



Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999

No. 128, 1999

An Act to deal with consequential and transitional matters arising from the enactment of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, and for other purposes

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No. 128, 1999

An Act to deal with consequential and transitional matters arising from the enactment of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*, and for other purposes

[Assented to 13 October 1999]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

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

2 Commencement

- (1) In this section, *commencing time* means the time when the *Superannuation (Unclaimed Money and Lost Members) Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (3) If item 264 of Schedule 1 to the *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act 1999* commences at or after the commencing time, items 41 and 42 of Schedule 1 to this Act commence at the later of:
 - (a) immediately after the commencing time; and
 - (b) immediately after the commencement of that item.
- (4) If item 868 of Schedule 1 to the *Public Employment (Consequential and Transitional) Amendment Act 1999* commences:
 - (a) before the commencing time—Schedule 2 to this Act commences immediately after the commencing time; or
 - (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.
- (5) Items 1, 2 and 3 of Schedule 3 are taken to have commenced at the same time as the *Retirement Savings Accounts (Consequential Amendments) Act 1997*.
- (6) Items 4, 5 and 6 of Schedule 3 commence on the day on which this Act receives the Royal Assent.

Part 2—Amendment of Acts

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Part 3—Transitional and application provisions

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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- (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.

8 Application of certain items of Schedule 1

Items 8, 10, 12, 13, 14, 34, 35, 39, 44, 45, 46, 47, 48, 49 and 73 of Schedule 1 do not apply in respect of the half-year in which the New Act receives the Royal Assent.

9 Items 2 and 3 of Schedule 3

A person is not guilty of an offence if the person would not have been guilty of the offence had the amendments made by items 2 and 3 of Schedule 3 commenced on the day on which this Act received the Royal Assent.

Schedule 1—Amendments

Financial Transaction Reports Act 1988

1 Paragraph 18(4B)(c)

Omit “83, 84,”.

2 After paragraph 18(4B)(c)

Insert:

- (ca) made in accordance with section 17 or 18 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or

Income Tax Assessment Act 1936

3 Subsections 27A(3B) and (3C)

Omit “under subsection 225(6) of the *Superannuation Industry (Supervision) Act 1993*”, substitute “in accordance with section 17 or 18 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

4 After subsection 27A(3C)

Insert:

- (3D) To avoid doubt, a reference in the definition of *relevant service period* in subsection (1) to a period during which a taxpayer or fund member was a member of a superannuation fund does not include a reference to a period:
 - (a) beginning when the trustee of the fund pays unclaimed money to the Commissioner or a State or Territory authority (within the meaning of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*) in accordance with that Act; and
 - (b) ending when the Commissioner or the authority pays the unclaimed money to the taxpayer or fund member in accordance with that Act.

- (3E) To avoid doubt, a reference in the definition of *relevant service period* in subsection (1) to a period during which a taxpayer or depositor was a depositor with an approved deposit fund does not include a reference to a period:
- (a) beginning when the trustee of the fund pays unclaimed money to the Commissioner or a State or Territory authority (within the meaning of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*) in accordance with that Act; and
 - (b) ending when the Commissioner or the authority pays the unclaimed money to the taxpayer or depositor in accordance with that Act.

5 Paragraph 27CC(a)

Repeal the paragraph, substitute:

- (a) an amount is paid to the Commissioner or a State or Territory authority (within the meaning of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*) under that Act; and

Note: The heading to section 27CC of the *Income Tax Assessment Act 1936* is altered by omitting "Insurance and Superannuation Commissioner" and substituting "Commissioner etc."

6 Section 27CC

Omit "the Insurance and Superannuation Commissioner" (second occurring), substitute "the Commissioner or the authority".

7 Sub-subparagraph 140M(1)(a)(i)(B)

Omit "or the Insurance and Superannuation Commissioner", substitute ", the Commissioner or a State or Territory authority referred to in subsection 18(2) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*".

8 Subparagraph 202(l)(l)

Omit "Parts 22 and", substitute "Part".

9 After paragraph 202(i)

Insert:

- (ia) to facilitate the administration of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (including the administration of registers by State or Territory authorities (within the meaning of that Act) in accordance with section 18 of that Act); and

10 Subparagraph 202(k)(i)

Omit "8 and".

11 Subsection 202DH(1)

After "the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*", insert "the *Superannuation (Unclaimed Money and Lost Members) Act 1999*".

