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This compilation is in 2 volumes

Volume 1: sections 1-110S
Volume 2: sections 110SA-250
Schedules
Endnotes

Each volume has its own contents

This compilation includes commenced amendments made by Act No. 81, 2016. The amendment made by Act No. 13, 2018 has not commenced but is noted in the endnotes.

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About this compilation

This compilation

This is a compilation of the *Superannuation Act 1976* that shows the text of the law as amended and in force on 1 July 2018 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part VIAA—Superannuation guarantee top-up benefit

110SA Purpose of Part

The purpose of this Part is to establish, in respect of certain persons who cease to be eligible employees, an entitlement to a benefit (called ***superannuation guarantee top-up benefit***) so that an employer of such a person while the person was an eligible employee does not have an individual superannuation guarantee shortfall within the meaning of the *Superannuation Guarantee (Administration) Act 1992* in relation to that person in respect of the period, or any part of the period, during which the person was an eligible employee.

110SB Interpretation

(1) In this Part, unless the contrary intention appears:

accumulated government body contributions, in relation to a person's relevant period of employment, means the total of:

(a) the total amount of the productivity contributions applicable to the person in respect of the period; and

(b) notional interest on the amount worked out under paragraph (a).

government body scheme means a superannuation scheme:

(a) established by, or operating for the benefit of employees of:

(i) an authority of the Commonwealth; or

(ii) a State or an authority of a State; or

(iii) a Territory or an authority of a Territory; or

(iv) a body corporate in which the Commonwealth, or a person of the kind referred to in paragraph (i), (ii) or (iii), either individually or in combination with one or more other such persons, has a controlling interest; and

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(b) that has eligible employees as members; and
(c) under which productivity contributions accrue in respect of those eligible employees.

notional accumulated SG contributions, in relation to a person's relevant period of employment, means an amount equal to the sum of:

(a) the person's SG minimum contributions in relation to that period as reduced by an amount specified in, or worked out in accordance with, a determination made by an actuary under subsection (5); and
(b) notional interest on the amount worked out under paragraph (a).

other vested benefit, in relation to a person, means the value that CSC, having regard to the advice of the Australian Government Actuary, determines to be the value that the benefits paid or payable in respect of the person's relevant period of employment would have if the total amount of these benefits were taken not to include:

(a) the amount equal to the total of whichever of the following amounts is, or are, applicable:
    (i) the amount equal to that part of the accumulated employer contributions in respect of the person that is based on the operation of paragraphs 110Q(1)(a) and (b) in relation to productivity contributions paid or payable after 30 June 1992;
    (ii) the amount equal to that part of an amount paid by or in respect of the person that is based on the operation of paragraphs 110Q(1)(e) and (f) in relation to payments made under section 110L in relation to any period commencing after 30 June 1992;
    (iii) the amount equal to that part of an amount paid by or in respect of the person that is based on the operation of paragraphs 110Q(1)(e) and (f) in relation to payments made under section 110M in relation to any period commencing after 30 June 1992;

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(iv) the amount equal to that part of an amount paid by or in respect of the person that is based on the operation of paragraphs 110Q(1)(e) and (f) in relation to payments made under section 110MA in relation to any period commencing after 30 June 1992;

(b) the amount equal to that part of the person's accumulated contributions based on contributions that became payable, by the person, after 30 June 1992;

(c) if a benefit is payable in respect of the person under Part VIAB—the amount equal to that benefit;

(d) if a benefit is payable in respect of the person under Subdivision B of Division 2 of Part IX—the amount equal to that benefit.

period of actual contributory service, in relation to a person, means the person's period of contributory service other than any part of that period added by the operation of subsection 128(5) that is not attributable to a transfer value previously paid under Division 3 of Part IX.

productivity contribution means:

(a) in relation to a person who is a productivity employee within the meaning of Part VIA—a productivity contribution within the meaning of that Part (other than an amount taken to be a productivity contribution by virtue of the operation of paragraph 128(2)(c)); or

(b) in relation to any other person—an amount similar in kind to such a productivity contribution, whether worked out under an industrial award or otherwise.

rate of fund contribution tax means 15% or such other rate as is determined by CSC under section 110SD.

relevant period of employment, in relation to a person, means:

(a) if the whole of the person's period of actual contributory service occurred after 30 June 1992—that period; or

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(b) if part only of the person's period of actual contributory service occurred after that date—that part of the person's period of actual contributory service.

SG minimum contribution has the meaning given by section 110SC.

top-up benefit means superannuation guarantee top-up benefit payable under section 110SE.

(2) For the purposes of paragraph (a) of the definition of ***accumulated government body contributions*** in subsection (1), the amount of a productivity contribution applicable to a person in relation to a particular period (***the accrual period***) is:

(a) if the relevant government body scheme provides for productivity contributions (applicable to all eligible employees who are members of the scheme) that may be expressed as a percentage of the earnings (as described for the purposes of the scheme) of each employee—that percentage of the earnings of the person for the accrual period based on the person's fortnightly rate of salary that, for the purposes of section 46, was payable on the most recent anniversary of birth of the person; or

(b) if the relevant government body scheme provides for productivity contributions (applicable to a class of eligible employees identified by the scheme) that may be expressed as a percentage of the earnings (as described for the purposes of the scheme) of each employee in the class, and the percentage is lower than the corresponding percentage for any other class of eligible employees—that percentage of the earnings of the person for the accrual period based on the person's fortnightly rate of salary that, for the purposes of section 46, was payable on the most recent anniversary of birth of the person; or

(c) if the relevant government body scheme is a defined benefit superannuation scheme within the meaning of the *Superannuation Guarantee (Administration) Act 1992* that provides for a productivity related benefit applicable to all

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eligible employees who are members of the scheme—the contribution percentage, in relation to that benefit, of the earnings of the person for the accrual period based on the person's fortnightly rate of salary that, for the purposes of section 46, was payable on the most recent anniversary of birth of the person.

(3) For the purposes of paragraph (2)(c), ***contribution percentage*** means the rate of contribution, expressed as a percentage of the eligible employees' earnings and certified by an actuary, required to provide the productivity related benefit.

(4) The percentage referred to in paragraph (2)(a) or (b) must be certified by the person's employer.

(5) For the purposes of the definition of ***notional accumulated SG contributions*** in subsection (1), an actuary is to determine:

(a) an amount representing the cost of death and invalidity cover relevant to the person's SG minimum contributions; or

(b) a means of working out such an amount.

110SC Interpretation—SG minimum contribution

(1) The SG minimum contribution in respect of an eligible employee on a contribution day during the eligible employee's relevant period of employment is 4% of the fortnightly rate of salary that, for the purposes of section 46, was payable to the eligible employee on the anniversary of his or her birth immediately preceding the contribution day.

(2) CSC may vary the percentage mentioned in subsection (1) by determination.

(3) In so determining, CSC is to have regard to the charge percentage as specified in subsection 19(2) of the *Superannuation Guarantee (Administration) Act 1992*.

(4) A determination by CSC under subsection (2) takes effect on:

(a) a day stated in the determination; or

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(b) if no day is stated—the day of the making of the determination;

and CSC must cause a copy of the determination to be published in the *Gazette*.

110SD CSC may determine rate of fund contribution tax

(1) CSC may vary the percentage mentioned in the definition of ***rate of fund contribution tax*** in subsection 62A(1) or 110SB(1) by determination.

(2) The determination:

(a) takes effect from such date as is specified in the determination; and

(b) may provide for a percentage of nil.

(3) In making the determination, CSC is to have regard to the rate of tax payable on employer contributions paid to a superannuation fund.

(4) CSC must cause a copy of the determination to be published in the *Gazette*.

110SE Superannuation guarantee top-up benefit

(1) Superannuation guarantee top-up benefit is payable to or in respect of a person who ceases to be an eligible employee in respect of his or her relevant period of employment if an amount greater than nil is worked out, under whichever of subsections (3) and (4) is applicable, in relation to the person for that period.

(2) The top-up benefit is:

(a) if paragraph (b) does not apply—a lump sum benefit equal to the amount referred to in subsection (1); or

(b) if:

(i) the person's surcharge debt account is in debit when the top-up benefit becomes payable; and

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(ii) the top-up benefit is to be paid to the person or to a preservation fund for the benefit of the person;

a lump sum benefit equal to the difference between the amount referred to in subsection (1) (***basic amount***); and

(iii) if subparagraphs (iv) and (v) do not apply—the person's surcharge deduction amount; or

(iv) if part of the person's surcharge deduction amount has, under another provision of this Act, been deducted from a benefit payable to the person—the balance of the surcharge deduction amount; or

(v) if the person's surcharge deduction amount, or the balance of the surcharge deduction amount referred to in subparagraph (iv), is greater than the basic amount—so much of the surcharge deduction amount, or of the balance of the surcharge deduction amount, as is equal to the basic amount.

(2A) Paragraph (2)(b) does not apply if the whole of the person's surcharge deduction amount has, under another provision of this Act, been deducted from a benefit payable to the person.

(3) If the person's employer was liable to pay productivity contributions under section 110H in respect of the person for his or her relevant period of employment, the amount mentioned in subsection (1) is the amount worked out using the formula:

$$\text{NASGC} - \frac{\text{AEC} \times 100}{(100 - \text{TR})} - \text{OVB}$$

where:

NASGC is the notional accumulated SG contributions in respect of the person for the person's relevant period of employment.

AEC is that part of the accumulated employer contributions in respect of the person that is based on the operation of paragraphs 110Q(1)(a) and (b) in relation to productivity contributions paid or payable after 30 June 1992.

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TR is the percentage figure representing the rate of fund contribution tax applicable to that period.

OVB is the person's other vested benefit in respect of that period.

(3A) Reductions under Division 3 of Part IXB are to be disregarded in applying subsection (3) of this section.

(4) If the person's employer was liable to pay productivity contributions to a government body scheme in respect of the person for his or her relevant period of employment, the amount mentioned in subsection (1) is whichever of the following amounts is determined by CSC after having regard to the views of the government body:

(a) an amount of nil;

(b) an amount worked out using the formula:

$$NASGC - AGBC - OVB;$$

(c) an amount worked out using the formula:

$$NASGC - \frac{GBB \times 100}{(100 - TR)} - OVB;$$

(d) an amount worked out using the formula:

$$NASGC - \frac{GBPROD \times 100}{(100 - TR)} - OVB;$$

where:

NASGC is the notional accumulated SG contributions in respect of the person for the person's relevant period of employment.

AGBC is the accumulated government body contributions in respect of the person for the relevant period of employment.

OVB is the person's other vested benefit in respect of that period.

GBB is the benefit paid or payable from the government body scheme in respect of the person for the person's relevant period of employment plus, except where the person ceases to be both a

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member of the government body scheme and an eligible employee, notional interest on that benefit.

TR is the percentage figure representing the rate of fund contribution tax applicable to that period.

GBPROD is the total of:

(a) that part of the amount that has been paid to the Commissioner or CSC under section 110MA in respect of the person for the person's relevant period of employment less the amount in the nature of income tax (if any) that is relevant to that amount; and

(b) interest on the paid amount referred to in paragraph (a).

(5) In determining the benefit paid or payable from a government body scheme in respect of a person, CSC may accept a statement from the trustees, the administrator on behalf of the trustees or, if there are no trustees, the administrator of the government body scheme as to:

(a) the amount of benefit paid or payable; or

(b) the date on which it was paid or is payable; or

(c) the period in respect of which the benefit was paid or is payable; or

(d) rates of interest applicable to amounts of money paid to the scheme; or

(e) any other matter in connection with the payment of the benefit.

(6) Despite anything else in this section, top-up benefit does not become payable to or in respect of a person if an actuary has certified that, in his or her opinion, because of the value of other benefits payable to or in respect of the person, an employer of the person while an eligible employee will not, for the person for a quarter, have an individual superannuation guarantee shortfall within the meaning of the *Superannuation Guarantee (Administration) Act 1992*.

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110SF Application of formulae

If a single application of a formula set out in section 110SE cannot properly be made for the whole of a person's relevant period of employment because of a change in the person's employment, the rate of fund contribution tax or any other thing:

(a) that period is to be broken up into such separate periods as is appropriate for the proper application of such a formula in respect of each such period; and

(b) the resulting amounts (including negative amounts) are to be aggregated in respect of the whole of the person's relevant period of employment.

110SG Payment of top-up benefit

If top-up benefit becomes payable in respect of a person, CSC must:

(a) subject to paragraph (b)—treat the benefit as a preserved benefit under the SIS Act and deal with it accordingly; or

(b) if the person has died:

(i) pay the benefit to his or her legal personal representative; or

(ii) if no legal personal representative can be found—pay the benefit to any individual or individuals that CSC determines.

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Part VIAB—Payment into fund of amounts held in other superannuation funds

110SK Request for transfer of amounts to CSC

(1) This section applies to a person if:

(a) the person is an eligible employee; or

(b) deferred benefits are applicable in respect of the person under Division 3 of Part IX; or

(c) either:

(i) the person has elected under subsection 110T(1) that Part VIB apply to him or her; or

(ii) regulation 15, 15A or 15B of the Superannuation (CSS) Former Eligible Employees Regulations applies to the person;

and no benefits under this Act have been paid or begun to be paid to the person;

and the person made an election under clause 6 of the Superannuation (Productivity Benefit) Alternative Arrangements Declaration No. 6 (Statutory Rules 1993, No. 34) to have performance pay taken into account in his or her superannuation arrangements under the *Superannuation (Productivity Benefit) Act 1988*.

(2) A person to whom this section applies may, at any time, by notice in writing, ask the trustee of the declared fund (within the meaning of the *Superannuation (Productivity Benefit) Act 1988*) holding the person's accumulated performance pay employee contributions and accumulated performance pay employer contributions to pay those contributions to CSC.

(3) If continuing contributions (within the meaning of the *Superannuation (Productivity Benefit) Act 1988*) have been paid, but are no longer being paid, into the declared fund in respect of a continuous period of employment of the person, the person may,

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by the same notice, ask the trustee of the declared fund to pay also to CSC the person's transferable productivity amount.

(4) If:

(a) a person's accumulated performance pay employee contributions and accumulated performance pay employer contributions; or

(b) a person's accumulated performance pay employee contributions, accumulated performance pay employer contributions and transferable productivity amount;

have, at the person's request, been paid by the trustee of the declared fund to the trustee of a superannuation entity other than the Fund, the person may, by notice in writing, ask the trustee of that superannuation entity to pay to CSC the sum of:

(c) an amount equal to the difference between:

(i) the total amount paid to the superannuation entity; and

(ii) the sum of any amounts in the nature of income tax relevant to that amount and any amounts deducted by way of charges or fees from that amount by the trustee of the superannuation entity; and

(d) interest on the amount mentioned in paragraph (c).

(5) The person must, as soon as possible, give to CSC notice in writing of any request made to the trustee of a fund or superannuation entity under subsection (2), (3) or (4).

110SL CSC to pay amounts into Fund

If, following a request from a person under subsection 110SK(2), (3) or (4), the trustee of a fund or superannuation entity pays an amount to CSC, CSC must pay that amount into the Fund.

110SM Person's entitlement to benefit

If an amount has been paid into the Fund under section 110SL in respect of a person, the person becomes entitled to a benefit under this Part if another benefit to which the person was entitled under this Act becomes payable.

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110SN Amount of benefit

(1) The amount of the benefit payable in respect of a person under this Part is the sum of:

(a) an amount equal to the difference between:

(i) the total amount that was paid into the Fund in respect of the person under section 110SL; and

(ii) the sum of any amounts in the nature of income tax relevant to that amount; and

(b) interest on the amount mentioned in paragraph (a).

(2) The amount of the benefit payable in respect of a person under this Part is reduced by the sum of the following amounts:

(a) any amount paid out of the Fund in accordance with:

(i) a release authority given to CSC under former section 292-410 of the *Income Tax Assessment Act 1997* that relates to the superannuation interest (within the meaning of that Act) constituted by the amount paid into the Fund in respect of the person under section 110SL of this Act; or

(ii) a transitional release authority given to CSC under section 292-80B of the *Income Tax (Transitional Provisions) Act 1997* that relates to that superannuation interest; or

(iii) a release authority issued under former item 1 or 2 of the table in subsection 135-10(1) in Schedule 1 to the *Taxation Administration Act 1953*;

(b) the amount of any interest that would have been earned on an amount mentioned in paragraph (a), in respect of the period since the amount was paid out of the Fund, if it had not been paid out of the Fund.

Note: Payments made out of the Fund that are required to be made under a release authority mentioned in subparagraph (2)(a)(i) or (iii) or a transitional release authority are not ***benefits***: see the definition of ***benefit*** in subsection 3(1).

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110SO Application of benefit

The employer component of the benefit to which a person is entitled under this Part is to be treated as a preserved benefit under the SIS Act and the remainder of the benefit is payable to the person.

110SP Payment of benefit to spouse etc.

(1) If, because of a person's death:

(a) a benefit becomes payable in respect of the person under this Part; and

(b) Part VI applies;

then:

(c) if the person is survived by a spouse—the benefit is payable to the spouse; or

(d) if orphan benefit is payable to an eligible child or eligible children—the benefit is payable to:

(i) the eligible child or eligible children; or

(ii) if the orphan benefit is payable under section 115 to another person or other persons—that person or those persons.

(2) If, because of a person's death:

(a) a benefit becomes payable in respect of the person under this Part; and

(b) a deferred benefit by way of spouse's benefit is payable in respect of the person;

the benefit under this Part is payable to the spouse.

(3) If, because of a person's death:

(a) a benefit becomes payable in respect of the person under this Part; and

(b) a deferred benefit by way of orphan benefit is payable in respect of the person;

the benefit under this Part is payable to:

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(c) the eligible child or eligible children entitled to the deferred benefit; or

(d) if the deferred benefit is payable under section 115 to another person or other persons—that person or those persons.

110SQ Payment of benefit to personal representatives etc.

If:

(a) because of a person's death, a benefit is payable in respect of a person under this Part; and

(b) the person is not survived by any spouse; and

(c) there is no surviving child of the person or no surviving child of the person who could be at any time an eligible child of the person;

the benefit is payable to the person's legal personal representative or, if no legal personal representative can be found, to any individual or individuals that CSC determines.

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Part VIB—Postponement of benefits of retirement pensioners

110T Circumstances in which benefits may be postponed

(1) A person who is, or is about to become, a person who:

(a) has attained his or her minimum retiring age but has not attained the age of 65 years; and

(b) has become entitled to benefits under section 55 or 59;

may, not later than 3 months after but not earlier than 3 months before becoming such a person, by notice in writing given to CSC, elect that this Part apply to him or her.

(2) An election under subsection (1) is only valid if the person provides CSC, not later than 3 months after, but not earlier than, the day on which the person becomes a person mentioned in that subsection, with a statement to the effect that he or she has not retired from the workforce.

110TA Effect of election

(1) If a person makes an election under section 110T, payment to the person of:

(a) standard age retirement pension or standard early retirement pension, as the case may be, to which the person is, or is about to become, entitled; and

(b) any productivity benefit which is, or is about to become, payable in respect of the person under section 110P; and

(c) any benefit that is, or is about to become, payable in respect of the person under Part VIAB; and

(d) any benefit that is, or is about to become, payable in respect of the person under Subdivision B of Division 2 of Part IX;

is postponed until a date worked out under section 110TB.

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(2) If a person who makes an election under section 110T specifies in that election that payment of the additional age retirement pension or additional early retirement pension, as the case may be, to which the person is, or is about to become, entitled, is to be postponed, payment of that pension is postponed until a date worked out under section 110TB.

110TB Date on which postponed benefits become payable

A benefit, the payment of which has been postponed under this Part, becomes payable on the earlier of the following dates:

(a) the date on which the person attains the age of 65 years;

(b) if the person provides CSC with a statement to the effect that he or she has retired from the workforce—the date on which the statement is so provided.

110TBA Election to receive age retirement benefit etc. at reduced rate

A person who has made an election under section 110T may, not later than 3 months after, but not earlier than 3 months before, age retirement benefit or early retirement benefit becomes payable to him or her under section 110TB, elect to receive the benefit at a reduced rate.

110TC Rates of pension after postponement of payment

(1) For the purposes of calculating the rate or amount of a benefit payable on a date worked out under section 110TB:

(a) if the benefit became payable on the date on which the person attained the age of 65 years—the person is taken to be entitled to standard age retirement pension under subsection 55(1); and

(b) if the benefit did not become payable on the date mentioned in paragraph (a)—the person's age on the date on which the benefit became payable is substituted for the person's age on his or her last day of service; and

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(c) the person's period of contributory service at the date of ceasing to be an eligible employee continues to be the person's period of contributory service; and

(d) the amount worked out under subsection (2) is taken to be the person's final annual rate of salary; and

(e) if the person has made an election under section 110TBA—the person is taken to have elected:

(i) to receive age retirement pension at a reduced rate under section 57AA; or

(ii) to receive early retirement benefit at a reduced rate under section 61AB;

as the case requires.

(2) The amount mentioned in paragraph (1)(d) is an amount equal to the amount per annum that CSC determines would have been the final annual rate of salary of the person on the day immediately before the date on which the benefit became payable if:

(a) the person had not ceased to be an eligible employee; and

(b) the person had continued to occupy the office or position in respect of which the person's final annual rate of salary was calculated; and

(c) the following subparagraphs applied in respect of the period starting on the day when the person became a person mentioned in subsection 110TC(1) and ending on the day immediately before the day on which the benefit became payable:

(i) in respect of so much of the period as occurred before 1 July 2003—account were taken of any generally-applying increase (including an increase resulting from the process of work-place bargaining) in annual rate of salary that would have occurred had the person continued to be an eligible employee and continued to occupy the office or position in respect of which the person's final annual rate of salary was calculated, other than an excluded increase;

(ii) in respect of so much of the period as occurred on or after 1 July 2003—the person's annual rate of salary

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had been increased by the same percentage as any overall percentage increase in AWOTE that occurred over the period (being an overall percentage increase worked out from estimates of changes in AWOTE in respect of the period published by the Australian Statistician, other than estimates published in substitution for earlier estimates).

(3) For the purposes of paragraph (2)(c), an ***excluded increase*** is an increase that falls within either or both of the following paragraphs:

(a) an increase resulting from the person's progressing to a higher level of salary within a graduated range of salaries applicable to the office or position held by the person;

(b) any allowance (including an allowance in the nature of salary such as Senior Officer allowance) or penalty payment (including a payment in the nature of salary such as shift allowance) that was not included in the person's final annual rate of salary when the person ceased to be an eligible employee.

110TD Application of Parts VI, VIA and VIAB and Subdivision B of Division 2 of Part IX in relation to postponed benefits

Where a person who, under this Part, has postponed the payment of benefits dies before the benefits become payable:

(a) Part VI applies in relation to those benefits as if the benefits became payable immediately before the person's death; and

(b) Parts VIA and VIAB and Subdivision B of Division 2 of Part IX apply in relation to those benefits as if the benefits became payable because of the person's death.

110TE Election by spouse to commute

(1) Where:

(a) payment of a pension to a person is postponed under subsection 110TA(2); and

(b) the person dies before the pension becomes payable; and

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(c) the person is survived by a spouse;

then, whether or not the person made an election under subsection 64(2), the spouse may make, not later than 3 months after the death of the person, by notice in writing to CSC, an election to commute that pension into a lump sum benefit payable to him or her.

(2) If a spouse makes an election under subsection (1) to commute a pension, a lump sum benefit equal to the amount of the accumulated contributions of the deceased person is payable to the spouse and spouse's additional pension is not payable under paragraph 93(1)(b) to the spouse.

110TF Payment of lump sum benefit to orphan

Where:

(a) payment of a pension to a person is postponed under subsection 110TA(2); and

(b) the person dies before the pension becomes payable; and

(c) the person is not survived by a spouse but is survived by the person's child or children;

then, whether or not the person made an election under subsection 64(2), if the surviving child or one or more of the surviving children are, immediately after his or her death, an eligible child or eligible children or, in the opinion of CSC, are likely to become an eligible child or eligible children—a lump sum benefit equal to the sum of:

(d) the accumulated contributions of the deceased person; and

(e) the accumulated employer contributions in respect of the deceased person; and

(f) the benefit (if any) payable in respect of the deceased person under Part VIAB; and

(g) the benefit (if any) payable in respect of the deceased person under Subdivision B of Division 2 of Part IX;

is payable in respect of that child or those children.

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110TG Effect of election on benefits already paid

(1) Where a person has been paid:

(a) an amount or amounts by way of pension or by way of pension and lump sum benefit to which the person has become entitled under section 55 or 59 or Part VIA or an amount by way of lump sum benefit to which the person has become entitled under section 62, Part VI or VIAB or Subdivision B of Division 2 of Part IX; and

(b) after that amount was, or those amounts were, paid, the person makes an election under section 110T;

the election does not have effect unless an amount equal to that amount or to the aggregate of those amounts, as the case requires, is paid to CSC within 7 days after the date of the election or within such further period as CSC, in special circumstances, allows.

(2) Where an amount is paid to CSC by a person under subsection (1), CSC must pay that amount to the Commonwealth and there must be paid out of the Consolidated Revenue Fund (which is appropriated accordingly) into the Superannuation Fund an amount equal to so much of the amount paid to CSC as is equal to the amount that was paid to the Commonwealth under section 112 at the time that the person ceased to be an eligible employee.

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Part VID—Benefits on ceasing to be an eligible employee because of sale of organisation or outsourcing of function

110TV Entitlement to benefits

(1) A person is entitled to benefits in accordance with this section if the person:

(a) ceases to be an eligible employee on or after 27 June 1997 in circumstances connected with the sale or transfer of an organisation, business, service or asset, or the transfer of a function; and

(b) is not taken by section 58 to have retired involuntarily; and

(c) has not reached his or her minimum retiring age when he or she so ceases to be an eligible employee; and

(d) has not made an election under section 137.

(2) Subject to subsection (7), the benefits are an amount (the ***total benefit***) equal to the sum of:

(a) an amount equal to 3.5 times the amount of his or her accumulated basic contributions; and

(b) an amount equal to his or her accumulated supplementary contributions (if any); and

(c) any productivity benefits applying in relation to him or her under Part VIA; and

(d) any benefit applying in relation to him or her under Part VIAB or Subdivision B of Division 2 of Part IX;

(3) The person must choose to receive the benefits either in accordance with subsection (4) or in accordance with subsection (5).

(4) If the person chooses to receive the benefits in accordance with this subsection, the person is entitled to have the total benefit treated as a preserved benefit under the SIS Act and dealt with accordingly.

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(5) If the person chooses to receive the benefits in accordance with this subsection, the person is entitled to payment of so much of the total benefit as is equal to his or her accumulated contributions and to have the balance of the total benefit treated as a preserved benefit under the SIS Act and dealt with accordingly.

(6) If the person fails to make a choice as provided by subsection (3), the person is taken to have chosen to receive benefits in accordance with subsection (5).

(7) If the person's surcharge debt account is in debit when the person becomes entitled to the benefits, the total benefit is reduced by the person's surcharge deduction amount.

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Part VII—General provisions applicable to benefits

111A Relationship between this Act and SIS Act

(1) If, apart from this section, a benefit would be payable in cash to a person under this Act but, under the SIS Act, the benefit, or a part of the benefit, is not permitted to be paid in cash to the person, then, despite any other provision of this Act, the benefit, or the part of the benefit, as the case may be, is not to be paid in cash to the person and the following provisions of this section apply.

(2) If the benefit or the part of the benefit consists only of a lump sum, the benefit is to be treated as a preserved benefit under the SIS Act and dealt with accordingly.

(3) If the benefit or the part of the benefit includes a pension that would have been payable under section 55 or 59, Part VIB applies as if payment of the benefit had been postponed under that Part.

(4) If the benefit would have been payable under Division 3 of Part IX, deferred benefits continue to be applicable in respect of the person until:

(a) the 65th anniversary of the person's birth; or

(b) if, before that anniversary, the payment in full of the benefit becomes permissible under the SIS Act—the day on which the person notifies CSC in writing that the payment has become permissible under that Act.

111 Payment of accumulated contributions where no other benefit payable etc.

(1) Where:

(a) a person ceases to be an eligible employee because of death; or

(b) payment of a pension to a person is postponed under subsection 110TA(2) and the person (including a person who

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made an election under subsection 64(2)) dies before the pension becomes payable;

being a person in respect of whom benefit is not payable under Part VI, a lump sum benefit of an amount worked out under subsection (1A) must be paid out of the Fund to the person's legal personal representative or, if no legal personal representative can be found, to any individual or individuals that CSC determines.

(1A) The amount of the lump sum benefit referred to in subsection (1) is:

(a) if paragraph (b) does not apply—an amount equal to the person's accumulated contributions; or

(b) if the person's surcharge debt account is in debit when the benefit becomes payable in respect of the person—an amount equal to the difference between the person's accumulated contributions and the person's surcharge deduction amount.

(2) If the total amount of the benefit or benefits (whether paid by way of instalments of pension or as a lump sum or lump sums, or both) paid to or in respect of a person who has been an eligible employee (other than any benefit, or a part of any benefit, that, under subsection (4), (5) or (6), is to be excluded from consideration for the purposes of this subsection) is, at a time when no further benefit is payable under this Act to or in respect of the person, less than the sum of:

(a) the total of the person's accumulated contributions, and the accumulated employer contributions (if any) in respect of the person, as at the time when the person ceased to be an eligible employee or, if the person had ceased to be an eligible employee on more than one occasion, as at the time when the person last ceased to be an eligible employee; and

(b) if a top-up benefit is or was calculated in respect of the person under Part VIAA but the amount of the top-up benefit is nil—the amount that would have been the top-up benefit if the person had been entitled to benefits under section 80; and

(ba) if a benefit is payable in respect of the person under Part VIAB—that benefit; and

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(bb) if a benefit is payable in respect of the person under Subdivision B of Division 2 of Part IX—that benefit;

an amount equal to the difference is to be paid to:

(c) the person; or

(d) if the person has died:

(i) the person's legal personal representative; or

(ii) if no legal personal representative can be found—any individual or individuals that CSC determines.

(3) For the purposes of subsection (1), benefit shall be deemed not to be payable in respect of an eligible employee under section 97, 98 or 100, if, notwithstanding that benefit may later become payable in respect of him, no benefit is payable in respect of him upon his or her death.

(4) Where a person ceased to be an eligible employee on an occasion earlier than his or her first day of service and, upon his or her so ceasing, the person was not entitled to benefit under Division 1, 2 or 4 of Part V or under Division 3 of Part IX, any benefit or benefits paid to or in respect of him before he or she so ceased or last so ceased, or upon his or her so ceasing or last so ceasing, shall be excluded from consideration for the purposes of subsection (2).

(5) Where a person ceased to be an eligible employee by reason of retirement on the ground of invalidity on an occasion earlier than his or her first day of service and, upon his or her so ceasing, invalidity benefit was paid to him in accordance with section 68, 69, 71, 72 or 73, any benefit or benefits paid to or in respect of him before he or she so ceased or last so ceased, or upon his or her so ceasing or last so ceasing, (other than any benefit or benefits, or a part of any benefit or benefits, that, by virtue of subsection (7), is or are to be taken into account in relation to the person for the purposes of this subsection) shall be excluded from consideration for the purposes of subsection (2).

(6) Where a person became entitled to a deferred benefit by way of invalidity benefit in accordance with section 68, 69, 71, 72 or 73 on an occasion earlier than his or her first day of service, any

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benefit or benefits paid to or in respect of him before he or she became entitled to such a deferred benefit or last became entitled to such a deferred benefit, or upon his or her becoming entitled to such a deferred benefit or last becoming entitled to such a deferred benefit, (other than any benefit or benefits, or a part of any benefit or benefits, that, by virtue of subsection (7), is or are to be taken into account in relation to the person for the purposes of this subsection) shall be excluded from consideration for the purposes of subsection (2).

(7) For the purposes of subsections (5) and (6):

(a) such part of any invalidity pension paid to a person in accordance with section 67 or 70 as would have been paid to him in accordance with section 68 or 71, as the case may be, if the person had made an election under subsection 68(1) or 71(1), as the case may be;

(b) such part of any deferred benefit paid to a person by way of invalidity pension in accordance with section 67 or 70 as would have been paid to him in accordance with section 68 or 71, as the case may be, if the person had made an election under subsection 68(1) or 71(1), as the case may be;

(c) any invalidity pension paid to a person in accordance with section 68 or 71; and

(d) any deferred benefit paid to a person by way of invalidity pension in accordance with section 68 or 71;

shall be taken into account in relation to the person.

112 Payments to the Commonwealth and payments out of the Consolidated Revenue Fund

(1) Subject to subsections (3), (4A) and (10A), the accumulated contributions of an eligible employee shall, upon his or her ceasing to be an eligible employee, be paid out of the Superannuation Fund to the Commonwealth.

(1A) Where a productivity benefit within the meaning of Part VIA becomes payable under section 110P in respect of a person, the amount of the Fund accumulated employer contributions in respect

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of the employee must be paid out of the Superannuation Fund to the Commonwealth.

(2) Except where otherwise provided by this Act, any payment of benefit shall be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Note: An early release lump sum is paid to or for the benefit of the person out of the Superannuation Fund (instead of the Consolidated Revenue Fund) (see subsection 79C(2)).

(3) Where a person ceases to be an eligible employee and, upon his or her so ceasing, a lump sum benefit of an amount equal to his or her accumulated contributions is payable to or in respect of him or her out of the Superannuation Fund, subsection (1) does not apply in relation to him or her.

(4A) Where a person ceases to be an eligible employee and, upon his or her so ceasing, deferred benefits become applicable in relation to him or her by virtue of Division 3 of Part IX, subsections (1) and (1A) do not apply in relation to him or her.

(5) Where a person to whom invalidity pension is payable in accordance with section 67 or 70 again becomes an eligible employee, an amount equal to the amount that was paid in respect of the person out of the Superannuation Fund to the Commonwealth upon his or her last ceasing to be an eligible employee, less an amount equal to the sum of:

(a) the amount of the person's accumulated supplementary contributions upon the person last ceasing to be an eligible employee; and

(b) the amount of the person's Fund accumulated employer contributions upon the person last ceasing to be an eligible employee;

must be paid to the Superannuation Fund out of the Consolidated Revenue Fund, which is appropriated accordingly.

(6) Subject to subsection (7), where deferred benefits applicable in relation to a person by virtue of Division 3 of Part IX cease to be so applicable upon a deferred benefit becoming payable to or in

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respect of the person, the accumulated contributions and Fund accumulated employer contributions of the person shall be paid out of the Superannuation Fund to the Commonwealth.

(7) Where deferred benefits applicable in relation to a person by virtue of Division 3 of Part IX cease to be so applicable upon a deferred benefit by way of a lump sum benefit equal to his or her accumulated contributions becoming payable to or in respect of him or her out of the Superannuation Fund, subsection (6) does not apply in relation to the person's accumulated contributions.

(9) Where:

(a) a deferred benefit by way of invalidity pension is payable to a person in accordance with section 67 or 70; and

(b) the deferred benefit is cancelled under subsection 76(1) or 143(2);

an amount equal to the amount that was paid in respect of the person out of the Superannuation Fund to the Commonwealth upon that deferred benefit becoming payable to the person, less an amount equal to the sum of:

(c) the amount of the person's accumulated supplementary contributions upon that deferred benefit becoming payable to the person; and

(d) the amount of the person's Fund accumulated employer contributions upon that deferred benefit becoming payable to the person;

must be paid to the Superannuation Fund out of the Consolidated Revenue Fund, which is appropriated accordingly.

(10) Where a person makes an election under section 139A, the accumulated contributions and Fund accumulated employer contributions of the person shall be paid out of the Superannuation Fund to the Commonwealth.

(10AA) If payment of a pension and benefit (if any) to a person is postponed under subsection 110TA(1), subsection (1A) does not apply in relation to the person.

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(10A) Where payment of a pension to a person is postponed under subsection 110TA(2), subsections (1) and (1A) do not apply in relation to the person.

(10AAA) If a pension the payment of which has been postponed under subsection 110TA(1) becomes payable to or in respect of a person, the person's Fund accumulated employer contributions (if any) must be paid out of the Superannuation Fund to the Commonwealth.

(10B) If a pension, being a pension the payment of which has been postponed under subsection 110TA(2), becomes payable to or in respect of a person, the accumulated contributions and Fund accumulated employer contributions of the person must be paid out of the Superannuation Fund to the Commonwealth.

(10BA) If a person who has postponed payment of a pension and benefit (if any) under subsection 110TA(1) dies and there is no beneficiary to whom a pension and benefit (if any) are payable in respect of the person, an amount equal to the person's Fund accumulated employer contributions (if any) must be paid out of the Superannuation Fund to the Commonwealth.

(10C) Where a person who has postponed payment of a pension under subsection 110TA(2) dies and a benefit by way of a lump sum benefit equal to the person's accumulated contributions becomes payable in respect of the person out of the Superannuation Fund, the person's Fund accumulated employer contributions (if any) must be paid out of the Superannuation Fund to the Commonwealth.

(10D) To avoid doubt, if an early release lump sum (within the meaning of section 79A) has been paid to or for the benefit of a person, then the amount payable out of the Superannuation Fund to the Commonwealth under this section is reduced by the person's early release deduction amount (within the meaning of that section) at that time.

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113 Instalments of pension

(1) Subject to subsection (1A), pensions shall be paid in fortnightly instalments on pension pay days.

(1A) Partial invalidity pensions are to be paid in fortnightly instalments on contribution days.

(2) The amount of a fortnightly instalment of pension shall be an amount ascertained by dividing the amount per annum of the pension by 26.

(3) Where the amount of a fortnightly instalment of pension includes a fraction of a cent:

(a) if the fraction is less than one-half of a cent—the amount of the instalment shall be reduced by the amount of the fraction; or

(b) if the fraction is not less than one-half of a cent—the amount of the instalment shall be deemed to be increased by treating the fraction as 1 cent.

(4) The amount of pension payable in respect of a day is one- fourteenth of the amount of a fortnightly instalment of the pension.

(5) CSC may enter into an arrangement with a person's employer in relation to the payment of an instalment of partial invalidity pension to the person on a contribution day.

114 Payment of part of spouse's pension etc. attributable to children

(1) Where, in the opinion of CSC, payment of:

(a) the part, or any portion of the part, of an instalment of spouse's pension attributable to an eligible child or eligible children or to an eligible child or eligible children and a partially dependent child or partially dependent children; or

(b) an instalment, or any portion of an instalment, of extra spouse's pension attributable to a partially dependent child or partially dependent children or to an eligible child or eligible

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children and a partially dependent child or partially dependent children;

should, by reason of the child or children not being in the custody, care and control of the spouse, or for any other reason which CSC thinks proper, be made to a person other than the spouse, CSC may authorize payment of that part, or a portion of the part, to be made to the other person, and payment shall be made to the other person accordingly.

(1A) If:

(a) CSC determines under Division 5 of Part VI that part of a lump sum benefit to which a spouse is entitled is attributable to an eligible child or eligible children or a partially dependent child or partially dependent children; and

(b) because of the child or children not being in the custody, care and control of the spouse, or for any other reason that CSC thinks proper, CSC is of the opinion that payment of that part, or a portion of that part, of the lump sum benefit should be made to a person other than the spouse;

CSC may authorise payment of that part, or a portion of the part, to be made to the other person, and payment must be made to the other person accordingly.

(2) A payment of the part, and a payment of a portion of the part, of an instalment of pension or of a lump sum benefit that, under this section, is paid to a person other than the child to which that part or portion is attributable, must be applied for the maintenance, education or other benefit of the child.

(3) For the purposes of this section, where there is one, or more than one, child of a deceased eligible employee or pensioner who is a partially dependent child:

(a) the part (if any) of an instalment of spouse's pension that, but for this subsection, would be attributable to an eligible child or eligible children of the deceased eligible employee or pensioner is taken to be attributable to that eligible child or those eligible children and the partially dependent child or partially dependent children; and

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(b) an instalment of extra spouse's pension is taken to be attributable to the eligible child or eligible children (if any) of the deceased eligible employee or pensioner and the partially dependent child or partially dependent children.

115 Payment of orphan benefit

(1) A payment of orphan benefit payable in respect of an eligible child or the eligible children of a deceased person shall be made to the child or children or to such other person or persons as CSC considers appropriate.

(2) Where an amount of orphan benefit is payable in respect of 2 or more eligible children of a deceased person, CSC may, having regard to the respective circumstances of the children and to such other matters as it considers appropriate, apportion the amount amongst the children in such manner as it thinks fit, and the portion applicable to a particular eligible child or to particular eligible children shall, for the purposes of subsection (1), be deemed to be a payment of orphan benefit payable in respect of that child or those children.

(2A) For the purposes of subsection (2), in determining the needs of a child or children, disregard any need that results from an election made under section 146G in relation to the child or children.

(2B) CSC must ensure that so much of an orphan pension as is commuted under section 146G is not apportioned under subsection (2) of this section.

(3) A payment of orphan benefit that, under subsection (1), is made to a person or persons other than the eligible child or eligible children in respect of whom it is payable shall be applied for the maintenance, education or other benefit of that eligible child or those eligible children.

(4) In this section:

eligible child has the same meaning as in Division 4 of Part VI.

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orphan benefit means:

(a) orphan pension or a lump sum benefit payable under Division 4 of Part VI; or

(b) a lump sum benefit payable under section 110TF.

116 Payment of benefit otherwise than to person entitled

Where, in the opinion of CSC, payment of an instalment, or part of an instalment, of pension, or of an amount of any other benefit, should, by reason of the person who, but for this section, would be entitled to the payment, being a person who is insane or undergoing imprisonment or otherwise being under a disability, or for any other reason which CSC thinks proper, not be made to the person, CSC may authorise the payment to be made to the person's legal personal representative and, if such an authorisation is made, payment is to be made in accordance with the authorisation.

117 Pension to or in respect of certain contributors under Defence Force Retirement and Death Benefits Act or MSB Act

(1) Where:

(a) the liability of an eligible employee to make contributions under this Act has been deferred by virtue of section 54 of this Act; and

(b) before he or she has ceased to be liable to contribute under the Defence Force Retirement and Death Benefits Act or the MSB Act, he or she ceases to be an eligible employee and becomes entitled to pension under this Act by reason of retirement on the grounds of invalidity;

his or her entitlement to that pension is suspended until such time as he or she ceases to be liable to contribute under the Defence Force Retirement and Death Benefits Act or the MSB Act (as the case may be), but, if he or she dies before he or she so ceases to be liable to contribute under that Act, he or she shall, for the purposes of subsections 93(2), 106(1) and 108(1) of this Act, be deemed to have been in receipt of invalidity pension at the time of his or her death and, for the purposes of section 96 and subsection 106(3), the

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pension shall be deemed to have been payable at the rate at which pension would, but for this subsection, have been payable to him or her at that time.

(2) Where:

(a) the liability of an eligible employee to make contributions under this Act has been deferred by virtue of section 54 of this Act and:

(i) he or she ceases to be an eligible employee and, upon so ceasing, becomes entitled to pension under this Act by reason of retirement on the ground of invalidity and:

(A) he or she has been or is discharged from the Defence Force on the ground of invalidity or of physical and mental incapacity to perform his or her duties, section 36 of the Defence Force Retirement and Death Benefits Act applies to him or her and, in the opinion of CSC, the incapacity which was the ground for his or her retirement as an eligible employee is related to the ground on which he or she was discharged from the Defence Force; or

(B) he or she dies after ceasing to be an eligible employee but before being discharged from the Defence Force from causes that, in the opinion of CSC, are related to the incapacity which was the ground for his or her retirement as an eligible employee; or

(ii) he or she dies:

(A) before being discharged from the Defence Force; or

(B) after having been discharged from the Defence Force on the ground of invalidity or of physical or mental incapacity to perform his or her duties, from causes that, in the opinion of CSC, are related to the ground on which he or she was discharged from the Defence Force; and

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(b) the rate of any pension payable to or in respect of him or her under this Act (including pension that became payable before he or she was discharged from the Defence Force) is less than the rate of any corresponding benefit that, but for section 36 or 46 of the Defence Force Retirement and Death Benefits Act, would be payable to or in respect of him or her under that Act;

CSC may increase the rate of the pension payable under this Act to such extent as it considers appropriate in the circumstances.

