to the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.
- (2) STC may, at the request of a former contributor who has received a post payment surcharge assessment notice with respect to an additional surcharge amount that would, if paid, result in, or that has resulted in, the total surcharge amount exceeding the surcharge deduction cap, pay to the Commissioner of Taxation on behalf of the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.

Note. Clause 13AA provides for further reduction of certain benefits resulting from the liability of a former contributor for superannuation contributions surcharge.

Police Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

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22B Limitation on payment of penalty interest

Clauses 13AA and 22A do not authorise STC to pay any amount of general interest charged in respect of an additional surcharge amount payable under a post payment surcharge assessment notice unless the request for the payment is made within such period after the notice is received as STC considers reasonable.

[4] Clause 22C

Insert after clause 22B:

22C Surcharge deduction amount

For the purposes of section 14AA (1C) of the Act, the surcharge deduction amount determined by STC must not exceed the sum of:

- (a) an amount that is 15% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued after 20 August 1996 and before 1 July 2003, and
- (b) an amount that is 14.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2003 and before 30 June 2004, and
- (c) an amount that is 13.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2004 and before 30 June 2005, and
- (d) an amount that is 12.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2005.



New South Wales

Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

Superannuation Act 1916

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Superannuation Act 1916*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

Under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth, superannuation contributions surcharge may be payable to the Commissioner of Taxation in respect of employer contributions paid to the State Superannuation Fund on behalf of a contributor. Before a superannuation benefit is paid, the SAS Trustee Corporation is required to deduct from the benefit an amount to offset the surcharge that may be payable. The maximum amount that may be deducted is capped (the “surcharge deduction cap”).

The object of this Regulation is to amend the *Superannuation Regulation 2001*:

- (a) to limit the liability of a former contributor for superannuation contributions surcharge arising from assessments made after benefits have commenced to be paid or been paid to the former contributor and that is additional to the amount already offset, and
- (b) to prescribe the maximum surcharge deduction amounts that may be determined by the SAS Trustee Corporation in respect of certain periods when benefits payable to members accrued so that the maximum amounts will be in line with maximum surcharge rates being charged or to be phased in by the Commonwealth for those periods.

The Regulation sets out the circumstances in which the SAS Trustee Corporation may reimburse a former contributor for additional superannuation contributions surcharge paid by the former contributor to the Commissioner of Taxation or, at the request of the

Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Explanatory note

former contributor, pay additional surcharge to the Commissioner on behalf of the former contributor.

The Regulation also enables the SAS Trustee Corporation to reduce the benefit paid to the former contributor to offset additional superannuation contributions surcharge payable by the former contributor.

This Regulation is made under the *Superannuation Act 1916*, including sections 61RA (1C) and (5)–(7) and 86 (the general regulation-making power).

Superannuation Amendment (Superannuation Contributions Surcharge)
Regulation 2004

Clause 1

Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

Superannuation Act 1916

1 Name of Regulation

This Regulation is the *Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2003*.

2 Commencement

- (1) This Regulation commences on the day it is published in the Gazette, except as provided by subclause (2).
- (2) Schedule 1 [4] commences on 1 October 2004.

3 Amendment of Superannuation Regulation 2001

The *Superannuation Regulation 2001* is amended as set out in Schedule 1.

Superannuation Amendment (Superannuation Contributions Surcharge)
Regulation 2004

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order:

additional surcharge amount means the amount of superannuation contributions surcharge assessed to be payable by a post payment surcharge assessment notice.

Commissioner of Taxation means the person holding office for the time being as the Commissioner of Taxation under a law of the Commonwealth.

post payment surcharge assessment notice means a notice of assessment of superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth in respect of the employer contributions paid to the Fund on behalf of a former contributor, being a notice that is received (on or after the commencement of clause 10 of this Regulation) by the former contributor after a benefit has commenced to be paid or has been paid to the former contributor.

surcharge debt account has the same meaning as in section 61RA of the Act.

surcharge deduction cap means the maximum surcharge deduction amount that may be determined by STC under section 61RA (1C) of the Act in relation to a benefit payable to a former contributor.

total surcharge amount, in respect of a former contributor, means the sum of:

- (a) the total amount of superannuation contributions surcharge that has been assessed to be payable in respect of employer contributions paid to the Fund on the contributor's behalf up to and including the date on which the former contributor receives a post payment surcharge assessment notice, and
- (b) the amount (if any) of general interest charged in respect of the additional surcharge amount payable under that notice, and

Superannuation Amendment (Superannuation Contributions Surcharge)
Regulation 2004

Amendments

Schedule 1

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- (c) the amount of interest (if any) payable in respect of the surcharge debt account kept in respect of the former contributor.

