



THE GOVERNMENT SUPERANNUATION FUND (CEASING CONTRIBUTIONS) REGULATIONS 1995

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 28th day of August 1995

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 97 of the Government Superannuation Fund Act 1956, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

1. Title and commencement
2. Interpretation

Right to Cease to be Contributor

3. Persons eligible to make cessation election
4. Time within which cessation elections to be made
5. General provisions relating to elections

Old Government Service Superannuation

6. Deferred pension option under Part II
7. Deferred lump sum option under Part II
8. Refunds in respect of Part II

New Government Service Superannuation

9. Deferred pension option under Part II_A
10. Deferred lump sum option under Part II_A
11. Refunds in respect of Part II_A

Superannuation of Members of Armed Forces

12. Deferred pension option under Part III_A
13. Deferred lump sum option under Part III_A
14. Refunds in respect of Part III_A

Superannuation of Judges and Solicitor-General

15. Deferred pension option under Part V_A
16. Deferred lump sum option under Part V_A

17. Refunds in respect of Part VA	22. Deferred lump sum option under Part VIA
<i>Parliamentary Superannuation</i>	23. Refunds in respect of Part VIA
18. Deferred pension option under Part VI	24. Medical disengagement under Part VIA
19. Deferred lump sum option under Part VI	<i>Superannuation of Members of Prisons Service</i>
20. Refunds in respect of Part VI	25. Deferred pension option under Part VIA
<i>Superannuation of Members of Police</i>	26. Deferred lump sum option under Part VIA
21. Deferred pension option under Part VIA	27. Refunds in respect of Part VIA

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Government Superannuation Fund (Ceasing Contributions) Regulations 1995.

(2) These regulations shall come into force on the 1st day of October 1995.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“Act” means the Government Superannuation Fund Act 1956:

“Cessation election” means any election under section 28 (1) (b) or section 61R (1) (b) or section 71JA or section 81OA or section 86FA or section 88HA of the Act:

“Contributing employer”, in relation to a person, means—

(a) Any Department, Crown entity, or Office of Parliament (as those terms are defined in the Public Finance Act 1989) or other entity referred to in section 95 (1) of the Act; and

(b) Any employer who made or makes payments in respect of the person's membership of a scheme under the Act:

“Effective date”, in relation to a cessation election, means the expiration of 3 months from the date on which the notice is delivered to the Superintendent pursuant to regulation 5 of these regulations:

“Fund” includes the Judges Superannuation Account and the Parliamentary Superannuation Account:

“Increased in accordance with CPI” means increased by the percentage (if any) as certified by the Government Statistician by which the all groups index number of the New Zealand Consumer Price Index for the quarter which immediately precedes the date upon which the pension is first to be paid or the date on which the lump sum is to be paid, as the case may be, exceeds the index number for the quarter immediately following the effective date of the election:

“Qualifying scheme”, in relation to a person, means a registered superannuation scheme (other than a scheme under the Act) that is to be subsidised for the benefit of the person by a contributing employer, or, in the case of a person who is a contributor under Part VA or Part VI of the Act, out of public money in accordance with a determination of the Higher Salaries Commission:

“Registered superannuation scheme” means any superannuation scheme that is registered under the Superannuation Schemes Act 1989:

“Superannuable service”, in relation to any person, means—

(a) Any contributory service (excluding, except as provided in regulation 25 (3) (c) of these regulations, any notional contributory service); and

(b) Any period of subsidised membership of a qualifying scheme.

(2) Any pension referred to in these regulations is to be regarded as a retiring allowance for the purposes of the Act.

Right to Cease to be Contributor

3. Persons eligible to make cessation election—Any person who has been accepted for membership of a qualifying scheme may make a cessation election.

4. Time within which cessation elections to be made—No cessation election for a deferred lump sum shall be accepted after the later of—

(a) 6 months after the contributor first becomes entitled to become a member of any qualifying scheme; or

(b) The 1st day of April 1996.

5. General provisions relating to elections—(1) Every cessation election—

(a) Shall be in writing delivered to the Superintendent; and

(b) May be revoked by notice in writing to the Superintendent at any time before the effective date; and

(c) May be converted into an election for a refund at any time before any payment has been made from the Fund pursuant to the election.

(2) On the effective date of a cessation election the contributor shall cease to be a contributor to the Fund.