(3) Where:

(a) the liability of an eligible employee to make contributions under this Act has been deferred by virtue of section 54 of this Act; and

(b) at any time after the death of the person benefit under the Defence Force Retirement and Death Benefits Act would, but for section 36 or 46 of that Act, be payable in respect of him or her under that Act but no pension is payable in respect of him or her under this Act at that time;

CSC may pay such benefit corresponding to the benefit under that Act as he or she considers appropriate in the circumstances.

(4) An eligible employee who is liable to contribute under the Defence Force Retirement and Death Benefits Act shall, for the purposes of this section, be deemed not to have ceased to be liable to so contribute by reason only of the operation of section 18 of that Act in relation to him or her.

118 Assignment of benefits

Except as prescribed and subject to section 119, no pension or other benefit under this Act is capable of being assigned or charged or of passing by operation of law, and any moneys payable under this Act on the death of a person are not liable to be applied or made available in payment of his or her debts or liabilities.

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119 Attachment of benefits

(1) Where a judgment given by a court in Australia or in an external Territory for the payment of a sum of money has not been fully satisfied by the judgment debtor and the judgment debtor is entitled to a benefit under this Act, the judgment creditor may serve on CSC a copy of the judgment, certified under the hand of the Registrar or other proper officer of the court by which the judgment was given, and a statutory declaration by the judgment creditor stating that the judgment has not been fully satisfied by the judgment debtor and specifying the amount due by the judgment debtor under the judgment.

(2) Where a copy of a judgment and a statutory declaration are served on CSC in accordance with subsection (1), CSC shall, as soon as practicable, by notice in writing given to the judgment debtor, inform him or her of the service of those documents and require him or her, within such period as is specified in the notice and in such manner as is so specified, to notify CSC whether the amount specified in the declaration is still due under the judgment and, if no amount or a lesser amount is due under the judgment, to furnish to CSC, in such manner as is specified in the notice, evidence in support of that fact.

(3) If, at the expiration of the period specified in the notice:

(a) the person to whom the notice was given has not complied with the notice; or

(b) the person has complied with the notice, but CSC is satisfied that an amount is due under the judgment;

CSC may authorize the deduction from the benefit, and the payment to the judgment creditor, of such sums as do not exceed, in the aggregate, the amount that CSC is of the opinion is due under the judgment, and those deductions and those payments shall be made accordingly.

(4) A deduction shall not be authorized from:

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(a) an instalment of orphan pension or the part of a spouse's pension (if any) that is attributable to an eligible child or eligible children; or

(b) an instalment of any other pension or any part of a pension, as the case may be, if the deduction will reduce the amount of the instalment or that part of the instalment payable to less than one-half of the amount that would, but for this section, be payable.

(5) If, after a copy of a judgment given against any person entitled to a benefit under this Act, being a judgment in respect of which CSC is satisfied that an amount is due, has been served in accordance with subsection (1), a copy of another judgment given (whether before or after the first-mentioned judgment) against the same person in favour of the person in whose favour the first-mentioned judgment was given, or in favour of another person, is served in accordance with that subsection, a payment shall not be made in pursuance of this section to the judgment creditor under the other judgment in respect of the amount due under that judgment until the amount due under the first-mentioned judgment has been paid.

(6) A payment made to a judgment creditor in pursuance of this section out of an amount of benefit payable to a person shall be deemed to be a payment of benefit to the person entitled to benefit.

(7) A judgment creditor who serves a copy of a judgment on CSC under subsection (1) must, within 21 days after the day that the judgment debt is satisfied, notify CSC that the judgment debt is satisfied.

Penalty: 5 penalty units.

Note: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

(8) If the amounts paid in pursuance of this section to a judgment creditor in respect of a judgment exceed, in the aggregate, the amount due under the judgment, the excess is repayable by the judgment creditor to the judgment debtor and, in default of

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payment, may be recovered by the judgment debtor from the judgment creditor in any court of competent jurisdiction.

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Part VIII—Candidates at Parliamentary elections

120 Persons to whom Part applies

This Part applies to a person if:

(a) the person ceased to be an eligible employee because he or she has voluntarily terminated his or her employment in order to become:

(i) a candidate for election as a member of a House of the Parliament of the Commonwealth or of a State or of the Legislative Assembly for the Australian Capital Territory or the Legislative Assembly of the Northern Territory; or

(ii) a candidate in an election that is prescribed under the Public Service Act for the purposes of section 32 of that Act; and

(b) the termination took effect not earlier than 6 months before the day on which nominations for the election closed.

121 Death of person to whom Part applies before declaration of result of election etc.

(1) Where a person to whom this Part applies dies on or before the day of the declaration of the result of the election, he or she shall be deemed not to have ceased, by reason of the termination of his or her employment, to be an eligible employee.

(2) Where a person to whom this Part applies was a candidate at the election, but failed to be elected, and:

(a) he or she dies within the period of 2 months after the day of the declaration of the result of the election; or

(b) he or she applies, within that period, to become employed by the Commonwealth or by an approved authority, or to be appointed to a statutory office, and dies before the application is determined (or, if the application is granted,

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before becoming so employed or appointed) and the employment or appointment is of such a kind that, if the person had become so employed or so appointed, he or she would have become an eligible employee;

he or she shall be deemed not to have ceased, by reason of the termination of his or her employment, to be an eligible employee.

(3) Where a person to whom this Part applies, and who was a candidate at the election and was elected, dies before he or she becomes a member of the legislative or advisory body to which he or she was elected, he or she shall be deemed not to have ceased, by reason of the termination of his or her employment, to be an eligible employee.

122 Physical or mental incapacity of person to whom Part applies before declaration of result of election etc.

(1) Where:

(a) CSC is satisfied that, if a person to whom this Part applies had not terminated his or her employment, he or she would, at a time (in this subsection referred to as ***the relevant time***) within the period that commenced on the day after the day of the termination and ended on the day of the declaration of the result of the election, have ceased to be an eligible employee by reason of retirement on the ground of invalidity; and

(b) he or she was not a candidate at the election by reason of the physical or mental incapacity which would have been the ground for his or her retirement or was such a candidate but failed to be elected;

he or she shall be deemed not to have ceased, by reason of the termination of his or her employment, to be an eligible employee, but shall be deemed to have ceased, by reason of retirement on the ground of invalidity, to be an eligible employee at the relevant time.

(2) Where:

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(a) a person to whom this Part applies and who was a candidate at the election, but failed to be elected, does not apply, within the period of 2 months after the day of the declaration of the result of the election, to become employed by the Commonwealth or by an approved authority, or to be appointed to a statutory office; and

(b) CSC is satisfied that, if he or she had not terminated his or her employment, he or she would, at a time (in this subsection referred to as ***the relevant time***) within that period, have ceased to be an eligible employee by reason of retirement on the ground of invalidity;

he or she shall be deemed not to have ceased, by reason of the termination of his or her employment, to be an eligible employee, but shall be deemed to have ceased, by reason of retirement on the ground of invalidity, to be an eligible employee at the relevant time.

(3) Where:

(a) a person to whom this Part applies, and who was a candidate at the election, but failed to be elected, applies, within the period of 2 months after the day of the declaration of the result of the election, to become employed by the Commonwealth or by an approved authority, or to be appointed to a statutory office; and

(b) the application is granted but the employment or appointment is of such a kind that the person does not become an eligible employee by virtue of the employment or appointment or the application is not granted but the employment or appointment is of such a kind that, if it had been granted, the person would not, by virtue of the employment or appointment, have become an eligible employee;

then, for the purposes of subsection (2), he or she shall be deemed not to have made the application.

(4) Where a person to whom this Part applies, and who was a candidate at the election, but failed to be elected, applies, within the period of 2 months after the day of the declaration of the result of the election, to become employed by the Commonwealth or by

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an approved authority, or to be appointed to a statutory office, and the employment or appointment is of such a kind that, if the person had become so employed or appointed, he or she would have become an eligible employee and CSC is satisfied that:

(a) in the case of a person whose application is rejected—if he or she had not terminated his or her employment, he or she would, at a time (in this subsection referred to as ***the relevant time***) within the period that commenced on the day after the day of the declaration of the result of the election and ended on the day of the rejection, have ceased to be an eligible employee by reason of retirement on the ground of invalidity;

(b) in the case of a person whose application has been granted but who has not become employed by the Commonwealth or by that authority or appointed to that office—if he or she had not terminated his or her employment, he or she would, at a time (in this subsection also referred to as ***the relevant time***) within the period that commenced on the day after the day of the declaration of the result of the election and ended on the day on which he or she was required to commence his or her employment with the Commonwealth or the authority, have ceased to be an eligible employee by reason of retirement on the ground of invalidity; or

(c) in the case of a person whose application has not been determined—if he or she had not terminated his or her employment, he or she would, at a time (in this subsection also referred to as ***the relevant time***) after the day of the declaration of the result of the election, have ceased to be an eligible employee by reason of retirement on the ground of invalidity;

then he or she shall be deemed not to have ceased, by reason of the termination of his or her employment in order to become a candidate for election, to be an eligible employee but shall be deemed to have ceased, by reason of retirement on the ground of invalidity, to be an eligible employee at the relevant time.

(5) Where CSC is satisfied that, if a person to whom this Part applies, and who was a candidate at the election and was elected, but did not, by reason of physical or mental incapacity, become a member

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of the legislative or advisory body to which he or she was elected, had not terminated his or her appointment, he or she would, at a time (in this subsection referred to as ***the relevant time***) after he or she was elected, have ceased to be an eligible employee by reason of retirement on the ground of invalidity, he or she shall be deemed not to have ceased, by reason of the termination of his or her employment, to be an eligible employee, but shall be deemed to have ceased, by reason of retirement on the ground of invalidity, to be an eligible employee at the relevant time.

(6) For the purposes of this section, CSC may only be satisfied that a person would, at a particular time, have ceased to be an eligible employee by reason of retirement on the ground of invalidity if it appears to CSC that the person, at that time, was totally and permanently incapacitated within the meaning of Part IVA.

123 Re-employment of person to whom Part applies

Where:

(a) a person to whom this Part applies was a candidate at the election but failed to be elected; and

(b) by virtue of an application for employment or an appointment made by him or her within the period of 2 months after the day of the declaration of the result of the election:

(i) he or she becomes a permanent employee;

(ii) he or she becomes a temporary employee;

(iii) he or she becomes the holder of a statutory office to which he or she was appointed on a full-time basis; or

(iv) he or she becomes the holder of a statutory office to which he or she was appointed otherwise than on a full-time basis and he or she is specified in the direction given under subsection 14(2);

he or she shall be deemed not to have ceased, by reason of the termination of his or her employment in order to become a candidate for election, to be an eligible employee.

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124 Effect of section 121, 122 or 123 in relation to a person to whom Part applies

(1) Where a person to whom this Part applies is, by virtue of section 121, 122 or 123, deemed not to have ceased to be an eligible employee by reason of the termination of his or her employment for the purpose referred to in section 120:

(a) any benefit that became payable to him or her under this Act upon that termination shall be deemed not to have been payable and the amount of any benefit so paid to him or her shall be repaid by him or her to CSC before the expiration of 2 months after the day of the declaration of the result of the election or within such further period as CSC allows; and

(b) where his or her accumulated contributions have, under subsection 112(1) been paid out of the Superannuation Fund to the Commonwealth, an amount equal to the amount of those contributions must be paid out of the Consolidated Revenue Fund (which is appropriated accordingly) into the Superannuation Fund and, for the purposes of this Act, those accumulated contributions are taken not to have been so paid out of the Superannuation Fund to the Commonwealth; and

(c) if the Fund accumulated employer contributions in respect of the person have, under subsection 112(1A), been paid out of the Superannuation Fund to the Commonwealth:

(i) an amount equal to the amount of those contributions is to be paid out of the Consolidated Revenue Fund (which is appropriated accordingly) into the Superannuation Fund; and

(ii) for the purposes of this Act, those Fund accumulated employer contributions are taken not to have been so paid out of the Superannuation Fund to the Commonwealth.

(2) Where an amount repaid to CSC under subsection (1) is an amount that has been paid out of the Consolidated Revenue Fund, CSC shall pay the amount so repaid to him or her to the Commonwealth, and where an amount so repaid has been paid out of the

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Superannuation Fund, CSC shall pay the amount so repaid to him or her into the Superannuation Fund.

(3) Where, by virtue of section 121, 122 or 123, a person to whom this Part applies is deemed not to have ceased to be an eligible employee by reason of the termination of his or her employment for the purpose referred to in section 120, then, at any time after that termination that is relevant for the purposes of the application of this Act in relation to him or her, he or she shall be deemed, for the purposes of this Act, to have been in receipt of salary at an annual rate of such amount as, in the opinion of CSC, would have been his or her annual rate of salary at that time if he or she had not so terminated his or her employment.

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Part IX—Preservation of rights of certain eligible employees

Division 1—Preliminary

125 Interpretation

(1) In this Part, unless the contrary intention appears:

life policy has the same meaning as in the *Life Insurance Act 1995*.

owner of a life policy has the same meaning as in the *Life Insurance Act 1995*.

rules, in relation to a superannuation scheme, means the rules governing the operation of the scheme, whether contained in a law or in a trust deed or other instrument.

superannuation scheme means a superannuation or retirement scheme, however established, and includes the CSS and the superannuation scheme constituted by the superseded Act.

(2) For the purposes of this Part, the membership by a person of a House of the Parliament of the Commonwealth or of a State shall be treated as if it were employment of the person by the Commonwealth or by that State, as the case may be.

(3) For the purposes of this Part, membership by a person of the Legislative Assembly for the Australian Capital Territory or the Legislative Assembly of the Northern Territory or a legislative or advisory body for another Territory prescribed for the purposes of this section shall be treated as if it were employment of the person by the Commonwealth.

(4) For the purposes of this Part, a benefit payable under a superannuation scheme to or in respect of a member of the scheme shall not be taken to have been based partly on contributions by the

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employer by reason only that the benefit included interest upon contributions made under the scheme by the member.

(5) A person in respect of whom benefits are applicable under a superannuation scheme by reason of his or her being employed in any employment, whether or not he or she has made contributions under the scheme, shall be deemed to be a member of the superannuation scheme.

(6) Where, in pursuance of this Part, CSC has power to make a determination in relation to a matter, the power shall be construed as including a power, exercisable in the like manner and subject to the like conditions (if any), to vary a determination so made.

126 Modification of Act in relation to eligible employees who were previously members of a superannuation scheme

(1) This section applies to a person who is or has ceased to be an eligible employee, being a person who, at any time before he or she became an eligible employee, was a member of a superannuation scheme.

(2) The regulations may make provision for modifying this Act, or a provision of this Act specified in the regulations, in the application of this Act or that provision to and in relation to a person to whom this section applies, or to and in relation to a prescribed class of persons to whom this section applies.

(3) The modifications that may be made by regulations in pursuance of subsection (2) include, but are not limited to, modifications providing for the payment of contributions in addition to, or in substitution for, contributions that would otherwise be payable under this Act and for benefits in addition to, or in substitution for, benefits provided for by this Act.

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126A Modification of Act in relation to former eligible employees who become members of a superannuation scheme

(1) This section applies to a person who has ceased or is to cease to be an eligible employee, being a person who, immediately after the person so ceased or will so cease to be an eligible employee, became or will become a member of a superannuation scheme (in this section referred to as ***the relevant superannuation scheme*** in relation to the person) other than the CSS.

(2) The regulations may make provision for modifying this Act, or a specified provision of this Act, in the application of this Act or that provision to or in respect of a person to whom this section applies, or to or in respect of persons included in a specified class of persons to whom this section applies.

(3) The modifications that may be made by regulations pursuant to subsection (2) in relation to the application of the Act or a provision of the Act to or in respect of a person, or persons included in a class of persons, include, but are not limited to, modifications providing for:

(a) benefits to or in respect of that person or each of those persons in substitution for benefits under this Act to or in respect of that person or each of those persons, whether or not superannuation benefits are also provided to or in respect of that person or each of those persons under the superannuation scheme that is the relevant superannuation scheme in relation to that person or each of those persons;

(b) where superannuation benefits are provided to or in respect of that person or each of those persons under the superannuation scheme that is the relevant superannuation scheme in relation to that person or each of those persons—the exclusion of benefits to or in respect of that person or each of those persons under this Act;

(c) the payment, at such times, in such manner and in such instalments as may be specified, out of the Fund of an amount in respect of the whole or a part of the accumulated contributions, or the Fund accumulated employer

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contributions, of that person or each or all of those persons, or the whole or a part of the benefit (if any) payable under Part VIAB or Subdivision B of Division 2 of Part IX in respect of the person or each or all of those persons, to the person administering the superannuation scheme that is the relevant superannuation scheme in relation to that person or each of those persons;

(d) in lieu of the payment of the whole or a part of the amount referred to in paragraph (c), the assignment of an asset of the Fund consisting of an investment from CSC to the person administering the superannuation scheme that is the relevant superannuation scheme in relation to that person or each or all of those persons; and

(e) the exemption of an instrument or document made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of regulations made by virtue of paragraph (d) from stamp duty or other tax under a law of the Commonwealth or of a State or Territory.

(4) Regulations made by virtue of paragraph (3)(e) have effect notwithstanding any law of the Commonwealth or of a State or Territory that is inconsistent with those regulations.

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Division 2—Eligible employees with preserved rights from previous employment

Subdivision A—Transfer values

127 Transfer value payable in relation to certain employment

(1) Subject to subsection (1AAA), a reference in this Division to a transfer value in relation to an eligible employee is a reference to:

(a) a lump sum benefit (***a paragraph (a) benefit***):

(i) payable in relation to an eligible employee under a superannuation scheme on the termination of employment or cessation of membership otherwise than on the ground of physical or mental incapacity to perform that employment; and

(ii) based wholly on contributions by the employer under the scheme or partly on such contributions and partly on contributions by the eligible employee under the scheme;

unless that benefit has been applied for the purchase of a deferred annuity or paid into a preservation fund; or

(b) an amount payable to or in relation to the eligible employee on surrender of a deferred annuity if a paragraph (a) benefit had been applied for the purchase of that annuity; or

(c) an amount payable to or in relation to the eligible employee if that amount is payable from a preservation fund in relation to a paragraph (a) benefit paid to the fund for the benefit of the eligible employee; or

(d) an amount payable to, or in relation to, the eligible employee in accordance with Part 8 of the *Superannuation Guarantee (Administration) Act 1992*.

(1AAA) In this Division, a reference to a transfer value in relation to an eligible employee does not include a reference to any part of a lump sum benefit payable under a superannuation scheme that is based on contributions by the employee under the scheme that are

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of a similar nature to supplementary contributions under this Act or to contributions under the superseded Act for reserve units of pension.

(1AA) For the purposes of subsection (1), an amount that is a productivity related benefit within the meaning of Part VIA is not to be treated as a transfer value if the productivity related benefit would be the whole of the transfer value.

(2) If, after a transfer value became payable to or in respect of a person under a superannuation scheme, an amount equal to the whole or any part of that transfer value was paid to a person administering another superannuation scheme (not being the scheme constituted by the provisions of this Act):

(a) where the whole of the transfer value was so paid—that transfer value shall be disregarded for the purposes of this Division; or

(b) where part of the transfer value was so paid—the amount of that transfer value shall be deemed for the purposes of this Division, to be reduced by the amount so paid.

(3) Subject to subsection (4), a transfer value shall be deemed, for the purposes of this Division, to have become payable in respect of a person under a superannuation scheme upon the termination of any employment if, upon the termination of that employment, the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person's employer, and, in that case, the surrender value of the policy as at the date of the termination of the employment shall be taken to be the amount of the transfer value.

(4) Where a transfer value is, by virtue of subsection (3), to be deemed, for the purposes of this Division, to have become payable in respect of a person upon the termination of any employment by reason that, upon the termination of that employment, the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, a transfer value

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shall not be deemed, for those purposes, to have become payable in respect of the person upon the termination of any previous employment by reason that, upon the termination of that previous employment, the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her.

128 Payment of transfer values to CSC

(1) If an eligible employee has been in employment (the ***previous employment***), within or outside Australia, on the termination of which a transfer value or transfer values became payable to or in relation to him or her under a superannuation scheme applicable in relation to that employment and:

(a) the transfer value or transfer values, as the case may be, became payable on or after 25 May 1971; and

(b) the eligible employee elects by written notice given to CSC to pay CSC an amount (***the election amount***) equal to the amount of the transfer value or, if 2 or more transfer values became payable, the total of the amounts of those transfer values:

(i) before the transfer value or transfer values, as the case may be, are paid; or

(ii) not later than 3 months after the day on which:

(A) the person becomes an eligible employee; or

(B) the transfer value or transfer values, as the case may be, became payable;

whichever is the later; or

(iii) within such further period as CSC, in special circumstances allows; and

(c) the election amount is, before the expiration of the period referred to in subparagraph (b)(ii) or (iii), as the case may be, paid to CSC;

then the succeeding provisions of this section have effect.

(2) Where an amount (in this section referred to as the ***transferred amount***) has been paid by a person to CSC under subsection (1):

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(a) so much of the transferred amount as is equal to the employee component of the transfer value, or the sum of the employee components of the transfer values, as the case may be, shall be paid by CSC into the Superannuation Fund, and, for the purposes of this Act, the amount so paid by CSC into the Superannuation Fund shall, subject to subsection (3), be deemed to be basic contributions paid by the person to CSC under this Act; and

(b) so much of the transferred amount as is equal to the employer component of the transfer value or the sum of the employer components of the transfer values, as the case may be, shall be paid by CSC to the Commonwealth; and

(c) so much of the transferred amount as is equal to the sum of:

(i) the amount of any productivity related benefit within the meaning of Part VIA and interest on that amount or, if the transferred amount does not include an amount of productivity related benefit, the notional productivity amount; and

(ii) the amount of the person's accumulated employer contributions (if any) included in a transfer value (if any) that was payable to the person under Division 3 of Part IX and interest on that amount; and

(iii) the amount of any part of the benefit payable in respect of the person under Part VIAB included in a transfer value (if any) that was payable to the person under Division 3 of Part IX and interest on that amount;

must be paid by CSC into the Superannuation Fund, and, for the purposes of this Act, the amount so paid is taken to be productivity contributions within the meaning of Part VIA.

(3) If, upon the person ceasing to be an eligible employee, a lump sum benefit becomes payable to or in respect of him or her under or in accordance with subsection 62(2) or (2A), 69(2), 72(2), 73(2), 84(2), 87(2), 88(1), 99(2) or 101(2), then, for the purpose of calculating the amount of that benefit, the amount of his or her accumulated basic contributions shall be deemed to be the amount that would have been the amount of his or her accumulated basic

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contributions if the amount paid into the Superannuation Fund in respect of him or her under paragraph (2)(a) of this section had been an amount equal to two-sevenths of the transferred amount (other than so much of that transferred amount as is worked out under paragraph (2)(c)).

(4) If, upon the person ceasing to be an eligible employee, a lump sum benefit becomes payable to or in respect of him or her under section 80 or 111 and the amount, or a part of the amount, paid to the Commonwealth in respect of him or her under paragraph (2)(b) of this section is an amount that, whether or not he or she engaged in further employment, was payable to or in respect of him or her on the termination of the previous employment, there is payable to or in respect of the person an additional lump sum benefit of an amount equal to the total of:

(a) the available part of the amount paid to the Commonwealth in respect of the person under paragraph (2)(b); and

(b) the amount that would have accrued by way of interest on that amount if it had been paid into the Superannuation Fund on the day on which the amount referred to in paragraph (a) was paid to the Commonwealth.

(4AA) The reference in paragraph (4)(a) to the available part of an amount paid to the Commonwealth in respect of the person under paragraph (2)(b) is a reference to so much of that amount as exceeds any part of that amount that:

(a) would not have been available for payment to, or preservation in the name of, the person on the termination of the previous employment out of the superannuation scheme applicable to that employment; or

(b) would not have been retained in that scheme for payment to or in respect of the person at a later date under the rules of that scheme;

unless the person engaged in further employment.

(4A) Subject to subsection (4B) and (4C), any benefit payable to or in respect of a person under subsection (4) must be:

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(a) paid, for the benefit of the person, to a preservation fund nominated by the person; or

(b) applied, on behalf of the person, for the purchase of a deferred annuity nominated by the person; or

(c) if the person does not make a nomination within 90 days after the benefit becomes payable—paid, for the benefit of the person, to an eligible roll-over fund nominated by CSC.

(4B) Subsection (4A) does not apply to a benefit payable to or in respect of a person if:

(a) the person is 55 or over and has given CSC a written statement to the effect that he or she has retired from the workforce; or

(b) the benefit becomes payable on the person's death; or

(c) the total of:

(i) the amount of the person's accumulated employer contributions under section 110Q; and

(ii) the amount that would be preserved or applied under subsection (4A) in relation to the person but for the operation of this subsection; and

(iii) the amount of superannuation guarantee top-up benefit paid to the person; and

(iv) if a benefit is payable in respect of the person under Part VIAB—the employer component of that benefit;

is less than $500; or

(d) CSC is satisfied that the person is departing permanently from Australia.

(4C) Subsection (4A) does not apply to a benefit, or a part of a benefit, payable to or in respect of a person if the person establishes, to the satisfaction of CSC, that the benefit or the part of the benefit, as the case may be, need not be preserved or applied under subsection (4A) in order to satisfy whichever of the following (if any) is applicable to the benefit:

(a) the superannuation fund conditions applicable under the provisions of the *Occupational Superannuation Standards Act 1987*, as those provisions:

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(i) apply to a year of income of a fund earlier than the 1994-95 year of income; or

(ii) continue to apply, despite their repeal, because of the *Occupational Superannuation Standards Amendment Act 1993*;

(b) the SIS Act.

(5) There shall be added to the period that, but for this subsection, would be his or her period of contributory service, such period as CSC determines as being appropriate, having regard to:

(a) the employer component of the transfer value; and

(b) such other matters as CSC considers relevant and such matters (if any) as are prescribed.

(6) For the purposes of this section:

(a) the employee component of a transfer value payable to or in respect of a person is the part (if any) of that transfer value that was based upon contributions made by the person; and

(b) the employer component of a transfer value payable to or in respect of a person is the part of that transfer value that was based upon contributions by an employer or employers of the person other than:

(i) an amount that was a productivity related benefit within the meaning of Part VIA or, if the transfer value payable to or in respect of the person does not include such an amount, an amount equal to the notional productivity amount; or

(ii) an amount that was the person's accumulated employer contributions included in a transfer value that was payable under Division 3 of Part IX to the person; or

(iii) if a benefit is payable in respect of the person under Part VIAB—an amount equal to the employer component of that benefit.

(7) If CSC gives under subsection 157(3) a direction to cancel an election made by an eligible employee under subsection (1) of this section, CSC must make such arrangements as it considers

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appropriate, taking into account the requirements of the SIS Act, for making payments out of the Superannuation Fund and the Consolidated Revenue Fund by way of dealing with the transferred amount (including the payment of interest on any part of that amount that was paid into the Superannuation Fund).

(7A) If, under an arrangement made by CSC under subsection (7), an amount has to be paid out of the Consolidated Revenue Fund, the Consolidated Revenue Fund is appropriated for the purpose of the payment.

(8) For the purposes of subparagraphs (2)(c)(i) and (6)(b)(i), the ***notional productivity amount***, in relation to a transferred amount or a transfer value, is the amount equal to 3% of so much of a person's earnings as were relevant for the purpose of establishing whether, in relation to the period, or periods, of employment in respect of which the transferred amount or the transfer value, as the case may be, was payable, the employee was an employee in respect of whom one or more employers incurred an individual superannuation guarantee shortfall within the meaning of the *Superannuation Guarantee (Administration) Act 1992*.

128AA Payment to CSC under section 6A of the *Superannuation Act 1990*

(1) Where:

(a) a person becomes an eligible employee by making an election under section 6A of the *Superannuation Act 1990*; and

(b) the person's accumulated funded contributions are paid to CSC under subsection 6A(4) of that Act;

CSC must pay an amount equal to the person's accumulated funded contributions into the Superannuation Fund.

(2) There is to be added to the period that, apart from this subsection, would be the person's period of contributory service, a period equal to:

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(a) the period during which the person was a member of the Public Sector Superannuation Scheme; or

(b) such lesser period as is determined by CSC, in writing, having regard to any time during which the person was engaged in part-time employment or was on leave of absence without pay.

(3) CSC is to determine those parts of the amount so paid into the Superannuation Fund that, for the purposes of this Act, are to be regarded as:

(a) the person's accumulated basic contributions; and

(b) the person's accumulated supplementary contributions; and

(c) the person's productivity contributions.

129 Certain lump sums not included in transfer value may be treated as supplementary contributions

(1) Where:

(a) a person who becomes an eligible employee has, at any time before becoming an eligible employee, been in employment within or outside Australia;

(b) upon the termination of that employment a lump sum became payable to or in respect of him or her on or after 25 May 1971 under a superannuation scheme applicable in relation to that employment; and

(c) that lump sum, or a part of that lump sum, is an amount that is based upon contributions by the member and, if subsection 128(1) applies to the person, does not form part of the transfer value referred to in that subsection;

he or she may, within a period of 3 months after the date on which he or she becomes an eligible employee, or within such further period as CSC, in special circumstances, allows, pay to CSC the whole or a part of the amount of that lump sum or that part of that lump sum, as the case may be, and request CSC, in writing, to treat the amount so paid by him or her to CSC as an amount of supplementary contributions paid by him or her under this Act.

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(2) CSC shall pay the amount so paid to him or her into the Fund, and the amount shall, for the purposes of this Act, be deemed to be an amount of supplementary contributions paid by the person under this Act.

130 Exemption of certain eligible employees from medical examination

(1) Subject to subsection (2), this section applies in relation to an eligible employee if:

(a) by reason of the termination of the employment in which he or she was last employed before he or she became an eligible employee:

(i) a transfer value within the meaning of Division 2 of Part IX became payable to or in respect of him or her after 25 May 1971 under a superannuation scheme applicable in relation to that employment and an amount equal to that transfer value has been paid to CSC in accordance with subsection 128(1);

(ii) a pension that was based, or included an amount based, wholly upon contributions by his or her employer under a superannuation scheme applicable in relation to that employment or partly upon such contributions and partly upon contributions under the scheme by the person became payable to him or her; or

(iii) benefits whether by way of a lump sum or of a pension, that were payable at a future time and were based, or included an amount or amounts based, wholly upon contributions by his or her employer under a superannuation scheme applicable in relation to that employment or partly upon such contributions and partly upon contributions under the scheme by him or her became applicable in respect of him or her; and

(b) the eligible employee:

(i) underwent a medical examination required under the rules of the superannuation scheme referred to in paragraph (a) for the purpose of determining whether

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his or her health and physical fitness were of such a standard as would justify his or her being admitted as a member of that scheme;

(ii) underwent a medical examination required by the person by whom he or she was employed in the employment referred to in paragraph (a) for the purpose of determining whether his or her health and physical fitness were of such a standard as would justify his or her being employed in that employment; or

(iii) was admitted as a member of the superannuation scheme referred to in paragraph (a) under provisions of the rules of that scheme corresponding to the provisions of this section.

(2) This section does not apply in relation to an eligible employee if:

(a) a period of more than 3 months elapsed between the termination of the employment referred to in paragraph (1)(a) and the day on which he or she became an eligible employee; or

(b) in the case of a person to whom subparagraph (1)(a)(i) or (ii) applies—the employment referred to in that paragraph terminated by reason of his or her invalidity or his or her physical or mental incapacity to perform his or her duties.

(3) Where, under the superannuation scheme applicable in respect of the employment in which an eligible employee in relation to whom this section applies was last employed before he or she became an eligible employee:

(a) the benefits that would have been applicable in respect of him or her if the termination of that employment had been caused by his or her death, or had been caused by invalidity or physical or mental incapacity, would have been, or would have included, benefits by way of a pension;

(b) those benefits would have been the maximum benefits available under the scheme; and

(c) the applicability of those maximum benefits would not have been attributable to his or her having paid contributions at a higher rate than the ordinary rate of contributions;

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sections 16 to 16AE, inclusive, do not apply in relation to him or her.

(4) If CSC is satisfied that, at the time when an eligible employee in relation to whom this section applies commenced to be employed in the employment in which he or she was last employed before he or she became an eligible employee, his or her physical or mental condition was such that, if he or she had then become an eligible employee, grounds would not have existed for the issue of a benefit classification certificate in respect of him or her by CSC, CSC may direct that sections 16 to 16AE, inclusive, do not apply in relation to him or her.

(5) If neither subsection (3) nor subsection (4) of this section is applicable in respect of an eligible employee in relation to whom this section applies, sections 16 to 16AE, inclusive, apply in relation to the eligible employee to the same extent (if any) as they would apart from this section, but, for the purposes of those sections as so applying, regard shall not be had to any physical or mental condition of the person that did not exist at the time when he or she commenced to be employed in the employment in which he or she was last employed before he or she became an eligible employee.

Subdivision B—Transferred amounts

130A Transferred amounts

In this Subdivision:

transferred amount, in relation to a person, means an amount, other than an amount that is elected to be paid to CSC as mentioned in paragraph 128(1)(b), that is:

(a) an amount that would, if paid into the Fund in respect of the person, be a roll-over superannuation benefit within the meaning of the *Income Tax Assessment Act 1997*; or

(b) an amount paid to or in respect of the person in accordance with the *Superannuation Guarantee (Administration) Act 1992* on the cessation of his or her employment; or

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(c) an amount payable in respect of the person under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*; or

(d) an amount that would, if paid into the Fund in respect of the person, be a directed termination payment within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*.

130B Transferred amount may be paid to CSC

(1) An eligible employee who, whether before or after becoming an eligible employee, receives a transferred amount may pay an amount equal to the transferred amount to CSC.

(1A) The Commissioner of Taxation may pay to CSC an amount payable in respect of a person under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*.

(2) CSC is to pay into the Fund any transferred amounts received by it.

130C Person's entitlement to benefit

If an amount has been paid into the Fund under section 130B in respect of a person, the person is entitled to a benefit under this Subdivision if another benefit to which the person is entitled under this Act becomes payable.

130D Amount of benefit

(1) Subject to subsections (2) and (3), the amount of the benefit payable in respect of a person under this Subdivision is the sum of:

(a) an amount equal to the difference between:

(i) the total amount that was paid into the Fund in respect of the person under section 130B; and

(ii) the sum of any amounts in the nature of income tax relevant to that amount; and

(b) interest on the amount mentioned in paragraph (a).

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(2) If the person's surcharge debt account is in debit when the benefit becomes payable to the person, the benefit to which the person is entitled is equal to the difference between:
  (a) the benefit to which the person would be entitled if this subsection did not apply to the person; and
  (b) the person's surcharge deduction amount.

(3) The amount of the benefit payable in respect of a person under this Subdivision is reduced by the sum of the following amounts:
  (a) any amount paid out of the Fund in accordance with:
    (i) a release authority given to CSC under former section 292-410 of the *Income Tax Assessment Act 1997* that relates to the superannuation interest (within the meaning of that Act) constituted by the amount paid into the Fund in respect of the person under section 130B of this Act; or
    (ii) a transitional release authority given to the Board under section 292-80B of the *Income Tax (Transitional Provisions) Act 1997* that relates to that superannuation interest; or
    (iii) a release authority issued under former item 1 or 2 of the table in subsection 135-10(1) in Schedule 1 to the *Taxation Administration Act 1953*;
  (b) the amount of any interest that would have been earned on an amount mentioned in paragraph (a), in respect of the period since the amount was paid out of the Fund, if it had not been paid out of the Fund.

Note: Payments made out of the Fund that are required to be made under a release authority mentioned in subparagraph (3)(a)(i) or (iii) or a transitional release authority are not ***benefits***: see the definition of ***benefit*** in subsection 3(1).

130E Payment of benefit to spouse etc.

(1) If, because of a person's death:
  (a) a benefit becomes payable in respect of the person under this Subdivision; and

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(b) Part VI applies;

then:

(c) if the person is survived by a spouse—the benefit is payable to the spouse; or

(d) if orphan benefit is payable to an eligible child or eligible children—the benefit is payable to:

(i) the eligible child or eligible children; or

(ii) if the orphan benefit is payable under section 115 to another person or other persons—that person or those persons.

(2) If, because of a person's death:

(a) a benefit becomes payable in respect of the person under this Subdivision; and

(b) a deferred benefit by way of spouse's benefit is payable in respect of the person;

the benefit under this Subdivision is payable to the spouse.

(3) If, because of a person's death:

(a) a benefit becomes payable in respect of the person under this Subdivision; and

(b) a deferred benefit by way of orphan benefit is payable in respect of the person;

the benefit under this Subdivision is payable to:

(c) the eligible child or eligible children entitled to the deferred benefit; or

(d) if the deferred benefit is payable under section 115 to another person or other persons—that person or those persons.

130F Payment of benefit to personal representatives etc.

If:

(a) because of a person's death, a benefit is payable in respect of a person under this Subdivision; and

(b) the person is not survived by any spouse; and

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(c) there is no surviving child of the person or no surviving child of the person who could be at any time an eligible child of the person;

the benefit is payable to the person's legal personal representative or, if no legal personal representative can be found, to any individual or individuals that CSC determines.

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Division 3—Preservation of rights of persons ceasing to be eligible employees

131 Interpretation

(4) In this Division:

former eligible employee with benefits from previous employment means:

(a) a person:

(i) who has ceased to be an eligible employee; and

(ii) who was immediately before so ceasing, a person referred to in paragraph (a) of the definition of ***eligible employee*** in subsection 3(1); and

(iii) in relation to whom sections 119H and 119J of the superseded Act applied on or after his or her becoming an employee for the purposes of that Act or, if the person became such an employee on more than one occasion, on or after his or her last becoming such an employee; or

(b) a person:

(i) who has ceased to be an eligible employee; and

(ii) who was immediately before so ceasing, a person referred to in paragraph (a) of the definition of ***eligible employee*** in subsection 3(1); and

(iii) in relation to whom a non-contributory unit of pension was applicable on 30 June 1976; or

(c) a person:

(i) who has ceased to be an eligible employee; and

(ii) to whom, immediately before becoming an eligible employee, a pension of a kind mentioned in section 64A or 65 of the superseded Act as in force immediately before the repeal of that section was, or but for a suspension of payment would have been, payable to him or her; and

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(iii) in relation to whom a non-contributory unit of pension was applicable immediately before that pension became payable; or

(d) a person:

(i) who has ceased to be an eligible employee; and

(ii) in relation to whom section 128 has effect.

133 Public employment

(1) The Minister and CSC may agree that employment, whether within or outside Australia, by a person, or by persons included in a class of persons, is public employment for the purposes of this Division.

(1A) The Minister and CSC may at any time vary or terminate an agreement made under subsection (1).

(1D) If:

(a) employment by a person has been agreed (whether or not by reference to a class of persons) under subsection (1) to be public employment for the purposes of this Division; and

(b) apart from this subsection, employment of persons generally, or of a class of persons, by that person would cease at a particular time to be public employment for the purposes of this Division;

the Minister and CSC may agree that a person, or a person included in a class of persons, who was employed in public employment for the purposes of this Division immediately before that time because of that employment continues to be so employed.

(2) An agreement made under this section may be expressed to have taken effect on a day earlier than the day on which the agreement is made but not earlier than 1 July 1976.

(2A) An agreement made under this section or a variation of such an agreement:

(a) may be expressed to apply only in relation to employment of a person included in a class of persons referred to in the agreement; and

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(b) may be expressed to apply only until a time stated in the agreement.

(2B) CSC must cause notice of the making of an agreement under this section, or of the variation or termination of such an agreement, to be published in the *Gazette*.

(3) A person is taken, for the purposes of this Division, to have been employed in public employment at a particular time before 1 July 1994 if, and (except as otherwise provided by an Act other than this Act) only if:

(a) the employer by whom the person was employed at that time was a person, or was included in a class of persons, referred to in a declaration by CSC under subsection 133(1) of the *Superannuation Act 1976* as in force at that time and, if the declaration was expressed to apply only in relation to the employment of a person included in a class of persons, the person was included in that class; or

(b) a declaration by CSC under subsection 133(1D) of the *Superannuation Act 1976* as in force at that time was, or is taken to have been, in force at that time in relation to the person.

(3A) A person is taken, for the purposes of this Division, to have been employed in public employment at a particular time on or after 1 July 1994 if, and (except as otherwise provided by an Act other than this Act) only if:

(a) the employer by whom the person was employed at that time was a person, or was included in a class of persons, referred to in an agreement under subsection (1) that was in force at that time and, if the agreement was expressed to apply only in relation to the employment of a person included in a class of persons, the person was included in the class; or

(b) an agreement made between the Minister and CSC under subsection (1D) was, or is taken to have been, in force at that time in relation to the person.

(4) An agreement may be made under subsection (1) specifying employment by the Government of the United Kingdom of Great

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Britain and Northern Ireland or by a body corporate established for a public purpose by a law in force in the United Kingdom of Great Britain and Northern Ireland to be public employment for the purposes of this Division, but a person shall not be taken, for the purposes of this Division, to have been employed in public employment by reason of his or her having been employed in employment by that Government or by such a body unless his or her salary, immediately before his or her last day of service, was fixed and payable in sterling.

(5) Where any public employment in which a person is employed terminates and, within 3 months after the date of the termination, he or she again becomes employed in public employment, he or she shall, for the purposes of this Division, be deemed not to have ceased, by reason of the termination, to be employed in public employment but, in ascertaining the period in which he or she has been employed in public employment, any period between the termination of a period in which he or she was employed in public employment and the commencement of a further period in which he or she was employed in public employment shall not be treated as itself being a period in which he or she was employed in public employment.

134 Eligible superannuation schemes

(1) Subject to subsections (4A) and (5), the Minister and CSC may agree that a superannuation scheme is an eligible superannuation scheme for the purposes of this Division.

(2) The Minister and CSC may at any time terminate an agreement made under subsection (1).

(3) An agreement made under subsection (1) may be expressed to have taken effect on a day earlier than the day on which the agreement is made but not earlier than 1 July 1976.

(4) CSC must cause notice of the making of an agreement under subsection (1), or of the termination of such an agreement, to be published in the *Gazette*.

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(4A) An agreement may not be made under subsection (1) after 30 June 2003.

(5) An agreement may not be made under subsection (1) in relation to a superannuation scheme (the ***relevant scheme***) unless:

(a) the relevant scheme is a public sector superannuation scheme that is:

(i) a regulated superannuation fund; or

(ii) an exempt public sector superannuation scheme;

(b) the trustee of the relevant scheme has given a written undertaking to CSC stating that:

(i) the relevant scheme will accept transfer values paid from, and pay transfer values to, the scheme provided for under this Act (the ***Commonwealth scheme***) or any other eligible superannuation scheme; and

(ii) the relevant scheme will provide equitable benefits in return for a transfer value so accepted; and

(c) the trustee of the relevant scheme has given a written undertaking to CSC stating that, except as provided by subsection (7), the scheme will not pay out:

(i) the whole or any part of the employer component of a transfer value paid to the relevant scheme from the Commonwealth scheme; or

(ii) any part of any other transfer value paid to the relevant scheme that represents the whole or a part of the employer component of a transfer value paid from the Commonwealth scheme; and

(d) the trustee of the relevant scheme has given a written confirmation to CSC stating that the undertaking does not conflict with the trust instrument, other document or legislation, or combination of them, governing the establishment and operation of the relevant scheme;

or the Minister and CSC are satisfied that there are special circumstances that make it desirable for the relevant scheme to be treated as an eligible superannuation scheme for the purposes of this Division even though one or more of the paragraphs of this subsection are not complied with.

