



# **Superannuation (Unclaimed Money and Lost Members) Act 1999**

**Act No. 127 of 1999 as amended**

This compilation was prepared on 19 December 2008  
taking into account amendments up to Act No. 151 of 2008

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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**An Act to provide for a register of unclaimed money, a register of lost members for superannuation funds and certain payments relating to superannuation, and for related purposes**

**Part 1—Preliminary**

**1 Short title** *[see Note 1]*

This Act may be cited as the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

**2 Commencement** *[see Note 1]*

This Act commences on the day on which it receives the Royal Assent.

**3 Application**

Part 3 does not apply in respect of the half-year in which this Act receives the Royal Assent.

**4 Act to bind Crown**

- (1) This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.
- (2) Nothing in this Act permits the Crown to be prosecuted for an offence.

**5 Extension to Territories**

This Act extends to all the external Territories.

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## 6 Objects of Act

The objects of this Act are to provide for:

- (a) the keeping of registers of details relating to unclaimed money, so that the money can be claimed by persons entitled to it; and
- (b) the keeping of a register of details relating to lost members, so that the benefits of lost members can be claimed by persons entitled to them; and
- (c) the matching of unclaimed money and persons entitled to it; and
- (ca) the making of certain payments relating to superannuation of persons who used to be holders of temporary visas under the *Migration Act 1958* and have left Australia; and
- (d) the matching of benefits of lost members and persons entitled to them; and
- (e) the safe-keeping of unclaimed money until the money is claimed by a person entitled to it; and
- (ea) the safe-keeping of certain amounts relating to superannuation of persons who used to be holders of temporary visas under the *Migration Act 1958* and have left Australia; and
- (f) the co-ordination of the collection of unclaimed money between the Commonwealth, States and Territories; and
- (g) the co-ordination of the matching of unclaimed money and persons entitled to it between the Commonwealth, States and Territories.

## 7 Outline of Act

The following is a simplified outline of this Act.

*Unclaimed money register*

At the end of each half-year, superannuation providers must give the Commissioner of Taxation details relating to any unclaimed money they hold in respect of members who have reached the eligibility age or who have died.



Unclaimed money is money in an inactive account which the superannuation provider is unable to ensure is received by a person entitled to receive it.

Superannuation providers must pay to the Commissioner of Taxation any unclaimed money they hold. On request by a person entitled to receive that money, the Commissioner must pay it to that person.

If a State or Territory law regulates unclaimed money in a way consistent with this Act, superannuation providers must give details relating to the money, and pay the money, to the relevant State or Territory authority instead of paying it to the Commissioner of Taxation.

The Commissioner of Taxation may publish, or make available, details relating to unclaimed money in respect of members who have reached the eligibility age or who have died.

*Superannuation of persons who used to hold temporary visas*

The Commissioner of Taxation must give the superannuation provider for a fund a notice identifying a member of the fund if satisfied that the member used to be the holder of a temporary visa, has left Australia and is not an Australian or New Zealand citizen or the holder of a visa.

The superannuation provider must give the Commissioner a statement and pay the Commissioner the amount that would be payable to the member if the member had requested payment in connection with leaving Australia (subject to reductions for amounts paid or payable from the fund in respect of the member).

If the Commissioner is satisfied he or she has received a payment under this Act for such a member, the Commissioner must pay the amount he or she has received (and interest, in some cases) to the member, to a fund identified by the member or, if the member has died, to the member's legal personal representative.

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*Lost members register*

The regulations may establish a scheme under which superannuation providers must provide the Commissioner of Taxation with details relating to lost members. An aim of the scheme would be to reduce at an early stage the number of accounts which become unclaimed money.

The Commissioner of Taxation may publish, or make available, details relating to lost members.

## Part 2—Interpretation

### 8 Definitions

In this Act, unless the contrary intention applies:

***accrue***, in relation to a benefit for a member of a defined benefits superannuation scheme, has the meaning given by section 9.

***ADI*** (authorised deposit-taking institution) means a body corporate that is an ADI for the purposes of the *Banking Act 1959*.

***annuity*** has the same meaning as in the SIS Act.

***approved deposit fund*** has the same meaning as in the SIS Act.

***approved form*** has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

***authorised officer*** means a person who has been authorised in writing by the Commissioner under section 45 for the purposes of the provision in which the expression occurs.

***Commissioner*** means the Commissioner of Taxation.

***contribution*** includes a deposit into an account held at an ADI or a prescribed financial institution and a payment of a premium to a life insurance company.

***court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

***data processing device*** means any article or material (for example, a disk) from which information is capable of being reproduced with or without the aid of any other article or device.

***defined benefit member*** means a member entitled, on retirement or termination of his or her employment, to be paid a benefit defined, wholly or in part, by reference to either or both of the following:

- (a) the amount of:

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- (i) the member's salary at a particular date, being the date of the termination of the member's employment or of the member's retirement on an earlier date; or
- (ii) the member's salary averaged over a period before retirement;
- (b) a stated amount.

***defined benefits superannuation scheme*** means:

- (a) a public sector superannuation scheme that:
  - (i) is a regulated superannuation fund or an exempt public sector superannuation scheme; and
  - (ii) has at least one defined benefit member; or
- (b) a regulated superannuation fund (other than a public sector superannuation scheme):
  - (i) that has at least one defined benefit member; and
  - (ii) some or all of the contributions to which are not allocated to any individual member but are paid into and accumulated in the fund in the form of an aggregate amount.

***eligibility age*** has the meaning given by section 10.

***eligible service period*** has the same meaning as in Subdivision AA of Division 2 of Part III of the *Income Tax Assessment Act 1936*.

***engage in conduct*** means:

- (a) do an act; or
- (b) omit to perform an act.

***exempt public sector superannuation scheme*** has the same meaning as in section 10 of the SIS Act.

***financial sector supervisory agency*** has the same meaning as in section 3 of the *Australian Prudential Regulation Authority Act 1998*.

***fund*** means:

- (a) a regulated superannuation fund; or
- (b) an approved deposit fund; or
- (c) an RSA.

**general interest charge** means the charge worked out under Part IIA of the *Taxation Administration Act 1953*.

**governing rules:**

- (a) in relation to a fund (other than an RSA), scheme or trust—means any trust instrument, other document or legislation, or combination of them, governing the establishment and operation of the fund, scheme or trust; and
- (b) in relation to a fund that is an RSA—means the terms and conditions of the RSA.

**half-year** means a period of 6 months ending on 30 June or 31 December.

**holder** has the same meaning as in the RSA Act.

**leave Australia** has the same meaning as in the *Migration Act 1958*.

**legal personal representative** of a person who has died means an executor or administrator of the person's estate.

**life insurance company** means:

- (a) a body corporate registered under the *Life Insurance Act 1995*; or
- (b) a public authority:
  - (i) that is constituted by a law of a State or Territory; and
  - (ii) that carries on life insurance business within the meaning of section 11 of that Act.

**lost member** has the meaning given by section 22.

**member** means:

- (a) a member of a superannuation fund; or
- (b) a depositor with an approved deposit fund; or
- (c) a holder of an RSA.

**pension** has the same meaning as in the SIS Act.

**premises** includes:

- (a) a structure, building, aircraft, vehicle or vessel; and
- (b) any land or place (whether enclosed or built on or not); and

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- (c) a part of a structure, building, aircraft, vehicle or vessel or of such a place.

**premium** means a premium in respect of a policy (within the meaning of the *Life Insurance Act 1995*) and includes an instalment of premium.

**prescribed financial institution** means a body prescribed by the regulations for the purposes of this definition.

**produce** includes permit access to.

**protected document** means a document that:

- (a) contains information about a person; and
- (b) is obtained or made by a person referred to in subsection 31(1) in the course of, or because of, the person's duties under or in relation to this Act.

**protected information** means information that:

- (a) concerns a person; and
- (b) is disclosed to, or obtained by, a person referred to in subsection 31(1) in the course of, or because of, the person's duties under or in relation to this Act.

**public sector superannuation scheme** means a scheme for the payment of superannuation, retirement or death benefits, where the scheme is established:

- (a) by or under a law of the Commonwealth, a law of a State or a law of a Territory; or
- (b) under the authority of:
  - (i) the Commonwealth or the government of a State or Territory; or
  - (ii) a municipal corporation, another local governing body or a public authority constituted by or under a law of the Commonwealth, a law of a State or a law of a Territory.

**regulated exempt public sector superannuation scheme** has the same meaning as in Part 25A of the SIS Act.

**regulated superannuation fund** has the same meaning as in the SIS Act.

**RSA** has the same meaning as in the RSA Act.

**RSA Act** means the *Retirement Savings Accounts Act 1997*.

**RSA provider** has the same meaning as in the RSA Act.

**scheduled statement day** has the meaning given by section 20B.

**SIS Act** means the *Superannuation Industry (Supervision) Act 1993*.

**State or Territory authority** means a State, a Territory, an authority of a State or an authority of a Territory.

**Superannuation Complaints Tribunal** means the Superannuation Complaints Tribunal established by the *Superannuation (Resolution of Complaints) Act 1993*.

**superannuation fund** has the same meaning as in the SIS Act.

**superannuation interest** means:

- (a) an interest in a superannuation fund; or
- (b) an interest in an approved deposit fund; or
- (c) an RSA.