(3) No person who has ceased to be a contributor to the Fund by virtue of a cessation election shall be entitled to contribute again to the Fund.

(4) No person who has made a cessation election shall become entitled to a deferred pension or a deferred lump sum until—

(a) He or she has made the further election provided for in these regulations; and

(b) The date specified in such an election has been reached.

Old Government Service Superannuation

6. Deferred pension option under Part II—(1) This regulation sets out the terms and conditions of an election for a deferred pension under section 28 (1) (b) (i) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 20 years' superannuable service, make a further election to receive a pension which shall commence to be payable to the person on such date as the person may elect being a date on or after the latest of—

(a) Attaining the age of 50; and

(b) Ceasing Government service; and

(c) 3 months after the date of the further election.

(3) That pension is calculated under section 35 of the Act as if—

- (a) The person had ceased Government service and retired and become entitled to a pension on the effective date of the cessation election; and
- (b) The person's annual salary at that date was increased in accordance with CPI.

(4) If a person dies before becoming entitled to a pension, death benefits calculated in accordance with section 45 (1) or section 46 of the Act shall be payable (except that references in those sections to the rate of the retiring allowance to which the deceased contributor would have been entitled shall be read as if they were references to the rate of the deferred pension calculated in accordance with this regulation).

(5) Nothing in this regulation limits sections 40, 48, 91, or section 91b of the Act.

7. Deferred lump sum option under Part II—(1) This regulation sets out the terms and conditions of an election for a deferred lump sum under section 28 (1) (b) (ii) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 20 years' superannuable service, make a further election to receive a lump sum which shall be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
- (b) Ceasing Government service; and
- (c) The fifth anniversary of the effective date of the cessation election; and
- (d) 3 months after the date of the further election.

(3) The lump sum is the greater of—

- (a) 12 times the annual rate of the pension calculated in accordance with subclause (4) of this regulation; or
- (b) Twice the total amount of the person's contributions that are in the Fund,—

calculated at the effective date of the cessation election and increased in accordance with CPI.

(4) The pension for the purposes of subclause (3) of this regulation is calculated under section 35 of the Act as if—

- (a) The person had ceased Government service and retired and become entitled to a pension on the effective date of the cessation election; and
- (b) The person was aged 60 at that date.

(5) If the person dies before becoming entitled to the lump sum, the lump sum shall be payable to the person's spouse or, if the person does not leave a spouse, to that person's personal representatives in trust for the persons entitled to receive it under that person's will or under the Acts relating to the distribution of intestate estates.

8. Refunds in respect of Part II—(1) If a person who has made a cessation election for a deferred pension or a deferred lump sum has less than 20 years' superannuable service by the time he or she ceases to be employed in the Government service, a refund of his or her contributions shall be paid.

(2) Every refund under regulation 5(1)(c) of these regulations or subclause (1) of this regulation shall be calculated in accordance with section 42(1) and (2) of the Act.

New Government Service Superannuation

9. Deferred pension option under Part II_A—(1) This regulation sets out the terms and conditions of an election for a deferred pension under section 61R(1)(b)(i) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years' superannuable service, make a further election to receive a pension which shall commence to be payable to the person on such date as the person may elect being a date on or after the latest of—

(a) Attaining the age of 50; and

(b) Ceasing Government service; and

(c) 3 months after the date of the further election.

(3) That pension is calculated under section 61L of the Act as if—

(a) Subject to paragraph (c) of this subclause, the person had ceased Government service and retired and become entitled to a pension on the effective date of the cessation election; and

(b) The person was entitled to a pension under section 61I(4) of the Act; and

(c) The person had retired on the date on which the pension is first to be paid for the purpose of the definition of "appropriate percentage" in section 61L(1A) of the Act; and

(d) The person's final average earnings at the effective date of the cessation election were increased in accordance with CPI.

(4) If a person dies before becoming entitled to a pension,—

(a) With less than 10 years' superannuable service, death benefits calculated in accordance with section 61R(8) of the Act shall be payable; or

(b) With more than 10 years' superannuable service, death benefits calculated in accordance with section 61S(4) of the Act shall be payable,—

(except that references in those sections to the rate of the retiring allowance to which the deceased contributor would have been entitled shall be read as if they were references to the rate of the deferred pension calculated in accordance with this regulation).