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(6) In subsection (5):

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

(a) by or under a law of the Commonwealth, of a State or of a Territory; or

(b) under the authority of:

(i) the Commonwealth, a State or a Territory; or

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

(iii) a company or other body corporate in which the Commonwealth, a State, a Territory, a municipal corporation, another local governing body or a public authority referred to in subparagraph (ii) has, or any 2 or more of them together have, a controlling interest.

trustee, in relation to a superannuation scheme of which there is no trustee (within the ordinary meaning of that expression), means the person who manages the scheme.

(7) The whole or a part of an employer component, or the part of a transfer value that represents the whole or a part of an employer component, referred to in subparagraph (5)(c)(i) or (ii), as the case may be, may only be paid out as follows:

(a) except where the amount proposed to be paid is the whole or a part of a lump sum retrenchment benefit to which paragraph (b) applies, payment may be made:

(i) to an eligible superannuation scheme; or

(ii) in the same circumstances, and to the same extent, as benefits that are required to be compulsorily preserved under the SIS Act may be paid;

(b) if the amount proposed to be paid is the whole or a part of a lump sum retrenchment benefit that has become payable before 1 July 2000:

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(i) payment may be made of any part of the amount other than the amount (the ***preserved part of the amount***) required to be compulsorily preserved under the SIS Act; and

(ii) payment may be made of the preserved part of the amount in the circumstances provided for under that Act and those regulations.

(8) A superannuation scheme to which an agreement made under subsection (1) relates is not an eligible superannuation scheme in relation to a person if Part XIII or XIIIA applies in respect of the person because of his or her having become a member of the superannuation scheme.

(9) A person is taken, for the purposes of this Division, to have been a member of an eligible superannuation scheme at a particular time if, and only if, the person was at that time a member of a superannuation scheme in respect of which:

(a) if that time was before 1 July 1994—a declaration by CSC under subsection 134(1) of the *Superannuation Act 1976* as in force at that time was, or is taken to have been, in force; or

(b) if that time was on or after that date—an agreement under this section was in force.

(10) If CSC is satisfied that an eligible superannuation scheme that has ceased to exist was, upon so ceasing to exist, replaced by another superannuation scheme, CSC may determine that the other scheme is an eligible superannuation scheme for the purposes of this Division.

135 Transfer value

(1) Subject to subsections (1AA) and (1A), the amount of any transfer value payable under this Division to or in respect of a person who has ceased to be an eligible employee is an amount equal to the sum of:

(a) 3½ times the amount of the person's accumulated basic contributions; and

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(b) the amount of the person's accumulated employer contributions (if any); and

(c) the amount of the person's accumulated supplementary contributions (if any); and

(d) the amount of benefit (if any) payable in respect of the person under Part VIAB; and

(e) the amount of benefit (if any) payable in respect of the person under Subdivision B of Division 2 of Part IX.

(1AA) If, when a transfer value becomes payable under this Division to or in respect of a person who has ceased to be an eligible employee, the person's surcharge debt account is in debit, the amount of the transfer value is an amount equal to the difference between:

(a) the amount that would be payable to or in respect of the person under subsection (1) if this subsection did not apply to the person; and

(b) the person's surcharge deduction amount.

(1A) The amount of any transfer value payable under this Division to, or in respect of, a person who is a former eligible employee with benefits from previous employment is such amount as is determined by CSC having regard to:

(a) the amount that would be payable to the person under subsection (1) or (1AA) (as the case may be) if this subsection did not apply to the person; and

(b) the amount of any transfer value paid by, or in respect of, the person to the Superannuation Board or the Commissioner for Superannuation under the superseded Act; and

(c) the number of non-contributory units (if any) that were, under the superseded Act, applicable in relation to the person on 30 June 1976 or immediately before the person became entitled to invalidity pension (as the case may be) and the contributions that would have been paid by the person in respect of those units if they had been contributory units of pension in respect of which the person had contributed at rates based on a retiring age of 65; and

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(d) the amount of any transfer value paid by, or in respect of, the person to CSC under this Act.

(2) Where a transfer value becomes payable in accordance with this Division to or in respect of a person who has ceased to be an eligible employee and to whom section 54 applied and:

(a) at the time when he or she ceased to be an eligible employee, he or she had not ceased to be an eligible member of the Defence Force as defined by subsection 3(1) of the Defence Force Retirement and Death Benefits Act; or

(b) at the time when the transfer value becomes payable, a transfer value also becomes payable in respect of him or her under Division 3 of Part IX of that Act;

then, any period during which his or her liability to make contributions under this Act was deferred under section 54 of this Act shall be disregarded in determining the first-mentioned transfer value and he or she is not required or permitted to pay the amount of those deferred contributions.

136 Deferred benefits

(1) The deferred benefits applicable under this Division in respect of a person who has ceased to be an eligible employee shall, subject to this Division, be such benefits payable under this Act as CSC considers to be benefits of the same nature, and payable in the same circumstances and on the same conditions and, upon his or her death to the same persons (if any), as the benefits that would have been payable to or in respect of the person under this Act if he or she had not ceased to be an eligible employee and had not made the election by virtue of which the deferred benefits became applicable.

(2) Where a deferred benefit by way of age retirement benefit, early retirement benefit or invalidity benefit is payable to a person other than a former eligible employee with benefits from previous employment, the amount of the benefit is calculated in accordance with the following provisions:

(a) if:

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(i) a deferred benefit by way of standard age retirement pension is payable to the person in accordance with subsection 56(1), (2), (3) or (4); or

(ii) a deferred benefit by way of standard early retirement pension is payable to the person in accordance with section 60;

the annual rate of that pension is:

(iii) if subparagraph (iv) does not apply—an amount per annum equal to the amount worked out by using the formula:

$$2.5 \times F_1 \times ABC$$

(iv) if the person's surcharge debt account is in debit when the benefit becomes payable to the person and the person does not make an election under subsection (3A) or (3B)—an amount per annum equal to the amount worked out by using the formula:

$$\left(2.5 \times F_1 \times ABC \right) - \frac{SDA}{CF_1}$$

(b) if:

(i) a deferred benefit by way of additional age retirement pension is payable to the person in accordance with subsection 57(1); or

(ii) a deferred benefit by way of additional early retirement pension is payable to the person in accordance with subsection 61(1);

the annual rate of that pension is, if the person does not make an election under subsection (3A), an amount per annum equal to:

(iii) if, under the SIS Act, the benefit referred to in section 139AA is not to be paid in cash to the person—the amount calculated in accordance with the formula:

$$F_1 \times AC; \text{ or}$$

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(iv) if, under the SIS Act, that benefit is to be paid in cash to the person—the amount calculated in accordance with the formula:

$$F_1 \times (AC + AEC);$$

but, if the person makes an election under subsection (3A), the annual rate of that pension is an amount per annum equal to the amount worked out by using the formula:

$$BR - \frac{SDA}{CF_2}$$

(c) if a deferred benefit by way of a lump sum benefit is payable to the person in accordance with section 65, the lump sum benefit is an amount equal to the sum of the person's accumulated contributions and the person's accumulated employer contributions (if any);

(d) if a deferred benefit by way of invalidity pension is payable to the person in accordance with section 67 or 70, the annual rate of that pension is:

(i) if subparagraph (ii) does not apply—an amount per annum equal to the amount worked out by using the formula:

$$3.5 \times F_2 \times ABC$$

(ii) if the person's surcharge debt account is in debit when the benefit becomes payable to the person—an amount per annum equal to the amount worked out by using the formula:

$$\left(3.5 \times F_2 \times ABC \right) - \frac{SDA}{CF_1}$$

(e) if a deferred benefit by way of a lump sum benefit is payable to the person in accordance with section 67 or 70, the lump sum benefit is an amount equal to the sum of the person's accumulated employer contributions (if any) and the person's accumulated supplementary contributions;

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(ea) if:

(i) a deferred benefit by way of invalidity pension is payable to the person under section 67 or 70 but a deferred benefit by way of a lump sum benefit is not so payable; and

(ii) productivity benefit became payable in respect of the person when he or she ceased to be an eligible employee;

the deferred benefit is to include a lump sum benefit equal to the person's accumulated employer contributions;

(f) if a deferred benefit by way of invalidity pension is payable to the person in accordance with section 68 or 71, the annual rate of that pension is:

(i) if subparagraph (ii) does not apply—an amount per annum equal to the amount worked out by using the formula:

$$2.5 \times F_2 \times ABC$$

(ii) if the person's surcharge debt account is in debit when the benefit becomes payable to the person and the person does not make an election under subsection (3B)—an amount per annum equal to the amount worked out by using the formula:

$$\left(2.5 \times F_2 \times ABC \right) - \frac{SDA}{CF_1}$$

(g) if a deferred benefit by way of a lump sum benefit is payable to the person in accordance with section 68 or 71, the lump sum benefit is an amount equal to the sum of the person's accumulated contributions and the person's accumulated employer contributions (if any);

(h) if a deferred benefit of a lump sum benefit is payable to the person in accordance with section 69, 72 or 73, then, subject to paragraph (i), the lump sum benefit is an amount equal to the sum of:

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(i) 3½ times the person's accumulated basic contributions; and

(ii) the person's accumulated employer contributions (if any); and

(iii) the person's accumulated supplementary contributions (if any);

(i) if:

(i) a deferred benefit by way of a lump sum benefit is payable to the person in accordance with section 69, 72 or 73; and

(ii) the person's surcharge debt account is in debit when the benefit becomes payable to the person;

the lump sum benefit is an amount equal to the difference between:

(iii) the amount that would be payable to the person under paragraph (h) if this paragraph did not apply to the person; and

(iv) the person's surcharge deduction amount.

where:

F_1 is such factor as, having regard to:

(a) the age of the person on the day on which the deferred benefits become payable; and

(b) whether or not the person has elected under section 137A that deferred benefits be paid to him or her at a reduced rate;

is applicable in accordance with Table 1 in Schedule 11; and

F_2 is such factor as, having regard to the age of the person on the day on which the deferred benefits become payable, is applicable in accordance with Table 2 in Schedule 11; and

ABC is the amount of the person's accumulated basic contributions; and

AC is the amount of the person's accumulated contributions; and

AEC is the amount of the person's accumulated employer contributions.

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BR (basic rate) means the annual rate of pension that would be payable to the person under subparagraph (2)(b)(iii) or (iv) if the person did not make an election under subsection (3A).

CF_1 means the conversion factor that is applicable to the person under the determination made by CSC under subsection 154AB(1).

CF_2 means the conversion factor that is applicable to the person under the determination made by CSC under subsection 154AB(2).

SDA means the person's surcharge deduction amount.

(2A) Where a deferred benefit by way of age retirement benefit, early retirement benefit or invalidity benefit is payable to a person who is a former eligible employee with benefits from previous employment, the amount of any pension or lump sum benefit constituting that benefit is determined by CSC having regard to:

(a) the amount of any pension or lump sum benefit that would be payable to the person under subsection (2) if the person was not a former eligible employee with benefits from previous employment; and

(b) the amount of any transfer value paid by, or in respect of, the person to the Superannuation Board or the Commissioner for Superannuation under the superseded Act; and

(c) the number of non-contributory units (if any) that were, under the superseded Act, applicable in relation to the person on 30 June 1976 or immediately before the person became entitled to invalidity pension (as the case may be) and the contributions that would have been paid by the person in respect of those units if they had been contributory units of pension in respect of which the person had contributed at rates based on a retiring age of 65; and

(d) the amount of any transfer value paid by, or in respect of, the person to CSC under this Act.

(2B) Where a deferred benefit by way of spouse's benefit or orphan benefit is payable in respect of a person other than a former eligible employee with benefits from previous employment and no child of

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the person is a partially dependent child, the amount of the benefit is calculated in accordance with the following provisions:

(a) if a deferred benefit by way of spouse's pension is payable in respect of the person in accordance with section 82 or 85, the annual rate of that pension is the applicable percentage of the annual rate of the pension to which the person would have been entitled under paragraph (2)(d) if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph;

(b) if a deferred benefit by way of a lump sum benefit is payable in respect of the person in accordance with section 82 or 85, the lump sum benefit is an amount equal to the sum of the person's accumulated employer contributions (if any) and the person's accumulated supplementary contributions;

(ba) if:

(i) a deferred benefit by way of spouse's pension is payable in respect of the person under section 82 or 85 but a deferred benefit by way of a lump sum benefit is not so payable; and

(ii) productivity benefit became payable in respect of the person when he or she ceased to be an eligible employee;

the deferred benefit is to include a lump sum benefit equal to the person's accumulated employer contributions;

(c) if a deferred benefit by way of spouse's pension is payable in respect of the person in accordance with section 83 or 86, the annual rate of that pension is the applicable percentage of the annual rate of the pension that would be payable to the person under paragraph (2)(f) if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph;

(d) if a deferred benefit by way of a lump sum benefit is payable in respect of the person in accordance with section 83 or 86, the lump sum benefit is an amount equal to the sum of the

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person's accumulated contributions and the person's accumulated employer contributions (if any);

(e) if a deferred benefit by way of a lump sum benefit is payable in respect of the person in accordance with section 84, 87 or 88, the lump sum benefit is an amount equal to the sum of:

(i) 3½ times the person's accumulated basic contributions; and

(ii) the person's accumulated employer contributions (if any); and

(iii) the person's accumulated supplementary contributions (if any);

(f) if a deferred benefit by way of spouse's standard pension is payable in respect of the person in accordance with section 90, the annual rate of that pension is the applicable percentage of the annual rate of the pension that would be payable to the person under paragraph (2)(a) if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph;

(g) if a deferred benefit by way of spouse's additional pension is payable in respect of the person in accordance with subsection 91(1), the annual rate of that pension is, at the election of the person's spouse:

(i) an amount per annum equal to the amount calculated in accordance with the formula:

$$F_3 \times AC; \text{ or}$$

(ii) an amount per annum equal to the amount calculated in accordance with the formula:

$$F_3 \times (AC + AEC);$$

where:

F_3 is such factor as, having regard to the age of the person's spouse at the time of the person's death, is applicable in accordance with Table 3 in Schedule 11; and

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AC is the amount of the person's accumulated contributions; and

AEC is the amount of the person's accumulated employer contributions;

(h) if a deferred benefit by way of a lump sum benefit is payable in respect of the person in accordance with section 92, the lump sum benefit is an amount equal to the sum of the person's accumulated contributions and the person's accumulated employer contributions (if any);

(j) if a deferred benefit by way of spouse's standard pension is payable in respect of the person in accordance with section 94, then, except if paragraph (ma) applies, the annual rate of that pension is the applicable percentage of the annual rate of the pension that was payable to the person in accordance with paragraph (2)(a) immediately before his or her death;

(k) if a deferred benefit by way of spouse's additional pension is payable in respect of the person in accordance with section 95, then, except if paragraph (ma) applies, the annual rate of that pension is:

(i) except if subparagraph (ii) applies—67% of the annual rate of the pension that was payable to the person in accordance with paragraph (2)(b) immediately before his or her death; or

(ii) if the person elected under section 137A that deferred benefits be paid to him or her at a reduced rate—85% of the annual rate of that pension;

(m) if a deferred benefit by way of spouse's pension is payable in respect of the person in accordance with section 96, then, except if paragraph (ma) applies, the annual rate of that pension is the applicable percentage of the annual rate of the pension that was payable to the person in accordance with paragraph (2)(d) or (f) (as the case may be) immediately before his or her death;

(ma) if:

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(i) a deferred benefit by way of spouse's standard pension, spouse's additional pension or spouse's pension is payable in respect of the person in accordance with section 94, 95 or 96 (as the case may be); and

(ii) the person had had a late short-term marital or couple relationship with his or her spouse;

the annual rate of that pension is:

(iii) if subparagraph (iv) does not apply—the rate worked out by using the formula:

$$\text{Basic rate of pension} \times \frac{\text{Number of days in relevant period}}{1095}$$

(iv) if there is one or more than one eligible child who did not become a child of the person because of that late short-term marital or couple relationship—such rate, being a rate higher than the rate worked out under subparagraph (iii) but less than the basic rate of pension, as CSC determines to be fair and equitable in all the circumstances of the case;

where:

basic rate of pension means the annual rate at which, apart from this paragraph, the deferred benefit would be payable in respect of the person under paragraph (j), (k) or (m) (whichever would be applicable).

relevant period means the period:

(a) beginning on the day on which the marital or couple relationship between the person and his or her spouse began; and

(b) ending on the day on which the person died.

(n) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 97, the annual rate of that pension is the applicable percentage of the annual rate of the pension that would be payable to the person in accordance with paragraph (2)(a) if he or she had not died but had, on the day immediately following his or her

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death, become entitled to the deferred benefit referred to in that paragraph;

(p) if a deferred benefit by way of a lump sum benefit is payable in respect of the person in accordance with section 97, the lump sum benefit is an amount equal to the sum of the person's accumulated contributions and the person's accumulated employer contributions (if any);

(q) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 98 or 100, the annual rate of that pension is:

(i) where a lump sum benefit of an amount equal to the person's accumulated contributions has been paid out of the Fund under subsection 111(1) or where, if the person had not died, he or she would have been entitled to invalidity benefit as provided by subsection 66(3) or (3A)—the applicable percentage of the annual rate of the pension that would be payable to the person in accordance with paragraph (2)(f) if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph; or

(ii) where subparagraph (i) does not apply—the applicable percentage of the annual rate of the pension that would be payable to the person in accordance with paragraph (2)(d) if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph;

(r) if a deferred benefit by way of lump sum benefit is payable in respect of the person in accordance with section 98 or 100, the lump sum benefit is:

(i) except where subparagraph (ii) applies—an amount equal to the sum of the person's accumulated employer contributions (if any) and the person's accumulated supplementary contributions; or

(ii) where, if the person had not died, he or she would have been entitled to invalidity benefit as provided by

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subsection 66(3) or (3A)—an amount equal to the sum of the person's accumulated contributions and the person's accumulated employer contributions (if any);

(ra) if:

(i) a deferred benefit by way of orphan pension is payable in respect of the person under section 98 or 100 but a deferred benefit by way of a lump sum benefit is not so payable; and

(ii) productivity benefit became payable in respect of the person when he or she ceased to be an eligible employee;

the deferred benefit is to include a lump sum benefit equal to the person's accumulated employer contributions;

(s) if a deferred benefit by way of lump sum benefit is payable in respect of the person in accordance with section 99 or 101, the lump sum benefit is an amount equal to the sum of:

(i) 3½ times the person's accumulated basic contributions; and

(ii) the person's accumulated employer contributions (if any); and

(iii) the person's accumulated supplementary contributions (if any);

(t) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 102, the annual rate of that pension is the applicable percentage of the annual rate of the pension that would be payable to the person in accordance with paragraph (2)(a) on the day on which deferred benefits by way of spouse's benefits ceased to be payable in respect of the person if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph;

(u) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 103 or 104, the annual rate of that pension is:

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(i) except where subparagraph (ii) applies—the applicable percentage of the annual rate of pension that would be payable to the person in accordance with paragraph (2)(d) if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph; or

(ii) where the spouse of a person had made an election under section 83 or 86 (whichever was applicable in relation to the spouse)—the applicable percentage of the annual rate of pension that would be payable to the person in accordance with paragraph (2)(f) if he or she had not died but had, on the day immediately following his or her death, become entitled to the deferred benefit referred to in that paragraph;

(w) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 105, the annual rate of that pension is the applicable percentage of the annual rate of the pension that was payable in accordance with paragraph (2)(a) to the person immediately before his or her death;

(y) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 106, the annual rate of that pension is the applicable percentage of the annual rate of a pension that was payable to the person in accordance with paragraph (2)(d) or (f) (whichever was applicable) immediately before his or her death;

(z) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 107, the annual rate of that pension is the applicable percentage of the annual rate of the pension that would be payable to the person in accordance with paragraph (2)(a) if he or she had not died but had continued to receive, and were receiving on the day on which his or her spouse died, the deferred benefit referred to in that paragraph;

(za) if a deferred benefit by way of orphan pension is payable in respect of the person in accordance with section 108, the

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annual rate of that pension is the applicable percentage of the annual rate of pension that would be payable to the person in accordance with paragraph (2)(d) or (f) (whichever is applicable) if he or she had not died but had continued to receive, and were receiving on the day on which his or her spouse died, the deferred benefit referred to in that paragraph;

(zb) if a deferred benefit by way of orphan's pension is payable in respect of the person in accordance with section 108A, the annual rate of that pension is:

(i) if subparagraph (ii) does not apply—the rate worked out by using the formula:

$$\text{Basic rate of pension} \times \frac{\text{Number of days in relevant period}}{1095}$$

(ii) if at any time there is one or more than one eligible child who is not a child referred to in subsection 108A(1) or (2)—such rate, being a rate higher than the rate worked out under subparagraph (i) but less than the basic rate of pension, as CSC determines to be fair and equitable in all the circumstances of the case;

where:

basic rate of pension means the annual rate at which the deferred benefit by way of orphan pension would be payable in respect of the person under paragraph (w), (y) or (za) (whichever would be applicable) if the deferred benefit was not payable in respect of the person in accordance with section 108A but was payable in respect of the person in accordance with section 105, 106, 107 or 108 (as the case may be).

relevant period has the same meaning as in section 108A.

(2BA) In spite of subsection (2B), on each of the 7 pension paydays immediately following the death of a person in respect of whom an amount of benefit is calculated in accordance with

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paragraph (2B)(j), (k) or (m), pension mentioned in that paragraph is payable at the rate at which pension would have been payable to that person on that day if the person had not died.

(2BB) Where pension is payable as mentioned in subsection (2BA), section 96A applies as if the pension were payable in accordance with subsection 94(3), 95(2) or 96(3).

(2C) Where:

(a) a deferred benefit by way of spouse's additional pension is payable in respect of a person other than a former eligible employee with benefits from previous employment in accordance with subsection 91(1); and

(b) the amount of that pension is an amount calculated in accordance with subparagraph (2B)(g)(i);

there is also payable in respect of the person a deferred benefit by way of a lump sum benefit equal to the person's accumulated employer contributions.

(2D) Where:

(a) at any time a deferred benefit by way of spouse's benefit is payable in respect of a person other than a former eligible employee with benefits from previous employment; and

(b) at that time there is one, or more than one, child of the person who is a partially dependent child;

the amount of any pension or lump sum benefit constituting that benefit is determined by CSC having regard to:

(c) the amount of pension or lump sum benefit that would be payable to the person under subsection (2B) if that subsection applied at that time to the person; and

(d) the amount of extra spouse's pension that would be payable to the spouse of the person under section 96B or 96BA if deferred benefits had not become applicable in respect of the person and the spouse were, at that time, entitled to extra spouse's pension under that section.

(2E) Where:

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(a) at any time a deferred benefit by way of orphan benefit is payable in respect of a person other than a former eligible employee with benefits from previous employment; and

(b) at that time, there is one, or more than one, child of the person who is a partially dependent child;

the amount of any pension or lump sum benefit constituting that benefit is such amount as is determined by CSC having regard to:

(c) if a deferred benefit by way of a lump sum benefit is payable in accordance with section 99 or 101—the amount of the lump sum benefit that would be payable in respect of the eligible child or eligible children of the person under that section if deferred benefits had not become applicable in respect of the person and the eligible child or eligible children were entitled to lump sum benefit under that section; or

(d) if a deferred benefit by way of orphan pension is payable in accordance with a provision of Division 4 of Part VI—the amount of orphan pension that would be payable in respect of the person under subsection (2B) if:

(i) at that time that subsection applied to the person; and

(ii) that subsection so applied subject to section 109A; and

(iii) in its application in relation to that deferred benefit for the purposes of subparagraph (ii), section 109A had effect as if any reference in that section to orphan pension were a reference to that deferred benefit.

(2F) Where a deferred benefit by way of spouse's benefit or orphan benefit is payable in respect of a former eligible employee with benefits from previous employment, the amount of any pension or lump sum benefit constituting that benefit is determined by CSC having regard to:

(a) the amount of any pension or lump sum benefit that would be payable to the person under this section if the person was not a former eligible employee with benefits from previous employment; and

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(b) the amount of any transfer value paid by, or in respect of, the person to the Superannuation Board or the Commissioner for Superannuation under the superseded Act; and

(c) the number of non-contributory units (if any) that were, under the superseded Act, applicable in relation to the person on 30 June 1976 or immediately before the person became entitled to invalidity pension (as the case may be) and the contributions that would have been paid by the person in respect of those units if they had been contributory units of pension in respect of which the person had contributed at rates based on a retiring age of 65; and

(d) the amount of any transfer value paid by, or in respect of, the person to CSC under this Act.

(2G) Where, at any time, a deferred benefit by way of spouse's pension or spouse's additional pension is payable in respect of a person, then, for the purposes of paragraph (2B)(a), (c), (f) or (m), as the case requires, the applicable percentage is:

(a) if paragraphs (b), (c) and (d) do not apply—67 per centum; or

(b) if at that time one child of the person is an eligible child—78 per centum; or

(c) if at that time 2 children of the person are eligible children—89 per centum; or

(d) if at that time more than 2 children of the person are eligible children—100 per centum.

(2GA) If, at any time, a deferred benefit by way of spouse's pension is payable in respect of a person in accordance with section 94, then, for the purposes of paragraph (2B)(j), the applicable percentage is the percentage worked out in accordance with the following table:

Applicable percentage

Item	Number of eligible children	If person did not make election under section 137A	If person made election under section 137A
1	If, at that time, there is no eligible child of the person who is an	67%	85%

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Applicable percentage			
Item	**Number of eligible children**	**If person did not make election under section 137A**	**If person made election under section 137A**
	eligible child		
2	If, at that time, one child of the person is an eligible child	78%	97%
3	If, at that time, 2 children of the person are eligible children	89%	108%
4	If, at that time, more than 2 children of the person are eligible children	100%	108%

(2H) Where, at any time, a deferred benefit by way of orphan's pension is payable in respect of a person, then, for the purposes of paragraph (2B)(n), (q), (t), (u), (y) or (za), as the case requires, the applicable percentage is:

(a) if at that time one child of the person is an eligible child—45 per centum; or

(b) if at that time 2 children of the person are eligible children—80 per centum; or

(c) if at that time 3 children of the person are eligible children—90 per centum; or

(d) if at that time more than 3 children of the person are eligible children—100 per centum.

(2HA) If, at any time, a deferred benefit by way of orphan pension is payable in respect of a person in accordance with section 105 or 107, then, for the purposes of paragraph (2B)(w) or (2B)(z) (as the case requires), the applicable percentage is the percentage worked out in accordance with the following table:

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Applicable percentage			
Item	**Number of eligible children**	**If person did not make election under section 137A**	**If person made election under section 137A**
1	If, at that time, one child of the person is an eligible child	45%	51%
2	If, at that time, 2 children of the person are eligible children	80%	92%
3	If, at that time, 3 children of the person are eligible children	90%	108%
4	If, at that time, more than 3 children of the person are eligible children	100%	108%

(3) Where a deferred benefit becomes applicable in accordance with this Division in respect of a person who has ceased to be an eligible employee and to whom section 54 applied, and:

(a) at the time when he or she ceased to be an eligible employee he or she had not ceased to be an eligible member of the Defence Force as defined by subsection 3(1) of the Defence Force Retirement and Death Benefits Act; or

(b) at the time when the deferred benefit became applicable, a deferred benefit or retirement pay also became applicable in respect of him or her under that Act;

then, any period during which his or her liability to make contributions under this Act was deferred under section 54 of this Act shall be disregarded in determining the amount of the first-mentioned deferred benefit and he or she is not required or permitted to pay the amount of those deferred contributions.

(3A) A person:

(a) who is entitled to a deferred benefit referred to in paragraph (2)(b); and

(b) whose surcharge debt account is in debit when the benefit becomes payable to him or her;

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may, not later than 3 months after, but not earlier than 3 months before, the benefit becomes payable, by notice in writing given to CSC, elect that the benefit be adjusted to take the person's surcharge deduction amount into account.

(3B) A person:

(a) who, by virtue of an election (***first election***) under this Act, is entitled to a deferred benefit referred to in paragraph (2)(c) or (g); and

(b) whose surcharge debt account is in debit when the benefit becomes payable to him or her;

may, within the period during which the first election may be made, elect in writing that the surcharge deduction amount in relation to him or her not be deducted from any deferred benefit payable by way of pension to the person.

(4) Where:

(a) a person ceases to be an eligible employee and, upon his or her so ceasing, deferred benefits become applicable in relation to him or her under this Division;

(b) those deferred benefits cease to be applicable in relation to the person upon a deferred benefit by way of invalidity benefit becoming payable to him or her in accordance with section 67, 68, 70 or 71; and

(c) his or her entitlement to the deferred benefit is cancelled under subsection 143(2) and deferred benefits again become applicable in relation to him or her;

this subsection applies to the person.

(5) The regulations may make provision for modifying this Act, or a provision of this Act specified in the regulations, in the application of this Act or that provision to and in relation to a person to whom subsection (4) applies, or to and in relation to a prescribed class of persons to whom that subsection applies.

(6) The modifications that may be made by regulations in pursuance of subsection (5) include, but are not limited to, modifications

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providing for the payment of benefits in substitution for benefits provided for by this Act.

137 Election that Division apply

(1) A person who:

(a) ceases to be an eligible employee in circumstances to which paragraph (b) does not apply and, upon so ceasing, is not entitled to pension under this Act or invalidity benefit in accordance with section 69, 72 or 73; or

(b) ceases to be an eligible employee in circumstances by virtue of which the person is to be deemed, under subsection 58(3), or under section 58A or 58B, to have retired involuntarily;

may, not later than 21 days after the person so ceases to be an eligible employee, elect, by notice in writing to CSC, that this Division apply in relation to the person.

(2) If a person makes an election for the purposes of this section within 1 month before he or she ceases to be an eligible employee, the election has effect as if it had been made on the day after he or she ceased to be an eligible employee.

137A Election to receive deferred benefits at reduced rate

A person who has made an election under section 137 may, within 3 months after deferred benefits become payable to him or her under section 138, elect that those deferred benefits are to be paid to him or her at a reduced rate.

138 Circumstances in which person entitled to deferred benefits

(1) Subject to this Division, if a person makes an election under section 137, deferred benefits are applicable in respect of the person.

(2) Deferred benefits that are applicable in respect of a person become payable on the day immediately after the earliest of the following dates:

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(a) if CSC is satisfied that the person has, because of invalidity or physical or mental incapacity, become totally and permanently incapacitated within the meaning of Part IVA—the date that CSC considers to have been the date on which the person became so incapacitated;
(b) the date of the person's death;
(c) subject to subsection (3), if the person, by written notice given to CSC, selects a date (not earlier than the date on which the notice is given) for the start of the payment of the deferred benefits—the date so selected;
(d) the 65th anniversary of the person's birth.

(3) Paragraph (2)(c) does not apply unless the person will have, by the date selected, reached the age that would have been his or her minimum retiring age for the purposes of this Act if he or she had not ceased to be an eligible employee and had continued to occupy the position held by him or her immediately before so ceasing.

(4) Deferred benefits are not payable unless:
(a) a written application has been made to CSC requesting payment of the benefits; and
(b) the applicant has given CSC any information that is necessary to enable CSC to determine whether the benefits are payable.

139 Circumstances in which person entitled to transfer value

(1) Subject to this Division, if:
(a) a person makes an election under section 137; and
(b) the person becomes employed in public employment; and
(c) the person becomes a member of an eligible superannuation scheme that is applicable in relation to people employed in that employment;

the person may, by written notice given to CSC, within 3 months after the person became a member of that scheme, elect that, in lieu of deferred benefits, a transfer value in respect of the person be paid to the person administering the scheme.

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(2) An election under subsection (1) does not have any effect unless:
  (a) the person administering the eligible superannuation scheme agrees to accept the transfer value; and
  (b) under the rules of the scheme, the first-mentioned person will become entitled to retirement benefits under the scheme based upon the transfer value.

(3) If an election is duly made under subsection (1):
  (a) a transfer value in respect of the person is payable to the person administering the eligible superannuation scheme; and
  (b) deferred benefits cease to be applicable in respect of the person on the day on which the person administering the scheme accepts payment of the transfer value.

139A Election for transfer value by people in relation to whom deferred benefits apply

(1) Subject to subsection (1A), where a person in relation to whom deferred benefits are applicable under subsection 138(1):
  (a) is employed in public employment; and
  (b) becomes a member of an eligible superannuation scheme that is applicable to people employed in that employment;

the person may elect, by notice in writing given to CSC, that, in lieu of those deferred benefits, a transfer value in respect of the person be paid to the person administering that scheme.

(1A) Unless the Minister and CSC otherwise agree, a person:
  (a) to whom deferred benefits are applicable under subsection 138(1); and
  (b) who is a member of an eligible superannuation scheme that is applicable to persons employed in the public employment in which he or she is employed;

may not make an election under subsection (1) if the person ceased to be an eligible employee on his or her becoming a member of that superannuation scheme.

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(1B) The Minister and CSC may terminate an agreement made under subsection (1A).

(1C) An agreement may not be made under subsection (1A) in relation to a person in respect of whom Part XIIIA applies.

(2) Where a person to whom deferred benefits are applicable and who is or becomes a member of an eligible superannuation scheme makes an election under subsection (1) for the payment of a transfer value in respect of the person in lieu of those deferred benefits, a transfer value in respect of the person is payable to the person administering that scheme.

(3) Where a transfer value in respect of a person in lieu of deferred benefits applicable in relation to that person is paid under subsection (2), those deferred benefits cease to be applicable in relation to that person.

(4) Notwithstanding subsection (2), a transfer value is not payable under that subsection in respect of a person in lieu of deferred benefits that are applicable in relation to that person if at any time after those deferred benefits first became so applicable they have been payable to the person.

(5) Notwithstanding subsection (2), a transfer value in respect of a person is not payable under that subsection to the person administering an eligible superannuation scheme unless the person administering the superannuation scheme agrees to accept the transfer value and, under the rules of the scheme, the first-mentioned person will become entitled to retirement benefits under the scheme based upon the transfer value.

139AA Deferral of benefit

If, under subsection 138(2), deferred benefits applicable in respect of a person become payable on the day immediately following a date selected under paragraph (c) of that subsection, that part of the deferred benefits that consists of an amount equal to the person's accumulated employer contributions is to be treated as a preserved benefit under the SIS Act and dealt with accordingly.

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140 Person who is entitled to rights under Division not entitled to rights under other provisions of Act

(1) If section 138 or 139 applies in relation to a person, any benefit that, but for this Division, would be payable to or in respect of the person under this Act upon his or her ceasing to be an eligible employee is not payable except where that benefit is payable by virtue of the operation of this Division.

(2) If:

(a) a person referred to in subsection 137(1) is:

(i) if paragraph 137(1)(a) applies—a person who has been paid an amount by way of lump sum benefit to which the person became entitled under section 80, Part VIA, VIAA, VIAB or VID or Subdivision B of Division 2 of Part IX; or

(ii) if paragraph 137(1)(b) applies—a person who has been paid:

(A) an amount or amounts by way of pension or by way of pension and lump sum benefit to which the person became entitled under section 55 or 59, Part VIA or VIAB or Subdivision B of Division 2 of Part IX; or

(B) an amount by way of lump sum benefit to which the person became entitled under section 62, Part VIA, VIAB or VID or Subdivision B of Division 2 of Part IX; and

(b) after the payment, preservation or application, as the case may be, of the amount, or those amounts, the person makes an election under section 137;

the election does not have effect unless an amount equal to that amount or the aggregate of those amounts, as the case requires, is paid to CSC within 7 days after the date of the election or within such further period as CSC, in special circumstances, allows.

(3) Where an amount is paid to CSC by a person under subsection (2), CSC shall pay that amount to the Commonwealth and there shall

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thereupon be paid out of the Consolidated Revenue Fund (which is appropriated accordingly) into the Superannuation Fund:

(a) if the person is a person to whom paragraph 137(1)(a) applies—an amount equal to the amount paid to CSC less any part of that amount that is:

(i) an amount of a kind referred to in paragraph 110Q(1)(c) or (d); or

(ii) an amount of superannuation guarantee top-up benefit; or

(b) if the person is a person to whom paragraph 137(1)(b) applies—the portion of the amount paid to CSC that was paid to the Commonwealth under section 112 at the time that the person last ceased to be an eligible employee.

141 Certain former eligible employees not entitled to benefits under Division

(2) Where:

(a) a person who ceases to be an eligible employee is, at the end of 3 months after so ceasing, employed in public employment in respect of which a superannuation scheme (other than an eligible superannuation scheme) is applicable and is, at the expiration of that period, a member of that scheme;

(b) the person has made an election under section 137; and

(c) if lump sum benefit was paid to him or her under section 80, he or she would, under the rules of the superannuation scheme applicable in respect of that employment, be entitled to pay an amount equal to the lump sum benefit or, in a case approved by CSC, a lesser amount to the person administering that scheme in exchange for benefits under that scheme;

this Act has effect as if the election had not been made.

142 Eligible employee who resigned to contest an election

Where a person who has made an election under section 137 is, by virtue of section 121, 122 or 123, to be deemed not to have ceased

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to be an eligible employee this Act has effect as if the election had not been made.

143 Invalidity pensioner restored to health

(1) Where a deferred benefit by way of a pension is payable to a person by reason of CSC being satisfied as to the matters referred to in paragraph 138(2)(a):

(a) if the pension is suspended under subsection 74(3)—deferred benefits do not again become applicable in relation to the person because only of the suspension of the pension;

(aa) if the person's entitlement to the pension is cancelled under section 74A—deferred benefits again become applicable in relation to the person; and

(b) section 75 does not apply in relation to the person but subsection (2) of this section has effect in relation to him or her.

(2) Subject to subsection (3), if CSC is satisfied that the health of the person has become so restored as to enable him or her to perform duties of a kind that are, in the opinion of CSC, suitable to be performed by him or her (having regard to the duties performed by him or her immediately before he or she ceased to be an eligible employee, the duties performed by him or her in employment (if any) in which he or she was employed after he or she ceased to be such an employee and such other matters (if any) as CSC considers relevant), CSC may cancel the person's entitlement to pension but, upon the cancellation, the deferred benefits again become applicable in respect of the person.

(3) CSC shall not, under subsection (2) of this section, cancel a person's entitlement to pension at a time when pension would have become payable, apart from the operation of paragraph 138(2)(a).

144 Person entitled to deferred benefits again becoming an eligible employee etc.

(1) Deferred benefits cease to be applicable in respect of a person:

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(a) subject to subsection 143(2), upon the deferred benefits becoming payable; or

(b) upon the person again becoming an eligible employee before attaining the age of 65 years.

(2) Where:

(a) a deferred benefit by way of invalidity pension becomes payable to a person;

(b) his or her entitlement to the deferred benefit is cancelled under subsection 76(1) upon his or her again becoming an eligible employee or is cancelled under subsection 143(2) and he or she again becomes an eligible employee; and

(c) he or she again ceases to be an eligible employee before attaining his or her maximum retiring age by reason of death or retirement on the ground of invalidity;

the annual rate of any pension that becomes payable under this Act to or in respect of him or her upon or after his or her again ceasing to be an eligible employee as referred to in paragraph (c) shall not be less than:

(d) in the case of pension payable to the person:

(i) the rate at which the deferred benefit referred to in paragraph (a) would have been payable to him or her if it had not been cancelled; or

(ii) if a lesser rate is applicable in relation to him or her under the regulations—that lesser rate; and

(e) in the case of pension payable in respect of the person:

(i) the rate at which that pension would have been payable in respect of him or her if the deferred benefit referred to in paragraph (a) had not been cancelled; or

(ii) if a lesser rate is applicable in relation to him or her under the regulations—that lesser rate.

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Division 4—Miscellaneous

145 Special provisions affecting certain former contributors under certain superannuation schemes

(1) Where:

(a) a person who becomes an eligible employee was, at any time before becoming an eligible employee, a member of:

(i) a superannuation scheme conducted in accordance with the system established in the United Kingdom of Great Britain and Northern Ireland and known as the Federated Superannuation System for Universities; or

(ii) a superannuation scheme that was an approved superannuation scheme for the purposes of this section at the time when the person became an eligible employee;

(b) by virtue of subsection 127(3) a transfer value is to be deemed for the purposes of Division 2 to have become payable in respect of the person after 25 May 1971 under that superannuation scheme because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her; and

(c) the person has elected in accordance with paragraph 128(1)(a) to pay to CSC an amount equal to the amount of that transfer value;

the succeeding provisions of this section have effect.

(2) The person may, within the period within which he or she was entitled to make an election under paragraph 128(1)(a), elect that this section shall have effect in relation to him or her and, where an election is so made, section 128 has effect as if the amount referred to in paragraph 128(1)(b), or, if part only of that amount relates to the transfer value referred to in subsection (1) of this section that part of that amount, had been paid to CSC in accordance with that

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paragraph and CSC had made the payments referred to in paragraphs 128(2)(a) and 128(2)(b) in relation to that amount or that part of that amount, as the case may be.

(3) An election under subsection (2) does not have effect unless the person who made the election, within the period referred to in that subsection, causes the life policy or life policies referred to in paragraph (1)(b) to be assigned to CSC, free from any mortgages, charges or other encumbrances.

(4) If:

(a) the annual rate of salary of the person upon his or her becoming an eligible employee was greater than the annual remuneration that was payable to him or her in respect of the last employment in which he or she was employed and to which a superannuation scheme referred to in subsection (1) related; or

(b) after the person became an eligible employee his or her salary is increased;

CSC shall so far as is practicable arrange for the amount or amounts of any life policy or life policies assigned to CSC by the person to be increased by the amount or amounts by which the life policy or life policies would have been increased under that scheme, or for the issue of such additional life policy or life policies in relation to the person as would have been issued under that scheme, if he or she had remained a member of the scheme and had been in receipt of an annual remuneration equal to that salary or that increased salary, as the case may be.

(5) So much of any premium payable in respect of any life policy assigned to CSC in accordance with subsection (3) or issued in accordance with subsection (4) as relates to a period during which the person is an eligible employee shall be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

(6) Where the person is an eligible employee and the amount of the basic contributions payable by him or her at any time is less than the amount that is the prescribed amount in relation to him or her at that time, he or she is liable to pay to CSC an amount equal to the

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difference and any amount so paid to CSC shall be paid by CSC to the Commonwealth.