**superannuation provider** means:

- (a) the trustee of a regulated superannuation fund; or
- (b) the trustee of an approved deposit fund; or
- (c) an RSA provider.

**tax file number** has the meaning given by section 202A of the *Income Tax Assessment Act 1936*.

**trustee** has the same meaning as in the SIS Act.

**unclaimed money** has the meaning given by sections 12 and 14.

## **9 Accrual of benefits in defined benefits superannuation schemes**

In this Act, a reference to an accrual of benefits in respect of a member of a defined benefits superannuation scheme does not include a reference to allocations of investment earnings or charging of costs.

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**10 Meaning of *eligibility age***

- (1) In this Act, *eligibility age* means:
  - (a) in the case of a man—65 years or, if another age is prescribed by the regulations, the age so prescribed; or
  - (b) in the case of a woman—60 years or, if another age is prescribed by the regulations, the age so prescribed.
- (2) In determining whether a member of a fund has reached eligibility age:
  - (a) if the superannuation provider does not know whether the member is a man or a woman—the member is taken to be a man; and
  - (b) if the superannuation provider does not know the member's date of birth—the superannuation provider may determine that the member:
    - (i) attained a particular age on a particular date (if the superannuation provider reasonably believes that to be the case); or
    - (ii) turned 18 on the day on which he or she first became a member of the fund; or
    - (iii) turned 18 on the day on which the superannuation provider first received an amount in respect of him or her; or
    - (iv) turned 18 at the start of his or her eligible service period.

*Duty to obtain date of birth and sex of member of fund*

- (3) If a superannuation provider does not know the date of birth or sex of a member of a fund, the provider should make reasonable attempts to obtain that information.

*Duty to keep records of date of birth and sex of member of fund*

- (4) If a superannuation provider knows the date of birth or sex of a member of a fund, the provider should keep records of that information.



## **Part 3—Payment of unclaimed money to the Commissioner**

### **11 Object of Part**

The object of this Part is to set out a procedure for dealing with unclaimed money in funds.

Note: A fund includes an RSA (see the definition of *fund* in section 8).

### **12 Meaning of *unclaimed money*—general meaning**

- (1) An amount payable to a member of a fund is taken to be *unclaimed money* if:
  - (a) the member has reached the eligibility age; and
  - (c) the superannuation provider has not received an amount in respect of the member (and, in the case of a defined benefits superannuation scheme, no benefit has accrued in respect of the member) for at least 2 years; and
  - (d) after the end of a period of 5 years since the superannuation provider last had contact with the member, the provider has been unable to contact the member again after making reasonable efforts.
- (2) If:
  - (a) a payment split applies to a splittable payment in respect of an interest that a person has as a member of a fund; and
  - (b) as a result, the non-member spouse (or his or her legal personal representative if he or she has died) is entitled to be paid an amount; and
  - (c) after making reasonable efforts and after a reasonable period has passed, the superannuation provider concerned is unable to ensure that the non-member spouse or his or her legal personal representative, as the case may be, receives the amount;then the amount payable is taken to be *unclaimed money*.

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- (3) In this section:

*non-member spouse* has the same meaning as in Part VIIIB of the *Family Law Act 1975*.

*payment split* means a payment split under Part VIIIB of the *Family Law Act 1975*.

*splittable payment* has the same meaning as in Part VIIIB of the *Family Law Act 1975*.

**13 Superannuation provider must make reasonable efforts to contact the member or to ensure that a benefit is received**

- (1) A superannuation provider in relation to a fund must make reasonable efforts to contact a member of the fund if:
- (a) paragraphs 12(1)(a) and (c) are satisfied in relation to the member; and
  - (b) 5 years have passed since the provider last had contact with the member.
- (1A) If paragraphs 12(2)(a) and (b) are satisfied, the superannuation provider must make reasonable efforts to ensure that the non-member spouse or his or her legal personal representative, as the case may be, receives the amount.
- (1B) For the purposes of subsection (1A), *non-member spouse* has the same meaning as in Part VIIIB of the *Family Law Act 1975*.

*Offence*

- (2) A superannuation provider is guilty of an offence if the superannuation provider fails to comply with the obligation set out in subsection (1) or (1A).

Maximum penalty: 100 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

**14 Meaning of *unclaimed money*—deceased member**

An amount payable in respect of a member of a fund is taken to be *unclaimed money* if:

- (a) the member has died; and
- (b) the superannuation provider determines that, under the governing rules of the fund or by operation of law, a benefit (other than a pension or annuity) is immediately payable in respect of the member; and
- (c) the superannuation provider has not received an amount in respect of the member (and, in the case of a defined benefits superannuation scheme, no benefit has accrued in respect of the member) for at least 2 years; and
- (d) after making reasonable efforts and after a reasonable period has passed, the superannuation provider is unable to ensure that the benefit is received by the person who is entitled to receive the benefit.

Note: A superannuation provider will be unable to ensure that the person receives the benefit if, for example, the provider cannot find the person after making reasonable efforts to do so and after a reasonable period has passed.

**15 Superannuation provider must make reasonable efforts to ensure that the person receives the benefit**

- (1) If paragraphs 14(a), (b) and (c) are satisfied in relation to a member of a fund, the superannuation provider must make reasonable efforts to ensure that the person entitled to receive the benefit does receive the benefit.

*Offence*

- (2) A superannuation provider is guilty of an offence if the superannuation provider fails to comply with the obligation set out in subsection (1).

Maximum penalty: 100 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

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**16 Statement of unclaimed money**

- (1) A superannuation provider must give to the Commissioner a statement, in an approved form, of all unclaimed money as at the end of each half-year.

Note: The approved form may require the superannuation provider to set out:

- (a) the tax file number of the superannuation provider; and
- (b) the tax file number of any member of the fund to whom the statement relates and who has quoted his or her tax file number to the superannuation provider.

See subsections 25(1) and (2).

- (2) If:
- (a) the superannuation provider pays any of the unclaimed money to a person who is entitled to it; and
  - (b) the payment is made between the end of the half-year and the day on which the statement is given to the Commissioner;
- the statement must contain such particulars relating to the amounts paid as are required by the form.

*When statement must be given*

- (3) A statement under subsection (1) must be given:
- (a) in relation to a half-year ending on 30 June in a calendar year—before 1 November in that calendar year; or
  - (b) in relation to a half-year ending on 31 December in a calendar year—before 1 May in the following calendar year.

*Commissioner may extend time for lodging statement*

- (4) The Commissioner may, in writing, provide for a later day to apply under paragraph (3)(a) or (b). This may be done before, on or after the day specified in the paragraph concerned.

*Offence*

- (5) A superannuation provider is guilty of an offence if the superannuation provider fails to comply with an obligation set out in subsection (1), (2) or (3). However, an offence is not committed if subsection 18(2) is satisfied.

Maximum penalty: 100 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

- (6) To the extent that it relates to subsection (3), subsection (5) does not apply if:
- (a) the Commissioner has provided under subsection (4) for a later day to apply under paragraph (3)(a) or (b); and
  - (b) the superannuation provider gave the statement under subsection (1) before that later day.
- (7) Subsection (1) does not apply to unclaimed money described in subsection 12(1) payable to a person identified in a notice the Commissioner has given the superannuation provider under section 20C.

Note: Section 20E requires the superannuation provider to give the Commissioner a statement about the superannuation interest of a person identified in a notice given to the provider under section 20C (which is about notices identifying former holders of temporary visas).

## 17 Payment of unclaimed money to Commissioner

- (1) On giving the statement to the Commissioner, the superannuation provider must pay to the Commissioner the amount worked out using the following formula:

$$\text{Amount of unclaimed money specified in statement} - \text{Unclaimed money paid by provider}$$

where:

***amount of unclaimed money specified in statement*** means the amount specified in the statement provided in accordance with subsection 16(1).

***unclaimed money paid by provider*** means any amounts specified in the statement in accordance with subsection 16(2).

Note: Subsection (1) does not require the superannuation provider to pay the Commissioner an amount on account of unclaimed money described in subsection 12(1) payable to a person identified in a notice the Commissioner has given the provider under section 20C, because such money is not to be included in the statement under section 16 (and is payable to the Commissioner under section 20F).

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*Payment where money later claimed*

- (2) The Commissioner must pay unclaimed money to a person if:
- (a) unclaimed money has been paid to the Commissioner under this section by a superannuation provider; and
  - (b) the Commissioner is satisfied, on application made in the approved form by the person, that, if this section had not been enacted, the superannuation provider would have paid the unclaimed money to the person.
- (2A) Subsection (2) does not apply to unclaimed money that is to be, is or has been taken into account in determining whether the Commissioner must make a payment under section 20H.

Note: Section 20H provides for payment by the Commissioner of amounts equal to amounts paid to the Commissioner under this section and subsection 20F(1) in respect of a person who is identified in a notice under section 20C or who used to be the holder of a temporary visa.

*Refund of excess payments*

- (3) If a superannuation provider satisfies the Commissioner that an amount paid to the Commissioner under this section exceeds the amount that would have been paid to the person concerned, the Commissioner must refund to the superannuation provider the amount of the excess.