[2] Clause 7A

Insert after clause 7:

7A Further reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 61RA (5)

- (1) STC may, at the request of a former contributor:
 - (a) adjust the amount of a benefit payable to the former contributor by reducing the benefit by an amount (the *reduction amount*) that is equivalent to the lesser of:
 - (i) the additional surcharge amount, and
 - (ii) the amount (not being less than nil) that is equal to the amount of the surcharge deduction cap less any previously met surcharge liability, and
 - (b) pay an amount that is equal to the reduction amount to the former contributor or the Commissioner of Taxation.
- (2) In subclause (1), *previously met surcharge liability* means the sum of:
 - (a) all amounts paid by the former contributor to STC or the Commissioner of Taxation in relation to the total surcharge amount of the former contributor, and
 - (b) all amounts in respect of which adjustments relating to the benefit of the former contributor have previously been made under this clause or the Act in relation to superannuation contributions surcharge.
- (3) For the purposes of determining an adjustment under this clause, STC may obtain actuarial advice or advice from any other persons, as STC thinks fit.
- (4) This clause does not authorise STC to pay any amount that would result in payments made to or on behalf of the former contributor exceeding the total benefits to which the former contributor is entitled.

Superannuation Amendment (Superannuation Contributions Surcharge)
Regulation 2004

Schedule 1 Amendments

[3] Part 3

Insert after clause 9:

Part 3 Miscellaneous

10 Payment by STC in relation to post payment surcharge assessment notice received by former contributor

- (1) If the total surcharge amount in respect of a former contributor who has paid an additional surcharge amount to the Commissioner of Taxation exceeds the surcharge deduction cap, STC may reimburse the former contributor by paying to the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.
- (2) STC may, at the request of a former contributor who has received a post payment surcharge assessment notice with respect to an additional surcharge amount that would, if paid, result in, or that has resulted in, the total surcharge amount exceeding the surcharge deduction cap, pay to the Commissioner of Taxation on behalf of the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.

Note. Clause 7A provides for further reduction of certain benefits resulting from the liability of a former contributor for superannuation contributions surcharge.

11 Limitation on payment of penalty interest

Clauses 7A and 10 do not authorise STC to pay any amount of general interest charged in respect of an additional surcharge amount payable under a post payment surcharge assessment notice unless the request for the payment is made within such period after the notice is received as STC considers reasonable.

Superannuation Amendment (Superannuation Contributions Surcharge)
Regulation 2004

Amendments

Schedule 1

[4] Clause 12

Insert after clause 11:

12 Surcharge deduction amount

For the purposes of section 61RA (1C) of the Act, the surcharge deduction amount determined by STC must not exceed the sum of:

- (a) an amount that is 15% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued after 20 August 1996 and before 1 July 2003, and
- (b) an amount that is 14.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2003 and before 30 June 2004, and
- (c) an amount that is 13.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2004 and before 30 June 2005, and
- (d) an amount that is 12.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2005.



New South Wales

State Authorities Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

State Authorities Superannuation Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *State Authorities Superannuation Act 1987*.

JOHN DELLA BOSCA, M.L.C.,
Special Minister of State

Explanatory note

Under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth, superannuation contributions surcharge may be payable to the Commissioner of Taxation in respect of employer contributions paid to the State Authorities Superannuation Fund on behalf of a contributor. Before a superannuation benefit is paid, the SAS Trustee Corporation is required to deduct from the benefit an amount to offset the surcharge that may be payable. The maximum amount that may be deducted is capped (the “surcharge deduction cap”).

The object of this Regulation is to amend the *State Authorities Superannuation Regulation 2000*:

- (a) to limit the liability of a former contributor for superannuation contributions surcharge arising from assessments made after benefits have commenced to be paid or been paid to the former contributor and that is additional to the amount already offset, and
- (b) to prescribe the maximum surcharge deduction amounts that may be determined by the SAS Trustee Corporation in respect of certain periods when benefits payable to members accrued so that the maximum amounts will be in line with the maximum surcharge rates being charged or to be phased in by the Commonwealth for those periods.