(7) Where a person (in this subsection referred to as ***the former contributor***) makes an election under subsection 137(1) and, within 3 months, he or she becomes employed in employment in respect of which a superannuation scheme referred to in paragraph (1)(a) of this section is applicable and becomes a member of that scheme, then:

(a) subject to paragraph (c) of this subsection, Division 3 has effect in relation to him or her as if that employment were public employment and that superannuation scheme were an eligible superannuation scheme;

(b) CSC shall assign to the person administering that superannuation scheme the life policies assigned by the former contributor to CSC in accordance with subsection (3) of this section or issued in relation to the former contributor in accordance with subsection (4) of this section;

(c) the assignment of those life policies in accordance with paragraph (b) of this subsection shall be deemed to constitute the payment of a transfer value in respect of the former contributor in accordance with section 139 to the person administering that scheme;

(d) CSC shall:

(i) if the amount of any basic contribution paid by the former contributor to CSC exceeded the amount that was the prescribed amount in relation to him or her at the time of the payment—pay to him or her out of the Superannuation Fund an amount equal to the amount of the excess and the amount of any interest on that excess;

(ii) pay to him or her out of the Superannuation Fund an amount equal to his or her accumulated supplementary contributions; and

(iii) pay out of the Superannuation Fund and to the Commonwealth an amount equal to the amount that, but for this Part, would have been payable to the former contributor under section 80 less any amounts paid to

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him or her under subparagraphs (i) and (ii) of this paragraph; and

(e) section 112 does not apply in relation to the former contributor.

(7A) An amount paid under subparagraph (7)(d)(i) in respect of a particular excess must not be less than the amount of the excess.

(8) If the life policy or life policies assigned by the person to CSC in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4) becomes or become payable at or before the time when he or she ceases to be an eligible employee:

(a) CSC shall, out of the amount paid to him or her under the policy or policies:

(i) pay into the Superannuation Fund an amount equal to the amount (the ***principal amount***) that, but for subsection (2), would have been paid by CSC into the Superannuation Fund and the amount of any interest on the principal amount;

(ii) in the case of a policy or policies assigned by the person to CSC in accordance with subsection (3) of this section—pay to the person, or, if he or she is dead, to his or her legal personal representative or, if no legal personal representative can be found, to any individual or individuals that CSC determines, an amount equal to so much of any premiums paid by the person in respect of the policy or policies as related to, or to any part of, the period that commenced on the date on which the transfer value referred to in paragraph (1)(b) of this section is to be deemed for the purposes of Division 2 to have become payable in respect of him or her and ended on the date on which he or she became an eligible employee; and

(iii) pay the balance to the Commonwealth; and

(b) a lump sum benefit of an amount equal to the sum of any amounts paid by the person to CSC under subsection (6) is payable to the person, or, if he or she is dead, to his or her legal personal representative or, if no legal personal

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representative can be found, to any individual or individuals that CSC determines.

(8A) An amount paid into the Superannuation Fund under subparagraph (8)(a)(i) in respect of a particular principal amount must not be less than the principal amount.

(9) Where the person attains his or her minimum retiring age while he or she is an eligible employee or ceases to be such an eligible employee before he or she attains that age, and neither subsection (7) nor subsection (8) applies in relation to him or her, then, if the election made by the person under subsection (2) has not been revoked in accordance with subsection (10):

(a) CSC shall surrender the life policy or life policies assigned by him or her to CSC in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4) and, out of the proceeds of the surrender, shall:

(i) pay into the Superannuation Fund an amount equal to the amount (the ***principal amount***) that, but for subsection (2), would have been paid by CSC into the Superannuation Fund and the amount of any interest on the principal amount;

(ii) in the case of a policy or policies assigned by the person to CSC in accordance with subsection (3) of this section pay to the person an amount equal to so much of any premiums paid by the person in respect of the policy or policies as related to, or to any part of, the period that commenced on the date on which the transfer value referred to in paragraph (1)(b) of this section is to be deemed for the purposes of Division 2 to have become payable in respect of him or her and ended on the date on which he or she became an eligible employee; and

(iii) pay the balance to the Commonwealth; and

(b) a lump sum benefit of an amount equal to the sum of any amounts paid to CSC under subsection (6) shall be paid to the person out of the Consolidated Revenue Fund, which is appropriated accordingly.

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(9A) An amount paid into the Superannuation Fund under subparagraph (9)(a)(i) in respect of a particular principal amount must not be less than the principal amount.

(10) A person who has made an election under subsection (2) may, if:

(a) he or she has not attained his or her minimum retiring age;

(b) he or she has not ceased to be an eligible employee; and

(c) the life policy or life policies assigned by him or her to CSC in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4) has not or have not become payable;

by notice in writing to CSC revoke the election and, in that case, paragraphs (9)(a) and (b) have effect in relation to him or her.

(11) The Minister and CSC may agree that a particular superannuation scheme that:

(a) provides for benefits by means of life policies; and

(b) is an eligible superannuation scheme for the purposes of Division 3;

is an approved superannuation scheme for the purposes of this section.

(11A) The Minister and CSC may at any time terminate an agreement made under subsection (11).

(11B) An agreement made under subsection (11) may be expressed to have taken effect on a day earlier than the day on which the agreement is made but not earlier than 1 July 1976.

(12) CSC must cause notice of the making of an agreement under subsection (11), or of the termination of such an agreement, to be published in the *Gazette*.

(13) A superannuation scheme is taken, for the purposes of this section, to have been an approved superannuation scheme at a particular time if:

(a) in respect of a time before 1 July 1994—a declaration in respect of the scheme made by CSC under

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subsection 145(11) of the *Superannuation Act 1976* was, or is taken to have been, in force at that time; or

(b) in respect of a time on or after that date—an agreement under subsection (11) in respect of the scheme was in force at that time.

(15) In this section, ***the prescribed amount***, in relation to a person at any time, is an amount ascertained in accordance with the formula:

$$\frac{AB}{26C}$$

where:

A is the amount of the annual premium, or the sum of the amounts of the annual premiums, applicable at that time under the life policy or life policies assigned by him or her to CSC in accordance with subsection (3) or issued in relation to him or her in accordance with subsection (4).

B is the amount, or the sum of the amounts, payable by him or her under the superannuation scheme referred to in subsection (4) immediately before he or she ceased to be a member of that scheme in respect of the annual premium or the annual premiums under the life policy or life policies assigned by him or her to CSC in accordance with subsection (3); and

C is the amount of the annual premium, or the sum of the amounts of the annual premiums, applicable under the life policy or life policies assigned by him or her to CSC in accordance with subsection (3) immediately before he or she ceased to be a member of the superannuation scheme referred to in subsection (4).

146 Application of section 112 to payment of transfer value

Section 112 applies in relation to a payment of a transfer value under section 139 as if that payment were a payment of benefit under this Act.

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Part IXA—Commutation of pension: payment of surcharge liability

Division 1—Introduction

146A Simplified outline

The following is a simplified outline of this Part:

- If a person is receiving a pension and becomes liable to pay surcharge under an assessment, the person may elect to commute the whole or a part of the pension.
- If an election is made, the person will be entitled to a lump sum benefit.
- The lump sum benefit must be used to pay the surcharge.
- If an election is made, the pension will be reduced.

146B Definitions

In this Part:

assessment has the same meaning as in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

surcharge has the same meaning as in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

surchargeable contributions means surchargeable contributions (within the meaning of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*) that are attributable to the operation of this Act.

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Division 2—Commutation of former eligible employee's pension

146C Commutation of former eligible employee's pension—payment of surcharge liability

Election

(1) If:

(a) a person is receiving (whether or not by virtue of section 136):

(i) a standard age retirement pension; or

(ii) a standard early retirement pension; or

(iii) an invalidity pension; or

(iv) an additional age retirement pension; or

(v) an additional early retirement pension; and

(b) an assessment is made of the surcharge on the person's surchargeable contributions for a financial year; and

(c) the person becomes liable to pay the surcharge under the assessment in accordance with paragraph 10(4)(c) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;

the person may, within 3 months after the assessment was made, give CSC:

(d) if the person is receiving only one such pension—a written notice electing to commute the whole or a part of that pension to a lump sum benefit equal to the amount specified in the election in relation to the pension; or

(e) if the person is receiving 2 such pensions and wishes to make an election under this subsection in relation to only one of those pensions—a written notice:

(i) identifying that pension; and

(ii) electing to commute the whole or a part of that pension to a lump sum benefit equal to the amount specified in the election in relation to the pension; or

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(f) if the person is receiving 2 such pensions and wishes to make an election under this subsection in relation to both of those pensions—a written notice:

(i) identifying one of these pensions as the first pension to be commuted; and

(ii) electing to commute all of the first pension to a lump sum benefit equal to the amount specified in the election in relation to the first pension; and

(iii) electing to commute the whole or a part of the other pension to a lump sum benefit equal to the amount specified in the election in relation to the other pension.

(2) An election must be accompanied by:

(a) a written notice requesting that the amount of the lump sum benefit be:

(i) paid to the Commissioner of Taxation; and

(ii) wholly applied in payment of surcharge under the assessment; and

(b) a copy of the notice of assessment.

Surcharge commutation amount

(3) The amount specified in an election in relation to a particular pension:

(a) must be equal to or less than the amount of the surcharge under the assessment; and

(b) must not have the effect of reducing the pension below zero; and

(c) is to be known as the ***surcharge commutation amount*** in relation to the pension for the purposes of this section.

(4) The sum of the amounts specified in the elections set out in a notice under paragraph (1)(f) must be equal to or less than the amount of the surcharge under the assessment.

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Entitlement to lump sum benefit

(5) If a person makes an election under subsection (1) in relation to a pension, the person is entitled to a lump sum benefit equal to the surcharge commutation amount.

(6) If a person is entitled to a lump sum benefit under subsection (5), the liability to pay that benefit must be discharged by:

(a) paying the amount of that benefit to the Commissioner of Taxation in accordance with the person's request; and

(b) informing the Commissioner of Taxation of the person's request that the amount be wholly applied in payment of surcharge under the assessment concerned.

Reduction of pension

(7) If a person makes an election under subsection (1) in relation to a pension, the annual rate of the pension is to be reduced, with effect from the beginning of the day of the election, so that it equals the amount worked out using the following formula:

$$\text{Pre-commutation election pension rate} - \frac{\text{Surcharge commutation amount}}{\text{Conversion factor}}$$

where:

conversion factor means the factor that is applicable to the person under the determination made by CSC under section 146D.

pre-commutation election pension rate means the annual rate at which the pension was payable to the person immediately before the election was made.

One election per assessment

(8) A person is not entitled to make more than one election under subsection (1) in relation to a particular assessment unless the elections:

(a) relate to different pensions; and

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(b) are made on a single occasion; and
(c) are set out in the same notice under paragraph (1)(f).

Elections made before the first pension pay day

(9) If an election under subsection (1) is made during the period:
(a) beginning on 1 January or 1 July in a year; and
(b) ending at the end of the first pension pay day after that 1 January or 1 July;
this section has effect as if the election had been made on the first day after that pension pay day.

146D Conversion factor in relation to surcharge commutation amount

Standard age retirement pension, standard early retirement pension or invalidity pension

(1) CSC must, in accordance with advice received from an actuary, determine in writing, in relation to persons to whom standard age retirement pension, standard early retirement pension, invalidity pension or a deferred benefit by way of any such pension has become payable, the conversion factor that, having regard to:
(a) a person's age when he or she makes an election under section 146C; and
(b) other relevant factors (if any);
is applicable for the purpose of working out, in relation to the person, the yearly amount that would have to be paid to discharge a liability equal to the person's surcharge commutation amount (within the meaning of section 146C).

Additional age retirement pension or additional early retirement pension

(2) CSC must, in accordance with advice received from an actuary, determine in writing, in relation to persons to whom an additional age retirement pension, an additional early retirement pension or a

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deferred benefit by way of any such pension has become payable, the conversion factor that, having regard to:

(a) a person's age when he or she makes an election under section 146C; and

(b) other relevant factors (if any);

is applicable for the purpose of working out, in relation to the person, the yearly amount that would have to be paid to discharge a liability equal to the person's surcharge commutation amount (within the meaning of section 146C).

Gazette notice

(3) A determination under this section must be published in the *Gazette*.

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Division 3—Commutation of spouse's pension

146E Commutation of spouse's pension—payment of surcharge liability

Election

(1) If:

(a) a person (the ***deceased person***) dies and:

(i) the deceased person was an eligible employee; or

(ii) the deceased person was a pensioner to whom age retirement pension, early retirement pension or invalidity pension was payable; and

(b) the deceased person is survived by a spouse; and

(c) the spouse is receiving one or more spouse's pensions (whether or not by virtue of section 136); and

(d) an assessment is made of the surcharge on the deceased person's surchargeable contributions for a financial year; and

(e) the spouse becomes liable to pay the surcharge under the assessment in accordance with paragraph 10(4)(ca) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;

the spouse may, within 3 months after the assessment was made, give CSC:

(f) if the spouse is receiving only one spouse's pension—a written notice electing to commute the whole or a part of that pension to a lump sum benefit equal to the amount specified in the election in relation to the pension; or

(g) if the spouse is receiving 2 spouse's pensions and wishes to make an election under this subsection in relation to only one of these pensions—a written notice:

(i) identifying that pension; and

(ii) electing to commute the whole or a part of that pension to a lump sum benefit equal to the amount specified in the election in relation to the pension; or

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(h) if the spouse is receiving 2 spouse's pensions and wishes to make an election under this subsection in relation to both of those pensions—a written notice:

(i) identifying one of those pensions as the first pension to be commuted; and

(ii) electing to commute all of the first pension to a lump sum benefit equal to the amount specified in the election in relation to the first pension; and

(iii) electing to commute the whole or a part of the other pension to a lump sum benefit equal to the amount specified in the election in relation to the other pension.

(2) An election must be accompanied by:

(a) a written notice requesting that the amount of the lump sum benefit be:

(i) paid to the Commissioner of Taxation; and

(ii) wholly applied in payment of surcharge under the assessment; and

(b) a copy of the notice of assessment.

Surcharge commutation amount

(3) The amount specified in an election in relation to a particular pension:

(a) must be equal to or less than the amount of the surcharge under the assessment; and

(b) must not have the effect of reducing the pension below zero; and

(c) is to be known as the ***surcharge commutation amount*** in relation to the pension for the purposes of this section.

(4) The sum of the amounts specified in the elections set out in a notice under paragraph (1)(h) must be equal to or less than the amount of the surcharge under the assessment.

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Entitlement to lump sum benefit

(5) If a spouse makes an election under subsection (1) in relation to a pension, the spouse is entitled to a lump sum benefit equal to the surcharge commutation amount.

(6) If a spouse is entitled to a lump sum benefit under subsection (5), the liability to pay that benefit must be discharged by:
  (a) paying the amount of that benefit to the Commissioner of Taxation in accordance with the spouse's request; and
  (b) informing the Commissioner of Taxation of the spouse's request that the amount be wholly applied in payment of surcharge under the assessment concerned.

Reduction of pension

(7) If a spouse makes an election under subsection (1) in relation to a pension, the annual rate of the pension is to be reduced in accordance with the method determined by CSC under section 146F. The reduction takes effect from the beginning of the day of the election.

One election per assessment

(8) A spouse is not entitled to make more than one election under subsection (1) in relation to a particular assessment unless the elections:
  (a) relate to different pensions; and
  (b) are made on a single occasion; and
  (c) are set out in the same notice under paragraph (1)(h).

Elections made before the first pension pay day

(9) If an election under subsection (1) is made during the period:
  (a) beginning on 1 January or 1 July in a year; and
  (b) ending at the end of the first pension pay day after that 1 January or 1 July;

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this section has effect as if the election had been made on the first day after that pension pay day.

Part of spouse's pension

(10) To avoid doubt, if subsection 109AB(9) or 110(12) applies to an election under subsection (1) of this section, this section has effect, in relation to the election, as if a reference to the spouse's pension were a reference to the part of the spouse's pension concerned.

146F Method for reduction of spouse's pension in relation to surcharge commutation amount

(1) CSC must, following consultation with an actuary, determine in writing, in relation to persons who are receiving a spouse's pension, the method that, having regard to:

(a) a person's age when he or she makes an election under section 146E; and

(b) other relevant factors (if any);

is applicable for the purpose of working out, in relation to the person, the yearly amount that would have to be paid to discharge a liability equal to the person's surcharge commutation amount (within the meaning of section 146E).

(2) A determination under this section is to be published in the *Gazette*.

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Division 4—Commutation of orphan pension

146G Commutation of orphan pension—payment of surcharge liability

Election

(1) If:

(a) a person (the ***deceased person***) dies; and

(b) either:

(i) the deceased person is not survived by a spouse but is survived by a child or children of the deceased person; or

(ii) the deceased person is survived by a spouse, the spouse dies, and the spouse is survived by a child or children of the deceased person; and

(c) an orphan pension is payable in respect of the child or children (whether or not by virtue of section 136); and

(d) an assessment is made of the surcharge on the deceased person's surchargeable contributions for a financial year; and

(e) the person to whom the pension is payable (the ***eligible person***) (who may be the child or one of the children) becomes liable to pay the surcharge under the assessment in accordance with paragraph 10(4)(ca) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*;

the eligible person may, within 3 months after the assessment was made, give CSC a written notice electing to commute the whole or a part of the orphan pension to a lump sum benefit equal to the amount specified in the election.

(2) The election must be accompanied by:

(a) a written notice requesting that the amount of the lump sum benefit be:

(i) paid to the Commissioner of Taxation; and

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(ii) wholly applied in payment of surcharge under the assessment; and

(b) a copy of the notice of assessment.

Surcharge commutation amount

(3) The amount specified in the election:

(a) must be equal to or less than the amount of the surcharge under the assessment; and

(b) must not have the effect of reducing the pension below zero; and

(c) is to be known as the ***surcharge commutation amount*** for the purposes of this section.

Entitlement to lump sum benefit

(4) If an eligible person makes an election under subsection (1) in relation to a pension, the eligible person is entitled to a lump sum benefit equal to the surcharge commutation amount.

(5) If an eligible person is entitled to a lump sum benefit under subsection (4), the liability to pay that benefit must be discharged by:

(a) paying the amount of that benefit to the Commissioner of Taxation in accordance with the eligible person's request; and

(b) informing the Commissioner of Taxation of the eligible person's request that the amount be wholly applied in payment of surcharge under the assessment concerned.

Reduction of pension

(6) If an eligible person makes an election under subsection (1) in relation to a pension, the annual rate of the pension is to be reduced in accordance with the method determined by CSC under section 146H. The reduction takes effect from the beginning of the day of the election.

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One election per assessment

(7) An eligible person is not entitled to make more than one election under subsection (1) in relation to a particular assessment.

Elections made before the first pension pay day

(8) If an election under subsection (1) is made during the period:
  (a) beginning on 1 January or 1 July in a year; and
  (b) ending at the end of the first pension pay day after that 1 January or 1 July;

this section has effect as if the election had been made on the first day after that pension pay day.

Part of orphan pension

(9) To avoid doubt, if an orphan pension is apportioned under subsection 115(2), this section has effect, in relation to the portion applicable to a particular child or to particular children, as if a reference to the orphan pension were a reference to that portion.

146H Method for reducing orphan pension in relation to surcharge commutation amount

(1) CSC must, following consultation with an actuary, determine in writing, in relation to persons to whom orphan pension is payable in respect of a child or children, the method that, having regard to:
  (a) the age of the child, or the ages of the children, when the person makes an election under section 146G; and
  (b) other relevant factors (if any);

is applicable for the purpose of working out, in relation to the person, the yearly amount that would have to be paid to discharge a liability equal to the person's surcharge commutation amount (within the meaning of section 146G).

(2) A determination under this section is to be published in the *Gazette*.

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Part IXB—Family law superannuation splitting

Division 1—Preliminary

146MA Definitions

In this Part, unless the contrary intention appears:

additional pension means any of the following:

(a) additional age retirement pension referred to in section 55 or 136;

(b) additional early retirement pension referred to in section 59 or 136;

(c) spouse's additional pension referred to in section 89, 93 or 136;

(d) associate additional pension.

associate additional pension means associate additional pension under section 146MB.

associate deferred benefits means associate deferred benefits under section 146MC.

associate deferred pension means associate deferred pension under section 146MC.

associate standard pension means associate standard pension under section 146MB.

base amount means:

(a) for a splitting agreement—the base amount specified in, or calculated under, the agreement; or

(b) for a splitting order—the amount allocated under subsection 90MT(4) of the *Family Law Act 1975*.

basic contributions amount means the amount determined under the Orders.

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basic contributions component means the amount calculated by multiplying the basic contributions amount by the transfer factor.

employer contributions amount means the amount determined under the Orders.

employer contributions component means the amount calculated by multiplying the employer contributions amount by the transfer factor.

family law value means the amount determined in accordance with regulations under the *Family Law Act 1975* that apply for the purposes of paragraph 90MT(2)(a) of the *Family Law Act 1975*. In applying those regulations, the relevant date is taken to be the date on which the operative time occurs.

Note: This amount is determined by applying those regulations, whether or not an order has been made under subsection 90MT(1) of the *Family Law Act 1975*.

funded component means the sum of the following amounts:

(a) the basic contributions component;
(b) the supplementary contributions component;
(c) the employer contributions component;
(d) the section 110SL component;
(e) the section 130B component.

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

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

non-standard pension means pension under this Act other than:

(a) standard pension; or
(b) additional pension.

operative time, in relation to a splitting agreement or splitting order, means the time that is the operative time for the purposes of

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Part VIIIB of the *Family Law Act 1975* in relation to a payment split under the agreement or order.

Orders means Orders under section 146MH.

original interest means a superannuation interest to which section 146MB applies.

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

scheme value means the amount determined under the Orders.

section 110SL amount means the amount determined under the Orders.

section 110SL component means the amount calculated by multiplying the section 110SL amount by the transfer factor.

section 130B amount means the amount determined under the Orders.

section 130B component means the amount calculated by multiplying the section 130B amount by the transfer factor.

splitting agreement means:

(a) a superannuation agreement (within the meaning of Part VIIIB of the *Family Law Act 1975*); or

(b) a flag lifting agreement (within the meaning of Part VIIIB of the *Family Law Act 1975*) that provides for a payment split.

splitting order has the same meaning as in Part VIIIB of the *Family Law Act 1975*.

splitting percentage means:

(a) for a splitting agreement—the percentage specified in the agreement under subparagraph 90MJ(1)(c)(iii) of the *Family Law Act 1975*; or

(b) for a splitting order—the percentage specified in the order under subparagraph 90MT(1)(b)(i) of the *Family Law Act 1975*.

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standard pension means any of the following:

(a) standard age retirement pension referred to in section 55 or 136;

(b) standard early retirement pension referred to in section 59 or 136;

(c) invalidity pension;

(d) spouse's pension, other than spouse's additional pension referred to in section 89, 93 or 136;

(e) extra spouse's pension;

(f) associate standard pension;

(g) associate deferred pension.

superannuation interest has the same meaning as in Part VIIIB of the *Family Law Act 1975*.

supplementary contributions amount means the amount determined under the Orders.

supplementary contributions component means the amount calculated by multiplying the supplementary contributions amount by the transfer factor.

transfer amount means:

(a) if a splitting percentage applies—the amount calculated by multiplying the splitting percentage by the greater of:

(i) the family law value; and

(ii) the scheme value; or

(b) if a base amount applies and the scheme value is not more than the family law value—the base amount; or

(c) if a base amount applies and the scheme value is more than the family law value—the amount calculated using the formula:

$$\text{Scheme value} \times \frac{\text{Whole dollars in base amount}}{\text{Whole dollars in family law value}}$$

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transfer factor means the number calculated by dividing the number of whole dollars in the transfer amount by the number of whole dollars in the scheme value.

unfunded component means the transfer amount reduced by the funded component.

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Division 2—Benefits for non-member spouse

146MB Associate pension or deferred benefits for non-member spouse

(1) This section applies to a superannuation interest under this Act (the ***original interest***) if:

(a) CSC receives a splitting agreement or splitting order in respect of the original interest; and

(b) the original interest is not an entitlement to an orphan pension; and

(c) the member spouse and the non-member spouse are both alive at the operative time; and

(d) if a base amount applies—the base amount at the operative time is not more than the family law value or the scheme value.

Pension if operative time in payment phase

(2) If, at the operative time, standard pension is payable in respect of the original interest, then the non-member spouse is entitled to associate standard pension from the operative time, at the rate calculated under the Orders by reference to the transfer amount.

(3) If, at the operative time, additional pension is payable in respect of the original interest, then the non-member spouse is entitled to associate additional pension from the operative time, at the rate calculated under the Orders by reference to the transfer amount.

Deferred benefits if operative time in growth phase

(4) If, at the operative time, standard pension is not payable in respect of the original interest, then the non-member spouse is entitled to associate deferred benefits in accordance with section 146MC.

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146MC Associate deferred benefits

(1) Associate deferred benefits consist of:
  (a) a lump sum equal to the funded component of the transfer amount, plus interest determined under section 154A; and
  (b) an associate deferred pension at an annual rate calculated under the Orders by reference to the unfunded component.

(2) The benefits become payable at the later of:
  (a) the operative time; and
  (b) the earliest of the following dates:
    (i) if CSC is satisfied that the non-member spouse has, because of invalidity or physical or mental incapacity, become totally and permanently incapacitated within the meaning of Part IVA—the date that CSC considers to have been the date on which the person became so incapacitated;
    (ii) a date notified to CSC under subsection (3);
    (iii) the 65th anniversary of the non-member spouse's birth.

(3) The non-member spouse may give a written notice to CSC specifying a date that is not earlier than the 55th anniversary of the non-member spouse's birth. However, the notice has no effect if, under the SIS Act, the associate deferred pension is not permitted to be paid in cash to the non-member spouse from the specified date.

(4) The benefits are not payable unless:
  (a) a written application has been made to CSC requesting payment of the benefits; and
  (b) the applicant has given CSC any information that is necessary to enable CSC to determine whether the benefits are payable.

(5) If the non-member spouse dies before the benefits become payable, CSC must pay the following amounts to the legal personal representative or, if no legal personal representative can be found, to any individual or individuals that CSC determines:

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(a) the amount referred to in paragraph (1)(a);
(b) an amount calculated under the Orders in respect of the associate deferred pension.

(6) When the amount referred to in paragraph (1)(a) becomes payable, or is paid under paragraph (5)(a), an equal amount must be paid out of the Superannuation Fund to the Commonwealth.

146MD Commutation of small associate pension

(1) If:
(a) the total annual rate of associate standard pension and associate additional pension (if any) to which the non-member spouse becomes entitled; or
(b) the annual rate of associate deferred pension to which the non-member spouse becomes entitled;
is less than the amount determined under the Orders, then the non-member spouse may elect to commute those pensions or that pension.

(2) The election must be made in writing to CSC not later than 3 months after the non-member spouse becomes entitled to the pensions or pension.

(3) If the non-member spouse makes the election, then the non-member spouse is entitled instead to:
(a) if paragraph (1)(a) applies—a lump sum equal to the transfer amount; or
(b) if paragraph (1)(b) applies—a lump sum calculated under the Orders.

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Division 3—Reduction of benefits for member spouse

146ME Operative time during growth phase—reduction of benefits

(1) This section applies if:

(a) at the operative time, standard pension is not payable in respect of the original interest; and

(b) the original interest is not an entitlement to associate deferred benefits.

Reduction of accumulated contributions etc.

(2) The following amounts are reduced in respect of the original interest:

(a) the accumulated basic contributions are reduced by the sum of:

(i) the basic contributions component; and

(ii) the interest accruing on that component after the operative time;

(b) the accumulated supplementary contributions are reduced by the sum of:

(i) the supplementary contributions component; and

(ii) the interest accruing on that component after the operative time;

(c) the accumulated employer contributions are reduced by the sum of:

(i) the employer contributions component; and

(ii) the interest accruing on that component after the operative time;

(d) any benefit under section 110SN is reduced by the sum of:

(i) the section 110SL component; and

(ii) the interest accruing on that component after the operative time;

(e) any benefit under section 130D is reduced by the sum of:

(i) the section 130B component; and

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(ii) the interest accruing on that component after the operative time.

Reduction of later salary-based pension

(3) If, after the operative time, salary-based pension (the ***original pension***) becomes payable to the member spouse in respect of the original interest, then the annual rate of the original pension is reduced to the amount worked out using the formula:

$$\text{Final annual rate of salary} \times \left(\frac{\text{Original pension amount}}{\text{Final salary amount}} - \text{Reduction factor} \right)$$

Note: If the member spouse dies without becoming entitled to salary-based pension, then subsection (3) will nevertheless result in an indirect reduction of any spouse's pension that becomes payable to a surviving spouse. This happens because the amount of the spouse's pension is based on the amount of invalidity pension (salary-based pension) that would have become payable to the member spouse at the time of death.

Multiple interest splits for same original interest

(4) If, before the original pension becomes payable, the original interest has been split more than once (that is to say, section 146MB has applied more than once), then, in applying the formula in subsection (3), the reduction factor is to be replaced by the number calculated using the following steps, based on the chronological order of the operative times (starting with the earliest):

(a) calculate a factor (the ***interim factor***) using the steps in paragraphs (a) to (c) of the definition of ***reduction factor*** in subsection (6);

(b) calculate a factor (the ***interim factor***) for the next split (the ***current split***), using the formula:

$$\left(\begin{array}{c}\text{Unreduced} \\ \text{current factor}\end{array} - \begin{array}{c}\text{Interim factor} \\ \text{for previous split}\end{array} \right) \times \begin{array}{c}\text{Transfer factor} \\ \text{for current split}\end{array}$$

where:

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unreduced current factor means the number calculated using the steps in paragraphs (a) and (b) of the definition of ***reduction factor*** in subsection (6);

(c) calculate a factor for each remaining split (if any), using the formula in paragraph (b);

(d) add together the factors calculated under paragraphs (a) to (c).

Reduction not to affect later non-standard pension

(5) A reduction under subsection (3) is to be disregarded in calculating the amount of any non-standard pension that later becomes payable.

Note: For example, the reduction will be disregarded in calculating the amount of orphan pension payable in respect of a child of the member spouse after the member spouse's death.

(6) In this section:

age factor means:

(a) if the age in full years is 65 or more—1; or

(b) if the age in full years is less than 65—1 reduced by 0.02 per year from 64 years to 60 years, and then by 0.03 per year from 59 years to 31 years.

final salary amount means the number of whole dollars in the member spouse's final annual rate of salary.

original pension amount means the number of whole dollars in the original pension.

reduction factor means the number worked out as follows:

(a) calculate a number (the ***service factor***), by reference to the member spouse's period of contributory service before the operative time, by adding:

(i) for service that occurred within the first 20 years:

(A) 0.02 for each full year; and

(B) 0.02/365 for each left-over day; and

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(ii) for service that occurred within the next 10 years:
(A) 0.01 for each full year; and
(B) 0.01/365 for each left-over day; and
(iii) for service that occurred within the next 10 years:
(A) 0.0025 for each full year; and
(B) 0.0025/365 for each left-over day;

(b) if the original pension is age retirement pension or early retirement pension, multiply the service factor by the age factor (based on the member spouse's age in full years at the time when the original pension became payable);

(c) multiply the number worked out under paragraphs (a) and (b) by the transfer factor.

salary-based pension means a pension that is calculated by reference to the member spouse's final annual rate of salary.

146MF Operative time during growth phase—reduction where original interest is entitlement to associate deferred benefits

(1) This section applies if:
(a) at the operative time, standard pension is not payable in respect of the original interest; and
(b) the original interest is an entitlement to associate deferred benefits.

(2) The deferred benefits, when they become payable, are reduced in accordance with the Orders.

146MG Operative time during payment phase—reduction of pension

(1) If, at the operative time, standard pension is payable in respect of the original interest, then the annual rate of that pension is reduced to the amount calculated under the Orders.

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(2) If, at the operative time, additional pension is payable in respect of the original interest, then the annual rate of that pension is reduced to the amount calculated under the Orders.

(3) A reduction under this section is to be disregarded in calculating the amount of any non-standard pension that later becomes payable.

Note: For example, the reduction will be disregarded in calculating the amount of orphan pension payable in respect of the child of the member spouse after the member spouse's death.

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Division 4—Miscellaneous

146MH Ministerial Orders

(1) The Minister may, by legislative instrument, make Orders prescribing matters required or permitted by this Part to be prescribed.

(2) Despite anything in regulations made for the purposes of paragraph 44(2)(b) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to an Order made under subsection (1) of this section.

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Part IXC—Sustaining the superannuation contribution concession: release of benefits to meet deferred tax liability

146RA Definitions

In this Part:

release authority lump sum has the meaning given by section 146RB.

146RB Release of benefits under a release authority

(1) A lump sum (the ***release authority lump sum***) may be paid at a time in compliance with a release authority issued to a person under item 3 of the table in subsection 135-10(1) in Schedule 1 to the *Taxation Administration Act 1953* and given to CSC in accordance with Subdivision 135-B in that Schedule if:

(a) at or before that time, the person gives CSC written notice of the person's election under section 146RC of this Act (which deals with the reduction of benefits to reflect the release authority lump sum); and

(b) at that time, either:

(i) there is no surcharge deduction amount in relation to the person; or

(ii) subsection (2) applies.

Note: The purpose of the release authority is to allow a lump sum to be paid to the Commissioner to meet a debt the person has under Subdivision 133-C in Schedule 1 to the *Taxation Administration Act 1953*.

Surcharge election must be made or forgone

(2) This subsection applies if any of the following are satisfied:

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(a) the person has made an election under section 80B or 80C (which deal with the adjustment of benefits to take account of the surcharge deduction amount);

(b) the person has not made an election under either of those sections and the periods within which such elections may be made have expired;

(c) the person gives CSC written notice that the person forgoes making an election under both of those sections.

146RC Election specifying which benefit is to be reduced

(1) A person who gives CSC a release authority in accordance with Division 135 in Schedule 1 to the *Taxation Administration Act 1953* may make an election specifying which of the following is to be reduced to reflect the release authority lump sum:

(a) a lump sum benefit to which the person is (or is about to become) entitled under this Act (unless the lump sum benefit has already been paid);

(b) a pension to which the person is (or is about to become) entitled under this Act (whether or not the pension has started to be paid).

(2) However, a person cannot specify that 2 or more benefits are to be reduced to reflect a release authority lump sum, unless the person elects to reduce all, or all but one, of the specified benefits to zero.

146RD Limit on amount that may be released

(1) In addition to any requirements in Division 135 in Schedule 1 to the *Taxation Administration Act 1953*, the amount of a release authority lump sum must not have the effect that a benefit specified in an election under section 146RC is reduced below zero.

(2) For the purpose of subsection (1), the effect of a release authority lump sum on the amount of a benefit specified in an election under section 146RC is to be worked out after taking account of:

(a) the person's surcharge deduction amount (if any); and

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(b) any reduction under section 79D (which deals with reductions for early release lump sums); and

(c) any reductions under Division 3 of Part IXB (which deals with family law splitting).

(3) Apart from subsection (2), the amount of a release authority lump sum is not to be reduced under any provision of this Act.

146RE Calculation of benefits after payment of release authority lump sum

(1) If a release authority lump sum is paid in relation to a release authority issued to a person, the benefits to which the person is entitled under this Act must be reduced to reflect the release authority lump sum, in accordance with the person's election under section 146RC.

(2) If the election specifies that a pension is to be reduced (but not to zero), the annual rate of the pension is to be reduced so that it equals the amount worked out using this formula:

$$\text{Pre-reduction rate} - \frac{\text{Reduced release authority lump sum}}{\text{Conversion factor}}$$

where:

conversion factor means the factor that is applicable to the person under the determination made by CSC under subsection (4).

pre-reduction rate means the annual rate of the pension that would, apart from this section (but having regard to any other provisions of this Act that affect that rate), be payable to the person on the pension reduction day mentioned in subsection (3).

reduced release authority lump sum means the amount of the release authority lump sum, reduced by the sum of each reduction made under a previous application of this section to a benefit to which the person is entitled.

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(3) The reduction mentioned in subsection (2) takes effect from the day (the ***pension reduction day***) that is:

(a) if the pension has not started to be paid—the first pension pay day; or

(b) if the pension has started to be paid—the first pension pay day that occurs 14 days after the release authority was given to CSC.

(4) CSC may, by legislative instrument, determine the conversion factor, or the method for working out the conversion factor, for the purposes of subsection (2).

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Part X—Pension increases on and after 1 January 2002

147 Interpretation

(1) In this Part, unless the contrary intention appears:

first quarter, in relation to a half-year, means:

(a) for a half-year beginning on 1 January in a year—the March quarter of the year; and

(b) for a half-year beginning on 1 July in a year—the September quarter of the year.

half-year means a period of 6 months beginning on 1 January or 1 July in any year.

pension to which this Part applies means a pension payable under this Act other than:

(a) additional age retirement pension payable by virtue of paragraph 55(1)(b) or 55(2)(b);

(b) additional early retirement pension payable by virtue of paragraph 59(b);

(c) spouse's additional pension payable by virtue of paragraph 89(1)(b);

(d) spouse's additional pension payable by virtue of paragraph 93(1)(b);

(e) partial invalidity pension; or

(ea) associate additional pension under Part IXB; or

(f) deferred benefit by way of pension of a kind referred to in paragraph (a), (b), (c) or (d).

prescribed half-year means the half-year commencing on 1 January 2002 or a subsequent half-year.

Statistician means the Australian Statistician.

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(2) Subject to subsection (3), if at any time, whether before or after the commencement of this Act, the Statistician has published or publishes in respect of a particular first quarter in a half-year an all groups consumer price index number for the weighted average of the 8 capital cities in substitution for an index number previously published by him or her in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this Part.

(3) If at any time, whether before or after the commencement of this Act, the Statistician has changed or changes the index reference period for the Consumer Price Index, then, for the purposes of the application of this Part after the change took place or takes place, regard shall be had only to index numbers published in terms of the new index reference period.

(4) If the prescribed percentage for the purposes of section 148 is or includes a fraction of one-tenth of 1 per centum:

(a) where that fraction is less than one-half of one-tenth—that fraction shall be disregarded; and

(b) where that fraction is not less than one-half of one-tenth—that fraction shall be treated as one-tenth.

148 Increases in pensions

(1) Subject to this Part, if the all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the first quarter of the half-year immediately preceding a prescribed half-year exceeds the highest all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the first quarter in any earlier half-year, not being a half-year earlier than the half-year that commenced on 1 July 1985, a person who was in receipt of a pension to which this Part applies immediately before the commencement of that prescribed half-year is entitled to an increase, as ascertained in accordance with this section, in the rate at which the pension was payable immediately before the commencement of that prescribed half-year.

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(2) The increase provided for by subsection (1) in the rate at which a pension was payable to a person immediately before the commencement of a prescribed half-year is the prescribed percentage of that rate or, in the case of a pension in respect of which provision is made by section 149, the prescribed percentage of such rate as is applicable under that section to the pension for the purposes of this subsection.

(3) For the purposes of this section, the prescribed percentage, in relation to a prescribed half-year, is the percentage that represents A – B expressed as a percentage of **B**, where:

A is the all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the first quarter of the half-year immediately preceding the prescribed half-year; and

B is the highest all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the first quarter of any half-year earlier than the half-year immediately preceding the prescribed half-year but not being earlier than the half-year that commenced on 1 July 1985.

(4) Where, by reason of the death on 30 June or 31 December (as the case requires) in the half-year immediately preceding a prescribed half-year of a person in receipt of a pension under this Act, a pension to which this Part applies becomes payable on the following day to another person, that other person shall be entitled to such an increase in the rate of that pension as the person would have been entitled to had the pension become payable to the person on that 30 June or 31 December (as the case requires).

149 Increase payable in respect of part only of certain pensions

For the purposes of subsection 148(2), the rate applicable to a pension is:

(a) in the case of invalidity pension payable to a person in accordance with section 67—an amount per annum equal to

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the annual rate at which invalidity pension would, immediately before the commencement of the relevant prescribed half-year, have been payable to the person in accordance with section 68 if the person had made an election under subsection 68(1);

(b) in the case of invalidity pension payable to a person in accordance with section 70—an amount per annum equal to the annual rate at which invalidity pension would, immediately before the commencement of the relevant prescribed half-year, have been payable to the person in accordance with section 71 if the person had made an election under subsection 71(1);

(c) in the case of spouse's pension payable to a person in accordance with section 82—an amount per annum equal to the annual rate at which spouse's pension would, immediately before the commencement of the relevant prescribed half-year, have been payable to the person in accordance with section 83 if the person had made an election under subsection 83(1);

(d) in the case of spouse's pension payable to a person in accordance with section 85—an amount per annum equal to the annual rate at which spouse's pension would, immediately before the commencement of the relevant prescribed half-year, have been payable to the person in accordance with section 86 if the person had made an election under subsection 86(1);

(e) in the case of spouse's pension payable to the spouse of a deceased invalidity pensioner in accordance with section 96, being an invalidity pensioner to whom invalidity pension was payable in accordance with section 67 or 70—an amount per annum equal to the annual rate at which spouse's pension would, immediately before the commencement of the relevant prescribed half-year, have been payable to the spouse in accordance with section 96 if the deceased invalidity pensioner had made an election under subsection 68(1) or 71(1), as the case may be, and invalidity

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pension had been payable to him or her in accordance with section 68 or 71, as the case may be;

(f) in the case of orphan pension payable in respect of the eligible child or eligible children of a deceased eligible employee in accordance with section 98, being a case where an amount equal to the deceased eligible employee's accumulated contributions has not been paid out of the Fund under section 111—an amount per annum equal to the annual rate at which orphan pension would, immediately before the commencement of the relevant prescribed half-year, have been payable in respect of the eligible child or eligible children in accordance with section 98 if an amount equal to the deceased eligible employee's accumulated contributions had been paid out of the Fund under section 111;

(g) in the case of orphan pension payable in respect of the eligible child or children of a deceased eligible employee in accordance with section 100, being a case where an amount equal to the deceased eligible employee's accumulated contributions has not been paid out of the Fund under section 111—an amount per annum equal to the annual rate at which orphan pension would, immediately before the commencement of the relevant prescribed half-year, have been payable in respect of the eligible child or eligible children in accordance with section 100 if an amount equal to the deceased eligible employee's accumulated contributions had been paid out of the Fund under section 111;

(h) in the case of orphan pension payable in respect of the eligible child or eligible children of a deceased eligible employee in accordance with section 103 after the death of the spouse of the deceased eligible employee, being a spouse who had not made an election under section 83—an amount per annum equal to the annual rate at which orphan pension would, immediately before the commencement of the relevant prescribed half-year, have been payable in respect of the eligible child or eligible children in accordance with section 103 if the spouse had made an election under subsection 83(1);

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(i) in the case of orphan pension payable in respect of the eligible child or eligible children of a deceased eligible employee in accordance with section 104 after the death of the spouse of the deceased eligible employee, being a spouse who had not made an election under section 86—an amount per annum equal to the annual rate at which orphan pension would, immediately before the commencement of the relevant prescribed half-year, have been payable in respect of the eligible child or eligible children in accordance with section 104 if the spouse had made an election under subsection 86(1);

(j) in the case of orphan pension payable in respect of the eligible child or eligible children of a deceased invalidity pensioner in accordance with section 106, being an invalidity pensioner to whom invalidity pension was payable in accordance with section 67 or 70—an amount per annum equal to the annual rate at which orphan pension would, immediately before the commencement of the relevant prescribed half-year, have been payable in respect of the eligible child or eligible children in accordance with section 106 if the deceased invalidity pensioner had made an election under subsection 68(1) or 71(1), as the case may be, and invalidity pension had been payable to him or her in accordance with section 68 or 71, as the case may be; and

(k) in the case of orphan pension payable in respect of the eligible child or eligible children of a deceased invalidity pensioner in accordance with section 108 after the death of the spouse of the deceased invalidity pensioner, being an invalidity pensioner to whom invalidity pension was payable in accordance with section 67 or 70—an amount per annum equal to the annual rate at which orphan pension would, immediately before the commencement of the relevant prescribed half-year, have been payable in respect of the eligible child or eligible children in accordance with section 108 if the deceased invalidity pensioner had made an election under subsection 68(1) or 71(1), as the case may be, and invalidity pension had been payable to him or her in accordance with section 68 or 71, as the case may be.