Retirement Savings Accounts Act 1997

12 Subparagraph 3(1)(c)(ii)

Repeal the subparagraph, substitute:
(ii) Part 7; and

13 Section 16 (definition of *eligibility age*)

Repeal the definition.

14 Section 16 (definition of *unclaimed money*)

Repeal the definition.

15 Section 16

Insert:

Superannuation Acts means:

- (a) this Act; and
- (b) the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*; and
- (c) the *Superannuation Contributions Tax (Members of Constitutionally Protected Funds) Assessment and Collection Act 1997*; and

- (d) the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; and
- (e) the *Termination Payments Tax (Assessment and Collection) Act 1997*.

16 Part 8

Repeal the Part.

17 Section 131

Omit "Surcharge", substitute "other Superannuation".

18 Paragraph 132(b)

Omit "Surcharge", substitute "other Superannuation".

19 Paragraph 133(1)(a)

Omit "Surcharge", substitute "other Superannuation".

20 Section 134

Omit "Surcharge", substitute "other Superannuation".

21 Subsection 135(1)

Omit "Surcharge", substitute "other Superannuation".

22 Paragraph 136(1)(b)

Omit "Surcharge", substitute "other Superannuation".

23 Paragraph 136(3)(b)

Omit "Surcharge", substitute "other Superannuation".

24 Subsection 137(1)

Omit "Surcharge", substitute "other Superannuation".

25 Paragraph 138(1)(b)

Omit "Surcharge", substitute "other Superannuation".

26 Section 139

Omit "Surcharge", substitute "other Superannuation".

27 Paragraph 139(b)

Omit "Surcharge", substitute "other Superannuation".

28 Paragraph 140(c)

Omit "Surcharge", substitute "other Superannuation".

29 Paragraph 141(a)

Omit "Surcharge" (wherever occurring), substitute "other Superannuation".

30 Paragraph 142(2)(a)

Omit "Surcharge", substitute "other Superannuation".

31 Paragraph 143(a)

Omit "Surcharge", substitute "other Superannuation".

32 Subsections 144(3) and (4)

Repeal the subsections.

33 Section 173 (paragraph (b) of the definition of *modifiable provision*)

Omit "and", substitute "or".

34 Section 173 (paragraph (c) of the definition of *modifiable provision*)

Omit "8 or ".

35 Section 173 (paragraph (d) of the definition of *modifiable provision*)

Omit "Parts", substitute "that Part".

Small Superannuation Accounts Act 1995

36 Section 75

Omit "Australian Securities and Investments Commission" (wherever occurring), substitute "Commissioner of Taxation".

37 Subsections 76(2) and (3)

Repeal the subsections, substitute:

Statement to be given to the Commissioner

- (2) As soon as practicable after the end of that period, the Commissioner must record information about the account.

Tax file number

- (3) If the individual's tax file number is known to the Commissioner, the record made for the purposes of subsection (2) must set out that tax file number.

38 Subsections 76(6), (7) and (8)

Omit "Australian Securities and Investments Commission", substitute "Commissioner of Taxation".

39 Section 77

Omit "section 226 of the *Superannuation Industry (Supervision) Act 1993*", substitute "section 19 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*".

Superannuation Act 1976

40 Subsection 155C(3) (after paragraph (c) of the definition of *eligible regulatory law*)

Insert:

- (ca) the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or

41 Paragraph 158A(3)(b)

Omit "section 225 of the SIS Act", substitute "the *Superannuation (Unclaimed Money and Lost Members) Act 1999*".

42 Paragraph 158A(3)(b)

Omit "that section", substitute "that Act".

Superannuation Act 1990

43 Subsection 49(3) (after paragraph (c) of the definition of *eligible regulatory law*)

Insert:

(ca) the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or

Superannuation Industry (Supervision) Act 1993

44 Subsection 2(3)

Omit “22,”.

45 Section 4 (table row relating to Part 22)

Repeal the row.

46 Subparagraph 6(1)(c)(v)

Repeal the subparagraph.

47 Subsection 10(1) (definition of *eligibility age*)

Repeal the definition.

48 Subsection 10(1) (definition of *unclaimed money*)

Repeal the definition.

49 Part 22

Repeal the Part.