*Discharge of superannuation provider from liability*

- (4) Upon payment to the Commissioner of an amount as required under this section, the superannuation provider is discharged from further liability in respect of that amount.

*Appropriation of Consolidated Revenue Fund*

- (5) The Consolidated Revenue Fund is appropriated for the purposes of this section.

*Offence*

- (6) A superannuation provider is guilty of an offence if the superannuation provider fails to comply with the obligations set out in subsection (1). However, an offence is not committed if subsection 18(3) is satisfied.

Maximum penalty: 100 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

## **18 Payment of unclaimed money—State or Territory public sector superannuation schemes**

- (1) This section applies to a superannuation provider if:
  - (a) the superannuation provider is the trustee of a State or Territory public sector superannuation scheme; and
  - (b) a law of a State or Territory satisfies the requirements set out in subsections (4) and (5).
- (2) If the superannuation provider (in accordance with that law) gives to a State or Territory authority a statement that complies with items 1 and 2 of the table in subsection (4), the provider does not have to comply with subsection 16(1).
- (3) If the superannuation provider (in accordance with that law) pays the amount worked out under item 3 of the table to the State or Territory authority, the provider does not have to comply with subsection 17(1).

### *First requirement*

- (4) The first requirement is that the law contains provisions with the effects set out in the following table:

<b>Provisions relating to first requirement</b>		
<b>Item</b>	<b>Subject of provision</b>	<b>Effect of provision</b>
1	Preparing a statement	At the end of each half-year, a superannuation provider must prepare a statement (in a form approved by a State or Territory authority) of all unclaimed money that is held in the fund that is managed or provided by the superannuation provider.

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<b>Provisions relating to first requirement</b>		
<b>Item</b>	<b>Subject of provision</b>	<b>Effect of provision</b>
2	Providing a statement	The statement must be given to a State or Territory authority: (a) for a half-year ending on 30 June in a calendar year—before 1 November in that calendar year; and (b) for a half-year ending on 31 December in a calendar year—before 1 May in the following calendar year.
3	Payments	When the statement is given, the superannuation provider must pay to the State or Territory authority an amount worked out in accordance with a formula corresponding to the formula in subsection 17(1).
4	Register	The State or Territory authority must keep a register that contains particulars of: (a) the unclaimed money paid to it by the superannuation provider; and (b) each member in respect of whom there is unclaimed money.

*Second requirement*

- (5) The second requirement is that the law contains provisions corresponding to the provisions, and with the effects, set out in the following table:

<b>Provisions relating to second requirement</b>		
<b>Item</b>	<b>Provision</b>	<b>Effect of corresponding provision</b>
1	Subsection 16(2)	Requires the statement to contain particulars relating to any unclaimed money paid after the end of the half-year as are required by the form approved by the State or Territory authority
2	Subsection 16(4)	Empowers the State or Territory authority to extend the period in which the statement must be lodged
3	Subsection 17(2)	Requires the State or Territory authority to pay unclaimed money to a person in circumstances corresponding to those set out in that subsection
4	Subsection 17(3)	Requires the State or Territory authority to refund amounts in circumstances corresponding to those set out in that subsection



*Discharge of superannuation provider from liability*

- (6) Upon payment to the State or Territory authority of an amount as required under this section, the superannuation provider is discharged from further liability in respect of that amount.
- (7) In this section:

***State or Territory public sector superannuation scheme*** means a scheme for the payment of superannuation, retirement or death benefits, where the scheme is established:

- (a) by or under a law of a State or a law of a Territory; or
- (b) under the authority of:
  - (i) the government of a State or Territory; or
  - (ii) a municipal corporation, another local governing body or a public authority constituted by or under a law of a State or a law of a Territory.

## **19 Register of unclaimed money**

- (1) The Commissioner must keep a register that contains particulars of:
  - (a) unclaimed money paid by a superannuation provider to the Commissioner under this Part; and
  - (b) each member in respect of whom there is unclaimed money.

Note: The register may contain a person's tax file number (see section 27).

- (2) The register may also contain information:
  - (a) originally contained in registers referred to in item 4 of the table in subsection 18(4), that are kept by State or Territory authorities; and
  - (b) given to the Commissioner by those authorities.
- (3) The register may also contain other information given to the Commissioner that is of the type contained in the register.
- (4) The register may also contain the following:
  - (a) information relating to members of a regulated exempt public sector superannuation scheme;
  - (b) particulars that, if the scheme were a fund, would be particulars of unclaimed money in respect of the scheme;

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(c) information given to the Commissioner by the trustee of the scheme.

- (5) A trustee of a regulated exempt public sector superannuation scheme may, in the approved form, give the information referred to in paragraph (4)(c) to the Commissioner.

Note: The approved form may permit the trustee to set out:

- (a) the tax file number of the scheme; and
- (b) the tax file number of any member of the scheme who has quoted his or her tax file number to the trustee.

See subsection 26(1).

**20 Commissioner may give information to State and Territory authorities**

The Commissioner may give information contained in the register referred to in section 19 to a State or Territory authority if the State or Territory concerned has a law satisfying the requirements of subsections 18(4) and (5).

## **Part 3A—Payment of unclaimed superannuation of former temporary residents**

### **Division 1—Preliminary**

#### **20A Simplified outline**

The following is a simplified outline of this Part:

The Commissioner must give the superannuation provider for a fund a notice if the Commissioner is satisfied that:

- (a) a person who used to be the holder of a temporary visa has a superannuation interest in the fund; and
- (b) at least 6 months have passed since the person ceased to hold the visa and left Australia; and
- (c) the person does not hold a visa and is not a citizen.

If the Commissioner gives such a notice, the superannuation provider must:

- (a) give the Commissioner a statement about the interest by the next date set for the purpose by the Commissioner; and
- (b) pay the Commissioner the amount that would have been payable from the fund to the person if the person had requested payment in connection with his or her departure from Australia, reduced by amounts already payable in respect of the person.

On payment, the superannuation provider ceases to be liable for the amount paid.

The person can claim the amount (and interest, in some cases) from the Commissioner.

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**20B Setting dates for statements and payments**

The Commissioner may, by legislative instrument, specify days (*scheduled statement days*) by the end of which statements required by this Part are to be given to the Commissioner.

## **Division 2—Notices to superannuation providers about certain persons**

### **20C Commissioner must give notices about certain former temporary residents**

- (1) The Commissioner must give a superannuation provider for a fund a written notice if the Commissioner is satisfied that:
  - (a) there are reasonable grounds for believing that a particular person has a superannuation interest in the fund; and
  - (b) before, on or after the commencement of this section, the person:
    - (i) was, under the *Migration Act 1958*, the holder of a temporary visa, except a visa prescribed by the regulations, that has ceased to be in effect; and
    - (ii) left Australia after starting to be the holder of the visa (whether the visa ceased to be in effect before, when or after the person left); and
  - (c) at least 6 months have passed since the later of the following events (or either of them if they occurred at the same time):
    - (i) the visa ceased to be in effect;
    - (ii) the person left Australia; and
  - (d) the person:
    - (i) is not, under that Act, the holder of a temporary visa or permanent visa; and
    - (ii) is neither an Australian citizen nor a New Zealand citizen; and
    - (iii) has not made a valid application for a permanent visa that has not been finally determined under that Act.
- (2) The notice must:
  - (a) identify the person; and
  - (b) include the information (if any) prescribed by the regulations for the purposes of this paragraph.

Note: The notice may contain the tax file number of the person and of the fund: see section 25A.

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(3) Subsection (1) does not apply to:

- (a) a superannuation provider who is the trustee of a State or Territory public sector superannuation scheme within the meaning of section 18; or
- (b) a superannuation provider for an unfunded public sector scheme within the meaning of the *Superannuation Guarantee (Administration) Act 1992*.

(4) A notice under subsection (1) cannot be amended.

Note: Section 20J deals with revocation of a notice given under this section.

(5) A notice under subsection (1) is not a legislative instrument.

## **Division 3—Effects of notice being given to superannuation provider**

### **20D Application**

This Division applies if the Commissioner gives a superannuation provider for a fund a notice under section 20C in connection with a person's superannuation interest in the fund.

### **20E Superannuation provider must give statement to Commissioner by scheduled statement day**

#### *Giving statement to Commissioner*

- (1) The superannuation provider must give the Commissioner a statement, in the approved form, of information relevant to either or both of the following:
  - (a) the person's superannuation interest in the fund;
  - (b) the administration of any of the following in connection with the person's superannuation interest in the fund:
    - (i) this Part;
    - (ii) the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*;
    - (iii) the *Income Tax Assessment Act 1997*, and Chapters 2 and 4 in Schedule 1 to the *Taxation Administration Act 1953*, so far as they relate to this Part or the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*.

Note 1: The *Taxation Administration Act 1953* provides for offences and administrative penalties if the statement includes false or misleading information: see sections 8K and 8N of that Act and Division 284 in Schedule 1 to that Act.

Note 2: The approved form may also require the statement to include certain tax file numbers: see subsection 25(2A).

#### *When statement must be given*

- (2) The superannuation provider must give the Commissioner the statement by the end of:
  - (a) the next scheduled statement day after the notice is given; or

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- (b) if the Commissioner gives the notice less than 28 days before the next scheduled statement day—the following scheduled statement day.