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150 Adjustment of increase in case of certain pensions

(1) Where a person to whom pension has become payable (whether or not it has become payable to the person by virtue of section 136) would, but for this section, be entitled to an increase in the rate at which the pension was payable to or in respect of the person immediately before the commencement of a prescribed half-year and:

(a) in a case where the pension is age retirement pension, early retirement pension or invalidity pension—it became payable to the person during the half-year (in this section referred to as the ***preceding half-year***) immediately preceding the prescribed half-year;

(b) in a case where the pension is spouse's pension:

(i) if, immediately before the death of the person by reason of whose death the spouse's pension became payable, a pension (other than a partial invalidity pension) was not payable to the deceased person—the spouse's pension became payable during the preceding half-year; or

(ii) if, immediately before the death of the person by reason of whose death the spouse's pension became payable, a pension (other than a partial invalidity pension) was payable to the deceased person—the pension that was payable to the deceased person became payable during the preceding half-year; or

(c) in a case where the pension is orphan pension:

(i) if, immediately before the death of the person by reason of whose death the orphan pension became payable, a pension (other than a partial invalidity pension) was not payable to the deceased person—the orphan pension became payable during the preceding half-year;

(ii) if, immediately before the death of the person by reason of whose death the orphan pension became payable, spouse's pension was payable to the deceased person—the spouse's pension became payable during the preceding half-year and pension (other than partial invalidity pension) was not payable to the person in

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relation to whom the deceased person was a spouse or was not payable for the part of the half-year that spouse's pension was not payable to the deceased person; or

(iii) if, immediately before the death of the person by reason of whose death the orphan pension became payable, a pension (other than a partial invalidity pension or a spouse's pension) was payable to the deceased person—the pension that was payable to the deceased person became payable during the preceding half-year;

the following provisions of this section have effect in relation to that first-mentioned pension.

(2) If:

(a) the pension;

(b) where clause (1)(b)(ii) or (1)(c)(iii) applies—the pension that was payable to the deceased person;

(c) where clause (1)(c)(ii) applies and pension was not payable to the person in relation to whom the deceased person was a spouse—the pension that was payable to the deceased person; or

(d) where clause (1)(c)(ii) applies and pension was payable to the person in relation to whom the deceased person was a spouse—that last-mentioned pension;

became payable after 16 June or 16 December (as the case requires) in the preceding half-year, the person is not entitled to the increase.

(3) If:

(a) the pension;

(b) where clause (1)(b)(ii) or (1)(c)(iii) applies—the pension that was payable to the deceased person;

(c) where clause (1)(c)(ii) applies and pension was not payable to the person in relation to whom the deceased person was a spouse—the pension that was payable to the deceased person; or

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(d) where clause (1)(c)(ii) applies and pension was payable to the person in relation to whom the deceased person was a spouse—that last-mentioned pension;

became payable on or before 16 June or 16 December (as the case requires) in the preceding half-year, the amount of the increase is so much only of the amount that but for this section would have been the amount of the increase as bears to that last-mentioned amount the same proportion as the number of months in the period that commenced on the day on which the pension referred to in whichever of paragraphs (a), (b), (c) and (d) is applicable became payable and ended on 30 June or 31 December (as the case requires) in the preceding half-year bears to 6.

(4) If the period referred to in subsection (3) is less than 1 month, that period shall be treated as 1 month.

(5) If the period referred to in subsection (3) consists of a number of whole months and a part of a month:

(a) where the number of days in that part of a month is less than one-half of the number of days in that month—that part of a month shall be disregarded; and

(b) where the number of days in that part of a month is not less than one-half of the number of days in that month—that part of a month shall be treated as a whole month.

151 Application of Part to pensions payable to or in respect of certain overseas employees

Where a person who, immediately before he or she ceased to be an eligible employee:

(a) was a temporary employee by reason that he or she was included in a class of persons approved by the Minister, under paragraph (d) of the definition of ***temporary employee*** in subsection 3(1), for the purposes of that definition; or

(b) was an eligible employee whose remuneration was fixed and payable in sterling;

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this Part applies to a pension payable to or in respect of him or her with such modifications (if any) as CSC determines in relation to him or her or a class of persons in which he or she is included.

152 Death or invalidity retirement of eligible employee before 21st anniversary of birth

Where a person has, before the 21st anniversary of his or her birth, ceased to be an eligible employee by reason of retirement on the ground of invalidity or by reason of death, CSC shall, in writing, in respect of each anniversary of his or her birth up to and including the 21st anniversary that will occur after he or she so ceased, determine the rate that, in the opinion of CSC, would have been his or her final annual rate of salary if his or her age when he or she so ceased had been the age that would have been his or her age at that time if the anniversary of his or her birth that last occurred before he or she so ceased had been the anniversary in respect of which the determination is made, and, on and after that anniversary, this Act shall apply to and in relation to any pension payable to or in respect of the person as if that rate had been his or her final annual rate of salary.

153 Date of effect of increases

(1) An increase payable by virtue of a provision of this Part, other than section 152, in the rate of a pension that was, or is, under subsection 148(4), to be treated as having been, payable to a person on 30 June or 31 December (as the case requires) in a half-year applies in relation to the instalment of pension falling due on the first pension pay day occurring after that day and in relation to all subsequent instalments.

(2) An increase payable by virtue of section 152 in the rate of a pension that was payable to or in respect of a person immediately before an anniversary of the person's birthday applies in relation to the instalment of pension falling due on the first pension pay day occurring after that anniversary and in relation to all subsequent instalments.

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Part XA—Review of decisions made by the CSC

Division 1—Preliminary

153AA Interpretation

(1) In this Part, unless the contrary intention appears:

Committee means a Reconsideration Advisory Committee established under section 153AB.

decision means a decision of CSC under this Act or the regulations other than:

(a) a decision in respect of the investment of the Fund; or
(b) a determination under subsection 110Q(1A); or
(c) a determination under subsection 110SC(2); or
(d) a determination under section 110SD; or
(e) a determination under section 154A; or
(f) a decision:
  (i) to make, or to refuse to make, an agreement with the Minister under section 51, 133, 134, 139A or 145; or
  (ii) to agree, or to refuse to agree, to vary or terminate such an agreement; or
(g) a decision to consent, or not to consent, to:
  (i) a proposed declaration or determination by the Minister referred to in section 167AB; or
  (iii) the making of regulations.

(2) Despite subsection 16(2), 46(2), 47(2), 50(2) or 53(2) of the *Superannuation Legislation Amendment Act 1991*, the doing of anything, or the refusal to do anything, by the Minister under a provision of the *Superannuation Act 1976* referred to in the subsection concerned is not a decision for the purposes of this Part.

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Division 2—Reconsideration Advisory Committees

153AB Establishment

CSC must establish such number of Reconsideration Advisory Committees as CSC considers necessary.

153AC Membership of Committee

(1) A Committee comprises such number of persons as CSC determines.

(2) The qualifications of each member are such as CSC determines.

153AD Functions of Committee

(1) The functions of a Committee are to review any decision referred to it under this Part and:
   (a) if CSC has delegated to the Committee any of CSC's powers in relation to the decision—to exercise those powers; or
   (b) otherwise—to make recommendations to CSC in relation to the decision.

(2) When reviewing a decision, a Committee:
   (a) must take into account any evidence relevant to the decision that is submitted to it; and
   (b) may also take steps to obtain any other evidence that it considers necessary for a proper review of the decision.

153AE Proceedings of Committee

Subject to any directions given by CSC, a Committee may regulate its proceedings as the Committee thinks fit.

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153AF Indemnification of members of Reconsideration Advisory Committees

Any matter or thing done, or omitted to be done, in good faith by a member of a Committee in the performance of functions under this Part does not subject him or her to any action, liability, claim or demand.

153AG Remuneration and allowances

(1) A member of a Committee is to be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, is to be paid such remuneration as is prescribed.

(2) A member of a Committee is to be paid such allowances (if any) as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

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Division 3—Reconsideration of decision made by delegate

153AH Application to CSC

(1) A person affected by a decision made by a delegate of CSC may apply to CSC for reconsideration of the decision.

(2) An application may be:
  (a) in writing addressed to CSC and setting out the particulars of the decision that the person wishes to be reconsidered; or
  (b) in any other form that is acceptable to CSC.

(3) An application made to CSC before the commencement of this section for the reconsideration of a decision made by a delegate of CSC under subsection 7(2) is taken to have been duly made under this section.

153AJ Decision to be referred to panel in certain circumstances

(1) Subject to section 153ALA, where the decision of the delegate was made after taking into consideration recommendations made by the members of a panel under subsection 54F(4), CSC must refer the decision to a panel consisting of such number of persons as CSC appoints to assist it in its reconsideration of the decision of the delegate.

(2) The members of the panel must be persons of a kind mentioned in subsection 54F(2).

(3) Subsections 54F(3) and (4) apply where CSC refers a decision under subsection (1) as if:
  (a) the application for a reconsideration were a request for the approval of the retirement of the person to whom the delegate's decision relates; and
  (b) the period within which the members of the panel are required to make recommendations in writing to CSC under subsection 54F(4) were such period as is specified by CSC.

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153AK Decision to be referred to Committee

(1) Subject to subsection (2) and section 153ALA, CSC must refer the decision to which an application relates to a Committee.

(2) Where, under subsection 153AJ(1), CSC is required to refer the decision to a panel of persons, CSC, after receiving the recommendations of the members of the panel, must refer the decision to a Committee together with a copy of those recommendations.

(3) CSC may also, on its own motion, refer a decision of a delegate to a Committee.

153AL Determination by CSC

(1) If a Committee makes recommendations to CSC in relation to a decision referred to the Committee, then, after CSC takes into account:

(a) the recommendations of the Committee; and

(c) any other matter that CSC considers relevant;

CSC must, by instrument setting out the reasons for so doing, affirm or vary the decision or set it aside and substitute another decision for it.

(2) CSC must make available a copy of an instrument mentioned in subsection (1) to the applicant.

153ALA Reconsideration of certain decisions by a delegate relating to invalidity

(1) If CSC, in relation to an application for reconsideration of a decision by a delegate not to approve the retirement of an eligible employee as provided by Part IVA, is satisfied that the eligible employee is totally and permanently incapacitated within the meaning of that Part, CSC may, without proceeding under section 153AJ to refer the decision to a panel or under section 153AK to refer the decision to a Committee, by instrument

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set aside the decision and substitute another decision approving the retirement of the eligible employee on the ground of invalidity.

(2) CSC must:

(a) set out in the instrument the reasons for setting aside the decision and substituting the other decision; and

(b) make available a copy of the instrument to the applicant.

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Division 4—Reconsideration of decision made by CSC

153AM Application to CSC

(1) A person affected by a decision made by CSC may apply to CSC for a reconsideration of that decision.

(2) An application must:
  (a) be in writing addressed to CSC; and
  (b) set out the particulars of the decision that the person wishes to be reconsidered; and
  (c) specify the grounds for reconsideration of those particulars.

(3) An application made to CSC before the commencement of this section for the reconsideration of a decision made by CSC under subsection 7(2) is taken to have been duly made under this section.

153AN Payment of fees

(1) Such fees as are prescribed are payable to CSC by a person who makes an application under section 153AM.

(2) Any fees received by CSC under subsection (1) are to be paid to the Commonwealth.

(3) The regulations may make provision in relation to the refund of any fees paid under subsection (1).

153AP Decision to be reconsidered only on basis of new evidence

(1) A decision is to be reconsidered only if there is evidence relevant to the decision that was not previously taken into account by CSC in making the decision.

(2) If an application is not supported by evidence in accordance with subsection (1), CSC must dismiss the application.

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(3) The dismissal of an application in respect of a decision does not preclude the applicant from subsequently submitting another application in respect of the decision.

153AQ Decision to be referred to panel in certain circumstances

(1) Subject to section 153AT, where a decision of CSC that is to be reconsidered was made after taking into consideration recommendations made by the members of a panel under subsection 54F(4), CSC must refer the decision to a panel consisting of such number of persons as CSC appoints to assist it in its reconsideration of the decision.

(2) The members of the panel must be persons of a kind mentioned in subsection 54F(2).

(3) Subsections 54F(3) and (4) apply where CSC refers a decision under subsection (1) as if:

(a) the application for a reconsideration were a request for the approval of the retirement of the person to whom the decision relates; and

(b) the period within which the members of the panel are required to make recommendations in writing to CSC under subsection 54F(4) were such period as is specified by CSC.

153AR Decision to be referred to Committee

(1) Subject to subsection (2) and section 153AT, if CSC does not under section 153AP dismiss an application made under section 153AM, CSC must refer the decision to which the application relates to a Committee.

(2) Where, under subsection 153AQ(1), CSC is required to refer the decision to a panel of persons, CSC, after receiving the recommendations of the members of the panel, must refer the decision to a Committee together with a copy of those recommendations.

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(3) CSC may also, on its own motion, refer any of its decisions to a Committee.

153AS Determination by CSC

(1) If a Committee makes recommendations to CSC in relation to a decision referred to the Committee, then, after CSC takes into account:

(a) the recommendations of the Committee; and

(c) any other matter that CSC considers relevant;

CSC must, by instrument setting out the reasons for so doing, affirm or vary the decision or set it aside and substitute another decision for it.

(2) CSC must make available a copy of an instrument mentioned in subsection (1) to the applicant.

153AT Reconsideration of certain decisions by the CSC relating to invalidity

(1) If CSC, in relation to an application for reconsideration of a decision by CSC not to approve the retirement of an eligible employee as provided by Part IVA, is satisfied that the eligible employee is totally and permanently incapacitated within the meaning of that Part, CSC may, without proceeding under section 153AQ to refer the decision to a panel or under section 153AR to refer the decision to a Committee, by instrument set aside the decision and substitute another decision approving the retirement of the eligible employee on the ground of invalidity.

(2) CSC must:

(a) set out in the instrument the reasons for setting aside the decision and substituting the other decision; and

(b) make available a copy of the instrument to the applicant.

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Part XI—Miscellaneous

154AA CSC may rely on information supplied by employers or former employers

(1) For the purposes of the application of this Act to or in respect of a person who is or was an eligible employee, CSC may, but is not required to, presume that any information provided to CSC by an employer or former employer of the person is correct.

(2) If a tribunal, authority or person is empowered to review a decision of CSC and vary, or make a decision in substitution for, CSC's decision, the tribunal, authority or person is not bound by any presumption made by CSC under subsection (1).

154A Determinations with respect to interest and notional interest

(1) Where, under any provision of this Act, interest is to be calculated on an amount, that interest must be calculated in accordance with a determination made by CSC for the purposes of that provision.

(1A) If, under a provision of this Act, notional interest is to be calculated on an amount, that interest must be calculated in accordance with a determination made by CSC for the purposes of that provision.

(2) A determination by CSC under subsection (1) or (1A) takes effect from:

(a) a specified day; or

(b) if no day is specified in the determination—the day of the making of the determination.

(3) Subsection (4) applies in relation to the following provisions of this Act as in force before 1 July 1990:

(a) the definitions of ***accumulated basic contributions*** and ***accumulated supplementary contributions*** in subsection 3(1);

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(b) subsections 7A(1), (2), (3) and (4);
(c) subparagraphs 145(7)(d)(i), (8)(a)(i) and (9)(a)(i).

(4) Regulations in force immediately before 1 July 1990 and making provision in relation to interest for the purposes of any of the provisions in relation to which this subsection applies:
(a) remain in force on and after that date; and
(b) are taken, for the purposes of those provisions as in force on and after that date, to be determinations made by CSC; and
(c) may be amended or repealed by such determinations.

154AB Determination with respect to surcharge deduction amount

(1) CSC must, in accordance with advice received from an actuary, determine in writing, in relation to persons to whom standard age retirement pension, standard early retirement pension, invalidity pension or a deferred benefit by way of any such pension has become payable, the conversion factor that, having regard to:
(a) a person's age when a benefit becomes payable to the person; and
(b) other relevant factors (if any);
is applicable for the purpose of working out, in relation to the person, the yearly amount that would have to be paid to discharge a liability equal to the person's surcharge deduction amount.

(2) CSC must, in accordance with advice received from an actuary, determine in writing, in relation to persons to whom an additional age retirement pension, an additional early retirement pension or a deferred benefit by way of any such pension has become payable, the conversion factor that, having regard to:
(a) a person's age when a benefit becomes payable to the person; and
(b) other relevant factors (if any);
is applicable for the purpose of working out, in relation to the person, the yearly amount that would have to be paid to discharge a liability equal to the person's surcharge deduction amount.

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(3) A determination under this section must be published in the Gazette.

154B Calculation of increase in annual rate of salary by reference to estimated increase in full-time adult average weekly ordinary time earnings

(1) In this section:

AWOTE means full-time adult average weekly ordinary time earnings for all persons in Australia.

(2) If:

(a) it is necessary for the purposes of a provision (the ***relevant provision***) of this Act or of the regulations to determine the annual rate of salary as at a particular time (the ***later time***) in respect of an office or position that had been held, or in respect of the duties that had been performed, by a person at a particular earlier time (the ***earlier time***); and

(b) it is not possible to make such a determination:

(i) because at the later time the annual rate of salary was not publicly available or the office or position no longer existed, or the duties were no longer being performed, and there was no equivalent office or position or there were no equivalent duties; or

(ii) for any other reason that CSC thinks sufficient for this section to apply;

the annual rate of salary as at the later time in respect of the office or position, or in respect of the duties, is taken for the purposes of the relevant provision to be the amount worked out in accordance with this section.

(3) If:

(a) the Australian Statistician has published, at or before the later time, an estimate or successive estimates of the change or changes (expressed as a percentage or percentages) in AWOTE in respect of the period between the earlier time and the later time; and

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(b) the estimate or estimates show no overall change, or show an overall decrease, in those earnings over that period, or the part of that period in respect of which the estimate or estimates were published, as the case may be;

the annual rate of salary as at the later time in respect of the office or position, or in respect of the duties, is taken, for the purposes of the relevant provision, to be the same as the annual rate of salary in respect of the office or position, or in respect of the duties, as at the earlier time.

(4) If:

(a) the Australian Statistician has published, at or before the later time, an estimate or successive estimates of the change or changes (expressed as a percentage or percentages) in AWOTE in respect of the period between the earlier time and the later time; and

(b) the estimate or estimates show an overall increase (expressed as a percentage (the ***relevant percentage***)) in those earnings over that period, or the part of that period in respect of which the estimate or estimates were published, as the case may be;

the annual rate of salary as at the later time in respect of the office or position, or in respect of the duties, is taken, for the purposes of the relevant provision, to be the annual rate of salary in respect of the office or position, or in respect of the duties, as at the earlier time increased by the relevant percentage.

(5) If at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes for a particular period an estimate of a change (including an estimate that no change has occurred) in AWOTE in substitution for an estimate of such a change for that period previously published by the Australian Statistician, the publication of the later estimate is to be disregarded for the purposes of this section.

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155 Modification of Act in relation to part-time employees

(1) This section applies to a person who is or has ceased to be an eligible employee, being a person who is, or at any time has been, an approved part-time employee.

(2) The regulations may make provision for modifying this Act, or a provision of this Act specified in the regulations, in the application of this Act or that provision to and in relation to a person to whom this section applies, or to and in relation to a prescribed class of persons to whom this section applies.

(3) The modifications that may be made by regulations in pursuance of subsection (2) include, but are not limited to, modifications providing for the payment of contributions in addition to, or in substitution for, contributions that would otherwise be payable under this Act and for benefits in addition to, or in substitution for, benefits provided for by this Act.

155A Modification of Act in relation to person who is or was an eligible employee to whom age or early retirement pension is or was payable

(1) This section applies to a person who is, or at any time has been, an eligible employee and who, while an eligible employee, has been in receipt of an age retirement pension, an early retirement pension or a deferred benefit by way of age retirement pension.

(2) The regulations may make provision for modifying this Act, or a provision of this Act specified in the regulations, in the application of this Act or that provision to and in relation to a person to whom this section applies, or to and in relation to a prescribed class of persons to whom this section applies.

155B Modification of Act in relation to persons who cease to be eligible employees in certain circumstances

(1) This section applies to a person who:

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(a) was the holder of a position or office, and an eligible employee, immediately before the position or office, as the case may be, ceased to exist as a result of the sale or transfer of an organisation, business, service or asset, or the transfer of a function; and

(b) before the date of the sale or transfer received and accepted an offer of employment in connection with the organisation, business, service, asset or function; and

(c) took up employment in accordance with that offer on or after the date of the sale or transfer, as the case may be; and

(d) ceased to be an eligible employee upon the sale or transfer or upon taking up that employment.

(1A) This section applies to a person who:

(a) immediately before the sale or transfer of an organisation, business, service or asset, or the transfer of a function, was an eligible employee because he or she was the holder of a particular position or office; and

(b) as a result of the sale or transfer of the organisation, business, service or asset, or the transfer of a function, ceases to be an eligible employee even though he or she continues to be the holder of the position or office.

(2) The regulations may make provision for modifying this Act, or a provision of this Act specified in the regulations, in the application of this Act or that provision to or in respect of a person to whom this section applies.

(3) The modifications may include, for example, modifications providing for benefits in substitution for benefits provided for by this Act.

(4) This section does not apply to a person who ceases to be an eligible employee after 26 June 1997.

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155C Regulations relating to the operation of the SIS Act and certain other laws

(1) The regulations may make such provision as is necessary for the purpose of:

(a) enabling:

(i) the Fund; and

(ii) any other scheme or arrangement established by or under this Act that provides for the payment of benefits;

to satisfy any condition or requirement specified in or under an eligible regulatory law that is capable of applying in relation to the Fund, or the scheme or arrangement, as the case may be; or

(b) ensuring that an employer does not have an individual superannuation guarantee shortfall (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) in relation to a person in respect of the period, or any part of the period, during which the person is an eligible employee.

(2) If regulations made for the purposes of subsection (1) are inconsistent with a provision of this Act, the regulations prevail and that provision, to the extent of the inconsistency, is of no effect.

(3) In this section:

eligible regulatory law means:

(a) the SIS Act; or

(b) the *Superannuation (Excluded Funds) Taxation Act 1987* (including a repealed provision of that Act which continues to apply because of the *Taxation Laws Amendment (Superannuation) Act 1992* or the *Occupational Superannuation Standards Amendment Act 1993*); or

(ba) the *Financial Institutions Supervisory Levies Collection Act 1998*; or

(c) the *Superannuation (Resolution of Complaints) Act 1993*; or

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

(cb) the *Family Law Act 1975*; or

(d) the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

155D Death may be presumed in certain cases

If CSC, after consideration of all the circumstances, directs that the death of a person be presumed, this Act applies in relation to that person as if the person had died on such date as is determined by CSC.

156 Recovery of unpaid contributions etc.

(1) An amount payable to CSC under this Act, including an amount of unpaid contributions, may be paid to CSC in a lump sum or in such instalments and at such times as CSC approves.

(2) An amount payable to CSC under this Act, including an amount of unpaid contributions, may be recovered by CSC in a court of competent jurisdiction as a debt due and payable to CSC.

(3) The amount of any unpaid contributions payable by a person to CSC may be deducted from any payment or payments of benefit payable under this Act to or in respect of the person.

(4) Where, for any reason (including the making of, or cancellation of, an election under this Act), CSC has paid an amount of benefit that is not payable, or has become not payable, the amount so paid may be recovered by CSC in a court of competent jurisdiction as a debt due and payable to CSC.

(5) Where, for any reason (including the making of, or cancellation of, an election under this Act), CSC has paid an amount of benefit that is not payable, or has become not payable, and the person to whom that amount was paid is receiving, or is entitled to receive, a benefit, that amount, or such part of that amount as CSC

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determines, may, if CSC in its discretion so directs, be recovered by deduction from that benefit.

(6) In subsections (4) and (5), ***benefit*** includes pension or other moneys payable under the superseded Act.

156A Refund of money paid by mistake etc.

(1) If:

(a) an amount of money (other than a productivity contribution paid under Part VIA in respect of a person who is a productivity employee within the meaning of that Part) has been paid to CSC by, or on behalf of, a person who at the time was not an eligible employee; and

(b) CSC has paid that amount into the Fund;

then, upon CSC becoming aware that the person was not an eligible employee, an amount equal to that amount is to be paid, together with interest on the amount, to the person or, if the person has died, to the person's legal personal representative or, if no legal personal representative can be found, to any individual or individuals that CSC determines.

(2) An amount paid under subsection (1) in respect of a particular paragraph (1)(a) amount must not be less than the paragraph (1)(a) amount.

156B Recoverable payments

(1) If, apart from this subsection, the Commonwealth does not have power, under this Act or the superseded Act, to pay an amount (the ***relevant amount***) to a person (the ***recipient***) purportedly as a benefit, then the Commonwealth may pay the relevant amount to the recipient.

Recovery

(2) If a payment is made under subsection (1) to the recipient, the relevant amount:

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(a) is a debt due to the Commonwealth by the recipient; and
(b) may be recovered by the CSC, on behalf of the Commonwealth, in a court of competent jurisdiction.

(3) If:
(a) a payment is made under subsection (1) to the recipient; and
(b) the recipient is receiving, or is entitled to receive, a benefit;
then:
(c) the relevant amount; or
(d) such part of the relevant amount as the Board of CSC determines;
may, if the Board of CSC so directs, be recovered by deduction from that benefit.

Appropriation

(4) For the purposes of subsection 112(2), if a payment under subsection (1) of this section relates to a benefit (within the meaning of this Act), the payment is taken to be a benefit.

(5) For the purposes of section 134 of the superseded Act, if a payment under subsection (1) of this section relates to a pension or other money payable under the superseded Act, the payment is taken to be an amount of pension or other money payable under the superseded Act.

Benefit

(6) For the purposes of this section (other than subsection (4)), ***benefit*** includes pension or other money payable under the superseded Act.

156C Recoverable death payments

(1) If, apart from this subsection, the Commonwealth does not have power, under this Act or the superseded Act, to pay an amount (the ***relevant amount***) in any of the following circumstances:
(a) the relevant amount is deposited to an account kept in the name of a deceased person;

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(b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;

(c) the relevant amount is paid by way of a cheque made out to a deceased person;

the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:

(d) on the last day on which changes could reasonably be made to the payment of the relevant amount, the chief executive officer (however described) of CSC did not know that the deceased person had died; and

(e) apart from this subsection, the relevant amount would have been payable as a benefit to the deceased person if the deceased person had not died.

(2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person's estate.

Recovery

(3) The amount of a benefit under subsection (1):

(a) is a debt due to the Commonwealth by the legal personal representative of the first person; and

(b) may be recovered by CSC, on behalf of the Commonwealth, in a court of competent jurisdiction.

Appropriation

(4) Subsection 112(2) does not apply to a payment under subsection (1) of this section if the payment relates to a pension or other money payable under the superseded Act.

(5) For the purposes of section 134 of the superseded Act, if a payment under subsection (1) of this section relates to a pension or other money payable under the superseded Act, the payment is taken to be an amount of pension or other money payable under the superseded Act.

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Benefit

(6) For the purposes of paragraph (1)(e), ***benefit*** includes pension or other money payable under the superseded Act.

156D Reports about recoverable payments and recoverable death payments

(1) CSC must cause a report of the following information to be published, in such manner as the Board of CSC thinks fit:

(a) the number of payments that any employee of CSC was aware of that were made under subsection 156B(1) or 156C(1) during the reporting period (see subsection (2) of this section);

(b) the total amount of payments referred to in paragraph (a);

(c) the number of payments made under subsection 156B(1) or 156C(1) that any employee of CSC became aware of during the reporting period that were made during an earlier reporting period;

(d) the total amount of payments referred to in paragraph (c);

(e) for each payment referred to in paragraph (c)—the reporting period in which the payment was made.

(2) The ***reporting period*** is:

(a) a financial year; or

(b) if a shorter recurring period is prescribed under paragraph (5)(a)—that period.

(3) A report is not required if no employee of CSC is aware of any payments referred to in paragraph (1)(a) or (c).

When report must be provided

(4) The report must be provided before the end of the following period:

(a) 4 months after the end of the reporting period;

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(b) if a lesser number of months has been prescribed for the reporting period under paragraph (5)(b)—that number of months after the end of the reporting period.

Power to make legislative instruments

(5) The Minister administering the *Public Governance, Performance and Accountability Act 2013* may, by legislative instrument, prescribe:

(a) a period for the purposes of paragraph (2)(b); or

(b) a number of months for a reporting period for the purposes of paragraph (4)(b).

157 General provisions applicable to elections under Act

(1) Notwithstanding anything contained in this Act, where an election under this Act is made by a person after the expiration of the period allowed by or under this Act for the making of the election, and CSC is satisfied that in all the circumstances of the case it is desirable that the election should be recognized, CSC may direct that the election be treated as if it had been made within the period allowed and the election shall have effect accordingly.

(2) Where a person who is entitled to make an election under a provision of this Act is, by reason of physical or mental incapacity, unable to make that election, CSC may, if it thinks it proper to do so, allow such other person as CSC thinks appropriate to make the election within such period as CSC allows, and, where the election is made by that other person, the election shall, for the purposes of this Act, be deemed to have been made by the first-mentioned person, and has effect accordingly.

(2A) Subject to subsection (2B), where a person who is entitled to make an election under a provision of this Act, or a declaration under section 244, dies, without making such an election or declaration, before the end of the period (in this subsection called the ***given period***) within which the election could have been made:

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(a) if the person is survived by a spouse—the spouse may make such an election within the given period or such longer period as CSC allows; or

(b) if:

(i) the person is not survived by a spouse; or

(ii) the person is survived by a spouse but the spouse dies without making such an election or declaration;

and the person is survived by an eligible child or eligible children—a person authorised by CSC for the purposes of this subsection may make such an election or declaration within the given period or such longer period as CSC allows;

and, in that case, this Act has effect as if the election or declaration had been made by the first-mentioned person.

(2B) Subsection (2A) does not apply in respect of an election under section 110T.

(3) Where:

(a) a person makes an election (whether before or after the commencement of this subsection) under section 62, 64, 68, 69, 71, 72, 76A, 83, 84, 86, 87, 92, 128, 137 or 139A;

(b) the person who made the election, or another person (being a person who is prescribed or included in a prescribed class of persons), makes an application to CSC not later than 3 months after the day on which the election is made or the day on which this subsection comes into operation, whichever is the later, or within such further period as CSC, in special circumstances, allows, requesting that CSC cancel the election; and

(c) CSC, having regard to such matters (if any) as are prescribed and such other matters as it considers relevant, is satisfied that the election should be cancelled;

CSC may direct that the election shall be cancelled and, if it so directs, this Act has effect as if the election had not been made.

(4) If:

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(a) a person makes an election under section 146C, 146E or 146G; and

(b) no payment has been made in accordance with the election; and

(c) CSC, having regard to:

(i) such matters (if any) as are prescribed; and

(ii) such other matters as it considers relevant;

is satisfied that the election should be cancelled;

CSC may direct that the election is to be cancelled and, if it so directs, this Act has effect as if the election had not been made.

158 Interim payment of benefits

Where a person has become entitled to a benefit under this Act, but the payment of the benefit cannot be made or commence to be made by reason that the rate or the amount of that benefit has not been ascertained, CSC may, upon application in writing being made to it, direct that an interim payment or interim payments be made to the person, at such rate or rates, or in such amount or amounts, as it determines, and any interim payment so made shall be deemed to be a payment made in respect of that benefit.

158A Payment of unclaimed money to eligible roll-over fund

(1) If:

(a) a lump sum benefit is payable under this Act to a person; and

(b) the person fails, within 90 days after the benefit becomes payable, to tell CSC in writing how the person wishes the benefit to be paid;

CSC may pay the amount of the benefit to an eligible roll-over fund.

(2) If:

(a) subsection (1) applies in relation to a benefit that is payable to a person; and

(b) under the SIS Act the amount of the benefit is required to be paid to an eligible roll-over fund;

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CSC must comply with the requirement.

(3) If:

(a) subsection (1) applies in relation to a benefit that is payable to a person; and

(b) the amount of the benefit is unclaimed money within the meaning of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* and is required to be paid to the Commissioner of Taxation under that Act;

CSC must comply with the requirement.

159 Payment by approved authorities etc. to the Commonwealth in respect of eligible employees

(1) This section applies to:

(a) an approved authority; and

(b) any other authority or body:

(i) whose staff consists of persons engaged under the Public Service Act; and

(ii) that has been declared by the Minister to be an authority or body to which this section applies; and

(c) an authority (other than an approved authority) or body whose staff include a person or persons mentioned in paragraph (ec) of the definition of ***eligible employee*** in subsection 3(1).

(2) If the Minister so determines, an authority or body to which this section applies must make payments to the Commonwealth in respect of any person who:

(a) is, or was at any time:

(i) in the case of an approved authority—employed by that authority; or

(ii) in the case of an authority or body referred to in paragraph (1)(b)—a member of the staff of the authority or body; and

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(b) is an eligible employee, or was an eligible employee during the period when the person was employed by, or was a member of the staff of, the authority or body.

(3) Payments that an authority or body is required to make in respect of a person under subsection (2) are to be made:

(a) at such times as the Minister determines; and

(b) in such amounts, or at such rates, as the Minister determines, having regard to the benefits that are or may become payable, or have been paid, to or in respect of the person.

(4) An authority or body that is required to make a payment under subsection (2) may apply for that purpose any money under its control.

(5) For the purposes of this section, the holder of a statutory office whose remuneration is paid by an authority or body is taken to be employed by that authority or body.

160 Cost of administration of, and of medical examinations under, Act etc.

(1) The costs of the administration of this Act and of the superseded Act, including the costs of and incidental to the management of the Fund by CSC (other than costs which the regulations provide shall be paid out of the Fund), shall be paid out of moneys appropriated from time to time by the Parliament for the purpose.

(2) Moneys received and paid under this section, and the accounts in connexion therewith, shall be kept, as part of the Consolidated Revenue Fund, separately from the moneys and accounts of the Fund.

(3) Subject to subsection (4), the cost of a medical examination carried out for the purposes of section 16 or 16AB is part of the cost of the administration of this Act.

(4) Where a person who:

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(a) proposes to become, becomes or is employed by an approved authority or a declared authority; or

(b) is the proposed appointee to, or the holder of, a statutory office whose remuneration is paid by an approved authority or declared authority;

is required to undergo a medical examination under section 16 or 16AB, the cost of the examination is to be paid by the approved authority or declared authority (as the case may be).

(5) For the purposes of subsection (6), the Minister may prepare an estimate of the costs referred to in subsection (1) that are likely to be incurred in respect of a financial year.

(6) The Minister may direct an authority or body that is or was, during the period specified in the direction, being a period that is included in, or is, a financial year in respect of which an estimate has been prepared under subsection (5):

(a) an approved authority that employs or employed eligible employees; or

(b) a declared authority whose staff includes or included eligible employees;

to pay to the Commonwealth such part of the costs estimated by the Minister in respect of that period as:

(c) is determined by the Minister having regard to such matters (if any) as are prescribed; and

(b) is specified in the direction.

(7) An authority or body that is required to make a payment under subsection (4) or (6) may apply for that purpose any money under its control.

(8) In this section:

declared authority means:

(a) an authority (other than an approved authority) or a body:

(i) whose staff consist of persons engaged under the Public Service Act; and

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(ii) that has been declared by the Minister (whether before or after the commencement of this subparagraph) to be an authority or body to which this section applies; or

(b) an authority (other than an approved authority) or a body whose staff include a person or persons mentioned in paragraph (ec) of the definition of ***eligible employee*** in subsection 3(1).

160A CSC liable to pay surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*

(1) To remove any doubt, it is stated that:

(a) for the purposes of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*, CSC in its capacity as a superannuation provider is an entity distinct from the Commonwealth; and

(b) consequently, section 33 of that Act does not affect the liability of CSC under that Act to pay surcharge on the surchargeable contributions of eligible employees.

(2) Amounts payable by CSC under subsection 16(6) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

163 Minister may request the supply of information

CSC shall furnish to the Minister such information relating to the general administration and operation of this Act (including the investment of the Fund) as the Minister may from time to time require.

163A Power to require persons to give information and produce documents

(1) Where CSC has reason to believe that a person is capable of giving information or producing a document relating to a matter that is relevant to the operation of this Act, the superseded Act or

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regulations under either Act in relation to the person or to another person for whom the first-mentioned person is authorised to act in relation to this Act, CSC may, by notice in writing served on the first-mentioned person, require the first-mentioned person:

(a) to give to CSC, by writing signed by the first-mentioned person or, in the case of a body corporate, by a competent officer of the body corporate, any such information; or

(b) to produce to CSC or to a Secretary within the meaning of the Public Service Act, or other person engaged under that Act, specified in the notice acting on CSC's behalf, any such document.

(1A) For the purposes of subsection (1), the information must be given, or the document must be produced:

(a) within 14 days after the day the notice was served; and

(b) in the manner specified in the notice.

(2) A notice under this section requiring a person to give information or produce a document shall set out the effects of subsections (3) and (5) of this section and section 137.2 of the *Criminal Code*.

(3) A person shall not refuse or fail to comply with a notice under this section to the extent that the person is capable of complying with it.

Penalty: Imprisonment for 6 months, or 30 penalty units, or both.

Note: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

(5) A person is not excused from giving information or producing a document in pursuance of this section on the ground that the information or the production of the document might tend to incriminate the person, but the information, the production of the document or any information, document or thing obtained as a direct or indirect consequence of the information or the production shall not be used in evidence against the person:

(a) in the case of an individual—in any criminal proceedings other than:

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(i) proceedings under, or arising out of, this section; or

(ii) a prosecution for an offence against section 137.1 of the *Criminal Code* that relates to this section; or

(b) in the case of a body corporate—in any criminal proceedings other than:

(i) proceedings under, or arising out of, this Act, the superseded Act or regulations under either Act; or

(ii) a prosecution for an offence against the *Criminal Code* that relates to this Act.

(6) CSC may inspect a document produced in pursuance of a notice under subsection (1) and may make copies of, or take extracts from, the document.

(7) CSC may, for the purposes of this Act, take, and retain for so long as is necessary for those purposes, possession of a document produced in pursuance of a notice under subsection (1) but the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by CSC to be a true copy and the certified copy shall be received in all courts as evidence as if it were the original.

(8) Until a certified copy of a document referred to in subsection (7) is supplied, CSC shall, at such times and place as CSC thinks appropriate, permit the person otherwise entitled to the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

(9) The powers conferred on CSC by a provision of this Act other than this section are in addition to, and not in derogation of, the powers conferred on CSC by this section.

163AB CSC may require employers to distribute information etc. to eligible employees

(1) CSC may:

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(a) send to the designated employer of an eligible employee any document or written information that, under this Act or any other Act, CSC is required to send to the employee; and

(b) ask the designated employer to give the document or information to the eligible employee.

(2) CSC must ensure that the confidentiality of any document or information sent to the designated employer for transmission to the employee is preserved.

(3) The designated employer of an eligible employee must comply with a request of CSC under subsection (1) unless doing so would breach Chapter 7 of the *Corporations Act 2001*.

164 Directions etc. to be in writing

A direction, determination or declaration by the Minister or CSC under this Act shall be in writing.

165 Delegation

The Minister may, by signed instrument, delegate all or any of his or her powers under this Act or the regulations to:

(a) CSC or an employee of CSC; or

(b) a director (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*); or

(e) an officer of the Department.

166 Eligible employees paid in foreign currency

(1) In this section, ***foreign currency*** means currency other than Australian currency.

(2) Where the salary of an eligible employee is fixed and payable in foreign currency, this Act shall, for the purpose of calculating:

(a) any contributions or other payments payable by him or her under this Act;

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(b) any benefit payable to or in respect of him or her under this Act; and

(c) any payment which may become payable from the Consolidated Revenue Fund to the Superannuation Fund, or from the Superannuation Fund to the Commonwealth, in respect of him or her under this Act;

be read as if any reference to an amount of salary, contribution, benefit, or payment, or to any other amount, were a reference to the amount in that foreign currency that corresponds with that amount.

(3) For the purposes of subsection (2):

(a) the amount in sterling that corresponds with an amount referred to in this Act shall be calculated on the basis that 1 pound sterling is the equivalent of $2; and

(b) the amount in any other foreign currency that corresponds to an amount referred to in this Act is to be calculated by using such rate of exchange as is agreed between the eligible employee and the designated employer.

(4) Where a payment made to the Superannuation Fund exceeds, or a payment made from the Superannuation Fund is less than, the amount of the payment which would, but for this section, have been made, there shall be payable to the Commonwealth from the Superannuation Fund an amount equal to the difference, and, where a payment made to the Superannuation Fund is less than, or a payment made from the Superannuation Fund exceeds, the amount of the payment which would, but for this section, have been made, there shall be payable to the Superannuation Fund out of the Consolidated Revenue Fund, which is appropriated accordingly, an amount equal to that difference.

167 Making false statements to CSC

(3) If a person is convicted of an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act, the Court may, in addition to imposing a penalty in respect of the offence, order the person to pay CSC an amount equal to any

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amount of benefit paid to the person as a result of the act, failure or omission in respect of which the person was convicted.

(4) For the purposes of subsection (3), a certificate by CSC stating that an amount specified in the certificate is the amount of benefit that has been paid to a person specified in the certificate in consequence of an act, failure or omission specified in the certificate is *prima facie* evidence of the matters specified in the certificate.

(4A) In any proceeding, a document purporting to be a certificate under subsection (4) is taken, unless the contrary is proved, to be such a certificate and to have been duly given.

167AA Proceedings against corporations

(1) Where, in proceedings for an offence against this Act in respect of any conduct engaged in by a body corporate, it is necessary to establish the state of mind of the body, it is sufficient to show that a director, employee or agent of the body, being a director, employee or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.

(2) Any conduct engaged in on behalf of a body corporate:

(a) by a director, employee or agent of the body within the scope of his or her actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, employee or agent of the body, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, employee or agent;

shall be deemed, for the purposes of a provision of this Act that creates an offence, to have been engaged in by the body.

(3) A reference in subsection (1) to the state of mind of a person includes a reference to the knowledge, intention, opinion, belief or

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purpose of the person and the person's reasons for the intention, opinion, belief or purpose.

167AB Exercise of certain powers by Minister

The Minister may not make an Order, declaration or determination (other than a determination under section 241) under this Act that is a legislative instrument unless:

(a) CSC has consented to the making of the Order, declaration or determination; or

(b) the Order, declaration or determination:

(i) relates to a payment by an employer-sponsor within the meaning of the SIS Act that will, after the making of the Order, declaration or determination, be required or permitted to be made under this Act; or

(ii) relates solely to the termination of the Fund; or

(iii) is made or given in circumstances covered by regulations made for the purposes of subparagraph 60(1)(b)(iii) of the SIS Act.

168 Regulations

(1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular:

(a) for prescribing the manner in which notices and other documents under this Act may be given or served; and

(b) for prescribing penalties not exceeding 20 penalty units for offences against the regulations.

Note: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

(1A) If a provision of this Act refers to a provision (the ***former provision***) of the Rules for the administration of the Public Sector Superannuation Scheme, then:

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(a) if a change is made to those Rules so that the former provision is replaced by another provision of those Rules (the ***new provision***)—the regulations may amend this Act by omitting from that provision of this Act the reference to the former provision and substituting a reference to the new provision; or

(b) if those Rules are replaced by new Rules—the regulations may amend this Act by omitting from that provision of this Act the reference to the former provision and substituting a reference to the corresponding provision of the new Rules.