(5) Nothing in this regulation limits sections 40, 48, 91, or section 91B of the Act.

10. Deferred lump sum option under Part II_A—(1) This regulation sets out the terms and conditions of an election for a deferred lump sum under section 61R(1)(b)(ii) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years' superannuable service, make a further election to receive a lump sum which shall be payable to the person on such date as the person may elect being a date on or after the latest of—

(a) Attaining the age of 50; and

(b) Ceasing Government service; and

- (c) The fifth anniversary of the effective date of the cessation election; and
 - (d) 3 months after the date of the further election.
- (3) The lump sum is the greater of—
- (a) 12 times the annual rate of the pension calculated in accordance with subclause (4) of this regulation; or
 - (b) Twice the total amount of the person's contributions that are in the Fund, increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under any Part of the Act other than Part II, Part III, or Part VI, by 0.25 percent for every month beginning on or after that date during which the person was a contributor under any Part of the Act other than Part II, Part III, or Part VI,—
- calculated at the effective date of the cessation election and increased in accordance with CPI.
- (4) The pension for the purposes of subclause (3) of this regulation is calculated under section 61L of the Act as if—
- (a) The person had ceased Government service and retired and become entitled to a pension on the effective date of the cessation election; and
 - (b) The person was entitled to a pension under section 61I (4) of the Act; and
 - (c) The person was aged 60 at the effective date of the cessation election for the purpose of the definition of "appropriate percentage" in section 61L (1A) of the Act.
- (5) If the person dies before becoming entitled to the lump sum, the lump sum shall be payable to the person's spouse or, if the person does not leave a spouse, to that person's personal representatives in trust for the persons entitled to receive it under that person's will or under the Acts relating to the distribution of intestate estates.

11. Refunds in respect of Part IIA—(1) If a person who has made a cessation election for a deferred pension or a deferred lump sum has less than 10 years' superannuable service by the time he or she ceases to be employed in the Government service, a refund of his or her contributions shall be paid.

(2) Every refund under regulation 5 (1) (c) of these regulations or subclause (1) of this regulation shall, if the person has ceased Government service, be increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under any Part of the Act other than Part II, Part III, or Part VI, by 0.25 percent for every month beginning on or after that date between the date on which the person became a contributor under Part IIA of the Act and the date on which the refund is paid.

Superannuation of Members of Armed Forces

12. Deferred pension option under Part IIIA—(1) This regulation sets out the terms and conditions of an election for a deferred pension under section 71JA (a) (i) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 20 years' superannuable service, make a further election to receive a pension which shall

commence to be payable to the person on such date as the person may elect being a date on or after the later of—

- (a) Being discharged or released from the regular forces; and
- (b) 3 months after the date of the further election.

(3) That pension is calculated under section 71G of the Act as if—

- (a) The person had been discharged or released from the regular forces and retired and become entitled to a pension on the effective date of the cessation election; and
- (b) The person's final earnings at that date were increased in accordance with CPI.

(4) If a person dies before becoming entitled to a pension, death benefits calculated in accordance with section 71K (9) and (10) of the Act shall be payable (except that references in that section to the rate of the retiring allowance to which the deceased contributor would have been entitled shall be read as if they were references to the rate of the deferred pension calculated in accordance with this regulation).

(5) Nothing in this regulation limits sections 40, 48, 71M, or section 91B of the Act.

13. Deferred lump sum option under Part IIIA—(1) This regulation sets out the terms and conditions of an election for a deferred lump sum under section 71JA (a) (ii) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 20 years' superannuable service, make a further election to receive a lump sum which shall be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Being discharged or released from the regular forces; and
- (b) The fifth anniversary of the effective date of the cessation election; and
- (c) 3 months after the date of the further election.

(3) The lump sum is the greater of—

- (a) 12 times the annual rate of the pension calculated in accordance with subclause (4) of this regulation; or

(b) Twice the total amount of the person's contributions that are in the Fund, increased, in respect of contributions paid in respect of any period of contributory service under Part III or Part IIIA of the Act, by 0.25 percent for every month during which the person was a contributor under Part III or Part IIIA of the Act,—calculated at the effective date of the cessation election and increased in accordance with CPI.

(4) The pension for the purposes of subclause (3) of this regulation is calculated under section 71G of the Act as if the person had been discharged or released from the regular forces and retired and become entitled to a pension on the effective date of the cessation election.