50 Section 299A

Omit “Surcharge”, substitute “other Superannuation”.

51 Paragraph 299B(b)

Omit “Surcharge”, substitute “other Superannuation”.

52 Paragraph 299C(1)(a)

Omit “Surcharge”, substitute “other Superannuation”.

53 Section 299D

Omit "Surcharge", substitute "other Superannuation".

54 Subsection 299E(1)

Omit "Surcharge", substitute "other Superannuation".

55 Subsection 299G(1)

Omit "Surcharge" (wherever occurring), substitute "other Superannuation".

56 Paragraph 299G(3)(b)

Omit "Surcharge", substitute "other Superannuation".

57 Subsection 299H(1)

Omit "Surcharge", substitute "other Superannuation".

58 Subsection 299J(1)

Omit "Surcharge", substitute "other Superannuation".

59 Subsection 299K(1)

Omit "Surcharge", substitute "other Superannuation".

60 Subsection 299L(1)

Omit "Surcharge", substitute "other Superannuation".

61 Paragraph 299M(1)(b)

Omit "Surcharge", substitute "other Superannuation".

62 Paragraph 299N(1)(b)

Omit "Surcharge", substitute "other Superannuation".

63 Section 299P

Omit "Surcharge" (wherever occurring), substitute "other Superannuation".

64 Paragraph 299Q(c)

Omit "Surcharge", substitute "other Superannuation".

65 Paragraph 299R(1)(a)

Omit "Surcharge", substitute "other Superannuation".

66 Paragraph 299R(2)(a)

Omit "Surcharge", substitute "other Superannuation".

67 Paragraph 299S(2)(a)

Omit "Surcharge", substitute "other Superannuation".

68 Paragraph 299T(d)

Omit "Surcharge", substitute "other Superannuation".

69 Subsections 299U(4) and (5)

Repeal the subsections.

70 Section 299W

Insert:

Superannuation Acts means the following:

- (a) this Act;
- (b) the *Superannuation Contributions Tax (Assessment And Collection) Act 1997*;
- (c) the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*;
- (d) the *Superannuation (Unclaimed Money and Lost Members) Act 1999*;
- (e) the *Termination Payments Tax (Assessment and Collection) Act 1997*.

71 Subsection 299Z(2)

Omit "Surcharge", substitute "other Superannuation".

72 Subsection 299Z(3)

Omit "Surcharge", substitute "other Superannuation".

73 Section 327 (paragraph (b) of the definition of *modifiable provision*)

Omit ", 22".

74 At the end of section 381

Add:

Note: Part 22 was repealed by the *Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999*.

Taxation Administration Act 1953

75 Paragraph 8WA(1)(b)

After "(i)", insert ", (ia)".

76 Paragraphs 8WB(1)(d) and (e)

After "(i)", insert ", (ia)".

Schedule 2—Amendments relating to the enactment of the Public Service Act 1999

Superannuation (Unclaimed Money and Lost Members) Act 1999

1 Paragraph 31(1)(b)

Repeal the paragraph, substitute:

- (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

2 Section 45

Omit “an officer or employee within the meaning of the *Public Service Act 1922*”, substitute “engaged under the *Public Service Act 1999*”.

Schedule 3 Other amendments

**Part 1 Amendments commencing at the same time as the Retirement Savings Accounts
(Consequential Amendments) Act 1997**

Schedule 3—Other amendments

**Part 1—Amendments commencing at the same time
as the Retirement Savings Accounts
(Consequential Amendments) Act 1997**

Income Tax Assessment Act 1936

1 Paragraph 202(k) (second occurring)

Reletter as paragraph (ka).

Taxation Administration Act 1953

2 Paragraph 8WA(1)(b)

Omit “or (j)”, substitute “, (j) or (ka)”.

3 Paragraphs 8WB(1)(d) and (e)

Omit “or (k)”, substitute “, (k) or (ka)”.

Part 2—Amendments commencing on Royal Assent

Income Tax Assessment Act 1936

4 Paragraph 202(k)

Repeal the paragraph.

Taxation Administration Act 1953

5 Paragraph 8WA(1)(a)

Omit “or (k)”.

6 Paragraphs 8WB(1)(d) and (e)

Omit “, (k)”.

*[Minister’s second reading speech made in—
House of Representatives on 30 June 1999
Senate on 23 August 1999]*

(145/99)