(1B) Regulations made as mentioned in subsection (1A) may commence on a day earlier than the day on which they are made, but not earlier than the day on which the former provision was replaced by the new provision or by the corresponding provision of the new Rules, as the case may be.

(2) Regulations made within a period of 30 months after the commencing day may be expressed to have taken effect from and including a day not earlier than the commencing day.

(3) Subject to subsection (5), regulations made after 31 December 1978 by virtue of subsection 11(4) or 126(2), or made for the purposes of the definition of ***approved authority*** in subsection 3(1), may be expressed to have taken effect from and including a day not earlier than 12 months before the making of the regulations.

(4) Regulations made within the period of 12 months after the commencement of this subsection by virtue of section 14A in relation to:

(a) persons who are deemed to have been re-appointed to the Australian Public Service in pursuance of section 87Q of the Public Service Act; or

(b) persons who are, or are deemed to be, re-appointed (otherwise than to the Australian Public Service) or re-employed in circumstances similar to the circumstances in which a person could be re-appointed to the Australian Public Service under section 63F, 63G or 66B of the Public Service Act or could be deemed to be re-appointed to the

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Australian Public Service in accordance with section 87Q of that Act;

may be expressed to have effect from a day not earlier than 15 March 1981.

(5) Regulations made after the commencement of this subsection for the purposes of the definition of ***maximum retiring age*** or ***minimum retiring age*** in subsection 3(1) may be expressed to have taken effect from and including a day not earlier than 12 months before the making of the regulations.

(6) Regulations made within a period of 2 years after the commencement of this subsection by virtue of subsection 126(2) with respect to persons to whom paragraph (b) of the definition of ***prescribed teacher*** in section 43P of the *Commonwealth Teaching Service Act 1972* applies may be expressed to have taken effect from and including a day not earlier than 31 March 1977.

(7) Regulations made after the commencement of this subsection by virtue of subsection 159(3) may be expressed to have taken effect from and including a day not earlier than 12 months before the making of the regulations.

(8) Regulations made within a period of 2 years after the commencement of this subsection by virtue of section 180 may be expressed to have taken effect from and including a day not earlier than the commencing day.

(9) Regulations made within a period of 12 months after the commencement of this subsection by virtue of section 5, 14A, 76, 126, 136, 144, 155A, 180 or 183 may be expressed to have taken effect from and including a day not earlier than 1 July 1990.

(10) Regulations made within a period of 12 months after the commencement of this subsection for the purposes of section 126, 180 or 183 may be expressed to have taken effect from and including a day not earlier than the day of that commencement.

(11) Regulations made within 2 years after the commencement of this subsection for the purposes of section 6A may commence on a day

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earlier than the day on which they are made, but not earlier than the commencement of this subsection.

(12) Regulations made within one year after the commencement of this subsection for the purposes of section 14A, 51, 126, 155, 180 or 183 may commence on a day earlier than the day on which they are made, but not earlier than the commencement of this subsection.

(12A) Regulations made within one year after the commencement of this subsection for the purposes of the amendments of this Act made by Schedule 2 to the *Superannuation Legislation Amendment Act 1995* may commence on a day earlier than the day on which they are made, but not earlier than the commencement of this subsection.

(13) Regulations may not be made after the commencement of this subsection unless:

(a) CSC has consented to the making of the regulations; or

(b) the regulations:

(i) relate to a payment by an employer-sponsor within the meaning of the SIS Act that will, after the making of the regulations, be required or permitted to be made under this Act; or

(ii) relate solely to the termination of the Fund; or

(iii) are made in circumstances covered by regulations made for the purposes of subparagraph 60(1)(b)(iii) of the SIS Act.

(14) If any regulations in force at the commencement of this subsection confer a power on the Commissioner:

(a) that power is exercisable after that commencement by CSC and not by the Commissioner; and

(b) any determination, approval or other thing that was made, given or done by the Commissioner under that power before that commencement is taken, after that commencement, for the purposes of this Act (other than section 154, as in force at the commencement of this subsection, and Part XA) to have been made, given or done by CSC.

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(15) Regulations made after the commencement of this subsection:

(a) for the purpose of the definition of ***statutory office*** in subsection 3(1); or

(b) for the purposes of subsection 3(1AA);

may commence on a day not earlier than 12 months before the making of the regulations.

(16) If regulations are made after the commencement of this subsection for a purpose referred to in subsection (15) and, before the start of the period of 12 months before the making of the regulations, contributions have been accepted from, or in respect of:

(a) if the regulations are made for the purpose mentioned in paragraph (15)(a)—the holder of the statutory office concerned; or

(b) if the regulations are made for the purpose mentioned in paragraph (15)(b)—a person to whom the regulations relate;

the regulations may commence on a day not earlier than the earliest day on which contributions were so accepted.

(17) Regulations made within one year after the commencement of this subsection for purposes arising from any amendment of this Act made by Schedule 1 to the *Superannuation Legislation Amendment (Superannuation Contributions Tax) Act 1997* may commence on a day:

(a) earlier than the day on which they are made; but

(b) not earlier than the commencement of this subsection.

(17A) If:

(a) a provision of the regulations is incorrect, inadequate or ineffective because of a provision of any Act (including an Act amending this Act) that was enacted after the provision of the regulations was made; and

(b) the incorrectness, inadequacy or ineffectiveness could be remedied by an appropriate amendment of the regulations;

CSC may, for the purposes of the performance of its functions or the exercise of its powers under this Act or the regulations, treat the amendment as having been made.

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(18) Regulations made within one year after the commencement of this subsection for purposes arising from any amendment of this Act made by the *Superannuation Legislation Amendment (Post-retirement Commutations) Act 2001* may commence on a day:

(a) earlier than the day on which they are made; but

(b) not earlier than the commencement of this subsection.

(19) Regulations made within one year after the commencement of this subsection for purposes arising from any amendment of this Act made by the *Superannuation Legislation Amendment (Indexation) Act 2001* may commence on a day:

(a) earlier than the day on which they are made; but

(b) not earlier than the commencement of this subsection.

(20) Regulations made within one year after the commencement of this subsection for purposes arising from any amendment of this Act made by the *Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004* may commence on a day:

(a) earlier than the day on which they are made; but

(b) not earlier than the commencement of this subsection.

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Part XII—Transitional provisions

Division 1—Preliminary

169 Interpretation

In this Part, unless the contrary intention appears:

existing Fund means the Superannuation Fund established by the superseded Act.

former Board means the Superannuation Board established by the superseded Act.

new Fund means the Superannuation Fund established by this Act.

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Division 2—Existing superannuation fund

170 Interpretation

(1) In this Division, unless the contrary intention appears:

assets means property of any kind and, without limiting the generality of the foregoing, includes:

(a) choses in action; and

(b) rights, interests and claims of every kind in or to property, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

authorized person means the Chair of the Trust or a person authorized in writing by the Chair of the Trust to give certificates under section 173.

Eligible pensioner means a person to whom, or in respect to whom, at the commencement of this Act, pension, other than a non-contributory pension, was payable or would, but for the pension having been suspended, have been payable under:

(a) the superseded Act; or

(b) section 10 of the *Superannuation (Pension Increases) Act 1971*.

Instrument means an instrument of any kind and, without limiting the generality of the foregoing, includes a contract, guarantee or agreement (whether express or implied and whether made or given orally or in writing), bond, authority, order, power of attorney, mortgage, transfer, conveyance or other assurance, charge, lien, bill of exchange, letter of credit and security.

instrument to which this Division applies means an instrument arising out of, or otherwise connected with, the exercise or proposed exercise by the former Board of its investment power, being an instrument:

(a) to which the former Board is a party;

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(b) which was given to or in favour of the former Board;
(c) in which a reference is made to the former Board; or
(d) under which any money is or may become payable, or any other property is to be, or may become liable to be, transferred, conveyed or assigned to or by the former Board;

being an instrument subsisting immediately before the commencing day.

investment assets of the existing Fund means the assets of the existing Fund or of the former Board arising out of, or otherwise connected with, the exercise or proposed exercise by the former Board of its investment power, being assets subsisting immediately before the commencing day.

investment liabilities of the existing Fund means liabilities of the existing Fund or of the former Board arising out of, or otherwise connected with, the exercise or proposed exercise by the former Board of its investment power, being liabilities subsisting immediately before the commencing day.

investment power, in relation to the former Board, means the power of the former Board under section 12 of the superseded Act to invest moneys of the existing Fund.

liabilities means liabilities of every kind and, without limiting the generality of the foregoing, includes obligations of every kind, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

non-contributory pension means:

(a) a pension that became payable under section 57 of the *Superannuation Act 1922* or of that Act as amended, not being a pension for which contributions were made to a State Fund as defined by section 101 of the superseded Act;
(b) a pension that became payable under section 58 of the *Superannuation Act 1922* or of that Act as amended; or
(c) a pension to which subsection 9(2), or subsection 14(2), of the *Superannuation Act (No. 2) 1956* applies.

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uninvested moneys of the existing Fund means moneys of the existing Fund that, immediately before the commencing day, are held uninvested by the former Board, including any moneys lodged on call or on fixed deposit under section 13 of the superseded Act.

unreceived amounts in respect of life assurance policies means:

(a) amounts paid by the former Board under section 74 of the superseded Act in respect of life assurance policies (not being policies that matured, or were re-transferred under subsection 74(3) of that Act, before the commencing day) together with compound interest thereon, from the respective dates of payment until the commencing day, as provided for under that section; and

(b) amounts that, but for subsection 119ZC(2) of the superseded Act, would have been paid by the former Board to the existing Fund under paragraph 119J(3)(a) of that Act, or to the Provident Account established by that Act under paragraph 119J(7)(a) of that Act, in respect of persons (not being persons whose life policy or life policies assigned to the former Board in accordance with subsection 119ZC(3) of that Act, or issued in relation to them in accordance with subsection 119ZC(4) of that Act, became payable, or were surrendered or assigned by the former Board, before the commencing day) together with compound interest thereon as would be provided for under subparagraph 119ZC(8)(a)(i) of that Act if the relevant policies became payable on the day immediately preceding the commencing day.

unreceived moneys of the existing Fund means moneys that a person (including the Commonwealth) has become liable to pay (whether or not payment has been deferred under the superseded Act or otherwise), or would, if a demand had been made, have become liable to pay, whether under the superseded Act or otherwise, to the existing Fund or the former Board (not being moneys that a person has become liable to pay, or would, if a demand had been made, have become liable to pay, to the Fund or the former Board by reason of, or for a reason connected with, the

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exercise by the former Board of its investment power), but which have not been paid before the commencing day.

(2) Where deferred benefits were applicable in respect of a person under section 119W of the superseded Act on the day immediately preceding the commencing day but had not become payable to or in respect of the person on or before that day, the person shall be deemed to be an eligible pensioner for the purposes of this Division.

(3) A reference in this Division to the value of the net assets of the existing Fund shall be read as a reference to the amount by which the value, as determined by the Minister, of the investment assets of the existing Fund subsisting immediately before the commencing day, the uninvested moneys of the existing Fund, the unreceived moneys of the existing Fund and the unreceived amounts in respect of life assurance policies exceeds the amount, as determined by the Minister, of the investment liabilities of the existing Fund subsisting immediately before the commencing day and moneys that persons paid, but were not liable to pay, under the superseded Act before the commencing day.

171 Transfer of certain assets and liabilities

Upon the commencement of this Act:

(a) the uninvested moneys of the existing Fund become, by force of this section, moneys of the new Fund;

(b) the investment assets of the existing Fund become, by force of this section, assets of the new Fund and shall be deemed to be moneys of the new Fund invested by the Trust under section 42; and

(c) the investment liabilities of the former Board become, by force of this section, liabilities of the Trust.

172 Instruments

An instrument to which this Division applies continues, by force of this section, in full force and effect but, in its operation in relation

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to acts, transactions, matters or things done, entered into or occurring on or after the commencing day, has effect as if a reference in the instrument to the former Board were a reference to the Trust.

173 Certificates

(1) An authorized person may, by writing under his or her hand, certify that an asset, liability or instrument specified or described in the certificate is an investment asset of the existing Fund, an investment liability of the existing Fund or an instrument to which this Division applies, as the case may be, and the certificate is, in all courts and for all purposes, *prima facie* evidence of the matters stated in the certificate.

(2) Where a document purports to be a certificate under subsection (1) signed by an authorized person, judicial notice shall be taken of the signature of that person and of the fact that that person is or was an authorized person.

(3) An instrument or document that an authorized person certifies to have been made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of this Division is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or of a Territory.

174 Pending proceedings

Where, immediately before the commencing day, proceedings to which the former Board was a party (being proceedings with respect to any matter arising out of, or otherwise connected with, the exercise by the former Board of its investment power) were pending in any court, the Trust is, by force of this section, substituted for the former Board as a party to the proceedings.

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175 Allocation of existing Fund between pensioners and contributors

(1) For the purposes of this Division, part of the value of the net assets of the existing Fund, being a part the value of which is determined by the Minister, shall be deemed to relate to persons other than existing contributors.

(2) In making the determination under subsection (1), the Minister shall have regard to such matters (if any) as are prescribed.

176 Allocation among eligible pensioners

(1) In this section:

amount available for distribution means the sum of:

(a) the amount (in paragraph (b) referred to as the ***surplus amount***) equal to the amount by which the value of the part of the value of the net assets of the existing Fund that, by virtue of subsection 175 (1), is deemed to relate to persons other than existing contributors, exceeds the amount determined by the Minister under subsection (2) of this section; and

(b) an amount determined by the Minister, after receiving advice from the Investment Trust, to be the amount that will accrue to the new Fund, in respect of the period commencing on the commencing day and ending on the distribution date, in relation to the surplus amount.

distribution date means such date as is fixed by the Minister, by notice published in the *Gazette*, as the distribution date for the purposes of this section.

(2) The Minister shall, as soon as practicable after the commencing day, determine the amount necessary to provide for the benefits (other than benefits that might have become payable to or in respect of existing contributors) which were a charge upon the existing Fund immediately before the commencing day or are, under the regulations, to be treated as if they were such a charge.

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(3) The Minister shall, in making the determination for the purposes of subsection (2), have regard to such matters (if any) as are prescribed.

(4) The Commissioner shall, as soon as practicable after the distribution date has been fixed by the Minister, allocate among eligible pensioners, in such manner as the Minister directs, the amount nearest to the amount available for distribution that it is practicable to allocate in that manner among eligible pensioners, and, in giving those directions, the Minister shall take into account all matters relevant to ensure that the amount to be distributed will be allocated among the persons concerned on a fair and reasonable basis.

(5) Subject to subsection (6), as soon as practicable after the allocation in respect of eligible pensioners has been made under subsection (4), there shall be paid out of the new Fund to each eligible pensioner who is entitled to an amount under the allocation (not being an amount that is less than $2) an amount equal to that amount.

(6) Where an eligible pensioner who is entitled to an amount under the allocation made under subsection (4) has died before payment of the amount, an amount equal to, or amounts aggregating, the amount to which the pensioner is so entitled shall be paid out of the new Fund to such person (if any), or to such persons (if any), as the Commissioner determines.

(7) Sections 118, 119 and 156 apply in relation to any moneys payable under this section as if those moneys were a benefit payable under this Act.

(8) Section 144 of the superseded Act applies in relation to any moneys payable under this section as if those moneys were an amount becoming payable under the superseded Act.

177 Allocation among existing contributors

(1) In this section:

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amount available for allocation as basic contributions means the amount referred to in paragraph (2)(a).

amount available for allocation as supplementary contributions means the amount referred to in paragraph (2)(b).

amount available for distribution as supplementary contributions means the sum of:

(a) the amount (in paragraph (b) referred to as the ***surplus amount***) equal to the amount available for allocation as supplementary contributions; and

(b) an amount determined by the Minister, after receiving advice from the Investment Trust, to be the amount that will accrue to the new Fund, in respect of the period commencing on the commencing day and ending on the distribution date, in relation to the surplus amount.

distribution date means such date, being a date not earlier than the election date, as is fixed by the Minister, by notice published in the *Gazette*, as the distribution date for the purposes of this section.

election date means such date as is fixed by the Minister, by notice published in the *Gazette*, as the election date for the purposes of this section.

(2) For the purposes of this section, the Minister shall, as soon as practicable after the commencing day, determine, in relation to the value of the net assets of the existing Fund:

(a) the amount that is to be treated as basic contributions made by existing contributors on the commencing day; and

(b) the amount that is to be treated as supplementary contributions made by existing contributors on the commencing day;

and, in making the determination, the Minister shall have regard to such matters (if any) as are prescribed.

(3) The Commissioner shall, as soon as practicable after the commencing day:

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(a) allocate among existing contributors, in such manner as the Minister directs, the amount nearest to the amount available for allocation as basic contributions that it is practicable to allocate in that manner among existing contributors;

(b) allocate among existing contributors, in such manner as the Minister directs, the amount nearest to the amount available for allocation as supplementary contributions that it is practicable to allocate in that manner among existing contributors;

(c) allocate among existing contributors, in such manner as the Minister directs, the amount nearest to the amount available for distribution as supplementary contributions that it is practicable to allocate in that manner among existing contributors;

and, in giving those directions, the Minister shall take into account all matters relevant to ensure that the amounts to be allocated will be allocated among the persons concerned on a fair and reasonable basis.

(4) As soon as practicable after the allocations in respect of existing contributors have been made under subsection (3), the Commissioner shall cause notice to be given to each existing contributor of the respective amounts that have been allocated to him or her under paragraphs (a), (b) and (c) of that subsection.

(5) An existing contributor may, not later than the election date, or, if he or she ceases to be an eligible employee before the election date, not later than the date on which he or she so ceases, elect, by notice in writing to the Commissioner, that an amount specified in the election, being an amount not exceeding the amount allocated to him or her under paragraph (3)(c), be paid to him or her.

(6) Where an existing contributor makes an election under subsection (5), then, subject to subsection (7), there shall be paid out of the new Fund to him or her an amount equal to the amount specified in the election.

(7) Where an existing contributor who is entitled to an amount under subsection (6) has died before the payment of the amount, an

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amount equal to, or amounts aggregating, the amount to which he or she is so entitled shall be paid out of the new Fund to such person (if any), or to such persons (if any), as the Commissioner determines.

(8) Sections 118, 119, 156 and 166 apply in relation to any moneys payable under this section as if those moneys were a benefit payable under this Act.

(9) An amount equal to the amount allocated to an existing contributor under paragraph (3)(a) shall be deemed to be an amount of basic contributions paid by him or her under this Act on the commencing day.

(10) Where an existing contributor does not make an election under subsection (5), an amount equal to the amount allocated to him or her under paragraph (3)(b) shall be deemed to be an amount of supplementary contributions paid by him or her under this Act on the commencing day.

(11) Where an existing contributor makes an election under subsection (5) and specifies in the election an amount less than the amount allocated to him or her under paragraph (3)(c), an amount ascertained for the purposes of this subsection in accordance with subsection (12) shall be deemed to be an amount of supplementary contributions paid by him or her under this Act on the commencing day.

(12) The amount to be ascertained for the purposes of subsection (11) in accordance with this subsection in respect of an existing contributor is an amount ascertained in accordance with the formula:

$$A - \frac{AB}{C}$$

where:

A is an amount equal to the amount allocated to him or her under paragraph (3)(b).

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B is the amount specified in the election; and

C is an amount equal to the amount allocated to him or her under paragraph (3)(c).

178 Payment from new Fund to the Commonwealth

(1) There shall be paid from the new Fund to the Commonwealth an amount equal to the amount by which the value of the net assets of the existing Fund exceeds the sum of:

(a) the amount referred to in the definition of ***amount available for distribution*** in subsection 176(1) as the ***surplus amount***;

(b) the amount defined in subsection 177(1) as the amount available for allocation as basic contributions; and

(c) the amount defined in subsection 177(1) as the amount available for allocation as supplementary contributions.

(2) The Minister may approve the transfer, subject to such conditions (if any) as he or she determines, of the excess established under subsection (1) from the new Fund to the Commonwealth in such manner, in such instalments, and at such times during the period of 10 years commencing on the commencing day, as he or she determines.

179 Determinations etc. to be in writing

Any determination, direction or allocation by the Minister or the Commissioner for the purposes of this Division shall be in writing, and shall not be varied except for the purpose of correcting an error, whether in calculation or otherwise, or a mistake of fact, or for a purpose authorized by the regulations.

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Division 3—Invalidity pensioners

180 Existing invalidity pensioners

(1) In this section, ***existing invalidity pensioner*** means a person to whom a pension of a kind referred to in section 64A or section 65 of the superseded Act as in force immediately before the repeal of that section (other than a deferred benefit by way of a pension referred to in subsection (1) of section 64A of the superseded Act as so in force) is payable or would, but for the pension having been suspended, be payable.

(2) Sections 15 and 73A, section 74 (other than subsections (6) and (7)), section 74A and section 75 apply to and in relation to an existing invalidity pensioner who has not become an eligible employee, with such modifications (if any) as are prescribed, as if his or her pension were an invalidity pension payable under this Act and as if, immediately before he or she became entitled to that pension, he or she had been an eligible employee.

(3) The provisions of this Act apply to and in relation to an existing invalidity pensioner who becomes an eligible employee with such modifications (if any) as are prescribed and subject to subsection (4).

(4) Where an existing invalidity pensioner becomes an eligible employee, there shall be paid into the new Fund out of the Consolidated Revenue Fund (which is appropriated accordingly) such amount as CSC determines having regard to the total amount of contributions paid by the pensioner under the superseded Act and such other matters as CSC considers relevant, and an amount equal to the amount so paid shall be deemed to be an amount paid to the new Fund under subsection 112(5) in respect of the person.

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Division 4—Existing contributors

181 Interpretation

In this Division:

first contribution day means the contribution day that falls on 8 July 1976.

Initial basic contribution, in relation to an existing contributor, means the amount of the basic contribution made, or required to be made, by the contributor on the first contribution day.

previous contribution (excluding contribution for reserve units), in relation to an existing contributor, means the amount of the contribution made, or required to be made, by the contributor under the superseded Act in respect of units of pension, other than reserve units of pension, on the pay day last preceding the commencing day.

previous contribution (including contribution for reserve units), in relation to an existing contributor, means the amount of the contribution made, or required to be made, by the contributor under the superseded Act in respect of units of pension, including reserve units of pension, on the pay day last preceding the commencing day.

182 First day of service

A person who is, or at any time has been, a person referred to in paragraph (a) of the definition of ***eligible employee*** in subsection 3(1) shall be deemed to have become an eligible employee on the commencing day.

183 Modification of Act in relation to existing contributors

(1) This section applies to a person who is or has ceased to be an eligible employee, being a person who is, or at any time has been, a

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person referred to in paragraph (a) of the definition of ***eligible employee*** in subsection 3(1).

(2) The regulations may make provision for modifying this Act, or a provision of this Act specified in the regulations, in the application of this Act or that provision to and in relation to a person to whom this section applies, or to and in relation to a prescribed class of persons to whom this section applies.

(3) The modifications that may be made by regulations in pursuance of subsection (2) include, but are not limited to, modifications providing for the payment of contributions in addition to, or in substitution for, contributions that would otherwise be payable under this Act and for benefits in addition to, or in substitution for, benefits provided for by this Act.

184 Medical examinations and benefit classification certificates

(1) This section applies to a person who is, or at any time has been, an existing contributor other than:

(a) an existing contributor who has previously ceased to be an eligible employee by reason of retirement on the ground of invalidity, being an existing contributor to whom, upon his or her so ceasing, invalidity benefit was payable in accordance with section 69, 72 or 73; or

(b) an existing contributor who has previously ceased to be an eligible employee otherwise than by reason of retirement on the ground of invalidity.

(2) Subject to subsection (4), where:

(a) a person to whom this section applies who, immediately before the commencing day, was (otherwise than because of an election made under section 81 of the superseded Act) a contributor to the Provident Account:

(i) ceases to be an eligible employee because of death or retirement on the ground of invalidity; or

(ii) becomes entitled to partial invalidity pension under section 78 because of a decrease in the annual rate of

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the person's salary that CSC is satisfied can properly be regarded as attributable to physical or mental incapacity;

(b) at the time when the person so ceases to be an eligible employee or becomes entitled to partial invalidity pension, as the case requires, the person's period of contributory service is less than 20 years and the person has not attained the person's maximum retiring age; and

(c) CSC is of the opinion that the death of the person, the incapacity which was the ground for the retirement of the person or the incapacity to which CSC was satisfied that the decrease in the annual rate of salary of the person could properly be regarded as attributable, as the case requires, was caused, or was substantially contributed to:

(i) by the physical or mental condition of the person that was relevant for the purposes of the superseded Act or, if there was more than one such condition, by those conditions or one or more of those conditions; or

(ii) by a physical or mental condition or conditions of the person connected with the physical or mental condition of the person that was relevant for the purposes of the superseded Act or, if there was more than one such condition, with those conditions or one or more of those conditions;

CSC shall issue in respect of the person a benefit classification certificate in which there is or are specified the physical or mental condition or conditions of the person that was or were relevant for the purposes of the superseded Act and, for the purposes of this Act, the certificate shall be deemed to have been issued under subsection 16(4) and to have been in force in respect of the person immediately before his or her death or retirement or immediately before the person became entitled to partial invalidity pension under section 78, as the case requires.

(2A) Subsection (2) does not apply in relation to a person who, on 30 June 1990 was, and until the date the person ceased to be an eligible employee or became entitled to partial invalidity pension,

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as the case requires, being a date after 31 March 1991, continued to be, an eligible employee.

(3) Subject to subsection (4), CSC may, if it thinks fit, and shall, upon application in writing being made to it by an eligible employee who is a person to whom this section applies and who, immediately before the commencing day, was (otherwise than by reason of an election made under section 81 of the superseded Act) a contributor to the Provident Account, issue in respect of the eligible employee a benefit classification certificate in which the physical or mental condition or conditions of the person that was or were relevant for the purposes of the superseded Act is or are specified and, for the purposes of this Act, the certificate shall be deemed to have been issued under subsection 16(4).

(4) CSC shall not, under subsection (2) or (3), issue a benefit classification certificate in respect of a person if there is a benefit classification certificate in force in respect of the person at that time.

(5) Where CSC is satisfied, in respect of a person who is a relevant person:

(a) that, at or in connection with a medical examination that the person underwent for the purpose of the superseded Act, the person failed to answer properly a question asked of him or her or gave false or misleading information; and

(b) that a physical or mental condition of the person or physical or mental conditions of the person (in this subsection referred to as an ***unrecorded condition*** or as ***unrecorded conditions***) that was not or were not relevant for the purposes of the superseded Act, would have been relevant for the purposes of that Act if the person had answered the question properly or had not given that false or misleading information;

CSC shall:

(c) if there is a benefit classification certificate in force in respect of the relevant person—revoke that certificate and issue a new benefit classification certificate in respect of the person in which the unrecorded condition or the unrecorded

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conditions is or are specified either in addition to or in substitution for the physical or mental condition that was, or any or all of the physical or mental conditions that were, specified in the first-mentioned certificate;

(d) if there is no benefit classification certificate in force in respect of the person but a physical or mental condition of the person or physical or mental conditions of the person was or were relevant for the purposes of the superseded Act—issue a benefit classification certificate in respect of the person in which the unrecorded condition or the unrecorded conditions is or are specified either in addition to or in substitution for the physical or mental condition that was, or any or all of the physical or mental conditions that were, relevant for the purposes of the superseded Act; or

(e) if there is no benefit classification certificate in force in respect of the person and no physical or mental condition of the person was relevant for the purposes of the superseded Act—issue a benefit classification certificate in respect of the person in which the unrecorded condition is or the unrecorded conditions are specified.

(5A) In subsection (5), a reference to a relevant person shall be read as a reference to a person to whom this section applies (whether or not the person was, immediately before the commencing day, a contributor to the Provident Account):

(a) who is an eligible employee, has a period of contributory service of less than 20 years and has not attained his or her maximum retiring age;

(b) who is or was an eligible employee to whom partial invalidity pension is or was payable and who, at the time when partial invalidity pension became so payable, had a period of contributory service of less than 20 years; or

(c) who has ceased (whether before or after the commencement of this subsection) to be an eligible employee because of invalidity or death and who, at the time when he or she so ceased, had a period of contributory service of less than 20 years and had not attained his or her maximum retiring age.

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(5B) Where CSC, in pursuance of paragraph (5)(c), revokes a benefit classification certificate and issues a new benefit classification certificate in substitution for that certificate, the first-mentioned certificate shall be deemed never to have been issued and the certificate issued by CSC in substitution for the first-mentioned certificate shall be deemed to have been issued under subsection 16(4) on the commencing day.

(5C) Where CSC, in pursuance of paragraph (5)(d) or (e), issues a benefit classification certificate, the certificate shall be deemed to have been issued under subsection 16(4) on the commencing day.

(6) CSC shall not, in a benefit classification certificate issued under subsection (5), include a physical or mental condition in respect of which CSC was of the opinion under subsection 16(8) that there was not a real risk that the person would, by reason of or for a reason connected with that condition, not continue to be an eligible employee until the person attained his or her maximum retiring age unless CSC is satisfied that CSC would not have been of that opinion but for the fact that:

(a) at or in connection with a medical examination that the person was required to undergo under subsection 16(6) or 16AB(3); or

(b) in connection with a request by the person under subsection 16(6);

the person failed to answer properly a question asked of the person or gave false or misleading information.

(7) In this section:

(a) a reference to a contributor to the Fund shall be read as a reference to a contributor to the existing Fund under Part III of the superseded Act;

(b) a reference to a contributor to the Provident Account shall be read as a reference to a contributor to the Provident Account established under the superseded Act; and

(c) a reference to the physical or mental condition or conditions of a person that was or were relevant for the purposes of the superseded Act shall be read as a reference to the physical or

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mental condition or conditions of the person that, in the opinion of CSC, was or were the physical or mental condition or conditions of the person by reason of which, at the time when the person became, or last became, a contributor to the Provident Account:

(i) the former Board was not satisfied under subsection 5 (1) of the superseded Act that the health and physical fitness of the person were such as to justify his or her being accepted as a contributor to the Fund; or

(ii) the person was not, by virtue of a provision of the superseded Act (other than subsection 5(1) or 79(2) of the superseded Act), accepted as a contributor to the Fund;

other than a physical or mental condition that, in the opinion of CSC, the former Board was, as a result of a medical examination under subsection 79(2) of the superseded Act, satisfied no longer existed unless CSC is satisfied that the former Board would not have been so satisfied but for the fact that, at or in connection with that medical examination, the person failed to answer properly a question asked of the person or gave false or misleading information.

(8) For the purposes of determining, for the purposes of this section, whether or not a person answered a question properly, subsections 16AC(9) and (10) apply as if:

(a) the provisions of this section were provisions of section 16AC; and

(b) the following subparagraph were inserted before subparagraph (b)(i) of the definition of ***relevant matters*** in subsection 16AC(10):

"(ia) at or in connection with a medical examination that the person underwent for the purposes of the superseded Act; or".

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185 Existing contributors contributing in excess of 5% of salary

(1) Where the amount of the previous contribution (including contribution for reserve units) of an existing contributor is in excess of the amount of the initial basic contribution of the contributor, the contributor shall, subject to subsection (2), pay to CSC on the first contribution day a supplementary contribution of an amount equal to the excess, and pay to CSC on each succeeding contribution day on which the amount of the previous contribution (including contribution for reserve units) exceeds the amount of the basic contribution required to be made by the contributor on that succeeding contribution day an amount equal to the amount of that excess.

(2) An existing contributor referred to in subsection (1) may, by notice in writing to CSC, elect that, as from the contribution day next following the date of the election, subsection (1) shall cease to apply in relation to him or her.

(4) An existing contributor to whom subsection 185(4) of this Act applied on 30 June 1995 may continue to pay supplementary contributions at the percentage rate at which he or she was entitled to pay supplementary contributions on that day.

186 Existing contributors under 40 years of age contributing less than 5% of salary

(1) A reference in subsection (3), (5), (6) or (9) to the notional basic contribution applicable to an existing contributor on a particular day shall be read as a reference to the amount that would, but for subsection (2) or (4), be the amount of his or her basic contribution on that day.

(2) Where the amount of the previous contribution (excluding contribution for reserve units) of an existing contributor who has not attained the age of 40 years on the commencing day is less than four-fifths, but not less than three-fifths, of the amount that, but for this subsection, would be the amount of the basic contribution required to be made by him or her on the first contribution day,

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section 46 applies in relation to him or her in respect of each contribution day occurring before or on the anniversary of his or her birth next following the commencing day as if:

(a) the reference in section 46 to 5 per centum were a reference to 4 per centum; and

(b) the reference in that section to 10 cents were a reference to 8 cents.

(3) Where an existing contributor referred to in subsection (2) makes an election under subsection 48(1) before the anniversary of his or her birth next following the commencing day, then, for the purpose of calculating the amount of the supplementary contribution payable by the contributor on a contribution day occurring before or on that anniversary:

(a) section 49 has effect as if the reference in that section to the basic contribution payable by the contributor on a contribution day were a reference to the notional basic contribution applicable to him or her on that day; and

(b) if the factor specified in the election is 5 and the contributor requests in the election that this paragraph apply in relation to the election—the election shall, for the purposes of section 49, be treated as if the factor specified in the election were 6.

(4) Where the amount of the previous contribution (excluding contribution for reserve units) of an existing contributor who had not attained the age of 40 years on the commencing day is less than three-fifths of the amount that, but for this subsection, would be the amount of the basic contribution required to be made by him or her on the first contribution day:

(a) section 46 applies in relation to him or her in respect of each contribution day occurring before or on the anniversary of the contributor's birth next following the commencing day as if:

(i) the reference in section 46 to 5 per centum were a reference to 3 per centum; and

(ii) the reference in that section to 10 cents were a reference to 6 cents; and

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(b) section 46 applies in relation to the contributor in respect of each contribution day occurring after that anniversary of the contributor's birth and before or on the anniversary of the contributor's birth next following that anniversary as if:

(i) the reference in section 46 to 5 per centum were a reference to 4 per centum; and

(ii) the reference in that section to 10 cents were a reference to 8 cents.

(5) Where an existing contributor referred to in subsection (4) makes an election under subsection 48(1) before the anniversary of his or her birth next following the commencing day, then, for the purpose of calculating the amount of supplementary contribution payable by him or her on a contribution day occurring before or on the anniversary of his or her birth next following that first-mentioned anniversary:

(a) section 49 has effect as if the reference in that section to the basic contribution payable by the contributor on a contribution day were a reference to the notional basic contribution applicable to the contributor on that day; and

(b) if the factor specified in the election is 5 and the contributor requests in the election that this paragraph apply in relation to him or her—the election shall, for the purposes of section 49, be treated:

(i) if the contribution day occurs before that first-mentioned anniversary—as if the factor specified in the election were 7; and

(ii) if the contribution day occurs on or after that first-mentioned anniversary—as if the factor specified in the election were 6.

(6) Where an existing contributor referred to in subsection (4) makes an election under subsection 48(1) on or after the anniversary of his or her birth next following the commencing day but before the anniversary of his or her birth next following that first-mentioned anniversary, then, for the purpose of calculating the amount of the supplementary contribution payable by the contributor on a contribution day occurring before or on that later anniversary:

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(a) section 49 has effect as if the reference in that section to the basic contribution payable by the contributor on a contribution day were a reference to the notional basic contribution applicable to him or her on that day; and

(b) if the factor specified in the election is 5 and the contributor requests in the election that this paragraph apply in relation to him or her—the election shall, for the purposes of section 49, be treated as if the factor specified in the election were 6.

(7) A contributor who has made a request referred to in paragraph (3)(b), (5)(b) or (6)(b) may, by notice in writing to CSC, revoke the request and, where a contributor revokes such a request, whichever of those paragraphs is relevant shall cease to apply to him or her as from the contribution day next following the date of the instrument of revocation.

(8) Where the anniversary of the birth of an existing contributor falls on the commencing day or on any subsequent day before the first contribution day, the preceding provisions of this section shall apply in relation to him or her with such modifications (if any) as are prescribed.

(9) Where the amount of the previous contribution (including contribution for reserve units) of an existing contributor who has not attained the age of 40 years on the commencing day is less than the amount of notional basic contribution applicable to him or her on that day, he or she shall, in addition to any supplementary contributions which he or she is required to pay to CSC by virtue of an election made by him or her under subsection 48(1), pay to CSC such additional contributions (if any) as are ascertained in accordance with the regulations and any contributions so paid shall, for the purposes of this Act, be deemed to be supplementary contributions paid under section 48.

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Division 5—Miscellaneous

187 Persons who exchanged pension rights for equivalent rights under superseded Act

Where a person has, by virtue of an application made by him or her under section 71 of the superseded Act, been granted rights of pension under that Act of the kind referred to in that section and the person has not, before the commencing day, ceased to be an employee for the purposes of the superseded Act, the provisions of this Act shall apply to and in relation to contributions payable by him or her under this Act, and to any benefits that may become payable to or in respect of him or her under this Act, with such modifications as are determined by CSC having regard to the contributions (if any) being made by him or her under the superseded Act immediately before the commencing day and the rights of pension granted under the superseded Act.

188 Persons who exchanged rights to refunds or gratuities under other law for equivalent rights under superseded Act

Where a person has, by virtue of an application made by him or her under section 72 of the superseded Act been granted rights of pension under that Act of the kind referred to in that section and the person has not, before the commencing day, ceased to be an employee for the purposes of the superseded Act, the provisions of this Act shall apply to and in relation to any benefits that may become payable to or in respect of him or her under this Act with such modifications as are determined by CSC having regard to the rights of pension granted under the superseded Act.

189 Dealings by former CSC with policies to which section 74 of superseded Act applies

All payments which, by virtue of section 74 of the superseded Act, are required to be made by the former Board shall be paid out of the Fund and all payments that, by virtue of that section, are

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required to be made to the former Board shall be paid to the former Board and paid by the former Board into the Fund.

190 Unpaid contributions under superseded Act

Sections 53 and 156 of this Act apply to and in relation to contributions that a person has become liable to pay under the superseded Act but which have not been paid before the commencing day as if those contributions were payable by the person under this Act.

191 Assignment of life policies under superseded Act

If:

(a) a life policy that was assigned by a person to the former Board under section 119ZC of the superseded Act was transferred to the Commissioner by subsection 76(2) of the *Superannuation Amendment Act 1976*; or

(b) a life policy is assigned by a person to the Commissioner under section 119ZC of the superseded Act;

the following paragraphs apply:

(c) the policy is, by this section, assigned to CSC;

(d) section 145 of this Act applies, with such modifications as are determined by CSC, to and in relation to the person and the policy as if the policy had been assigned to CSC by the person under that section.

192 Persons with whom arrangements made under section 7 of the superseded Act

On and after the commencing day, the provisions of sections 7 and 119ZD of the superseded Act, and the provisions of this Act, have effect in relation to a person with whom an arrangement is in force under section 7 of the superseded Act immediately before the commencing day with such modifications as CSC determines.

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Part XIII—Transfers to approved superannuation schemes

237 Interpretation

(1) In this Part, unless the contrary intention appears:

approved superannuation scheme means a superannuation scheme approved by the Minister under section 239.

Assets has the same meaning as it has in Division 2 of Part XII.

investment assets of the Fund means the assets of the Fund or of CSC arising out of, or otherwise connected with, the exercise or proposed exercise by CSC of its power to invest moneys of the Fund.

investment liabilities of the Fund means liabilities of the Fund or of CSC arising out of, or otherwise connected with, the exercise or proposed exercise by CSC of its power to invest moneys of the Fund.

liabilities has the same meaning as it has in Division 2 of Part XII.

(2) For the purposes of this Part, the holder of a statutory office whose remuneration is paid by an authority or body is taken to be employed by that authority or body.

238 Loss of entitlement to benefits—eligible employee transferring to an approved superannuation scheme

(1) Where a person who:

(a) is an eligible employee; and

(b) is employed by, or is a member of the staff of, an authority or body;

ceases, within such period as is determined, by legislative instrument, by the Minister in relation to the person, to be an

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eligible employee because the person becomes a member of an approved superannuation scheme, the person is not entitled to be paid benefits under this Act other than benefits under Part VI, subsection 110S(2) or section 111.

(2) Despite anything in regulations made for the purposes of paragraph 44(2)(b) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a determination made under subsection (1) of this section.

239 Approval of superannuation schemes

The Minister may approve, in writing, for the purposes of this Part, a superannuation scheme that provides benefits for persons who are employed by, or are members of the staff of, an authority or body.

240 Transfer of assets etc. to approved superannuation schemes

CSC must, at such times as CSC determines, transfer to the person or body administering an approved superannuation scheme:

(a) such assets of the Fund (including investment assets of the Fund) as are determined by CSC to be assets that fairly and equitably represent the accumulated contributions and Fund accumulated employer contributions of those persons who:

(i) have become members of the approved superannuation scheme; and

(ii) were, immediately before becoming such members, eligible employees who were employed by, or were members of the staff of, the authority or body that established the scheme and any benefits payable in respect of those persons under Part VIAB or Subdivision B of Division 2 of Part IX; and

(b) such liabilities (if any) (including investment liabilities of the Fund) as are determined by CSC to be liabilities relating to those assets.

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241 Payments from Consolidated Revenue Fund

(1) There must be paid to the person or body administering an approved superannuation scheme, at such times as the Minister, by legislative instrument, determines, such amounts (if any) as are determined, by legislative instrument, by the Minister having regard to:

(a) the amount of the payments (if any) made under section 159 by the authority or body that established the scheme in respect of the persons referred to in paragraph 240(a); and

(b) the amount of the accumulated basic contributions of those persons; and

(c) the method of calculating transfer values under Division 3 of Part IX; and

(d) any relevant actuarial advice obtained by the Minister; and

(e) any other matters that the Minister considers relevant.

(2) Payments under subsection (1) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

(3) Despite anything in regulations made for the purposes of paragraph 44(2)(b) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a determination made under subsection (1) of this section.

242 Exemption from tax etc.

No tax or charge is payable under any law of the Commonwealth (other than the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*) or any law of a State or of a Territory in respect of a transfer of assets or liabilities under section 240.

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Part XIIIA—Transfers to authorised superannuation schemes

242A Holders of statutory offices

For the purposes of this Part, the holder of a statutory office whose remuneration is paid by an authority or body is taken to be employed by that authority or body.

242B Authorisation of superannuation schemes

The Minister may, in writing, declare a superannuation scheme that provides benefits for persons who are employed by, or are members of the staff of, an authority or body to be an authorised superannuation scheme for the purposes of this Part.

242C Deferred benefits—eligible employee transferring to an authorised superannuation scheme

(1) Subject to subsection (2), where a person who:

(a) is an eligible employee; and

(b) is employed by, or is a member of the staff of, an authority or body;

ceases, within such period as is determined by the Minister, by legislative instrument, in relation to the person, to be an eligible employee because the person becomes a member of a superannuation scheme declared by the Minister under section 242B to be an authorised superannuation scheme for the purposes of this Part, deferred benefits are applicable in respect of the person.

(2) Subsection (1) does not apply in relation to a person who, when ceasing to be an eligible employee, had completed a period of eligible employment as mentioned in subsection 132(1) of less than one year.

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(3) Where, under subsection (1), deferred benefits are applicable in relation to a person, the person is not entitled to be paid benefits under this Act other than benefits under Part VI, subsection 110S(2) or section 111.

(4) Despite anything in regulations made for the purposes of paragraph 44(2)(b) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a determination made under subsection (1) of this section.