(5) If the person dies before becoming entitled to the lump sum, the lump sum shall be payable to the person's spouse or, if the person does not leave a spouse, to that person's personal representatives in trust for the persons entitled to receive it under that person's will or under the Acts relating to the distribution of intestate estates.

14. Refunds in respect of Part IIIA—(1) If a person who has made a cessation election for a deferred pension or a deferred lump sum has less

than 20 years' superannuable service by the time he or she is discharged or released from the regular forces, a refund of his or her contributions shall be paid.

(2) Every refund under section 71JA (b) of the Act or regulation 5 (1) (c) of these regulations or subclause (1) of this regulation shall, if the person has been discharged or released from the regular forces, be increased, in respect of contributions paid in respect of any period of contributory service under Part III or Part IIIA of the Act, by 0.25 percent for every month between the date on which the person became a contributor under Part III or Part IIIA of the Act and the date on which the refund is paid.

Superannuation of Judges and Solicitor-General

15. Deferred pension option under Part VA—(1) This regulation sets out the terms and conditions of an election for a deferred pension under section 810A (a) (i) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years' superannuable service, make a further election to receive a pension which shall commence to be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
- (b) Ceasing judicial service; and
- (c) 3 months after the date of the further election.

(3) That pension is calculated under section 81I of the Act as if—

- (a) The person had ceased judicial service and retired and become entitled to a retiring allowance on the effective date of the cessation election; and
- (b) The person's salary at that date was increased in accordance with CPI.

(4) If a person dies before becoming entitled to a pension, death benefits calculated in accordance with section 81Q of the Act shall be payable (except that references in that section to the rate of the retiring allowance to which the deceased Judge would have been entitled shall be read as if they were references to the rate of the deferred pension calculated in accordance with this regulation).

(5) Nothing in this regulation limits sections 40, 48, 91, or section 91B of the Act.

16. Deferred lump sum option under Part VA—(1) This regulation sets out the terms and conditions of an election for a deferred lump sum under section 810A (a) (ii) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years' superannuable service, make a further election to receive a lump sum which shall be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
- (b) Ceasing judicial service; and
- (c) The fifth anniversary of the effective date of the cessation election; and
- (d) 3 months after the date of the further election.

(3) The lump sum is the greater of—

- (a) 12 times the annual rate of the pension calculated in accordance with subclause (4) of this regulation; or
- (b) Twice the total amount of the person's contributions that are in the Judges Superannuation Account, increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under Part IV or Part VA of the Act, by 0.25 percent for every month beginning on or after that date during which the person was a contributor under Part IV or Part VA of the Act,—

calculated at the effective date of the cessation election and increased in accordance with CPI.

(4) The pension for the purposes of subclause (3) of this regulation is calculated under section 81I of the Act as if—

- (a) The person had ceased judicial service and retired and become entitled to a retiring allowance on the effective date of the cessation election; and
- (b) The person was aged 68 at the effective date of the cessation election.

(5) If the person dies before becoming entitled to the lump sum, the lump sum shall be payable to the person's spouse or, if the person does not leave a spouse, to that person's personal representatives in trust for the persons entitled to receive it under that person's will or under the Acts relating to the distribution of intestate estates.

17. Refunds in respect of Part VA—(1) If a person who has made a cessation election for a deferred pension or a deferred lump sum has less than 10 years' superannuable service by the time he or she ceases judicial service, a refund of his or her contributions shall be paid.

(2) Every refund under section 81OA of the Act or regulation 5 (1)(c) of these regulations or subclause (1) of this regulation shall, if the person has ceased judicial service, be increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under Part IV or Part VA of the Act, by 0.25 percent for every month beginning on or after that date between the date on which the person became a contributor under Part IV or Part VA of the Act and the date on which the refund is paid.

Parliamentary Superannuation

18. Deferred pension option under Part VI—(1) This regulation sets out the terms and conditions of an election for a deferred pension under section 86FA (a) (i) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 9 years' superannuable service, make a further election to receive a pension which shall commence to be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
- (b) Ceasing to be a member; and
- (c) 3 months after the date of the further election.