Example: Suppose that 1 May and 1 November each year are the scheduled statement days, and that the Commissioner gives the notice to the superannuation provider on 15 April in a year. The superannuation provider must give the Commissioner the statement by the end of 1 November that year (rather than 1 May that year).

Note 1: The Commissioner may defer the time for giving the statement: see section 388-55 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: The *Taxation Administration Act 1953* provides for offences and administrative penalties if the statement is not given when it must be: see section 8C of that Act and Division 286 in Schedule 1 to that Act.

*Statement required even if person does not have interest*

- (3) The superannuation provider must give the Commissioner the statement even if:
  - (a) the person does not have a superannuation interest when the superannuation provider must give the statement; or
  - (b) the superannuation provider is not required by subsection 20F(1) to pay the Commissioner an amount in respect of the person.

**20F Superannuation provider must pay Commissioner unclaimed superannuation**

- (1) The superannuation provider must pay the Commissioner (for the Commonwealth) the excess (if any) of the amount worked out under subsection (2) for the person's superannuation interest over the total worked out under subsection (3) for the interest by the time at which the excess is due and payable. The excess is due and payable at the end of:
  - (a) the next scheduled statement day after the notice is given; or
  - (b) if the Commissioner gives the notice less than 28 days before the next scheduled statement day—the following scheduled statement day; or
  - (c) if a day is identified for the superannuation provider under the regulations that is later than the day described in paragraph (a) and later than the day described in paragraph (b) if it is relevant—that later day.



- Note 1: The amount the superannuation provider must pay the Commissioner is a tax-related liability for the purposes of the *Taxation Administration Act 1953*. Division 255 in Schedule 1 to that Act deals with payment and recovery of tax-related liabilities. Division 284 in that Schedule provides for administrative penalties connected with such liabilities.
- Note 2: The Commissioner may defer the time at which the excess is due and payable; see section 255-10 in Schedule 1 to the *Taxation Administration Act 1953*.
- Note 3: Section 20K provides for refunds of overpayments by the superannuation provider to the Commissioner.
- (2) Work out the amount that would have been payable to the person from the fund in respect of the superannuation interest had the person requested payment in connection with the person's departure from Australia. For this purpose:
- (a) work out the amount that would have been payable at the time (the **calculation time**) immediately before:
    - (i) the time at which a payment under subsection (1) in respect of the person is due and payable (assuming that such a payment must be made); or
    - (ii) for a payment to be made under subsection (1) before it is due and payable—the time the payment is to be made; and
  - (b) assume that the request were made before the calculation time; and
  - (c) assume that the person had not died before the calculation time.
- (3) Total:
- (a) the amount (if any) that is payable from the fund because regulations made for the purposes of the RSA Act or the SIS Act require or permit a benefit connected with the person's superannuation interest to be cashed; and
  - (b) if the person has actually died, the amount (if any) that has been paid from the fund in respect of the person because of the person's death; and
  - (c) the amount (if any) of the person's superannuation interest that supports a superannuation income stream (within the meaning of regulations made for the purposes of the *Income Tax Assessment Act 1997*); and
  - (d) the amount (if any) worked out in accordance with the regulations made for the purposes of this paragraph.
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Work out the amounts described in paragraphs (a), (b), (c) and (d) as at the calculation time.

- (4) For the purposes of subsections (2) and (3):
- (a) disregard Subdivision 12-FA in Schedule 1 to the *Taxation Administration Act 1953*; and
  - (b) take account only of the person's entitlement to payment remaining after any reduction by a payment split under Part VIIIB of the *Family Law Act 1975* (disregarding subsection 90MB(3) of that Act).

Note 1: Subdivision 12-FA in Schedule 1 to the *Taxation Administration Act 1953* is about withholding amounts from departing Australia superannuation payments.

Note 2: Part VIIIB of the *Family Law Act 1975* is about splitting amounts payable in respect of a superannuation interest between the parties to a marriage. Subsection 90MB(3) of that Act provides that the Part has effect subject to this Act.

*Regulations for the purposes of paragraph (1)(c)*

- (4A) Regulations for the purposes of paragraph (1)(c) may provide for a day to be identified by the Commissioner or the Australian Prudential Regulation Authority. This does not limit the provision that the regulations may make for identification of a day for those purposes.

*General interest charge on late payment*

- (5) If any of the amount the superannuation provider must pay under subsection (1) remains unpaid after it is due and payable, the superannuation provider is liable to pay general interest charge on the unpaid amount for each day in the period that:
- (a) starts at the time it is due and payable; and
  - (b) ends at the end of the last day on which either of the following remains unpaid:
    - (i) the amount unpaid when it is due and payable;
    - (ii) general interest charge on any of the amount.

*Offence of failing to pay on time*

- (6) A person commits an offence if:
- (a) the person is subject to a requirement under subsection (1); and

- (b) the person engages in conduct; and
- (c) the person's conduct breaches the requirement.

Penalty: 100 penalty units.

#### **20G Effect of payment by superannuation provider**

On payment of an amount to the Commissioner as required by subsection 20F(1), the superannuation provider is discharged from further liability to the person, and to anyone else in respect of the person, in respect of that amount.

## **Division 4—Payment by Commissioner**

### **20H Payment by Commissioner in respect of person for whom an amount has been paid to Commissioner**

- (1) This section applies in relation to a person if the Commissioner is satisfied, on application in the approved form or on the Commissioner's own initiative, that:
  - (a) either:
    - (i) the person has been identified in a notice under section 20C; or
    - (ii) the person was, under the *Migration Act 1958*, the holder of a temporary visa, except a visa prescribed by the regulations, that ceased to be in effect at least 6 months ago, and the person left Australia at least 6 months ago but after starting to be the holder of the visa; and
  - (b) the total of:
    - (i) the amounts (if any) paid to the Commissioner under subsection 17(1) (before, on or after the commencement of this section) in respect of the person; and
    - (ii) the amounts (if any) paid to the Commissioner under subsection 20F(1) in respect of the person;exceeds the total of:
    - (iii) the amounts (if any) paid by the Commissioner under section 17 (before, on or after the commencement of this section) in respect of the person; and
    - (iv) the amounts (if any) paid by the Commissioner under all the earlier operations (if any) of this section in respect of the person; and
    - (v) the amounts (if any) paid by the Commissioner under section 20K in respect of the person.
- (2) The Commissioner must pay the excess:
  - (a) to the person; or
  - (b) to a single fund that is a complying superannuation plan (within the meaning of the *Income Tax Assessment Act 1997*), if the person directs the Commissioner to pay to the fund and the Commissioner is satisfied that the person is:

- (i) an Australian citizen; or
    - (ii) a New Zealand citizen; or
    - (iii) under the *Migration Act 1958*, the holder of a permanent visa or a visa prescribed by the regulations; or
  - (c) to the person's legal personal representative, if the person has died.
- (2A) The Commissioner must also pay to the person, fund or legal personal representative the amount (if any) of interest worked out under subsection (2B), if the Commissioner is satisfied that:
- (a) the person is (or was just before dying) an Australian citizen or, under the *Migration Act 1958*, the holder of a permanent visa; and
  - (b) after 30 June 2007 either:
    - (i) the person left Australia; or
    - (ii) the person was, under the *Migration Act 1958*, the holder of a temporary visa.
- (2B) Work out, in accordance with the regulations, the amount of interest:
- (a) on so much (if any) of the excess as is attributable (directly or indirectly) to one or more amounts paid to the Commissioner under subsection 20F(1) and not to payments to or by the Commissioner under section 17; and
  - (b) at a rate equal to the annual yield on Treasury bonds with a 10-year term or, if another rate is prescribed by the regulations, that other rate.
- Note: The regulations may provide for various matters relevant to working out the interest, such as working out the periods for which particular rates apply to particular amounts of principal (which will affect any compounding of the interest, among other things).
- (2C) Regulations for the purposes of subsection (2B) may prescribe different rates for different periods over which the interest accrues, including a nil rate for any period starting when the person turns 65. This does not limit the ways in which the regulations may provide for working out the amount of interest under that subsection.
- (3) However, if the person has died and the Commissioner is satisfied that one or more superannuation providers that made any of the payments described in subparagraphs (1)(b)(i) and (ii) would, if

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they had not made those payments, have been required because of the person's death to pay an amount to one or more other persons (the *death beneficiaries*), the Commissioner must pay each death beneficiary:

- (a) the total of the amounts the Commissioner is satisfied the superannuation providers would have been required to pay the death beneficiary; or
- (b) if the total of the excess and any interest that would be payable under subsection (2A) apart from this subsection is less than the sum of the totals described in paragraph (a) for all the death beneficiaries—the amount worked out for the death beneficiary using the formula in subsection (4).

Note: Money for payments under this section is appropriated by section 16 of the *Taxation Administration Act 1953*.