242D Deferred benefits under this Part

(1) The deferred benefits applicable in respect of a person under section 242C are deferred benefits of the kind mentioned in subsection 136(1) and, subject to section 242E, this Act (other than section 138) applies in respect of those benefits as if they had become applicable in relation to the person under Division 3 of Part IX.

(2) This Act in its application in respect of deferred benefits applicable in respect of a person under section 242C has effect as if the reference in subsections 143(1) and (3) to paragraph 138(2)(a) were a reference to paragraph 242E(1)(c).

242E Circumstances in which deferred benefits become payable

(1) Subject to subsection (2), deferred benefits that are applicable in respect of a person under section 242C become payable on the day immediately after the earliest of the following dates:

(a) if the person, by notice in writing given to CSC, selects a date for the commencement of the payment of the deferred benefits, being a date not earlier than:

(i) the date on which the person attains the age that would have been the person's minimum retiring age for the purposes of this Act if the person had not ceased to be an eligible employee and had continued to occupy the position held by the person immediately before so ceasing; and

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(ii) the date on which the notice is given;

the date so selected;

(b) the date on which the person attains the age of 65 years;

(c) if CSC is satisfied that the person has, because of invalidity or physical or mental incapacity, become totally and permanently incapacitated within the meaning of Part IVA—the date that CSC considers to have been the date on which the person became so incapacitated;

(d) the date of the person's death.

(2) If, on a date worked out under paragraph (1)(a) or (b), the person has not ceased to be employed by, or to be a member of the staff of, the authority or body, that paragraph applies as if the date mentioned in the paragraph were the date on which the person so ceased to be employed by, or to be a member of the staff of, the authority or body, as the case may be.

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Part XIV—Transfers to Public Sector Superannuation Scheme

243 Interpretation

In this Part, unless the contrary intention appears:

assets, ***investment assets of the Fund***, ***investment liabilities of the Fund*** and ***liabilities*** have the same meanings as in Part XIII.

244 Election to join Public Sector Superannuation Scheme

(1) Subject to this section, an eligible employee who is not precluded by or under the *Superannuation Act 1990* (other than by paragraph 6(2)(a) of that Act) from being a member of the Public Sector Superannuation Scheme may, in writing addressed to CSC:

(a) declare that he or she wishes to become a member of that scheme; and

(b) elect to cease to be an eligible employee.

(2) An eligible employee may not make an election and declaration under subsection (1) during any period when the eligible employee is absent from duty on leave of absence without pay.

(2A) An eligible employee, after the termination of a period mentioned in subsection (2), may only make an election and declaration under subsection (1) if that period commenced before 1 July 1991.

(2B) An eligible employee may not make an election and declaration under subsection (1) during any period when the eligible employee:

(a) is a person to whom Part IV of the *Public Service Act 1922*, or the *Officers' Rights Declaration Act 1928*, applies other than such a person who during that period is:

(i) employed by the Commonwealth otherwise than under the *Public Service Act 1922*; or

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(ii) employed by an approved authority for the purposes of the *Superannuation Act 1990*; or

(iii) the holder of a statutory office; or

(b) is an approved person for the purposes of Part IV of the *Commonwealth Legal Aid Act 1977*.

(2C) Subject to subsection (2D), an eligible employee:

(a) mentioned in paragraph (2B)(a) who ceases to be a person to whom Part IV of the *Public Service Act 1922* applies; or

(b) who ceases to be an approved person for the purposes of Part IV of the *Commonwealth Legal Aid Act 1977*;

may only make an election and declaration under subsection (1) after so ceasing if the eligible employee became before 1 July 1991:

(c) a person to whom Part IV of the *Public Service Act 1922* applies; or

(d) an approved person for the purposes of Part IV of the *Commonwealth Legal Aid Act 1977*;

as the case may be.

(2D) Subsection (2C) does not apply to a person to whom Part IV of the *Public Service Act 1922* applies if the person immediately before becoming such a person was a person to whom the *Officers' Rights Declaration Act 1928* applied.

(2E) A person who, immediately before becoming an eligible employee, was a person to whom invalidity pension was, or but for a suspension of payment would have been, payable under the *Superannuation Act 1976* may only make an election and declaration under subsection (1) if the person became entitled to that pension before 1 July 1991.

(3) An eligible employee may not make an election and declaration under subsection (1):

(a) if the eligible employee was, on 31 March 1991 or any later day, precluded by or under the *Superannuation Act 1990* (other than by paragraph 6(2)(a) of that Act) from being a member of the Public Sector Superannuation Scheme—after

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the period of 3 months commencing on the day on which the eligible employee ceased to be so precluded; or

(b) if the person becomes an eligible employee after 1 April 1991 and paragraph (a) does not apply—after the period of 3 months commencing on the day on which the person becomes an eligible employee; or

(c) if the eligible employee is precluded under subsection (2) from making the election and declaration during a period that ends after 31 March 1991—after the period of 3 months commencing immediately after the termination of that period; or

(ca) if the eligible employee is precluded under subsection (2B) from making the election and declaration during a period that ends after 31 March 1991—after the period of 3 months commencing immediately after the termination of that period; or

(d) in any other case—after 30 June 1991.

245 Effect of election

A person who makes a declaration and election under section 244 is taken to have ceased to be an eligible employee at the end of the day on which the declaration and election are made.

246 Loss of entitlement to benefits

A person who ceases to be an eligible employee under section 245 is not entitled to be paid benefits under this Act other than:

(a) benefits under Part VI, subsection 110S(2) or section 111; or

(b) if, on the death of another person, a benefit is payable to the person under section 110SQ or 130E—that benefit.

247 Revocation of election in certain cases

Where, for the purposes of rule 1.3.30 of the Rules for the administration of the Public Sector Superannuation Scheme in its application to a person who has ceased to be an eligible employee

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under section 245, the CSS average salary of the person has been ascertained by reference to an amount other than the amount referred to in paragraph (a) or (b) of the definition of ***CSS average salary*** in that rule:

(a) the person may, within 3 months after the person has been informed that his or her CSS average salary has been so ascertained, by writing addressed to CSC, revoke the declaration and election by virtue of which the person had so ceased to be an eligible employee; and

(b) on the making of the revocation, this Act has effect as if the declaration and election had not been made.

248 Transfer of assets and liabilities to PSS Fund

CSC may transfer to the PSS Fund:

(a) such assets of the CSS Fund (including investment assets of the CSS Fund) as are determined by CSC to be assets that fairly and equitably represent the accumulated contributions and Fund accumulated employer contributions of those people who have ceased to be eligible employees under section 245 and any benefits payable in respect of those persons under Part VIAB; and

(b) such liabilities (if any) (including investment liabilities of the CSS Fund) as are determined by CSC to be liabilities relating to those assets.

249 Advances in respect of assets to be transferred

CSC may make to the PSS Fund advances in respect of assets that are to be transferred to the PSS Fund under section 248.

250 Exemption from tax etc.

No tax or charge is payable under any law of the Commonwealth (other than the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*) or any law of a State or of a Territory in respect of a transfer of assets or liabilities under section 248.

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Schedule 1—Standard age retirement pension on or after attaining 65 years

Subsections 56(2) and (3)

Table 1

Rate of pension where contributory service not less than 31 years

Column 1	Column 2
Number of complete years of contributory service completed before age 65	**Percentage of final annual rate of salary**
31	50.25
32	50.50
33	50.75
34	51.00
35	51.25
36	51.50
37	51.75
38	52.00
39	52.25
40 or more	52.50

Table 2

Rate of pension where contributory service less than 30 years

Column 1	Column 2
Number of complete years of contributory service	**Percentage of final annual rate of salary**
29	49
28	48
27	47
26	46
25	45
24	44

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Column 1 Number of complete years of contributory service	Column 2 Percentage of final annual rate of salary
23	43
22	42
21	41
20	40
19	38
18	36
17	34
16	32
15	30
14	28
13	26
12	24
11	22
10	20
9	18
8	16
7	14
6	12
5	10
4	8
3	6
2	4
1	2

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Schedule 2—Standard age retirement pension on or after attaining 60 years and before 65 years

Subsection 56(4)

Rate of pension

Column 1	Column 2				
Number of complete years of contributory service	**Percentage of final annual rate of salary**				
	Age attained in years				
	64	**63**	**62**	**61**	**60**
40 or more	51.450	50.400	49.350	48.300	47.250
39	51.205	50.160	49.115	48.070	47.025
38	50.960	49.920	48.880	47.840	46.800
37	50.715	49.680	48.645	47.610	46.575
36	50.470	49.440	48.410	47.380	46.350
35	50.225	49.200	48.175	47.150	46.125
34	49.980	48.960	47.940	46.920	45.900
33	49.735	48.720	47.705	46.690	45.675
32	49.490	48.480	47.470	46.460	45.450
31	49.245	48.240	47.235	46.230	45.225
30	49.000	48.000	47.000	46.000	45.000
29	48.020	47.040	46.060	45.080	44.100
28	47.040	46.080	45.120	44.160	43.200
27	46.060	45.120	44.180	43.240	42.300
26	45.080	44.160	43.240	42.320	41.400
25	44.100	43.200	42.300	41.400	40.500
24	43.120	42.240	41.360	40.480	39.600
23	42.140	41.280	40.420	39.560	38.700
22	41.160	40.320	39.480	38.640	37.800

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Column 1	Column 2				
Number of complete years of contributory service	**Percentage of final annual rate of salary**				
	Age attained in years				
	64	**63**	**62**	**61**	**60**
21	40.180	39.360	38.540	37.720	36.900
20	39.200	38.400	37.600	36.800	36.000
19	37.240	36.480	35.720	34.960	34.200
18	35.280	34.560	33.840	33.120	32.400
17	33.320	32.640	31.960	31.280	30.600
16	31.360	30.720	30.080	29.440	28.800
15	29.400	28.800	28.200	27.600	27.000
14	27.440	26.880	26.320	25.760	25.200
13	25.480	24.960	24.440	23.920	23.400
12	23.520	23.040	22.560	22.080	21.600
11	21.560	21.120	20.680	20.240	19.800
10	19.600	19.200	18.800	18.400	18.000
9	17.640	17.280	16.920	16.560	16.200
8	15.680	15.360	15.040	14.720	14.400
7	13.720	13.440	13.160	12.880	12.600
6	11.760	11.520	11.280	11.040	10.800
5	9.800	9.600	9.400	9.200	9.000
4	7.840	7.680	7.520	7.360	7.200
3	5.880	5.760	5.640	5.520	5.400
2	3.920	3.840	3.760	3.680	3.600
1	1.960	1.920	1.880	1.840	1.800

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Schedule 3—Invalidity pension

Subsections 67(3) and 68(3)

Rate of pension where pension not reduced on medical grounds and contributory service not less than 31 years

Column 1	Column 2	Column 3
Number of complete years of contributory service	**Percentage of final annual rate of salary where pension payable under section 67**	**Percentage of final annual rate of salary where pension payable under section 68**
31	70.25	50.25
32	70.50	50.50
33	70.75	50.75
34	71.00	51.00
35	71.25	51.25
36	71.50	51.50
37	71.75	51.75
38	72.00	52.00
39	72.25	52.25
40 or more	72.50	52.50

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Schedule 4—Invalidity pension

Subsections 67(4) and 68(4)

Rate of pension where pension not reduced on medical grounds and prospective service less than 30 years

Column 1	Column 2	Column 3
Number of complete years of prospective service	**Percentage of final annual rate of salary where pension payable under section 67**	**Percentage of final annual rate of salary where pension payable under section 68**
29	68.6	49
28	67.2	48
27	65.8	47
26	64.4	46
25	63.0	45
24	61.6	44
23	60.2	43
22	58.8	42
21	57.4	41
20	56.0	40
19	53.2	38
18	50.4	36
17	47.6	34
16	44.8	32
15	42.0	30
14	39.2	28
13	36.4	26
12	33.6	24
11	30.8	22
10	28.0	20
9	25.2	18
8	22.4	16
7	19.6	14

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Column 1	Column 2	Column 3
Number of complete years of prospective service	**Percentage of final annual rate of salary where pension payable under section 67**	**Percentage of final annual rate of salary where pension payable under section 68**
6.....	16.8	12
5.....	14.0	10
4.....	11.2	8
3.....	8.4	6
2.....	5.6	4
1.....	2.8	2

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Schedule 5—Invalidity pension

Subsections 70(2) and 71(2)

Rate of pension where pension reduced on medical grounds and prospective service not less than 30 years

Column 1	Column 2	Column 3
Number of complete years of contributory service	**Percentage of final annual rate of salary where pension payable under section 70**	**Percentage of final annual rate of salary where pension payable under section 71**
19	66.5	47.5
18	63.0	45.0
17	59.5	42.5
16	56.0	40.0
15	52.5	37.5
14	49.0	35.0
13	45.5	32.5
12	42.0	30.0
11	38.5	27.5
10	35.0	25.0
9	31.5	22.5
8	28.0	20.0

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Schedule 6—Invalidity pension

Paragraphs 70(3)(a) and 71(3)(a)

Rate of pension where pension reduced on medical grounds and prospective service less than 30, but not less than 20, years

Column 1	Column 2	Column 3
Number of complete years of prospective service	**Percentage of final annual rate of salary where pension payable under section 70**	**Percentage of final annual rate of salary where pension payable under section 71**
29	68.6	49
28	67.2	48
27	65.8	47
26	64.4	46
25	63.0	45
24	61.6	44
23	60.2	43
22	58.8	42
21	57.4	41
20	56.0	40

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Schedule 7—Invalidity pension

Paragraphs 70(3)(b) and 71(3)(b)

Factors applicable where pension reduced on medical grounds and prospective service less than 30, but not less than 20, years

Column 1	Column 2
Number of complete years of contributory service	**Factor**
19	.95
18	.90
17	.85
16	.80
15	.75
14	.70
13	.65
12	.60
11	.55
10	.50
9	.45
8	.40

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Schedule 8—Invalidity pension

Subsections 70(4) and 71(4)

Rate of pension where pension reduced on medical grounds and prospective service less than 20 years

Column 1	Column 2	Column 3
Number of complete years of contributory service	**Percentage of final annual rate of salary where pension payable under section 70**	**Percentage of final annual rate of salary where pension payable under section 71**
19	53.2	38.0
18	50.4	36.0
17	47.6	34.0
16	44.8	32.0
15	42.0	30.0
14	39.2	28.0
13	36.4	26.0
12	33.6	24.0
11	30.8	22.0
10	28.0	20.0
9	25.2	18.0
8	22.4	16.0

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Schedule 11—Deferred benefits

Section 136

Table 1—Factors applicable where benefits payable in accordance with section 56, 57, 60 or 61

Column 1 Item	Column 2 Age on which benefits become payable	Column 3 Factor if person has not made an election under section 137A	Column 4 Factor if person has made an election under section 137A
1	65	.110	.1030
2	64	.108	.1010
3	63	.106	.0990
4	62	.104	.0970
5	61	.102	.0950
6	60	.100	.0930
7	59	.0985	.0916
8	58	.0970	.0902
9	57	.0955	.0888
10	56	.0940	.0874
11	55	.0925	.0860
12	54	.0910	.0846
13	53	.0895	.0832
14	52	.0880	.0818
15	51	.0865	.0804
16	50	.0850	.0790

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Table 2

Factors applicable where benefits applicable in accordance with section 67, 68, 70 or 71

Subsection 136(2)

Column 1 Age on day on which benefits become payable	Column 2 Factor
64	.120
63	.118
62	.116
61	.114
60	.112
59	.1105
58	.1090
57	.1075
56	.1060
55	.1045
54	.1030
53	.1015
52	.1000
51	.0985
50	.0970
49	.0962
48	.0955
47	.0947
46	.0940
45	.0932
44	.0925
43	.0917
42	.0910
41	.0902
40	.0895

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Column 1 Age on day on which benefits become payable	Column 2 Factor
39	.0887
38	.0880
37	.0872
36	.0865
35	.0857
34	.0850
33	.0842
32	.0835
31	.0827
30	.0820
29	.0812
28	.0805
27	.0797
26	.0790
25	.0782
24	.0775
23	.0767
22	.0760
21	.0752
20	.0745

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Table 3

Factors applicable in relation to spouse of deceased former eligible employee

Paragraph (2B)(g)

Column 1 Age of spouse at date of death of former eligible employee	Column 2 Factor (male spouse)	Column 3 Factor (female spouse)
40 or under	.100	.090
41	.101	.091
42	.102	.092
43	.103	.093
44	.104	.094
45	.105	.095
46	.106	.096
47	.107	.097
48	.108	.098
49	.109	.099
50	.110	.100
51	.111	.101
52	.112	.102
53	.113	.103
54	.114	.104
55	.115	.105
56	.116	.106
57	.117	.107
58	.118	.108
59	.119	.109
60	.120	.110
61	.122	.112
62	.124	.114
63	.126	.116

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Column 1 Age of spouse at date of death of former eligible employee	Column 2 Factor (male spouse)	Column 3 Factor (female spouse)
64	.128	.118
65	.130	.120
66	.134	.124
67	.138	.128
68	.142	.132
69	.146	.136
70	.150	.140
71	.154	.144
72	.158	.148
73	.162	.152
74	.166	.156
75	.170	.160
76	.174	.164
77	.178	.168
78	.182	.172
79	.186	.176
80 or over	.190	.180

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Act 1976	31, 1976	7 May 1976	1 July 1976	
Superannuation Amendment Act (No. 2) 1976	51, 1976	4 June 1976	1 July 1976	—
Commonwealth Legal Aid Commission Act 1977	80, 1977	16 June 1977	1 July 1977 (*see Gazette* 1977, No. S115)	—
Superannuation Acts Amendment Act 1978	17, 1978	24 Apr 1978	ss. 1, 2, 6(2), 18(2), 19–22, 23(2), 26, 27, 52, 61–65, 67–70, 77, 80 and 81: Royal Assent ss. 9–13: 8 June 1973 Remainder: 1 July 1976	ss. 61(2) and 77(2)–(4)
Health Insurance Commission Amendment Act 1978	134, 1978	31 Oct 1978	1 Nov 1978	s. 37
Superannuation Amendment Act 1978	169, 1978	28 Nov 1978	28 Nov 1978	—
Public Service Amendment Act 1978	170, 1978	28 Nov 1978	ss. 1, 2, 5, 7–11, 14, 15, 18, 25 and 38: Royal Assent Remainder: 15 Mar 1981 (*see Gazette* 1981, No. S43)	—
Commonwealth Employees (Redeployment and Retirement) Act 1979	52, 1979	14 June 1979	s. 20: Royal Assent Remainder: 6 Feb 1981 (*see Gazette* 1981, No. S20)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Australian Federal Police (Consequential Amendments) Act 1979	155, 1979	28 Nov 1979	19 Oct 1979 (*see* s. 2 and *Gazette* 1979, No. S206)	—
Public Service and Statutory Authorities Amendment Act 1980	177, 1980	17 Dec 1980	Part IX (ss. 65, 66): Royal Assent *(a)*	—
Companies (Miscellaneous Amendments) Act 1981	92, 1981	18 June 1981	Part I (ss. 1, 2): Royal Assent s. 36: 1 July 1981 (*see* s. 2(2) and *Gazette* 1981, No. S118) Remainder: 1 July 1982 (*see* s. 2(3) and *Gazette* 1982, No. S124)	—
Public Service and Statutory Authorities Amendment Act 1983	92, 1983	22 Nov 1983	22 Nov 1983	—
Public Service Reform Act 1984	63, 1984	25 June 1984	s. 151(1): 1 July 1984 (*see* *Gazette* 1984, No. S245) *(b)*	s. 151(9)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s. 3: *(c)*	ss. 2(32) and 6(1)
Superannuation Legislation Amendment Act 1986	80, 1986	24 June 1986	ss. 4(1), 5 and 6(1): 1 July 1976 Remainder: Royal Assent	ss. 6(2), 7(2), (3), 14(2) and 26(2)
Superannuation and Other Benefits Legislation Amendment Act 1986	93, 1986	13 Oct 1986	10 Oct 1986	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment Act (No. 2) 1986	151, 1986	18 Dec 1986	18 Dec 1986	ss. 2(2)–(6), 4(2), 5(2), 10(2), 13(2), 15(2), (3), 16(2), 33(4), 57(2) and 68(3)
as amended by				
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s. 3: 18 Dec 1986 *(d)*	s. 5(1)
Public Service Legislation (Streamlining) Act 1986	153, 1986	18 Dec 1986	ss. 1–3, 103, 126, 130, 132 and 134: Royal Assent ss. 20, 22(2), 36, 38–41, 44, 45(1), (3), 46, 102, 105, 110 and 112: 14 June 1987 (*see Gazette* 1987, No. S125) ss. 43, 45(2), 70–76, 78, 87, 113, 115, 116, 122(2), 123, 125, 129 and 131: 20 June 1987 (*see Gazette* 1987, No. S178) Remainder: 15 Jan 1987	—
Statute Law (Miscellaneous Provisions) Act 1988	38, 1988	3 June 1988	s. 3: Royal Assent *(e)*	s. 5(1)
Superannuation Amendment Act 1988	130, 1988	14 Dec 1988	14 Dec 1988	s. 5(2)
Australian Federal Police Legislation Amendment Act 1989	71, 1989	21 June 1989	ss. 1 and 2: Royal Assent ss. 3–6, 8–14 and 16–18: 1 July 1989 (*see Gazette* 1989, No. S222) Remainder: 4 Dec 1989 (*see Gazette* 1989, No. S373)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Taxation Laws Amendment Act (No. 2) 1989	97, 1989	30 June 1989	30 June 1989	s. 18 (rep. by 105, 1989, s. 79)
as amended by				
Taxation Laws Amendment (Superannuation) Act 1989	105, 1989	30 June 1989	*(f)*	—
Superannuation and Other Benefits Legislation Amendment Act 1989	125, 1989	17 Oct 1989	20 Oct 1989	—
Australian Federal Police Legislation Amendment Act (No. 2) 1989	153, 1989	17 Dec 1989	ss. 1, 2 and Part 3 (ss. 61, 62): Royal Assent s. 11: 1 July 1991 ss. 38 and 71: 1 Jan 1991 Remainder: 1 Jan 1990 (*see Gazette* 1989, No. S397)	—
as amended by				
Crimes Legislation Amendment Act 1991	28, 1991	4 Mar 1991	s. 74(1): Royal Assent *(g)*	—
Superannuation Benefits (Supervisory Mechanisms) Act 1990	39, 1990	7 June 1990	1 July 1990	s. 9(7)–(11) s. 9(2)–(6) (am. by 86, 1994, s. 98)
as amended by				
Superannuation Legislation Amendment Act 1994	86, 1994	23 June 1994	(*see* 86, 1994 below)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment Act 1990	40, 1990	7 June 1990	Part 3 (ss. 6–93): *(h)*	ss. 8(2), (3), 20(2)–(4), 21(2), (3), 25(2) and 91(2)–(4)
as amended by				
Superannuation Legislation Amendment Act 1994	86, 1994	23 June 1994	(*see* 86, 1994 below)	s. 75
Commonwealth Funds Management Limited Act 1990	13, 1991	21 Jan 1991	ss. 49, 50(1), 51–54 and 56–64: *(i)* ss. 50(2) and 55: *(i)*	s. 60(2)
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	ss. 4(1), 10(b) and 15–20: 1 Dec 1988 ss. 28(b)–(e), 30 and 31: 10 Dec 1991 (*see Gazette* 1991, No. S332) Remainder: Royal Assent	s. 31(2)
Superannuation Legislation Amendment Act 1991	130, 1991	2 Sept 1991	ss. 10, 11 and 60: 1 Apr 1991 s. 26: 18 Dec 1986 ss. 82–84: 1 July 1990 Remainder: Royal Assent	ss. 6(2), 16(2), 21(2)–(4), 39(2), 46(2), 47(2), 50(2), 53(2) and 58(2)
as amended by				
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 3 (item 113): 2 Sept 1991 *(j)*	—
Commonwealth Employment (Miscellaneous Amendments) Act 1992	95, 1992	30 June 1992	Part 6 (ss. 47–50): 30 June 1992 (*see Gazette* 1992, No. S175) *(k)*	—
Commonwealth Superannuation Schemes Amendment Act 1992	185, 1992	17 Dec 1992	25 June 1993	s. 10

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment Act 1992	187, 1992	18 Dec 1992	ss. 14 and 25(e): 1 July 1991 ss. 17 and 18: 1 July 1993 ss. 25(a)–(d), (f), 26, 31, 32, 37 and 46: 1 July 1992 ss. 34(b), 67 and 68: 1 July 1990 s. 55: 1 Oct 1991 ss. 58(1)(a)–(c), 59 and 60: 18 June 1993 Remainder: Royal Assent	ss. 23(2), 29(2) and 47(2)
Qantas Sale Act 1992	196, 1992	21 Dec 1992	s. 34: 30 July 1995 (*see Gazette* 1995, No. S324) *(l)* Schedule (Parts 3, 6): *(l)*	s. 2(6) (am. by 60, 1993, s. 4; 168, 1994, s. 3) s. 34 (am. by 54, 1995, s. 3(7))
as amended by				
Qantas Sale Amendment Act 1993	60, 1993	3 Nov 1993	10 Mar 1993	—
Qantas Sale Amendment Act 1994	168, 1994	16 Dec 1994	s. 3 (item 17): Royal Assent *(m)*	—
Superannuation Legislation Amendment Act (No. 1) 1995	54, 1995	23 June 1995	s. 3(7): Royal Assent *(n)*	—
Superannuation Industry (Supervision) Consequential Amendments Act 1993	82, 1993	30 Nov 1993	ss. 1, 2, 14, 16(2), 41, 42, 45, 46, 48(1) and 52–64: 1 Dec 1993 Remainder: 1 July 1994	s. 48
Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994	33, 1994	15 Mar 1994	ss. 57–64: Royal Assent *(o)*	s. 64

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment Act 1994	86, 1994	23 June 1994	Divs. 2–8 of Part 2 (ss. 4–63), ss. 66(a), (c), 79–87 and 92–98: 1 July 1994 ss. 66(b) and 67: 1 July 1993 s. 69: 1 July 1992 s. 76: 1 July 1990 Remainder: Royal Assent	ss. 4, 8(2), (3), 10(2), (3), 11(2), 12(2), 13(2), 14(2), 15(2), 16(2), 17, 35(2), 47, 48, 50, 52, 60, 62, 63(2), 64, 65(2), (3) and 72(2)
as amended by				
Superannuation Legislation Amendment Act (No. 1) 1995	54, 1995	23 June 1995	s. 3(5): 23 June 1994 *(p)*	—
Australian Capital Territory Government Service (Consequential Provisions) Act 1994	92, 1994	29 June 1994	1 July 1994 (*see Gazette* 1994, No. S256)	—
Life Insurance (Consequential Amendments and Repeals) Act 1995	5, 1995	23 Feb 1995	1 July 1995 (*see* s. 2 and *Gazette* 1995, No. GN24)	s. 3(1)
Superannuation Legislation Amendment Act (No. 1) 1995	54, 1995	23 June 1995	s. 3(2) and (3): *(q)*	ss. 174 and 175
as amended by				
Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act (No. 1) 2003	64, 2003	30 June 2003	(*see* 64, 2003 below)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Schedule 2 (items 107, 108): *(r)*	—
CFM Sale Act 1996	58, 1996	20 Nov 1996	Schedule 2 (items 3–5): Royal Assent *(s)*	—
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Schedule 19 (item 49): Royal Assent *(t)*	s. 2(2) and (6) (am. by 77, 1996, Sch. 3 [items 1, 2])
as amended by				
Workplace Relations and Other Legislation Amendment Act (No. 2) 1996	77, 1996	19 Dec 1996	Schedule 3 (items 1, 2): *(u)*	—
Law and Justice Legislation Amendment Act 1997	34, 1997	17 Apr 1997	Schedule 15: Royal Assent *(v)*	—
Income Tax (Consequential Amendments) Act 1997	39, 1997	17 Apr 1997	1 July 1997	—
Retirement Savings Accounts (Consequential Amendments) Act 1997	62, 1997	28 May 1997	2 June 1997 (*see* s. 2 and *Gazette* 1997, No. S202)	—
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 1235–1239): 1 Jan 1998 (s 2(2))	—
Snowy Hydro Corporatisation (Consequential Amendments) Act 1997	177, 1997	21 Nov 1997	28 June 2002 (*see* s. 2 and *Gazette* 2002 No. S216)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment (Superannuation Contributions Tax) Act 1997	187, 1997	7 Dec 1997	Sch 1: 7 Dec 1997 (s 2(1))	—
Financial Sector Reform (Consequential Amendments) Act 1998	48, 1998	29 June 1998	Sch 1 (items 170–178): 1 July 1998 (s 2(2))	—
as amended by				
Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999	44, 1999	17 June 1999	Sch 6 (item 15) and Sch 8 (items 22, 23): 17 June 1999 (s 3(1))	Sch 8 (items 22, 23)
Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999	44, 1999	17 June 1999	Sch 7 (items 214, 215): 1 July 1999 (s 3(2)(e) and gaz 1999, No S283) Sch 8: 17 June 1999 (s 3(1))	Sch 8 (items 22, 23)
as amended by				
Financial Sector Legislation Amendment Act (No. 1) 2000	160, 2000	21 Dec 2000	Sch 1 (item 21): 21 Dec 2000 Remainder: 18 Jan 2001	—
Statute Stocktake Act 1999	118, 1999	22 Sept 1999	22 Sept 1999	—
Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999	128, 1999	13 Oct 1999	Sch 1 (item 40): 13 Oct 1999 (s 2(1)) Sch 1 (items 41, 42): never commenced (s 2(3))	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 842–882): 5 Dec 1999 (s 2(1), (2))	—
Australian Federal Police Legislation Amendment Act 2000	9, 2000	7 Mar 2000	Sch 2 (item 56) and Sch 3 (items 20, 33(1), 34, 35): 2 July 2000 (s 2(1) and gaz 2000, No S328)	Sch 3 (items 20, 33(1), 34, 35)
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 382–386, 418, 419): 24 May 2001 (s 2(3))	Sch. 2 (items 418, 419)
Superannuation Legislation Amendment (Post-retirement Commutations) Act 2001	98, 2001	22 Aug 2001	22 Aug 2001	Sch. 2 (items 7–9)
Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001	109, 2001	17 Sept 2001	15 Oct 2001	s. 5
Superannuation Legislation Amendment (Indexation) Act 2001	148, 2001	1 Oct 2001	1 Oct 2001	Sch. 2 (item 32)
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	29 Oct 2001	Sch 1 (item 97)

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Taxation Laws Amendment (Superannuation) Act (No. 2) 2002	51, 2002	29 June 2002	Schedule 1 (items 187, 188): 1 July 2003 Schedule 1 (item 202(3), (4)): Royal Assent	Sch. 1 (item 202(3), (4))
Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002	105, 2002	14 Nov 2002	Schedule 3 (item 62): 12 May 2003 (*see* s. 2 and *Gazette* 2002, No. GN49)	—
Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act (No. 1) 2003	64, 2003	30 June 2003	Sch 1 (items 2–174, 177–181, 184, 185, 188–192, 195–204): 1 July 2003 (s 2(1) items 2, 3, 3A, 3B, 6, 9, 11, 14) Sch 1 (items 175, 183, 186, 187): 1 July 1995 (s 2(1) items 4, 8, 10) Sch 1 (items 176, 182, 194): 27 June 1997 (s 2(1) items 5, 7, 13) Sch 1 (item 193): 18 Dec 1992 (s 2(1) item 12)	Sch 1 (items 20, 25, 29, 33, 101)
as amended by				
Statute Law Revision Act 2006	9, 2006	23 Mar 2006	Sch 2 (item 24): 30 June 2003 (s 2(1) item 39) Sch 2 (item 25): 1 July 2003 (s 2(1) item 40)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Act 2003	111, 2003	12 Nov 2003	12 Nov 2003	Sch 1 (item 25)
as amended by				
Statute Law Revision Act 2006	9, 2006	23 Mar 2006	Sch 2 (item 23): 12 Nov 2003 (s 2(1) item 38)	—
Superannuation (Surcharge Rate Reduction) Amendment Act 2003	112, 2003	12 Nov 2003	Schedule 1: 1 July 2003 Remainder: Royal Assent	Sch. 1 (item 33)
Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004	52, 2004	27 Apr 2004	Schedule 3 (items 104A–104G): 1 July 2004 (*see* s. 2)	—
Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004	58, 2004	4 May 2004	Schedule 1: 18 May 2004 Remainder: Royal Assent	s. 4
Superannuation Budget Measures Act 2004	106, 2004	30 June 2004	30 June 2004	Sch. 2 (item 11(2))
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Schedule 1 (items 386–410, 496): Royal Assent	s. 4 and Sch. 1 (item 496)
Administrative Appeals Tribunal Amendment Act 2005	38, 2005	1 Apr 2005	Schedule 1 (items 233, 234): 16 May 2005	—
Superannuation Laws Amendment (Abolition of Surcharge) Act 2005	102, 2005	12 Aug 2005	12 Aug 2005	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial Framework Legislation Amendment Act (No. 1) 2006	30, 2006	6 Apr 2006	Schedule 3 (item 37): 7 Apr 2006	—
Superannuation Legislation Amendment Act (No. 1) 2006	48, 2006	29 May 2006	29 May 2006	Sch. 1 (item 2)
Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006	51, 2006	9 June 2006	Sch 1 (items 1–36, 66–84): 1 July 2006 (s 2(1) items 2, 4) Sch 2: 1 July 2003 (s 2(1) item 5)	Sch 1 (items 66–84)
Superannuation Legislation Amendment (Superannuation Safety and Other Measures) Act 2006	112, 2006	23 Oct 2006	Sch 1 (items 1–19) and Sch 3: 23 Oct 2006 (s 2(1) items 2, 6) Sch 2: 1 July 2007 (s 2(1) items 3–5)	Sch 1 (item 4), Sch 2 (items 28, 29) and Sch 3
as amended by				
Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006	51, 2006	9 June 2006	Sch 1 (item 64): 23 Oct 2006 (s 2(1) item 3)	—
Superannuation Legislation Amendment Act 2007	165, 2007	25 Sept 2007	Schedule 1 (items 1–12) and Schedule 5 (items 1–4): 1 July 2008 Schedule 3: 1 Jan 2008 Schedule 5 (items 5–10): Royal Assent Schedule 5 (items 11, 12): 1 July 2007	Sch. 1 (item 12) and Sch. 5 (items 4, 10, 12)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Schedule 2 (items 5–28) and Schedule 4 (items 1, 2): Royal Assent	Sch. 2 (item 20) and Sch. 4 (item 2)
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008	134, 2008	4 Dec 2008	s. 4: Royal Assent Schedule 1 (items 18–52): 1 Jan 2009 (*see* F2008L04609)	s. 4 and Sch. 1 (item 52)
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Schedule 7 (items 53, 53A, 54, 54A, 55): 10 Dec 2008	Sch. 7 (item 55)
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Sch 10 (items 6–8): 1 July 2009 (s 2(1) item 32)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 6 (item 132): 19 Apr 2011 (s 2(1) item 18)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (item 1074) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) item 7) Sch 2 (items 1075–1081): never commenced (s 2(1) item 8)	Sch 3 (items 10, 11)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Sch 1 (items 174–206, 247(2)): 1 July 2011 (s 2(1) item 2)	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Financial Framework Legislation Amendment Act (No. 2) 2012	82, 2012	28 June 2012	Sch 1 (items 121, 122): 29 June 2012 (s 2(1) item 2)	—
Public Service Amendment Act 2013	2, 2013	14 Feb 2013	Sch 3 (item 19): 1 July 2013 (F2013L00484)	—
Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Act 2013	82, 2013	28 June 2013	Sch 4 (items 6–11): Royal Assent	—
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 5 (items 9, 10) and Sch 8 (item 40): 24 June 2014	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 12 (items 158–163) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Governance of Australian Government Superannuation Schemes Legislation Amendment Act 2015	65, 2015	17 June 2015	Sch 1 (items 44–52) and Sch 2: 1 July 2015 (s 2(1) item 2)	Sch 1 (items 46, 49) and Sch 2
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 545–547): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 4 (item 37): 10 Dec 2015 (s 2(1) item 7)	—
Treasury Laws Amendment (Fair and Sustainable Superannuation) Act 2016	81, 2016	29 Nov 2016	Sch 10 (items 94–111): 1 July 2018 (s 2(1) item 7)	—
Status Update (A.C.T. Self-Government (Consequential Provisions) Regulations) Act 2017	13, 2017	22 Feb 2017	Sch 1 (items 36, 37): 22 Mar 2017 (s 2(1) item 2)	—
Safety, Rehabilitation and Compensation Legislation Amendment (Defence Force) Act 2017	108, 2017	14 Sept 2017	Sch 3 (items 43–46): 12 Oct 2017 (s 2(1) item 5)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Marriage Amendment (Definition and Religious Freedoms) Act 2017	129, 2017	8 Dec 2017	Sch 3 (item 34) and Sch 4: 9 Dec 2017 (s 2(1) item 7)	Sch 4
Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018	13, 2018	5 Mar 2018	s 4: 5 Mar 2018 (s 2(1) item 1) Sch 3 (item 17): awaiting commencement (s 2(1) item 8)	s 4

Number and Year	Registration	Commencement	Application, saving and transitional provisions
1999 No 301	4 Dec 1999	Sch 1 (Pt 10): 5 Dec 1999 (r 1.2)	—
as amended by			
2000 No 332	8 Dec 2000	Sch 1 (item 2): 5 Dec 1999	—
2001 No 99	23 May 2001	Sch 1: 23 May 2001	—
2006 No 50	17 Mar 2006 (F2006L00820)	Sch 16: 27 Mar 2006 (r 2(b))	—

(a) The *Superannuation Act 1976* was amended by Part IX (sections 65 and 66) only of the *Public Service and Statutory Authorities Amendment Act 1980*, subsection 2(1) of which provides as follows:

(1) Sections 1, 2, 3 and 4, subsections 5(2) and 7(2), (5), (6) and (7), sections 8, 9, 10, 11, 12, 13, 16, 17, 18 and 19, subsections 21(1) and 37(5), sections 38, 43 and 44, subsection 45(10) and sections 46 to 66 (inclusive) shall come into operation on the day on which this Act receives the Royal Assent.

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(b) The *Superannuation Act 1976* was amended by subsection 151(1) only of the *Public Service Reform Act 1984*, subsection 2(4) of which provides as follows:

(4) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

(c) The *Superannuation Act 1976* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(26) of which provides as follows:

(26) The amendments to the *Superannuation Act 1976* made by this Act shall:

(a) in the case of the amendment omitting the reference to section 18 of the *Commonwealth Employees (Redeployment and Retirement) Act 1979* from paragraph 58(3)(e) of the *Superannuation Act 1976*—be deemed to have come into operation on 1 July 1984; and

(b) in the case of the other amendments of the *Superannuation Act 1976*—come into operation, or be deemed to have come into operation, as the case requires, on the commencement of section 84 of the *Public Service Reform Act 1984*.

The date of commencement of section 84 of the *Public Service Reform Act 1984* was 1 October 1984 (*see Gazette* 1984, No. S383).

(d) The *Superannuation Legislation Amendment Act (No. 2) 1986* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(30) of which provides as follows:

(30) The amendments of the *Superannuation Legislation Amendment Act (No. 2) 1986* made by this Act shall be deemed to have come into operation on the day on which the first-mentioned Act received the Royal Assent.

(e) The *Superannuation Act 1976* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1988*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(f) The *Taxation Laws Amendment (Superannuation) Act 1989* provides as follows:

(1) Subject to this section, this Act commences, or shall be taken to have commenced, as the case requires, immediately after the commencement of the *Taxation Laws Amendment Act (No. 2) 1989*.

The *Taxation Laws Amendment Act (No. 2) 1989* came into operation on 30 June 1989.

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(g) The *Australian Federal Police Legislation Amendment Act (No. 2) 1989* was amended by subsection 74(1) only of the *Crimes Legislation Amendment Act 1991*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(h) The *Superannuation Act 1976* was amended by Part 3 (sections 6–93) only of the *Superannuation Legislation Amendment Act 1990*, section 2 of which provides as follows:

(1) The following provisions:

(a) Parts 1 and 2, sections 6, 69, 70, 71, 94 and 98 and Part 5, of this Act;

(b) section 43 and Part XIII of the *Superannuation Act 1976* inserted by this Act;

commence on the day on which this Act receives the Royal Assent.

(2) Section 48 of this Act is taken to have commenced on 1 May 1987.

(3) The remaining provisions of this Act commence on 1 July 1990.

(i) The *Superannuation Act 1976* was amended by sections 49–64 only of the *Commonwealth Funds Management Limited Act 1990*, subsections 2(4)–(6) of which provide as follows:

(4) Subject to subsection (5), Parts 3, 6, 7, 8 (other than section 48), 9 (other than subsection 50(2) and section 55) and 10 commence on a day to be fixed by Proclamation.

(5) If the provisions referred to in subsection (4) do not commence under that subsection before 1 July 1991, they commence on that day.

(6) Subsection 50(2) and section 55 commence immediately after the commencement of Part 3.

In pursuance of subsection 2(6), Part 3 commenced on 1 July 1991.

(j) The *Superannuation Legislation Amendment Act 1991* was amended by Schedule 3 (item 113) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:

(3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.

(k) The *Superannuation Act 1976* was amended by Part 6 (sections 47–50) only of the *Commonwealth Employment (Miscellaneous Amendments) Act 1992*, subsection 2(2) of which provides as follows:

(2) Subject to subsection (3), the provisions of Divisions 1, 2 and 3 of Part 2 and the provisions of Part 6, commence on a day to be fixed by Proclamation.

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(l) The *Superannuation Act 1976* was amended by section 34 and the Schedule (Parts 3 and 6) only of the *Qantas Sale Act 1992*, subsections 2(2), (5) and (6) of which provide as follows:

(2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(5) If, on the 100% sale day, Part 3 of the Schedule has not commenced, then, on the day on which Part 7 of the Schedule commences, Parts 3 and 6 of the Schedule are taken to have been repealed.

(6) If a provision of this Act has not commenced before 31 August 1995, the provision is taken to have been repealed on that day.

The Schedule (Parts 3 and 6) is taken to have been repealed on 31 August 1995.

(m) The *Qantas Sale Act 1992* was amended by section 3 (item 17) only of the *Qantas Sale Amendment Act 1994*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(n) The *Qantas Sale Act 1922* was amended by subsection 3(7) only of the *Superannuation Legislation Amendment Act (No. 1) 1995*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(o) The *Superannuation Act 1976* was amended by sections 57–64 only of the *Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994*, subsection 2(1) of which provides as follows:

(1) Except for subsection 15(1), this Act commences on the day on which it receives the Royal Assent.

(p) The *Superannuation Legislation Amendment Act 1994* was amended by subsection 3(5) only of the *Superannuation Legislation Amendment Act (No. 1) 1995*, subsection 2(5) of which provides as follows:

(5) The amendment made by Schedule 6 is taken to have come into effect on 23 June 1994.

(q) The *Superannuation Act 1976* was amended by subsections 3(2) and (3) only of the *Superannuation Legislation Amendment Act (No. 1) 1995*, subsections 2(1)–(4) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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(2) The amendment made by item 160 in Schedule 2 is taken to have had effect at all times on and after 1 July 1976.

(3) The amendments made by items 5, 11, 28, 36, 38, 39, 43, 47, 54, 55, 57, 58, 59, 72, 94, 95, 97, 100, 101, 102, 105, 107, 120, 137 and 138, paragraph (b) of item 145 and items 149 and 161 in Schedule 2, and the amendments made by items 12 and 17 in Schedule 4, take effect on 1 July 1995.