(3) That pension is calculated under section 84 of the Act as if—

- (a) The person had ceased to be a member and retired and become entitled to a pension on the effective date of the cessation election; and

- (b) For the purpose of the definition of “pension percentage” in section 84(4) of the Act, where the person’s superannuable service at the date upon which the pension is first to be paid exceeds 20 years, P is calculated in accordance with the following formula:

$$\frac{20 - y}{30} + \frac{x + y - 20}{120}$$

where

- x is the number of years of the person’s contributory service; and
 y is the number of years of the person’s membership of a qualifying scheme that was subsidised out of public money in accordance with a determination of the Higher Salaries Commission,—
 except that if y is greater than 20, then P shall be $\frac{x}{120}$.

(4) If a person dies before becoming entitled to a pension, death benefits calculated in accordance with section 86A or section 86B or section 86D of the Act shall be payable (except that references in those sections to the rate of the retiring allowance to which the deceased member or person would have been entitled shall be read as if they were references to the rate of the deferred pension calculated in accordance with this regulation).

(5) Nothing in this regulation limits sections 40, 48, 91, or section 91B of the Act.

19. Deferred lump sum option under Part VI—(1) This regulation sets out the terms and conditions of an election for a deferred lump sum under section 86FA (a) (ii) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 9 years’ superannuable service, make a further election to receive a lump sum which shall be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
- (b) Ceasing to be a member; and
- (c) The fifth anniversary of the effective date of the cessation election; and
- (d) 3 months after the date of the further election.

(3) The lump sum is the greater of—

- (a) 12 times the annual rate of the pension calculated in accordance with subclause (4) of this regulation; or
- (b) Twice the total amount of the person’s contributions that are in the Parliamentary Superannuation Account,—

calculated at the effective date of the cessation election and increased in accordance with CPI.

(4) The pension for the purposes of subclause (3) of this regulation is calculated under section 84 of the Act as if—

- (a) The person had ceased to be a member and retired and become entitled to a pension on the effective date of the cessation election; and

- (b) For the purpose of the definition of “pension percentage” in section 84 (4) of the Act, where the person’s superannuable service at the date upon which the lump sum is to be paid exceeds 20 years, P is calculated in accordance with the following formula:

$$\frac{20 - y}{30} + \frac{x + y - 20}{120}$$

where

- x is the number of years of the person’s contributory service; and
 y is the number of years of the person’s membership of a qualifying scheme that was subsidised out of public money in accordance with a determination of the Higher Salaries Commission,—
 except that if y is greater than 20, then P shall be $\frac{x}{120}$.

- (c) The person had become entitled to a pension on attaining the age of 50 or attaining 9 years’ contributory service, whichever is the later.

(5) If the person dies before becoming entitled to the lump sum, the lump sum shall be payable to the person’s spouse or, if the person does not leave a spouse, to that person’s personal representatives in trust for the persons entitled to receive it under that person’s will or under the Acts relating to the distribution of intestate estates.

20. Refunds in respect of Part VI—(1) If a person who has made a cessation election for a deferred pension or a deferred lump sum has less than 9 years’ superannuable service by the time he or she ceases to be a member, a refund of his or her contributions shall be paid.

(2) Every refund under section 86FA (b) of the Act or regulation 5 (1) (c) of these regulations or subclause (1) of this regulation shall, if the person has ceased to be a member, be twice the person’s contributions to the Parliamentary Superannuation Account.

Superannuation of Members of Police

21. Deferred pension option under Part VIA—(1) This regulation sets out the terms and conditions of an election for a deferred pension under section 88HA (a) (i) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years’ superannuable service, make a further election to receive a pension which shall commence to be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
 - (b) Ceasing to be a member of the Police; and
 - (c) 3 months after the date of the further election.
- (3) That pension is calculated under section 88F of the Act as if—
- (a) Subject to paragraph (b) of this subclause, the person had ceased to be a member of the Police and retired and become entitled to a pension on the effective date of the cessation election; and

- (b) The person had retired on the date on which the pension is first to be paid for the purpose of the definition of “appropriate percentage” in section 88F(2A) of the Act; and
 - (c) Section 88F(2B) of the Act applies in determining the person’s contributory service; and
 - (d) The person’s final average earnings at the effective date of the cessation election were increased in accordance with CPI.
- (4) If a person dies before becoming entitled to a pension,—
- (a) With less than 10 years’ superannuable service, death benefits calculated in accordance with section 61R(8) (as applied by section 88M) of the Act shall be payable; or
 - (b) With more than 10 years’ superannuable service, death benefits calculated in accordance with section 61S(4) (as applied by section 88H) of the Act shall be payable,—
- (except that references in that section to the rate of the retiring allowance to which the deceased contributor would have been entitled shall be read as if they were references to the rate of the deferred pension calculated in accordance with this regulation).
- (5) Nothing in this regulation limits sections 40, 48, 91, or section 91B of the Act.