- (4) The formula is:

$$\begin{array}{c} \text{Total of the excess and} \\ \text{any interest that would} \\ \text{be payable under} \\ \text{subsection (2A) apart} \\ \text{from subsection (3)} \end{array} \times \frac{\begin{array}{c} \text{Total described in paragraph (3)(a)} \\ \text{for the death beneficiary} \end{array}}{\begin{array}{c} \text{Sum of the totals described in} \\ \text{paragraph (3)(a) for all the death beneficiaries} \end{array}}$$

*Withholding tax from payment*

- (5) For the purposes of subparagraph (1)(b)(iv), an amount withheld under Division 12 in Schedule 1 to the *Taxation Administration Act 1953* from a payment under this section is taken to have been paid by the Commissioner.
- (6) To avoid doubt, subsection (2) has effect subject to Division 12 in Schedule 1 to the *Taxation Administration Act 1953*.

Note: Division 12 in Schedule 1 to the *Taxation Administration Act 1953* requires entities paying departing Australia superannuation payments and excess untaxed roll-over amounts to withhold amounts from those payments.

## **Division 5—Various rules for special cases**

### **20J Revoking Commissioner’s notice to superannuation provider about person**

#### *Requirement for revocation*

- (1) The Commissioner must revoke a notice given to a superannuation provider about a person under section 20C if the Commissioner is satisfied that either:
  - (a) the circumstances for giving the notice did not exist; or
  - (b) the circumstances for giving a notice about the person to the superannuation provider under that section no longer exist.

#### *Means of revocation*

- (2) The revocation must be made by written notice given to the superannuation provider.

#### *Effect of revocation*

- (3) If the Commissioner revokes a notice given to a superannuation provider about a person under section 20C, this Act has effect as if the notice had never been given.

#### *No revocation if payment already made*

- (4) However, the revocation of a notice given to a superannuation provider about a person under section 20C has no effect if a condition in subsection (5) or (6) exists.
- (5) One condition is that, before the revocation, the superannuation provider has made a payment to the Commissioner under subsection 20F(1) because of the notice.
- (6) The other condition is that:
  - (a) notice of the revocation is given to the superannuation provider less than 28 days before the scheduled statement day by the end of which an amount would be due and payable under subsection 20F(1) because of the notice under section 20C, apart from:

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- (i) the revocation; and
    - (ia) paragraph 20F(1)(c); and
    - (ii) any deferral under section 255-10 in Schedule 1 to the *Taxation Administration Act 1953*; and
  - (b) before the end of that day, the superannuation provider:
    - (i) gives the Commissioner a statement purportedly under section 20E because of the notice under section 20C; or
    - (ii) pays the Commissioner an amount purportedly under subsection 20F(1) because of the notice under section 20C.
- (7) Subsection (1) does not require the Commissioner to revoke a notice under section 20C if the revocation would not have effect because of subsection (4) of this section.

**20K Refund of overpayment made by superannuation provider**

- (1) This section applies if:
- (a) a superannuation provider has made a payment under subsection 20F(1) because of a notice about a person and a fund; and
  - (b) the Commissioner is satisfied that the amount paid exceeded the amount (if any) that was payable under that subsection because of the notice.
- (2) The Commissioner must pay the excess:
- (a) to the superannuation provider for the fund; or
  - (b) if the Commissioner is satisfied that:
    - (i) the fund no longer exists; and
    - (ii) another fund provides rights relating to the person equivalent to those provided by the fund whose superannuation provider made the payment under subsection 20F(1);to the superannuation provider for the other fund.

Note: Money for payments under this section is appropriated by section 16 of the *Taxation Administration Act 1953*.



**20L Commissioner may recover overpayment under section 20H**

- (1) This section applies if:
  - (a) the Commissioner makes a payment in respect of a person under, or purportedly under, section 20H; and
  - (b) the amount paid exceeds the amount (if any) properly payable under that section in respect of the person.
- (2) The Commissioner may recover all or part of the excess from a person (the *debtor*) described in subsection (3) as a debt due by the debtor to the Commonwealth if the conditions specified in subsection (4) are met.
- (3) The persons from whom the Commissioner may recover are as follows:
  - (a) the person to whom the payment was made (whether the payment was made to the person in his or her own right or as the legal personal representative of someone else who had died);
  - (b) the superannuation provider for the fund to which the payment was made or, if that payment, or an amount wholly or partly attributable to that payment, was transferred to another fund, the superannuation provider for that other fund.
- (4) The conditions for recovery are that:
  - (a) the Commissioner gave the debtor written notice, as prescribed by the regulations, of the proposed recovery and the amount to be recovered; and
  - (b) at least 28 days have passed since the notice was given; and
  - (c) the amount recovered is not more than the amount specified in the notice.
- (5) Despite subsections (2) and (3), if the Commissioner gives a notice described in paragraph (4)(a) to a superannuation provider for a fund, and the fund does not hold an amount attributable to the payment, the Commissioner cannot recover from the superannuation provider.
- (6) The Commissioner may revoke a notice described in paragraph (4)(a).
- (7) The total of the amounts recovered from different debtors in relation to the same excess must not be more than the excess.

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- (8) A notice described in paragraph (4)(a) is not a legislative instrument.

**20M Superannuation provider to return payment from Commissioner that cannot be credited**

- (1) This section applies if:
- (a) a payment (the *Commissioner's payment*) is made to a fund under section 20H in accordance with a person's direction; and
  - (b) the superannuation provider for the fund has not credited the payment to an account for the benefit of the person by the time (the *repayment time*) that is the end of the 28th day after the day on which the Commissioner's payment was made.

- (2) The superannuation provider is liable to repay the Commissioner's payment to the Commonwealth. The repayment is due and payable at the repayment time.

Note: The amount the superannuation provider is liable to repay is a tax-related liability for the purposes of the *Taxation Administration Act 1953*. Division 255 in Schedule 1 to that Act deals with payment and recovery of tax-related liabilities.

- (3) The superannuation provider must give the Commissioner, in the approved form, information relating to the Commissioner's payment when repaying it.

Note: The *Taxation Administration Act 1953* provides for offences and administrative penalties if the form is not given when it must be or includes false or misleading information: see sections 8C, 8K and 8N of that Act and Divisions 284 and 286 in Schedule 1 to that Act.

*General interest charge*

- (4) If any of the amount the superannuation provider is liable to repay under subsection (2) remains unpaid by the superannuation provider after the repayment time, the superannuation provider is liable to pay general interest charge on the unpaid amount for each day in the period that:
- (a) starts at the repayment time; and
  - (b) ends at the end of the last day on which either of the following remains unpaid:
    - (i) the amount unpaid at the repayment time;
    - (ii) general interest charge on any of the amount.

## Division 6—Administration

### 20N Disclosure of migration and citizenship information

- (1) A person described in subsection (2) may disclose to the Commissioner, for the purposes of facilitating the administration of the legislation described in subsection (3), information described in subsection (4).

Note: The administration of the legislation may involve the Commissioner in disclosing the information, for example in a notice given under section 20C to a superannuation provider.

- (2) The persons who may disclose are:
- (a) the Secretary of a Department administered by a Minister administering a provision of the *Migration Act 1958* or of the *Australian Citizenship Act 2007*; and
  - (b) an APS employee in such a Department.
- (3) The legislation is:
- (a) this Act; and
  - (b) the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*; and
  - (c) the *Income Tax Assessment Act 1997*, and Chapters 2 and 4 in Schedule 1 to the *Taxation Administration Act 1953*, so far as they relate to this Act or the *Superannuation (Departing Australia Superannuation Payments Tax) Act 2007*.
- (4) The information is information relevant to any of the following matters:
- (a) whether or not a particular person is or was the holder of a particular kind of visa under the *Migration Act 1958* at a particular time or in a particular period;
  - (b) whether or not a particular person is or was an Australian citizen at a particular time or in a particular period;
  - (c) whether or not a particular person is or was a New Zealand citizen at a particular time or in a particular period;
  - (d) whether or not a particular person left Australia at a particular time or in a particular period;
  - (e) whether or not there was, at a particular time or in a particular period, a valid application by a particular person

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for a permanent visa that had not been finally determined under the *Migration Act 1958*;

- (f) confirmation, by reference to any employment of, or work done by, a person, that he or she is the same person as a particular person who is or was the holder of a temporary visa under the *Migration Act 1958* at a particular time or in a particular period.

**20P Review of Commissioner's notices and decisions**

A person who is dissatisfied with a notice given, or a decision made, by the Commissioner in the administration of Division 2, 4 or 5 of this Part may object against the notice or decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

Example: Decisions made by the Commissioner in the administration of Divisions 4 and 5 include:

- (a) decisions that the conditions exist for him or her to make a payment under section 20H, revoke (under section 20J) a notice given under section 20C or make a refund under section 20K; and
- (b) refusal of an application mentioned in section 20H; and
- (c) decisions about recovery under section 20L of an overpayment under section 20H.

## Part 4—Lost members

### 21 Object of Part

The object of this Part is to set up a scheme, to be established under the regulations, for dealing with lost members of funds.

Note: A fund includes an RSA (see the definition of *fund* in section 8).

### 22 Meaning of *lost member*

A member of a fund is taken to be a *lost member* at a particular time if the member is, at that time:

- (a) a lost RSA holder within the meaning of the *Retirement Savings Accounts Regulations 1997*; or
- (b) a lost member within the meaning of the Superannuation Industry (Supervision) Regulations.