(4) The amendments made by Schedule 3 take effect on 1 July 1995, immediately after the amendments in Schedule 2 that are referred to in subsection (3) take effect.

(r) The *Superannuation Act 1976* was amended by Schedule 2 (items 107 and 108) only of the *Statute Law Revision Act 1996*, subsection 2(2) of which provides as follows:

(2) Each item in Schedule 2 commences or is taken to have commenced (as the case requires) at the time specified in the note at the end of the item.

Item 107 is taken to have commenced immediately after the commencement of item 161 of Schedule 2 to the *Superannuation Legislation Amendment Act (No. 1) 1995*.

Item 161 commenced on 1 July 1995.

Item 108 is taken to have commenced immediately after the commencement of section 18 of the *Superannuation Legislation Amendment Act 1994*.

Section 18 commenced on 1 July 1994.

(s) The *Superannuation Act 1976* was amended by Schedule 2 (items 3–5) only of the *CFM Sale Act 1996*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(t) The *Superannuation Act 1976* was amended by Schedule 19 (item 49) only of the *Workplace Relations and Other Legislation Amendment Act 1996*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(u) The *Workplace Relations and Other Legislation Amendment Act 1996* was amended by Schedule 3 (items 1 and 2) only of the *Workplace Relations and Other Legislation Amendment Act (No. 2) 1996*, subsection 2(4) of which provides as follows:

(4) The items of Schedule 3 are taken to have commenced immediately after the W*orkplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent.

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Endnote 3—Legislation history

The *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent on 25 November 1996.

(v) The *Superannuation Act 1976* was amended by Schedule 15 only of the *Law and Justice Legislation Amendment Act 1997*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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Endnote 4—Amendment history

Provision affected	How affected
Title	am No 40, 1990; No 54, 1995
Part I	
s 3	am No 80, 1977; Nos 17, 134 and 169, 1978; No 155, 1979; No 92, 1981; Nos 80 and 151, 1986; No 38, 1988; No 153, 1989; No 40, 1990; Nos 13 and 130, 1991; Nos 185 and 187, 1992; No 82, 1993; No 86, 1994; No 54, 1995; No 187, 1997; No 48, 1998; No 146, 1999; No 9, 2000; No 64, 2003; No 58, 2004; No 38, 2005; SLI 2006 No 50; Nos 51 and 112, 2006; No 165, 2007; Nos 26 and 134, 2008; No 54, 2009; No 58, 2011; No 82, 2013; No 31, 2014; No 126, 2015; No 81, 2016
s 3AA	ad No 118, 1999
s 3A	ad No 54, 1995
	am No 58, 2011
s 3B	ad No 54, 1995
	am No 62, 1997; No 48, 1998
	rep No 64, 2003
s 3C	ad No 54, 1995
	am No 146, 1999; No 5, 2011
s 3F	ad No 109, 2001
Heading to s 4AA	am No 58, 2011
s 4AA	ad No 86, 1994
	am No 58, 2011
s 4A	ad No 40, 1990
	am No 187, 1992; No 26, 2008; No 126, 2015
s 4B	ad No 40, 1990
	am No 130, 1991; No 51, 2006; No 58, 2011
s 5	am No 151, 1986; No 86, 1994; No 54, 1995; No 64, 2003; No 48, 2006
s 6	am No 54, 1995
s 6A	ad No 187, 1992
	am No 86, 1994; No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 7	am No 40, 1990; No 130, 1991; No 54, 1995; No 58, 2011
s 7A	ad No 17, 1978
	am No 40, 1990; No 187, 1992; No 54, 1995; No 112, 2006
s 8	am No 151, 1986; No 54, 1995
s 8A	ad No 185, 1992
	am No 86, 1994; No 134, 2008; No 46, 2001; No 58, 2011; No 129, 2017
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s 8B	ad No 185, 1992
	am No 54, 1995; No 64, 2003; No 134, 2008; No 58, 2011
s 9	am No 80, 1986; No 40, 1990
	rs No 185, 1992
	rep No 64, 2003
s 10	am No 187, 1992; No 54, 1995
s 11	am No 17, 1978; No 40, 1990; No 86, 1994; No 58, 2011
s 12	rep No 40, 1990
s 13	am No 151, 1986; No 40, 1990; No 86, 1994; No 54, 1995; No 58, 2011
s 13A	ad No 40, 1990
	am No 130, 1991
s 14	am No 17, 1978; No 151, 1986; No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 58, 2011
Heading to s 14A	am No 54, 1995
	rep No 64, 2003
s 14A	ad No 80, 1977
	am No 170, 1978; No 151, 1986; No 40, 1990; No 54, 1995; No 146, 1999; Statutory Rules 1999 No 301 (as am by Statutory Rules 2000 No 332)
	rep No 64, 2003
s 15	am No 17, 1978; No 86, 1994; No 54, 1995; No 58, 2011
s 15A	ad No 40, 1990
	am No 130, 1991; No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 16	am No 17, 1978; No 63, 1984; Nos 80 and 151, 1986; No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 58, 2011
s 16AA	ad No 40, 1990
	am No 130, 1991; No 86, 1994; No 54, 1995; No 58, 2011
s 16AB	ad No 40, 1990
	am No 86, 1994; No 54, 1995; No 58, 2011
s 16AC	ad No 40, 1990
	am No 86, 1994; No 58, 2011
s 16AD	ad No 40, 1990
	am No 86, 1994; No 54, 1995; No 58, 2011
s 16AE	ad No 40, 1990
	rep No 86, 1994
s 16A	ad No 177, 1980
	rs No 92, 1983
	am No 54, 1995; No 146, 1999
Part II	rep No 58, 2011
s 17	am No 130, 1988; No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 51, 2006
	rep No 58, 2011
s 17A	ad No 86, 1994
	rep No 58, 2011
s 18	am No 54, 1995; No 159, 2001
	rep No 58, 2011
s 19	am No 17, 1978; No 54, 1995
	rep No 58, 2011
s 20	am No 54, 1995
	rep No 58, 2011
s 21	am No 17, 1978
	rs No 122, 1991
	am No 54, 1995; No 146, 1999; Statutory Rules 2001 No 99
	rep No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 22	rs No 151, 1986
	rep No 58, 2011
s 23	am No 17, 1978; No 151, 1986; No 122, 1991; No 54, 1995
	rep No 58, 2011
s 24	am No 17, 1978
	rs No 151, 1986
	rep No 58, 2011
s 25	am No 151, 1986; No 54, 1995
	rep No 58, 2011
s 26	rs No 80, 1986
	am No 146, 1999
	rep No 58, 2011
s 27	rs No 86, 1994
	rep No 58, 2011
Part IIA	
Heading to Part IIA	am No 13, 1991
	rs No 54, 1995; No 51, 2006
	am No 58, 2011
Part IIA	ad No 40, 1990
Division 1	
Heading to Div 1 of Part IIA	rep No 51, 2006
s 27A	ad No 40, 1990
	am No 13, 1991; No 54, 1995
	rep No 51, 2006
s 27B	ad No 40, 1990
	am No 152, 1997
	rep No 51, 2006
Heading to s 27C	am No 58, 2011
s 27C	ad No 40, 1990
	am Nos 13 and 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 58, 2004; No 51, 2006; No 58, 2011

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Provision affected	How affected
Note to s 27C(1)	ad No 58, 2011
Heading to s 27CA	am No 58, 2011
s 27CA	ad No 86, 1994
	am No 8, 2005; No 58, 2011
s 27D	ad No 40, 1990
	am No 51, 2006; No 58, 2011
Division 2	
Heading to Div 2 of Part IIA	rep No 51, 2006
ss 27E–27H	ad No 40, 1990
	am No 54, 1995
	rep No 51, 2006
s 27J	ad No 40, 1990
	am No 86, 1994
	rep No 51, 2006
ss 27K, 27L	ad No 40, 1990
	rep No 51, 2006
s 27M	ad No 40, 1990
	am No 86, 1994; No 54, 1995
	rep No 51, 2006
s 27N	ad No 40, 1990
	am No 54, 1995
	rep No 51, 2006
s 27P	ad No 40, 1990
	rep No 51, 2006
s 27Q	ad No 40, 1990
	rs No 54, 1995; No 64, 2003
	am Nos 51 and 112, 2006
	rep No 58, 2011
Heading to s 27R	am No 51, 2006
	rep No 58, 2011
s 27R	ad No 40, 1990

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Endnote 4—Amendment history

Provision affected	How affected
	am No 130, 1991; No 54, 1995; No 64, 2003; No 51, 2006
	rep No 58, 2011
ss 27S, 27T	ad No 40, 1990
	rep No 51, 2006
s 27U	ad No 40, 1990
	rep No 86, 1994
Part III	
Heading to Part III	rs No 13, 1991; No 54, 1995
Div 1 of Part III	rep No 13, 1991
ss 28, 29	rep No 13, 1991
s 29A	ad No 80, 1986
	am No 38, 1988; No 40, 1990
	rep No 13, 1991
s 30	am No 17, 1978; No 80, 1986; No 38, 1988
	rs No 40, 1990
	rep No 13, 1991
s 30A	ad No 80, 1986
	am No 38, 1988
	rep No 40, 1990
s 31	am No 17, 1978; No 80, 1986; No 38, 1988
	rep No 40, 1990
s 32	am No 80, 1986; No 38, 1988; No 40, 1990
	rep No 13, 1991
s 33	am No 17, 1978; No 40, 1990
	rep No 13, 1991
s 34	am No 80, 1986; No 40, 1990
	rep No 13, 1991
s 34A	ad No 80, 1986
	am No 40, 1990
	rep No 13, 1991
s 35	am No 17, 1978; No 80, 1986; No 38, 1988; No 40, 1990

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Provision affected	How affected
	rep No 13, 1991
s 36	am No 17, 1978
	rs No 80, 1986
	am No 38, 1988; No 40, 1990
	rep No 13, 1991
s 37	am No 80, 1986; No 38, 1988; No 40, 1990
	rep No 13, 1991
s 38	am Nos 80 and 151, 1986
	rep No 13, 1991
s 39	rs No 80, 1986
	am No 151, 1986; No 38, 1988
	rep No 40, 1990
Heading to Div 2 of Part III	rep No 13, 1991
s 40	am No 40, 1990; No 86, 1994; No 54, 1995; No 51, 2006
Heading to s 41	am No 58, 2011
s 41	am No 80, 1986; No 13, 1991; No 82, 1993; No 54, 1995; No 152, 1997; No 58, 2011; No 62, 2014
s 42	am No 51, 1976; No 17, 1978; No 80, 1986; No 97, 1989 (as am by No 105, 1989); No 13, 1991; No 86, 1994; No 58, 1996; No 39, 1997; No 187, 1997; No 51, 2006; No 58, 2011
s 43	am No 17, 1978
	rep No 80, 1986
	ad No 40, 1990
	rep No 13, 1991
Div 2A of Part III	ad No 40, 1990
	rep No 13, 1991
ss 43A–43C	ad No 40, 1990
	rep No 13, 1991
Heading to Div 2B of Part III	ad No 40, 1990
	rep No 13, 1991
s 44	am Nos 80 and 151, 1986; No 40, 1990; No 13, 1991; No 86, 1994; No 54, 1995

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Endnote 4—Amendment history

Provision affected	How affected
	rs No 152, 1997
	am No 109, 2001; No 51, 2006
	rep No 58, 2011
Note to s 44(3)	ad No 109, 2001
	rep No 58, 2011
s 44A	ad No 152, 1997
	rep No 58, 2011
Div 2C of Part III	ad No 40, 1990
	rep No 13, 1991
ss 44AA–44AAJ	ad No 40, 1990
	rep No 13, 1991
Div 3 of Part III	ad No 80, 1986
	rep No 13, 1991
ss 44A, 44B	ad No 80, 1986
	rep No 13, 1991
Part IV	
s 45A	ad No 54, 1995
s 45	am No 169, 1978; No 40, 1990; No 54, 1995; No 165, 2007
Note to s 45(1)	ad No 165, 2007
s 46	am No 54, 1995; No 165, 2007; No 58, 2011
s 47	am No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 64, 2003; No 58, 2011
s 48	am No 169, 1978; No 86, 1994
	rs No 54, 1995; No 64, 2003
s 49	rep No 54, 1995
s 50	am No 86, 1994
	rep No 54, 1995
s 50A	ad No 54, 1995
	am No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 51	am No 17, 1978; No 169, 1978; No 151, 1986; No 130, 1991; No 86, 1994; No 54, 1995; No 60, 1996; No 177, 1997; No 146, 1999; No 105, 2002; No 64, 2003; No 52, 2004; No 165, 2007; No 144, 2008; No 54, 2009; No 58, 2011; No 108, 2017
s 51AA	ad No 165, 2007
s 51A	ad No 169, 1978
	am No 151, 1986
	rs No 40, 1990
	am No 86, 1994; No 165, 2007; No 144, 2008; No 58, 2011
Note to s 51A(4)	ad No 165, 2007
s 51B	ad No 40, 1990
	am No 86, 1994
	rep No 165, 2007
s 52	am No 86, 1994; No 54, 1995; No 58, 2011
s 53	am No 86, 1994; No 54, 1995; No 51, 2006; No 58, 2011
s 54	am No 187, 1992; No 86, 1994; No 54, 1995; No 58, 2011
Part IVA	
Part IVA	ad No 40, 1990
Division 1	
s 54A	ad No 40, 1990
	am No 54, 1995; No 52, 2004; No 108, 2017
s 54B	ad No 40, 1990
Division 2	
Division 2 heading	am No 58, 2011
s 54C	ad No 40, 1990
	am No 187, 1992; No 54, 2009; No 58, 2011
Division 3	
s 54D	ad No 40, 1990
	am No 130, 1991; No 95, 1992; No 54, 1995
ss 54E, 54F	ad No 40, 1990
	am No 58, 2011

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Provision affected	How affected
s 54G	ad No 40, 1990
	rs No 130, 1991
	am No 95, 1992; No 54, 1995; No 52, 2004; No 58, 2011; No 108, 2017
s 54H	ad No 40, 1990
	am No 130, 1991; Nos 95 and 187, 1992; No 52, 2004; No 58, 2011
s 54J	ad No 40, 1990
	am No 58, 2011
s 54JA	ad No 187, 1992
	am No 54, 1995; Nos 52 and 58, 2004; No 58, 2011; No 108, 2017
Division 4	
Heading to s 54K	am No 54, 1995
s 54K	ad No 40, 1990
	am No 130, 1991; No 187, 1992; No 54, 1995; No 51, 2006
s 54L	ad No 40, 1990
	am No 54, 1995
Div 5 of Part IVA	rep No 130, 1991
ss 54M–54Z	ad No 40, 1990
	rep No 130, 1991
Division 6	
s 54ZA	ad No 40, 1990
	am No 187, 1992; No 54, 1995; No 58, 2011
Part V	
Division 1A	
Div 1A of Part V	ad No 54, 1995
s 55A	ad No 54, 1995
Division 1	
s 55	am No 17, 1978; No 40, 1990; No 130, 1991; No 54, 1995; No 187, 1997; No 64, 2003; No 51, 2006
s 56	am No 17, 1978; No 40, 1990; No 54, 1995; No 187, 1997; No 64, 2003
s 57	am No 54, 1995; No 187, 1997; No 64, 2003

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Provision affected	How affected
s 57(1A) (first occurring)	
Renumbered s 57(1AA)	No 51, 2006
s 57AA	ad No 64, 2003
	am No 58, 2011
s 57A	ad No 151, 1986
Division 2	
s 57B	ad No 33, 1994
	am No 146, 1999; Statutory Rules 2001 No 99
s 58	am No 52, 1979; No 165, 1984; Nos 151 and 153, 1986; Nos 71 and 153, 1989; No 40, 1990; No 187, 1992; Nos 33 and 92, 1994; No 54, 1995; No 146, 1999; No 64, 2003; No 2, 2013
ss 58A, 58B	ad No 33, 1994
	am No 54, 1995; No 146, 1999
s 59	am No 40, 1990; No 130, 1991; No 54, 1995; No 187, 1997; No 64, 2003; No 51, 2006
s 60	am No 40, 1990; No 54, 1995; No 187, 1997; No 64, 2003
s 61	am No 17, 1978; No 54, 1995; No 187, 1997; No 64, 2003
s 61A	ad No 151, 1986
s 61AB	ad No 64, 2003
	am No 58, 2011
s 62	am No 17, 1978; No 151, 1986; No 40, 1990; No 130, 1991; No 187, 1992; Nos 33 and 86, 1994; No 54, 1995; No 187, 1997; No 64, 2003; No 165, 2007; No 58, 2011
Division 2A	
Div 2A of Part V	ad No 187, 1992
s 62A	ad No 187, 1992
	am No 86, 1994; No 64, 2003; No 58, 2011
s 62B	ad No 187, 1992
	am No 86, 1994; No 54, 1995; No 64, 2003; No 112, 2006; No 58, 2011
s 62C	ad No 187, 1992
Division 3	
s 64	am No 130, 1991; No 86, 1994; No 54, 1995; No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 65	am No 40, 1990; No 54, 1995; No 64, 2003
Division 4	
s 66	am No 17, 1978; No 151, 1986; No 40, 1990; No 86, 1994; No 54, 1995; No 58, 2011
s 67	am No 151, 1986; No 40, 1990; No 187, 1997
s 68	am No 17, 1978; No 151, 1986; No 40, 1990; No 86, 1994; No 187, 1997; No 58, 2011
s 69	am No 17, 1978; No 151, 1986; No 86, 1994; No 187, 1997; No 58, 2011
s 70	am No 151, 1986; No 40, 1990; No 187, 1997
s 71	am No 17, 1978; No 151, 1986; No 40, 1990; No 86, 1994; No 187, 1997; No 58, 2011
s 72	am No 17, 1978; No 151, 1986 (as am by No 141, 1987); No 86, 1994; No 187, 1997; No 58, 2011
s 73	am No 151, 1986; No 187, 1997
s 73A	ad No 151, 1986
	am No 130, 1991; No 86, 1994; No 148, 2001; No 64, 2003; No 58, 2011
s 73B	ad No 130, 1991
Heading to s 74	am No 58, 2011
s 74	am No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011
s 74A	ad No 151, 1986
	am No 86, 1994; No 58, 2011
s 75	am No 86, 1994; No 54, 1995; No 58, 2011
s 76	am No 17, 1978; No 54, 1995
s 76A	ad No 151, 1986
	am No 86, 1994; No 58, 2011
s 77	am No 86, 1994; No 54, 1995; No 187, 1997; No 58, 2011
s 78	am No 17, 1978; No 86, 1994; No 54, 1995; No 187, 1997; No 58, 2011
s 78A	ad No 54, 1995
	am No 52, 2004; No 108, 2017
s 79	am No 86, 1994; No 54, 1995; No 58, 2011

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Provision affected	How affected
Division 4A	
Div 4A of Part V	ad No 165, 2007
s 79A	ad No 165, 2007
	am No 58, 2011; No 81, 2016
s 79B	ad No 165, 2007
	am No 81, 2016
s 79C	ad No 165, 2007
	am No 81, 2016
s 79D	ad No 165, 2007
	am No 58, 2011
Division 5	
s 80	am No 17, 1978; No 151, 1986; No 54, 1995
s 80A	ad No 187, 1992
	rep No 82, 1993
	ad No 187, 1997
	am No 112, 2003; Nos 58 and 106, 2004; No 102, 2005; No 58, 2011
s 80B	ad No 187, 1997
	am No 58, 2011; No 82, 2013
s 80C	ad No 187, 1997
	am No 58, 2011; No 82, 2013
s 80D	ad No 187, 1997
	am No 58, 2011
Part VI	
Division 1	
s 81	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011
s 82	am No 151, 1986; No 54, 1995
s 83	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011
s 84	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 187, 1997; No 58, 2011
s 85	am No 151, 1986; No 54, 1995
s 86	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 87	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 187, 1997; No 58, 2011
s 88	am No 151, 1986; No 54, 1995
Division 2	
ss 89, 90	am No 54, 1995
s 92	am No 151, 1986; No 86, 1994; No 187, 1997; No 58, 2011
Division 3	
s 93	am No 130, 1991; No 64, 2003
ss 94, 95	am No 40, 1990; No 54, 1995; No 64, 2003; No 134, 2008
s 95A	ad No 64, 2003
	am No 58, 2011
s 96	am No 40, 1990; No 64, 2003; No 134, 2008
s 96AA	ad No 64, 2003
	am No 58, 2011
s 96A	ad No 40, 1990
	am No 48, 1998; No 44, 1999; No 62, 2014
s 96AB	ad No 64, 2003
	am No 134, 2008; No 58, 2011
Division 3A	
Div 3A of Part VI	ad No 40, 1990
Heading to s 96B	am No 64, 2003
s 96B	ad No 40, 1990
	am No 64, 2003
s 96BA	ad No 64, 2003
	am No 134, 2008; No 58, 2011
s 96BB	ad No 64, 2003
	am No 58, 2011
Division 4	
s 96C	ad No 40, 1990
s 97	am No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011
s 98	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011

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Provision affected	How affected
s 99	am No 17, 1978; No 151, 1986; No 40, 1990; No 86, 1994; No 54, 1995; No 187, 1997; No 58, 2011
s 100	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011
s 101	am No 17, 1978; No 151, 1986; No 40, 1990; No 86, 1994; No 54, 1995; No 187, 1997; No 58, 2011
ss 102, 103	am No 54, 1995
s 104	am No 17, 1978; No 54, 1995
ss 105–108	am No 54, 1995; No 64, 2003
Heading to s 108A	am No 134, 2008
s 108A	ad No 64, 2003
	am No 134, 2008; No 58, 2011
s 109	am No 64, 2003
s 109A	ad No 40, 1990
Division 5	
Div 5 of Part VI	rs No 130, 1991
s 109AB	ad No 130, 1991
	am No 86, 1994; No 98, 2001; No 64, 2003; No 134, 2008; No 58, 2011
s 110	rs No 17, 1978
	am No 151, 1986; No 40, 1990
	rs No 130, 1991
	am No 86, 1994; No 98, 2001; No 64, 2003; No 134, 2008; No 58, 2011
s 110AB	ad No 130, 1991
	am No 64, 2003
Part VIA	
Part VIA	ad No 40, 1990
s 110A	ad No 40, 1990
	am No 187, 1992; No 82, 1993; No 86, 1994; No 54, 1995; No 58, 2011
s 110B	ad No 40, 1990
	am No 187, 1992
s 110C	ad No 40, 1990
	am No 26, 2008; No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 110D	ad No 40, 1990
	am No 64, 2003
	rs No 26, 2008
	am No 58, 2011
s 110E	ad No 40, 1990
	am No 26, 2008
s 110EA	ad No 130, 1991
	rs No 86, 1994
s 110F	ad No 40, 1990
	am No 26, 2008
s 110G	ad No 40, 1990
	rs No 26, 2008
	am No 126, 2015
Heading to s 110H	am No 58, 2011
s 110H	ad No 40, 1990
	am No 86, 1994; No 54, 1995; SLI 2006 No 50; No 165, 2007; No 58, 2011
s 110J	ad No 40, 1990
ss 110K, 110L	ad No 40, 1990
	am No 130, 1991; No 86, 1994; No 58, 2011
s 110M	ad No 40, 1990
	am No 86, 1994; No 58, 2011
s 110MA	ad No 187, 1992
	am No 86, 1994; No 58, 2011
Heading to s 110N	am No 58, 2011
s 110N	ad No 40, 1990
	am No 187, 1992; No 86, 1994; No 58, 2011
s 110P	ad No 40, 1990
	am No 130, 1991; No 187, 1997
s 110Q	ad No 40, 1990

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Provision affected	How affected
	am No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 58, 2011
s 110R	ad No 40, 1990
	am No 130, 1991; No 187, 1992; Nos 33 and 86, 1994; No 54, 1995; No 48, 1998; No 64, 2003
s 110S	ad No 40, 1990
	am No 86, 1994; No 54, 1995; No 58, 2011
Part VIAA	
Part VIAA	ad No 187, 1992
s 110SA	ad No 187, 1992
s 110SB	ad No 187, 1992
	am No 86, 1994; No 64, 2003; No 58, 2011
s 110SC	ad No 187, 1992
	am No 86, 1994; No 51, 2002; No 58, 2011
Heading to s 110SD	am No 58, 2011
s 110SD	ad No 187, 1992
	am No 86, 1994; No 58, 2011
s 110SE	ad No 187, 1992
	am No 86, 1994; No 54, 1995; No 187, 1997; No 51, 2002; No 64, 2003; No 58, 2004; No 112, 2006; No 58, 2011
s 110SF	ad No 187, 1992
s 110SG	ad No 187, 1992
	am No 86, 1994
	rs No 64, 2003
	am No 58, 2011
s 110SH	ad No 187, 1992
	am No 86, 1994
	rep No 64, 2003
s 110SJ	ad No 187, 1992
	am No 86, 1994; No 54, 1995
	rep No 64, 2003

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Endnote 4—Amendment history

Provision affected	How affected
Part VIAB	
Part VIAB	ad No 64, 2003
Heading to s 110SK	am No 58, 2011
s 110SK	ad No 64, 2003
	am No 58, 2011
Heading to s 110SL	am No 58, 2011
s 110SL	ad No 64, 2003
	am No 58, 2011
s 110SM	ad No 64, 2003
s 110SN	ad No 64, 2003
	am No 165, 2007; No 58, 2011; No 82, 2013; No 81, 2016
ss 110SO, 110SP	ad No 64, 2003
s 110SQ	ad No 64, 2003
	am No 58, 2011
Part VIB	
Part VIB	ad No 130, 1991
s 110T	ad No 130, 1991
	am No 86, 1994; No 58, 2011
s 110TA	ad No 130, 1991
	am No 64, 2003
s 110TB	ad No 130, 1991
	am No 86, 1994; No 58, 2011
s 110TBA	ad No 64, 2003
s 110TC	ad No 130, 1991
	am No 86, 1994; No 54, 1995; No 64, 2003; No 58, 2011
Heading to s 110TD	am No 64, 2003
	rs No 64, 2003
s 110TD	ad No 130, 1991
	am No 64, 2003
s 110TE	ad No 130, 1991
	am No 86, 1994; No 58, 2011

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Provision affected	How affected
s 110TF	ad No 130, 1991
	am No 86, 1994; No 64, 2003; No 58, 2011
s 110TG	ad No 130, 1991
	am No 86, 1994; No 64, 2003; No 8, 2005; No 58, 2011
Part VID	
Part VID	ad No 64, 2003
s 110TV	ad No 64, 2003
Part VII	
s 111A	ad No 54, 1995
	am No 64, 2003; No 58, 2011
s 111	am No 17, 1978; No 40, 1990; No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 187, 1997; No 64, 2003; No 58, 2011
Heading to s 112	rs No 8, 2005
s 112	am No 17, 1978; No 151, 1986; No 40, 1990 (as am by No 86, 1994); No 130, 1991 (as am by No 43, 1996); No 187, 1992; No 86, 1994; No 54, 1995; No 8, 2005; No 165, 2007
Note to s 112(2)	ad No 165, 2007
s 113	am No 130, 1991; No 86, 1994; No 58, 2011
s 114	am No 40, 1990; No 130, 1991; No 86, 1994; No 58, 2011
s 115	am No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 98, 2001; No 58, 2011
s 116	am No 86, 1994; No 54, 1995; No 58, 2011
s 117	am No 187, 1992; No 86, 1994; No 54, 1995; No 58, 2011
s 118	am No 54, 1995
s 119	am No 151, 1986; No 86, 1994; No 54, 1995; No 48, 1998; No 109, 2001; No 64, 2003; No 58, 2011
Part VIII	
s 120	am No 40, 1990; No 54, 1995
	rs No 146, 1999
	am No 31, 2014; No 13, 2017
s 121	am No 54, 1995
s 122	am No 187, 1992; No 54, 1995; No 58, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 123	am No 54, 1995
s 124	am No 151, 1986; No 86, 1994; No 54, 1995; No 8, 2005; No 58, 2011
Part IX	
Division 1	
s 125	am No 40, 1990; No 86, 1994; No 5, 1995; No 54, 1995; No 146, 1999; No 51, 2006; No 58, 2011; No 31, 2014; No 13, 2017
s 126	am No 17, 1978; No 54, 1995
s 126A	ad No 80, 1986
	am No 187, 1992; No 64, 2003; No 51, 2006; No 58, 2011
Division 2	
Subdivision A	
Subdivision A heading	ad No 64, 2003
s 127	am No 130, 1991; No 187, 1992; No 5, 1995
Heading to s 128	am No 58, 2011
s 128	am No 17, 1978; No 40, 1990; No 130, 1991; No 187, 1992; No 82, 1993; No 86, 1994; No 54, 1995; No 64, 2003; No 8, 2005; No 58, 2011
Heading to s 128AA	am No 58, 2011
s 128AA	ad No 130, 1991
	am No 86, 1994; No 54, 1995; No 58, 2011
s 129	am No 86, 1994; No 54, 1995; No 58, 2011
s 130	am No 40, 1990; No 86, 1994; No 54, 1995; No 58, 2011
Subdivision B	
Subdivision B	ad No 64, 2003
s 130A	ad No 64, 2003
	am No 111, 2003
	rs No 165, 2007
	am No 58, 2011
Heading to s 130B	am No 58, 2011
s 130B	ad No 64, 2003
	am No 111, 2003; No 58, 2011
s 130C	ad No 64, 2003

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Provision affected	How affected
s 130D	ad No 64, 2003
	am No 165, 2007; No 58, 2011; No 82, 2013; No 81, 2016
s 130E	ad No 64, 2003
s 130F	ad No 64, 2003
	am No 58, 2011
Division 3	
s 131	am No 151, 1986; No 40, 1990; No 130, 1991; No 54, 1995
s 132	am No 17, 1978; No 92, 1981; No 151, 1986; No 86, 1994
	rep No 54, 1995
s 133	am No 17, 1978; No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 58, 2011
s 134	am No 17, 1978; No 130, 1991
	rs No 86, 1994
	am No 54, 1995; No 64, 2003; No 58, 2011
s 135	am No 40, 1990; No 86, 1994; No 54, 1995; No 187, 1997; No 64, 2003; No 58, 2011
s 136	am No 17, 1978; No 40, 1990; No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 187, 1997; No 64, 2003; No 134, 2008; No 58, 2011
s 137	am No 17, 1978; No 151, 1986; No 40, 1990; Nos 33 and 86, 1994; No 54, 1995; No 58, 2011
s 137A	ad No 64, 2003
s 138	rs No 54, 1995
	am No 64, 2003; No 58, 2011
s 139	am No 17, 1978; No 151, 1986; No 40, 1990; No 130, 1991; No 187, 1992; No 86, 1994
	rs No 54, 1995
	am No 58, 2011
s 139A	ad No 151, 1986
	am No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 58, 2011
s 139AA	ad No 187, 1992
	am No 86, 1994; No 54, 1995; No 48, 1998

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Endnote 4—Amendment history

Provision affected	How affected
	rs No 64, 2003
s 140	am No 17, 1978; No 151, 1986; No 40, 1990; No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 64, 2003; No 8, 2005; No 58, 2011
s 141	am No 17, 1978; No 151, 1986; No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 58, 2011
s 143	am No 17, 1978; No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011
s 144	am No 17, 1978; No 54, 1995
Division 4	
s 145	am No 17, 1978; No 151, 1986; No 40, 1990; No 130, 1991; No 86, 1994; Nos 5 and 54, 1995; No 8, 2005; No 112, 2006; No 58, 2011
s 146	rs No 17, 1978
	am No 54, 1995
Part IXA	
Part IXA	ad No 98, 2001
Division 1	
ss 146A, 146B	ad No 98, 2001
Division 2	
Subhead to s 146C(9)	am No 148, 2001
s 146C	ad No 98, 2001
	am No 148, 2001; No 58, 2011
s 146D	ad No 98, 2001
	am No 58, 2011
Division 3	
Subhead to s 146E(9)	am No 148, 2001
s 146E	ad No 98, 2001
	am No 148, 2001; No 58, 2011
s 146F	ad No 98, 2001
	am No 58, 2011
Division 4	
Subhead to s 146G(8)	am No 148, 2001
s 146G	ad No 98, 2001

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Provision affected	How affected
	am No 148, 2001; No 58, 2011
s 146H	ad No 98, 2001
	am No 58, 2011
Part IXB	
Part IXB	ad No 58, 2004
Division 1	
s 146MA	ad No 58, 2004
Division 2	
s 146MB	ad No 58, 2004
	am No 58, 2011
s 146MC	ad No 58, 2004
	am No 112, 2006; No 58, 2011
s 146MD	ad No 58, 2004
	am No 58, 2011
Division 3	
ss 146ME–146MG	ad No 58, 2004
Division 4	
s 146MH	ad No 58, 2004
	am No 26, 2008; No 126, 2015
Part IXC	
Part IXC	ad No 82, 2013
s 146RA	ad No 82, 2013
s 146RB	ad No 82, 2013
s 146RC	ad No 82, 2013
s 146RD	ad No 82, 2013
s 146RE	ad No 82, 2013
Part X	
Heading to Part X	rs No 148, 2001
s 147	am No 17, 1978; No 151, 1986; No 130, 1991; No 54, 1995; No 148, 2001; No 58, 2004; No 145, 2015
s 148	am No 17, 1978; No 151, 1986; No 148, 2001

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Endnote 4—Amendment history

Provision affected	How affected
s 149	am No 54, 1995; No 148, 2001
s 150	am No 17, 1978; No 148, 2001
s 151	am No 17, 1978; No 86, 1994; No 54, 1995; No 58, 2011
s 152	am No 86, 1994; No 54, 1995; No 58, 2011
s 153	rs No 17, 1978
	am No 148, 2001
s 153A	ad No 93, 1986
	rep No 148, 2001
s 153AAA	ad No 125, 1989
	rep No 148, 2001
Part XA	
Heading to Part XA	am No 58, 2011
Part XA	ad No 130, 1988
	rep No 39, 1990
	ad No 130, 1991
Division 1	
s 153AA	ad No 130, 1988
	rep No 39, 1990
	ad No 130, 1991
	am No 187, 1992; No 86, 1994; No 64, 2003; No 51, 2006; No 58, 2011
Division 2	
ss 153AB, 153AC	ad No 130, 1988
	rep No 39, 1990
	ad No 130, 1991
	am No 58, 2011
s 153AD	ad No 130, 1988
	rep No 39, 1990
	ad No 130, 1991
	am No 64, 2003; No 58, 2011
s 153AE	ad No 130, 1991
	am No 58, 2011

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Provision affected	How affected
ss 153AF, 153AG	ad No 130, 1991
Division 3	
Heading to s 153AH	am No 58, 2011
s 153AH	ad No 130, 1991
	am No 58, 2011
ss 153AJ, 153AK	ad No 130, 1991
	am No 187, 1992; No 58, 2011
Heading to s 153AL	am No 58, 2011
s 153AL	ad No 130, 1991
	am No 86, 1994; No 64, 2003; No 58, 2011
s 153ALA	ad No 187, 1992
	am No 58, 2011
Division 4	
Heading to Div 4 of Part XA	am No 58, 2011
Heading to s 153AM	am No 58, 2011
s 153AM	ad No 130, 1991
	am No 58, 2011
s 153AN	ad No 130, 1991
	am No 8, 2005; No 58, 2011
s 153AP	ad No 130, 1991
	am No 58, 2011
ss 153AQ, 153AR	ad No 130, 1991
	am No 187, 1992; No 58, 2011
Heading to s 153AS	am No 58, 2011
s 153AS	ad No 130, 1991
	am No 86, 1994; No 64, 2003; No 58, 2011
Heading to s 153AT	am No 58, 2011
s 153AT	ad No 187, 1992
	am No 58, 2011
Part XI	
s 154	rs No 17, 1978

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Endnote 4—Amendment history

Provision affected	How affected
	am No 151, 1986; No 130, 1991; No 34, 1997; No 38, 2005
	rep No 58, 2011
Heading to s 154AA	am No 58, 2011
s 154AA	ad No 54, 1995
	am No 58, 2011
s 154A	ad No 40, 1990
	am No 187, 1992; No 112, 2006; No 26, 2008; No 58, 2011
s 154AB	ad No 187, 1997
	am No 64, 2003; No 58, 2011
s 154B	ad No 54, 1995
	am No 58, 2011
s 155A	ad No 17, 1978
s 155B	ad No 40, 1990
	am No 187, 1992; No 54, 1995; No 64, 2003
s 155C	ad No 187, 1992
	am No 82, 1993; No 54, 1995; No 39, 1997; No 48, 1998; No 128, 1999; No 58, 2004; No 26, 2008; No 13, 2018
s 155D	ad No 187, 1992
	am No 86, 1994; No 58, 2011
s 156	am No 17, 1978; No 86, 1994; No 54, 1995; No 58, 2011; No 82, 2012
s 156A	ad No 187, 1992
	am No 86, 1994; No 54, 1995; No 112, 2006; No 58, 2011
s 156B	ad No 82, 2012
	am No 62, 2014; No 65, 2015
s 156C	ad No 82, 2012
	am No 65, 2015
Note to s 156C(3)	rep No 62, 2014
s 156D	ad No 82, 2012
	am No 62, 2012
	rs No 65, 2015

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Endnote 4—Amendment history

Provision affected	How affected
s 157	am No 17, 1978; No 151, 1986; No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 98, 2001; No 58, 2011
s 158	am No 86, 1994; No 54, 1995; No 58, 2011
s 158A	ad No 86, 1994
	am No 54, 1995; No 64, 2003; No 58, 2011
s 159	am No 17, 1978; No 80, 1986
	rs No 40, 1990
	am No 54, 1995; No 146, 1999; No 64, 2003
s 160	am No 17, 1978; No 151, 1986; No 40, 1990; No 13, 1991; No 54, 1995; No 146, 1999; No 64, 2003; No 30, 2006; No 58, 2011
s 160A	ad No 187, 1997
	am No 58, 2011
s 161	am No 17, 1978; No 80, 1986; No 38, 1988; No 40, 1990; No 13, 1991; No 86, 1994; No 51, 2006
	rep No 58, 2011
s 161A	ad No 40, 1990
	rs No 13, 1991; No 86, 1994
	rep No 58, 2011
s 162	am No 17, 1978; No 13, 1991
	rep No 58, 2011
s 163	am No 17, 1978; No 40, 1990; No 13, 1991; No 86, 1994; No 58, 2011
s 163A	ad No 151, 1986
	am No 86, 1994; No 54, 1995; No 146, 1999; No 137, 2000; No 109, 2001; No 58, 2011
s 163AB	ad No 64, 2003
	am No 112, 2006; No 58, 2011
s 163B	ad No 151, 1986
	am No 86, 1994 (as am by No 54, 1995)
	rep No 58, 2011
s 164	am No 17, 1978; No 187, 1992; No 58, 2011
s 165	am No 17, 1978; No 151, 1986
	rs No 130, 1991

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Endnote 4—Amendment history

Provision affected	How affected
	am No 51, 2006; No 58, 2011; No 65, 2015
s 166	am No 54, 1995; No 64, 2003; No 8, 2005
s 167	am No 17, 1978; No 151, 1986; No 40, 1990; No 86, 1994; No 146, 1999; No 137, 2000; No 58, 2011
s 167AA	ad No 151, 1986
	am No 5, 2015
s 167AB	ad No 86, 1994
	am No 54, 1995; No 58, 2004; No 26, 2008; No 58, 2011
s 167A	ad No 17, 1978
	rs No 151, 1986
	am No 38, 1988
	rep No 130, 1988
s 168	am No 17, 1978; No 151, 1986; No 40, 1990; No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 187, 1997; Nos 98 and 109, 2001; No 64, 2003; No 58, 2004; No 51, 2006; No 58, 2011
Note to s 168(1)	ad No 109, 2001
Part XII	
Division 1	
s 169	am No 86, 1994
Division 2	
s 170	am No 17, 1978; No 86, 1994; No 152, 1997
s 171	am No 17, 1978; No 86, 1994
s 172	am No 86, 1994
s 173	am No 86, 1994; No 54, 1995
s 174	am No 86, 1994
s 175	am No 17, 1978; No 86, 1994
s 176	am No 17, 1978
s 177	am No 17, 1978; No 54, 1995
s 178	am No 17, 1978; No 86, 1994; No 54, 1995
s 179	am No 17, 1978
Division 3	

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Provision affected	How affected
s 180	am No 151, 1986; No 86, 1994; No 54, 1995; No 58, 2011
Division 4	
s 181	am No 86, 1994
ss 182, 183	am No 17, 1978; No 86, 1994
s 184	rs No 17, 1978
	am No 151, 1986; No 38, 1988; No 40, 1990; No 130, 1991; No 86, 1994; No 54, 1995; No 58, 2011
s 185	am No 86, 1994; No 54, 1995; No 43, 1996; No 58, 2011
s 186	am No 17, 1978; No 86, 1994; No 54, 1995; No 58, 2011
Division 5	
ss 187, 188	am No 86, 1994; No 54, 1995; No 58, 2011
s 189	am No 13, 1991; No 86, 1994; No 58, 2011
s 190	am No 86, 1994
s 191	am No 17, 1978; No 86, 1994
	rs No 86, 1994
	am No 58, 2011
s 192	am No 86, 1994; No 43, 1996; No 58, 2011
Part XIII	
Part XIII	ad No 40, 1990
s 237	ad No 40, 1990
	am Nos 13 and 130, 1991; No 54, 1995; No 58, 2011
s 238	ad No 40, 1990
	am No 130, 1991; No 26, 2008; No 126, 2015
s 239	ad No 40, 1990
s 240	ad No 40, 1990
	am No 13, 1991; No 187, 1992; No 86, 1994; No 64, 2003; No 58, 2011
s 241	ad No 40, 1990
	am No 64, 2003; No 26, 2008; No 126, 2015
s 242	ad No 40, 1990
	am No 39, 1997
Part XIIIA	

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Endnote 4—Amendment history

Provision affected	How affected
Part XIIIA	ad No 130, 1991
ss 242A, 242B	ad No 130, 1991
s 242C	ad No 130, 1991
	am No 26, 2008; No 126, 2015
s 242D	ad No 130, 1991
	am No 54, 1995
s 242E	ad No 130, 1991
	am No 86, 1994; No 54, 1995; No 58, 2011
Part XIV	
Heading to Part XIV	am No 54, 1995
Part XIV	ad No 40, 1990
s 243	ad No 40, 1990
	rs No 54, 1995
s 244	ad No 40, 1990
	am No 130, 1991; No 187, 1992; No 86, 1994; No 54, 1995; No 146, 1999; No 58, 2011
s 245	ad No 40, 1990
s 246	ad No 40, 1990
	am No 130, 1991; No 64, 2003
s 247	ad No 40, 1990
	am No 86, 1994; No 54, 1995; No 58, 2011
s 248	ad No 40, 1990
	am No 13, 1991; No 187, 1992; No 86, 1994; No 54, 1995
	rs No 64, 2003
	am No 64, 2003; No 51, 2006; No 58, 2011
s 249	ad No 40, 1990
	am No 13, 1991; No 54, 1995
	rs No 51, 2006
	am No 58, 2011
s 250	ad No 40, 1990
	am No 39, 1997

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Endnote 4—Amendment history

Provision affected	How affected
Schedule 11	
Schedule 11	ad No 40, 1990
	am No 64, 2003

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Endnote 5—Miscellaneous

This endnote sets out other information relating to the *Superannuation Act 1976.*

The *Superannuation Act 1976* is affected by section 34 of the *Qantas Sale Act 1992*.

The *Superannuation Act 1976* is affected by section 37 of the *CSL Sale Act 1993*.

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