22. Deferred lump sum option under Part VIA—(1) This regulation sets out the terms and conditions of an election for a deferred lump sum under section 88HA(a)(ii) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years’ superannuable service, make a further election to receive a lump sum which shall be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
 - (b) Ceasing to be a member of the Police; and
 - (c) The fifth anniversary of the effective date of the cessation election; and
 - (d) 3 months after the date of the further election.
- (3) The lump sum is the greater of—
- (a) 12 times the annual rate of the pension calculated in accordance with subclause (4) of this regulation; or
 - (b) Twice the total amount of the person’s contributions that are in the Fund, increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under Part IIA or Part VIA of the Act, by 0.25 percent for every month beginning on or after that date during which the person was a contributor under Part IIA or Part VIA of the Act,—

calculated at the effective date of the cessation election and increased in accordance with CPI.

(4) The pension for the purposes of subclause (3) of this regulation is calculated under section 88F of the Act as if—

- (a) The person had ceased to be a member of the Police and retired and become entitled to a pension on the effective date of the cessation election; and
- (b) Section 88F(2B) of the Act applies in determining the person’s contributory service; and

(c) The person was aged 55 at the effective date of the cessation election for the purpose of the definition of "appropriate percentage" in section 88F(2A) of the Act.

(5) If the person dies before becoming entitled to the lump sum, the lump sum shall be payable to the person's spouse or, if the person does not leave a spouse, to that person's personal representatives in trust for the persons entitled to receive it under that person's will or under the Acts relating to the distribution of intestate estates.

23. Refunds in respect of Part VIA—(1) If a person who has made a cessation election for a deferred pension or a deferred lump sum has less than 10 years' superannuable service by the time he or she ceases to be a member of the Police, a refund of his or her contributions that are in the Fund shall be paid.

(2) Every refund under section 88HA(b) of the Act or regulation 5(1)(c) of these regulations or subclause (1) of this regulation shall, if the person has ceased to be a member of the Police, be increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under Part IIA or Part VIA of the Act, by 0.25 percent for every month beginning on or after that date between the date on which the person became a contributor under Part IIA or Part VIA of the Act and the date on which the refund is paid.

24. Medical disengagement under Part VIA—(1) Any person who has made a cessation election and later leaves the Police under section 28 of the Police Act 1958 may elect to revoke the cessation election and instead exercise an option conferred by Part VIA of the Act.

(2) Any person who has made a cessation election and later leaves the Police under section 28c or section 28D of the Police Act 1958 may, before attaining the age of 50 years, elect to revoke the cessation election and instead exercise an option conferred by Part VIA of the Act.

(3) Any such election shall be in writing delivered to the Superintendent.

(4) No such election may be made if any payment has been made from the Fund pursuant to the cessation election.

(5) For the purpose of applying the Act to a person who revokes a cessation election under this regulation,—

(a) References in section 88G(2) of the Act to "total contributions paid by the contributor as a member of the Police" do not include contributions paid other than to the Fund;

(b) Any benefit under Part VIA of the Act—

(i) Is calculated as if the person had ceased to be a member of the Police and retired and become entitled to a benefit on the effective date of the cessation election; and

(ii) Is increased in accordance with CPI;

(c) Interest of 0.25 percent per month is not payable under section 88G of the Act in respect of any period after the date of the cessation election.