### 23 Regulations may establish a scheme for information about lost members

*Regulations may establish a scheme*

- (1) The regulations may establish a scheme under which superannuation providers are to give statements, in the approved form, to the Commissioner containing the following information:
  - (a) information relating to each lost member of the superannuation provider;
  - (b) information relating to each lost member's benefits in the funds managed or provided by the superannuation provider;
  - (c) information relating to each member of the superannuation provider who ceases to be a lost member of the provider;
  - (d) information relating to the benefits of each member referred to in paragraph (c) in the funds managed or provided by the superannuation provider;
  - (e) information that the Commissioner reasonably believes may assist the Commissioner in administering the register referred to in subsection (2).

Note: The regulations may require the superannuation provider to set out:

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- (a) the tax file number of the superannuation provider; and
- (b) the tax file number of any member of the fund to whom the statement relates and who has quoted his or her tax file number to the superannuation provider.

See subsection 25(3).

*Lost members register*

- (2) The regulations establishing the scheme must provide for the Commissioner to keep a register that:
  - (a) must contain the information given to the Commissioner by superannuation providers in accordance with the scheme; and
  - (b) may contain information given to the Commissioner (other than the information referred to in paragraph (a)) that is of the type contained in the register.

Note: The register may contain a person's tax file number (see section 27).

- (3) The regulations establishing the scheme may provide for the register referred to in subsection (2) to also contain the following:
  - (a) information relating to members of a regulated exempt public sector superannuation scheme;
  - (b) particulars that, if the scheme were a fund, would be particulars of lost members in respect of the scheme; and
  - (c) information given to the Commissioner by the trustee of the scheme.

- (4) A trustee of a regulated exempt public sector superannuation scheme may, in the approved form, give the information referred to in paragraph (3)(c) to the Commissioner.

Note: The approved form may permit the trustee to set out:

- (a) the tax file number of the scheme; and
- (b) the tax file number of any member of the scheme who has quoted his or her tax file number to the trustee.

See subsection 26(3).

*Offence*

- (5) A superannuation provider is guilty of an offence if:
  - (a) the superannuation provider fails to comply with a provision of regulations made for the purposes of subsection (1); and

- (b) the regulations declare that this subsection applies to that provision.

Maximum penalty: 100 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

## **24 Commissioner may give information to State or Territory authorities**

The Commissioner may give information contained in the register referred to in subsection 23(2) to a State or Territory authority if the State or Territory concerned has a law satisfying the requirements of subsections 18(4) and (5).

## **Part 5—Tax file numbers**

### **25 Forms etc. may require tax file number**

#### *Unclaimed money statement—Commonwealth*

- (1) The approved form of statement by a superannuation provider for the purposes of section 16 may require the statement to contain the tax file number of:
  - (a) the fund; and
  - (b) a member of the fund if:
    - (i) the statement relates to the member; and
    - (ii) the member has quoted his or her tax file number to the superannuation provider.

#### *Unclaimed money statement—States and Territories*

- (2) The form of statement by a superannuation provider that is approved by a State or Territory authority for the purposes of section 18 may require the statement to contain the tax file number of:
  - (a) the fund; and
  - (b) a member of the fund if:
    - (i) the statement relates to the member; and
    - (ii) the member has quoted his or her tax file number to the superannuation provider.

#### *Statement about unclaimed superannuation of former temporary visa holder*

- (2A) The approved form of statement by a superannuation provider for the purposes of subsection 20E(1) relating to a person's superannuation interest may require the statement to contain the tax file number of:
  - (a) the superannuation provider; and
  - (b) the fund; and
  - (c) the person, if:



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- (i) the person has quoted his or her tax file number to the superannuation provider; or
- (ii) the Commissioner has given the superannuation provider the person's tax file number in a notice about the person under section 20C.

*Lost members statement*

- (3) A scheme under section 23 may require the statement by a superannuation provider for the purposes of the scheme to contain the tax file number of:
  - (a) the fund; and
  - (b) a member of the fund if:
    - (i) the statement relates to the member; and
    - (ii) the member has quoted his or her tax file number to the superannuation provider.

**25A Notices under section 20C may include tax file numbers**

A notice the Commissioner gives under section 20C about a person and his or her superannuation interest in a fund may include the tax file number of the person and the tax file number of the fund.

**26 Provision of tax file numbers by trustees of regulated exempt public sector superannuation schemes**

- (1) The approved form for the purposes of subsection 19(5), in relation to information or particulars referred to in subsection 19(4) about a member of a regulated exempt public sector superannuation scheme, may permit the trustee of the scheme to give to the Commissioner the tax file number of:
  - (a) the scheme; and
  - (b) the member (if the member has quoted his or her tax file number to the trustee).
- (2) The trustee of a regulated exempt public sector superannuation scheme may, in the approved form, give to a State or Territory authority the tax file number of:
  - (a) the scheme; and
  - (b) a member of the scheme (if the member has quoted his or her tax file number to the trustee);

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in connection with the operation, or possible future operation, of a register of the authority mentioned in item 4 of the table in subsection 18(4).

- (3) The approved form for the purposes of subsection 23(4), in relation to information or particulars referred to in subsection 23(3) about a member of a regulated exempt public sector superannuation scheme, may permit the trustee of the scheme to give to the Commissioner the tax file number of:
- (a) the scheme; and
  - (b) the member (if the member has quoted his or her tax file number to the trustee).

## **27 Registers may contain tax file numbers**

The particulars of a person that may be included in the registers mentioned in section 19 and subsection 23(2), and in item 4 of the table in subsection 18(4), include the person's tax file number.

## **28 Use of tax file numbers**

The Commissioner may use for the purposes of this Act a person's tax file number that has been quoted to the Commissioner for any other purpose.

## **29 Requesting tax file numbers**

- (1) The Commissioner may request any of the following persons to quote his or her tax file number to the Commissioner in connection with the operation, or the possible future operation, of this Act or the regulations:
- (a) a person who claims to be entitled to unclaimed money particulars of which are contained in the register referred to in section 19;
  - (aa) a person making an application mentioned in subsection 20H(1) (about payment by the Commissioner);
  - (b) a person who claims to be a lost member whose particulars are contained in the register referred to in subsection 23(2).
- (2) If:
- (a) a person claims to be entitled to unclaimed money; and

- (b) particulars of the money are contained in a register of a State or Territory authority mentioned in item 4 of the table in subsection 18(4);  
the State or Territory authority may request the person to quote his or her tax file number to the authority in connection with the operation, or the possible future operation, of the register. The request may only be made in the approved form.
- (3) A person is not obliged to comply with a request made under subsection (1) or (2).
- (4) To avoid doubt, non-compliance with a request made under subsection (1) or (2) does not prevent a person from being paid unclaimed money or prevent a payment from being made under section 20H.

### **30 Quoting tax file numbers**

A person quotes his or her tax file number to another person in connection with the operation, or the possible future operation of:

- (a) this Act or the regulations; or
- (b) a register mentioned in item 4 of the table in subsection 18(4);

if the person informs the other person of the number in a manner approved in writing by the Commissioner.

## Part 6—Secrecy

### 31 Persons to whom Part applies

- (1) This Part applies to a person who is or has been:
  - (a) the Commissioner, a Second Commissioner of Taxation or a Deputy Commissioner of Taxation; or
  - (b) a person engaged under the *Public Service Act 1999* in the Agency (within the meaning of that Act) of which the Commissioner is the Agency Head; or
  - (c) otherwise appointed or employed by, or a provider of services for, the Commonwealth.

#### *Oath or declaration*

- (2) A person to whom this Part applies must, if and when required by the Commissioner to do so, make an oath or declaration to maintain secrecy in accordance with this Part.
- (3) The Commissioner may determine, in writing:
  - (a) the form of the oath or declaration; and
  - (b) the manner in which the oath or declaration must be made.

### 32 Information may be recorded or divulged only for purposes of Act

A person to whom this Part applies is guilty of an offence if the person:

- (a) makes a record of any protected information; or
- (b) whether directly or indirectly, divulges or communicates to a person any protected information about another person; and the record is made, or the information is divulged or communicated other than:
  - (c) under or for the purposes of this Act; or
  - (d) in the performance of duties, as a person to whom this Part applies, under or in relation to this Act.

Maximum penalty: Imprisonment for 2 years.

- Note 1: In a prosecution for an offence against this section, the defendant bears an evidential burden in relation to the matters in paragraphs (1)(c) and (d) and sections 34, 35, 36, 37 and 38 (see subsection 13.3(3) of the *Criminal Code*).
- Note 2: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **33 Court may not require information or documents**

A person to whom this Part applies is not required:

- (a) to divulge or communicate protected information to a court; or
  - (b) to produce a protected document in court;
- except where it is necessary to do so for the purpose of implementing this Act.

### **34 Information may be divulged to persons performing duties under Acts administered by Commissioner**

This Part does not prohibit the Commissioner, or a person authorised by the Commissioner, from divulging or communicating any protected information to a person performing, as a person to whom this Part applies, duties under or in relation to:

- (a) an Act of which the Commissioner has the general administration; or
  - (b) regulations made under such an Act;
- for the purpose of enabling that person to perform those duties.