State Authorities Superannuation Amendment (Superannuation Contributions Surcharge)
Regulation 2004

Explanatory note

The Regulation sets out the circumstances in which the SAS Trustee Corporation may reimburse a former contributor for additional superannuation contributions surcharge paid by the former contributor to the Commissioner of Taxation or, at the request of the former contributor, pay additional surcharge to the Commissioner on behalf of the former contributor.

The Regulation also enables the SAS Trustee Corporation to reduce the benefit paid to the former contributor to offset additional superannuation contributions surcharge payable by the former contributor.

This Regulation is made under the *State Authorities Superannuation Act 1987*, including sections 45A (1C) and (5)–(7) and 55 (the general regulation-making power).

State Authorities Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Clause 1

State Authorities Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

under the

State Authorities Superannuation Act 1987

1 Name of Regulation

This Regulation is the *State Authorities Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004*.

2 Commencement

- (1) This Regulation commences on the day it is published in the Gazette, except as provided by subclause (2).
- (2) Schedule 1 [4] commences on 1 October 2004.

3 Amendment of State Authorities Superannuation Regulation 2000

The *State Authorities Superannuation Regulation 2000* is amended as set out in Schedule 1.

State Authorities Superannuation Amendment (Superannuation
Contributions Surcharge) Regulation 2004

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

additional surcharge amount means the amount of superannuation contributions surcharge assessed to be payable by a post payment surcharge assessment notice.

Commissioner of Taxation means the person holding office for the time being as the Commissioner of Taxation under a law of the Commonwealth.

post payment surcharge assessment notice means a notice of assessment of superannuation contributions surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* of the Commonwealth in respect of the employer contributions paid to the Fund on behalf of a former contributor, being a notice that is received by the former contributor (on or after the commencement of clause 6A of this Regulation) after a benefit has commenced to be paid or has been paid to the former contributor.

surcharge debt account has the same meaning as in section 45A of the Act.

surcharge deduction cap means the maximum surcharge deduction amount that may be determined by STC under section 45A (1C) of the Act in relation to a benefit payable to a former contributor.

total surcharge amount, in respect of a former contributor, means the sum of:

- (a) the total amount of superannuation contributions surcharge that has been assessed to be payable in respect of employer contributions paid to the Fund on the contributor's behalf up to and including the date on which the former contributor receives a post payment surcharge assessment notice, and
- (b) the amount (if any) of general interest charged in respect of the additional surcharge amount payable under that notice, and

State Authorities Superannuation Amendment (Superannuation
Contributions Surcharge) Regulation 2004

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Schedule 1

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- (c) the amount of interest (if any) payable in respect of the surcharge debt account kept in respect of the former member.

[2] Clause 6A

Insert after clause 6:

6A Payment by STC in relation to post payment surcharge assessment notice received by former contributor

- (1) If the total surcharge amount in respect of a former contributor who has paid an additional surcharge amount to the Commissioner of Taxation exceeds the surcharge deduction cap, STC may reimburse the former contributor by paying to the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.
- (2) STC may, at the request of a former contributor who has received a post payment surcharge assessment notice with respect to an additional surcharge amount that would, if paid, result in, or that has resulted in, the total surcharge amount exceeding the surcharge deduction cap, pay to the Commissioner of Taxation on behalf of the former contributor an amount equal to the amount by which the total surcharge amount exceeds the surcharge deduction cap, less any amount previously reimbursed to or paid in respect of the former contributor by STC under this clause or the Act for the purposes of superannuation contributions surcharge.

Note. Clause 15AA provides for further reduction of certain benefits resulting from the liability of a former contributor for superannuation contributions surcharge.

State Authorities Superannuation Amendment (Superannuation
Contributions Surcharge) Regulation 2004

Schedule 1 Amendments

[3] Clauses 15AA and 15AB

Insert after clause 15:

15AA Further reduction of certain benefits resulting from liability for superannuation contributions surcharge: section 45A (5)