Superannuation of Members of Prisons Service

25. Deferred pension option under Part VIb—(1) This regulation sets out the terms and conditions of an election for a deferred pension under section 61R(1)(b)(i) (as applied by section 88PA) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years' superannuable service, make a further election to receive a pension which shall commence to be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
 - (b) Ceasing to be a member of the Prisons Service; and
 - (c) 3 months after the date of the further election.
- (3) That pension is calculated under section 88T of the Act as if—
- (a) Subject to paragraph (b) of this subsection, the person had ceased to be a member of the Prisons Service and retired and become entitled to a pension on the effective date of the cessation election; and
 - (b) The person had retired on the date on which the pension is first to be paid for the purpose of the definition of "appropriate percentage" in section 88T(2A) of the Act; and
 - (c) Section 88R of the Act applies in determining the contributor's contributory service; and
 - (d) The person's final average earnings at the effective date of the cessation election were increased in accordance with CPI.
- (4) If a person dies before becoming entitled to a pension,—
- (a) With less than 10 years' superannuable service, death benefits calculated in accordance with section 61R(8) of the Act shall be payable; or
 - (b) With more than 10 years' superannuable service, death benefits calculated in accordance with section 61s(4) of the Act shall be payable,—

(except that references in those sections to the rate of the retiring allowance to which the deceased contributor would have been entitled shall be read as if they were references to the rate of the deferred pension calculated in accordance with this regulation).

(5) Nothing in this regulation limits sections 40, 48, 91, or section 91B of the Act.

26. Deferred lump sum option under Part VIb—(1) This regulation sets out the terms and conditions of an election for a deferred lump sum under section 61R(1)(b)(ii) (as applied by section 88PA) of the Act.

(2) The person leaves his or her contributions in the Fund on the basis that the person may, if he or she has not less than 10 years' superannuable service, make a further election to receive a lump sum which shall be payable to the person on such date as the person may elect being a date on or after the latest of—

- (a) Attaining the age of 50; and
 - (b) Ceasing to be a member of the Prisons Service; and
 - (c) The fifth anniversary of the effective date of the cessation election; and
 - (d) 3 months after the date of the further election.
- (3) The lump sum is the greater of—
- (a) 12 times the annual rate of the pension calculated in accordance with subclause (4) of this regulation; or
 - (b) Twice the total amount of the person's contributions that are in the Fund, increased, in respect of contributions paid in respect of

any period after the 1st day of May 1985 under any Part of the Act other than Part II, Part III, or Part VI, by 0.25 percent for every month beginning on or after that date during which the person was a contributor under any Part of the Act other than Part II, Part III, or Part VI,—

calculated at the effective date of the cessation election and increased in accordance with CPI.

(4) The pension for the purposes of subclause (3) of this regulation is calculated under section 88T of the Act as if—

- (a) The person had ceased to be a member of the Prisons Service and retired and become entitled to a pension on the effective date of the cessation election; and
- (b) Section 88R of the Act applies in determining the contributor's contributory service;
- (c) The person was aged 58 at the effective date of the cessation election for the purpose of the definition of "appropriate percentage" in section 88T(2A) of the Act.

(5) If the person dies before becoming entitled to the lump sum, the lump sum shall be payable to the person's spouse or, if the person does not leave a spouse, to that person's personal representatives in trust for the persons entitled to receive it under that person's will or under the Acts relating to the distribution of intestate estates.

27. Refunds in respect of Part VI—(1) If a person who has made a cessation election for a deferred pension or a deferred lump sum has less than 10 years' superannuable service by the time he or she ceases to be a member of the Prisons Service, a refund of his or her contributions shall be paid.

(2) Every refund under regulation 5(1)(c) of these regulations or subclause (1) of this regulation shall, if the person has ceased to be a member of the Prisons Service, be increased, in respect of contributions paid in respect of any period after the 1st day of May 1985 under any Part of the Act other than Part II, Part III, or Part VI, by 0.25 percent for every month beginning on or after that date between the date on which the person became a contributor under any Part of the Act other than Part II, Part III, or Part VI and the date on which the refund is paid.

DIANE WILDERSPIN,
Acting for Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 October 1995, prescribe new options for members of the Government Superannuation Fund who wish to stop contributing to the GSF. The new options are allowed for in the Government Superannuation Fund Amendment Act 1995.

GSF members who have been accepted for membership of another superannuation scheme subsidised by their employer are eligible to take up the new options. Therefore, the new options will be available only if the employer decides to subsidise a new superannuation scheme in respect of the employee and the new scheme allows the person to join.

The general schemes and the Prison officers' scheme already allow members to withdraw from the GSF while still in Government service. In these cases, the 2 new options are a new deferred pension option and a deferred lump sum option.

The other schemes are currently compulsory for members employed before 1 July 1992. In these cases, the 3 new options are a deferred pension option, a deferred lump sum option, or a refund of contributions.