### **35 Information may be divulged to persons performing duties under this Act**

Nothing in this Act, or in any other Act of which the Commissioner has the general administration, prohibits the Commissioner or a person authorised by the Commissioner from divulging or communicating any information to a person performing, as a person to whom this Part applies, duties under or in relation to this Act for the purpose of enabling that person to perform those duties.

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**36 Information may be divulged to court for purposes of this Act**

Nothing in this Act, or in any other Act of which the Commissioner has the general administration, prohibits the Commissioner, or a person authorised by the Commissioner, from:

- (a) divulging or communicating to a court any information obtained under or for the purposes of such an Act; or
- (b) producing in court a document obtained or made under or for the purposes of such an Act;

where it is necessary to do so for the purpose of implementing this Act.

**37 Information may be divulged with consent of superannuation provider or individual**

This Part does not prohibit the Commissioner, or a person authorised by the Commissioner, from divulging or communicating any protected information:

- (a) relating to the affairs of a superannuation provider or a trustee of a regulated exempt public sector superannuation scheme if the provider or trustee agrees in writing to the divulging or communicating of the information; or
- (b) relating to an individual if the individual agrees in writing to the divulging or communicating of the information.

**38 Information may be divulged to specified persons or bodies**

This Part does not prohibit the Commissioner, or a person authorised by the Commissioner, from divulging or communicating any protected information to:

- (a) the Australian Prudential Regulation Authority, for the purposes of the performance of any of its functions or the exercise of any of its powers; or
- (b) the Minister, the Secretary to the Department or an officer of the Department authorised by the Secretary for the purposes of this Part; or
- (c) the Superannuation Complaints Tribunal for the purposes of the performance of any of its functions or the exercise of any of its powers; or

- (d) the Australian Securities and Investments Commission for the purposes of the performance of any of its functions or the exercise of any of its powers; or
- (e) a financial sector supervisory agency for the purposes of the performance of any of its functions or the exercise of any of its powers; or
- (f) the Australian Statistician, or an officer of the Australian Bureau of Statistics, for purposes, limited to statistics, under the *Census and Statistics Act 1905*.

### **39 Australian Bureau of Statistics to observe secrecy requirements**

If information is divulged or communicated under paragraph 38(f) to the Australian Statistician or to an officer of the Australian Bureau of Statistics, then the information, or the information contained in the document, is taken to be information given for the purposes of the *Census and Statistics Act 1905*.

## **Part 7—Administration**

### **40 General administration of Act**

The Commissioner has the general administration of this Act.

### **41 Annual report**

After the end of each financial year, the Commissioner must give the Treasurer a report on the working of this Act during the year for presentation to the Parliament.



## **Part 8—Miscellaneous**

### **42 Act not to operate so as to contravene Constitution**

This Act does not apply in any circumstance where its application would result in a contravention of the Constitution.

### **43 Application of the *Criminal Code***

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

### **44 Publication etc. of information in registers**

- (1) The Commissioner may authorise information in the registers mentioned in section 19 and subsection 23(2) to be:
- (a) published in the *Gazette*; or
  - (b) made available to the public (whether or not on the payment of a fee) in such other manner as the Commissioner determines; or
  - (c) made available to a particular person (whether or not on the payment of a fee) in such manner as the Commissioner determines.

The authorisation may extend to so much of the information in the registers as the Commissioner considers appropriate.

*Tax file numbers must not be published or made available*

- (2) Subsection (1) does not apply to tax file numbers.

### **45 Authorised officers**

The Commissioner may, by writing, authorise a person who is engaged under the *Public Service Act 1999* to be an authorised officer for the purposes of a provision or provisions of this Act.

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**46 Access to premises**

- (1) For the purposes of this Act, an authorised officer:
  - (a) may, at any reasonable time, enter and remain on any premises; and
  - (b) is entitled to full and free access at any reasonable time to all documents; and
  - (c) may inspect, examine, make copies of, or take extracts from, any documents.
- (2) An authorised officer is not entitled to enter or remain on any premises if, after having been requested by the occupier to produce proof of his or her authority, the authorised officer does not produce a written authority signed by the Commissioner stating that the officer is authorised to exercise powers under this section.
- (3) If an authorised officer enters premises, or proposes to enter premises, the occupier must provide the officer with all reasonable facilities and assistance for the effective exercise of the officer's powers under this section.
- (4) An occupier is guilty of an offence if the occupier fails to comply with the obligation set out in subsection (3).

Maximum penalty: 10 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

**47 Obtaining information and documents**

*Power of Commissioner to obtain information or documents*

- (1) The Commissioner may, for the purposes of this Act, by written notice, require a person:
  - (a) to give to the Commissioner, within a reasonable period, and in a reasonable manner, stated in the notice, any information that the Commissioner requires; and
  - (b) to attend before the Commissioner, or an authorised officer, at a reasonable time and place stated in the notice, and answer questions; and

- (c) to produce to the Commissioner, at a reasonable time and place stated in the notice, any documents in the custody or under the control of the person.

*Power to require information on oath or affirmation*

- (2) The Commissioner may require the information or answers to be verified or given on oath or affirmation, and either orally or in writing. For that purpose, the Commissioner or an authorised officer may administer an oath or affirmation.

*Nature of oath or affirmation*

- (3) The oath to be taken or affirmation to be made by a person is an oath or affirmation that the information or answers the person will give will be true.

*Expenses of attendance*

- (4) The regulations are to prescribe scales of expenses to be allowed to persons required to attend under this section.

#### **48 Records to be kept and retained by superannuation provider**

*Superannuation provider to keep records*

- (1) A superannuation provider must keep records that record and explain all transactions and other acts engaged in by the provider, or required to be engaged in by the provider, under this Act.

*How records to be kept*

- (2) The records must be kept in writing in the English language or so as to enable the records to be readily accessible and convertible into writing in the English language.

*Period for retention of records*

- (3) A superannuation provider who has possession of any records kept or obtained under or for the purposes of this Act must retain them until the later of:
  - (a) the end of 5 years after they were prepared or obtained; or

## Section 49

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- (b) the completion of the transactions or acts to which those records relate.

### *When records need not be kept*

- (4) This section does not require a superannuation provider to retain records if the Commissioner has notified the provider that the retention of the records is not required.

### *Offence*

- (5) A superannuation provider is guilty of an offence if the superannuation provider fails to comply with an obligation set out in this section.

Maximum penalty: 60 penalty units.

Note 1: In a prosecution for an offence against subsection (5), the defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 3: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

## 49 Money paid to Commissioner not held on trust

To avoid doubt, money paid under this Act to the Commissioner is not, and has never been:

- (a) held on trust; or
- (b) special public money for the purposes of section 16 of the *Financial Management and Accountability Act 1997*.

## 50 Regulations

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;and, in particular, prescribing:
  - (c) fees in respect of any matter under this Act; and
  - (d) how notices, applications, statements or other documents are to be given to the Commissioner; and

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- (e) penalties, not exceeding a fine of 5 penalty units, for offences against the regulations.
- (2) Without limiting the generality of subsection (1), the regulations may make provision for and in relation to the keeping of one or more registers by the Commissioner, where the registers relate to matters arising under this Act or the regulations. In particular, the regulations may make provision for the following:
  - (a) a register to be kept in such form and manner as the Commissioner directs;
  - (b) persons to inspect a register;
  - (c) persons to obtain information contained in a register;
  - (d) fees to be charged for such an inspection or for providing such information.



## Table of Acts

**Notes to the *Superannuation (Unclaimed Money and Lost Members) Act 1999*****Note 1**

The *Superannuation (Unclaimed Money and Lost Members) Act 1999* as shown in this compilation comprises Act No. 127, 1999 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i>	127, 1999	13 Oct 1999	13 Oct 1999	
<i>Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999</i>	128, 1999	13 Oct 1999	Ss. 4–7: 13 Oct 1999 (a) Schedule 2: 5 Dec 1999 (a)	Ss. 4–7
<i>Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Act 2001</i>	114, 2001	18 Sept 2001	(b)	—
<i>Australian Prudential Regulation Authority Amendment Act 2003</i>	42, 2003	24 June 2003	Ss. 1–3: Royal Assent Remainder: 1 July 2003 (see s. 2(1) and <i>Gazette</i> 2003, No. S230)	Sch. 3
<i>Tax Laws Amendment (Simplified Superannuation) Act 2007</i>	9, 2007	15 Mar 2007	Schedule 7 (items 2–7): Royal Assent	Sch. 7 (item 7)
<i>Superannuation Legislation Amendment (Simplification) Act 2007</i>	15, 2007	15 Mar 2007	Schedule 3 (items 58–60): Royal Assent	Sch. 3 (item 60)
<i>Temporary Residents' Superannuation Legislation Amendment Act 2008</i>	151, 2008	11 Dec 2008	Schedule 1 (items 1–11, 13–22): 18 Dec 2008 (see F2008L04636)	—