- (1) STC may, at the request of a former contributor:
 - (a) adjust the amount of a benefit payable to the former contributor by reducing the benefit by an amount (the *reduction amount*) that is equivalent to the lesser of:
 - (i) the additional surcharge amount, and
 - (ii) the amount (not being less than nil) that is equal to the amount of the surcharge deduction cap less any previously met surcharge liability, and
 - (b) pay an amount equal to the reduction amount to the former contributor or to the Commissioner of Taxation.
- (2) In subclause (1), *previously met surcharge liability* means the sum of:
 - (a) all amounts paid by the former contributor to STC or the Commissioner of Taxation in relation to the total surcharge amount of the former contributor, and
 - (b) all amounts in respect of which adjustments relating to the benefit of the former contributor have previously been made under this clause or the Act in relation to superannuation contributions surcharge.
- (3) For the purposes of determining an adjustment under this clause, STC may obtain actuarial advice or advice from any other persons, as STC thinks fit.
- (4) This clause does not authorise STC to pay any amount that would result in payments made to or on behalf of the former contributor exceeding the total benefits to which the former contributor is entitled.

15AB Limitation on payment of penalty interest

Clauses 6A and 15AA do not authorise STC to pay any amount of general interest charged in respect of an additional surcharge amount payable under a post payment surcharge

State Authorities Superannuation Amendment (Superannuation Contributions Surcharge) Regulation 2004

Amendments

Schedule 1

assessment notice unless the request for the payment is made within such period after the notice is received as STC considers reasonable.

[4] Clause 15AC

Insert after clause 15AB:

15AC Surcharge deduction amount

For the purposes of section 45A (1C) of the Act, the surcharge deduction amount determined by STC must not exceed the sum of:

- (a) an amount that is 15% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued after 20 August 1996 and before 1 July 2003, and
- (b) an amount that is 14.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2003 and before 30 June 2004, and
- (c) an amount that is 13.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2004 and before 30 June 2005, and
- (d) an amount that is 12.5% of the employer-financed portion of that part of the benefit payable to the contributor or former contributor that accrued on or after 1 July 2005.

ABORIGINAL LAND RIGHTS ACT 1983

Notice

I, the Honourable Andrew Refshauge MP, Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 222(1) of the Aboriginal Land Rights Act 1983 (the Act), appoint Mr Eddie Senatore as Administrator to the Wagga Wagga Local Aboriginal Land Council for a maximum period of six (6) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in section 52(1) of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration is not to exceed \$33,000.00 dollars.

Signed and sealed this day of 24th June 2004.

ANDREW REFSHAUGE, M.P.,
Minister For Aboriginal Affairs

GOD SAVE THE QUEEN

ABORIGINAL LAND RIGHTS ACT 1983

Notice

I, the Honourable Andrew Refshauge MP, Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 222(1) of the Aboriginal Land Rights Act 1983 (the Act), appoint Mr Peter Hillig as Administrator to the Ngunnawal Local Aboriginal Land Council for a maximum period of six (6) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in section 52(1) of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration is not to exceed \$33,000.00 dollars.

Signed and sealed this 24th day of June 2004.

ANDREW REFSHAUGE, M.P.,
Minister For Aboriginal Affairs

GOD SAVE THE QUEEN

ABORIGINAL LAND RIGHTS ACT 1983

Notice

I, the Honourable Andrew Refshauge MP, Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 222(1) of the Aboriginal Land Rights Act 1983 (the Act), appoint Mr Eddie Senatore as Administrator to the Wagga Wagga Local Aboriginal Land Council for a maximum period of six (6) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in section 52(1) of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration is not to exceed \$33,000.00 dollars.

Signed and sealed this 24th day of June 2004.

ANDREW REFSHAUGE, M.P.,
Minister For Aboriginal Affairs

GOD SAVE THE QUEEN

ABORIGINAL LAND RIGHTS ACT 1983

Notice

I, the Honourable Andrew Refshauge MP, Minister for Aboriginal Affairs, following approval by the New South Wales Aboriginal Land Council, do, by this notice pursuant to section 231(2) of the Aboriginal Land Rights Act 1983 (the Act), extend the appointment of Mr Peter Hillig as Administrator to the Ngunnawal Local Aboriginal Land Council for a maximum period of six (6) calendar months. During the period of his appointment, the Administrator will have all of the functions of a Local Aboriginal Land Council as specified in section 52(1) of the Act, and any other duties as specified by the agreed terms of appointment. The Administrator's remuneration is not to exceed \$66,000.00 dollars.

Signed and sealed this 23rd day of June 2004.

ANDREW REFSHAUGE, M.P.,
Minister For Aboriginal Affairs

GOD SAVE THE QUEEN

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