With both types of deferred benefits, the contributor leaves his or her contributions in the GSF until ceasing Government service.

In the deferred pension option under the new general scheme (Part II A),—

- (a) The person becomes entitled to a pension at such time as he or she may elect after the later of attaining the age of 50 and ceasing Government service if he or she has not less than 10 years' superannuable service at that time. "Superannuable service" is defined to mean the total of GSF contributory service and any period of membership of the new superannuation scheme to which the person transfers:
- (b) The pension is calculated in the normal way, based on the GSF contributory service and final average earnings at the time of electing the deferred pension option increased in accordance with CPI up to the payment of the pension.

In the deferred lump sum option under the new general scheme,—

- (a) The person becomes entitled to receive a lump sum at such time as he or she may elect after the latest of—
 - (i) Attaining the age of 50;
 - (ii) Ceasing Government service;
 - (iii) The fifth anniversary of the date of the election,—
 if he or she has not less than 10 years' superannuable service by that time; and
- (b) The lump sum is the greater of—
 - (i) 12 times the annual rate of the pension which the person would have been entitled to on retirement at age 60, based on the GSF contributory service and final average earnings at the time of electing the deferred lump sum option; or
 - (ii) Twice the person's contributions, including interest to the date of electing the deferred lump sum option,—
 increased in accordance with CPI to the date of payment of the lump sum.

The deferred lump sum option is open for a limited time. No such election may be accepted after the later of—

- (a) 6 months after the contributor first becomes entitled to become a member of any registered superannuation scheme that is to be subsidised by his or her employer; or
- (b) 1 April 1996.

Other features of the options are—

- (a) If a person who has elected for a deferred pension or a deferred lump sum has less than 10 years' superannuable service by the time he or she ceases Government service, a refund of contributions is paid. The refund carries interest at the standard rate for that scheme, i.e., in the new general scheme, 0.25 percent for every month after April 1985 between the date on which the contributor became a contributor under Part II A and the date on which the refund is paid;
- (b) If a person who has elected a deferred pension dies before becoming entitled to it, death benefits are payable;
- (c) If a person who has elected a deferred lump sum dies before becoming entitled to it, the lump sum is payable to the spouse or estate.

In all new options, the person ceases to be a contributor to the Fund 3 months after the date of the election, unless the election is revoked before then. It is not possible to resume

contributions to the Fund at a later date. The deferred benefits are calculated on the rights accrued under the Act at the date when the person ceases to be a contributor.

In so far as the new options apply to the schemes for the Armed Forces, Judges, MPs, Police, and Prison officers, the eligibility requirements in respect of the deferred benefits match the current design of the individual GSF schemes. For example, in the case of the scheme for the Armed Forces, a person becomes entitled to the deferred benefits after 20 years' contributory service, rather than 10 years, and there is no minimum age. The principal variables across the schemes include—

- (a) The amount of superannuable service required before a person becomes eligible to take up a deferred benefit. This is 20 years in the old general scheme, 10 years in the new general scheme, 20 years in the Armed Forces' scheme, 10 years in the Judges' scheme, 9 years in the MPs' scheme, 10 years in the Police scheme, and 10 years in the Prison officers' scheme (which may be met by 8 years actual GSF contributory service):
- (b) The age at which the person may elect to receive a deferred benefit. This is age 50 in the old general scheme, the new general scheme, the Judges' scheme, the MPs' scheme, the Police scheme, and the Prison officers' scheme. No age is specified in the Armed Forces' scheme:
- (c) The way in which the deferred pension and the deferred lump sums are determined vary, according to the existing benefits provided by each scheme.

Features of the special provisions applying to individual schemes include—

- (a) In the case of the scheme for Parliamentary superannuation, a special formula is included in regulations 18 and 19 for the purpose of ensuring that the current maximum Crown subsidy of 20 years is retained:
- (b) In the case of the Police scheme, the existing notional increase in contributory service contained in section 88f (2b) of the GSF Act will apply for the purpose of calculating the deferred benefits (but not for calculation of qualifying periods) and the existing medical disengagement benefit rights are retained:
- (c) In the case of the Prison officers' scheme, the existing notional increase in contributory service contained in section 88a of the GSF Act will apply for the purposes both of calculating the deferred benefits and calculating qualifying periods.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 31 August 1995.

These regulations are administered in the Treasury.