## Act Notes

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- (a) The *Superannuation (Unclaimed Money and Lost Members) Act 1999* was amended by Schedule 2 only of the *Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999*, subsections 2(1) and 2(4)(b) of which provide as follows:
- (4) If item 868 of Schedule 1 to the *Public Employment (Consequential and Transitional) Amendment Act 1999* commences:
- (b) at or after the commencing time—Schedule 2 to this Act commences at the later of:
- (i) immediately after the commencing time; and
- (ii) immediately after the commencement of that item.
- (b) Section 2 of the *Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Act 2001* provides as follows:
- 2 This Act commences immediately after the commencement of the *Family Law Legislation Amendment (Superannuation) Act 2001*.
- The *Family Law Legislation Amendment (Superannuation) Act 2001* came into operation on 28 December 2002



**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 151, 2008
<b>Part 1</b>	
S. 6.....	am. No. 151, 2008
S. 7.....	am. No. 9, 2007; No. 151, 2008
<b>Part 2</b>	
S. 8.....	am. No. 42, 2003; No. 151, 2008
<b>Part 3</b>	
S. 12.....	am. No. 114, 2001; No. 9, 2007
Note to s. 12(1) .....	rep. No. 9, 2007
Heading to s. 13.....	am. No. 9, 2007
S. 13.....	am. No. 114, 2001; No. 9, 2007
Ss. 16, 17 .....	am. No. 151, 2008
Note to s. 17(1) .....	ad. No. 151, 2008
Heading to s. 18.....	rs. No. 15, 2007
S. 18.....	am. No. 15, 2007
<b>Part 3A</b>	
Part 3A .....	ad. No. 151, 2008
<b>Division 1</b>	
Ss. 20A, 20B .....	ad. No. 151, 2008
<b>Division 2</b>	
S. 20C .....	ad. No. 151, 2008
<b>Division 3</b>	
Ss. 20D–20G.....	ad. No. 151, 2008
<b>Division 4</b>	
S. 20H .....	ad. No. 151, 2008
<b>Division 5</b>	
Ss. 20J–20M .....	ad. No. 151, 2008
<b>Division 6</b>	
S. 20N .....	ad. No. 151, 2008
S. 20P .....	ad. No. 151, 2008
<b>Part 5</b>	
S. 25.....	am. No. 151, 2008
S. 25A .....	ad. No. 151, 2008
S. 29.....	am. No. 151, 2008
<b>Part 6</b>	
S. 31.....	am. No. 128, 1999
<b>Part 8</b>	
S. 45.....	am. No. 128, 1999
S. 49.....	rs. No. 151, 2008

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**Table A**

**Table A**

**Application, saving or transitional provisions**

*Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999* (No. 128, 1999)

**4 Interpretation**

- (1) Unless the contrary intention appears, expressions used in this Part that are also used in the *Superannuation (Unclaimed Money and Lost Members) Act 1999* have the same meanings as in that Act.
- (2) In this Part, unless the contrary intention appears:

*New Act* means the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

**5 Transitional—payments of unclaimed money to States and Territories etc.**

- (1) If:
  - (a) a State or Territory does not have a law that satisfies the requirements of section 18 of the New Act; and
  - (b) at the commencement of the New Act, that State or Territory had a law that satisfied the requirements of section 84 of the RSA Act (as in force before that commencement) and subsections 225(9), (9A) and (9B) of the SIS Act (as then in force); and
  - (c) those provisions (as in force before that commencement) would, if they were in force after that commencement, require a superannuation provider:
    - (i) to provide particulars of unclaimed money; and
    - (ii) to pay an amount of unclaimed money;to an authority of that State or Territory;  
the provider must provide the particulars, and pay the amount, to the authority in accordance with those provisions instead of complying with sections 16 and 17 of the New Act.
- (2) Subsection (1) ceases to have effect from the first half-year that starts after the end of the transition period.

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**Table A**

- (3) In subsection (2):

*transition period* means the period of 2 years starting immediately after the commencement of the New Act.

**6 Transitional—treatment of unclaimed money under the RSA Act and the SIS Act**

- (1) If particulars of unclaimed money have been provided, or unclaimed money has been paid, to the Commissioner in accordance with:
- (a) Part 8 of the RSA Act; or
  - (b) Part 22 of the SIS Act;
- those particulars are taken to have been provided, and that money is taken to have been paid, to the Commissioner in accordance with sections 16 and 17 of the New Act.
- (2) If particulars of unclaimed money have been provided, or unclaimed money has been paid, to a State or Territory authority in accordance with:
- (a) Part 8 of the RSA Act; or
  - (b) Part 22 of the SIS Act;
- those particulars are taken to have been provided, and that money is taken to have been paid, to the State or Territory authority in accordance with section 18 of the New Act.

**7 Transitional—treatment of particulars relating to lost members under the RSA Act and the SIS Act**

If particulars relating to lost members have been provided to the Commissioner in accordance with:

- (a) regulations under the RSA Act; or
  - (b) regulations under the SIS Act;
- those particulars are taken to have been provided to the Commissioner in accordance with a scheme established by regulations in accordance with section 23 of the New Act.
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**Table A**

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*Australian Prudential Regulation Authority Amendment Act 2003*  
(No. 42, 2003)

**Schedule 3**

**1 Definitions**

In this Schedule:

***amended Act*** means the *Australian Prudential Regulation Authority Act 1998* as in force after the commencement of the amendments.

***commencement of the amendments*** means the commencement of the amendments made by Schedule 1.

***old Act*** means the *Australian Prudential Regulation Authority Act 1998* as in force immediately before the commencement of the amendments.

**2 APRA's corporate existence is continued**

- (1) The body corporate that was, immediately before the commencement of the amendments, the Australian Prudential Regulation Authority (***APRA***) continues in existence after that commencement by force of this item under the corporate structure provided for by the amended Act.

Note: Rights, liabilities and obligations as between APRA and other people, and things done by or on behalf of APRA, or in relation to APRA, are therefore not affected by the restructure of APRA.

- (2) However, this does not imply that any person who, immediately before the commencement of the amendments, was a member of APRA's Board, or was APRA's Chief Executive Officer, continues to hold office after that commencement.

Note: These people cease to hold office on the commencement of the amendments because of the repeal of the provisions under which they were appointed.

**3 Continued protection from liability**

Section 58 of the old Act continues to apply in relation to conduct, before the commencement of the amendments, of APRA's Board, a member of APRA's Board or an agent of a member of APRA's Board.

Note: The reference to a member of APRA's Board covers APRA's Chief Executive Officer.

#### 4 Continued effect of certain delegations

- (1) A delegation in force, immediately before the commencement of the amendments, under subsection 15(1) or (2) of the old Act continues to have effect after that commencement as if it were a delegation under APRA's seal under that subsection of the amended Act. If the delegation was to one or more members of APRA's Board, it continues to have effect as if it were a delegation to any APRA member.
- (2) A direction in force, immediately before the commencement of the amendments, under subsection 15(3) of the old Act continues to have effect after that commencement, in relation to a delegation to which subitem (1) applies, as if it were a direction given by APRA under that subsection of the amended Act.
- (3) A delegation to one or more members of APRA's Board in force, immediately before the commencement of the amendments, under a provision amended by Schedule 2 continues to have effect after that commencement as if it were a delegation under the amended provision to any APRA member.

Note: Delegations in favour of APRA, or APRA staff members, are not affected by the Schedule 2 amendments.

#### 5 Continued effect of determinations of terms and conditions for staff and consultants

A determination of terms and conditions in force, immediately before the commencement of the amendments, under subsection 45(2) or 47(2) of the old Act continues to have effect after that commencement as if it were a determination by APRA under that subsection of the amended Act.

#### 6 Continued effect of approvals under paragraph 56(5)(b)

An approval in force, immediately before the commencement of the amendments, under paragraph 56(5)(b) of the old Act continues to have effect after that commencement as if it were an approval by APRA under that paragraph of the amended Act.

#### 7 Continued or extended effect of certain regulations

- (1) Regulations in force, immediately before the commencement of the amendments, under paragraph (k) of the definition of *Act covered by this section* in subsection 56(1) of the old Act continue to have effect

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**Table A**

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after that commencement as if they were made under paragraph (o) of the definition of *prudential regulation framework law* in subsection 3(1) of the amended Act, but only as that paragraph applies for the purposes of section 56 of the amended Act.

- (2) Regulations in force, immediately before the commencement of the amendments, under paragraph 56(5)(a) of the old Act have effect after that commencement (in addition to the effect they continue to have for that paragraph of the amended Act) as if they were also made under subsection 10A(1) of the amended Act.

**8 Delegations by ASIC to APRA staff members**

- (1) Subsection 102(2A) of the *Australian Securities and Investments Commission Act 2001* has effect after the commencement of the amendments as if the reference in that subsection to the Chief Executive Officer of APRA were instead a reference to APRA.
- (2) For the purposes of that subsection as it continues to have effect, an agreement to a delegation, in force under that subsection immediately before the commencement of the amendments, continues to have effect after that commencement as if it were given by APRA.

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*Tax Laws Amendment (Simplified Superannuation) Act 2007* (No. 9, 2007)

**Schedule 7**

**7 Application**

The amendments made by this Schedule apply on and after 1 July 2007.

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**Table A**

*Superannuation Legislation Amendment (Simplification) Act 2007*  
(No. 15, 2007)

**Schedule 3**

**60 Application**

The amendments made by the previous 2 items apply in relation to statements required to be given under section 16 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* in respect of the half-year ending on 30 June 2007 and later half-years.